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**CONFIDENTIAL****By email**

29 November 2021

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PERTH WA 6000**Attention:** Solicitors Assisting  
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Dear Solicitors Assisting

**PERTH CASINO ROYAL COMMISSION – DISCUSSION PAPER ON THE REGULATORY FRAMEWORK DATED 12 NOVEMBER 2021 – GAMING AND WAGERING COMMISSION RESPONSE**

We refer to the Perth Casino Royal Commission (**PCRC**) discussion paper entitled “*Perth Casino Royal Commission – Discussion Paper on the Regulatory Framework*” (**Discussion Paper**) dated 12 November 2021.

Please find the Gaming and Wagering Commission of Western Australia’s (**GWC**) response to the Discussion Paper set out in **Attachment 1**.

The response represents the GWC’s preliminary views on the complex matters canvassed in the Discussion Paper, given the short timeframe the GWC was afforded in which to respond. More thought will be given to the matters and this response may be supplemented in the GWC’s responsive closing submissions.

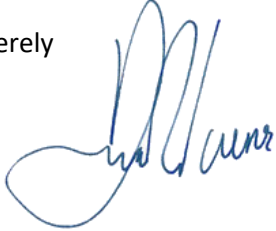
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Practice Direction 4(13) applies to this witness statement and each document referred to in the witness statement. You:  
(a.) may not use those documents or their contents for any purpose other than the purpose of that person’s appearance before the PCRC; and  
(b.) are required to keep those documents and their contents confidential except for the purpose of obtaining legal advice or otherwise with the leave of the PCRC, unless and until the witness statement and/or the documents are admitted into evidence

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The GWC's response generally represents a consensus among current GWC members. Where a GWC member (former or current) holds a strong contrary view to the consensus, we have also set that out for the PCRC's consideration.

Your sincerely

A handwritten signature in blue ink, appearing to read 'Paul D Evans', with a large, stylized initial 'P'.

**Paul D Evans, Partner**  
**Quinn Emanuel Urquhart & Sullivan**

**Peter Sadler, Senior Associate**  
**Quinn Emanuel Urquhart & Sullivan**

29 November 2021

**ATTACHMENT 1****Perth Casino Royal Commission – DISCUSSION PAPER ON THE REGULATORY FRAMEWORK  
DATED 12 NOVEMBER 2021 – GAMING AND WAGERING COMMISSION RESPONSE****CONTENTS**

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## I. INTRODUCTION

1. We refer to the Perth Casino Royal Commission (**PCRC**) discussion paper entitled “*Perth Casino Royal Commission – Discussion Paper on the Regulatory Framework*” (**Discussion Paper**) dated 12 November 2021, and provide the following response on behalf of the Gaming and Wagering Commission of Western Australia (**GWC**).
2. Due to the range of issues raised by the Discussion Paper, the significance of the issues and the relatively short timeframe for responses, the observations by GWC set out below are provisional and may be revisited in closing submissions.

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## II. PART ONE – REGULATORY CONCEPTS

3. The GWC provides the following observations on the concepts of regulatory theory that might underpin any future recommendations as to the enhancement of the regulatory framework in Western Australia.

### A. Principles or objectives-based regulation

4. With respect to principles-based / objectives-based regulation, the GWC’s view is that there should be principles / objectives stated in the regulatory framework, both for the regulator and the regulated entities, so that the purpose of the regulatory framework can be understood by all stakeholders and to inform decision-making by, in particular, the GWC. Those principles / objectives should sit within a general objectives framework for the legislation which identifies the purposes of the legislation, and in particular where there are multiple purposes, their relative significance in decision-making.
5. That is particularly important where there is no singular principle or objective for the relevant regulatory framework, and the principles or objectives underpinning the legislation may to some extent be in tension. For example, the GWC is subject to an existing duty to administer the laws with respect to gaming. The administration of those laws includes the revenue raising components of those laws, harm minimisation (which arises as an incident of another duty), and the administration of the State Agreement.
6. To a degree, this concept is already inherent in the regulatory structure within which the GWC operates because of the multiple statutory *duties* of GWC under s 7 of the GWC Act. Some of those duties are at least partially in tension. The GWC needs to apply an appropriate weighting to each duty in considering the appropriate resource allocation and regulatory attention in its performance. At present, there is no statutory guidance in relation to that.
7. However, reliance upon a wholly principles or objectives-based framework is likely to greatly increase the decision-making workload of the GWC in determining whether any

principles-based compliance response adopted adequately addresses the regulatory purpose.

8. With respect to the use of the *Environmental Protection Act 1986* (WA) as an exemplar, the GWC notes that that Act has a singular objective (protection of the environment) supported by principles which inform the achievement of that objective. In contrast, the gambling regulatory framework has multiple objectives. Further, despite the singular objective, the *Environmental Protection Act's* object, which is supported by principles, still raises very complex policy interactions in relation to ultimate decision-making. That is why: (a) power is vested in the Minister (in particular) to exempt places, persons, things, and actions from the operation of the Act under s 6; (b) *Environmental Protection Act* policies are considered by Ministers and are subject to parliamentary disallowance as if they are regulations (see ss 31-36); and (c) approvals in relation to developments involving conflicting priorities are subject, ultimately, to Ministerial (and if necessary, Cabinet) approval. Those sections of the *Environmental Protection Act* demonstrate the significant policy issues at play in the Act, all of which have strong political overtones.
9. In the gambling regulatory framework, that decision making is (presently) vested in the regulator save for those most significant matters reserved to Ministerial (and at the extreme, gubernatorial) decision, following consideration of advice provided by the GWC. Again, decisions of the magnitude reserved for Ministerial consideration may have strong political overtones. Many of the other decisions made by the GWC, within the gambling framework, involve more prosaic resource allocation questions, and questions of priority.

## **B. Rules-based regulation**

10. With respect to rules-based regulation, the GWC agrees with the observations made by the PCRC in the Discussion Paper.
11. A particular concern with a system of stringent rules-based regulation, particularly regulation which is inappropriately targeted, is that the regulated entity has, effectively, a “target to shoot at” if it is minded to devise (or is not prevented from devising or evolving) business processes to circumvent regulatory constraints.
12. Conversely, rules-based regulation facilitates the use of incentives and disincentives based upon the application of clear and relatively easy to administer rules. The facilitation of compliance is not unimportant in the regulatory structure: while it is possible to penalise a regulated entity for non-compliance under a “principles-based” or “performance-based” regulatory framework, it is potentially more complex and expensive to prove contraventions. By way of example, see the complexity of establishing a contravention of “as low as reasonably practicable” (**ALARP**) based safety systems, which raise potentially enormous factual complexity in establishing “reasonable practicability”.
13. The GWC is of the view that there is a role for rules-based regulation within the regulatory framework in providing clarity and simplicity around some aspects of gambling activities and will facilitate:
  - 13.1 comprehension of the relevant requirements;
  - 13.2 auditing for compliance; and
  - 13.3 proof of contravention, should one occur.

14. A straightforward example of such rules-based regulation is a simple proscription of unlicensed gambling. A more complex example might be a prescription for or proscription of certain specific behaviours, within an overarching objectives-based framework.
15. At a more granular level, in relation to activities involved in or as an incident of, gambling such rules should generally be made by instrument, rather than legislation, to more readily facilitate revision as and when required.
16. Depending upon the nature of the rules and the consequences of contravention (in particular in the creation of offences, above a threshold of consequence) it may be that some of those rules should be by dis-allowable instrument to maintain parliamentary oversight, while others (which may attract a default consequence or non-penal regulatory action) need not be made by dis-allowable instrument.

### **C. Performance-based regulation**

17. With respect to performance-based / compliance-based regulation, the GWC's view is that there is the potential for considerable complexity to arise in the identification of the standard of performance to be achieved, and how compliance or non-compliance with that standard is to be tested. For example, a standard which requires the Casino Operator to *"devise and maintain systems and processes to ensure that in any year there are not more than X contraventions of the rules of gaming for table games in the Financial Year"* carries with it:
  - 17.1 a process for the design and approval of the rules of gaming; and
  - 17.2 a process for the testing and validation of compliance,
 which must be sufficiently robust to present a high probability of detection, with sufficiently certain and material consequences, to encourage the regulated entity to put in place systems and processes to achieve the relevant standard.

18. While the system of regulation enables operators to choose the most cost-effective means of compliance to achieve the objective or standard, it also has the potential to lead to instances where the operator explicitly trades off the cost of consequences against the cost of compliance.
19. There are sufficient instances of failure in performance-based standards to be sceptical about the relevance of performance-based regulation in high-risk environments, or where there is a material risk of a failure of human factors' because, for example, of the number of individuals who may be involved in the achievement of the performance outcomes. The commercial and residential building industry in Australia, which largely works within a performance-based regulatory framework, illustrates this as it has some recent spectacular examples of non-performance.

### **D. Risk-based method of compliance with a regulatory framework**

20. With respect to risk-based systems, the GWC's view is that the PCRC's statement of these methodologies is not controversial. However, the application of a risk-based system in the context of the casino, or other gaming environments, is problematic because the methodology has to be developed and assessed by reference to regulatory intent; that is, what relevant activity is the GWC regulating *and why* is the GWC regulating or responsible for the regulation of the relevant activity? The risk-based methodology necessarily goes

together with a strong and comprehensive statement of objectives against which to evaluate risks.

21. In relation to casino gaming in Western Australia, the GWC notes that the regulatory framework has historically been set by reference to a perceived legislative intention to regulate:
  - 21.1 the probity of the operator;
  - 21.2 the integrity of the gaming operations from a rules-based fairness perspective; and
  - 21.3 the integrity of the State's revenue from gambling,
 using rules-based assessments of such matters as the procedures of the games, management of the chips, and calculation of the correct revenue from the playing of games, and other allied internal control statements.
22. The GWC notes that there is a strong element of the risk-based approach in the directions that the GWC currently issues, and also in the approval of the Casino Manual, which is a mix of GWC and Casino Operator driven responses to risk management (with final approval by the GWC as regulator).
23. The PCRC's observation that regulatory models which employ a risk-based method rely heavily on a culture of transparency, responsiveness, and collaboration with regulated entities so that the regulator can identify areas of greatest risk, is an observation shared by the GWC. That assumes, of course, that the obligation is upon the regulator, rather than the regulated entity, to identify those risks comprehensively, which is the case where a risk-based methodology dependent upon rules to mitigate those risks is the only (or principal) regulatory mechanism.
24. However, the GWC notes that recurrent "high collaboration" engagement with the Casino Operator brings with it the risk of regulatory capture. There is some sense of this in the historic relationship between the Casino Operator and Department (which impacted the GWC), which was predicated upon:
  - 24.1 apparent transparency by the Casino Operator;
  - 24.2 on demand information flows from the Casino Operator (accurate or otherwise); and
  - 24.3 collaboration through the Operations Committee meetings, which included engagements in which the Casino Operator's proposals were considered and worked-up to a condition at which they would be capable of approval, through the Department, before submission to GWC.

This collaboration was valuable to the extent that it permitted developments in the Perth Casino which required regulation to be approved, within a co-developed regime for regulatory oversight, but would necessarily be prone to failure if the Casino Operator was not providing accurate information to permit a proper risk assessment be undertaken and if its internal systems and controls were not sufficiently robust to support regulatory oversight.

25. With respect to the *Gene Technology Act 2000* (Cth) as an exemplar, the GWC's view is that there is some utility in its risk management construct. In particular, ss 47 and 50 of the Act, which contemplate a risk assessment before authorising the release of a genetically modified organism, and require the regulator to: (a) prepare a risk assessment taking advice from a number of nominated sources; and (b) prepare a risk management

plan which takes into account the risks (identified in the assessment) posed by the conduct proposed to be authorised and the means of managing those risks in such a way as to protect the health and safety of the population and the environment.

26. The GWC could see the application of this risk management construct to aspects of gambling regulation, including, for example, the introduction of new games. However, as discussed further in paragraphs 55.1(a) and 71.3 below, the GWC is of the view that while it will assess and monitor its own risk framework, the Casino Operator is best placed (and has an obligation) to identify and manage the risks of gambling and the casino generally. The GWC's role in this regard should properly be that of scrutinising the Casino Operator's risk assessment and management plan, and the auditing of that plan in operation, within an overall risk framework which may have objective and performance elements, supported by procedures and rules.

#### **E. Application to casino regulation**

27. The PCRC has asked for comment on the applicability of the above-mentioned regulatory models and tools, which are often formulated in the context of competitive markets, to a single-operator environment. The GWC notes that the relevance of the number of regulated entities with respect to regulatory models and tools which are intended to control the risks of activities undertaken by those regulated operators, rather than control the interplay between regulated entities in a market, is not obvious.
28. While the benefits of monopoly to an operator and to the regulator in the context of the Perth Casino are apparent (including, in particular, the greatly reduced risk of gambling related harm through strict controls on access to EGM gaming), how that should impact the regulation of the activities of the regulated entity (or entities) is less so. It could be suggested that multiple regulated entities act as effective behavioural constraints upon one another. That is true in classical economics, in terms of competitive entities imposing constraints on, for example, monopolistic pricing and instilling in each other and the need to innovate. However, across the spectrum of gambling risks (in particular if community gaming is included within the broader regulatory framework) the GWC does not see the relevance of those models, generically.
29. Whichever regulatory model, or combination of models, is adopted, the GWC's view is that it will need to accommodate the potential for a competitive landscape in which there are multiple casinos, or multiple forms of "for-profit" gambling in Western Australia. If the Government embarks upon a process of regulatory reform following the recommendations of the PCRC, those reforms should be future-proofed as best as is possible.
30. As to which regulatory model is appropriate, it is clear to the GWC that a combination approach is inevitable and appropriate. The GWC notes that aspects of the modern Victorian regime would provide a foundational model for the regulatory framework; although there is scope for considerable improvement upon that model. It is apparent from the report of the Melbourne Casino Royal Commission that the Victorian regime did not prove adequate in operation to detect and deter conduct engaged in by the Casino Operator in Melbourne:
- 30.1 which conduct was so serious as to result in the Casino Operator conceding that it was open to the Melbourne Casino Royal Commission to conclude that it was not suitable to continue to hold the Melbourne Casino licence; and



- 30.2 leading to significant adverse findings and recommendations from the Melbourne Casino Royal Commission, including a sweeping suite of remedial measures.

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### III. PART TWO – THE FOUR MODELS

31. The GWC provides the following comments on the four possible future models of regulating the casino environment in Western Australia. Rather than address each model in the order that they appear in Discussion Paper, the GWC's response discusses the models in order of GWC's preference for those models, based upon its present assessment and subject to the caveats expressed above.

#### A. Model 2 – GWC with a new legislative framework

32. The GWC's overall preference is for the second model proposed by the PCRC, which is for the formation of an independent statutory body with the characteristics discussed below.
33. **Legislative instrument:** The GWC's preference is for a simplified and consolidated legislative instrument covering all aspects of gaming and wagering activities in Western Australia, that is a single Act which might be structured along the following lines:
- 33.1 Part 1 – objects, definitions, common provisions;
- 33.2 Part 2 – constitution of the GWC, functions and powers, ministerial directions, accountability provisions, financial provisions, operation (as applicable) of the *Statutory Corporations (Liability of Directors) Act 1996*, appointment, removal and remuneration of GWC members, appointment, removal and remuneration of officers and employees of the GWC (including investigators), engagement of contractors, and finally, powers of investigators;
- 33.3 Part 3 – prohibition of gaming or wagering by entities or persons unless licensed under the Act, criteria for suitability assessments of persons and entities licensed under the Act, performance obligations of licensed persons and entities in undertaking activities under their licence, powers to create modify and repeal regulations, licence conditions, and other normative instruments;
- 33.4 Part 4 – licensing and regulation of casinos;
- 33.5 Part 5 – licensing and regulation of other gaming (including lotteries);
- 33.6 Part 5 – licensing and regulation of wagering;
- 33.7 Part 6 – enforcement, including the role responsibilities and powers of GWC, inspectors/investigators, police, and other law enforcement agencies;
- 33.8 Part 7 – regulatory responses to suitability issues and contraventions of the Act, licence conditions and other normative instruments, including penalties, infringement notices, enforceable undertakings and non-penal remedial measures.
34. There are numerous existing statutory frameworks upon which to draw, for example:
- 34.1 Part 1 – an example objects clause is discussed below;
- 34.2 Part 2 – provisions in relation to statutory corporations (for example, the *Electricity Corporations Act 2005* parts 2 – 5);

- 34.3 Part 3 – existing provisions in the West Australian legislation, and that in Victoria and other jurisdictions, performance based standards under the *Workplace Health and Safety Act* (though not yet proclaimed), provisions of the *Life Insurance Act 1995* (Cth) including aspects of Part 4 Division 2, Part 6 Division 2, Part 7 Divisions 1 – 2, Part 10A Division 1 and Division 2 subdivisions B and C;
- 34.4 Part 4 – Part 5, existing provisions in the West Australian legislation but again adopting best practice from other jurisdictions and employing modern drafting;
- 34.5 Part 6 – provisions of the *Taxation Administration Act*, *Life Insurance Act 1995* parts 7 Divisions 3 and 4 (in preference to provisions of the *Criminal Investigation Act 2006*);
- 34.6 Part 7 – the penalty regime in existing legislation is incoherent and outdated both in terms of the scale of penalties and the relatively narrow scope and inflexibility of remedial measures available. The regime should be reconsidered in the context of modern legislation creating offences of comparative seriousness. This includes modern Commonwealth legislation, which employs “harm-based” penalties (e.g. the three legged stool approach in, for example, section 1317G(4) of the *Corporations Act 2001* (Cth)), and other remedial tools such as the relinquishment orders in section 12GBCC, anti-indemnification orders in section 12GBD and other remedies in sections 12GLA – 12GM of the *Australian Securities and Investments Commission Act 2001* (Cth).
35. The GWC’s view is that there should be clarity in the purpose of the regulatory framework by the inclusion of an objects clause and/or a principles clause. The GWC considers that the *Liquor Control Act 1988* (WA) provides a suitable, relevant, and relatively contemporary exemplar. The *Liquor Control Act* has a clear “objects of Act” section (s 6), divided into principal and subsidiary objects. As applied to the role, functions, and powers of the GWC, the GWC considers that the following objects clause is desirable and proposes the following is a basis for discussion (terms to be defined are in braces):
1. The primary objects of this Act are —
    - (a) to ensure the honesty, fairness and integrity of:
      - (i) all participants in; and
      - (ii) all activities associated with;
 

the conduct of gambling; and
    - (b) to minimise harm caused to people, or any group of people, due to gambling.
  2. In carrying out its functions under this Act, the {GWC} shall have regard to the primary objects of this Act and also to the following secondary objects —
    - (a) to facilitate the reasonable requirements of consumers of gambling and gambling related services with regard to the sustainability of the gambling industry, the tourism industry, and other hospitality industries in the State;
    - (b) to provide adequate controls over, and over the persons directly or indirectly involved in, the conduct of gambling, in the public interest;

- (c) to protect the revenues of the State derived from the conduct of gambling;
  - (d) to encourage responsible attitudes and practices towards the promotion, sale, supply, service and consumption of gambling and gambling related services that are consistent with the interests of the community;
  - (e) ensure that all persons involved in the ownership, management, and operation of a licensee are:
    - (i) suitable, by qualification, experience and resources; and
    - (ii) of good character and free from criminal influence or association;
  - (f) to collaborate with State and Commonwealth {Law Enforcement Authorities} in their activities in ensuring that gambling and gambling related services are free from criminality;
  - (g) to collaborate with other State and Territory {Gambling Regulators} to ensure:
    - (i) the implementation of best practices; and
    - (ii) the efficient and effective use of resources;
 in gambling regulation; and
  - (h) to perform such other functions as are prescribed by or under this or any other written law.
36. Save as provided for in the objects, the duties set out in the general “duties” statement contained in s 7 of the GWC Act could then be drafted as specific functions, or where appropriate powers; i.e., things that the GWC *must* do and things that it *may* do in the context of specific subject matter regulation.
37. **Chairperson, deputy and ordinary members:** The chairperson of the GWC should be a Government appointee, independent of the Department, who is experienced in regulatory and legal administration.
38. The GWC notes that while a retired judge, senior barrister, or relevantly skilled legal practitioner may be skilled in the law, they may not be skilled by training or experience in regulatory activity or legal administration. Legal training and qualifications for appointment to the senior judiciary (that is, a level of experience in legal practice) may be an appropriate prerequisite; however, demonstrated competence in organisational leadership and regulatory practice are likely more important. Legal advice could always be obtained by a dedicated independent resource generally retained (or retained on a task-by-task basis).
39. In a similar vein, a distinction may need to be drawn in the legislation between the GWC sitting as a policy body, and the GWC sitting as a disciplinary or investigative body, undertaking activities which may be performed by a panel or committee. The legal qualifications and experience of the chairperson in the undertaking of disciplinary matters, or the conduct of enquiries, may be important to facilitate proceedings and mitigate the risk of reviewable administrative error. That may be a permanent appointment to the

- GWC, or an appointment which exists only for that purpose, when the GWC is performing those quasi-judicial functions.
40. With respect to the deputy chairperson of the GWC, that person should be elected by the board members from among their number.
  41. The GWC's view is that its membership should be:
    - 41.1 increased in number (for example, the Independent Liquor & Gaming Authority of NSW has 8 members); and
    - 41.2 appointed according to legislated criteria. Section 12(2) of the GWC Act, which uses a formula of "*integrity, good repute and relevant experience*" identifies the core attributes of any appointment and should be maintained. Additional criteria should be referable to a skills matrix (similar to that of an ASX listed company board)<sup>1</sup>, developed and maintained by the GWC, in consultation with its Minister. The legislation should therefore be flexible enough to accommodate such updates and define the appropriate fields of expertise in such a way as to ensure that suitable candidates are not excluded by prescription, and which has sufficient regard to the size of the GWC, and skill set is otherwise available to it through staff and contractors.
  42. The remuneration of the GWC's members must be increased. The remuneration is presently insufficient to compensate members for their existing time commitment on a "business as usual" basis, let alone the time commitment under any new regulatory framework which may emerge. Given the skill sets to be sought (a number which already exist amongst GWC members), and the particularly onerous nature of the role, strong incentives will be required to encourage suitable candidates in the future.
  43. The GWC agrees with the idea that the GWC should be representative of the Western Australian community, but notes that it is not apparent what the objective of "*representative*" characteristics will be, or how "*representativeness*" is to be attributed within what must remain a relatively small body if it is to be effectively managed and suitably experienced (in particular given the skill sets contemplated, and, the time commitment involved, if significant ongoing professional development is to be a requirement for participation).
  44. **GWC employees:** There be, as a minimum, the following employees of the GWC are required for its ongoing operation :
    - 44.1 A full time Chief Executive Officer (**CEO**) who must report to the GWC at each monthly meeting on all matters within the GWC's remit. As a stand-alone body the CEO would be an "employing authority" for the purposes of the *Public Sector Management Act 1994* (WA) and the "accountable authority" for the purposes of the *Financial Management Act 2006* (WA), which would resolve any lack of clarity in those accountabilities at the present time. An explicit range of primary functions (including those functions currently vested in the CCO and cognate responsibilities under the community gaming and wagering legislation) should also be vested in the CEO. A principal responsibility of the CEO would (subject to

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<sup>1</sup> See, for example, the Governance Institute of Australia, *Good Governance Guide – Creating and disclosing a board skills matrix*, available at: <https://www.asx.com.au/documents/asx-compliance/creating-disclosing-board-skills-matrix.pdf>.

- the paragraph 47 below) be to procure and manage the provision of research, compliance, and policy activities.
- 44.2 A Chief Financial Officer (**CFO**) who is solely dedicated to the work of the GWC, including financial management of the GWC, oversight of the GWC's internal controls, and reporting to the audit and risk committee and the GWC on financial matters. The GWC considers that the role may be part-time, but that depends on a number of matters (such as outsourcing and Departmental support) which cannot be determined at this stage.
- 44.3 An administrative/executive assistant with regulatory experience (such as a policy officer) to support the CEO, other executives, and ordinary GWC members, lessening any requirement for assistance from the Department.
45. In light of the CEO mandate discussed above, the GWC is of the view that the Chief Casino Officer (**CCO**) position is unnecessary. If the CCO was retained, the role of the Chief Casino Officer would require reconsideration and redefinition. Section 9(1) of the *Casino Control Act 1984* (WA) (**CC Act**) is inadequate and most of the nominal functions of the CCO (*cf.* ss 13, 25, 36 and 37 and under the regulations) are relatively routine and administrative. The GWC supports the view that the CCO (or another senior executive officer with the GWC) should be directly contactable by the public regarding concerns about casino gaming, or any other gambling related issue.
46. The GWC should be able to engage any other necessary employees, such as inspectors, legal counsel (noting paragraph 39 above), or experts for the provision of advice or training. It may be more economical for aspects of the functions of the GWC to be provided by, for example, the Department, under a service level agreement. Aspects of the licensing function, for example, where the GWC currently licenses several thousand casino employees, have synergies with the licensing of persons involved in the conduct of licensed premises under the *Liquor Control Act*, though the scrutiny of persons whose roles are central to the suitability of the licensee itself would remain with the GWC.
47. The GWC considers that it may be desirable to separate the regulatory role from the CEO (which would be more administrative and managerial), and create a Chief Regulatory Officer (**CRO**) which would assume the functions of the CCO, and the management of all compliance activities. In a risk-based model (or for any risk-based elements of the regulatory model) that would include responsibilities for identifying and addressing an appropriate response to those risk elements of the regulatory model.
48. The GWC is also concerned not to replicate the "single point of failure" in the current DDG/CCO structure, and ensure that it is adequately resourced, with adequate redundancy, peer interaction, and review and succession planning. The dual CEO / CRO positions should at least partially address this concern.
49. An ex-GWC member made the observation that under Model 2, it may be difficult to attract suitable talent (both in management and the inspectorate) to an independent statutory body the size of the GWC. Further, given the inspectors will no longer be undertaking inspections unrelated to gaming, there is the potential for the work to become monotonous, resulting in boredom, fatigue and consequential performance issues. (The GWC notes that it would still be open for inspectors to assist in the enforcement of other regulatory laws (including liquor licensing laws) as an incident of their activities, by direct action or referral to an appropriate regulatory or law enforcement agency.) There is also the risk of increased regulatory capture if a smaller number of inspectors are focussed on

the Perth Casino. These risks are not however unique to the GWC in the Model 2 paradigm and should be manageable, particularly under the new enhanced role for inspectors (which the GWC contemplates to be re-cast as investigators, discussed in Part Three, section F (Inspectors) below).

50. **Delegations:** The GWC considers that there should be a clear regime for delegating the powers of the GWC and a register of delegations maintained and periodically reviewed. Delegations are expressly contemplated by the GWC Act and are a normal part of government (and corporate) administration. This is a key issue in the existing workload of the GWC as it presently operates. Delegations are discussed further in Part Three, section D (Delegation of powers of the GWC) below.
51. **Funding:** The GWC should be financially resourced from levies such as licence fees and application fees, supplemented by the Government if necessary. The casino tax, and any other tax on gambling revenue is a general revenue of the State and as a matter of principle should not be hypothecated to the operational activities of the regulator. The use of a levy, including special levies as necessary and service or application based costs, appropriately calibrated, should be sufficient to ensure an appropriate revenue stream for gambling regulation. What is important is that there needs to be certainty of funding to ensure effective delivery of regulatory services for government and the community.
52. Supervision of the Perth Casino, Casino Operator, and other community gaming (and possibly, but not necessarily, including wagering) represents a continuum of regulatory activity. That activity should be funded from a common pool of which casino levies (constituting a licence fee, so as to be constitutionally lawful) should be a significant, but not the only, part. The GWC would anticipate that supplementary government revenue should only be required for those activities which are for the general benefit of the community, and not for the costs of the regulation of those entities or other regulated activities, nor the mitigation of externalities caused by regulated activities.
53. Consequently, Perth Casino licence fees and approval or application fees may need to be variable, and linked to the cost of changing levels of regulatory activity from time-to-time as a result of changes in risk profile, and periodically varying levels of regulatory oversight (including periodic reviews of the licensee and key associates as required).
54. To the extent the workload of the GWC may vary from time to time, through the undertaking of periodic reviews and audit activities of differing intensity and using different resources, the capacity to build a financial reserve sufficient to avoid or to minimise volatility in licence fees and approval or application fees from year-to-year, must be available.
55. **Risk Management:** The GWC considers that a distinction needs to be made between the risks of the Casino Operator (or any other gambling operator) and the risks of the GWC itself:
  - 55.1 The GWC should review the licensee's risk management framework; however, the GWC's view is that it should not have an obligation to devise or approve that framework.
    - (a) The GWC's preliminary view is that the licensee will always be in the best position to assess its own risks, and mitigate those risks and should be required to do so.

- (b) Further, the GWC has a concern that the involvement of the regulator in devising the Casino Operator's risk management framework creates risks of regulatory capture in relation to that framework. It also produces an element of moral hazard, in particular where there are material sanctions associated with non-compliance with the obligation to identify risks and mitigate them.
  - (c) The GWC's power to review, on an ongoing basis, the Casino Operator's risk management framework can be catered for by normative instruments directing the Casino Operator to conform to specific requirements either by prescriptive performance or outcome, and is foreshadowed in the objects clause discussed in paragraph 35 above. The GWC may also be supported by the power to make more comprehensive legislative instruments, subject to disallowance in accordance with the *Interpretation Act 1984* (WA) to the extent that, for example, those instruments create new disciplinary or substantial normative elements in the regulatory regime, while avoiding any circumvention of the legislative prerogative of parliament.<sup>2</sup>
  - (d) The GWC considers that any risk review should be independently audited by or on behalf of the GWC, on a periodic basis, at the cost of the Casino Operator, using a suitably qualified external expert (or experts) in relation to each risk area, with a particular focus on gap analysis.
- 55.2 The GWC will continue to have regard to its own risks and will maintain and from time-to-time review and enhance the risk management framework that it has recently developed and approved.
- (a) Because this requirement is already provided for in the Public Sector Commission, *Good governance for public sector boards and committees – Board Essentials*,<sup>3</sup> the GWC queries if this aspect of risk management needs to be entrenched in legislation (if that was what was envisaged by the Discussion Paper).
  - (b) As with the Casino Operator's risk management framework, the GWC considers that its own risk assessment should be subject to independent audit, on a periodic basis, using a suitably qualified external expert (or experts) in relation to each risk area, with a particular focus on gap analysis and the actioning of mitigations.

## **B. Model 1 – Retain current model, with or without alterations**

56. Retaining the current regulatory framework, with necessary changes, is the GWC's next preferred model. Depending on the alterations, Model 1 can take many forms. GWC's preference of form would be for the Department to be structurally separate from the GWC and the relationship be governed by a service level agreement.

<sup>2</sup> I.e., the creation of material Henry VIII issues.

<sup>3</sup> Page 33 (GWC.0003.0001.0008\_0033), *"The board chair must take responsibility for managing the key risks identified above and keep members informed of their obligations and responsibilities. It is important to develop and implement a risk reporting framework that identifies and tracks governance, strategic and operational risks."*

57. Most of the modifications proposed in the Discussion Paper are discussed above in relation to Model 2. However, the GWC provides some additional observations in the following paragraphs.
58. **Support:** Administrative, investigative staff, and additional support will be provided by the Department under formalised service agreements, with performance standards and associated costings. However, reliance solely upon a limited pool of trained resources within the Department may inhibit the ability of the regulator to conduct in-depth, or specialist investigations, and a more liberal power of the GWC to procure appropriate resources externally, without the requirement for ministerial approval (but otherwise subject to public sector procurement principles) is appropriate.
59. **Funding:** The funds of the GWC should be administered separately to those of the Department. The Department would remain responsible for the preparation and submission of budgets and accounts, but with far greater transparency and accountability to the GWC.
60. **Chairperson, deputy, and ordinary members:** The chairperson of the GWC should be a Government appointee, independent of the Department, who is experienced in regulatory and legal administration.
- 60.1 There are several reasons why removal of the *ex officio* position currently held by the Director General of the Department is desirable. In particular, it avoids the inherent difficulties which arise for the GWC to the extent the GWC maintains any dependence upon the Department for the provision of the resources to undertake its objectives, and the likely enhanced accountability of the Department for delivering those resources, following the PCRC's anticipated recommendations.
- 60.2 The GWC also notes that, depending upon whether it maintains a role in advising upon legislative policy, there may be the potential for conflicting sources of advice going to the Minister, unless the Department has no role in the administration of the legislation on an ongoing basis, which is unlikely under Model 1.
- 60.3 The role of the Director General of the Department will be reflective of the interrelationship between the GWC and the Department. For example, if the Department is structurally and functionally separate from the GWC (even if performing some functions for the GWC under a service level agreement), then the Director General (or an appropriate representative) would be responsible to the GWC in relation to service delivery under any service level agreement. However, there would be no structural reason for the Director General to be a member of the GWC (noting that in that structure, the relevance of the Director General to the setting of policy by the GWC or as a "stakeholder" is but one manifestation of the many interests of Government in gambling regulation including, for example, the interests of the Departments of the Treasury, Health, and Communities).
61. **External Oversight:** The GWC's view is that it would not benefit from the creation of a new external body charged with oversight of the operations of the GWC, if that was what was envisaged by the Discussion Paper. Inadequate administration or maladministration is properly the subject of investigation and report by the Parliamentary Commissioner. Efficiency and effectiveness audits can and should periodically be undertaken by the Office



of the Auditor General. Instances of actual misconduct, or corruption, are already within the purview of the Corruption and Crime Commission. Given this oversight, the GWC does not see the justification for the creation of another external probity body within the State's probity matrix.

### **C. Model 3 – Stand-alone casino regulator**

62. The GWC has considered the regulatory framework whereby it is an entirely independent regulator dedicated to casino oversight and other gambling activities, but excluding wagering. The GWC is however cognisant of the differences between the Victorian and Western Australian gambling environments, in particular the prevalence of EGM's outside the casino. Assuming the current policy settings in relation to the preclusion of substantive gambling activities outside the casino are retained, Model 3 is not a preference.
63. Specifically with respect to excising wagering, the GWC considers that wagering activities (and also lotteries) are part of a continuum gambling activities which, while posing a different risk profile, do have strong similarities. Further, the control of community gaming works to protect the monopoly of the Perth Casino, and the State's related revenue base, while wagering still represents significant gambling harm issues, and other regulatory risks. At a high level of generality, the principles for the regulation of wagering operators should reflect those of other gambling operators.
64. There has been discussion by GWC members of the desirability of an independent Commonwealth gambling and wagering regulator exercising national oversight. That approach has obvious merit in circumstances where a significant aspect of the conduct of the Casino Operator giving rise to the Perth Casino Royal Commission and other commission of enquiry (i.e. money laundering, and foreign criminal infiltration) is an issue governed by Federal laws. A national gambling regulator would also be best placed to manage compliance with the *Interactive Gambling Act 2001* (Cth), look into the harm caused by online sports betting (including the proliferation of advertising for those services), and regulate other disruptive digital technology within the broader concept of gambling (and is also likely to be better able to coordinate with Federal Law Enforcement Agencies regarding the same). The GWC notes the presence of these online gambling providers in Western Australia (and the marketing of their products to West Australian patrons), but also that they are outside the statutory regulatory reach of the GWC. However, given the Constitutional and inter-Governmental issues and potential delay in implementing such a regulatory framework, that option is not discussed in this response.

### **D. Model 4 – Absorb casino regulation into the Department**

65. The GWC does not favour a regulatory framework whereby the casino industry and other gaming and wagering is regulated entirely by the Department, or indeed within any department of government, including a devolved department.
66. Without going into detail, the reality of the inevitability of competing priorities within any resource constrained department principally dependent upon funding by appropriation, exposed in the course of the PCRC, is that the garnering of appropriate resources and managing policy and regulatory activities in relation to gambling, is required on a stand-alone basis.
67. Legislation to protect the institutional and resource integrity of a standalone regulator within a Department would likely produce something which was in substance a standalone regulator.

#### IV. PART THREE – SPECIFIC REGULATORY ISSUES

68. The GWC provides the following comments on the specific aspects of regulation identified by the PCRC.

##### A. Objects and principles clauses

69. In answer to Questions A and C, the GWC’s view is the legislative framework would benefit from an objects clause. The GWC has provided an example of the sorts of objectives that might be considered, and their prioritisation, in clause 35 above.

70. With respect to Question B, the GWC is unclear on the nuance, if any, between an objects clause and a principles clause in practice; however the GWC is not opposed to the idea if it provides clarification of the purpose of the regulatory framework.

##### B. Risks

71. The GWC’s views on risks, including the questions posed by the PCRC, are set out in paragraph 55 above. In summary, with respect to:

71.1 Questions A and B, the GWC is of the view that the regulatory framework should cater for (or facilitate):

- (a) the Casino Operator undertaking risk assessments and preparing a risk management plan, to be reviewed periodically, and whenever a material risk changes; and
- (b) the GWC (or an external expert) reviewing the risk assessments prepared by the Casino Operator,

but it is not essential for it to prescriptively legislate for it to occur. The regulatory framework should not prescriptively legislate for the GWC to devise the risk management plan for the Casino Operator. The GWC notes that in the absence of a prescriptive legislative requirement, it has developed and is maintaining its own risk management framework.

71.2 Question C, the GWC suggests an external review should take place every five years, or some other period (possibly as determined by the GWC but no longer than a set period), depending on the cadence of the thematic reviews discussed in paragraph 73.1(b) below.

71.3 Question D, the GWC’s preliminary view is that the licensee will always be in the best position to assess its own risks, and mitigate those risks and should be required to do so.

##### C. Review of the Casino Operator

72. As an introductory comment, the GWC favours a more comprehensive review of the Casino Operator, key employees (and in particular the most senior key employees who have material control over key business decision-making), and associates on both a periodic and event driven (i.e. “change of circumstance”) basis. Those circumstances can be determined in regulations, but change of control, or of the control of a material shareholding, is an obvious candidate.

73. With respect to Question A, the GWC’s view is that it should have a legislated power to review the casino licence holder.

- 73.1 With respect to the matters which ought to be reviewed, and the frequency of reviews, the GWC sees two viable options:
- (a) The first view is that the review should comprise a full probity review, involving a searching examination of the suitability of associates and “senior” key employees, business systems employed, and outcomes achieved. That review should be required on a periodic basis, in addition to any ongoing compliance auditing.
  - (b) The second is that the review should be a rolling yearly thematic review into a topic (or topics) at the GWC’s election. For example, in 2022, the review would comprise the Casino Operator’s risk framework, followed in 2023 by a review into harm minimisation, each of which informs an ongoing assessment of suitability etc. Such reviews would not be undertaken on a fixed cycle, and unsatisfactory outcomes in one review may lead to a deeper review more imminently than otherwise. The GWC is attracted to the randomness of this approach, and it would also result in less fluctuations in regulatory costs with the consequent impact on the casino license fee (given the GWC’s view the Casino Operator should bear the costs of the review – see paragraph 73.2 below).

In either event, the GWC considers that a far more searching examination is required of the character and suitability of key employees and associates, in particular at the most senior levels of management engaged in gambling operations or the management of the risks associated with those operations, and those who control or influence those operations (including through upstream ownership interests or entities) than the current criminal history compliance checks. Further, the GWC considers that an obligation should be imposed upon the Commissioner of Police to interrogate and make available protected information (on a basis similar to the protected information provisions of the *Liquor Control Act*) to ensure the probity of key employees and associates. A policy decision will need to be taken in relation to the risk calibration of decision-making based upon the type and extent of information that may be adduced as a result of that reporting obligation. There may be a need to identify a “subset” of the current key casino employees as defined, for the most searching level of enquiry.

- 73.2 In all instances, the Casino Operator should bear the costs of any review.
- 73.3 Finally, to facilitate any probity review, the GWC and its investigators should be legislatively enabled with a full suite of investigative powers, including powers necessary for compelling evidence and document production from the subject of the inquiry and any person who may provide useful information. Non-compliance with those obligations should attract a penalty.
74. With respect to Questions B and C, the GWC’s view is that it should not have the ability to suspend a casino licence. The decision to suspend the casino licence is a serious political, social, and economic decision, that should be made by the responsible minister on advice from the GWC and other stakeholders. As a matter of transparency and good governance, any advice from the GWC which recommends suspension (or termination) should be required to be tabled in Parliament (see paragraph 95 below). The GWC considers that there is an alternative pathway to oversight, instead of suspension, through the appointment of a “controller” which will permit the continuation of casino operations,

pending an ultimate termination, in the face of a serious and sustained, contravention of the Casino Operator's obligations of such consequence that there is no realistic possibility of remediation in the short term. Again, such a recommendation should be attended with appropriate transparency.

#### **D. Delegation of powers of the GWC**

75. As an overarching comment, the GWC notes that it has not formulated a full response in relation to this issue. Under cover of the caveat, it provides the following responses.
76. With respect to Question A, the GWC is of the view that some disciplinary powers are likely non-delegable and should be administered by an appropriately constituted disciplinary panel of the GWC. Further, there may be scope for the introduction of an infringement notice system for minor contraventions, albeit with significant penalties, which could be administered at an executive officer level by, for example, the CEO or CRO.
77. With respect to Question B, the GWC's view is that much depends upon the future scope of its activities. Based upon its experience, GWC is currently disposed to retain its control over the approval of central elements of:
- 77.1 directions;
  - 77.2 the approval of games and rules, and changes to the rules of games;
  - 77.3 the approval of at least a subset of key employees; and
  - 77.4 disciplinary functions in relation to organisation and key employees, save that disciplinary actions against (only) licensed employees could be delegated (up to a certain threshold).
78. With respect to Questions C and D, the GWC requires that all exercises of delegation should be recorded and reported fulsomely and promptly, and no later or less frequently than the next periodic GWC meeting.
79. As a general observation reducing delegations to the performance of purely ministerial acts largely obviates the point of a delegation and risks overloading the regulator with relatively minor administrative functions – this is a key issue in the existing workload of the GWC as it presently operates.

#### **E. Harm minimisation and the responsible service of gaming within the casino environment**

80. By way of introductory comment, the GWC is in favour of statutory requirement to develop a gaming harm minimisation programme to be implemented at the Perth Casino. Responsible service of gaming initiatives are already underway within the GWC, Department, and the Problem Gambling Support Services Committee (**PGSSC**), with the PGSSC recently reporting on government approaches to minimising gambling harm in Australia, and the holding of workshops to create a platform for policy to be developed to address problem gambling in Western Australia.
81. With respect to Question A, the GWC favours a more principle-based approach to harm minimisation around an ALARP concept (as opposed to a rigid prescriptive rules-based approach). Not all gambling expenditure is harmful and not all gambling activities cause harm. No evidence has been led to suggest that such a conclusion should be drawn. However, some gaming activities do cause harm to some people, and such harm should be reduced as far as reasonably practicable.

82. With respect to Question B, the GWC's view is that some elements of a prescriptive approach will aid the responsible service of gaming, if those rules are evidence based and appropriately constructed. In this regard, there are elements in relation to which "reasonable community expectation" as to "reasonable gambling activities" may also be invoked.
83. With respect to Question C and the degree of the GWC's oversight over harm minimisation, the GWC expects that harm minimisation plans and procedures, and the Casino Operator's compliance with them, if appropriately devised and documented, should be capable of being audited by:
- 83.1 the GWC, as part of its supervision or regular casino operations and activities; and
- 83.2 considered in detail in periodic suitability reviews, including by an external consultant.
84. With respect to Question D, the GWC's view is that it is an obligation of the Casino Operator to prepare and implement a gaming harm minimisation plan and meet that cost.
85. With respect to Question E and the establishment of an independent body which addresses gambling harm, the GWC has long supported, and continues to support, an external independent body to address gambling harm, and the provision of appropriate funding for that body. That does not necessarily mean that the body should or practicably could be wholly detached from the gambling industry, particularly if the industry: (a) is providing a considerable portion of the funding; (b) will be responsible for implementing aspects of the body's activities (including providing it information and data); and (c) will need to consider its recommendations and research in undertaking its own harm minimisation activities.

## **F. Inspectors**

86. As an overarching comment, the GWC notes that it has not formulated a full response in relation to this issue. Under cover of the caveat, it provides the following responses.
87. With respect to Question A, the GWC supports a physical presence at the casino (not necessarily 24 x 7), and in the community in relation to community gaming activities also, but there are considerable resourcing, skill set and policy issues to be addressed in devising an appropriate presence model.
88. One ex-GWC member was generally supportive of a physical presence at the Perth Casino, but queried what deterrent effect a permanent presence of inspectors at the casino would have. For example, the inspectors do not wear uniforms and therefore would not be readily identifiable by patrons (or even casino staff). The point was raised that the longer inspectors were physically located at the casino, the more at risk they were of regulatory capture, particular if they are simply patrolling the gaming floor and not performing a series of audit tasks.
89. Questions B and C will be addressed in the GWC's closing submissions. In relation to Question C, the GWC is currently giving thought to the future role of inspectors.
- 89.1 One view is that the historic understanding of an inspector be retired and replaced with the concept of investigators, which is common in other regulatory frameworks. This reflects a modern approach to casino regulation which

acknowledges that malfeasance does not predominantly manifest on the casino floor, but rather can be seen in the data and records generated by the casino.

- 89.2 Against that idea, the scope of the new investigator role would need to be reconciled with the audit responsibilities of the GWC, which is typically the remit of an inspector. As a result, the GWC may engage both inspectors and investigators, but the role delineation of these positions is still under consideration.
90. With respect to Question D, the GWC's view is that legislative power should not be delegated to inspectors. Inspectors should enjoy a suite of appropriate powers under the legislative framework, including, potentially, powers of public officers under s 9 of the *Criminal Investigation Act 2006* (WA), or perhaps more appropriately, part 8 of the *Taxation Administration Act 2003* (WA).
91. With respect to Question E, the GWC's view is that interference with investigative functions should carry with it a strict liability offence.
92. The GWC's answer to Question F depends on what regulation model is recommended by the PCRC and adopted by the Government. In principle, the GWC has no objection to being statutorily responsible for oversight of investigators at the Perth Casino.
93. With respect to Question G, the GWC's view is that investigators should be dedicated to casino inspection, but they will also have responsibilities for other gambling activities in Western Australia, such as oversight of bookmakers. The PCRC should take note of the comments expressed in paragraph 49 above.

#### **G. Ministerial powers**

94. As an overarching comment, the GWC notes that it has not formulated a full response in relation to this issue. By way of preliminary observation, the GWC's view is that the responsible Minister (and not the Director General, or the GWC) should be responsible for revocation or suspension of the Perth Casino license.
95. As noted in paragraph 74 above, the Minister should exercise this power on advice from the GWC and other relevant stakeholders. Given the significance of, in particular, a decision to revoke a casino licence, requiring the consent of the Governor (and therefore the input of the Executive Council, formally, and Cabinet, practically) will likely be required.
96. However, in the interests of transparency, the reports and recommendations of GWC in relation to such actions should be required to be tabled in Parliament within a fixed and finite time of delivery to the Minister.

#### **H. GWC financial systems and resources**

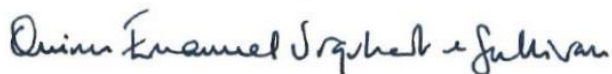
97. The GWC's views on its finances and resources are set out in Part Two, paragraphs 51 (for Model 2) and 59 above (for Model 1). In summary, with respect to:
- 97.1 Questions A and B, the GWC's view is that the Casino Operator should be principally responsible for funding its own regulation, recognising that the regulation of the casino may sit within a spectrum of gambling regulation, and the strict segregation of regulatory costs may not be practical or desirable.
- 97.2 Question C, the GWC's view is that there should be a legislative power for the regulator to review the casino licence fee on a regular basis.

- 97.3 Questions D to G, the GWC's view is that the casino licence fee should be predictable (meaning that the Casino Operator need not be consulted before any increase or decrease in the fee), but event driven. For example, in years where there is a review of the Casino Operator, the casino licence fee would increase.
- 97.4 Question H, see paragraph 63 above (in relation to wagering). The GWC's view is that it should not be charged with regulating non-gambling related industries, such as liquor.

## I. Junkets

98. Junkets are an inescapable feature of the current regulatory framework. The *Casino (Burswood Island) Agreement Act 1985 (WA)* defines "International Commission Business" as including "Junket Activity" (cross-referenced to the *CC Act*) and then specifically provides for the taxation of that activity. The undertaking of such activities is, therefore, expressly contemplated by the State Agreement, and has underpinned a number of significant capital expenditures by the licensee.
99. Even if the regulatory framework were to change with respect to junkets, the GWC's view is that there should not be an unconditional statutory prohibition on junket operations at Perth Casino (Questions A and B). Properly managed by reference to a strict test of suitability, and an appropriate definition of what is an acceptable "Junket Activity" (i.e., a facilitated tour focussed on gambling and tourism), junket activity could provide significant benefits to the Casino Operator and the State.
100. A particular aspect of junket operations which requires close examination, and a thorough risk assessment before the approval of any future junket activities, is the funding model of junket operators, and the funding relationships between the Casino Operator, junket operators and junket players which are currently opaque and appear to be vulnerable to abuse. The funding relationship between Junket Operators, junket players, and the Casino Operator should properly be subject to appropriate rules-based regulations, including proscription of arrangements which are determined to pose unacceptable risks.
101. With respect to Question C, the GWC's view is that if a form of junket operation is permitted, then GWC should licence junket operators and those engaged in junket operations on their behalf in the same way as it regulates Casino Operators and key casino employees. However, the initial probity investigation should be undertaken by the Casino Operator and provided to:
- 101.1 the GWC; and
- 101.2 at least, WA Police (and possibly Federal law enforcement and Border Security authorities),
- as part of the licencing process. The GWC will then assess the application with the assistance of the WA Police (and other LEAs), which should be enabled (and in the case of WA Police required) to provide information on a basis similar to the protected information provisions of the *Liquor Control Act*. An appropriate risk sensitivity needs to be determined, and made apparent to the Casino Operator, in relation to the licensing criteria.
102. That said, in the GWC's view an important part of any junket framework must be that the Casino Operator should at all times remain strictly responsible for all activities of junket operators undertaken in connection with a junket.

103. The GWC also sees considerable merit in obtaining information in relation to junket participants for law enforcement purposes. However, there is little merit in filtering this through the GWC which will only delay its receipt by the ultimate users of that information. The Casino Operator should be required to have systems and processes in place to ensure that junket participants are appropriately vetted, and that relevant identifying information and a relevant risk assessment (including information as to the sources of funds, and the use of those funds by them) is transmitted directly to relevant law enforcement agencies (including, at least, WA Police and potentially Australian Border Force). The GWC has a proper role in auditing those systems and processes and considering the compliance by a Casino Operator with those systems and processes in assessing ongoing suitability of the Casino Operator and its employees.
104. With respect to Question D, the GWC's view is that the Casino Operator should be required to re-apply for a licence for each junket operator on a periodic basis, and should also be under an obligation to monitor the probity of a junket operator, its representatives and its participants, and report any adverse information, while that operator's licence is on foot.
105. With respect to Question E, the GWC's view is that it can see no public interest benefits for the State in remote betting or betting by agent, and there are obvious probity risks. It is therefore supportive of a legislative prohibition on the practice.
106. Again, the obligation should lie with the Casino Operator to ensure that agency betting does not occur in the course of the conduct of Casino operations, and to have systems and processes in place to deter, detect and report instances of agency betting.



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