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# **Guidelines for applicants**

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Internet gaming

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# Guidelines for applicants

## Internet gaming

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## 2 Executive Summary

The Northern Territory of Australia has been fully regulating a successful internet gaming industry longer than any other jurisdiction in the world. As the established world leader, the Territory offers realistic regulation, which enables innovation and profitable, sustainable industry.

A licence to operate an internet gaming business is granted by the Minister following the Minister entering into an agreement to that effect with an applicant. In entering into an agreement the Minister has regard for the following:

- a. repute (character, honesty, and integrity) of applicant;
- b. financial background of applicant;
- c. resources (financial and management) of applicant;
- d. business ability; of applicant
- e. repute of applicant and proposed management; and
- f. repute of persons associated with the applicant and its management.

Consequently, applicants should provide sufficient evidence supporting the above to facilitate investigation and inquiry by or on behalf of the Minister and Director of Licensing. Revenue rates and recovery of costs associated with investigation and inquiry leading from an application are generally components of the agreement between the applicant and the Minister.

Once issued a licence, successful applicants are still required to submit, for approval, detailed (control and computer) systems to the Director prior to commencement of operation.

These guidelines describe the processes and set out a format, which should enable timely consideration of applications.

Any questions may be submitted to:

Director of Licensing  
Racing, Gaming and Licensing Division  
PO Box 1154  
Darwin NT 0801  
AUSTRALIA

phone +61 8 8999-1308  
fax +61 8 8999-7360  
e-mail David.Rice@nt.gov.au

## 3 Introduction

### 3.1 Scope

The Division 5 of *Gaming Control Act* deals with Internet Gaming. This document is intended to act as a guide to applicants and those considering applying for a Licence to Conduct Internet Gaming.

A separate document will provide guidance to licensees relating to application for approval under Regulations (e.g. computer systems, control systems, rules, etc).

### 3.2 Objectives

Adherence to the guidelines provided by this document should enable timely investigation and consideration, and enable the applicant to understand the application process.

### 3.3 Limitations

This is a non-binding description of the application processes at the time of writing. Without prejudice, this document is intended as a guide only. All queries, especially with regard to legal interpretation should be directed to the Director of Licensing.

### 3.4 References

Gaming Control Act, Gaming Control Regulations, AusModel.

### 3.5 Definitions and abbreviations

Abbreviation	Full description
Act	Gaming Control Act
Director	Director of Licensing
Licence	Licence to Operate Internet Gaming
NT	Northern Territory of Australia
Regulations	Gaming Control Regulations
www	World Wide Web

### 3.6 Document administration

#### 3.6.1 Change management

##### 3.6.1.1 Owner

Director of Licensing.

##### 3.6.1.2 Distribution and currency

All first party versions, shall be logged in a distribution list and reasonable efforts made to keep recipients informed of current documents. However, some holders of this document, in particular holders of copies not provided by the Director, may have out-of-date versions.

The onus is upon the reader to ensure the currency of the document.

##### 3.6.1.3 Change and release description

Version	Date	Description	Author
0.01	2001-12-03	First draft, for circulation to Racing, Gaming & Licensing management for discussion.	Alan Pedley
1.00	2001-12-05	Removed description of licensee applications under Regulations.	Alan Pedley
1.01	2001-12-23	Include some notes of caution (re: distribution, currency, and guide status).	Alan Pedley
1.02	2002-01-02	Re-format, enhance readability per direction Manager Technology Gaming Regulation.	Alan Pedley

### 3.6.2 Quality assurance

Version	Date	Description	QA
0.01	2001-12-03	Spell and grammar check	Alan Pedley
1.00	2001-12-05	Spell and grammar check	Alan Pedley
1.01	2001-12-23	Built-in spell & grammar check	Alan Pedley
1.02	2001-01-02	Built-in spell & grammar check, format enhancement	John Sealy Alan Pedley

## 4 Internet gaming

### 4.1 Context

Where the Minister enters into an agreement with a person relating to the conduct of an internet gaming business, the Minister may grant a licence. That is to say the granting of a licence is dependent on the Minister entering into an agreement and consequently applicants should consider an "agreement" and a "licence" concurrently.

The remainder of this document provides guidance by way of reference to the pertinent sections (shaded boxes) of the Gaming Control Act.

### 4.2 Definition of internet gaming business

#### 47A. DEFINITION

In this Division, "internet gaming business" includes —

- (a) conducting a lottery;
- (b) conducting a game; and
- (c) the sale of tickets in a lottery or foreign lottery,

by means of the internet but does not include —

- (d) gaming conducted in accordance with this Act by an approved association; and
- (e) a trade lottery conducted in accordance with this Act.

In processing an application for a licence to conduct internet gaming, the Director, is mindful of existing licensed gaming operations, including lotteries and casinos, with established agreements in the Northern Territory. The overall risk and benefit to the Territory will be factors considered by the Minister. Benefits might result directly by means of gaming revenue, and through increased employment from Territory based businesses.

### 4.3 Application for Licence to Conduct Internet Gaming

#### 47B. APPLICATION FOR LICENCE TO CONDUCT INTERNET GAMING

(1) A person may apply to the Minister to be granted a licence to conduct an internet gaming business.

An indicative flowchart of the application process appears at Annex A.

So as to facilitate timely investigation and consideration of applications, it is recommended applicants adhere to the guidelines set out in this document and make application marked to the attention of:

Director of Licensing  
PO Box 1154  
Darwin NT 0801  
Australia

Queries relating to the making of applications under s47B of the Act may be made of the Director on +61 (8) 8999-1308.

(2) An application under this section is to be in a form or to the effect of the form approved by the Minister and is to be accompanied by the prescribed fee, if any.

Applications made in a form consistent with these guidelines are likely to be considered to be in an appropriate form. All Enclosures should be completed, as appropriate, and attachments should be included to address matters specific to the proposal.

There is currently no fee prescribed in the Northern Territory. Practice in the Northern Territory has seen the costs incurred during consideration of applications to be recovered from persons under the terms and conditions of subsequent "agreements". Applicants,

therefore should be aware the cost of considering applications, including inquiry, investigation, audits, etc is likely to be ultimately borne by the applicant.

(3) An application under this section must contain or be accompanied by any additional information that the Minister may request.

This document describes the generic information sought by the Minister for all applicants. The Minister, or Director, or appointed officer may request additional information from applicants from time-to-time.

The range of possible applications and contingencies does not allow a single pro-forma application. Each application is considered on its unique and individual merits.

(4) If a requirement made by this section is not complied with, the Minister may refuse to consider the application.

The Racing, Gaming and Licensing Division of NT Treasury is available to answer queries and provide guidance to applicants to assist in complying with these requirements.

(5) If the Minister refuses to consider an application or an application is withdrawn by the applicant before it is considered by the Minister, the Minister, at his or her discretion, may refund the whole or part of the application fee.

There is currently no prescribed application fee.

#### **4.4 Agreement relating to the conduct of an internet gaming business**

##### **47C. MINISTER MAY ENTER INTO AGREEMENT**

(1) Notwithstanding any other law of the Territory, the Minister may negotiate and enter into an agreement with a person relating to the conduct by the person of an internet gaming business in or from the Territory and the manner in which the business may be conducted.

Applicants for a licence to conduct an internet gaming business will vary considerably. Each application will offer unique opportunities and risks. This provision of the Act enables the Minister and applicant to agree on controls and conditions, which specifically relate to the unique opportunities and risks associated with each applicant. The Minister will consider the public interest and impact on the Northern Territory generally, when considering applications. Applicants therefore, would be well served to set out all impacts the proposal will have on the public and Northern Territory including, for example, employment opportunities.

An agreement under this section will often include clarification of the rate of tax and “cost recovery” for investigations, inquiries, etc conducted in the process of providing advice to the Minister relating to applications for a Licence.

The guidelines in this document provide guidance on the application process.

(2) The Minister may carry out, or cause to be carried out, any investigations and inquiries that the Minister considers necessary for the purposes of determining whether to enter into an agreement under subsection (1) or to grant a licence under section 47D.

The Director collates applications, manages investigations and inquiries, and provides advice to the Minister. This document sets out the framework for the conduct of generic investigation and inquiry. However, in recognition of the unique opportunities and risks of individual applications the precise nature of investigations and inquiries may be subject to variation.

The Minister may, of course, conduct further investigation or inquiries considered necessary.

(3) An investigation or inquiry under subsection (2) may include an investigation or inquiry to determine whether a person or an associate of a person is a suitable person to be concerned in or associated with the internet gaming business proposed to be conducted.

Generally, an investigation or inquiry will attempt to ascertain whether a person or an associate of a person is a suitable person.

#### 4.4.1 Form of application

The Minister is required to have regard to certain characteristics when entering into an agreement.

The Director of Licensing manages the provision of assessments, to the Minister, to facilitate his or her consideration. The Director manages investigations, inquiries and the provision of information to the Minister as a result of an application for a licence, which may lead to the Minister considering entering an agreement.

The onus is on applicants to provide sufficient evidence to assist the Director conclude investigation and inquiry in a timely manner. This document provides guidance. However, applicants have diverse backgrounds (business, geographic) and consequently a single form can not cover all contingencies. Applicants who provide full and honest disclosure increase the likelihood that inquiries will be concluded in a timely manner.

In each instance the applicant must satisfy the Director that all information is complete and correct. To assist applicants in compiling a structured, complete application some “forms” have been defined and are included with this document as Enclosures. Some Enclosures relate to “corporate” persons, others to “natural” persons.

A summary of Enclosures appears at Annex B.

##### 4.4.1.1 Repute

(4) In determining whether to enter into an agreement under subsection (1), the Minister is to have regard to the following:

(a) whether the person is of good repute, having regard to character, honesty and integrity;

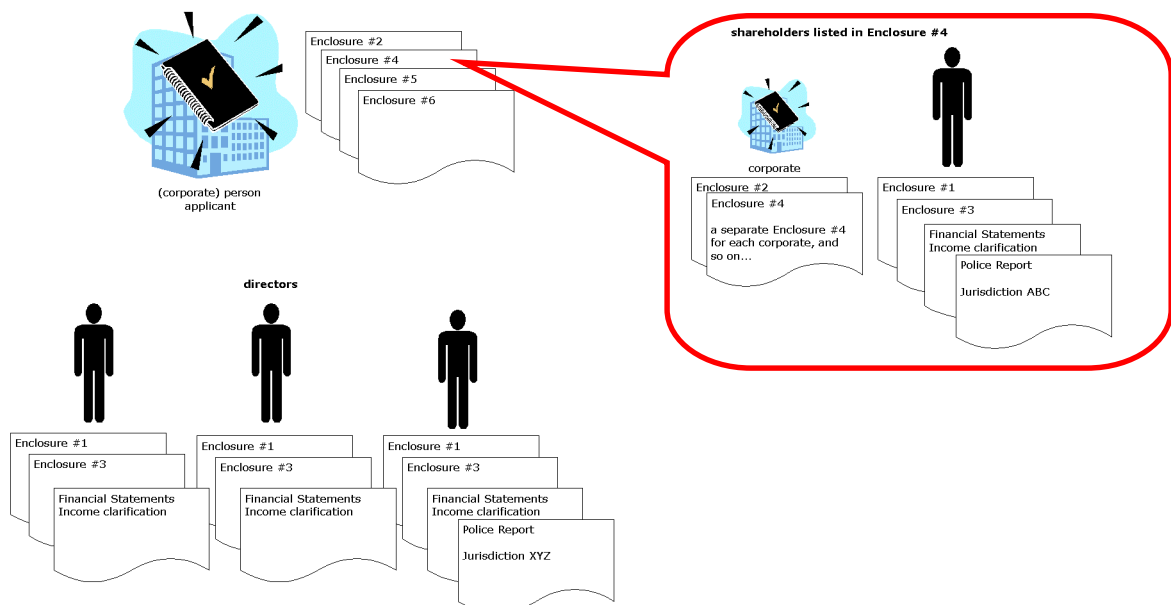


Figure 1 - guide to documentation relating to good repute

Inquiry into the applicant company and its directors is a means to assist the Minister to have regard for whether the applicant is of good repute. Enclosures #1 to #6 are intended to facilitate investigation and inquiry.

These enclosures are intended to ascertain the details of all material persons associated with the applicant (5% or more control).

Enclosures #6 and #7 should be used to include information relating to any non-compliance with a law by a shareholder or a company controlled by a shareholder in the last ten (10) years.

Each person who resides or has resided overseas during the past five years should provide a current Police Report or equivalent from an appropriate authority within the jurisdictions resided in.

**4.4.1.2 Financial background**

(b) whether the person is of sound and stable financial background;

Generally the financial performance and assets of the applicant and/or the applicant's controlling entities will be used as an indicator as to whether or not the applicant is of sound and stable financial background. While audited financial statements should provide other relevant information as appropriate. Regardless, applicants may be required to provide more detailed or explanatory information.

**4.4.1.3 Resources**

(c) whether the person has or is able to obtain financial resources that are adequate to ensure the financial viability of the internet gaming business proposed to be conducted and to obtain the services of persons who have sufficient experience in the management and operation of the business;

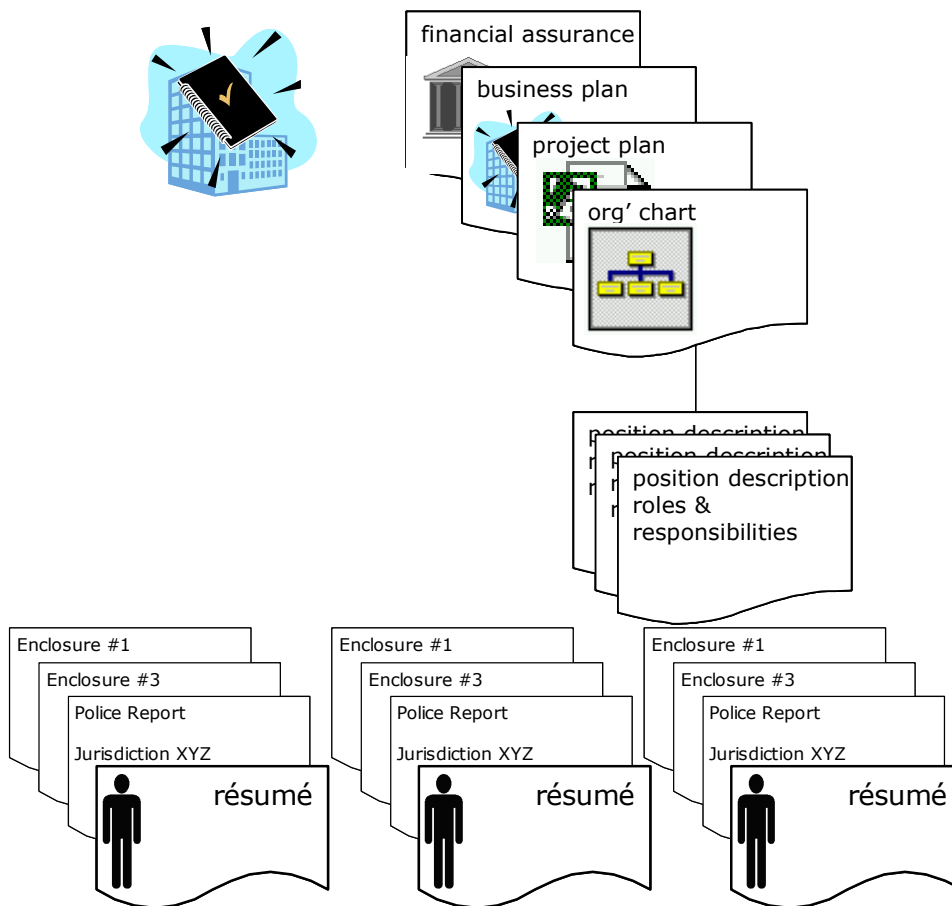
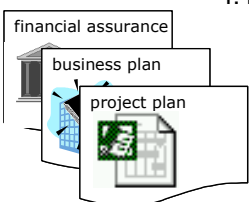


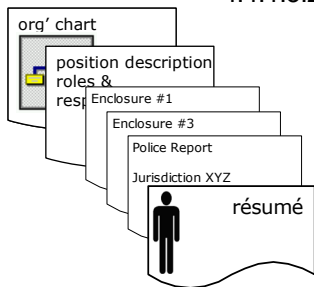
Figure 2 - summary of resource component of application

**4.4.1.3.1 Financial resources**



The applicant should provide sufficient assurance that it will have financial resources sufficient to ensure the financial viability of the internet gaming business. Projected financial needs should be supported by detailed business and project plans, which factor all costs and revenues. To assist inquiries and investigations sensitivity analysis of costs and revenues will provide assurance that financial resources are adequate in the event of unforeseen delays.

#### 4.4.1.3.2 Management resources



The applicant should provide details of key positions required to manage and operate the business, it is anticipated this might take the form of a draft organisational chart showing planned management with position titles and a brief job description for each anticipated position.

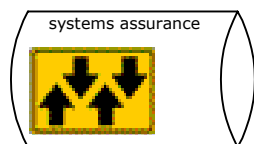
It is anticipated the applicant will provide details of persons it intends to fill the identified positions, including résumé of experience and provide professional referees, including previous three employers. Proposed management resources shall be subject to “good repute” considerations above and consequently required to submit a complete Enclosure #1, Enclosure #3, and Police Report(s) from jurisdiction(s) of residence (if outside Australia).

#### 4.4.1.4 Capacity to conduct business

(d) whether the person has sufficient business ability to establish and maintain the business proposed to be conducted;

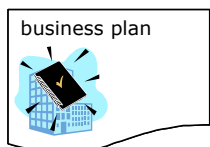
Firstly, it is fundamental that adequate financial and management resources are assured, when considering whether or not the applicant has sufficient business ability to establish and maintain the business.

Reference is made to Annex A – investigation and inquiry will generally be separated into two distinct phases. A preliminary desktop analysis of an applicant’s business plan, financial resources, proposed management resources, proposed systems, etc will be undertaken. More detailed review of the ability to conduct the business will be performed after agreement relating to cost-recovery and other terms, should the applicant be successful.



To further enable investigation and inquiry relating to the applicant’s capacity to conduct the business, the applicant should furnish a description of its proposed systems – computer systems and control systems. The applicant should describe in terms of risk management<sup>1</sup> why the intended systems will provide sufficient assurance that residual risk is defined and acceptable.

It should be understood that investigations and inquiries relating to “capacity to conduct business” leading to licensing do not constitute detailed consideration of systems, which will be undertaken by the Director after licensing and prior to approved operation.

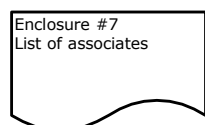


The Business Plan and risk analysis should include, but is not limited to, matters such as:

- a. revenue and expenditure;
- b. the target audience/participants and demographics of the target audience/participants, take-up rates and assumptions (e.g. basis for revenue –v- expenditure);
- c. description of product (including comparison to internet and physical products), competing products and sites (including URLs);
- d. risk management of extra-Territory legal matters; and
- e. geographic locations and implications of employment and infrastructure.

#### 4.4.1.5 Repute of management associates

(e) whether the person or any person to be involved in the management or operation of the internet gaming business proposed to be conducted has any association with a person, body or association who or which, in the opinion of the Minister, is not of good repute having regard to character, honesty and integrity or has undesirable or unsatisfactory financial resources;



All nominated managers of the applicant shall provide details of all associates during the previous 5 years. Associates are generally considered to include persons as described in Annex C.

Enclosure #7 may be used for this purpose.

<sup>1</sup> The Director of Licensing currently utilises the Methodware risk management suite of products. Electronic submissions in a suitable format will enhance the Director’s capacity to have regard to the applicants capacity to conduct the business.

#### 4.4.1.6 **Repute of owner associates**

(f) whether each director, partner, trustee, executive officer and secretary and any other officer or person determined by the Minister to be associated or connected with the ownership, administration or management of the operations or business of the person is a suitable person to act in that capacity.

Enclosure #7  
List of associates

All directors, partners, trustees, executive officers, secretary of the applicant shall provide details of all associates during the previous 5 years. Associates are generally considered to include persons as described in Annex C.

Enclosure #7 may be used for this purpose.

#### 4.4.1.7 **Summary**

The Minister must have regard to a variety of matters when determining whether to enter into an agreement. The Enclosures and items cited in this section are intended to facilitate timely consideration.

Each document is reiterated and summarised at Annex B.

#### 4.4.2 **Agreement details are public information**

(5) The Minister must, not later than 3 sitting days of the Legislative Assembly after entering into an agreement under subsection (1), cause a copy of the agreement to be tabled in the Assembly.

The terms and conditions contained in an agreement is public information and open to review by the Parliament of the Northern Territory of Australia.

#### 4.5 **Grant of Licence**

##### 47D. MINISTER MAY GRANT LICENCE

(1) Where the Minister enters into an agreement with a person under section 47C, the Minister may grant a licence under this Division to the person to conduct an internet gaming business in or from the Territory and for other purposes or activities associated with that business that the Minister thinks fit and specifies in the licence.

(2) Subject to this Act, a licence granted under this Division is subject to the terms and conditions that are specified in the agreement and in the licence document.

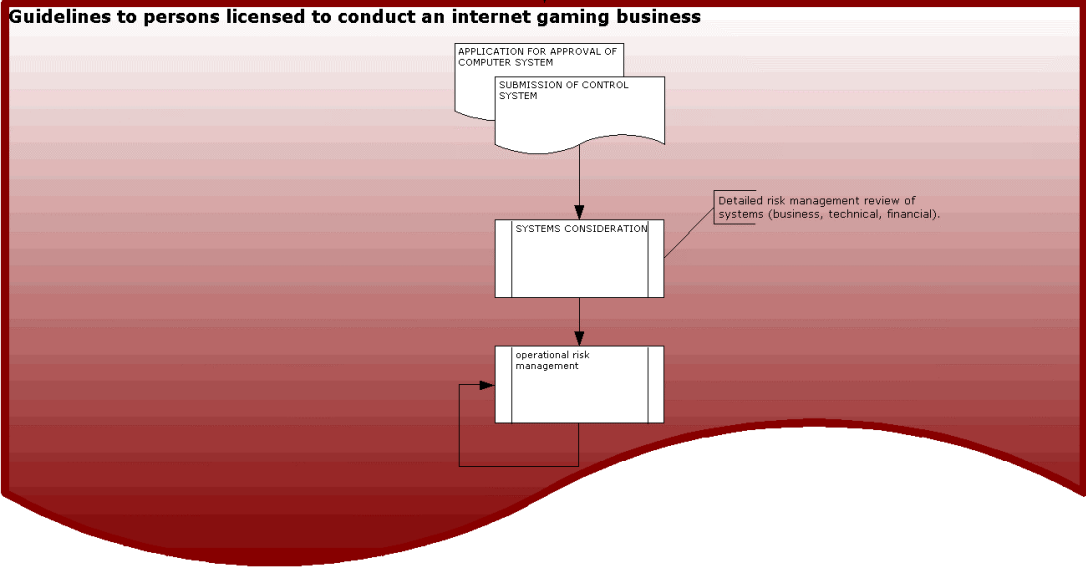
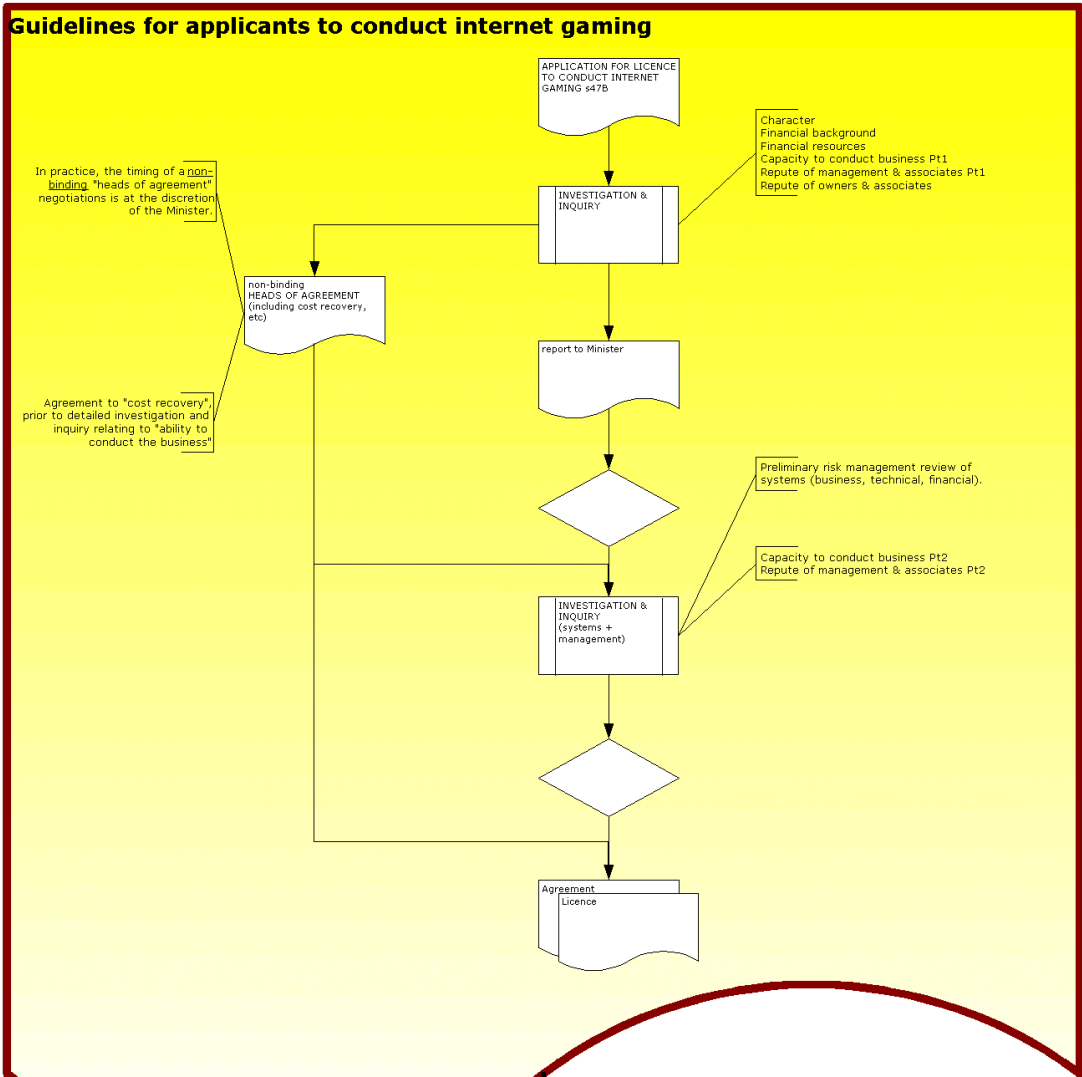
An agreement is a prerequisite of a Licence, the two combine to set out terms, conditions, etc relevant to the characteristics, opportunities, and risks on a case-by-case basis.

Consequently, a Licence will only be granted toward the end of the process and when the Minister has considered all attributes (opportunities and risks) and entered an agreement.

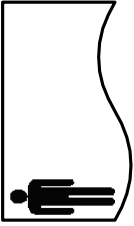
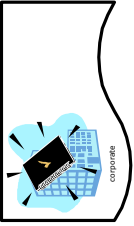
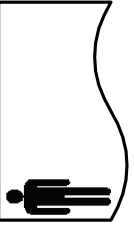


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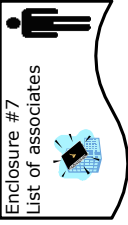
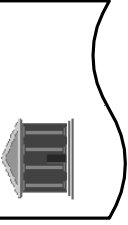
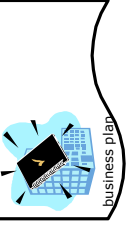
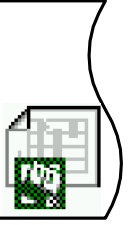
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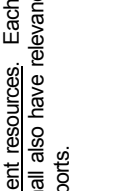
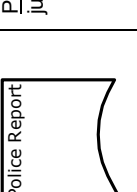
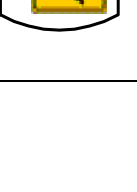
**Annex A: Overview of application process**



**Annex B: Summary of Enclosures & application**

Enclosure #	Natural / corporate	Title & description
1		<p><u>Deed of Release and Indemnity.</u> Provides indemnity to the Commissioner of Police of the Northern Territory of Australia, his servants and agents. Must be completed by each "natural person" associated with the applicant.</p>
2		<p><u>Company information.</u> Provides a format for companies to detail their structure, ownership and management. Corporate entities should use this document to describe dealings (applications, non-approvals, approvals, etc) with other gaming (or like) regulatory authorities.</p>
3		<p><u>Person information.</u> Provides a format for natural persons to define themselves and provide details relating to matters often associated with "character", "honesty", and "integrity". Persons should use this document to describe dealings (applications, non-approvals, approvals, etc) with other gaming (or like) regulatory authorities.</p>
4		<p><u>Shareholder information.</u> This Enclosure enables corporate entities to define their ownership/beneficiary structure at a high level.</p>
5		<p><u>Subsidiary information.</u> This Enclosure enables corporate entities to define their corporate structure at a high level by describing all related and subsidiary corporate entities.</p>

Enclosure #	Natural / corporate	Title & description
6		<p><u>Additional information.</u> This merely recognises that the pre-defined formats of other Enclosures may not, in some instances, be sufficient to document all relevant details. The onus is on applicants to ensure the Minister is able to fully appraise himself or herself of all relevant details. Therefore, all matters of relevance should be provided.</p>
7		<p><u>Repute of associates.</u> Enclosure #7 allows identification of persons associated with the management, operation, ownership, etc of the applicant. Further information may be sought in relation to associates or the repute and financial resources of those associates.</p>
		<p><u>Financial resources.</u> Applicants must provide <u>evidence of sufficient financial resources</u> to conduct the business proposed.</p>
		<p><u>Financial resources.</u> A realistic <u>business plan</u> should form justification that financial resources are adequate to conduct the business proposed.</p>
		<p><u>Financial resources.</u> A realistic project plan to commence operations under an agreement and licence is expected to form a component of justifying financial resources are adequate to conduct the proposed business.</p>

Enclosure #	Natural / corporate	Title & description
		<p><u>Management resources.</u> A preliminary <u>organisational chart</u> of the proposed business, setting out the management structure, including position titles, and brief description of roles and responsibilities.</p>
		<p><u>Position description.</u> A position description (statement of duties) including roles and responsibilities should be provided for each position in the organisational chart.</p>
		<p><u>Management resources.</u> Each position for which the applicant has selected an incumbent, the persons details and résumé. Each such person shall also have relevance to the "good repute" of the applicant and as such should complete an Enclosure #1, Enclosure #3, and Police Reports.</p>
		<p><u>Police report.</u> Each natural person who has resided outside of Australia during the past 5 years should furnish a report from the Police of each jurisdiction in which that person has resided. The report should provide details of police interaction with the person (or equivalent).</p>
		<p><u>Capacity to conduct business.</u> Investigation and inquiry will be based on previously sought material and a risk management justification of the systems intended for use.</p>

## **Annex C: Guide as to interpretation of “associate”**

An “associate” is generally considered to include:

- a. the person’s spouse;
- b. a parent or remoter lineal ancestor son, daughter or remoter issue, brother or sister of the person;
- c. a partner of the person;
- d. a body corporate of which the person is an executive officer;
- e. where the person is a body corporate, and executive officer of the body corporate;
- f. a person who, in the previous 5 years, has provided to the first-mentioned person advice for fee or reward in relation to gaming, the conduct of gaming or the manufacture, assembly, sale, supply, installation, alteration, obtaining, possession, operation, use, adjustment, maintenance or repair of gaming equipment including internet gaming equipment or associated control systems;
- g. an employee or employer of the person;
- h. an officer or employee of a body corporate of which the person is an officer or employee;
- i. an employee of a natural person of whom the person is an employee;
- j. a body corporate whose executive officers are accustomed or under an obligation, whether formal or informal, to act in accordance with the directions, instructions or wishes of the person, or where the person is a body corporate, of the executive officers of that body corporate;
- k. a body corporate in accordance with the directions, instructions or wishes of which, or of the executive officers of which, the person is accustomed or under an obligation, whether formal or informal, to act;
- l. a body corporate in which the person holds a controlling interest;
- m. where the person is a body corporate, a person who holds a controlling interest in the body corporate;
- n. a person who is named in an influential or benefiting party; and
- o. a person who is, an associate of any other person who is an associate of the person (including a person who is an associate of the person by another application or other applications of this subsection).