

VAGO

Victorian Auditor-General's Office



Follow up of Regulating Gambling and Liquor

November 2019



Victorian Auditor-General's Office

Follow up of Regulating Gambling and Liquor

Independent assurance report to Parliament

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Victorian Auditor-General's Office

The Hon Shaun Leane MLC
President
Legislative Council
Parliament House
Melbourne

The Hon Colin Brooks MP
Speaker
Legislative Assembly
Parliament House
Melbourne

Dear Presiding Officers

Under the provisions of the *Audit Act 1994*, I transmit my report *Follow up of Regulating Gambling and Liquor*.

Yours faithfully

A handwritten signature in black ink, appearing to read 'Andrew Greaves', is written over a faint, larger signature that appears to be 'Shaun Leane'.

Andrew Greaves
Auditor-General

28 November 2019

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Acronyms

AUSTRAC	Australian Transaction Reports and Analysis Centre
DPC	Department of Premier and Cabinet
BP3	<i>Budget Paper 3: Service Delivery</i>
CC Act	<i>Casino Control Act 1991</i>
GR Act	<i>Gambling Regulation Act 2003</i>
ICT	information and communications technology
LCR Act	<i>Liquor Control Reform Act 1998</i>
MoU	memorandum of understanding
SOP	standard operating procedure
VAGO	Victorian Auditor-General's Office
VCGLR	Victorian Commission for Gambling and Liquor Regulation

Audit overview

Previous audit

In February 2017, the Victorian Auditor-General tabled the *Regulating Gambling and Liquor* audit report in the Victorian Parliament. The objective of this follow up audit was to assess whether the Victorian Commission for Gambling and Liquor Regulation (VCGLR) has taken the action it said it would in response to the 13 recommendations we made to it in 2017. Victoria Police and the remaining recommendation for the Department of Justice and Community Safety (formerly the Department of Justice and Regulation) are not included.

During this follow up audit, VCGLR started investigating allegations of money laundering and other criminal activity at Crown Casino. VCGLR cannot take enforcement action in relation to suspected money laundering or receive information on money laundering activity from the Australian Transaction Reports and Analysis Centre (AUSTRAC). Under the *Anti-Money Laundering and Counter-Terrorism Financing Act 2006* VCGLR's role is to share any information its casino inspectors detect with responsible regulators and law enforcement agencies. VCGLR has an obligation under the *Casino Control Act 1991* (CC Act) to ensure the management and operation of casinos remain free from criminal influence or exploitation. Its investigations are ongoing.

Conclusion

VCGLR has progressed all 13 recommendations directed to it in 2017. As a result, liquor licensing processes have improved, liquor regulation now has a more risk-based model, guidance for staff and commissioners has improved, performance reporting better reflects intended outcomes and VCGLR has established a dedicated casino team.

However, further work is required to complete actions on most recommendations. This includes implementing risk-based models for gambling regulation, embedding the new performance reporting system and monitoring implementation of the quality assurance framework designed to improve compliance.

We have evidence that where VCGLR identified evidence or intelligence in relation to suspected criminal activity (such as money laundering) it has referred such material to law enforcement agencies such as AUSTRAC. VCGLR has also committed to share information on suspected or actual money laundering in Crown Casino within its regulatory remit, and to engage with other agencies to further clarify respective roles, responsibilities and any collaborative arrangements. We found that VCGLR could improve guidance for its staff on the CC Act, how to mitigate risk with their casino supervision and on the roles of agencies working on anti-money laundering.

Findings

Figure A shows VCGLR's progress on each recommendation. It uses the following indicators:



-  Recommendation completed
-  Recommendation in progress

Figure A
Status of recommendations

Licensing industry participants (Chapter 2)	
1. Changes to liquor licensing process	Recommended changes made to liquor licensing processes.
2. Ongoing liquor licensee checks	VCGLR has a system for checks of licensees, but only checks a small, non-statistical sample.
3. Guidance on licence application	Improved guidance available to licensing officers. System limitations impact VCGLR's ability to monitor compliance with guidance.
4. Risk-based licensing model (liquor)	Risk-based model for liquor licensing implemented.
4. Risk-based licensing model (gambling)	VCGLR finalising implementation of its risk-based model for gambling licensing.
5. Assessing electronic gaming machines	Guidance on assessment for 'no net detriment' improved.
6. Reporting on licensing activities	Measures revised. Once embedded, new reporting system should significantly improve management reporting capabilities.
Assuring compliance (Chapter 3)	
7. Data integrity checks	VCGLR has undertaken action to improve data integrity, including implementation of a new reporting system.
8. Risk-based compliance approach (liquor)	Liquor harm prioritisation system and process implemented.
8. Risk-based compliance approach (gambling)	Gambling system and process in early implementation stage.
9. Compliance quality/assurance framework	Framework completed. Further work required on suite of standard operating procedures that support compliance work.
10. Training compliance inspector	Compliance inspectors receive formal and informal training.
11. Supervising casino operations	Dedicated casino team in place. Need to ensure staff training helps staff understand the roles of various casino regulators and improve transparency of the team's risk-based approach.
Measuring performance and collaborative enforcement (Chapter 4)	
12. Publicly report performance measures	<i>Budget Paper 3: Service Delivery</i> (BP3) performance measures reviewed by VCGLR and the Department of Justice and Community Safety.
13. Adopt collaborative enforcement strategy	Collaborative enforcement strategy agreed between VCGLR and Victoria Police.

Source: VAGO.

1

Audit context

About 80 per cent of adult Victorians drink alcohol regularly and about 75 per cent gamble at least occasionally.

Gambling activities include:

- sports betting and wagering
- electronic gaming machines, of which there are around 30 000 in the state
- Keno and lotteries
- minor gaming such as bingo, lucky envelopes, and raffles
- Crown Casino.

The Victorian Government earned \$1 826 million in taxation and licence fees from liquor and gambling activities in 2018–19. The alcohol and gambling industries employ over 130 000 people in Victoria and are important parts of our tourism industry.

Both the gambling and liquor industries have a high economic and social impact.

In 2018–19, player loss from gambling within the state of Victoria totalled around \$5 869.6 million—of which around \$2 698.7 million was lost on gaming machines, \$1 679.1 million lost at Crown Casino, and \$1 491.8 million lost on wagering and lotteries.

The misuse or abuse of gambling and alcohol can have serious negative impacts for individuals, their families and friends, and the wider community. These impacts include:

- street and domestic violence
- injuries and fatalities associated with vehicle accidents
- depression and other mental health issues
- theft and fraud to support gambling and alcohol addiction
- family neglect and child abuse
- loss of family assets and income
- medical conditions associated with alcoholism.

1.1 Role of the regulator

VCGLR is the independent statutory authority that regulates Victoria's gambling and liquor industries. It aims to uphold a culture of integrity and harm minimisation in the gambling and liquor industries through efficient and effective regulation, compliance monitoring and enforcement.

The key legislation under which VCGLR regulates is:

- *Casino Control Act 1991*
- *Gambling Regulation Act 2003* (GR Act)
- *Liquor Control Reform Act 1998* (LCR Act).

1.2 Why this audit is important

Each year, we ask agencies to attest to their progress in implementing actions to address previous performance audit recommendations that they accepted. Using these attestations, and our assessment of the public interest and materiality of audit topics, we select audits to follow up.

If VCGLR had not addressed the issues identified in the 2017 *Regulating Gambling and Liquor* audit, there would be potentially significant social and economic impacts for the industry and the public.

1.3 What this audit examined and how

In this follow up audit, we examined VCGLR's actions against our past recommendations. For each recommendation we:

- reviewed VCGLR's attestations of action against recommendations provided as part of our annual follow up survey
- assessed documentary evidence provided to demonstrate actions in response to recommendations
- interviewed relevant staff
- reviewed systems and undertook file reviews.

Unless otherwise indicated, any persons named in this report are not the subject of adverse comment or opinion.

We conducted the follow up audit in accordance with the *Audit Act 1994* and ASAE 3500 *Performance Engagements*. We complied with the independence and other relevant ethical requirements related to assurance engagements. The cost of this audit was \$168 000.

1.4 Report structure

The remainder of this report is structured as follows:

- Part 2 examines actions against recommendations related to licensing industry participants (recommendations 1 to 6).
- Part 3 examines actions against recommendations related to assuring compliance and casino supervision (recommendations 7 to 11).
- Part 4 examines actions against recommendations related to measuring performance and developing collaborative enforcement (recommendations 12 to 13).

1.5 Responses to recommendations

We have consulted with VCGLR and we considered their views when reaching our audit conclusions. As required by the *Audit Act 1994*, we gave a draft copy of this report to VCGLR and asked for its submissions or comments. We also provided a copy of the report to Department of Premier and Cabinet (DPC).

The full responses are included in Appendix A.

2

Licensing industry participants

In the 2017 audit, we found that VCGLR had made limited progress in reorganising the licensing division, training staff and providing improved guidance material to move towards a more risk-based approach to licensing activities.

VCGLR could not demonstrate that it properly examined and assessed all licensing applications in line with legislative provisions before approving them. Those weaknesses were more significant for liquor applications because VCGLR accepted applicants' information at face value. It relied heavily on both the honesty of applicants, and on Victoria Police and potential objectors to raise issues on the suitability of applicants, amenity issues or social harms associated with those applications.

In 2017, we identified instances where VCGLR granted licences without fully identifying and assessing the suitability of applicants and their associates, including cases where applicants had not provided complete information on their associates and past criminal convictions.

The 2017 audit recommended that VCGLR improve liquor licensing processes, adopt a risk-based model for licensing, undertake ongoing checks of liquor licensees, assess licence applications against all relevant legislative considerations, improve the transparency of net detriment decisions and conduct better reporting on licensing activities.

2.1 Liquor licensing process

VCGLR must assess and determine liquor licence applications in accordance with the LCR Act. VCGLR determined 16 227 liquor licence applications in 2018–19—a decrease of 207 from the previous year.

Recommendation 1

We recommend that VCGLR amend its liquor licensing process to:

- require applicants to provide evidence to show that all directors and associates have been disclosed
- document its assessments against all relevant legislative considerations when determining applications, including applicant suitability, amenity issues, and risks of misuse and abuse of alcohol.

Key points underpinning past audit recommendation

- Licence application assessments did not address LCR Act requirements.
- Reasoning behind decisions needed to refer to statutory provisions in more detail.
- Decision records examined were inconsistent, did not comprehensively address key matters specified in legislation or contain sufficient information to demonstrate why a liquor licence was granted.
- VCGLR relied solely on others to identify matters against applications.
- VCGLR did not adequately confirm the accuracy of applicant information.

Completed

Progress

VCGLR has implemented the audit recommendation (Figure 2A).

Figure 2A
Progress implementing recommendation 1

VCGLR has:

- analysed the business structures of its applicants to determine the evidence it may obtain. It now requires higher risk-entities, such as companies, to provide additional information on their directors as part of the application process
- strengthened processes, guidance and training related to applicants providing evidence that they have disclosed all directors and associates
- updated licence assessment processes, licence application forms, assessment templates (for high-volume licence types) and decision sheets to enable assessments against all relevant legislation
- established explicit links between licence application forms, assessment criteria in assessment templates and individual sections in the LCR Act
- updated relevant internal guidance and training programs, communicated changes to staff and promoted those changes to external parties.

VCGLR has not:

- addressed the issue of incomplete or incorrect assessment templates. We discuss this issue in Section 2.3.

VCGLR could improve implementation by:

- developing more liquor licence application assessment templates for high-volume licence types. Software with system controls that restrict data entry values can prevent a range of data entry errors and incomplete records being saved.



Source: VAGO.

2.2 Ongoing checks of liquor licensees

Approximately 11 000 companies hold a liquor licence in Victoria. Section 103 of the LCR Act requires a licensee to inform VCGLR within 14 days, in writing, of changes to directors and associates.

Recommendation 2

We recommend that VCGLR undertake ongoing checks of liquor licensees to ensure company changes have been disclosed in line with the *Liquor Control Reform Act 1998*.

Key points underpinning past audit recommendation

- VCGLR had insufficient processes to ensure licence holders informed it of changes in company directors and associates after a licence is granted.
- VCGLR could conduct random checks on licensees to better monitor whether company details have changed.
- Compliance officers undertaking routine inspections were not systematically checking for changes in directors or associates due to a lack of consistently applied procedures.
- VCGLR could encourage compliance with the LCR Act by alerting licensees that they may be randomly checked.

In progress

Progress

While VCGLR has implemented a system to undertake checks of liquor licensees, the very small sample of checks it has made means it does not provide sufficient assurance of licensee compliance.

VCGLR now undertakes an annual monitoring program of liquor licence holders based on an annual random sample of licensees. Where it finds breaches, it refers them to the compliance team for further investigation and action.

However, Figure 2B shows that the marked decrease in the non-compliance rate reported by VCGLR was based on small samples that are not statistically valid. Without statistically significant sample sizes, it is not possible to determine if non-compliance has reduced.

Figure 2B
Annual monitoring program sample size

Year	Sample size	Non-compliance rate
2016–17	48 (0.4%)	38 (79%)
2017–18	80 (0.7%)	20 (25%)
2018–19	50 (0.5%)	6 (12%)

Source: VAGO based on VCGLR's data.

Figure 2C summarises progress against recommendation 2 and further suggestions for improvement.

Figure 2C
Progress implementing recommendation 2



VCGLR has:

- implemented an annual monitoring program of liquor licence holders. Breaches identified through the monitoring program are referred to the compliance team for further investigation and action
- published on its website the requirement for licensees to notify it of changes to directors and associates.

VCGLR has not:

- alerted licensees either directly, or publicised on the VCGLR website, that it may conduct random checks to confirm licensees' company details. Promoting the monitoring program would raise awareness of the need to report changes and that VCGLR is actively looking for licensees that are not doing so
- incorporated checks of associates into the monitoring program. Checks of associates is a more complex and time-consuming task. While VCGLR is not required to monitor checks of associates, doing so provides assurance that licensees are complying with their disclosure requirement.

VCGLR could improve implementation by:

- reviewing the annual monitoring program's sampling methodology. At present, a sample is too small for VCGLR to draw conclusions about the overall compliance rate of licensees. VCGLR should either:
 - increase the sample size to a statistically valid number so it can use results to make observations on the overall compliance rates of licensees, or
 - use a targeted sampling methodology to focus the monitoring program on licensees who present a higher risk to community safety.

VCGLR advised that it will adopt a targeted sampling methodology for its 2019–20 annual monitoring program.

Source: VAGO.

2.3 Guidance on assessment of licence applications

VCGLR administers and makes decisions on 59 types of gambling and liquor licences. Most applications relate to a smaller number of high-volume licence types. Within VCGLR's licensing division, all licensing officers assess and make decisions on the high-volume licence types. Low-volume licence types are handled by licensing officers with specific experience and expertise. Clear guidance on licensing helps keep the application assessment process transparent and consistent with the intent of the GR Act.

Recommendation 3

We recommend that VCGLR improve its guidance on assessment of licence applications, particularly for uncontested applications, and ensure licensing officers use this guidance.

Key points underpinning past audit recommendation

- VCGLR's 'Wiki' pages were inconsistent and incomplete.
- VCGLR needed to offer licensing officers more guidance for decisions on uncontested matters to help staff consider relevant information, such as applicant suitability.
- While guidance was available for contested applications, licensing officers commented that they did not rely on it, and asked colleagues instead.

Progress

As shown in Figure 2D, VCGLR is implementing the audit recommendation, but incomplete training data makes it difficult to ensure that training is completed by the right staff at the right time. Our review of application assessments found missing data, which prevents scrutiny of how officers made risk ratings or assessment decisions.

Figure 2D
VCGLR progress implementing recommendation 3

VCGLR has:

- improved and expanded guidance on assessing licence applications, including definitions of contested and uncontested applications in line with the LCR Act
- emphasised legislative requirements within the assessment process, including the consideration of suitability, amenity, misuse or abuse of alcohol and knowledge of the LCR Act
- mapped licence application assessment decision records sheets to LCR Act requirements. Licensing officers now retain source documents and reference them in their decision records
- delivered specific training on the new guidance, decision record sheets and general training focused on better decision-making. The training materials cover key topics and focus on objects of the LCR Act
- implemented a program of quality assurance reviews. VCGLR reviews a random sample of determined applications, with findings reported to VCGLR's senior executives.

VCGLR has not:

- maintained a record of all training undertaken by licensing division staff members. The lack of training data limits VCGLR's ability to monitor training activities and consider issues such as the coverage and timeliness of training. This may compromise the competency and consistency of the assessment process. VCGLR advised that it plans to move all training records into its learning management system
- addressed the issue of incomplete or incorrectly completed assessment templates. We found multiple instances. Specifically:
 - Some template cells were blank or only held instructions on how to populate the cell with the correct data. It was therefore unclear what information was used to support the assessment.
 - While the licence application risk rating is recorded in the licensing information and communications technology (ICT) system, the details that led to the risk rating were often incomplete or not recorded. As a result, it was not possible to independently validate the risk rating or confirm that officers considered all criteria to calculate the risk rating.

VCGLR advised that it is now incorporating the risk rating process into the licensing system.

Source: VAGO.

2.4 Licensing risk-based model

A risk-based approach helps VCGLR allocate its scarce resources to areas that have the greatest impact on limiting the negative impacts of gambling and alcohol. It also provides VCGLR with a transparent, defensible approach to its regulatory work.

Recommendation 4

We recommend that VCGLR complete implementation of the licensing risk-based model by developing and implementing:

- a set of risk indicators
- checklists containing triggers for the escalation of applications within or between teams
- a risk matrix to be considered through the determination phase.

Key points underpinning past audit recommendation

- | | |
|---|---|
| <ul style="list-style-type: none"> • The risk factors considered had not been reviewed since they were established in 2009, and the model did not incorporate any risk factors specifically related to gambling venues or licence types. | <ul style="list-style-type: none"> • VCGLR did not systematically review the risk profile of individual applications. It was not possible to determine whether all applications finalised were low-risk or whether VCGLR should have escalated some applications for further review. |
| <ul style="list-style-type: none"> • The audit found no evidence of applications being escalated within teams. | <ul style="list-style-type: none"> • VCGLR's approach primarily focused on speed rather than quality, contrary to its claimed risk-based regulatory approach. |

Liquor
completed

Gambling
in progress

Progress

VCGLR is implementing its licensing risk-based model in two parts—liquor and gambling (Figure 2E). VCGLR implemented the liquor licensing risk-based model in July 2018 and risk-based framework for gambling suitability in July 2019. Implementation of the remaining components of the gambling model covering gaming machine types and game applications is due for completion by 30 June 2020.

The completion dates are different due to availability of liquor data compared with the gambling data needed for the risk-based approach. For liquor licences, VCGLR used existing datasets in the model to calculate the risk rating. For gambling licences, VCGLR is considering risk factors such as social impact and looking to source relevant data to input into its risk-based model. It is reasonable for VCGLR to take longer to implement the gambling model.

VCGLR expanded the risk factors in the liquor licensing risk-based model from two to five—trading hours, patron capacity, licence category, venue compliance history and suitability. VCGLR draws data on four of the five risk factors from independent sources. The risk rating methodology aligns with the international standards for risk management and better practice.

Figure 2E
VCGLR progress implementing recommendation 4

VCGLR has:

- implemented a risk-based model for assessing and determining applications for or relating to liquor licences
- expanded the risk factors in the liquor licensing risk-based model from two to five. The risk factors link to identified harms such as risky drinking, minors consuming alcohol, antisocial behaviour and detriments to community life. The risk factors also align with the objects of the LCR Act
- collected data from sources independent of the applicant. This provides a level of independence and minimises the potential for the applicants' data to skew the risk assessment
- developed internal guidance and provided training that supports the application of the liquor licensing risk-based model. Guidance includes a checklist that outlines when a matter may be escalated between teams.

VCGLR is:

- developing a risk-based model for assessing and determining applications relating to gambling licences in two components. The first component—assessing suitability of gambling applicants—was implemented in July 2019, with a second component relating to gaming machine types/games due to be implemented by 30 June 2020.

VCGLR has not:

- consistently captured the details of risk assessments for liquor licence applications in the assessment system. We found that while officers consistently recorded risk ratings in this system, they did not include the details of the assessment. It is therefore impossible to know whether they completed the risk assessment correctly. VCGLR is aware of its system limitations. VCGLR advised that it is updating systems to automatically record the risk assessments before the end of 2019.

Source: VAGO.

2.5 Assessing electronic gaming machines

Under the GR Act, VCGLR must not amend a venue operator's licence unless satisfied that the net economic and social impact of the amendment will not be detrimental to the wellbeing of the community of the municipal district in which the approved venue is located.

The 'no net detriment' test assesses the positive and negative social and economic impacts associated with a venue having electronic gaming machines. A venue is determined to have no net detriment if the positive impacts outweigh the negative. Applying the test on electronic gaming machine licence applications is intended to make sure the net impact of additional or relocated machines on the community is not negative.

The GR Act does not provide guidance on how VCGLR should apply the no net detriment test. Commissioners conduct the test, and it is not delegated to VCGLR staff members. VCGLR publishes the results of no net detriment tests on its website.

Recommendation 5

We recommend that VCGLR develop principles or guidance for assessing net detriment and report transparently against them in decisions on applications for electronic gaming machines.

Key points underpinning past audit recommendation

- VCGLR lacked comprehensive guidance for commissioners on how to assess and calculate net detriment to the local community.
- There was scope to further improve decision records, as some stakeholders advised that they found it difficult to understand how VCGLR found there was no net detriment.

Completed

Progress

VCGLR has developed detailed guidance for assessing net detriment. The guidance provides commissioners with a list of factors relevant to the no net detriment test. Commissioners select factors that are relevant to the individual application. Our review of no net detriment tests conducted in 2018 and 2019 found assessments used between 11 and 15 factors.

Commissioners determine the relative importance (weight) of each factor when assessing an individual application. They use a five-point scale to describe the relative importance—nil, marginal, low, moderate and considerable. Commissioners may also use incremental descriptors, such as ‘low to moderate’.

Once factors and weightings are established, commissioners then assess the net effect of the economic and social factors on the wellbeing of the community. VCGLR concludes on the application’s impact on the wellbeing of the relevant community by determining a net weighting (net weighting = [positive economic – negative economic] + [positive social – negative social]). If the net weighting is neutral or positive, then the application passes the no net detriment test.

VCGLR has implemented this recommendation, as summarised in Figure 2F. However, it could improve the methodology to determine net detriment to provide greater clarity on decisions.

Figure 2F
VCGLR progress implementing recommendation 5



VCGLR has:

- developed more comprehensive guidance for commissioners in assessing the no net detriment test. The revised guidance, circulated to commissioners on 16 May 2019, covers aspects such as the key legislative provisions, intent of the no net detriment test and common issues in applying the test. The guidance also contains examples of previous decisions made by VCGLR and the Victorian Civil and Administrative Tribunal
- revised the assessment methodology to improve the transparency of no net detriment decisions.

VCGLR could improve implementation by:

- limiting the use of weighting descriptors to five options by excluding the use of incremental descriptors. This would provide commissioners with a nine-point scale to rate factors.
- using a single term such as 'neutral' to describe when a factor is assessed as having neither a positive or negative impact.

Simplifying the scale used to rate the relative importance of factors would improve the transparency of the no net detriment test.

Source: VAGO.

2.6 Reporting on licensing activities

Management reports that include timely, relevant data help senior staff to monitor trends and make informed decisions.

Recommendation 6

We recommend that VCGLR broaden its management reporting on licensing activities beyond the speed of processing applications to include quality indicators.

Key points underpinning past audit recommendation

- Management reporting on licensing activity narrowly focused on the number of applications processed and the speed of processing.
- VCGLR did not have a monthly report that tracks BP3 performance measures.
- VCGLR reported separately to its commission and the Department of Justice and Community Safety on a quarterly basis on its progress against BP3 performance measures.

In progress

Progress

VCGLR has made progress in implementing this recommendation (Figure 2G). VCGLR recently implemented a new reporting system that extracts data from five core VCGLR ICT systems into a data cube. Staff manually add other datasets, such as proof of age data. A business intelligence tool creates a range of internal and external reports, including reports on BP3 measures. Interactive dashboards provide VCGLR's management and executive with real-time access and ability to customise their reports by applying various filters. Once embedded, the system should significantly improve management reporting capabilities.

Figure 2G

VCGLR progress implementing recommendation 6

VCGLR has:

- implemented a new reporting system, which is a significant step forward. The system provides management with real-time access to data stored in multiple VCGLR ICT systems
- developed dashboards in the new reporting system to track progress against BP3 performance measures and sub-measures. Performance data is now available in real time as opposed to manually generated after each reporting period. Section 4.1 further discusses the quality of reporting measures
- developed other reports that expand the scope of management reports on licensing activities.

VCGLR is:

- continuing to develop and refine the new reporting system, build staff capability, cleanse data and embed the system into decision-making processes.

Source: VAGO.

3

Assuring compliance

The 2017 audit found that VCGLR was not adequately monitoring compliance with gambling and liquor legislation.

Compliance activities were not sufficiently risk-based and failed to target inspections to areas of high risk or high potential for harm.

These issues arose due to longstanding, systemic weaknesses in the design and operation of VCGLR's compliance activities. Key issues included:

- inflexible allocation of resources to compliance activities based on factors other than risk
- a management approach and culture focused on meeting quotas, which encouraged superficial inspection activities rather than activities to address harms
- inadequate guidance and training for inspectors
- unreliable data about liquor and gambling inspections.

VCGLR identified and started to address many of these issues in late 2015. However, its actions were not yet sufficiently developed for the 2017 audit to assess if they would improve the effectiveness of VCGLR's compliance.

The 2017 audit made recommendations on improving VCGLR compliance arrangements related to data integrity checks, risk-based approaches to compliance, quality assurance and training for compliance inspectors.

3.1 Data integrity checks

Data integrity is critical when that data is relied on for reporting and decision-making.

Recommendation 7

We recommend that VCGLR conduct robust data integrity checks across all divisions, particularly when relying on data for reporting purposes.

Key points underpinning past audit recommendation

- VCGLR could not provide assurance on the number of inspections it reported as part of its BP3 data due to inaccurate recording of inspection data.
- Data recorded on liquor licence compliance activities was not reliable. Analysis showed anomalies with inspection activities data.
- A 2015 internal audit of VCGLR's compliance functions reported that:
 - 8 per cent, or 1 100, of all liquor inspections undertaken in 2014–15 were external observations without staff physically entering the premises
 - VCGLR had not consistently retained supporting documentation or evidence on file to support the inspections performed.

Completed

Progress

VCGLR has undertaken action to improve data integrity, including implementation of a new reporting system (Figure 3A).

Within the its compliance division, a strategic intelligence unit supports VCGLR's data integrity work. The unit provides VCGLR and commissioners with data and intelligence on activity in the gaming and liquor industries, and the effect of regulatory policies and practices. The unit has a lead role in resolving data integrity issues that impact the new reporting system.

Figure 3A
VCGLR progress implementing recommendation 7

VCGLR has:

- implemented a new reporting system. Real-time access to data extracted from VCGLR's ICT systems allows management to identify issues with data integrity. Management can then resolve those issues in the ICT systems. Systemic issues requiring changes to policies or procedures can also be addressed
- established a system and process to exclude incorrect data from reporting. VCGLR undertakes a series of data validity tests before including data in the new reporting system. It raises data integrity issues with relevant business areas to resolve in the source systems.

VCGLR is:

- continuing work to improve integrity of its datasets.

Source: VAGO.

3.2 Compliance risk-based approach

A risk-based approach helps VCGLR to allocate its finite resources to areas that have the greatest impact on limiting the negative effects of gambling and alcohol. It also provides VCGLR with a transparent, defensible approach to its regulatory work.

Recommendation 8

We recommend that VCGLR continue to revise the risk-based approach to compliance to ensure better targeting of compliance activities.

Key points underpinning past audit recommendation

- VCGLR recognised that its risk-based compliance approach was not sufficiently robust or mature.
- VCGLR reviewed and improved its compliance activities by:
 - collecting intelligence and producing reports on issues and risks in the community to inform the targeting of compliance activities
 - producing maps identifying high-risk venues not inspected within 12 months, recent licence transfers and recidivism of licensees
 - producing maps cross-referencing police assault and ambulance call-out data with licensed venue locations.

Liquor
completed

Gambling
in progress

Progress

VCGLR's risk-based approach to compliance involves collection and analysis of data from a range of internal and external sources. External sources include:

- Victoria Police
- Emergency Services Telecommunications Authority
- VicRoads
- Victorian Responsible Gambling Foundation
- local councils
- interstate counterparts
- open sources.

VCGLR uses this information to build an understanding of the nature and scope of alcohol and gambling-related harm. The intelligence team consolidates and analyses collected information and inputs the results into the compliance division's operational and strategic planning processes.

VCGLR's progress implementing the 2017 audit recommendation is summarised in Figure 3B. As previously noted, while VCGLR has implemented this recommendation in relation to liquor licence compliance, it is still implementing it in relation to gambling.

Figure 3B
VCGLR progress implementing recommendation 8

VCGLR has:

- reviewed and enhanced its intelligence capability
- developed an annual compliance operational strategy to outline details of the compliance division's strategic and operational focus for the year
- implemented the liquor harm risk prioritisation tool. The tool records information on each licenced venue as it relates to high-harm incidents and provides a priority rating for each venue. The tool also provides empirical data and greater transparency on the prioritisation of inspections of premises with liquor licences
- established a tactical tasking and coordination committee. The committee meets monthly and applies a dynamic, risk-based approach to govern the selection, execution and reporting of high-risk compliance activities
- introduced training, guidance, tools and templates to support staff to capture and report on intelligence regarding liquor and gambling venues.

VCGLR is:

- implementing its risk-based approach to monitoring compliance of gaming venues.

Source: VAGO.

3.3 Compliance quality assurance framework

Implementation of a quality assurance framework is critical to ensuring the effectiveness of VCGLR's compliance work.

Recommendation 9

We recommend that VCGLR complete its quality assurance framework for compliance, and ensure it focuses on key divisional processes that contribute to the targeting and quality of inspections.

Key points underpinning past audit recommendation

- | | |
|--|--|
| <ul style="list-style-type: none"> • The standard operating procedures (SOP) and manuals for liquor and gambling inspections were lengthy, technical documents that did not always provide practical guidance on how to undertake key processes. | <ul style="list-style-type: none"> • VCGLR lacked a documented and consistently applied quality assurance process for routine compliance inspection activities. |
| <ul style="list-style-type: none"> • New SOPs had been circulated to compliance inspectors, but were not yet being consistently applied. The lack of a consistently applied inspection methodology limited VCGLR's ability to regulate gambling and liquor effectively. | <ul style="list-style-type: none"> • Some draft documents in the quality assurance process focused on assuring adherence to schedules and administrative requirements, rather than monitoring the comprehensiveness and quality of compliance activities. |

In progress

Progress

VCGLR has made progress in implementing this recommendation (Figure 3C). VCGLR's current management accountability framework for compliance details the standards regarding the operational and administrative duties undertaken within the compliance division. Specifically, the framework:

- sets the expectation that all staff conform with compliance division standards
- defines roles and responsibilities for compliance division staff members, including compliance inspectors
- details compliance activities and the standards required when performing these activities. SOPs specify how to undertake each type of compliance work activity and their proposed frequencies
- lists the scope of formal training and feedback to be provided to staff members
- identifies two types of periodic quality checks on compliance division work—internal audits and quality assurance checks.

Figure 3C
VCGLR progress implementing recommendation 9

VCGLR has:

- completed its quality assurance framework for compliance
- completed implementation of a single ICT system to manage liquor, gambling and casino compliance work.

VCGLR is:

- continuing to develop its suite of SOPs to support compliance work. We found multiple examples of SOPs that predated the previous audit and that did not address the key points underpinning the recommendation. For example, some SOPs did not include process steps for staff to follow.

Source: VAGO.

3.4 Training of compliance inspectors

Training is a key tool for building workforce capability. Monitoring staff participation in training provides assurance that staff across the organisation develop and maintain capabilities to perform their duties.

Recommendation 10

We recommend that VCGLR continue to rollout its training and ensure there is regular, ongoing training for compliance inspectors.

Key points underpinning past audit recommendation

- | | |
|---|---|
| <ul style="list-style-type: none"> • Lack of formal ongoing training had contributed to inconsistencies in inspection practices and reduced VCGLR's ability to effectively regulate gambling and liquor. • The compliance division drafted training plans in 2014 and 2015 for up to 10 modules, but there was no evidence that this training had been implemented. | <ul style="list-style-type: none"> • Efforts to train inspectors had been largely ad hoc and not covered all inspectors. In addition, there was no evidence of any evaluation of training. • Implementation of a training plan had commenced. If followed, 75 per cent of VCGLR inspectors would have completed 11 of 15 modules towards a Certificate IV in Government Investigations (Regulatory Compliance) by 30 June 2017. |
|---|---|

Completed

Progress

VCGLR has implemented this recommendation (Figure 3D). Within the compliance division, team leaders manage training for compliance inspectors. An inspector training program covers the core functions and activities of compliance inspectors. Supplementary training, including on specialist and low-volume compliance work, is provided on a topic-by-topic basis. The rationale for this is that team leaders will best understand the needs of their team members, and it is not cost-effective to train all staff in specialist and low-volume compliance work.

VCGLR has a whole-of-agency learning management system for managing the learning and development needs of its staff members, including recording attendance at training courses and other capability building activities.

Figure 3D

VCGLR progress implementing recommendation 10

VCGLR has:

- designed and implemented inspector training and investigator training programs in conjunction with a registered training provider. Completion of both programs provides compliance inspectors with a Certificate IV in Government Investigations (Regulatory Compliance). Permanent staff are expected to attain the qualification within 12 months of appointment
- implemented a leadership development program for regulatory team leaders and managers in a compliance and enforcement environment
- provided intelligence training to assist team leaders and compliance inspectors to better use intelligence and information gathered by VCGLR
- provided evidence of the content of training programs.

Source: VAGO.

3.5 Supervision of casino operations

Crown Casino is the only licensed casino in Victoria. It holds 14 liquor licences and is the only venue in Victoria that provides gambling and alcohol 24 hours a day.

The 2017 audit found that VCGLR acted to address the lack of a coherent organisation-wide approach to casino supervision across its licensing and compliance functions. However, its compliance division had not applied a level of focus on the casino that reflected its status and risk as the largest gaming venue in the state, and its approach lacked continuity.

Recommendation 11

We recommend that VCGLR complete its planned actions to improve the supervision of casino operations.

Key points underpinning past audit recommendation

- establish a dedicated casino team
- develop expertise of licensing and compliance staff working on casino matters through regular training
- establish a cross-organisation casino risk group to monitor risks, share casino intelligence and information, engage with co-regulators, adapt VCGLR practice, and report regularly to senior management.
- adopt a more risk-based approach (after a review of the key risks associated with the casino and the VCGLR's current regulatory work)
- identify and advise the government of any legislative impediments to a more risk-based approach
- work with co-regulators to clarify roles and responsibilities.

In progress

Progress

In April 2017, VCGLR established a dedicated team to monitor activities at Crown Casino and areas in its vicinity. The dedicated casino team has progressed implementation of planned actions to improve supervision of casino operations.

Dedicated casino team

The dedicated casino team comprises one manager, one team leader and 12 inspectors. The team is located at the Crown Casino and provides 24-hour, seven-days-a-week monitoring of the casino's operations.

The dedicated casino team is supported by other VCGLR teams and co-regulators such as Victoria Police and AUSTRAC. For example, other VCGLR teams monitor the ICT systems that underpin electronic gaming. VCGLR has memorandums of understanding (MoU) with both Victoria Police and AUSTRAC. These MoUs detail their respective roles and responsibilities, and the mechanisms to share intelligence.

In response to the 2017 audit recommendation, VCGLR reviewed its regulatory approach to Crown Casino. The review identified criteria for a risk-based approach to its regulatory work. Priorities and allocation of resources are now operationalised in an annual audit schedule that lists the types, number and frequency of audits conducted by the dedicated casino team.

Work with co-regulators to clarify roles and responsibilities

VCGLR is responsible for regulating and monitoring Crown Casino under the provisions of the CC Act. One of the principal aims of the CC Act is to ensure that the management and operations of Crown Casino remain free from criminal influence or exploitation, and that gaming in casinos is conducted honestly.

Crown Casino is also regulated by a wide range of state and federal regulators and law enforcement agencies that are responsible for many other areas of its operations. The 2017 audit noted that VCGLR should work with co-regulators to clarify roles and responsibilities.

VCGLR's key co-regulators are AUSTRAC in relation to money laundering activities and Victoria Police in relation to criminal matters.

AUSTRAC is a federal agency that uses financial intelligence and regulation to disrupt money laundering, terrorism financing and other serious crime under the *Anti-Money Laundering and Counter-Terrorism Financing Act 2006*.

VCGLR cannot take enforcement action in relation to suspected money laundering but refers such matters to relevant authorities such as AUSTRAC. In March 2018, VCGLR entered into a MoU with AUSTRAC. The MoU aims to facilitate a cooperative framework within which the parties work together to perform their respective functions, including facilitating VCGLR's access to and use of AUSTRAC's information in a tightly controlled manner. VCGLR advises that it regularly engaged with AUSTRAC during the 2018–19 financial year.

VCGLR updated its audit program in early 2019 to better align with its regulatory role and responsibilities. Where VCGLR identifies evidence or intelligence in relation to suspected criminal activity (such as money laundering) from any of its audits, or from other sources (such as complaints or the observations of inspectors at the casino), it refers this material to law enforcement agencies such as AUSTRAC. We reviewed evidence that VCGLR passed on information about suspicious activity to law enforcement agencies.

During this follow up audit, a number of agencies started investigating Crown Casino in relation to allegations of money laundering, crime and corruption. VCGLR advises that it will continue to engage with law enforcement agencies and other regulators to further clarify respective roles and responsibilities and any collaborative arrangements.

As the regulator that ensures the management and operation of the casino remains free from criminal influence, it is critical for VCGLR to continually provide training to its operational staff regarding the respective roles and responsibilities of all relevant regulators and law enforcement agencies and monitor that its staff have acted in accordance with their obligations in practice.

Figure 3E summarises VCGLR's progress in implementing the 2017 audit recommendation. The established dedicated casino team has implemented various actions to improve the supervision of casino operations. Work continues to improve its effectiveness and maturity.

Figure 3E
VCGLR progress implementing recommendation 11



VCGLR has:

- established a casino team with a dedicated cohort of staff. The team is located at the Crown Casino site and operates 24 hours a day and seven days a week
- adopted a more risk-based approach to monitoring activities. The approach takes into account the risk of non-compliance with provisions from the CC Act and likely drivers of compliance by Crown Casino. The approach informs the development of the annual audit schedule that sets out the frequency and timing of audits
- developed staff capability through formal qualifications, recruitment of staff with casino expertise and informal training practices such as mentoring. The team is looking at training courses on gaming regulation, which were developed in Las Vegas on casino games
- established oversight and reporting protocols to support monitoring of dedicated casino team work by VCGLR senior executives and commissioners. The team provides weekly reports on operational compliance to the director of the compliance division, and monthly reports to VCGLR's executive sub-committee and commissioners on significant complaints, investigations and outcomes
- established a MoU with AUSTRAC. VCGLR also has an existing MoU with Victoria Police.

VCGLR could improve implementation by:

- clearly defining the key risks related to casino operation and explicitly linking the regulatory work performed by VCGLR and other co-regulators to mitigation of those risks. At present, staff must understand the implicit risks associated with purposes such as 'promoting tourism, employment and economic development generally in the state'. Greater clarity will improve transparency of the work done by the dedicated casino team. It will also support VCGLR senior executives and commissioners to have input into the direction and prioritisation of the team's work
- consolidating the roles and responsibilities of VCGLR and co-regulators into a single reference so relevant staff and stakeholders can easily access it. Further promoting the regulatory roles and responsibilities will help operational staff understand their role, and VCGLR can communicate to external stakeholders the regulatory regime used to oversee casino operations.

Source: VAGO.

4

Measuring performance and collaborative enforcement

The 2017 audit found that VCGLR's publicly reported performance information provided limited insight into its effectiveness in meeting legislative objectives relating to harm minimisation. VCGLR largely measured and publicly reported on activity rather than its effectiveness or impact. Its annual report included only limited information on actions relating to its effectiveness. VCGLR's prior emphasis on counting activities, such as the number of compliance inspections, encouraged operational behaviour that focused on matters with little relevance to, or impact on, harm minimisation.

4.1 Publicly reported performance information

Publicly reported performance measures are a transparent way to show how well an organisation meets its obligations.

Recommendation 12

We recommend that VCGLR work with the Department of Justice and Regulation to improve the quality of its publicly reported performance measures to focus on the outcomes and impact of its work.

Key points underpinning past audit recommendation

- VCGLR's publicly reported performance information focused on measuring activities, with little direct relevance to, or impact on, harm minimisation.
- The weaknesses in VCGLR's data meant that it could not be confident about the accuracy of its publicly reported information.
- VCGLR counted activity rather than measuring impact. VCGLR's performance measures focused almost exclusively on counting the number of activities performed.

Completed

Progress

VCGLR has implemented this recommendation (Figure 4A).

Since the 2017 audit, VCGLR and the Department of Justice and Community Safety have reviewed and improved the quality of VCGLR's BP3 performance measures.

For example, VCGLR introduced a new performance measure from 2016–17 on the number of operations with co-regulators to identify licensees supplying alcohol to minors or people who are intoxicated. This measure aims to provide information on compliance actions that focus on harm minimisation.

Figure 4A

VCGLR progress implementing recommendation 12

VCGLR and the Department of Justice and Community Safety have:

- revised the BP3 performance measures. This includes new or refined measures on:
 - audits of casino operations
 - court and regulatory actions
 - disaggregation of liquor and gambling inspections by area (metropolitan/regional) and high-risk times.

VCGLR has:

- implemented a new reporting system and developed specific reports to track progress against BP3 performance measures (see Section 2.6). The specific reports include:
 - breach to enforcement ratios
 - percentage of inspections done at high-risk times in comparison to the target percentage
 - breakdowns of inspections by type (liquor, gambling), location (metro, regional, in casino) and category and type of breach
 - more detailed reports that allow management to interrogate the data for operational purposes and improved decision-making.

Source: VAGO.

4.2 Collaborative enforcement strategy

Both VCGLR and Victoria Police are responsible for supervising licensed venues. While VCGLR is the primary regulatory body, Victoria Police also has powers to enforce liquor and gambling legislation. The 2017 audit found that while there was clear evidence of collaboration between VCGLR and Victoria Police, including regular communication on enforcement issues, joint operations and other liquor licensing issues that may arise, the agencies had not developed and formally adopted a joint enforcement strategy for alcohol-related compliance activities.

Recommendation 13

We recommend that VCGLR and Victoria Police develop a comprehensive collaborative enforcement strategy to more efficiently and effectively target harms associated with licensed premises.

Key points underpinning past audit recommendation

- The need for a comprehensive enforcement strategy between VCGLR and Victoria Police was previously identified in 2012 and again in the 2017 audit.

Completed

Progress

VCGLR has implemented this recommendation (Figure 4B).

Figure 4B
VCGLR progress implementing recommendation 13

VCGLR and Victoria Police have:

- developed and released a joint enforcement strategy in November 2018. The strategy provides a high-level framework for a unified approach to enforcing compliance with the LCR Act for those involved in the liquor industry. The strategy contains details on:
 - roles, functions and mutual enforcement obligations
 - goals and values
 - operational approach
 - strategies
 - implementation and monitoring.
- established a joint agency committee comprising three senior members from each organisation to oversee implementation of the strategy. The committee meets regularly.

VCGLR and Victoria Police are:

- developing performance measures to track progress in implementing the framework.

Source: VAGO.

Appendix A

Submissions and comments

We have consulted with VCGLR, and we considered its views when reaching our audit conclusions. As required by section 16(3) of the *Audit Act 1994*, we gave a draft copy of this report to VCGLR and asked for its submission and comments. We also provided a copy of the report to the DPC.

Responsibility for the accuracy, fairness and balance of those comments rests solely with the agency head.

Response was received as follows:

VCGLR	38
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8 November 2019

Our ref: BC/19/168

Mr Andrew Greaves
Auditor-General
Victorian Auditor-General's Office
Level 24, 35 Collins St
MELBOURNE VIC 3001

Dear Mr Greaves

Proposed follow up audit report of 'Regulating gambling and liquor'

Thank you for the opportunity to provide feedback on the proposed follow up audit report of Regulating Gambling and Liquor.

The Victorian Commission for Gambling and Liquor Regulation (VCGLR) welcomes the validation of the significant progress it has made implementing the recommendations detailed in the 2017 performance audit.

The VCGLR is pleased with its progress and remains committed to the continuous improvement of its operations and regulatory practice.

Yours sincerely

A handwritten signature in black ink, appearing to read "Ross Kennedy".

Ross Kennedy
Chairman



Auditor-General's reports tabled during 2018–19

Report title	Date tabled
Managing Registered Sex Offenders (2019–20:1)	August 2019
Enrolment Processes at Technical and Further Education Institutes (2019–20:2)	September 2019
Cenitex: Meeting Customer Needs for ICT Shared Services (2019–20:3)	October 2019
Auditor-General's Report on the Annual Financial Report of the State of Victoria: 2018–19 (2019–20:4)	November 2019
Council Libraries (2019–20:5)	November 2019
Market-led Proposals (2019–20:6)	November 2019
Results of 2018–19 Audits: Local Government (2019–20:7)	November 2019
Sexual Harassment in the Victorian Public Service (2019–20:8)	November 2019
Follow up of Access to Public Dental Services in Victoria (2019–20:9)	November 2019
Follow up of Regulating Gambling and Liquor (2019–20:10)	November 2019

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