

Other Industries Facts 1

Review of the NSW registered clubs industry

Draft Report February 2008

A Fact Sheet on IPART's review of the NSW registered clubs industry Draft Report

On 29 February, IPART released a draft report on its review of the NSW registered clubs industry. This fact sheet provides a short summary of IPART's draft report. The full report is available on IPART's website (<http://www.ipart.nsw.gov.au>).

Overview

There are over 1,400 registered clubs in NSW, employing over 43,000 people in full and part-time positions. Over 43,000 volunteers were involved in registered clubs, contributing 6.3 million hours in 2007. Clubs received rebates on their gaming machine tax of \$39.8 million for eligible contributions through the Community Development and Support Expenditure (CDSE) Scheme in the year to August 2006.

Social, demographic and commercial changes over the last ten years have affected the registered clubs industry in many ways. The varying ability of individual clubs to deal with these changes while remaining financially viable has provided the impetus for this review. The outcome of this review will be a framework for management plan that supports and guides a sustainable registered clubs industry for a 10 to 15 year period. IPART's findings and recommendations fall into two groups:

- ▼ measuring and enhancing clubs' social contributions
- ▼ assessing and enhancing clubs' financial viability.

In making its draft recommendations, IPART considered the diversity of constituents in the registered clubs industry. Its recommendations balance the needs of these stakeholders and recognise the differences between clubs of different size, location and type.

Clubs' social contributions

The terms of reference asked IPART to measure the value of clubs' contribution to social infrastructure (not to undertake a cost-benefit analysis of clubs' social contribution). IPART undertook a calculation based on the sum of clubs' direct cash and in-kind contributions and estimated the value of clubs' contribution to social infrastructure in 2007 was \$893 million. This figure does not include the indirect or intangible contributions made by clubs which are difficult to quantify consistently and reliably, but are nevertheless important.

One conduit for clubs' social contributions is the CDSE Scheme. The Scheme provides a gaming machine tax rebate of up to 1.5 per cent to clubs that make eligible community contributions in accordance with the Scheme's guidelines. IPART reviewed the existing and proposed statutory requirements related to the CDSE Scheme and found them to be reasonable and effective. However, there is a lack of awareness in the community about registered clubs' social contributions via the Scheme and the clarity of some parts of the Scheme guidelines could be improved.

Financial viability

IPART investigated what clubs earn and spend, and has confirmed the common perception that most clubs are highly dependent on gaming revenue. As a result they are very vulnerable to any change related to the regulation of gaming machines. This is a key finding of the review, and led to IPART's recommendation that any future changes in Government policy affecting the revenue stream from gaming machines should be preceded by consultation with the clubs industry to determine the likely impact of proposed changes.

IPART found that the financial viability of individual registered clubs across NSW varies greatly. Some are financially strong while others are struggling, for a variety of reasons including a lack of understanding of their own financial position, demographic changes, the level of competition from other venues in their communities, and the financial management skills of their boards and managers.

In examining the potential for strengthening the performance of the industry, IPART recommends a coordinated response requiring action from individual clubs, government agencies such as the Office of Liquor, Gaming and Racing (OLGR) and industry peak bodies such as ClubsNSW. IPART is proposing the establishment of a new body, the Club Viability Panel, to oversee, coordinate and advise on many of the financial viability recommendations.

IPART's recommendations involve a strategy of providing clubs with the tools to identify when their financial performance is declining and offering assistance to clubs and their management to adapt and change. However, even with assistance, IPART does recognise that there are some clubs for which no amount of improved financial management will ensure their individual survival and that these clubs may need assistance in exploring options such as amalgamation.

IPART has proposed initiatives across six areas:

- ▼ improving clubs' financial reporting and benchmarking their performance
- ▼ diversifying clubs' sources of revenue
- ▼ making it easier for clubs that are unlikely to be able to improve their financial viability to amalgamate
- ▼ making it easier for new clubs to be established in response to changes in demographics and interests
- ▼ improving clubs' corporate governance as well as training and development of their boards and managers
- ▼ establishing a Club Viability Panel to assist clubs in identifying the early signs of financial distress and to advise on potential actions to address these.

Financial reporting and performance benchmarking

IPART recommends the adoption of a mandatory standard form of financial reporting and performance benchmarking for clubs with gaming machine revenue less than \$5 million per annum (approximately 70 per cent of all clubs). This will assist clubs to:

- ▼ monitor financial performance
- ▼ benchmark individual performance against the wider industry.

All clubs will be required to submit EBITDARD % to the proposed Club Viability Panel (see below) to be assessed as an initial indicator of financial distress.

Diversification

IPART found that diversification is unproven as a means of reducing (to any great extent) clubs' reliance on gaming machine revenue. However, there still may be merit in adopting diversification strategies in the club industry. In specific circumstances, diversification can be an effective means of expanding a club's revenue base, broadening market appeal and maintaining relevance through the provision of additional services to members and the local community. IPART recommends that industry stakeholders support the efforts of clubs considering financially sound diversification strategies and help clubs to avoid unsound, risky diversification. They should provide education about the risks associated with diversification and advice on how to make an informed judgement on the relative merits of any proposed diversification strategy.

Amalgamation

The consensus from stakeholders is that industry consolidation is inevitable. However, it is important that consolidation is underpinned by the aim of preserving community assets and maintaining services for the benefit of members and the local community.

IPART examined the current amalgamation process and found a number of barriers to effective amalgamation, including:

- ▼ the complexity of the process and the involvement of various government bodies and professionals make it quite a daunting and costly project, especially for smaller clubs with fewer resources
- ▼ cultural barriers to amalgamation, including club reluctance to consider amalgamation as an option until it may be too late to undertake one that effectively preserves the club's assets and services.

IPART recommends development and dissemination of information about amalgamation to clubs, both to help clubs to navigate the complexity of the process and to overcome clubs' reluctance to consider amalgamation.

Establishment

IPART recommends that changes in three key areas will assist in making it easier for clubs to be set up in areas that need them:

- ▼ greater guidance should be provided to groups wishing to establish a registered club
- ▼ planning for new developments should include an allowance for land that is suitable for the establishment of a registered club
- ▼ until an alternative is developed, new clubs should continue to have access to ten free gaming machine entitlements to assist in keeping the costs of establishment to a minimum.

Corporate governance and training

Stakeholders indicated that corporate governance in clubs could be improved if boards operated more effectively. The key challenges to board effectiveness involved deficiencies in director skill sets as well as difficulties in attracting and electing directors.

IPART proposes recommendations to address these challenges:

- ▼ ongoing professional development for directors
- ▼ encouraging removal of constitutional restrictions on board and voting eligibility
- ▼ boards being permitted to appoint a minority of directors, if their members do not vote to remove constitutional restrictions
- ▼ boards being encouraged to undertake performance assessments of their directors and the board as a whole
- ▼ boards of all clubs being encouraged to have a formal succession planning policy in place
- ▼ ClubsNSW more extensively promoting examples of effective corporate governance and providing further guidance to clubs on best practice.

Club Viability Panel

IPART recommends the establishment of a Club Viability Panel (the Panel), to advise the clubs industry about financial viability issues. Specifically, the Panel would:

- ▼ assist in the process of moving most clubs to a standard format for financial management reporting
- ▼ produce and communicate industry benchmarks to the club industry on an annual basis
- ▼ based on examination of an initial financial viability indicator, EBITDARD as a percentage proportion of revenue, identify clubs that are showing warning signs of financial distress, advise the identified clubs exhibiting the warning sign and provide further investigation, advice and support (if requested) to assist the club to assess and if necessary improve its financial position
- ▼ in situations where the long-term viability of the club is questionable and amalgamation is identified as an option, assist both clubs through the process of amalgamation.

In addition, IPART considers that ClubsNSW could assist smaller clubs to meet their compliance obligations under the Registered Clubs Act by employing a pool of compliance officers for them to use as needed.

IPART also proposes recommendations to improve the existing club-specific training available to directors and managers.

Framework for a management plan

The outcome of this review is a framework to assist stakeholders in the industry to develop a detailed industry management plan by mapping out principles, processes and issues to be considered.

The management plan will build on the existing cooperative relationship between the registered clubs industry and the Government by formalising an agreed set of principles and actions for the way forward for the clubs industry. The plan is intended to provide a blueprint for a sustainable clubs industry which continues to provide substantial and effectively targeted community support, without attempting to ensure the future of every individual club in its current form.

The plan will include a Clubs Charter, which will outline the broad obligations that apply to clubs in conducting their operations and to the Government in regulating clubs. The plan is also a means to draw together all of IPART's recommendations from this review in a coordinated manner.

IPART recommends that the Club Industry Working Group (a joint clubs industry and Government group) be asked to prepare the management plan, in consultation with stakeholders.

A complete list of IPART's recommendations is contained in Appendix 1 to this fact sheet.

James P. Cox
Chief Executive Officer and Full Time Member

Appendix 1 – List of IPART’s draft recommendations

List of Recommendations

Chapter 3 Social contribution of the registered clubs industry

IPART has examined the social, employment and other economic opportunities afforded by the registered clubs industry and ways that these contributions can be enhanced. IPART recommends:

- 1 That ClubsNSW maintains and seeks to increase local club employee training, along with greater promotion of these opportunities, in regional and rural locations.
- 2 That ClubsNSW increase the awareness of employment opportunities offered by the industry, particularly in the tertiary graduate and over age 55 segments of the labour market. This should be achieved through better targeting and improved advertising of employment opportunities in the broader labour market.
- 3 That other economic opportunities afforded by the registered clubs industry, including employment, contractor payments, volunteers, training, tourism and taxation should be measured and reported by ClubsNSW. To better understand these contributions, this reporting should be provided by club size, type and location.
- 4 That ClubsNSW improve industry awareness of programs targeting regional and state development, by providing information on their existence and assistance to clubs to gain access to these programs.

Chapter 4 Measuring and reporting on club contributions

IPART has considered various methodologies for measuring and reporting on the social contributions made by the industry. IPART recommends:

- 5 That IPART’s preferred approach for the measurement of club-provided social infrastructure and services be adopted. Under this approach, the social contribution of clubs is calculated via the sum of the market value of in-kind contributions, cash and volunteer hours less total revenue received for the provision of these goods and services.
- 6 That ClubsNSW assume responsibility for conducting future modelling/valuation of the clubs industry’s social contribution to the NSW economy on a four-yearly basis.
- 7 That, if ClubsNSW chooses to use a different valuation methodology from IPART’s preferred approach, it should be transparent and open concerning the methodology and results.

Chapter 5 The Community Development and Support Expenditure (CDSE) Scheme

IPART has examined options for improving the CDSE Scheme. IPART recommends:

- 8 That local government and clubs enhance their promotion of the Community Development and Support (CDSE) Scheme on council and club websites, including publicising CDSE-funded projects on club websites and in annual reports.
- 9 That ClubsNSW encourage smaller clubs below the CDSE threshold to participate in a CDSE local committee process.
- 10 That OLGR should provide greater support for local CDSE committees through an annual conference for committees and provision of support materials on such issues as priority-setting, decision-making and conflict resolution procedures, and information to clubs on valuing in-kind contributions.

11 That:

- the CDSE Scheme guidelines should be amended to reflect that a market cost approach should be used to value the provision of in-kind CDSE
- the CDSE Scheme guidelines should include a more comprehensive explanation of in-kind valuation, including detailed working examples of commonly used in-kind CDSE valuations.

Chapter 6 Financial viability of the registered clubs industry

IPART recommends:

12 That:

- club measurement, recording and reporting of contributions, beyond that required and conducted through the CDSE Scheme, should remain non-mandatory
- the recording and reporting of individual club social contributions to members and ClubsNSW should be encouraged
- ClubsNSW should expand its best practice guidelines to address and outline the benefits clubs gain through the practice of actively measuring and recording the activities and contributions they undertake.

13 That any future changes in Government policy affecting the revenue stream from gaming machines should be preceded by consultation with the clubs industry to determine the likely impact of proposed changes.

Chapter 7 Financial reporting and benchmarking

IPART recommends the following to improve financial reporting and benchmarking in the registered clubs industry:

14 That:

- A standard format or formats for financial management accounts should be prescribed in the Registered Clubs Regulation 1996 for clubs with gaming machine revenue less than \$5 million per annum, with an exemption for clubs which could show they can achieve the required outcomes with their existing format.
- The standard format may vary, with different requirements for clubs with less than \$1 million gaming revenue per annum and those with gaming revenue between \$1 million and \$5 million per annum.
- The proposed Club Viability Panel (see Recommendation 40) be asked to develop and recommend the standard format(s) to the Minister for Gaming and Racing.
- Once the standard format has been determined, clubs with gaming machine revenue of less than \$5 million per annum should be required to submit their financial management accounts to the Club Viability Panel for a high-level review to see that they meet the requirements of the standard format. This would be a 'one off' requirement.
- Clubs with gaming machine revenue less than \$1 million per annum should be given a 2-year period to adopt the standard format or acceptable alternative, with clubs with gaming machine revenue between \$1 million and \$5 million per annum required to comply within 18 months.
- If clubs with gaming machine revenue less than \$1 million per annum consider they are not in a position to comply with the minimum standards due to resource constraints (such as accounting systems, process or staff) they may apply for funding via the Club Viability Panel to make the necessary changes.

15 That each club monitor the suite of business efficiency performance measures outlined in Tables 7.1-7.3. The measures would be used by the clubs to understand their financial position.

- 16 That each club monitor the following indicators of financial viability:
- EBITDARD %
 - Working capital surplus/(deficiency)
 - Operating cash flows/working capital deficiency
 - Operating cash flows/borrowings
 - Capital expenditure/operating cash flows
 - Gaming revenue/total revenue.
- 17 That:
- (i) Depending on size, clubs would submit some measures annually to the Club Viability Panel to allow calculation of industry benchmarks and the assessment of individual clubs' financial viability (see recommendation 15):
- **All clubs** should be required by the Registered Clubs Regulation 1996 to submit EBITDARD as a percentage proportion of revenue (or other suitable measure) on an annual basis to the Club Viability Panel.
 - **Clubs with gaming machine revenue of \$1 million to less than \$5 million per annum** should be required by the Registered Clubs Regulation 1996 to submit a standard suite of performance efficiency measures on an annual basis to the Club Viability Panel. The Club Viability Panel should be asked to recommend an appropriate suite of measures, using those outlined in section 7.5.1 as a starting point.
 - **Clubs with gaming machine revenue less than \$1 million** should only be required to submit 'whole of business' measures
- (ii) With respect to the measures in (i):
- they be used to support the development of industry benchmarks by the Club Viability Panel
 - where possible, the benchmarks for the measures should be segmented by size, location and type of club to provide more meaningful comparisons by different segments within the industry.

Chapter 8 Diversification in the registered clubs industry

IPART recommends the following to assist registered clubs to diversify effectively:

- 18 That ClubsNSW should develop and deliver material to assist clubs (particularly small to medium-sized clubs) in understanding and managing the benefits and risks associated with pursuing diversification, including:
- Providing guidance with respect to the measures usually adopted to identify and mitigate diversification risks such as due diligence and planning procedures to objectively assess the relative merits of a particular diversification strategy.
 - Advising clubs on the merits (and risks) associated with joint ventures with third party business operators in order to obtain management expertise and share operational and financial risks that arise from diversification.
 - Assisting clubs to recognise and leverage their collective strengths when thinking of diversification. These include the size and loyalty of membership bases, underutilised landholdings in strategic locations and extensive geographic reach of the industry.

Chapter 9 Amalgamations

IPART recommends the following to assist registered clubs with the complexity of the amalgamation process and to overcome clubs' reluctance to consider amalgamation:

- 19 That a comprehensive guide to amalgamation be should produced by OLGR, in consultation with the industry, the Club Viability Panel and the public. It should be a comprehensive guide written in plain English that includes (but is not restricted to):
 - information on ways to approach an amalgamation
 - details on the legal requirements, how they should be carried out and in what order, and
 - a list of the major issues to consider when amalgamating, including financial, due diligence, operational and strategic planning matters.
- 20 That OLGR develop pro-formas for documents that it requires to be lodged with the application for amalgamation, where appropriate. For example, the OLGR should develop a pro-forma MOU which includes the minimum legal requirements but provides flexibility for clubs to add their particular requirements.
- 21 That peak bodies provide more education to members and directors on amalgamation. Information to members and directors should provide a balanced view of amalgamation, covering issues such as the pros and cons of amalgamation, the process, and alternative amalgamation models.
- 22 That the management and the board of a club should be required to inform its members when a formal amalgamation offer is presented to the club. Communication of such information should be accompanied by sufficient information regarding the offer so that members can develop a view on whether they want the board further consider the amalgamation offer.
- 23 That the NSW Government write to the Commonwealth Government requesting an amendment to the Corporations Act 2001 to allow for a simple majority vote for liquidation in the case of a registered club that has already voted to amalgamate.
- 24 That clubs should explore the use of management agreements in their approaches to seeking amalgamation. Information relating to management agreements should be included in the guide to amalgamation (see Recommendation 19).

Chapter 10 Establishment

IPART recommends the following to make it easier for clubs to be set up in the areas that need them:

- 25 That ClubsNSW should produce a model club constitution template to assist and guide clubs to draft their club constitution so that it complies with both the Registered Clubs Act 1976 and the Corporations Act 2001.
- 26 That a guide be developed jointly by OLGR and peak bodies to assist groups that are looking to form a club. This guide should include the important facets of becoming a registered club, including the areas of:
 - Who should become a registered club?
 - Preparation for the process to apply for club registration.
 - Time and cost involved in becoming a registered club.
 - Resources and contacts for assistance and information.

- 27 That councils, in purchasing land for community facilities, should make allowance for the establishment of a registered club. Important aspects of this recommendation are that:
- The land is not provided on a first come first served basis. When an organisation approaches local council to establish a registered club on that particular piece of land, this should trigger a tender process where all local groups and clubs are invited to bid for the rights to establish a registered club on that land.
 - The winning tender for that piece of land would need to be determined on a merits basis, including financial viability, how well services and facilities meet demands of the community, and any potential negative impacts that may result.
 - The parcel of land should contain a sunset date whereby if after, say 15 years, no group has applied for the rights to develop a registered club on that piece of land, then council should be able to develop it for other purposes.
- 28 That access to 10 free gaming machine entitlements for new registered clubs should be maintained, until suitable alternative measures are developed and in place to assist new clubs.

Chapter 11 Corporate governance and training

IPART recommends the following to improve corporate governance as well as director and management skills:

- 29 That improvements be made to the existing club-specific training available to club directors and managers by ClubsNSW:
- offering AQF accredited training for directors
 - offering more flexible delivery options for director training; and
 - with other providers of club-specific training, increasing their promotion of the programs that they offer.
- 30 That directors of clubs with gaming machine revenue of greater than \$1 million a year should be required to complete ongoing professional development training. The training should have flexible features, such as directors being able to take part in training using a number of delivery options. Exemptions could be granted on the basis of prior learning or experience.
- 31 That clubs should be encouraged to remove constitutional restrictions on board and voting eligibility by:
- The Government amending the Registered Clubs Act to include a provision defining the core features of the various types of clubs. Club members could then vote to become a club whose core features are protected by statute, rather than defined by its constitution.
 - The proposed model club constitution template to be developed by ClubsNSW (see recommendation 25) would not contain any voting or board restrictions. Clubs would complete the template by inserting the core features of the club in the objects section.
- 32 That a club's board should be permitted to appoint up to three directors if:
- the club has board or voting restrictions in its constitution; and
 - the club's members vote to not adopt the model constitution developed by ClubsNSW or apply the "core club features" provision of the Registered Clubs Act once effective.
- Safeguards would apply to this option, including imposing term limits and requiring member ratification at the next annual general meeting.
- 33 That boards of clubs with gaming machine revenue of greater than \$1 million a years should be encouraged to undertake performance assessments of individual directors and the board as a whole on an annual basis. This could be brought about by ClubsNSW amending its Guideline for Board Operations to create a best practice recommendation on performance assessments. The Code would require clubs to state in their annual reports the extent to which they follow this best practice recommendation.

- 34 That all clubs should be encouraged to prepare a formal succession policy dealing with board renewal. This could be brought about by ClubsNSW amending its Guideline for Board Operations to create a best practice recommendation on succession planning. The Code would require clubs to state in their annual reports the extent to which they follow this best practice recommendation.
- 35 That ClubsNSW should more extensively promote examples of effective corporate governance in clubs, for example by including articles in publications such as its ClubLife magazine about clubs that comply with its Code and Guidelines.
- 36 That clubs should be encouraged to move to three-year rolling elections. This could be brought about by ClubsNSW developing a guideline outlining best practice regarding the frequency of board elections.
- 37 That clubs be encouraged to develop board charters. This could be brought about by ClubsNSW amending its Guideline for Board Operations to create a best practice recommendation on board charters. The Code would then require clubs to state in their annual reports the extent to which they follow this best practice recommendation.
- 38 That clubs be encouraged to improve the practices regarding recruitment and performance assessment of management. This could be brought about by ClubsNSW developing a guideline outlining best practice in recruiting management. Further, ClubsNSW could amend its Guideline for Remuneration of Club Executives to create a best practice recommendation on assessing management's performance. The Code would require clubs to state in their annual reports the extent to which they follow this best practice recommendation.
- 39 That ClubsNSW employ a pool of compliance officers to be shared by smaller clubs. The compliance officers would assist the smaller clubs to meet their compliance obligations under the Registered Clubs Act. They would be available on request to clubs with gaming machine revenue of \$1 million or less a year. ClubsNSW would be able to charge clubs a fee for using this compliance service, determined on a cost recovery basis.

Chapter 12 Club Viability Panel

The proposed Club Viability Panel will have a key ongoing role in strengthening the financial viability of the registered clubs industry. Specifically, IPART recommends:

- 40 That a Club Viability Panel (the Panel) be established to assist clubs to transition to a standard format for management accounts, to produce and publish industry benchmarks, to alert clubs to the early warning signs of financial distress and to assist clubs to develop and implement strategies to be sustainable in the long-term.
- 41 That the Panel should be advisory (not supervisory) in nature, with a club's elected representatives maintaining control over the future of the club.
- 42 That the Panel should comprise up to seven members, drawn from Government (OLGR), ClubsNSW, other industry associations, individual club managers and boards and independent industry advisers to collectively provide a balanced mix of relevant skills and experience.
- 43 That ClubsNSW should provide secretariat support to the Panel.
- 44 That the Panel should be responsible for implementing Recommendation 14 for a standard format for management financial reporting and Recommendation 17 for industry benchmarking.
- 45 That any individual club that is identified by the Panel as exhibiting signs of distress should be, in the first instance, eligible for a more detailed review of its financial position.
- 46 That clubs found to be financially distressed by the detailed review should be eligible to apply for funding (administered by the Panel) to develop and implement remedial strategies to address the financial distress.
- 47 That clubs should be eligible for a general maximum of \$50,000 under the Panel's funding scheme.
- 48 That the Panel and its funding scheme should be funded initially by residual funds in the ClubBiz Trust Fund, and if required by further monies from unclaimed Keno prizes.

49 That the Panel should be reviewed after three years to assess its effectiveness.

Chapter 13 A framework for a management plan

IPART recommends a framework for a management plan to support and guide a sustainable registered clubs industry for the next 10 to 15 years:

50 That the Club Industry Working Group should develop a draft industry management plan by the end of 2008. The Club Industry Working Group should consult widely with stakeholders in developing the plan.

Matters for comment

IPART also seeks comments on the following matters:

- 1 The suitability of EBITDARD as a percentage proportion of revenue below a threshold level as an initial indicator of financial distress.
- 2 What is an appropriate threshold value of EBITDARD% as an initial indicator of financial distress (or, if an alternative measure is preferred, what would be the appropriate threshold value for the alternative measure)?
- 3 Should ongoing professional development training be linked to the performance assessment process?
- 4 Alternatively, should a director be required to take part in 5 units of ongoing professional development training irrespective of the performance assessment process?