Review of the Registered Clubs Industry in NSW

Other Industries - Issues Paper
May 2007
Invitation for submissions

The Tribunal invites written comment on this paper and encourages all interested parties to provide submissions addressing the matters discussed.

Submissions are due by 27 July 2007.

We would prefer to receive them by email at registeredclubs@ipart.nsw.gov.au.

You can also send comments by fax to (02) 9290 2061, or by mail to:

Hard copy submissions should be sent to:

Review of the Registered Clubs Industry in NSW
Independent Pricing and Regulatory Tribunal
PO Box Q290
QVB Post Office NSW 1230

Our normal practice is to make submissions publicly available on our website (www.ipart.nsw.gov.au). If you wish to view copies of submissions but do not have access to the website, you can make alternative arrangements by phoning one of the staff members listed under ‘inquiries’ at the front of this paper.

We may choose not to publish a submission — for example, where it contains confidential or commercially sensitive information. If your submission contains information that you do not wish to be publicly disclosed, please indicate this clearly at the time of making the submission.

If you would like further information on making a submission, the Tribunal’s submission policy is available on our website.

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1 INTRODUCTION

There are thousands of clubs in NSW, whose members have joined together to pursue a common interest, which may be sporting, political, religious, social or cultural. There is no requirement for a club to be registered, but once it is registered, a club:

• can sell and supply liquor on club premises to club members and their guests
• can operate gaming machines, subject to strict requirements relating to integrity and the responsible conduct of gambling, and
• must comply with certain corporate governance, accountability, membership, mutuality and club entry requirements as outlined in the Registered Clubs Act 1976.

The Premier of NSW has asked the Independent Pricing and Regulatory Tribunal of NSW (the Tribunal) to review the role and performance of the State’s registered clubs industry, and to consider and report on the following key areas:

• the role of registered clubs in the community, including the provision of social infrastructure, employment and other economic opportunities
• the financial viability and performance of registered clubs, and
• measures for strengthening the performance of registered clubs, including corporate governance, training and development.

1.1 Purpose of the review

Over the past 10 years, various social, demographic and commercial changes have affected the registered club industry. For example, many registered clubs were established during the 1950s and now have an ageing and dwindling membership. Changes in population in regional areas have also affected some clubs’ ability to recruit new members. And there are now many more recreational opportunities available in the commercial marketplace than there were during the 1950s: venues such as bars, nightclubs, pubs and commercial gyms are in direct competition with clubs. Individual clubs’ ability to provide services that meet the needs of their members and local community while remaining financially viable differs, depending on the club’s location, size and many other factors.

The NSW Government recognises the valuable social and economic contribution that registered clubs make to the State’s social infrastructure and services, and wants to help the clubs industry to flourish. At the same time, it requires the industry to meet its mutuality requirements, work cooperatively with government and other community members to provide substantial and effectively targeted community support, and operate in a commercial and professional manner. For these reasons, the Government has asked the Tribunal to review and make recommendations on the role and performance of the NSW registered clubs industry to facilitate a sustainable registered clubs industry in the future.

The principal output of the review will be a framework for a management plan that supports and guides a sustainable registered clubs industry for a 10 to 15 year period. The framework may include the development of a charter to define the roles of registered clubs, and stakeholders’ and the Government’s expectations of them. The framework will outline what

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1 A registered club is one which has successfully applied for a certificate of registration under the Registered Clubs Act 1976.
the management plan can be expected to achieve and what it cannot. For example, the management plan is intended to ensure a sustainable clubs industry; it cannot guarantee the survival of every individual club as it currently operates.

The Tribunal’s terms of reference for this review are provided in full in Appendix 1.

1.2 Process for the review

As part of the review, the Tribunal will undertake public consultation, including calling for submissions and holding public roundtable discussions. It will also engage a consultant to assist it in examining the financial viability and performance measures of registered clubs. It intends to release its draft report and recommendations and invite interested parties to submit their comments. After considering these comments, it will provide its final report and recommendations to the Minister for Gaming and Racing.

The proposed timetable for the review is shown in Table 1.1.

<table>
<thead>
<tr>
<th>Tasks and milestones</th>
<th>By</th>
</tr>
</thead>
<tbody>
<tr>
<td>Release issues paper and invite submissions</td>
<td>End of May 2007</td>
</tr>
<tr>
<td>Receive submissions</td>
<td>27 July 2007</td>
</tr>
<tr>
<td>Hold public roundtable discussions</td>
<td>September-October 2007</td>
</tr>
<tr>
<td>Release draft report and recommendations</td>
<td>February 2008</td>
</tr>
<tr>
<td>Receive submissions on draft report</td>
<td>End of March 2008</td>
</tr>
<tr>
<td>Deliver final report</td>
<td>June 2008</td>
</tr>
</tbody>
</table>

Details of how to make a submission can be found at the front of this issues paper (before the Table of Contents). Please note that the closing date for submissions is 27 July 2007. Also note that while this issues paper lists a range of issues and questions on which the Tribunal particularly seeks comments, stakeholders should feel free to raise and discuss any other issues that they feel are relevant to the terms of reference for this review. Submissions are most useful to the Tribunal when they are detailed, provide evidence to support the views they express, and move beyond identifying problems to suggesting solutions.

The clubs industry comprises a diverse range of constituents from metropolitan, regional and remote areas of NSW. The Tribunal recognises this diversity and invites all interested parties, including registered clubs, club members, clubs which have chosen not to be registered, club associations, community groups and members of the public to make submissions.

The Tribunal will also be undertaking more detailed case studies of a subset of registered clubs. These clubs are currently being selected to obtain a sample of clubs of different types, sizes and locations.

The Tribunal will carefully consider all written submissions prior to the public roundtable meetings. These meetings will be used to explore and debate the key issues that are raised in submissions, where the Tribunal feels it needs more information to understand the views of stakeholders, and where it wishes to ‘test the waters’ regarding possible recommendations.
The meetings will be in the form of ‘roundtable’ discussions, where stakeholders present their views on the key issues and Tribunal members ask questions.

In addition to considering stakeholder views, the Tribunal will undertake its own analysis, and aim to balance competing stakeholder needs and views in a robust and transparent way. Unless confidentiality is requested, written submissions will be made available immediately on the Tribunal’s website. The roundtable meetings will be transcribed, and the transcriptions will be available on our website.

1.3 Structure of this issues paper

This issues paper is intended to assist and guide stakeholders in making their submissions. It is structured as follows:

- Chapter 2 provides background information on the registered clubs industry in NSW, including a brief history of the industry and an overview of its regulatory and legislative environment.
- Chapter 3 discusses the social contributions registered clubs make to NSW communities, and how the value of these contributions can be measured and enhanced.
- Chapter 4 focuses on the employment and other economic contributions registered clubs make in NSW.
- Chapter 5 examines the financial viability and performance of registered clubs.
- Chapter 6 discusses the procedures for, and some recent trends in, club establishment, relocation and amalgamation.
- Chapter 7 looks at other matters relevant to strengthening clubs’ performance and facilitating a sustainable registered clubs industry, including regulatory framework and corporate governance issues.
- Chapter 8 discusses the proposed framework for a management plan.

Each chapter includes a list of questions on which the Tribunal particularly seeks stakeholder comments. A complete list of these questions is provided in Appendix 2.
2 OVERVIEW OF THE REGISTERED CLUBS INDUSTRY AND ITS REGULATION IN NSW

Prior to the 1900s, the clubs that existed in NSW were mainly small exclusive sporting or business clubs. At the beginning of the twentieth century, associations of clubs began to be formed and there are now around 1,400 registered clubs operating in over 1,500 club premises.\(^2\)

In recent years, registered club membership has reached around 4.8 million,\(^3\) and seems to be still growing. However, very few new clubs have been registered recently, and across the industry, though some clubs are doing very well, there are also clubs that are struggling to survive.

The interests covered by registered clubs are broad, and the size of individual clubs range from those with a handful of members to others with widely diversified operations and tens of thousands of members.

The following sections provide a profile of the registered clubs industry in NSW, and an overview of the regulatory framework within which the industry operates. Appendix 3 provides a brief history of clubs in NSW.

Unless otherwise stated, data in this chapter relate to club premises as this provides a clearer picture of the services available to members and local communities. Where possible, information is reported for the 12 statistical divisions in NSW as defined by the Australian Bureau of Statistics.\(^4\) Elsewhere, aggregates of metropolitan and rural regions are reported.

2.1 Profile of registered clubs in NSW

The registered clubs industry in NSW includes a variety of clubs that offer different services to cater to different interest groups. The most common club categories, by interest group, are:

- Returned & Services League (RSL) and services clubs
- bowling
- golf
- leagues and football
- other sports and recreation
- community and workers
- religious and cultural

\(^2\) With regard to registered clubs, a distinction between the registered club on the certificate of registration and the club premises needs to be made. A registered club in NSW can have more than one club premises from which they operate. This can be a result of amalgamating with other clubs, or simply through growth and expansion of the club’s facilities over time.


\(^4\) Information from the Office of Liquor Gaming and Racing has been allocated to the 12 statistical divisions based on postcodes. The 12 divisions are Sydney, Hunter, Illawarra, Richmond-Tweed, Mid North Coast, Northern, North Western, Central West, South Eastern, Murrumbidgee, Murray and Far West. Metropolitan NSW includes the divisions of Sydney, Hunter, and Illawarra. The balance is Regional NSW.
Around half of the club premises in NSW are either bowling or RSL/services facilities (50 per cent). The next largest group of club premises is golf or other sport/recreation facilities (29 per cent). Club premises in the ‘Others’ category include those catering to less common interests such as automobile, musician, aero and country clubs (Table 2.1). In terms of membership, RSL/services clubs have the most members (33 per cent of all club members), followed by leagues/football clubs (22 per cent), and bowling clubs (11 per cent).  

As well as specific interest facilities, many clubs provide other amenities to their members, such as:

- dining facilities, such as restaurants, bistro's and snack bars
- gaming areas with poker machines, bingo, keno and TAB
- sport and fitness facilities, such as gymnasiums, swimming pools, snooker tables, darts and table tennis
- other recreational facilities and entertainment programs, including barbecue areas, dancing sessions, live music and other entertainment events, raffles and competitions, video games and holiday accommodation.

Registered clubs also contribute to the attainment of a number of priorities set out in the NSW Government’s State Plan. Specifically, registered clubs in NSW may contribute towards:

- increased participation and integration in community activities (priority R4), through the registered club industry’s funding of and involvement in various community activities
- improved health through reduced obesity, smoking, illicit drug use and risk drinking (priority S3), through the registered club industry’s provision of well-priced food of reasonable quality, and its enforcement of responsible drinking behaviour
- improved participation in education and training throughout people’s lives (priority P4), through the registered club industry’s provision of training to employees and volunteers
- better access to training in rural and regional NSW to support local economies (priority P7), through the registered club industry’s provision of training to employees and volunteers
- increased use of parks, sporting and recreation facilities and participation in the arts and cultural activity (priority E8), through the registered club industry’s funding and maintenance of parks, sporting and recreation facilities, and its organisation and funding of arts and cultural activities.

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2.1.1 Geographic dispersion

Registered clubs operate in all areas of NSW. However, most registered club premises (around 61 per cent) are located in metropolitan NSW (Table 2.1). About 78 per cent of the NSW population lives in the metropolitan area. The difference between these proportions may indicate that clubs play a more important role in regional NSW than in the metropolitan area. It would be interesting to compare club membership levels in the different regions, but these data are not available to the Tribunal.

Table 2.1 NSW registered clubs by type and region (2006)

<table>
<thead>
<tr>
<th>Premise Type</th>
<th>No. of club premises</th>
<th>Metropolitan</th>
<th>Regional</th>
<th>Total</th>
</tr>
</thead>
<tbody>
<tr>
<td>Bowling</td>
<td>277</td>
<td>193</td>
<td>470</td>
<td></td>
</tr>
<tr>
<td>RSL/services</td>
<td>176</td>
<td>124</td>
<td>300</td>
<td></td>
</tr>
<tr>
<td>Golf</td>
<td>114</td>
<td>127</td>
<td>241</td>
<td></td>
</tr>
<tr>
<td>Sports/recreation</td>
<td>142</td>
<td>62</td>
<td>204</td>
<td></td>
</tr>
<tr>
<td>Leagues</td>
<td>60</td>
<td>23</td>
<td>83</td>
<td></td>
</tr>
<tr>
<td>Community/workers</td>
<td>41</td>
<td>12</td>
<td>53</td>
<td></td>
</tr>
<tr>
<td>Religious/Cultural</td>
<td>62</td>
<td>3</td>
<td>65</td>
<td></td>
</tr>
<tr>
<td>Others</td>
<td>68</td>
<td>61</td>
<td>129</td>
<td></td>
</tr>
<tr>
<td><strong>Total (numbers)</strong></td>
<td><strong>940</strong></td>
<td><strong>605</strong></td>
<td><strong>1545</strong></td>
<td></td>
</tr>
<tr>
<td><strong>Total (%)</strong></td>
<td><strong>61</strong></td>
<td><strong>39</strong></td>
<td><strong>100</strong></td>
<td></td>
</tr>
</tbody>
</table>

Source: ABS publication 3218.0 Regional Population Growth 2005. Information provided by the OLGR and IPART’s analysis.

A number of registered clubs in NSW operate on or close to NSW’s borders with other states (in particular Victoria and Queensland). When assessing the community development and social contributions these clubs make to NSW communities, it is important to recognise that the benefits provided by these clubs are consumed by the surrounding communities on both sides of the border.

2.1.2 Size classification

While comparisons are useful when analysing an industry, comparing the performance of clubs can be problematic due to the wide variety of clubs and the differences in their areas of interest, location and demographics. A common method, used by the Office of Liquor, Gaming and Racing (OLGR) and ClubsNSW (the peak body representing registered clubs in NSW), is to categorise clubs by the profits or revenue they earn from gaming machines.\(^7\)

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\(^7\) Note profit comprises of turnover minus wins.

\(^8\) The \textit{Gaming Machine Tax Act 2001} defines ‘gaming machine profits’ as the excess of from machines over outgoings from machines. It should be noted that ClubsNSW and Allen Consulting Group (2004) use the term ‘gaming machine revenue’ when referring to the excess of revenue from machines over outgoings from machines. For consistency with the Act and to avoid confusion, the term ‘gaming machine profits’ is applied throughout this paper.
Registered clubs may apply for up to 10 free gaming machine entitlements. Each club decides the number of gaming machines they will install within this entitlement. A club may choose not to operate any gaming machines or may apply to the Liquor Administration Board (LAB) to increase its entitlement up to a maximum of 450 machines at each premise. Most registered club premises, around 87 per cent, do operate gaming machines.

As at 30 June 2006, registered clubs in NSW operated 74,226 gaming machines.\(^9\) Table 2.2 shows the number of registered club premises in NSW by the size of their gaming machine profits.

### Table 2.2 Club premises categorised by gaming machine profits (2006)

<table>
<thead>
<tr>
<th>Gaming machine profits</th>
<th>No. of club premises</th>
<th>% of club premises</th>
</tr>
</thead>
<tbody>
<tr>
<td>Nil</td>
<td>199</td>
<td>13</td>
</tr>
<tr>
<td>0 – $200,000</td>
<td>390</td>
<td>25</td>
</tr>
<tr>
<td>&gt;$200,000 – $1 million</td>
<td>412</td>
<td>27</td>
</tr>
<tr>
<td>&gt;$1 million – $5 million</td>
<td>379</td>
<td>25</td>
</tr>
<tr>
<td>&gt;$5 million – $10 million</td>
<td>86</td>
<td>6</td>
</tr>
<tr>
<td>&gt;$10 million</td>
<td>79</td>
<td>5</td>
</tr>
<tr>
<td><strong>Total</strong></td>
<td>1545</td>
<td><strong>100</strong></td>
</tr>
</tbody>
</table>

Source: Information provided by the OLGR and IPART’s analysis.

The Tribunal invites comments on the following questions:

- What does your club mean to you? Why did you join it?
- Which club services do you use?

## 2.2 Regulatory framework

Registered clubs operate within a regulatory framework that involves four major pieces of legislation and four main regulatory bodies. This legislation and these bodies are outlined below.

### 2.2.1 Applicable legislation

The main pieces of legislation that specifically address the operation of registered clubs in NSW include the:

- *Registered Clubs Act* 1976 (Registered Clubs Act)
- *Registered Clubs Regulation* 1996 (Registered Clubs Regulation)
- *Liquor Act* 1982 (Liquor Act)
- *Gaming Machines Act* 2001 (Gaming Machines Act).

The Registered Clubs Act and Registered Clubs Regulation contain most of the statutory requirements applicable during the lifespan of a registered club, from the initial process of setting up a registered club, to the day-to-day operations of registered clubs within NSW and to the amalgamation or winding-up of a registered club\(^{10}\).

Registration confers various benefits on a club. First, the Liquor Act permits a registered club to sell liquor on its premises without a separate liquor licence. However, with that benefit comes responsibility: a club’s conduct with regard to the supply and consumption of liquor is regulated by the Registered Clubs Act and Registered Clubs Regulation. This legislation aims to achieve ‘minimisation of harm associated with the misuse and abuse of liquor’.

Second, a registered club is allowed to operate gaming machines within its premises (see section 2.1.2). However, as with the supply of alcohol, clubs are subject to strict regulation regarding the operation of these machines. In NSW, the Gaming Machines Act regulates the keeping and operation of ‘approved gaming machines’ by registered clubs (and hotels). In addition, the Gaming Machine Tax Act regulates the tax payable on profits earned from ‘approved gaming machines’. The Gaming Machine Act’s primary objectives are harm minimisation and fostering responsible conduct in relation to gambling\(^{11}\).

Most registered clubs operate as incorporated companies, maintain premises and trade in goods and services. Thus, in addition to the specific legislation above, they must also comply with more general areas of NSW and Commonwealth legislation and regulation that concern trading companies, in particular the \textit{Corporations Act 2001}.

### 2.2.2 Oversighting bodies

Four main bodies oversee the clubs industry, including the:

- NSW Minister for Gaming and Racing (the Minister)
- NSW Office of Liquor, Gaming and Racing (OLGR), within the NSW Department of the Arts, Sport and Recreation (the Department)
- Licensing Court of NSW (Licensing Court)
- NSW Liquor Administration Board (LAB).

The Minister and the Department are responsible for administering the specific legislation related to registered clubs. The OLGR, located within the Department, implements policy and education initiatives for liquor, gaming, charity and racing industries. It also prosecutes criminal offences under the relevant legislation.

\(^{10}\) The Tribunal notes that a number of amendments to the Registered Clubs Act that were made by the \textit{Registered Clubs Amendment Act 2006} have yet to commence. The Office of Liquor, Gaming and Racing has advised that their commencement is dependent upon the finalisation of regulations that will be the subject of industry and other consultation. The uncommenced amendments relate to club amalgamations, the definition of ‘top executive’, financial reporting matters, the disposal of club property, and club elections.

\(^{11}\) The Gaming Machines Act is subject to a statutory review in 2007 and the Tribunal understands that the NSW Office of Liquor, Gaming and Racing will shortly be releasing an issues paper for public comment to facilitate that review.
The Licensing Court, established under the Liquor Act, has state-wide jurisdiction and deals specifically with applications for the grant of new licences, transfer of licences, breaches, complaints and disciplinary proceedings against licensees. Members of the court are also magistrates under the *Local Courts Act 1982*. The court also deals with applications for certificates of registration for registered clubs and is responsible for dealing with breaches and disciplinary proceedings arising under registered club legislation.

The LAB, also established under the Liquor Act, has four key functions:

- keeping the operation of the Liquor Act and Registered Clubs Act under constant review, making recommendations to the Minister, and conducting inquiries as directed by the Minister
- keeping the standard of licensed premises and registered clubs under constant review
- hearing and determining complaints into the disturbance of the ‘quiet and good order of the neighbourhood’ of a registered club, and
- administering the keeping, operation and disposal of ‘approved gaming machines’ by registered clubs, including making determinations in relation to social impact assessments which accompany applications for an increase in gaming machine entitlements.

Once the Licensing Court approves its application for registration, a club must adhere to the provisions of the Registered Clubs Act and Registered Clubs Regulation. A registered club’s ongoing compliance is supervised by the NSW Police, OLGR, the courts (principally the Licensing Court) and the LAB.

Figure 2.1 provides an overview of the key provisions related to the registration, ongoing regulation, amalgamation and winding up of clubs. Chapter 6 provides more detail on the procedures for club establishment, relocation and amalgamation. Chapter 7 provides more detail on the regulatory structure, legislative instruments and enforcing bodies.

*The Tribunal invites comments on the following questions:*

- Why do clubs seek registration? What do they see as the advantages and disadvantages of becoming a registered club?
- Is the current regulatory framework appropriate?
Overview of the registered clubs industry and its regulation in NSW

Figure 2.1 Registered Club Regulatory Framework

CLUB REGISTRATION
- Registered Clubs Act:
  - procedures for registration.
  - conditions & requirements that clubs must satisfy to obtain registration.

Corporations Act
- Underlying legal framework for incorporation
  - A condition of registration is that the club needs to be incorporated

Liquor Act:
- establishment of NSW Licensing Court
  - establishment of NSW LAB
  - registered clubs may sell liquor to members on premises without a Liquor Licence.

CLUB ONGOING OPERATIONS
- Registered Clubs Act:
  - deemed rules of clubs
  - management of clubs
  - financial accountability/dislosure requirements
  - responsible service of alcohol training
  - offences in relation to clubs
  - complaints to Licensing Court concerning certain misconduct by a club
  - powers of Licensing Court to sanction club misconduct
  - complaints to LAB concerning "quiet and good order" of a club’s neighbourhood.

Gaming Machines Act:
- lawful keeping & operation of gaming machines in clubs
- limits on total numbers of poker machines in clubs
- allocation & supervision of poker machine entitlements transfer by LAB
- club social impact assessments submission to LAB
- mandatory shut down periods for gaming machines
- gambling harm minimisation measures
- gaming machine acquisition or disposal authorisation by LAB
- inter-club linked gaming system operating requirements.

Gaming Machine Tax Act:
- imposes state tax on gaming machines profits
- stipulates operation of CDSE

CLUB AMALGAMATION
- Registered Clubs Act:
  - process for amalgamations
  - conditions and requirements
  - grounds for objection
  - Licensing Court approves or rejects application.

Gaming Machines Act:
- administration of poker machine entitlements in event of removal of club from premises.

CLUB DEREGISTRATION
- Registered Clubs Act:
  - approval by Licensing Court of appointed manager, receiver or liquidator of a club
  - appointment of temporary administrator of a club by Licensing Court.

Gaming Machines Act:
- administration of poker machine entitlements in event of cancellation or surrender of registration
- administration of poker machine entitlements in event of cessation of trade.

Corporations Act
- Underlying legal framework for amalgamation

Corporations Act
- Underlying legal framework for management, and accountability

Corporations Act
- Underlying legal framework for liquidation & winding up of Australian companies.
3  SOCIAL CONTRIBUTION

As part of its review, the Tribunal will examine the social contribution registered clubs make in NSW. It will assess the contribution the registered clubs industry makes to social infrastructure and services, and attempt to measure the value of this contribution. It will also propose a methodology for identifying and recording the value of this contribution now and in the future.

In addition, the Tribunal will examine the Community Development and Support Expenditure (CDSE) Scheme, which is the current statutory requirement for the provision of assistance to the community. This scheme provides funding (in the form of tax rebates) to registered clubs that make contributions in support of certain local community programs and services. The Tribunal will review the existing and proposed requirements for clubs to receive funding through this scheme. It will also assess the effectiveness of clubs’ contributions, and identify ways in which clubs can target these contributions to better meet community needs.

The sections below explain these issues in more detail, and set out the specific questions on which the Tribunal particularly seeks comments from stakeholders.

3.1  What social contribution do registered clubs make?

People pay for club membership, and also for some of the goods and services they receive at their club – such as food, drink, and attendance at entertainment events. But over and above the provision of goods and services in return for remuneration, clubs also provide additional benefits to members, guests and the general community. These additional benefits constitute clubs’ social contribution.

Social contributions include both tangible and intangible benefits. Examples of tangible benefits include:

- access to sports and fitness facilities\(^{12}\) at less than a commercial rate
- venues for meeting and socialising at less than a commercial rate
- access to meals of reasonable price and quality
- cash grants to community organisations.

Examples of intangible benefits include opportunities for social interaction and the sense of belonging that club members might feel. Even members of the community who are not club members can obtain intangible benefits from the potential opportunity they have to join themselves, and from the feeling of greater security and well-being that comes from living in a community that has a variety of opportunities for social interaction, and where people do not feel marginalised and alienated, with little opportunity for joining in group activities. In addition, the greater social diversity that different types of clubs can give expression to can make for a more interesting society that attracts many different types of people and provides more opportunities for self-expression.

\(^{12}\) A 2003 survey found that 94 per cent of clubs surveyed provided and managed some form of sporting facility for their members. (The Allen Consulting Group, *Socio-Economic Impact Study of Clubs in NSW*, April 2004, p 49.)
Currently, registered clubs are not formally required to categorise, record or report on the level of social contribution they make within NSW communities (except in relation to the CDSE Scheme – see section 3.3). While the annual reports of registered clubs provide some indication, they do not provide the information needed to develop a picture of this contribution at the industry level.

3.2 How can we measure the value of this contribution?

To measure or quantify the value of registered clubs’ social contribution, we first need to categorise and clearly define the different types of social contribution these clubs make. We also need to choose appropriate measurement methodologies.

3.2.1 Categorising the types of social contribution clubs make

The social contributions registered clubs make can be divided into three distinct groups:

1. In-house contributions for the club’s primary purpose. These contributions are for the exclusive benefit of club members and their guests, and relate to achieving the club’s primary purpose. Examples include a bowling club’s provision of bowling greens, and a golf club’s provision of a golf course. While members may be charged for use of these facilities, it is usually at less than a commercial rate.

2. In-house contributions for general member benefit. These contributions are also for the exclusive benefit of club members and their guests, but they do not relate to the club’s primary purpose. Examples include restaurants, bars, gaming machines, pool tables, professional entertainment, function rooms, opportunities for social interaction, and a sense of belonging. Again, members may make a financial contribution for use of these services, but generally at less than a commercial rate.

3. External contributions for community benefit. These contributions benefit the wider local community within which the club is located. They can include support for community groups, such as sporting teams, schools, charities and welfare groups. Table 3.1 provides a breakdown of the types of group that received cash payments from registered clubs in 2003.

<table>
<thead>
<tr>
<th>Type of group</th>
<th>% of total cash payments from clubs</th>
</tr>
</thead>
<tbody>
<tr>
<td>Professional sport</td>
<td>36</td>
</tr>
<tr>
<td>Non-professional sport</td>
<td>28</td>
</tr>
<tr>
<td>Health and social services</td>
<td>17</td>
</tr>
<tr>
<td>Education</td>
<td>5</td>
</tr>
<tr>
<td>Emergency services</td>
<td>3</td>
</tr>
<tr>
<td>Other</td>
<td>12</td>
</tr>
</tbody>
</table>


In addition, these three categories of contribution can be broken down into further categories. First, all three categories of contribution can be either a direct contribution or an indirect contribution. Direct contributions are the result of direct club action – for example, the provision of a cash grant is a direct external contribution for community benefit; the provision of discounted meals is a direct in-house contribution for general member benefit.
**Indirect contributions** are not the result of a direct club action, but rather a by-product of the existence of the club, its facilities and its actions. Indirect contributions are generally intangible benefits - for example, the improved fitness members of a golf club might gain as a result of playing golf at the club is an indirect in-house contribution for club primary purposes; the sense of belonging club members might feel is an indirect in-house contribution for general member benefit; the greater social cohesion a community might feel as a result of having a club where people can meet and socialise is an indirect external contribution for community benefit.

Furthermore, contributions can be either **cash or in-kind**. For example, clubs might provide cash grants to members or subcommittees to fund sporting activities or sub-clubs. They might also provide cash grants to local schools or sports teams. Alternatively, they can provide in-kind support such as access to club-owned sports, meeting and function facilities at no charge or a subsidised rate. Other examples of in-kind support include the provision of:

- capital equipment (including maintenance) for sporting and other club-related activities
- club employees to staff activities and functions
- transport
- food and beverages (where these are not associated with the promotion of trade).

Figure 3.1 illustrates the categorisation of clubs’ social contributions described above.

![Figure 3.1 Registered clubs’ social contributions](#)

**3.2.2 Choosing appropriate measurement methodologies**

Direct social contributions are a result of purposeful, specific action from a club. They always involve club inputs (ie, either cash or in-kind support) and generate a directly identifiable output. This means it is relatively easy to measure the value of these contributions. For cash grants, the value is simply the value of the cash provided. For in-kind contributions, the value is a little more difficult to measure but a range of methodologies could be used.

However, indirect social contributions are much harder to identify and measure quantitatively. Indirect club social contributions are not purposely targeted by a specific club action. Rather, they are an indirect outcome (a by-product) from the existence, operation and activities of a club. In addition, the benefits they create are likely to be both
intangible and valued differently by different members of the community, which means they are also hard to quantify with any accuracy.

Because of this difference between direct and indirect contributions, it is likely that different methodologies will be needed to measure the value of different types of social contribution. While both types of contributions are important, a quantitative methodology is likely to be suitable for measuring the value of direct social contributions, and a qualitative approach is likely to be most appropriate for indirect social contributions.

**Measuring the value of direct social contributions**

Measuring the value of direct cash payments is simple, although there may be issues around recording and accounting for payments.

The Tribunal has identified four options for measuring the value of direct, in-kind social contributions. These options include the:

1. surplus revenue funding approach
2. willingness to pay approach
3. avoidable cost approach
4. market value approach.

Option 1, the surplus revenue funding approach, measures the level of direct social contribution by quantifying the revenue transferred from profitable to non-profitable club activities. Options 2, 3 and 4 assign an economic value to a club-provided product, comparing the assigned economic value to the observable sale price charged by the club. While these options use different approaches to assign an economic value to the club-provided product, the approach they use to determine the level of social contribution is the same. Each of the four options is described in more detail in Appendix 4.

**Measuring the value of indirect social contributions**

Because of the difficulties in identifying and measuring indirect social contributions, the Tribunal considers that a qualitative statement that describes the nature of the indirect social contribution a registered club makes, and the benefits the club believes that local communities derive from that contribution is likely to be the best way to assess these contributions. Such qualitative statements should also be relatively straightforward to produce.

**3.2.3 A common method for accounting and reporting**

In 1997, a NSW Government Working Party commissioned Pannell Kerr Forster (PKF) to review policy development within the NSW registered clubs industry. In 1998, following PKF’s report, the Working Party issued the ‘NSW Club Industry Policy Framework’\(^{13}\), which recommended that the registered clubs industry establish a common method of accounting and reporting (to provide accurate and uniform measures for social contribution quantification). However, a detailed reporting procedure was not developed.

\(^{13}\) NSW Premier’s Department, NSW Club Industry Policy Framework, Sydney, NSW, 1998.
The Tribunal notes that without detailed guidelines and a common method for accounting and reporting on clubs’ social contributions, quantifying direct social contributions (especially in-kind contributions) will be difficult, particularly for smaller clubs without well-developed accounting processes and procedures. The Tribunal also notes that any recommendations for industry-wide measurement of social contributions need to be mindful of the costs of placing additional administrative requirements on individual clubs.

Box 3.1 One estimate of the registered club industry’s social contribution

Despite the inherent difficulties involved in obtaining an accurate quantification of the registered club industry’s aggregate social contribution, an Allen Consulting Group study commissioned by ClubsNSW estimated that the annual value of this contribution was $1.8 billion in 2003. The Allen Consulting Group considered that this estimate represented a ‘lower bound’ valuation of the benefits NSW registered clubs provide to the community, although it is unclear precisely what valuation methodology it used to measure social contributions.

However, within the Allen Consulting Group’s estimate, total taxation payments (of $969 million) were included to calculate the registered club industry’s social contribution. Under an alternative approach to this estimation, taxation payments could be excluded, calculating a value based on the cash and in-kind support, plus a measure for the total volunteer hours provided by the industry. Using this approach, based on similar numbers to that used by the Allen Consulting Group, an annual value in 2003 of $215 million is calculated for the registered club industry’s aggregate social contribution.


In addition, it may be useful to consider if and how the industry’s social contribution helps to attain NSW Government priorities, as set out in the State Plan. These priorities can be found at [www.nsw.gov.au/stateplan](http://www.nsw.gov.au/stateplan).

The Tribunal notes that when considering the registered club industry’s social contribution, both positive and negative contributions need to be taken into account. While registered clubs make strong positive social contributions to communities in NSW, this contribution needs to be considered in conjunction with any negative contributions that may exist, for instance, the potential negative consequences of irresponsible or problem gambling or drinking.

*The Tribunal invites comments on the following questions:*

- What role does your registered club play in your community?
- What are the main contributions registered clubs make to social infrastructure and services in NSW? How significant are these contributions? Are these contributions in line with what communities want? Do these contributions differ across metropolitan, regional and rural areas?
- What roles might registered clubs play in advancing the NSW Government’s priorities, as set out in the State Plan?
- When valuing the registered club industry’s social contribution, what aspects of club activity should be included?
- How do registered clubs identify, calculate and record the value of the social contributions they make? What value would a common methodology be to the industry?
Does the distinction between direct and indirect registered club social contributions seem appropriate?

What approach/methodology should be used to measure registered clubs’ social contributions?

3.3 The Community Development and Support Expenditure Scheme

The CDSE Scheme is a state-wide initiative that provides a dollar-for-dollar tax offset to registered clubs that make social contributions (cash or in-kind) in line with the scheme’s requirements. It was established by the NSW Government in 1998, and aims to encourage registered clubs earning large profits from gaming machines to be involved with and provide financial support for locally based community programs and services. It does this by providing these clubs with strong financial incentives to make financial contributions to eligible recipients.

Currently, more than one third of all registered clubs in NSW participate in the CDSE Scheme. It is the only legislative provision that requires clubs to record and report on their social contributions.

The next three sections outline how the CDSE Scheme works, how clubs select the programs and services they support under the scheme, and what changes to the current scheme guidelines are proposed. The final section in this chapter briefly analyses the contributions made under the CDSE Scheme over the past seven years.

3.3.1 How does the CDSE Scheme work?

The CDSE Scheme is legislated by the Gaming Machine Tax Act, and administered by the Liquor Administration Board (LAB). It is open to registered clubs that earn more than $1 million in gaming machine profits (in the club gaming machine tax year, as defined by the Gaming Machine Tax Act). Where the LAB is satisfied that such a club has allocated a portion of its gaming machine profits in excess of $1 million (its prescribed profits) to eligible community development and support expenditure, the club can receive a rebate on the tax payable on these profits by an amount equal to this expenditure. This rebate is known as its CDSE liability. However, the size of a club’s CDSE liability is capped at 1.5 per cent of its prescribed profits.

Box 3.2 provides an example of how the CDSE liability is calculated.

<table>
<thead>
<tr>
<th>Box 3.2 Example of how a club’s CDSE liability is calculated</th>
</tr>
</thead>
<tbody>
<tr>
<td>A club that earned a profit $1.2 million from its gaming machines in a financial year would be entitled to claim a maximum CDSE liability (or tax rebate) of $3,000, provided that it had contributed at least an equivalent amount in the same year to eligible community projects and services. This amount is calculated as follows:</td>
</tr>
<tr>
<td>Total gaming machine profit for the year: $1,200,000</td>
</tr>
<tr>
<td>Prescribed profit (profit in excess of $1,000,000): $200,000</td>
</tr>
<tr>
<td>Maximum CDSE liability (1.5% of prescribed profit): $3,000</td>
</tr>
</tbody>
</table>

3.3.2 How do clubs select the projects and services they support under the CDSE Scheme?

For a club’s contributions to community projects and services to be eligible under the CDSE Scheme, this expenditure must be consistent with the CDSE Guidelines.\textsuperscript{14} These guidelines require that CDSE expenditure fall into one of the following two categories:

- Category 1 relates to ‘expenditure allocated to projects/services that contribute to the welfare and broader social fabric of the local community’. Eligible recipients in this category include specific community welfare and social services, community development, community health services and employment assistance activities.

- Category 2 covers ‘other’ community development and support expenditure not listed in Category 1. Examples of eligible recipients in this category include schools, sports, service clubs and cultural activities. However, some expenditure is excluded from Category 2, including expenditure of a commercial or legislative/licence compliance nature, and some sporting-related expenditure (such as contributions to professional sports persons).

In addition, the CDSE Guidelines require that at least 50 per cent of the club’s total CDSE Scheme expenditure meets the criteria for Category 1. The remaining CDSE Scheme expenditure must meet the criteria for Category 2.\textsuperscript{15}

ClubsNSW has published a list of nine eligible recipient types for CDSE funding and illustrative examples of each type, to help registered clubs allocate funds in compliance with the CDSE Scheme. This list is summarised in Box 3.3 below, and explained in more detail in Appendix 5.

\begin{table}[h]
\centering
\begin{tabular}{|l|
\hline
\textbf{Box 3.3 Eligible recipients for CDSE funding}\tabularnewline
\hline
Under the CDSE Scheme, eligible recipients generally fall into one of the following nine types: \tabularnewline 1. health and welfare – eg, hospital, child and family services \tabularnewline 2. junior sport – eg, educational and sporting scholarships or junior coaching clinics \tabularnewline 3. voluntary non-profit organisations – eg, aged, disability or youth services \tabularnewline 4. registered charities and state agencies – eg, subsidised or free use of venues and facilities, including the services of club staff \tabularnewline 5. local community infrastructure – eg, enhancement of services and facilities provided by local government \tabularnewline 6. education – eg, career development seminars for the young, disadvantaged or unemployed \tabularnewline 7. employment – eg, employment placement services and group training \tabularnewline 8. emergency relief – eg, emergency accommodation and shelters during natural disasters \tabularnewline 9. senior sport (excluding professional sport expenditure) – eg, the development and maintenance of sporting fields and facilities (including golf courses and bowling greens). \tabularnewline
\hline
\end{tabular}
\caption{Eligible recipients for CDSE funding}
\end{table}


\textsuperscript{14} Department of Gaming and Racing, \textit{CDSE Guidelines}, March 2004.
\textsuperscript{15} Department of Gaming and Racing, \textit{CDSE Guidelines}, March 2004.
In addition, the then NSW Minister for Gaming and Racing introduced a consultative process in 2000, which is designed to increase the level of transparency and consultation in the allocation of CDSE within local communities. This process involves establishing locally appointed CDSE committees, whose role is to help identify and inform registered clubs of the social needs within their local government areas (LGAs). However, this role is advisory only. The responsibility for decisions regarding CDSE allocations rests solely with a club’s board of directors.

If an LGA includes at least one club that allocates more than $30,000 to Category 1 CDSE, the local council is required to establish a local CDSE committee. All clubs within that LGA allocating more than $30,000 to Category 1 CDSE are required to participate in this committee, which also includes representatives from key community service agencies (such as the Department of Community Services, the Council of Social Service of NSW and the local council).

3.3.3 What is happening to the current scheme guidelines?

The Office of Liquor, Gaming and Racing (OLGR) has consulted with stakeholders on revisions to the CDSE Scheme Guidelines. The consultation particularly focused on four key areas of the current guidelines:

- At least 50 per cent of CDSE must be Category 1 expenditure.
- CDSE can be cash or in-kind, with no restrictions on how much can be in-kind.
- There are no requirements to allocate funds in line with the recommendations of the CDSE local committee.
- There is no requirement to acknowledge State Government support for CDSE.

The outcome of OLGR’s consultation on the draft revised CDSE Scheme Guidelines is not yet known.

3.3.4 Overview of past CDSE by registered clubs

Limited data was available to the Tribunal to assess changes in club CDSE over time. Data for the years 2000, 2004 and 2006 provides a ‘snapshot’ of club CDSE allocations. These data have allowed the Tribunal to look at the extent to which clubs of different sizes (in terms of their gaming machine profits) have made CDSE allocations, the overall value of CDSE allocations, and the ratios of CDSE allocated to Category 1 and Category 2 expenditure, and to metropolitan and regional locations.

As Figure 3.5 shows, the largest clubs – those with gaming machine profits of more than $10 million per annum – have contributed between 50 per cent and 60 per cent of the total CDSE in NSW in the past.

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16 In addition to the prioritisation of community social needs, CDSE local committees also assess Category 1 applications, obtain written reports of Category 1 funding from qualifying clubs, prioritise CDSE applications when requested, provide attendance certificates to clubs for LAB reporting, handle CDSE enquiries, distribute applications, promote the CDSE scheme and annually review CDSE operations.

17 In LGAs where the clubs’ Category 1 CDSE liabilities are less than $30,000 each, committees may also be formed on a voluntary basis. Agreement from all committee representatives is required for this to occur.

18 Where a large number of clubs are required to attend the local committee process within an LGA, a delegate may be appointed to represent multiple clubs on the CDSE local committee.
It is likely that clubs’ total community development and support expenditure was higher than the amount that was eligible for rebate under the CSDE Scheme. On behalf of ClubsNSW, the Allen Consulting Group estimated that total CDSE contributions from all registered clubs in 2002 was approximately two thirds greater than the amount eligible for rebate under the CDSE Scheme.\textsuperscript{19} Gaming machine profits data available to the Tribunal indicate that in 2006, registered clubs made CDSE contributions worth approximately $53.9 million, and that approximately $39.2 million of this amount would be eligible for rebate under the CDSE Scheme (due to CDSE rebates being capped at 1.5 per cent of prescribed profits, see Box 3.2).

However, these estimates rely on the assumption that all expenditures listed within CDSE reporting by registered clubs (including those greater than what is eligible for rebate) met the allocation requirements under the CDSE Scheme (i.e., at least 50 per cent were allocated to eligible Category 1 CDSE).

In the years for which data are available, the ratio of CDSE allocated to Category 1 and Category 2 expenditure has been approximately 40:60.\textsuperscript{20} Figure 3.6 shows the CDSE for 2006 by category.

\textbf{Figure 3.5 CDSE allocation by gaming machine profits}

\begin{figure}[h]
\centering
\begin{tabular}{ccc}
\hline
\textbf{2000} & \textbf{2004} & \textbf{2006} \\
\hline
\$5M-$10M & \$5M-$10M & \$200K-$1M \\
20\% & 19\% & 18\% \\
\$1M-$5M & \$1M-$5M & $1M-$5M \\
23\% & 27\% & 18\% \\
>$10M & $1M-$5M & >$10M \\
57\% & 53\% & 60\% \\
\hline
\end{tabular}
\end{figure}

Source: Information provided by the OLGR and IPART’s analysis.

\textbf{Figure 3.6 CDSE for 2006 by category ($’000$)}

\begin{figure}[h]
\centering
\begin{tabular}{cc}
\hline
\textbf{Category} & \textbf{Amount} \\
\hline
Category 1 & $29,109 \\
Category 2 & $40,565 \\
\hline
\end{tabular}
\end{figure}

Source: Information provided by the OLGR and IPART’s analysis.

\textsuperscript{19} The Allen Consulting Group, \textit{Socio-Economic Impact Study of Clubs in NSW}, April 2004, p 54.

\textsuperscript{20} Any changes to category 1 and 2 allocation requirements within the CDSE Guidelines (as proposed by the OLGR’s new draft Guidelines) may alter the future category splits.
The ratio of total CDSE allocated to metropolitan and regional locations remained reasonably consistent at around 80:20 over the 2000, 2004 and 2006 periods. Figure 3.7 shows the CDSE distributions to metropolitan and regional locations in 2006.

**Figure 3.7  CDSE allocation to metropolitan & regional locations for 2006 ($'000)**

![Pie chart showing CDSE allocation to metropolitan and regional locations for 2006.](chart)

Source: Information provided by the OLGR and IPART’s analysis.

The Tribunal invites comments on the following questions:

- Do registered clubs find it difficult to identify Category 1 and 2 CDSE opportunities, or to comply with Category 1 and 2 CDSE requirements?

- When allocating funding, how do registered clubs/boards of directors assess local community priorities? In general:
  - Does the allocation of registered club funding match the priorities identified by the CDSE local committee process?
  - What percentage of social contribution funding is allocated according to the priorities identified by local CDSE committees?

- Should clubs be subject to requirements for community contributions beyond the CDSE Scheme?

- How effective is the CDSE Scheme and local committee process? Do you have any issues, problems or concerns with either? What initiatives or incentives could enhance the CDSE Scheme and local committee process to better target expenditure towards identified community needs?

- What social contributions do registered clubs make outside of the CDSE Scheme? How are these measured and reported?
4 CONTRIBUTION TO EMPLOYMENT AND OTHER ECONOMIC OPPORTUNITIES

Another aspect of registered clubs’ social contribution is the employment and other economic opportunities the clubs industry provides in NSW. The Tribunal will review these opportunities, and consider how the industry can enhance them in the future. In doing so, the Tribunal will pay particular attention to opportunities in regional and rural areas.

The following sections outline the employment, contracting, volunteer, training and other economic opportunities registered clubs provide.

4.1 Employment

Registered clubs in NSW employ people in full-time, part-time, casual, apprentice and training positions. These positions involve a variety of roles within a range of industries, including hospitality, retail, sporting, and professional services (eg, accountants, managers and directors).

In 1999, registered clubs in NSW employed a total of 36,603 people, which represented 22,840 full time equivalent (FTE) positions. In 2003, the total number of people employed by clubs grew 41 per cent to 51,749, while the number of FTE positions grew by 18 per cent to 26,874 FTE positions.

A new Club Employees (State) Award came into effect in 1999. The introduction of this award triggered changes in the basis of employment in registered clubs in NSW, giving many of those previously employed on a casual basis the opportunity to become part-time workers, and thus enjoy the improved conditions and benefits associated with this status (eg, job security, annual leave and sick pay). From 1999 to 2003, around 10 per cent of total club employees shifted from casual to part-time positions.

Figure 4.1 shows the composition, by employment category, of total employment by registered clubs in NSW in 2003.

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21 For the purposes of the Allen Consulting Group study, a FTE position requires an employee to work, at minimum, 35 hours a week for 46 weeks in a year.

4.2 Use of contractors

In addition to employing people, registered clubs generate employment opportunities indirectly through their use of contractors. Contractors are most commonly employed for cleaning, security, green keeping, maintenance and catering purposes.23

As an indication of the size of contracting opportunities, Table 4.1 shows the total amounts paid in employee wages and contractor fees made by registered clubs of different sizes (in terms of gaming machine profits) in 2003. This table indicates that clubs’ total contractor fees were equal to around 22 per cent of total employee wages, and that the larger clubs outsource a larger proportion of their operations to contractors than smaller clubs.

Table 4.1 Comparison of club employee wage to contractor payments (2003)

<table>
<thead>
<tr>
<th>Club size (by gaming machine profits)</th>
<th>Employee wages ($’000)</th>
<th>Contractor payments ($’000)</th>
<th>Wages to contractor payments ratio</th>
</tr>
</thead>
<tbody>
<tr>
<td>$0 – $200,000</td>
<td>130,023</td>
<td>17,081</td>
<td>7.6 : 1</td>
</tr>
<tr>
<td>&gt;$200,000 – $1million</td>
<td>142,672</td>
<td>22,576</td>
<td>6.3 : 1</td>
</tr>
<tr>
<td>&gt;$1 – $5 million</td>
<td>335,027</td>
<td>62,913</td>
<td>5.3 : 1</td>
</tr>
<tr>
<td>&gt;$5 – $10 million</td>
<td>199,532</td>
<td>57,223</td>
<td>3.5 : 1</td>
</tr>
<tr>
<td>&gt;$10 million</td>
<td>382,393</td>
<td>105,458</td>
<td>3.6 : 1</td>
</tr>
<tr>
<td>Total</td>
<td>1,189,647</td>
<td>265,251</td>
<td>4.5 : 1</td>
</tr>
</tbody>
</table>


Clubs’ use of contractors increased over the period 1999 to 2003. For example, the Allen Consulting Group estimated the value of contractor payments by registered clubs in NSW grew from $62.8 million in 1999 to $265 million in 2003.24

24 Caution however is required when interpreting these figures. While outsourcing did increase over the period, the low survey response received created some uncertainty over the accuracy of the contractor payment numbers.
4.3 Volunteers

Registered clubs make an economic contribution to NSW through the involvement of club volunteers. The Allen Consulting Group estimated that 52,682 volunteers were involved in NSW clubs, contributing over 5.6 million volunteer hours in 2003.\textsuperscript{25,26} It also estimated that the number of volunteers in 2003 had declined by 10 per cent since 1999, but that the number of volunteer hours had doubled.

Although the contribution of club volunteers to the NSW economy cannot be accurately quantified, if an hourly rate of $20 is used, the estimated value of their contribution in 2003 amounts to $112 million. Sporting-related volunteers comprise 43 per cent of all club volunteers (the largest volunteer category for registered clubs in NSW). These volunteers perform a variety of roles, many of which can be seen as providing a social contribution. These roles include coaching sporting teams; teaching and instructing teams or individuals; performing lifeguard duties; and maintaining sporting equipment and venues. Other common volunteer roles include club directors (23 per cent of total volunteers) and those involved in a club’s trading activities such as waiters or bartenders (5.5 per cent of total volunteers).\textsuperscript{27}

Table 4.2 shows that, overall, registered clubs rely on approximately one volunteer for every staff member. However, the reliance on volunteers varies according to club size (in terms of gaming machine profits).

<table>
<thead>
<tr>
<th>Club size (by gaming machine profits)</th>
<th>Total employees</th>
<th>Total volunteers</th>
<th>Volunteers per employee</th>
</tr>
</thead>
<tbody>
<tr>
<td>$0 – $200,000</td>
<td>3,517</td>
<td>12,323</td>
<td>3.50</td>
</tr>
<tr>
<td>&gt;$200,000 – $1 million</td>
<td>11,006</td>
<td>18,943</td>
<td>1.72</td>
</tr>
<tr>
<td>&gt;$1 – $5 million</td>
<td>17,606</td>
<td>10,745</td>
<td>0.61</td>
</tr>
<tr>
<td>&gt;$5 – $10 million</td>
<td>7,385</td>
<td>3,585</td>
<td>0.49</td>
</tr>
<tr>
<td>&gt;$10 million</td>
<td>12,235</td>
<td>7,082</td>
<td>0.58</td>
</tr>
<tr>
<td>Total</td>
<td>51,749</td>
<td>52,681</td>
<td>1.02</td>
</tr>
</tbody>
</table>


Smaller clubs rely more heavily on the work of volunteers to function day-to-day. Clubs in the smallest category (gaming profits of $200,000 or less) have 3.5 volunteers for every employee. In contrast, those in the largest category (gaming profits of $10 million or more) have 0.5 volunteers for every employee.
4.4 Training

Registered clubs provide training to both employees and volunteers. Training occurs formally, through structured courses or seminars, and informally, through on-the-job training. Between 1999 and 2003, clubs’ training expenditure increased at a nominal rate of around 6.4 per cent per annum — increasing from around $17.5 million in 1999 to $22.4 million in 2003. Table 4.3 details the training expenditure of NSW registered clubs in 2003.28

Table 4.3 NSW registered club industry training expenditure (2003)

<table>
<thead>
<tr>
<th>Club size (in relation to gaming machine profits)</th>
<th>Formal training ($’000)</th>
<th>Formal % of total</th>
<th>Informal training ($’000)</th>
<th>Informal % of total</th>
<th>Total expenditure ($’000)</th>
</tr>
</thead>
<tbody>
<tr>
<td>$0 – $200,000</td>
<td>455,972</td>
<td>38%</td>
<td>740,722</td>
<td>62%</td>
<td>1,196,694</td>
</tr>
<tr>
<td>&gt;$200,000 – $1 million</td>
<td>2,270,829</td>
<td>66%</td>
<td>1,148,683</td>
<td>34%</td>
<td>3,419,512</td>
</tr>
<tr>
<td>&gt;$1 – $5 million</td>
<td>3,068,715</td>
<td>50%</td>
<td>3,029,464</td>
<td>50%</td>
<td>6,098,179</td>
</tr>
<tr>
<td>&gt;$5 – $10 million</td>
<td>2,269,289</td>
<td>55%</td>
<td>1,845,790</td>
<td>45%</td>
<td>4,115,079</td>
</tr>
<tr>
<td>&gt;$10 million</td>
<td>4,741,087</td>
<td>63%</td>
<td>2,833,111</td>
<td>37%</td>
<td>7,574,198</td>
</tr>
<tr>
<td>Total</td>
<td>12,805,892</td>
<td>57%</td>
<td>9,597,770</td>
<td>43%</td>
<td>22,403,662</td>
</tr>
</tbody>
</table>


This table indicates that the overall industry expenditure allocated to formal and informal training is fairly even — 57 per cent and 43 per cent respectively. Clubs within almost all size categories invested more in formal training. Those in the smallest club category (gaming machine profits of $200,000 or less) are the only ones to invest a higher proportion of their training expenditure in informal training (62 per cent).

4.5 Other economic contributions

In addition to the employment and training opportunities discussed above, registered clubs in NSW make other economic contributions. For example, in regional areas particularly, clubs and club facilities are a focus for tourism, which generates further economic activity and opportunities.

In considering the social and economic contributions made by clubs, it is important to recognise that they operate within a different environment to that which privately owned businesses operate. Some registered clubs compete against private entities to provide goods and services (eg, privately owned bars, restaurants, gyms, golf courses and meeting-rooms). However, the profits clubs collect from gaming machines fund and cross-subsidise the provision of the goods and services they provide.

It is in this context that clubs operate to satisfy the available demand for goods or services within a market. If a club stopped providing a particular good or service, it is likely that the excess demand would eventually be satisfied by a private producer, allowing aggregate economic output to remain constant under either form of production. However, this would not always be the case. Where clubs rely heavily on volunteers or employ assets that would

be uneconomic in a commercial setting (eg, the provision of bowling greens on high value land), the club production of goods or services may not be recreated viably in a private market, resulting in the loss of these facilities to the community.

The Tribunal invites comments on the following questions:

- What employment and contracting opportunities currently exist within registered clubs? Do clubs in metropolitan, regional and remote areas have difficulty finding or retaining employees or contractors? If difficulties are experienced, how could they be overcome?

- What opportunities exist for volunteers within registered clubs? How important is the work of volunteers to the functioning and ongoing operations of clubs?

- What formal and informal training is provided to employees, contractors and volunteers? What effect does this training have on workforce skills and participation?

- In addition to registered club employees, contractors, volunteers and training, what other economic opportunities are created by the registered clubs industry? Do these economic opportunities differ in metropolitan, regional and rural areas? What scope exists to enhance these economic opportunities within the various metropolitan, regional and rural areas?

- How should the economic flow-on effects of registered clubs be calculated?
5 FINANCIAL VIABILITY AND PERFORMANCE

As identified in Chapters 2 and 3, registered clubs operate in both the metropolitan and regional areas of NSW and vary in size, type and diversity of business operations. Each of these factors can potentially influence clubs’ financial viability and performance.

As part of its review, the Tribunal will consider a range of factors related to the financial viability and performance of the clubs industry, including:

- the effective operation of registered clubs in the context of being community-based, not-for-profit entities
- the financial viability of the clubs industry, including where and why clubs are prospering and declining, as well as business efficiency performance measures
- options for future diversification of business operations, and for improving financial management, including support schemes to provide guidance, management, strategic planning and other assistance to clubs.

The sections below provide information and raise questions related to these issues. They discuss the financial environment in which registered clubs operate (including their sources of revenue, expenditure categories and capital structure); clubs’ key decision-making and reporting frameworks; measures of their financial performance and business efficiency; and the support currently available to them.

5.1 Financial operating environment

Registered clubs are considered to be community-based, not-for-profit businesses that were established to pursue a common interest. In NSW, most registered clubs are also required to operate as companies within the meaning of the Corporations Act 2001. Typically, most operate as companies limited by guarantee.

Although clubs are required to operate as companies, their not-for-profit status imposes a different primary financial objective to that of commercial enterprises. Whereas commercial enterprises seek to generate wealth for their shareholders, clubs focus on generating sufficient revenues to provide facilities and benefits to members in relation to a common purpose or interest.

The ownership structure of clubs also differs from commercial enterprises. Registered clubs are owned by their members who typically pay a small annual membership fee. Any profits or other club income can only be applied to promoting the purposes of the club. Therefore, unlike a public company – where shareholders are exposed to capital gains and losses, and receive dividend income – the financial success of a club does not translate directly into financial gains (or losses) for its owners (the members). Members of clubs receive non-financial rewards, such as subsidised rates for food and beverages, access to sporting facilities and other amenities.

29 Unless they applied for registration prior under the Co-Operatives Act 1992, in which case they operate as a co-operative or a corporation constituted by another act.
30 The fees paid by members are specified in the rules of each club. The Registered Clubs Act stipulates that this amount must not be less than $2 per annum.
31 Registered Clubs Act (Section 30 (1) (i)).
To continue operating, a registered club must generate sufficient funds to cover expenses and provide a surplus to invest in facilities and services for the benefit of its members. Its ability to do this depends on its sources of revenue, types of expenditure, assets and capital structure.

### 5.1.1 Sources of revenue and types of expenditure

Club revenue sources and expense categories tend to reflect the variety of amenities and services they provide to their members. Table 5.1 provides the sources of revenue for NSW clubs by club size (in terms of gaming machine profits) in 2003.

<table>
<thead>
<tr>
<th>Club size by gaming machine profits</th>
<th>Revenue source as % of total club revenue</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>0-200K</td>
</tr>
<tr>
<td>Gaming machines</td>
<td>16.2</td>
</tr>
<tr>
<td>Bar</td>
<td>36.2</td>
</tr>
<tr>
<td>Food</td>
<td>4.6</td>
</tr>
<tr>
<td>Other (includes donations and cash grants)</td>
<td>6.8</td>
</tr>
<tr>
<td>Other gaming</td>
<td>2.1</td>
</tr>
<tr>
<td>Ancillary business</td>
<td>5.1</td>
</tr>
<tr>
<td>Membership</td>
<td>16.0</td>
</tr>
<tr>
<td>Sports</td>
<td>10.0</td>
</tr>
<tr>
<td>Facilities and venue rental</td>
<td>3.1</td>
</tr>
<tr>
<td><strong>Total</strong></td>
<td><strong>100</strong></td>
</tr>
</tbody>
</table>


As this table shows, gaming machines are the largest source of revenue by far for all clubs except those in the smallest category. Bar and food sales are the next most significant sources of revenue for all but the smallest clubs. Typically, club membership fees are low (generally $2-20 per annum) and represent only a small proportion of clubs’ total revenue.

Recent legislative changes also make it possible for clubs to further diversify their business. The *Gaming Machines Amendment (Retail Shopping Centres) Regulation 2006* provides for registered clubs to adjoin their premises to a retail shopping centre without the club losing its authorisation to operate gaming machines (subject to various restrictions).

Table 5.2 shows the main categories of expenditure for clubs (hospitality) across Australia in 2004/05 as reported by the Australian Bureau of Statistics. This table shows that labour costs are the largest item of expenditure, comprising almost a third of clubs’ total expenses.

---

Table 5.2  Items of expenditure for clubs

<table>
<thead>
<tr>
<th>Expenditure type</th>
<th>Proportion of total expenses (%)</th>
</tr>
</thead>
<tbody>
<tr>
<td>Labour costs</td>
<td>31.4</td>
</tr>
<tr>
<td>Purchases (including beverages, foodstuff and merchandise/goods for resale)</td>
<td>16.7</td>
</tr>
<tr>
<td>Gaming machine and other gambling taxes and levies</td>
<td>16.3</td>
</tr>
<tr>
<td>Repairs and maintenance</td>
<td>3.0</td>
</tr>
<tr>
<td>Rent, leasing and hiring</td>
<td>2.2</td>
</tr>
<tr>
<td>Advertising, marketing and promotion</td>
<td>4.2</td>
</tr>
<tr>
<td>Sponsorship and grants</td>
<td>1.9</td>
</tr>
<tr>
<td>Interest</td>
<td>1.6</td>
</tr>
<tr>
<td>Depreciation and amortisation</td>
<td>8.1</td>
</tr>
<tr>
<td>Other</td>
<td>14.6</td>
</tr>
<tr>
<td><strong>Total</strong></td>
<td><strong>100</strong></td>
</tr>
</tbody>
</table>

Source: ABS 8687.0 Clubs, Pubs, Taverns and Bars, Australia 2004-2005. Note this publication excludes clubs with annual revenue of less than $400,000.

5.1.2  Assets

Registered clubs rely on diverse assets to provide goods and services to members and the wider community. These assets include sporting facilities (such as gyms, bowling greens, golf courses) as well as restaurants, club buildings, accommodation and other facilities.

The Allen Consulting Group estimated the total value of assets held by clubs in NSW at $5.12 billion in 2003 (Table 5.3). These assets were concentrated in larger sized clubs. Clubs in the largest category – those earning in excess of $10 million in gaming machine profits – accounted for 35 per cent of the total NSW club asset base, which is high considering they represent 5 per cent of all clubs in NSW. Clubs in the next largest category – those that earned $1-5 million in gaming machine profits – account for 30 per cent.

Table 5.3  Club assets in NSW (2003)

<table>
<thead>
<tr>
<th>Club size (by gaming machine profits)</th>
<th>Sports facilities</th>
<th>Club buildings &amp; facilities</th>
<th>Accommodation</th>
<th>Gaming machines</th>
<th>Other</th>
<th>Total</th>
</tr>
</thead>
<tbody>
<tr>
<td>$0–$200K</td>
<td>87.2</td>
<td>230.5</td>
<td>8.1</td>
<td>14.3</td>
<td>33.1</td>
<td>373.2</td>
</tr>
<tr>
<td>&gt;$200K–$1mill</td>
<td>64.4</td>
<td>272.9</td>
<td>5.1</td>
<td>46.0</td>
<td>72.4</td>
<td>460.8</td>
</tr>
<tr>
<td>&gt;$1–$5million</td>
<td>117.9</td>
<td>1,074.9</td>
<td>44.0</td>
<td>158.7</td>
<td>133.8</td>
<td>1,529.3</td>
</tr>
<tr>
<td>&gt;$5–$10million</td>
<td>33.4</td>
<td>702.8</td>
<td>36.1</td>
<td>82.5</td>
<td>92.6</td>
<td>947.4</td>
</tr>
<tr>
<td>&gt;$10million</td>
<td>26.7</td>
<td>1,251.8</td>
<td>58.9</td>
<td>147.1</td>
<td>328.3</td>
<td>1,812.8</td>
</tr>
<tr>
<td><strong>Total</strong></td>
<td><strong>329.6</strong></td>
<td><strong>3,532.9</strong></td>
<td><strong>152.2</strong></td>
<td><strong>448.6</strong></td>
<td><strong>660.2</strong></td>
<td><strong>5,123.5</strong></td>
</tr>
</tbody>
</table>

Source: The Allen Consulting Group (April 2004), Socio-Economic Impact Study of Clubs in NSW.
Table 5.3 also shows that the largest asset type across all clubs is buildings and facilities. Although gaming machines are the largest contributor to club revenues, they comprise less than 10 per cent of the total asset base for clubs across NSW.

In addition to the sources of revenue described above, clubs also make use of debt to expand club facilities and cover any shortfalls in cash flow that may occur. Whereas debt allows clubs to invest in further assets, it also has implications for ongoing expenditure in the form of interest payments (less than 2 per cent of total expenditure as shown in Table 5.2).

The Allen Consulting Group estimated the total level of debt held by clubs in NSW at $1.3 billion in 2003. While the level of debt had increased since 1999 at an annual growth rate of 7.7 per cent, this may be a consequence of the capital expenditure programs undertaken by clubs over this time.

The Tribunal invites comments on the following questions:

- What are the key financial challenges facing registered clubs over the next 10 to 15 years? How do these challenges differ for clubs of different size, type and location?
- What areas of business operation currently provide the greatest levels of financial viability for registered clubs?
- Given the operation of clubs as community-based, not-for-profit entities, what options for business diversification are most likely to ensure the future viability of clubs? Do these options differ for clubs in metropolitan, regional and remote locations?

5.2 Financial management and reporting frameworks

The financial performance of any business is significantly affected by its financial decision-making framework. Registered clubs make a variety of financial management decisions as part of their operations. These include decisions on:

- how to generate revenue to fund club activities
- how to allocate funds among different club activities
- the level and nature of support to be provided to the wider community
- the procurement of goods and services for the day-to-day operation of the club (for example food and beverages, cleaning and maintenance)
- major capital expenditure programs relating to club enhancement or expansion (such as new equipment, refurbishment of club facilities or disposal of club property)
- club relocation and amalgamation.

Registered clubs are also required to produce financial reports that explain their financial transactions, position and performance.

The sections below explain the basic elements of registered clubs’ financial decision-making and reporting frameworks, including their financial management structures, financial reporting requirements and audit requirements.
5.2.1 Financial management structures

In general, the governing body and/or secretary of a club makes decisions about the general operation of the club (including sources of revenue, and how to allocate funds among different club activities and community support). The Registered Clubs Act (Section 10(1)) stipulates that these decisions must be made in a way that ensures the club operates in good faith as a club, and in a way that is equitable to all members of the club.

A club’s financial decisions are dictated largely by its constitution, and by some specific requirements of the Registered Clubs Act. Many clubs are also guided by best practice guidelines issued by ClubsNSW. A club’s constitution (or rules) sets out the way in which that club will operate. The Registered Clubs Act (Section 30(1)(i)) stipulates that this constitution must state that any profits or other income of the club shall be applied only to the promotion of the purposes of the club and shall not be paid to, or distributed among, the members of the club. Clubs may also (but are not required to) include other financial decision-making protocols in their constitution, including rules related to the approvals required for different levels and types of expenditure, and the allocation of funds to different club activities and the broader community.

The Registered Clubs Act also sets out requirements for financial decisions related to the disposal of club property, contracts in which members of the governing body or top executives have an interest, and club amalgamations. For example:

- Assets that fit within the definition of core property must not be disposed of without the approval of a majority vote at a general meeting of the ordinary members of the club. Core property consists of the defined premises of a club and any facility used by the club members. Virtually all other assets are defined as non-core property, and there are no requirements related to the disposal of such assets.

- All members of a club’s governing body must declare any personal interest in a matter that relates to the affairs of the registered club, such as a contract to procure goods or services (for example, hospitality and cleaning services). Registered clubs must also comply with the relevant provisions of the Trade Practices Act 1974.

- A club must meet several requirements to be granted approval to amalgamate with another club. These requirements are discussed in Chapter 6.

However, as previously noted in this paper, several amendments to the Registered Clubs Act that were made by the Registered Clubs Amendment Act 2006 – including those relating to financial decision-making - have yet to commence. OLGR has advised that commencement is dependent upon the finalisation of regulations that will be the subject of industry and other consultation.

To assist clubs in making some of their major financial decisions, ClubsNSW has produced a series of best practice guidelines. These include guidelines for procuring goods and services, and for undertaking major capital works (see Box 5.1).
5.2.2 Financial reporting requirements

Registered clubs in NSW are required to produce financial reports to meet various legislative requirements under the Registered Clubs Act, the Corporations Act and the Gaming Machines Act. These reports must also show the results of the stewardship of management or the accountability of management for the resources entrusted to it.\(^{33}\)

Most registered clubs are required to operate as companies within the meaning of the Corporations Act.\(^{34}\) Clubs must keep written financial records that record and explain transactions, financial position and performance.

<table>
<thead>
<tr>
<th>Box 5.1 ClubsNSW best practice guidelines</th>
</tr>
</thead>
<tbody>
<tr>
<td>ClubsNSW recommends that clubs adhere to the following principles when procuring goods and services:</td>
</tr>
<tr>
<td>a) Clubs should seek to obtain value for money and balance both price and non-price considerations</td>
</tr>
<tr>
<td>b) The procurement process should be conducted with honesty and fairness</td>
</tr>
<tr>
<td>c) Clubs and suppliers should conform to legal obligations</td>
</tr>
<tr>
<td>d) Conflicts of interest should be avoided, and any party with a conflict of interest should declare that interest as soon as the conflict is known to the party</td>
</tr>
<tr>
<td>e) Inducements offered by suppliers relating to the purchase of goods or services should not be allowed to influence purchasing decisions.</td>
</tr>
</tbody>
</table>

The guidelines also cover the process that should be followed including tendering methods, preparation of tenders, contract negotiation and fair dealing.

ClubsNSW also provides guidelines relating to major capital works undertaken by clubs. The guiding principle is that the works should be commissioned and implemented in the best interest of club members. Specifically:

| a) Projects should be properly defined, documented, cost planned and approved |
| b) Projects should be subject to appropriate contracts with the chosen supplier |
| c) Club members should be provided with the information and opportunity to comment at regular intervals during the planning and execution of major capital works projects |
| d) The Board of Directors should act diligently and in the best interests of the members |
| e) Conflicts of interest should be avoided |
| f) Proper processes should be used to appoint third party suppliers |
| g) Legal requirements should be adhered to. |

Using these records, clubs must prepare an annual financial report\(^{35}\) that includes:

- a profit and loss statement
- a balance sheet
- a statement of cash flows, and
- a directors’ report.

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\(^{34}\) Unless they applied for registration under the Co-Operatives Act 1992, in which case they operate as a co-operative or a corporation constituted by another act.

\(^{35}\) Although every registered club is required to provide an annual report, amalgamated clubs produce only one set of accounts that consolidates figures for the multiple premises they occupy.
These reports should enable club members to assess the financial performance and viability of club operations. The financial statements for the club must be prepared in accordance with various accounting standards.  

ClubsNSW provides model financial reports to its members that include each of the key areas of disclosure required by the relevant accounting standards. It recommends that clubs provide information to allow members to obtain a clear picture of the financial viability of the core club business. For example, the report should clearly identify the trading statements relating to various activities of the club such as bar, food and gaming operations.

Section 41H of the Registered Clubs Act requires clubs to provide additional information to members. These provisions are designed to improve governance, and to increase the transparency of club operations through the reporting of various financial transactions that involve club directors, managers and employees. A detailed description of the current provisions is contained in Chapter 7 (noting that these will be amended by the Registered Clubs Amendment Act 2006, once the relevant provisions have commenced). Many clubs include this information as part of their annual report to members.

5.2.3 Audit requirements

The OLGR conducts audits on a number of registered clubs from selected regional areas in NSW on an ongoing basis. These audits review registered clubs’ compliance with their requirements for a wide range of club activities, including financial reports. Their primary aim is to ensure that registered clubs maintain ‘sufficient books and records’. The level of complexity for each audit depends on the size and location of a registered club.

In addition, where a club operates as a company under the Corporations Act, it must also prepare and lodge financial reports with the Australian and Securities Investment Commission (ASIC). ASIC also audits these reports, to ensure clubs comply with the International Financial Reporting Standards (which are now effectively legally binding under the Corporations Act).

5.3 Financial performance measures

Various financial measures can be used to assess the financial performance of corporate entities. Rating agencies such as Standard and Poor’s and Fitch Ratings use a variety of financial indicators to assess the creditworthiness of companies. The Tribunal also considers a variety of elements when assessing the financial strength of the government-owned utilities that it regulates. These include:

- ability to service debt, which is measured through indicators such as earnings before interest, taxes, debt and amortisation (EBITDA), interest cover, pre-tax interest coverage and funds from operations interest coverage
- ability to repay debt, which is measured through debt gearing, funds flow, net debt payback, funds from operations/total debt
- ability to finance investment from internal sources, which is measured through the internal financing ratio and net cash flow/capital expenditure.

36 The main components required within annual reports and their purposes are contained in Appendix 6.
37 Detailed information requests (the Schedule 1 Audit Pro-Forma) are sent to clubs. These requests are then followed up with either a telephone or onsite audit.
Ownership groups and contributors of donations for not-for-profit entities, such as clubs, are generally not concerned with obtaining a financial return. Rather, their aim is to achieve the entity’s non-financial objectives – which may depend on its financial position and performance.\textsuperscript{38}

ClubsNSW considers that the key measure of financial viability is a club’s profitability – specifically its ability to generate sufficient funds to cover its expenses and provide a surplus for further investment in facilities and services for the benefit of its members.\textsuperscript{39} It recommends that clubs consider earnings before interest, tax, depreciation and amortisation (EBITDA) as the primary indicator of a club’s financial viability (and operating efficiency).

The most recent assessment of club financial viability\textsuperscript{40} in NSW was conducted by the Allen Consulting Group in 2004. It used the ratio of earnings before interest and tax (EBIT) to total revenues as a measure of a club’s ability to cover expenses and generate surpluses. Clubs with an EBIT to total revenues ratio:

- less than 0.1 per cent were categorised as non-financially viable
- between 0.1 and 5.0 per cent were categorised as marginally financially viable
- greater than 5.0 per cent were categorised as financially viable.

Using this measure, the Allen Consulting Group found that approximately three-quarters of clubs were at least marginally financially viable, although this varied by club size (Table 5.4).

\begin{table}[h]
\centering
\begin{tabular}{lccc}
\hline
Club size (by gaming machine profits) & Non-financially viable (%) & Marginally financially viable (%) & Financially viable (%) \\
\hline
$0–$200K & 37.1 & 11.3 & 51.6 \\
>$200K – $1 million & 17.6 & 35.3 & 47.1 \\
>$1 – $5 million & 29.4 & 26.9 & 43.7 \\
>$5 – $10 million & 15.7 & 35.3 & 49.0 \\
>$10 million & 13.0 & 19.6 & 67.4 \\
Total & 25.6 & 24.2 & 50.2 \\
\hline
\end{tabular}
\caption{Proportion of financially viable and non-financially viable clubs in 2003}
\end{table}

Source: The Allen Consulting Group (April 2004), Socio-Economic Impact Study of Clubs in NSW.

Small clubs ($0-$200K) were the most likely to be non-financially viable (37.1 per cent). However, more than half of small clubs were financially viable (51.6 per cent). Clubs with gaming machine profits in excess of $10 million per annum were the least likely to be non-financially viable. The Allen Consulting Group also observed that the overall financial viability of clubs had improved – it estimated that the registered clubs industry’s overall ratio of EBIT to total revenues was 8.9 per cent in 2003, compared to 7.3 per cent in 1999.

\textsuperscript{39} ClubsNSW, Best Practice Guidelines, 2005.
\textsuperscript{40} The Allen Consulting Group used the terminology of ‘profitable’, ‘marginally profitable’ and ‘unprofitable’ clubs. For the purposes of this issues paper, the Tribunal has preferred ‘financially viable’ to ‘profitable’, to reflect registered clubs’ not-for-profit status.
5.4 Business efficiency performance measures

Business efficiency performance measures are also an important measure of financial strength and performance. However, these measures should not be looked at in isolation; rather, they provide input into the greater picture of an organisation’s overall strength and performance.

In general, efficiency measures compare a club’s performance to accepted industry benchmarks or key performance indicators. Usually a set of measures is used, and these measures will differ considerably depending on the sector. For instance, the retail sector frequently measures efficiency and performance by ‘profit per square metre’, while the hospitality industry often assesses ‘revenue per available room’.

When considering an appropriate measure for the registered clubs industry, it is important to measure both the financial and non-financial aspects of registered club operations. Since registered clubs don’t typically operate as profit maximisers (due to the provision of in-kind/subsidised products and other social contributions), efficiency and performance measures that focus solely on profit or revenue maximisation will not give a true measure of club performance or efficiency.

As Chapter 3 discussed, the social contributions made by registered clubs are an important aspect of their activities. However, the provision of in-house and external social contributions (whether cash or in-kind), requires the use of registered club resources. This inherently limits a club’s ability to maximise revenue and profit.

A business efficiency performance measure for registered clubs should enable a club to identify areas of strength and weakness within its operations. More than likely, multiple measures will be required to assess both the financial and non-financial aspects of a registered club’s business.

5.5 Financial management support schemes

In the past, the Government has implemented schemes to assist clubs with financial management. The most recent was ClubBIZ, which was established in 2002 to provide assistance to registered clubs experiencing financial difficulty. The Government funded the scheme using $9 million in unclaimed prize money in the Keno Prize Fund account. The Registered Clubs Association of NSW (RCA), as ClubsNSW was then known, obtained the Government’s approval to establish a separate trust account to manage, administer and distribute funds as part of the scheme.

Registered clubs were able to apply to the RCA to obtain financial support in two areas. First, clubs could apply for funds up to $5,000 for a business health check provided by an appropriately qualified person (typically an external consultant). This health check included a review of the club’s trading performance and financial viability, and advice on areas where the club was experiencing financial difficulty, including options for preventing these difficulties from occurring.
Second, after the completion of a business health check, clubs could apply for funds of up to $50,000 to implement business improvement projects such as capital works, modernisation of the club, amalgamation and implementation of new management practices. Clubs were required to contribute at least 20 per cent of the cost of the project from its own resources.

The Tribunal invites comments on the following questions:

- **What does the registered clubs industry regard as financially viable?** What are the key factors that affect the financial viability of registered clubs?
- **What are the most appropriate measures for monitoring the financial performance of registered clubs?**
- **Recognising the financial and non-financial aspects of the registered clubs industry, what measures of business efficiency performance are best suited to the registered clubs industry in NSW?**
- **What thresholds for these indicators should be used to identify clubs that are in financial distress?**
6 CLUB ESTABLISHMENT, RELOCATION AND AMALGAMATION

The ease with which clubs can be established, relocated or amalgamated can affect the financial performance of the registered clubs industry, and the extent to which this industry can meet the needs of local communities. For example, where minimal barriers to establishment, relocation or amalgamation exist, clubs can be flexible in dealing with changes in their operating environment. They are also better able to establish in or relocate to the areas that would most benefit from them.

The Tribunal will consider the current procedures for and issues related to club establishment, relocation and amalgamation as part of its review.

6.1 Establishing new clubs

Few new registered clubs have been established in recent years. Only 24 new clubs have obtained certificates of registration since 1998, and only three have obtained such certificates in the last three years (2004—2006).

Table 6.1 shows the number of new clubs established between 1998 and 2006 by location and by type. Most of these clubs were established in the metropolitan areas (Sydney, Hunter and the Illawarra), but a few were established in regional and remote areas of NSW. Around two-thirds of the total number of new clubs were sport/recreation or golf clubs.

<table>
<thead>
<tr>
<th>ABS division</th>
<th>Sport Recreation</th>
<th>Golf</th>
<th>Ethnic Religious</th>
<th>Other</th>
<th>Bowling</th>
<th>Leagues</th>
<th>Total</th>
</tr>
</thead>
<tbody>
<tr>
<td>Sydney</td>
<td>5</td>
<td>-</td>
<td>3</td>
<td>1</td>
<td>1</td>
<td>-</td>
<td>10</td>
</tr>
<tr>
<td>Hunter</td>
<td>3</td>
<td>-</td>
<td>-</td>
<td>-</td>
<td>-</td>
<td>-</td>
<td>3</td>
</tr>
<tr>
<td>Illawarra</td>
<td>1</td>
<td>1</td>
<td>-</td>
<td>-</td>
<td>-</td>
<td>-</td>
<td>2</td>
</tr>
<tr>
<td>Richmond-Tweed</td>
<td>2</td>
<td>-</td>
<td>-</td>
<td>-</td>
<td>-</td>
<td>-</td>
<td>2</td>
</tr>
<tr>
<td>Mid-North Coast</td>
<td>-</td>
<td>1</td>
<td>-</td>
<td>-</td>
<td>-</td>
<td>-</td>
<td>1</td>
</tr>
<tr>
<td>Northern</td>
<td>-</td>
<td>-</td>
<td>-</td>
<td>-</td>
<td>-</td>
<td>1</td>
<td>1</td>
</tr>
<tr>
<td>Central West</td>
<td>-</td>
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<td>-</td>
<td>-</td>
<td>-</td>
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</tr>
<tr>
<td>Murray</td>
<td>-</td>
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<td>1</td>
<td>-</td>
<td>-</td>
<td>-</td>
<td>2</td>
</tr>
<tr>
<td>Murrumbidgee</td>
<td>-</td>
<td>-</td>
<td>-</td>
<td>1</td>
<td>-</td>
<td>-</td>
<td>1</td>
</tr>
<tr>
<td>South Eastern</td>
<td>-</td>
<td>-</td>
<td>-</td>
<td>-</td>
<td>1</td>
<td>-</td>
<td>1</td>
</tr>
<tr>
<td><strong>Total</strong></td>
<td><strong>11</strong></td>
<td><strong>4</strong></td>
<td><strong>4</strong></td>
<td><strong>2</strong></td>
<td><strong>2</strong></td>
<td><strong>1</strong></td>
<td><strong>24</strong></td>
</tr>
</tbody>
</table>

Source: Information provided by the OLGR and IPART’s analysis.

Refers to the number of new certificates of registration that were issued under the Registered Clubs Act to authorise the establishment of entirely new registered clubs.
Figure 6.1 provides an overview of the process involved in applying to become a registered club. As part of this process, the new club must document how it will meet the various legal requirements of the Registered Clubs Act. Some of these requirements are that the club:

- be conducted in good faith as a club
- be established for ‘social, literary, political, sporting or athletic purposes or for any other lawful purposes’ and ‘for the purpose of providing accommodation for its members and their guests’
- be a company within the meaning of the Corporations Act
- must have at least 200 ordinary members if operating within 24 kilometres from the General Post Office in Sydney, or at least 100 members if operating outside this area
- be a bona fide occupier and those premises must be maintained from the funds of the club
- comply with any requirements imposed on the club under s38 of the Registered Clubs Act as to the club’s profit and loss statements
- observe the accountability provisions of Part 4A of the Registered Clubs Act which concern disclosure and register of interests by the governing body, and other financial accountability measures.

The Registered Clubs Act also requires that:

- where a club’s premises contain a bar area, there must not be a separate area for the sale or supply of liquor to be carried away from those premises that is directly accessible from the outside of the building
- no member of the club is entitled under the rules of the club or otherwise to derive any profit, benefit or advantage from the club that is not offered equally to every full member of the club
- only the club and its members are entitled under the rules or otherwise to derive a benefit, profit or advantage from the fact the club has applied for registration, the registration of the club, or any added value that may accrue to the club premises by reason that the club has applied for, or is granted registration

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42 Unless the club is a co-operative that was registered under the Co-Operatives Act 1992 or a company registered under other legislation, prior to the commencement of Part 10 of the Registered Clubs Act.
43 Under special circumstances, the Licensing Court may authorise a club’s registration if the club has fewer ordinary members: not less than 60 for metropolitan clubs and not less than 30 for clubs in other areas.
44 Section 38 concerns a club’s balance sheet and profit and loss account or income and expenditure account
45 Part 4A relates to matters such as disclosure/register of interests or gifts by the governing body; reporting executive salaries; restrictions on loans to the governing body or members; procedures for land dealings by the club; and various annual reporting requirements for financial returns - including gaming machine profits.
• no club secretary, manager, employee or member of the governing body or any committee is entitled to receive any payment calculated by reference to either the quantity of liquor purchased, supplied, sold or disposed of by the club or the keeping or operation of gaming machines by the club.
Figure 6.1 Main steps in the process to apply for a certificate of registration under the Registered Clubs Act

<table>
<thead>
<tr>
<th>Step</th>
<th>Details</th>
</tr>
</thead>
</table>
| 1. Preparation of application | Documents required include:  
  - Application  
  - Documents relating to the premises to be used, including an approved plan of the accommodation premises  
  - All of the club rules  
  - Statutory declaration listing details of the ordinary and life members of the club at the date of application  
  - Documents showing this application has been advertised to the public in a statewide and local newspaper  
  - Form A – Notice of Hearing  
  - Application by applicant  
  - Affidavit of evidence  
  - Form E – affidavit for harm minimisation and responsible service of alcohol  
  - Responsible gaming affidavit  
  - Social impact assessment – gaming |
| 2. Club lodges application to NSW Licensing Court and pays applicable fees | |
| 3. NSW Licensing Court assesses application | |
| 4. Objections can be made to the application | |
| 5. Hearing of the application in the NSW Licensing Court. | |
| 6. NSW Licensing Court approves or rejects the application | |
| 7. NSW Licensing Court notifies club on outcome of the application | |
| If the application is not approved, subject to the reasons for rejecting, the club may amend its application and resubmit | |
| If granted the club becomes registered and can begin operating as a registered club and needs to comply with relevant regulations | |
| NSW Police conducts an investigation and provides a report to the NSW Licensing Court | |
Once an application is submitted, the approval process can take a few months. How long it takes largely depends on the quality and completeness of the original application. An application that contains sufficient documentation to satisfy the NSW Licensing Court that all conditions and legal requirements are met will take less time to assess than one where the NSW Licensing Court needs to seek more evidence and documentation.

The Tribunal has been asked to look at any barriers to the establishment of registered clubs, and how these barriers could be reduced so that new clubs will be encouraged to establish in localities that would derive most benefit from them.

**The Tribunal invites comments on the following questions:**

- Does the low number of new clubs established since 1998 indicate a decline in the clubs industry in NSW?
- Do any stages of the current registration process impose an undue burden on clubs?
- Does the current registration process make it more difficult for any particular type of club to be established? For example, small clubs (measured through gaming machine profits) or clubs in remote locations?
- How should any barriers be reduced to encourage clubs to locate in areas that would most benefit from them?

### 6.2 Relocating registered club premises

During the lifespan of a club, various legislative and social changes may occur that make it necessary for a club to adapt by either expanding, altering or relocating its premises.

When a club intends to move from its existing premises to *new* premises, or to increase the area of its premises by acquiring *new* additional premises, it may apply to the Licensing Court under section 18 of the Registered Clubs Act. The club must provide an application to the Licensing Court, signed by the club secretary, that contains an approved plan of the proposed premises and other relevant details. The club must also satisfy the Licensing Court that:

- it meets the ongoing requirements for registered clubs listed under Section 10 of the Registered Clubs Act
- the application to increase the area of the club has been approved in principle at an extraordinary meeting of the club
- the application to relocate is published as prescribed by the Registered Clubs Act
- practices will be in place on the new premises to ensure, as far as reasonably practicable, the responsible service and supply of alcohol.

When a registered club intends to move from its current premises to other *existing* premises (as opposed to acquiring new premises), it may apply to the Licensing Court under Section 19 of the Registered Clubs Act. If the Licensing Court approves the application, it will order that the club’s certificate be endorsed by the Registry to indicate the address of the new premises and delete reference to the old premises.
The Licensing Court must not grant an application to move premises if it is satisfied that:

- an objection has been sustained and this objection warrants refusal
- application requirements (including submission of an approved plan) have not been met
- any publication or exhibition requirements of the Registered Clubs Act and Registered Clubs Regulation have not been observed.

The Tribunal invites comments on the following questions:

- Does the current process for relocation to new or existing premises create barriers to clubs relocating to areas that would most benefit from them?
- How can any barriers be reduced to encourage registered clubs to relocate to areas that would most benefit from them?

### 6.3 Amalgamating clubs

Over the last 10 years, a high number of registered clubs in NSW have amalgamated. As a result, the actual number of registered clubs has declined much more than the number of club premises (Figure 6.2).

![Figure 6.2 Registered clubs and club premises 1998-2006](image)

Source: Information provided by the OLGRacing and IPART’s analysis.

Club amalgamations can be effected in two ways:

- by the dissolution of both clubs and the formation of a new club
- by the continuation of one of the clubs and the dissolution of the other club or clubs.

In both cases the amalgamation results in two club licences amalgamating into one, while both original club premises may continue to operate.
6.3.1 Number and type of clubs that have amalgamated

Since 1998, there have been 92 amalgamations in NSW, 59 of which involved clubs located in the Sydney region (Table 6.2). It appears that there were no amalgamations between clubs located in different regional divisions in NSW.

### Table 6.2 Number of club amalgamations by location since 1998

<table>
<thead>
<tr>
<th>Location of parent club in amalgamation</th>
<th>Location of child club in amalgamation</th>
<th>Total</th>
</tr>
</thead>
<tbody>
<tr>
<td>Sydney</td>
<td>South Eastern</td>
<td>46</td>
</tr>
<tr>
<td>Hunter</td>
<td></td>
<td>8</td>
</tr>
<tr>
<td>Illawarra</td>
<td></td>
<td>6</td>
</tr>
<tr>
<td>Richmond-Tweed</td>
<td></td>
<td>4</td>
</tr>
<tr>
<td>Mid-North Coast</td>
<td></td>
<td>6</td>
</tr>
<tr>
<td>Northern</td>
<td></td>
<td>3</td>
</tr>
<tr>
<td>Central West</td>
<td></td>
<td>5</td>
</tr>
<tr>
<td>Murray</td>
<td></td>
<td>5</td>
</tr>
<tr>
<td>Murrumbidge</td>
<td></td>
<td>4</td>
</tr>
<tr>
<td>South Eastern</td>
<td></td>
<td>4</td>
</tr>
<tr>
<td><strong>Total</strong></td>
<td></td>
<td>92</td>
</tr>
</tbody>
</table>

Source: Information provided by the OLGR and IPART’s analysis.

All types of clubs have been involved in amalgamations. In some cases, clubs have amalgamated with other clubs of the same type; in others, they amalgamated with clubs of a different type. Of the 92 amalgamations since 1998, more than half involved a parent club that was either a leagues/football or RSL/services type club. In addition, more than half involved a child club that was a bowling or sport/recreation type club (Table 6.3). (The child club is the club that seeks amalgamation with another and as a result will be dissolved; the parent club is the club with whom the amalgamation is sought.)

### Table 6.3 Amalgamated clubs by premise type since 1998

<table>
<thead>
<tr>
<th>Premise type</th>
<th>No. of clubs by premise type</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>Parent club</td>
</tr>
<tr>
<td>Bowling</td>
<td>10</td>
</tr>
<tr>
<td>RSL/services</td>
<td>27</td>
</tr>
<tr>
<td>Golf</td>
<td>1</td>
</tr>
<tr>
<td>Sport/recreation</td>
<td>10</td>
</tr>
<tr>
<td>Leagues/Football</td>
<td>28</td>
</tr>
<tr>
<td>Community/Workers</td>
<td>6</td>
</tr>
<tr>
<td>Ethnic/Religious</td>
<td>4</td>
</tr>
<tr>
<td>Others</td>
<td>6</td>
</tr>
<tr>
<td><strong>Total</strong></td>
<td><strong>92</strong></td>
</tr>
</tbody>
</table>

Source: Information provided by the OLGR and IPART’s analysis.

Note this breakdown of amalgamations by premise type is based on all amalgamations since 1998.
The amalgamations between clubs of different types has resulted in the emergence of more diversified clubs, and some very large clubs such as the Panthers Entertainment Group.

6.3.2 Amalgamation process

To be granted approval to amalgamate, clubs must meet certain requirements. These requirements are designed to ensure that:

- the needs of members, staff and the local community of both the parent and child clubs will continue to be met following the amalgamation
- the members of both the parent and child clubs have been well-informed, and most of them support the proposed amalgamation
- the child club has explored all avenues for amalgamation with clubs in its local area (i.e., within a 50 kilometre radius) through an Expression of Interest (EOI) before seeking amalgamation with clubs outside this area
- the assets of the child club are adequately protected from disposal.

Figure 6.3 outlines the key steps in the amalgamation process for two or more registered clubs.

Once a club seeking amalgamation has identified a potential parent club, these clubs negotiate the terms and conditions of the proposed amalgamation. These terms and conditions are then captured in a deed of amalgamation. The deed must be submitted to the Licensing Court as part of the application to amalgamate, and must consider issues such as:

- the outcome that each club expects from the amalgamation
- the terms and conditions of the amalgamation
- the kind of amalgamation to be effected
- the manner in which the identity of the dissolved club will be preserved by the parent club
- the manner in which local community support provided by the dissolved club will be maintained by the parent club
- a list of the major assets of the dissolved club
- the assigning of responsibility for the debts and liabilities of the dissolved club
- the terms under which the administration of the business of the dissolved club will be transferred to the parent club, including the transferring of the assets and records of the dissolved club (or any other information or material that is reasonably required by the parent club for the administration of the business)
- the number of premises to be maintained by the parent club
- the management structure of the parent club and the extent to which the management and staff of the dissolved club will be retained by the parent club
- the number of members, and classes of membership, of the dissolved club and of the parent club as well as the admission to membership of the parent club of the members of the dissolved club.
Figure 6.3 Steps required for amalgamation of two or more clubs

- Identify potential clubs for amalgamation
- Amalgamating clubs negotiate terms and conditions and enter into Deed of Amalgamation
- Both clubs must inform members of the proposed amalgamation
- Clubs submit applications to NSW Licensing Court and pay applicable fees.
- NSW Licensing Court receives application and assesses it
- Hearing of the application in the NSW Licensing Court
- NSW Licensing Court notifies clubs of outcome of the application
- If approved two clubs amalgamate to become one registered club
- Major assets of the dissolved club must be kept intact for a period of three years unless the disposal is approved by the board members of the amalgamated club

Clubs must advertise applications in local and state newspapers

If the application is not approved, subject to the reasons for not granting, the club may amend their application and resubmit.
The Registered Clubs Act seeks to ensure that members of both clubs and their local communities have been adequately informed of the amalgamation — and that a majority of the members support it. Any club intending to amalgamate must notify its members and provide information including:

- how the primary objects and principal activities of the clubs will be maintained
- whether the directors of both clubs support the amalgamation
- estimates of the effect on the projected financial viability and cash flow following amalgamation.

The Registered Clubs Act also seeks to protect the assets of the amalgamated clubs. The major assets of the dissolved club must be kept intact for a period of three years unless the disposal is approved by the amalgamated club’s board of directors.

The Registered Clubs Act ensures that the Licensing Court will only approve an application for two clubs to amalgamate where it is satisfied that:

- the club that results from the amalgamation will be financially viable
- the proposed amalgamation is in the interests of both clubs involved (eg, the parent and child clubs)
- the amalgamation application has been approved by the ordinary members (at least in principle) at separate meetings of both clubs involved – a member majority of 51 per cent or more at each club is required to approve the amalgamation.

_The Tribunal invites comments on the following questions:_

- Does the current amalgamation process create any undue barriers to clubs seeking to amalgamate?
- Does the amalgamation process ensure adequate protection of community assets for all clubs involved?
- Other than amalgamating, how might registered clubs adapt their services to respond to changing demographics in their area? How might they enhance their existing membership base?
7 STRENGTHENING PERFORMANCE

The terms of reference require the Tribunal to review and make recommendations on strengthening the performance of registered clubs. Specifically, the Tribunal has been asked to review and make recommendations on:

- the development and maintenance of a strong code of corporate governance within the registered clubs industry
- the regulatory framework and whether changes are required to support industry development and reduce ‘red tape’
- the development of a shared vision between Government and the industry on compliance issues, the nature and levels of community service support clubs should be expected to provide, and social responsibility
- the industry’s training and development needs and cost efficient and effective ways to meet these needs.

The sections below provide background information and raise questions related to these issues. They define corporate governance, describe the current governance arrangements for registered clubs, consider what constitutes regulatory good practice in the context of clubs, and identify the current opportunities for training and development within the industry.

7.1 What is meant by corporate governance in the registered clubs industry?

The Australian Stock Exchange (ASX) defines corporate governance as:

… the system by which companies are directed and managed. It influences how the objectives of the company are set and achieved, how risk is monitored and assessed, and how performance is optimised.\(^{46}\)

Good corporate governance encourages organisations to create value and provide accountability and control systems that correspond to the risks involved in the activities they undertake. There is no one model for good corporate governance, and the elements of good governance will develop with the circumstances of a specific entity.

The ASX Corporate Governance Council’s guidelines cover ten principles that underlie good corporate governance:

- the roles of management and the board
- expertise of board members
- integrity and responsible and ethical decision making
- company reporting
- timely and balanced picture of all material matters
- rights of shareholders

Governance in the not-for-profit sector is different to that in the for-profit sector, due to differences in the mission, measurement, leadership, board composition and board membership of these entities. Specifically, the breadth of stakeholders in a not-for-profit entity generally means that its mission is less clear than a for-profit entity. In addition, the size of not-for-profit boards is generally larger than for-profit entities, due to the need to have different stakeholders represented directly in board memberships. Furthermore, given the wide variation in registered clubs’ size and activities, a range of different management structures and approaches exists.

The Tribunal invites comments on the following questions:

- What specific characteristics of registered clubs affect the governance framework that can or should be applied to the industry?
- Do registered clubs face special risks that affect their corporate governance requirements? If so, what are these risks?

7.2 What are the current governance arrangements for registered clubs?

Responsibility for the control of the business of any organisation rests with its board of directors. Directors are subject at law to two broad categories of duties:

- the duty to act in good faith, and
- the duty of care, diligence and skill.

As directors of clubs often have diverse backgrounds, it is recognised that club directors often need to rely on the skills of others in performing their duties. Traditionally, this support has come from those involved in the day-to-day management functions of a club. In general, management decisions in clubs are made at one of three levels:

- The governing body (or board of directors) responsible for the management of the business and other affairs of the club. The board may also use a number of committees and sub-committees to obtain advice on specific matters of club operation.
- A club secretary. Each club is required to have one and only one secretary who is the chief executive officer of the club. The secretary is appointed by the board of directors.
- Other club senior management. Many larger clubs appoint various senior managers to manage the day-to-day operation of the business and other affairs of the club.

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48 Top executives are club employees with clear managerial responsibilities. Top executives include the club secretary, the manager of any club premises, and those people prescribed by the regulations.
As well as the applicable Australian Standards, accountability and governance of the management of registered clubs is regulated and monitored through the Registered Clubs Act and Registered Clubs Regulation. In addition, ClubsNSW has issued a Code of Practice for those registered clubs that are members of ClubsNSW. This framework is described below.

7.2.1 Registered Clubs Act

Clubs are required to follow the accountability provisions set out in Part 4A of the Registered Clubs Act, which requires the disclosure and registration of the interests of the governing body (ie, the board of directors) and other financial accountability measures.

Directors must declare any personal interest in club matters at a board meeting, and this information must be recorded in a register and displayed on a noticeboard. Directors and top executives must declare any financial interest in a NSW licensed hotel in a written submission to the club secretary. Directors and top executives must declare gifts and remuneration of more than $500 from bodies affiliated to the club. Directors and all club employees must declare gifts and remuneration of more than $500 from club contractors. The club secretary must keep a register of these disclosures and declarations. Members may inspect this register after submitting a written request.

To satisfy reporting requirements to members, clubs must send the annual report and ‘members’ information’ to their members each year, have the relevant registers available for inspection, and display the appropriate noticeboard declarations. The annual report and members’ information must also be provided to the Director of Liquor and Gaming each year.

49 Under section 41H of the Registered Clubs Act, clubs are required to provide additional information to members. These provisions of the Act are designed to increase the transparency of club operations through the reporting of various financial transactions involving club directors, managers and employees. The information that must be supplied to members includes:

- Information relating to any gifts received by directors, top executives and employees as well as remuneration details for any top executives earning in excess of $100,000 need to be disclosed. Additionally, the details of any overseas travel made by a club director or employee funded either in whole or in part by the club should be included.
- The name and remuneration details of any employee of the club that is a close relative of the governing body or a top executive of the club.
- Details of any loans made to employees in excess of $1,000 including the amount of the loan and any applicable interest rate.
- Details of any remuneration contract for a top executive or member of the governing body of the club.
- The total amount of money paid by the clubs to consultants. Any amounts paid to a particular consultant in excess of $30,000 should also be disclosed including details of the consultant’s name and the nature of services provided.
- Details of any legal fees paid by the club on behalf of a member of the governing body of the club. Any settlements made with a member of the governing body of a club or an employee of the club as a result of a legal dispute must also be disclosed.
In the management of club assets, ‘core property’ includes the defined premises of a club, and any facility used by the club members. Most other club assets will be regarded as non-core property. Clubs are required to inform their members which property is classed as core and non-core, and the approval of members is required if the club wants to reclassify land as either core or non-core. The sale of core property generally requires a land valuation, approval by ordinary members, public auction or open tender, and use of an independent real estate agent. The disposal of non-core property is subject to disclosure requirements only.

A club’s rules (or constitution) are also an important part of a club’s internal governance. Although each club may devise its own rules, the Registered Clubs Act deems that all clubs include the rules set out in sections 30, 30A and 31 of the Act. Section 30 prescribes rules for a range of topics including:

- election of the governing body
- voting at club meetings
- admission of members
- voting rights and restrictions on club employees
- use of profits or income from the club
- membership fee restrictions
- election of members
- sale of liquor
- admittance of honorary and temporary members.

Amendments to club rules must be approved at an Annual General Meeting and must specify if the amendments erode the protection of the club’s core assets. In addition, club rules must be lodged with the Director of Liquor and Gaming within one month of amendment.

The Tribunal invites comments on the following questions:

- How do the current legislative requirements affect the activities of registered clubs?
- How appropriate are the current corporate governance requirements for registered clubs? And how are these requirements enforced?
- Are these requirements sufficient for all clubs, based on type, size and location?
- Are these requirements excessive for any clubs based on type, size and location?
- Would alternative governance arrangements be beneficial for the industry?

An example of non-core property would be an area of land purchased by a club as an investment property, with a view to selling or developing the land at a later date. Another example would be residential or commercial property bought to provide an additional income stream for the club. In both cases the property was never intended to become part of the club’s premises or facilities, or to be used by the members.

However, the regulations will provide for exemptions to the disposal requirements.

Section 30A makes special provision for the admittance of defence forces personnel to RSL clubs. Section 31 concerns the keeping of membership registers.
The OLGR monitors compliance with the governance requirements specified in the Registered Clubs Act. The OLGR’s compliance program includes:

- governance and management audits
- legislation and conditions audits
- standards and systems audits
- special legislation audits
- complaint investigation
- Section 41X inquiries (into conduct of specific registered club(s))
- workshops and seminars.

In fulfilling its audit role, the OLGR uses a two-phase process:

- phase 1 tests compliance with legal requirements and identifies breaches of law
- phase 2 assesses broader compliance practices and procedures, and can involve enforcement action against breaches by clubs and the monitoring of subsequent remedial action.

The compliance program also includes self-audit by clubs. For example, the OLGR’s major audit program is the corporate governance and management audit, which operates over a five-year cycle. This audit includes a high-level review of the club’s financial position (balance sheet, profit and loss/trading and solvency), administration and finance, corporate governance, responsible conduct of gaming and responsible service of alcohol practices and procedures, and compliance standards and systems. The process involves the following steps:

- The clubs that have been selected for audit are issued with a formal notice. The notice includes a pro-forma schedule 1.53
- These clubs return a completed schedule 1 with a statutory declaration.
- This return is assessed by an OLGR case officer.
- Depending on the content of this return, the OLGR may undertake a more detailed site or telephone audit.

The Tribunal invites comments on the following questions:

- How effective is the OLGR’s current compliance program?
- How could this program be improved? For example, should there be increased compliance responsibilities for designated members or staff of each club?

53 This is a preliminary audit tool designed to guide clubs through the audit process and highlight key areas that compliance officers will focus on. Clubs can voluntarily submit a completed pro-forma schedule 1.
7.2.2 ClubsNSW Code of Practice

ClubsNSW has issued a Code of Practice for its members. This Code is a self-regulatory instrument that sets out common standards of conduct for those registered clubs who are members of ClubsNSW.

Under the Code, clubs commit to providing adequate training and supervision to directors, management and staff to ensure a club complies with its legal obligations. They also commit to pursuing the aims and purpose of the club through a number of means, including maintaining adequate documentation to support any decisions made; and promoting continuous professional development for managers, directors and staff.

Compliance with the Code is monitored and a number of sanctions can be applied to clubs found to be in breach of the Code. These sanctions range from a recommendation that the club take particular remedial steps in accordance with a specified timetable, to referral of the matter to the Minister for Gaming and Racing or other Government Authority for further action.

In addition to the Code, ClubsNSW issues guidelines on industry best practice in key areas of club operation. These guidelines are not enforceable under the Code, but aim to assist clubs to meet their compliance obligations. The guidelines cover the following matters:

- major capital works
- procurement of goods and services
- board elections
- financial reporting
- community support
- financial benchmarking
- executive remuneration
- board operation
- overseas travel
- complaints handling
- conducting disciplinary hearings.

The Tribunal invites comments on the following questions:

- How effective is the ClubsNSW Code of Practice? How might it be improved?

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55 ClubsNSW, Code of Practice, July 2005, Part D.
7.3 What is good regulatory practice in the context of registered clubs?

The Tribunal has noted in previous investigations that 'best practice regulation' is generally defined as regulation that:

- is fully justified and effective, which means it is directed at solving a problem that cannot be more efficiently or effectively addressed by the market or by individuals acting without government involvement
- provides the greatest net benefit to the community, given its rationale, of all the options or alternatives available, by being well-targeted and minimising any adverse side-effects and compliance costs
- is clear and concise, which means it should be readily accessible or understandable to those affected by it
- is consistent with other laws or regulations, in recognition that inconsistency creates confusion and waste
- is enforceable, but also provides incentives or imposes disciplines that are no greater than necessary for reasonable enforcement – that is, enforcement regimes should be effective and cost-efficient and involve adequate resources for the purpose
- is administered by accountable bodies in a fair and consistent manner
- is not unduly prescriptive, which means that where possible, it should be specified in terms of performance goals or outcomes and be flexible enough to accommodate different or changing circumstances to enable the most cost effective ways of complying.56

'Good regulatory process' is one of the key methods by which best practice regulation is achieved. The elements of good process involve determining that a problem exists that justifies regulatory action by:

- identifying the problem and the desired objective(s) or outcome(s)
- considering the options (regulatory and non-regulatory) for achieving the desired outcome(s)
- assessing the impacts (costs and benefits) of each option for consumers, business, government and the community
- consulting with those potentially affected and developing the regulatory action with the participation of the community
- deciding among the alternatives, on the basis of transparent criteria
- developing a strategy to implement, enforce and review the preferred regulatory action and its operation.57

Periodic reviews of regulation are particularly important for every industry, as regulations may become redundant or inefficient over time (as technology, social preferences, scientific knowledge, or other circumstances change) or may produce unforeseen or unintended impacts. Therefore, all regulations need to be reviewed periodically, in proportion to their

56 IPART, Investigation into the burden of regulation in NSW and improving regulatory efficiency, November 2006.
57 Ibid.
significance, to ensure that their objectives are still valid and their means of achieving these objectives are the most efficient available. The way that regulation is implemented is also very important. Even well-designed regulation will not result in efficient outcomes if it is not efficiently enforced and administered.

*The Tribunal invites comments on the following questions:*

- Does the current regulatory regime impose an unnecessary regulatory burden for registered clubs? If so, how might this burden be reduced?
- What changes are required to promote a culture of good corporate governance in the clubs industry? And what are the best regulatory tools for implementing these changes?

### 7.4 Training and development in the registered clubs industry

The terms of reference require the Tribunal to consider training and development needs for the registered clubs industry; and cost efficient and effective ways to satisfy these needs. At present, the training provided within the clubs industry for directors, managers and staff is influenced by the Registered Clubs Act, Club Management Development Australia and ClubsNSW. In addition, clubs may have their own professional training programs. The current arrangements for training and development within the clubs industry is discussed in detail below.

#### 7.4.1 Registered Clubs Act

Amendments to the Registered Clubs Act (which have been passed but not yet commenced) stipulate that a person will not be eligible to stand for election to a club’s board unless they have acknowledged receipt of education and training material approved by the Director of Liquor and Gaming. The acknowledgement should be in the form of a written declaration, which will be kept by the club in a register for a period of at least three years.

#### 7.4.2 Club Management Development Australia

Club Management Development Australia (CMDA) is the training arm of the Club Managers’ Association Australia (CMAA). CMDA is responsible for the design and implementation of the Club Managers’ Training System, which incorporates management career paths and training requirements, national qualifications, management traineeships and the industry recognition award, Certified Club Manager (CCM).

CMDA offers a range of services, including:

- delivering accredited competency based training in national management modules
- providing individual career counselling and guidance
- providing trainee managers’ education guidelines and support kits
- conferring the industry recognition award, the CCM, for meeting industry experience, activity and education criteria
- coordinating competency-based assessments for the recognition of prior learning

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58 The CMAA is registered as the trade union for managers of Registered [Licensed] Clubs representing professional managers of clubs, some 2,500 of whom manage approximately two thirds of NSW licensed clubs. See [www.cmaa.asn.au](http://www.cmaa.asn.au).
• providing industry conferences and seminars
• coordinating the National Bursary & Scholarship framework.

In NSW, the Club Managers’ State Award defines seven levels of club management and the duties and responsibilities of each level. Training requirements are specified for each level and expressed as combinations of (national) management training modules. These modules relate to the competencies required by a manager to fulfil the requirements of each specific level of management. Thus managers may easily identify areas in which they will need training in order to advance to the next level of management.

7.4.3 ClubsNSW Club Directors’ Institute

In 2002, ClubsNSW established the Club Directors’ Institute (CDI) to support volunteer club boards in registered clubs. CDI membership currently exceeds 3000 directors, chairpersons and management executives from more than 550 clubs across NSW.

CDI is a source of best practice governance support for NSW clubs, providing face-to-face training courses and workshops, DVD training, internet resources and publications. A CDI Pre-Nomination Pack has also been developed to assist clubs to hold information sessions for individuals considering standing for election to the club board, aimed at fostering awareness of board responsibilities.

The Tribunal invites comments on the following questions:
• What are the training and professional development needs of the registered clubs industry?
• How effective are the current arrangements for training and development? And how might these arrangements be improved?
8 FRAMEWORK FOR A MANAGEMENT PLAN

The outcome of the Tribunal’s review will be a framework for developing a detailed industry management plan that will support and guide a sustainable registered clubs industry over the next 10 to 15 years. The Tribunal envisages that the framework will assist stakeholders within the industry to develop such a management plan, for example by mapping out the principles, processes and issues that need to be considered. From the Tribunal’s point of view, the framework will also be the means through which it draws together the review’s recommendations, encompassing all the matters raised in the terms of reference for the review.

The Tribunal considers that this framework will include the following elements:

- purpose of the management plan
- process for its development
- parties to be involved
- principles for the management plan
- possible content of the plan
- timelines, accountabilities and monitoring arrangements for implementing particular elements of the plan.

The terms of reference suggest that the purpose of the management plan should be to help the clubs industry to flourish and operate in a commercial and professional manner, and to assist clubs to enhance their role in the community, and work cooperatively with Government and other community members in providing substantial, effectively targeted community support.

In addition, the Tribunal considers that the management plan should adopt a rational approach that recognises that not every individual club will continue to be viable, but outlines a path to achieve long-term sustainability for the industry as a whole.

The process and parties involved in the development of the plan will be central to its success. To be successful, the plan needs to achieve widespread support from the industry. The process for the development of the management plan must be transparent and consultative. The parties involved must be representative of industry stakeholders (ie, club members, club employees, community members and government among others), and they must share a commitment to work together to achieve the stated purpose of the plan.

The principles underlying the management plan could be embodied in a Clubs Charter, which the Tribunal will examine as part of this review. Such a Charter would define registered clubs’ roles and stakeholders’ (including Government’s) expectations of them. Principles could include that:

- clubs will be financially viable and operate in an efficient manner
- clubs will operate with sound corporate governance
- clubs will be responsive to their members’ and their broader communities’ needs.
The terms of reference also suggest that the Charter could outline how clubs should communicate with the community about the services and support available for the community.

The management plan should be based on a shared vision between Government and the industry on clubs-related policy and regulation, compliance issues, and the nature and levels of community service support and social responsibility. The plan could also identify opportunities for clubs to contribute to advancing the NSW Government’s priorities as outlined in the State Plan.

The framework for the management plan could include recommendations about the plan’s content, arising from the findings and recommendations of this review. For example, the framework could recommend that the plan:

- outline the policy framework within which clubs are expected to operate for the next 10-15 years, including policy on the number of gaming machines in NSW, tax policy and any other issues affecting the financial environment within which clubs operate
- include arrangements for improving corporate governance, business efficiency and financial viability of clubs
- adopt a methodology for measuring clubs’ provision of social infrastructure and services
- include a means of disseminating best practice among registered clubs
- develop a process to be followed where a club is in financial difficulty.

These are examples only and the Tribunal is particularly interested in views on possible content of the management plan.

The management plan will also be expected to include timelines, accountabilities and monitoring arrangements for implementation of particular elements.

The Tribunal invites comments on the following questions:

- How should the management plan be developed and what should it look like?
- Do you support the concept of a Clubs Charter, and what should be the content of such a Charter?
APPENDIX 1 TERMS OF REFERENCE

REVIEW OF THE NSW REGISTERED CLUBS INDUSTRY

TERMS OF REFERENCE

I, Morris Iemma, Premier of New South Wales, pursuant to Section 9 of the Independent Pricing and Regulatory Tribunal Act 1992, request the Tribunal’s assistance in reviewing and making recommendations on the role and performance of the NSW Registered Clubs industry, with the purpose of facilitating a sustainable Registered Clubs industry in the future.

The NSW Government acknowledges the valuable social and economic contribution made by Registered Clubs to the State’s social infrastructure and services.

Social, demographic and commercial changes over the past 10 years have affected the Registered Clubs industry in many ways. Commitment to the overall industry appears strong. However, the ability of individual clubs to provide services that meet the needs of members and the community, while continuing to be financially viable, differs depending on location, size, and many other factors.

The NSW Government wishes to assist the clubs industry to flourish, while stipulating that the industry meets its mutuality requirements, works co-operatively with Government and other community members in providing substantial community support that is effectively targeted, and operates in a commercial and professional manner.

I would appreciate the Tribunal’s assistance in undertaking a review and making recommendations that will assist Registered Clubs to enhance their role in the community in an efficient and effective manner. The outcome of the review will be a framework for a management plan that supports and guides a sustainable Registered Clubs industry for a 10 to 15 year period.

In conducting the review, the Tribunal is asked to recognise the diversity of the constituents of the Registered Clubs industry and the diversity in the needs and expectations of members of individual Registered Clubs and communities in which the Registered Clubs operate. It is also to recognise the different needs of clubs in metropolitan, regional and remote areas.

The Tribunal is asked to review and make recommendations on the following key issues:

Registered Clubs’ role in the community

- the existing contribution of the Registered Clubs industry to the provision of social infrastructure and services and a methodology to identify and record the value of such provision both now and in the future.
- employment and other economic opportunities afforded by the Registered Clubs industry and how the industry can enhance these opportunities, with special reference to regional and rural areas.
- existing and proposed statutory requirements for the provision of assistance to the community and the effectiveness of current community expenditure by clubs, ways in which Clubs can best target expenditure towards identified community needs.
- development of a Charter to support Registered Clubs, their members, and the wider community, defining Registered Clubs’ roles and stakeholders’ and the NSW Government’s expectations of them. This should include consideration of ways of communication between clubs and the community about available services and support for the community.
Financial viability and strengthening performance

- the financial viability of the Registered Clubs industry, specifically identifying areas where clubs are either prospering or declining and examining the reasons for any decline and how it might be reversed. The Tribunal should make recommendations on business efficiency performance measures for use by the industry, having regard to the diversity of the industry.
- effective operations of Registered Clubs in the context of being community based, not for profit, entities and options for future diversification of business operations.
- options for improving financial management including capital expenditure proposals, and support schemes (including ClubBIz) to provide guidance, management, strategic planning and other assistance to clubs. Consideration should be given to the steps to be taken where a Registered Club is in financial difficulty. Consideration should also be given to successful financial management strategies that could be exercised by Registered Clubs.
- training and development needs for the Registered Clubs industry and cost efficient and effective ways for the provision of these needs.
- the procedure for amalgamations and movement of assets between Registered Clubs, while maintaining their status as community based not for profit entities and ensuring the protection and preservation of community assets.
- barriers to the establishment and relocation of Registered Clubs and how they could be reduced in order to encourage Registered Clubs to locate in areas that would most benefit from them.

The Tribunal is also asked to review and make recommendations on:
- existing and proposed legislative and policy objectives and possible changes that may be required to the regulatory framework to support industry development and reduce 'red tape'.
- maintenance and development of a strong code of corporate governance (including risk management).
- developing a shared vision between Government and the Registered Clubs industry on compliance issues, nature and levels of community service support and social responsibility.
- any additional issues it identifies that would significantly improve the sustainability of the Registered Clubs industry.

TIMING, CONSULTATION AND DELIVERABLES

The Tribunal is asked to take into account the views of stakeholders in the Registered Clubs industry.

The Tribunal is also asked to release an issues paper to facilitate discussion, and to engage in community consultation.

The Tribunal is asked to provide its final report to the Minister for Gaming and Racing 15 months from the receipt of the Terms of Reference.
APPENDIX 2  LIST OF QUESTIONS ON WHICH THE TRIBUNAL PARTICULARLY SEEKS COMMENT

The Tribunal invites comments on the following questions:

Chapter 2: Overview of the registered clubs industry and its regulation in NSW

- What does your club mean to you? Why did you join it?
- Which club services do you use?
- Why do clubs seek registration? What do they see as the advantages and disadvantages of becoming a registered club?
- Is the current regulatory framework appropriate?

Chapter 3: Social contribution

- What role does your registered club play in your community?
- What are the main contributions registered clubs make to social infrastructure and services in NSW? How significant are these contributions? Are these contributions in line with what communities want? Do these contributions differ across metropolitan, regional and rural areas?
- What roles might registered clubs play in advancing the NSW Government’s priorities, as set out in the State Plan?
- When valuing the registered club industry’s social contribution, what aspects of club activity should be included?
- How do registered clubs identify, calculate and record the value of the social contributions they make? What value would a common methodology be to the industry?
- Does the distinction between direct and indirect registered club social contributions seem appropriate?
- What approach/methodology should be used to measure registered clubs’ social contributions?
- Do registered clubs find it difficult to identify Category 1 and 2 CDSE opportunities, or to comply with Category 1 and 2 CDSE requirements?
- When allocating funding, how do registered clubs/boards of directors assess local community priorities? In general:
  - Does the allocation of registered club funding match the priorities identified by the CDSE local committee process?
  - What percentage of social contribution funding is allocated according to the priorities identified by local CDSE committees?
- Should clubs be subject to requirements for community contributions beyond the CDSE Scheme?
- How effective is the CDSE Scheme and local committee process? Do you have any issues, problems or concerns with either? What initiatives or incentives could enhance
the CDSE Scheme and local committee process to better target expenditure towards identified community needs?

- What social contributions do registered clubs make outside of the CDSE Scheme? How are these measured and reported?

**Chapter 4: Contribution to employment and other economic opportunities**

- What employment and contracting opportunities currently exist within registered clubs? Do clubs in metropolitan, regional and remote areas have difficulty finding or retaining employees or contractors? If difficulties are experienced, how could they be overcome?
- What opportunities exist for volunteers within registered clubs? How important is the work of volunteers to the functioning and ongoing operations of clubs?
- What formal and informal training is provided to employees, contractors and volunteers? What effect does this training have on workforce skills and participation?
- In addition to registered club employees, contractors, volunteers and training, what other economic opportunities are created by the registered clubs industry? Do these economic opportunities differ in metropolitan, regional and rural areas? What scope exists to enhance these economic opportunities within the various metropolitan, regional and rural areas?
- How should the economic flow-on effects of registered clubs be calculated?

**Chapter 5: Financial viability and performance**

- What are the key financial challenges facing registered clubs over the next 10 to 15 years? How do these challenges differ for clubs of different size, type and location?
- What areas of business operation currently provide the greatest levels of financial viability for registered clubs?
- Given the operation of clubs as community-based, not-for-profit entities, what options for business diversification are most likely to ensure the future viability of clubs? Do these options differ for clubs in metropolitan, regional and remote locations?
- What does the registered clubs industry regard as financially viable? What are the key factors that affect the financial viability of registered clubs?
- What are the most appropriate measures for monitoring the financial performance of registered clubs?
- Recognising the financial and non-financial aspects of the registered clubs industry, what measures of business efficiency performance are best suited to the registered clubs industry in NSW?
- What thresholds for these indicators should be used to identify clubs that are in financial distress?
Appendix 2  List of questions on which the Tribunal particularly seeks comment

Chapter 6: Club establishment, relocation and amalgamation

• Does the low number of new clubs established since 1998 indicate a decline in the clubs industry in NSW?
• Do any stages of the current registration process impose an undue burden on clubs?
• Does the current registration process make it more difficult for any particular type of club to be established? For example, small clubs (measured through gaming machine profits) or clubs in remote locations?
• How should any barriers be reduced to encourage clubs to locate in areas that would most benefit from them?
• Does the current process for relocation to new or existing premises create barriers to clubs relocating to areas that would most benefit from them?
• How can any barriers be reduced to encourage registered clubs to relocate to areas that would most benefit from them?
• Does the current amalgamation process create any undue barriers to clubs seeking to amalgamate?
• Does the amalgamation process ensure adequate protection of community assets for all clubs involved?
• Other than amalgamating, how might registered clubs adapt their services to respond to changing demographics in their area? How might they enhance their existing membership base?

Chapter 7: Strengthening performance

• What specific characteristics of registered clubs affect the governance framework that can or should be applied to the industry?
• Do registered clubs face special risks that affect their corporate governance requirements? If so, what are these risks?
• How do the current legislative requirements affect the activities of registered clubs?
• How appropriate are the current corporate governance requirements for registered clubs? And how are these requirements enforced?
• Are these requirements sufficient for all clubs, based on type, size and location?
• Are these requirements excessive for any clubs based on type, size and location?
• Would alternative governance arrangements be beneficial for the industry?
• How effective is the OLGR’s current compliance program?
• How could this program be improved? For example, should there be increased compliance responsibilities for designated members or staff of each club?
• How effective is the ClubsNSW Code of Practice? How might it be improved?
• Does the current regulatory regime impose an unnecessary regulatory burden for registered clubs? If so, how might this burden be reduced?
• What changes are required to promote a culture of good corporate governance in the clubs industry? And what are the best regulatory tools for implementing these changes?

• What are the training and professional development needs of the registered clubs industry?

• How effective are the current arrangements for training and development? And how might these arrangements be improved?

Chapter 8: Framework for a management plan

• How should the management plan be developed and what should it look like?

• Do you support the concept of a Clubs Charter, and what should be the content of such a Charter?
## Appendix 3 A brief history of the Clubs Industry in NSW

<table>
<thead>
<tr>
<th>Year</th>
<th>Event</th>
</tr>
</thead>
<tbody>
<tr>
<td>Pre 1905</td>
<td>The small clubs which existed were mainly exclusive sporting and business clubs. Associations of clubs were formed for the first time.</td>
</tr>
<tr>
<td>1905</td>
<td>The NSW Liquor Act licensed clubs for trading. Only 85 clubs were registered and no other new clubs were permitted until 1946.</td>
</tr>
<tr>
<td>1920</td>
<td>The Registered Clubs Association was formed as a response to the filing, by the Liquor Trade Union, of an application for the first Club Employees Award, and for the purpose of promoting the principle of mutual interest, which is implicit to the club concept.</td>
</tr>
<tr>
<td>1946</td>
<td>The Liquor Act was amended to authorise the creation of more clubs in addition to the existing cap of 85.</td>
</tr>
<tr>
<td>1947</td>
<td>The Royal Sydney Golf Club Case provided the basis for 24-hour trading in clubs. Further, court decisions in 1947 confirmed a club’s entitlement to serve its members liquor outside licensed premises trading hours, provided it was not sold, supplied or consumed at a bar.</td>
</tr>
<tr>
<td>1950</td>
<td>Primarily as a response to the needs of returned servicemen bodies, the number of registered clubs increased to 350.</td>
</tr>
<tr>
<td>1954</td>
<td>As a result of the findings of the Royal Commission on Liquor Law in NSW, 1951-1954, the Liquor Act was amended (Statute No. 50 of 1954, assented to 22 December 1954). Amendments included the relaxation on the limit on the number of licensed clubs and the introduction of a 10 pm closing time for hotels. “The Licensing Court was given power to grant club licences provided that the applicants could convince the Court of the need for the club and appropriate amenities were available.” (SMH 25/11/54 in Caldwell:92).</td>
</tr>
<tr>
<td>1955 - 56</td>
<td>The number of clubs licensed in NSW grew from 350 to 932.</td>
</tr>
<tr>
<td>1956</td>
<td>In May 1956, the United Victuallers’ Association objected to the renewals of liquor licences of clubs operating poker machines. As a result of these objections, the Licensing Court refused renewal of forty-seven clubs’ registration (Joel, 1957:132 in Caldwell:98). Amending legislation was adopted after considerable community debate, and the operation of poker machines in clubs was legalised. A ‘per machine’ licence fee was imposed, with the intention of directing revenue to the Hospitals’ Fund (SMH 1/8/56 in Caldwell, 100).</td>
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<tr>
<td>1965</td>
<td>Gaming machines earnings tax commenced, in addition to the licence fee.</td>
</tr>
<tr>
<td>Year</td>
<td>Description</td>
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</tr>
<tr>
<td>1966</td>
<td>In response to effective lobbying by anti-gambling interests, the Government introduced regulations prohibiting the licensing of additional 20c machines.</td>
</tr>
<tr>
<td>1968</td>
<td>The Journalists Club case decision caused a sharp increase in club membership.</td>
</tr>
<tr>
<td>1969</td>
<td>The Liquor Act was amended to reduce the age limits on club membership and consumption of alcohol, from 21 to 18 years. In addition limits were set on the number of members in clubs and clubs were incorporated either as a company or a co-operative.</td>
</tr>
<tr>
<td>1974</td>
<td>The Moffitt Inquiry of 1973-74 into the infiltration of organised crime into registered clubs in NSW concluded that some clubs were vulnerable to being taken over by outsiders but the great majority of clubs have a genuine community interest, are securely run and an important part of community life.</td>
</tr>
<tr>
<td>1976</td>
<td>The Registered Clubs Act 1976 was assented to on 1 April 1976 and commenced on 1 July 1978 (sections 1 and 2 excepted).</td>
</tr>
<tr>
<td>1980</td>
<td>Poker machine taxation rebate scheme on community expenditure commenced.</td>
</tr>
<tr>
<td>1982</td>
<td>Liquor licence fees were increased from 8 per cent to 10 per cent of liquor purchases. Introduction of random breath testing caused dramatic changes in alcohol consumption patterns – an average of 15 per cent decrease across all clubs, with some clubs experiencing up to a 30 per cent decrease in on-premises consumption. Sales of take away liquor increased dramatically.</td>
</tr>
<tr>
<td>1983</td>
<td>A package of five concessions was granted by Government following a financial crisis in the industry. Concessions included the licensing of multi-coin and multi-line machines and an increase in jackpot limits. The Federal Government increased excise duty on liquor, linking subsequent increase to the consumer price index.</td>
</tr>
<tr>
<td>1984</td>
<td>Video Poker machines (Approved Amusement Devices “AADs”) were legalised in hotels.</td>
</tr>
<tr>
<td>1986</td>
<td>“Club Superstation” was launched. A 10-point package for the club industry was announced, which increased the maximum jackpots on stand-alone poker machines to $10,000, raised the exemption level for supplementary licence tax from $50,000 to $100,000, reduced the amount required to qualify for rebates on the supplementary licence tax and introduced three-year terms for directors.</td>
</tr>
<tr>
<td>Year</td>
<td>Event</td>
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</table>
| 1988 | A 4 per cent second-tier wage rise for Liquor Trade Union (LTU) staff with cost offsets agreed.  
   In-house linked progressive poker machines were allowed with jackpots up to $100,000. |
| 1989 | Negotiations for three-year terms for directors were finalised.  
   Two-up was legalised on Anzac Day only, with clubs the only licensed outlets allowed to “collect” for charities from the proceeds of the game.  
   A licence to operate Keno was issued to Clubkeno Holdings Pty Limited, a non-profit subsidiary of the RCA.  
   Structural Efficiency Award negotiations were commenced with the LTU.  
   Westport Bowling Club, Port Macquarie, won its tax appeal which reaffirmed the mutuality of members’ income.  
   The Liquor Administration Board took over resolution of noise complaints against licensed venues.  
   Newcastle earthquakes severely damaged many clubs in the region – RCA’s Earthquake Disaster Fund raised $250,000 for victims of the earthquake. |
| 1990 | A tax structure based on gross profit (cash box less prizes) of poker machines was confirmed.  
   The structure of policing changed, resulting in the loss of dedicated “licensing sergeants” with ordinary beat police taking over, drawing much criticism from the Liquor industry.  
   Clubs and hotels were prohibited from providing cash advances to patrons.  
   Administrators were made available for clubs under the Registered Clubs Act and Co-Operatives Act.  
   Direct access to the Electoral Commissioner was permitted for the conduct of club elections.  
   The Federal Tax Office commenced a number of new cases on mutuality of member income; however each found in the club’s favour. |
   Proof of Age cards were developed by the Chief Secretary’s Department in close consultation with the Liquor industry.  
   Award restructuring negotiation progressed with more flexible working hours of employment introduced and training on “Workplace Change” |
A state-wide campaign was run to promote the theme of “Clubs and Community – The Perfect Match”.

A new tax package was negotiated.

1992 A new Industrial Relations Act was passed establishing a new industrial Tribunal structure.

A new skills-based classification structure was inserted into the Club Employees (State) Award, introducing minimum competency levels.

1993 Major amendments were made to the Registered Clubs Act including
- Introduction of 5 km minimum residential requirement for temporary membership.
- Changes to the criteria for allowable Directors’ benefits by providing for approval at the annual general meeting each year.

1994 A new Club Employees’ State Award was negotiated.

“Take a Fresh Look” advertising campaign was initiated.

1996 Amendments to the Liquor Act and the Registered Clubs Act entitled “Harm Minimisation” and “Enforcement” and “Minors Entertainment” were enacted.

The Inquiry by the Industry Commission into Tourism, Training and Accommodation found that it did not agree with the hotel industry’s claims that they were at a competitive disadvantage to clubs because of the mutuality of tax.

“Real Heart of NSW” advertising campaign.

1997 Hotels permitted to operate poker machines.

The Australian Taxation Office issued a ruling on section 23(g) sporting clubs tax exemption.

A global settlement on behalf of 319 Club Keno clubs was negotiated, successfully addressing the ruling by the Australian Tax Office on commission income and mutuality.

1998 The findings of the NSW Club Policy Working Party were presented to Government.

<table>
<thead>
<tr>
<th>Year</th>
<th>Event</th>
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<tbody>
<tr>
<td>2002</td>
<td>May 2002 – NSW Government announces a special industry assistance scheme for registered clubs which were experiencing financial difficulty. Scheme provides a $9 million grant to the ClubBIZ Trust so that these funds can be made available to assist clubs.</td>
</tr>
<tr>
<td>2003</td>
<td>NSW Government announces increases to the rate of tax on poker machines in registered clubs.</td>
</tr>
<tr>
<td>2004</td>
<td>Changes to the Smoke Free Environment Act in December 2004 allow for the phasing in of smoking restrictions in enclosed public areas of hotels, registered clubs, nightclub and Star City Casino. A complete prohibition on smoking inside licensed venues takes effect from 2 July 2007. IPART releases its report “Gambling: Promoting a Culture of Responsibility” recommending a variety of measures relating to the operating of electronic gaming machines in registered clubs and hotels.</td>
</tr>
<tr>
<td>2006</td>
<td>March 2006 Memorandum of Understanding signed between NSW Government and ClubsNSW establishing a new club gaming machine taxation regime for 2005/06 - 2011/12. December 2006 - Amendments to the Registered Clubs Act affect restrictions on club amalgamation, reduce duplication and compliance burdens to cut red-tape, provide greater flexibility for clubs seeking to dispose of or lease club land and property, improve the interpretation of the 5-kilometre rule for clubs whose location makes the application of the rule problematic and provide serving defence force personnel with automatic honorary membership of RSL and services clubs. (Not all the amendments have commenced at the time of publishing this issues paper.) December 2006 – Changes are made to the Gaming Machines Amendment (Retail Shopping Centres) Regulation 2006 providing for clubs to adjoin their premises to a retail shopping centre based on certain requirements being met. December 2006 – NSW Government announces that it will engage IPART to conduct an independent review of the registered clubs industry.</td>
</tr>
</tbody>
</table>
APPENDIX 4 OPTIONS FOR MEASURING DIRECT, IN-KIND SOCIAL CONTRIBUTIONS

Option 1 – Surplus revenue funding approach

Where a registered club sells products (goods and services) for prices that are the same as or less than the going commercial market price, a direct social contribution can be identified. This contribution can be measured using a surplus revenue funding approach.

Figure A4.1 illustrates one example of this approach. As registered clubs operate as non-profit organisations, all revenues surplus to expenses (generated from the sale of products at a price above cost – ‘C’ in Figure A4.1) are directed back into clubs to fund ‘primary purpose’ activities (eg, revenues surplus to expenses from the sale of food at a golf club are returned to the club to fund its golfing-related activities). These surplus revenues, retained by registered clubs to fund primary purpose activities, form part of the total direct social contribution registered clubs make. The level of direct social contribution can be quantified by subtracting ‘B’ from ‘C’ in Figure A4.1.

Similarly, any difference between a product’s commercial market price and its club sale price also represents a direct social contribution – where the benefits of the contribution are received by those who consume the discounted products (eg, those who purchase a discounted meal at a club). In these instances, the discounted component is provided in-kind by the registered club, where the level of contribution is represented by ‘A’ minus ‘B’ in Figure A4.1.

Figure A4.1 A surplus revenue funding approach to social contribution measurement – Example 1

Where a registered club sells products (goods and services) for prices that are less than the cost to produce the product, a direct social contribution can also be identified and measured using a surplus revenue funding approach. Figure A4.2 illustrates this slightly different application of the surplus revenue funding approach.

Where the example in Figure A4.1 could illustrate club provision of food at less than the market price but more than the cost to produce,\(^{59}\) Figure A4.2 is more likely to illustrate the club provision of, say, golfing facilities, where the club sale price of ‘B’ (comprising a membership charge plus usage fee) is lower than the production cost of ‘C’ (i.e., the costs to

\(^{59}\) That is, where the sale price (‘B’) is greater than the cost to produce the product (‘C’), but less than the commercial sale price (‘A’), ie, ‘A’>‘B’>‘C’.
provide and maintain golfing greens). In this instance, as ‘B’ is less than ‘C’, the size of the
direct social contribution is simply ‘A’ minus ‘B’.

**Figure A4.2 A surplus revenue funding approach to social contribution measurement**

When estimating a registered club’s total direct social contribution, it is important to avoid
any double counting of contributions. For instance, when quantifying a club’s total direct
social contribution, the surplus revenues generated through bar and food sales are directed
towards funding club primary purpose activities. If both the surplus bar and food revenues
and the funding provided to primary purpose activities are aggregated, the social
contribution a club provides is double counted. This could be avoided by quantifying and
aggregating the surplus revenues (the inputs) only, without including the funding towards
primary purpose activities (the outputs) within the estimate.

Under this measurement process, any in-kind provision (e.g., through volunteer hours or free
use of club assets) must also be recognised in the value of the direct social contribution a club
makes. To take account of these, an hourly rate can be applied to volunteer hours, while an
avoidable cost approach (see option 3) can be used to measure the use of club assets.

**Option 2 – Willingness to pay approach**

The size of a club’s direct, in-kind social contribution can be measured by estimating a
consumer’s willingness to pay for a particular good or service. A consumer’s willingness to
pay quantifies the private benefit extracted from the consumer’s consumption of the product
provided by the club (sometimes referred to as the consumer surplus). Where the price a
consumer is willing to pay is greater than a registered club’s product sale price, a direct
social contribution can be said to exist. Where the good or service is provided at no charge
by the club, the value of the consumer’s willingness to pay represents the entire value of the
direct club social contribution.

The equation below illustrates how the willingness to pay approach is applied:

\[ WP_X - SP_X = SC_X \]

where:

- \( WP_X \) represents the price the consumer is willing to pay for product \( X \)
- \( SP_X \) is the club sale price for product \( X \)
- \( SC_X \) represents the measure of social contribution from the club provision of \( X \).

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60 Where the club sale price (‘B’) is lower than the cost to produce the product (‘C’), and less than the
commercial sale price (‘A’), i.e., ‘A’>‘C’>‘B’.
Take the example of a meal purchased from a club restaurant at a discounted price. If the price the patron is willing to pay is greater than the price they are charged, the difference between the patron’s willingness to pay and the sale price provides a measure of the club’s direct social contribution. The provision of golfing facilities provides another example. If the price a consumer is willing to pay for a round of golf exceeds the fee a golf club charges them, the direct club social contribution is the value of the difference between these amounts.

However, one of the shortcomings of this approach is the difficulty of accurately determining a consumer’s willingness to pay. Individual preferences, which determine an individual’s willingness to pay, vary from one individual to another. This makes it difficult to accurately assess these preferences at an aggregate level (to determine willingness to pay).

**Option 3 – Avoidable cost approach**

The third approach for measuring the size of a club’s direct, in-kind social contribution is to calculate the costs a club would avoid if it chose not to provide the good or service (i.e. that create the social contribution).

Subtracting the avoidable cost (of providing the product) from the club sale price of the product gives the value of the direct club social contribution. That is, the avoided cost, less any revenues it receives, equals the total direct club social contribution. Where a club provides a product at no charge, the avoidable cost and the value of the contribution are the same.

The equation below outlines how the avoidable cost approach is applied:

\[ AC_X - SP_X = SC_X \]

where:

- \( AC_X \) represents the costs a club would avoid incurring if it chose not to provide product \( X \)
- \( SP_X \) is the club sale price for product \( X \)
- \( SC_X \) represents the measure of social contribution from the club provision of \( X \).

Under this process, volunteer hours are recognised within the avoidable cost (‘\( AC_X \)’), as club volunteers wear this cost of behalf of their club. To derive a value for the volunteer component of a club’s avoidable cost, an hourly rate can be applied to the volunteer hours provided to produce the product generating the social contribution.

To use a bowling club’s provision of bowling greens as an example, the avoidable cost is the cost the club incurs through the provision and maintenance of bowling greens. Club members are charged a fee to use the club greens to bowl (i.e., the club sale price). However, the cost for the club to provide and maintain the greens is greater than the revenue it raises through bowling fees from members. The difference between the costs the club incurs and the revenues it raises represents the club’s direct social contribution.
Option 4 – Market value approach

The final option the Tribunal has identified for measuring the value of clubs’ direct, in-kind social contributions is the market-value approach. This approach focuses on the opportunity cost in revenue a club foregoes through its provision of the contribution. It calculates the difference between the commercial or market value of the product, less the price charged by the club, to determine the direct social contribution. Where a club provides the product at no charge, the commercial or market value represents the total direct social contribution.

The equation below illustrates how the market value approach is applied:

$$MV_X - SP_X = SC_X$$

where:

- $MV_X$ represents the market value of product $X$
- $SP_X$ is the club sale price for product $X$
- $SC_X$ represents the measure of social contribution from the club provision of $X$.

The differing economic values of options 2, 3 and 4

As can be observed on review of the three equations of Options 2, 3 and 4, the options operate in an identical manner, with the variation resulting from the different economic value assigned to measure the product against its observable club sale price. Because of this, it is likely that the use of each approach will result in a different value for the direct, in-kind social contribution. Figure A4.3 illustrates this point.

**Figure A4.3 Alternative economic values for social contribution measurement**
### Appendix 5 Eligible Recipients for CDSE Funding

| Health and Welfare | • Funding for hospitals. |
|                   | • Funding for early childhood, palliative, women’s and Aboriginal and Torres Strait Islander health services. |
|                   | • Child and family services. |
|                   | • Subsidised meals and involvement in aged care hostels or retirement homes. |
|                   | • Community transport particularly for older residents. |
|                   | • Support of health promotion initiatives. |
|                   | • Drug and alcohol services. |
|                   | • Funding, catering and use of vehicles for services such as Meals on Wheels. |
|                   | • Disability services (including equipment such as wheelchairs). |
|                   | • Seniors events and hospital visitation. |
|                   | • Recreational facilities such as bowling greens. |

| Junior Sport | • Funding or sponsorship of activities for in-house and external sporting clubs, teams and individuals. |
|             | • Junior coaching clinics. |
|             | • Construction and maintenance of sporting fields and facilities. |
|             | • Gymsnasiums and equipment including maintenance of these facilities. |
|             | • Meeting rooms and offices for junior sports administration. |
|             | • Educational and sporting scholarships. |
|             | • Grounds and ground improvements including but not limited to council fees, lighting, change rooms, ground rentals and maintenance. |

| Voluntary Non-Profit Organisations | • Volunteer services such as surf life-saving and rural fire services. |
|                                   | • Child care. |
|                                   | • Aged, disability or youth services. |
|                                   | • Counselling services. |

| Registered Charities & State Agencies | • Funding for various children’s charities such as the Starlight Foundation and Variety Club of Australia. |
|                                       | • Funding for charitable and community organisations, welfare groups, churches. |
|                                       | • Subsidising or providing free the use of venues and facilities, including providing the services of club staff. |
|                                       | • Funding for State agencies such as the SES, hospitals, fire and ambulance services. |

| Local Community Infrastructure | • Providing venues and facilities at a subsidised rate or free of charge to local community groups, charitable groups and sporting groups. |
|                               | • Sponsorship of local festivals and community events. |
|                               | • Enhancement of services and facilities provided by local government. |
|                               | • Provision and maintenance of gardens and urban landscape upgrading. |
|                               | • Direct contributions to the work of local government by providing facilities, financial contributions, planning involvement, catering and/or staff for local government initiatives. |
|                               | • Providing venues and facilities for use by local residents (eg, for weddings, functions, training events) and by visitors (eg, conference facilities), and in some instances, by State agencies. |

| Education | • Funding of specific educational purposes, eg, school crossing attendants. |
|           | • Use of facilities, catering and administrative support for training programs such as TAFE. |
|           | • Career development seminars for the young, disadvantaged or unemployed. |
|           | • Training opportunities. |
|           | • Sponsorships and scholarships. |

| Employment | • Employment placement services. |
|            | • Employment advocacy. |
|            | • Community enterprises. |
|            | • Local job creation schemes. |

| Emergency Relief | • Providing emergency accommodation and shelters during natural disasters. |
|                  | • Providing resources to support community recovery in times of crisis through material aid to victims and support workers. |
|                  | • Financial support for families who have lost their homes to fire or as a result of other disaster, or for other individuals in need of assistance. |

| Senior Sport (not professional sport) | • Funding or sponsorship of activities for in-house and external sporting clubs, teams and individuals. |
|                                       | • Development and maintenance of sporting fields and facilities (including golf courses and bowling greens). |

APPENDIX 6 KEY ELEMENTS OF COMPANY FINANCIAL REPORTS

The annual financial reports produced by clubs are typically the only information source available to members to assess the financial performance and viability of their club.

Table A6.1 Key element of company financial reports

<table>
<thead>
<tr>
<th>Element</th>
<th>Purpose and type of information</th>
</tr>
</thead>
<tbody>
<tr>
<td>Statement of Financial Performance/Income</td>
<td>Provides information on the financial performance of an entity, in particular, its profitability.</td>
</tr>
<tr>
<td>statement</td>
<td></td>
</tr>
<tr>
<td>Statement of Financial Position/Balance Sheet</td>
<td>Provides information on the resources the entity controls, its financial structure, its liquidity and solvency and capacity to adapt to changes in the environment in which it operates.</td>
</tr>
<tr>
<td>Statement of Cash Flows</td>
<td>Provides information on cash movement of an entity in order to assess its investing, financing and operating activities.</td>
</tr>
<tr>
<td>Notes and supplementary schedules</td>
<td>Contains other information that relevant to understanding the financial position, performance and cash flows of the company. May include disclosures about the risks and uncertainties affecting the entity, information about geographical and industry segments and the effect on the entity of changing prices.</td>
</tr>
</tbody>
</table>
