NSW Government response to club amalgamation and de-amalgamation framework review

There should be greater incentives for clubs to merge, including more flexibility to proactively seek and negotiate mergers as their needs require, with regulatory barriers removed where appropriate	
Recommendation	**Government response**
1. Make it easier for clubs to merge with others from further afield Remove restrictions under Section 17AH(1) of the *Registered Clubs Act*, and clause 4 of the Registered Clubs Regulation, so that a club can initially call for expressions of interest (EOIs) and later choose any merger partner – including beyond their immediate local area (i.e. within 50km) – if they consider it suits their needs.	**Supported** The Government notes that while the removal of these restrictions will give clubs greater flexibility to seek partners from beyond their immediate area, it will still be necessary for club members (and the Independent Liquor & Gaming Authority as the last step in the amalgamation process) to approve the amalgamation in line with existing requirements under the regulatory framework.
2. Support clubs to proactively pursue mergers Amend clause 4 of the Regulation to clarify that clubs may enter into preliminary discussions about potential mergers before a call for EOIs is made, and to introduce a transparent process to enable clubs to submit unsolicited EOIs to other clubs at any time.	**Supported** The Government notes it is common practice for governing bodies to wish to initially explore their merger options, and agrees it should be clearer that this practice is acceptable given clubs cannot enter into any binding merger agreements until the approval of their members is sought. The Government also considers it appropriate for clubs to more proactively express interest in merging via unsolicited EOIs, noting this would be accompanied by new disclosure requirements to ensure members are kept adequately informed of this activity.

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Recommendation	Government response
3. Adjust the existing ten club amalgamation limit Adjust the restriction under section 17AF of the *Registered Clubs Act* to provide that the limit of merging with ten clubs refers to ten clubs at any point in time, rather than a cumulative maximum total of mergers that a club can ever undertake in its lifetime.	**Supported** The Government notes that the existing policy intent of the cap will be retained and considers there are compelling circumstances to allow club groups to expand and contract within the limits of the proposed cap. **Additional Response** The review notes there is scope to explore tax incentives as a mechanism to encourage mergers and support investment in 'child' clubs. The Government will develop tax incentives for merged clubs given their potential to support industry sustainability and viability. The form of these incentives will be informed by further analysis of associated risks and benefits.

Merging clubs ought to be able to agree to longer enforceable periods for preserving the assets of a 'dissolved club' for members and local communities

Recommendation	Government response
4. Enable clubs to agree to longer, enforceable periods for maintaining assets of 'dissolved clubs' Amend section 17AI of the *Registered Clubs Act* to enable clubs to agree that major assets of a dissolved club must remain intact for longer than the current maximum period of 3 years.	**Supported** The Government considers it is entirely appropriate (and expected) that all clubs equally commit to honouring any agreed undertakings in a merger, whether the undertaking is related to the preservation of club assets or not. The Government also appreciates the high level of concern among smaller merged clubs about the long-term preservation of their club facilities, and is supportive of changes to allow clubs to make firm commitments about major assets that can be more readily enforced. This can help to underpin the preservation of, and investment in, club facilities and services for the benefit of members and communities they serve.
5. Require a MOU to address risks and treatments relating to major assets Amend clause 7 of the Regulation to require clubs to specify in a MOU the risks associated with undertakings about major assets and their intentions about how they will be treated.	**Supported** In line with the above response, the Government supports measures that will help increase transparency in relation to future dealings with major assets.

There is a case for streamlining the club 're-amalgamation' process

Recommendation	Government response
6. Better facilitate club re-amalgamations Streamline the process for a club to re-amalgamate with a new parent club by enabling the direct transfer of a club's licence from one parent club to another, while retaining sufficient controls to promote transparency and protect member interests.	**Supported** The Government notes the unnecessary complexity and duplication that presently exists for clubs that seek to re-amalgamate with another club, and agrees that amendments should be made to ensure licence transfers are effected as efficiently as possible.

Any ambiguities or potential inconsistencies that exist between the Registered Clubs laws and Australian Corporations law should be addressed

Recommendation	Government response
7. Undertake a further review of club membership issues Examine the operation of sections 17AC(2) and 17AN of the Act and their relationship to corporations law, with a view to addressing any ambiguities or potential inconsistencies.	**Supported** The Government notes industry concerns that *Registered Clubs Act 1976* and the *Corporation Act 2001 (Cth)* have similar requirements, particularly in relation to public disclosure and notification requirements. Given the unique not-for-profit nature of clubs and their responsibility to their members, the Government does not believe it is appropriate to defer to Corporations law for these matters. However, the Government is supportive of identifying reforms to address any inconsistencies between these laws where it would provide greater regulatory certainty to clubs and their members.

There should be greater certainty around timeframes for assessing licence transfer applications for mergers and de-mergers

Recommendation	Government response
8. ILGA to determine merger and de-mergers within 120 days ILGA should continue to seek to process licence transfers for club mergers and de-mergers within 120 days, inclusive of the 30-day public submissions period.	**Supported** The Government notes industry feedback that the timeframe for ILGA to decide on merger and de-merge applications could be improved. The Government agrees that applications should continue to be determined with the 120 day timeframe and notes recent improvements in processing times.

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Practices that help inform ILGA decision-making on mergers and de-mergers could be strengthened	
Recommendation	**Government response**
9. Ensure ILGA has the information it needs to make decisions Identify practices, in consultation with ILGA and the club industry, to better inform ILGA about how a proposed merger or de-merger complies with statutory requirements, while seeking to minimise extra time and costs for clubs.	**Supported** The Government notes the administrative cost and time placed on clubs when preparing an application for a merger or de-merger. The Government is supportive of Liquor & Gaming NSW investigating further measures in consultation with ILGA and industry to reduce red tape and improve the overall application process.

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