



# CLUBS NSW CODE OF PRACTICE



NOTE: This document has been published for the launch of the new ClubsNSW Code of Practice. The new Code of Practice and Best Practice Guidelines will not commence until 1 July 2005. There may be changes to these documents in the meantime. On 1 July 2005 ClubsNSW will publish the final Code that Members are to formally adopt, which will be distinguishable from this version.

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# PART A:

## Introduction and Application

**What is the Code?**

**Why is the Code Necessary?**

**Objectives of the Code**

**Scope**

**Guidelines**

**Conflict with Legislation**

**Citation**

**Definitions**

**Effective Date**

## What is the Code?

1. The Code sets out common standards of conduct for all Members<sup>1</sup> of ClubsNSW, providing guidance for directors, managers, suppliers and staff.
2. The requirements of the Code are based on common sense and reflect the Club movement's underlying values including honesty, fairness, integrity, mutuality, compassion and community-mindedness.
3. A key aim is to provide a single point of reference for the care and due-diligence expectations of communities served.

## Why is the Code Necessary?

4. The corporate governance demands upon clubs have increased dramatically in recent times. The conduct of club directors and managers is now closely scrutinized by industry stakeholders including club members, suppliers, trade unions, government and the wider community.
5. Club directors, management and staff are custodians of members' and community property. That responsibility carries with it a unique obligation to ensure that the administration and management of the Club is

being conducted with efficiency, fairness and integrity for the benefit of the Club's patrons and the wider community.

6. The service of alcohol and provision of gaming facilities increases that responsibility. The connection between alcohol and increased risk of anti-social behaviour is reason to ensure that the administration of club facilities is scrupulously undertaken. The adoption of a Code of Practice by all ClubsNSW Members will assist in fulfilling that goal.

## Objectives of the Code

7. To promote consistently high standards of practice across the club industry;
8. To bolster pride and self-esteem amongst Club directors, managers, employees, suppliers and volunteers;
9. To build community trust and confidence in the proper administration of clubs; and
10. To ensure that clubs are fulfilling their mission and their obligations to stakeholders

## Scope

11. ClubsNSW is the peak body for the Clubs movement<sup>2</sup>, representing registered clubs in New South Wales.

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<sup>1</sup> For clarity, throughout this document the terms "Member", "We" and "Our" when capitalised, are intended to refer to entities who are ClubsNSW Members. The term "member" when used to describe individuals who are members of Clubs will be in lower case.

<sup>2</sup> ClubsNSW has five affiliated associations: Royal NSW Bowling Association; NSW Golf Association; NSW RSL Clubs' Association; The Leagues Club Association of NSW; and the Federation of Community Sporting and Workers Clubs; as well as Associate Members drawn from industry suppliers and supporters.



12. This self-regulatory Code of Practice sets standards of conduct for the Members of ClubsNSW<sup>3</sup>. The Code binds all ClubsNSW Members<sup>4</sup> in respect of their own actions and requires Members to cause their directors, managers, employees and suppliers to adhere to the Code.

13. An alleged breach of the Code by a Member of ClubsNSW, its directors, manager(s), employees or suppliers will be dealt with in accordance with the enforcement provisions of the Code.

### Guidelines

14. ClubsNSW periodically issues Guidelines<sup>5</sup> about industry best practice. The purpose of Guidelines is to assist Members in meeting their Code obligations.

15. The Guidelines establish best practice in the following areas:

- a) Major capital works
- b) Procurement of goods and services
- c) Board elections
- d) Financial reporting
- e) Community support
- f) Benchmarking club performance
- g) Executive remuneration
- h) Board operation
- i) Overseas travel

### Conflict with Legislation

16. Where there is any conflict or inconsistency between the Code and any Commonwealth or State legislation or regulation, that legislation or regulation shall prevail to the extent of the conflict or inconsistency.

### Citation

17. This Code may be cited as the ClubsNSW Code of Practice.

### Definitions

18. In this Code, unless the context requires otherwise:

**"Affiliates"** means the five affiliated associations: Royal NSW Bowling Association; NSW Golf Association; Services Clubs' Association of NSW; The Leagues Club Association of NSW; and the Federation of Community Sporting and Workers Clubs

**"BetSafe"** is a responsible conduct of gambling program used by a number of NSW Clubs;

**"Club Managers Association"** is a union representing professional managers of Clubs;

**"Club movement"** means all licensed Clubs in New South Wales, whether or not they are members of ClubsNSW;

**"Clubs"** means members of ClubsNSW;

**"ClubSafe"** is a responsible conduct of gambling program run by ClubsNSW.

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<sup>3</sup> Members are defined in the Code as ClubsNSW Members, not members of individual clubs. While it is possible that the actions of individuals could lead to a breach of the Code by a Member club, it is intended that the sanctions available in this Code apply to the Club, not individuals.

<sup>4</sup> Members renew their commitment to abide by the Code each year when they complete their ClubsNSW Membership renewal.

<sup>5</sup>The Code Authority will have regard to the Guidelines in force from time to time but will not be bound by any Guidelines for the purpose of enforcing the Code.



**"ClubsNSW"** means the Registered Clubs of NSW, a State organization registered under section 222 of the Industrial Relations Act;

**"Code"** means this Code and any guidelines published by Clubs NSW from time to time;

**"Code Administrator"** means the individual authorised to hear and prepare a report to the Code Authority on complaints against Members involving alleged breaches of the Code and to oversee training and education initiatives in relation to the Code;

**"Code Authority"** means the authority established under clause 54;

**"Corporations Act"** means the Corporations Act 2001;

**"Guidelines"** mean guidelines published by Clubs NSW from time to time under clause 14 of the Code;

**"Independent Code Review Panel"** means the entity, made up of equal numbers of representatives from within and outside the Clubs movement and an independent chairperson, which will produce a report every three years on the operation of the Code;

**"Management"** and **"Manager"** means the CEO, Board of Directors and other senior executives of a Club;

**"Member"**, **"We"** and **"Our"** when capitalised, refer to entities who are members of Clubs NSW. The term **"Member"** when used to describe individuals who are members of Clubs will be in lower case;

**"Patrons"** means a person visiting a Club or using a Club's facilities, including, but not limited to, a member;

**"Staff"** means employees of a Club other than the management or manager;

**"Stakeholders"** means ClubsNSW Members (including their directors, management and staff), affiliates, suppliers, trade unions, government and the wider community; and

**"Whistleblower"** means anyone who reports matters that may genuinely cause financial or non-financial loss to a Club or damage to the Club movement's reputation

### Effective Date

19. This Code will take effect from 1 July 2005.



# PART B:

## Code Commitments

**Legal Obligations**

**Club Constitutions**

**Conduct of Directors, Management and Staff**

**Commitment to the Community**

**Conduct of Patrons**

**Responsibilities and Remuneration of Executives**

**Human Resources Management**

**Procurement of Goods and Services**

**Major Capital Works**

**Responsible Provision of Gaming**

**Responsible Serving of Alcohol**

**Conduct of Elections**

**Financial Management & Reporting**

**Complaints Handling and Dispute Resolution**



## Legal Obligations

20. Because the provision of gaming and alcohol form an integral part of Club activity, it is acknowledged that the Clubs industry is highly regulated and that Members have a responsibility to be fully informed as to their legal compliance requirements.

21. In particular, Members will ensure that their directors, management and staff are informed about the primary instruments regulating Clubs particularly the Registered Clubs Act 1976, and the Gaming Machines Act 2001.

22. Members will provide adequate training and supervision to ensure compliance with all relevant laws relating to the Club industry<sup>5</sup>.

## Club Constitutions

23. We will have, in Our constitution or elsewhere, a clear expression of Our aims and purpose as an organisation. This will be clearly communicated to members and stakeholders.

## Conduct of Directors, Management and Staff

24. We will pursue the aims and purpose of Our Club by:

- a) Making decisions that are consistent with the Club's role/purpose and the interests of members;
- b) Complying with any relevant legislative, industrial and administrative requirement and keeping up to date with any changes;
- c) Maintaining adequate documentation to support any decisions made;
- d) Treating each Club member and employees with courtesy and sensitivity to their rights;
- e) Providing all necessary and appropriate assistance to members of the Club<sup>6</sup>;
- f) Promoting a culture of continuous professional development for managers, directors and staff;
- g) Achieving operating efficiencies<sup>7</sup>;
- h) Obtaining value for Club money spent and avoiding waste and extravagance in the use of Club resources<sup>8</sup>;

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<sup>5</sup> See Appendix 1.

<sup>6</sup> The provision of assistance to members is not intended to override Section 10(1)(i) of the Registered Clubs Act, 1976 which prevents Clubs from offering a member of the Club any profit, benefit or advantage from the Club that is not offered equally to every full member of the Club.

<sup>7</sup> Benchmarks for operating efficiencies are contained in the Guidelines for Financial Benchmarking.

<sup>8</sup> Examples of waste and extravagance may include, but are not limited to: private use of Club vehicles, telephone or other assets; payment for the spouse of a Club director to attend an event or to participate in an overseas study tour; or sending more representatives than necessary on overseas study tours.

- i) Contributing to a safe, healthy and discrimination-free Club environment; and
- j) Not taking or seeking to take improper advantage of any Club information gained in the course of their appointment (in the case of directors) or employment (in the case of managers/staff)<sup>9</sup>.

### **Commitment to the Community**

25. We acknowledge Our responsibility to the community in relation to key revenue-generating activities, in particular the provision of gaming facilities and alcohol.

26. As a not-for-profit, community organisation, We will meet Our statutory support obligations (including CDSE) and maximise on financial commitment to and support for community projects.

27. We will comply with all relevant noise control measures imposed by local council and the Environmental Protection Authority.

### **Conduct of Patrons**

28. We will have procedures in Our Constitution for dealing with unacceptable behaviour by patrons. We are committed to ensuring that these procedures are faithfully followed and will apply the principles of natural justice in the hearing of a complaint against any individual.

### **Responsibilities and Remuneration of Executives**

29. Club senior management will have a contract that details their roles and responsibilities and the form of their remuneration. The contract will not be valid unless it has been approved by the full Board of Directors of Our Club.

### **Human Resources Management**

30. We are committed to the promotion of good industrial relations between management and all staff. In particular, management, with the full support of the Board of Directors, will ensure that at least minimum award conditions and rates of pay, and the requirements of all other relevant law, are applied at all times, and that any employee's legitimate grievance is promptly and fairly processed within the appropriate statutory requirements including, where required by an industrial instrument or legislation, discussion with an employee's trade union.

31. We will make the continuing professional development and training of Our people a priority.

32. We will encourage employees to report matters that may genuinely cause financial or non-financial loss to Our Club or damage to the Club movement's reputation. We will deal effectively and fairly with reports from whistleblowers in a way that will protect the

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<sup>9</sup> Examples of taking improper advantage of Club information may include, but are not limited to: benefiting (either themselves, a family member or an associate) improperly from the disposal of club assets such as equipment or land; the awarding of a contract for the provision of goods and services; or the awarding of a contract for major capital works.

identity and security of the whistleblower and provide for the secure storage of the information provided.

### **Procurement of Goods and Services**

33. We are committed to ensuring that Club procurement of goods and services represents quality and good value, and is done in the best interests of the Club and its members.

34. We have in place and are committed to following a sound framework for major procurements<sup>10</sup> of goods and services based on the following criteria:

- a) All procurements will be properly defined, documented, cost planned and approved.
- b) All procurements will be subject to appropriate written contracts with the chosen supplier.

35. The Board of Directors will act diligently and in the best interests of the Club in approving procurement spending.

36. If a director of Our Club has a real or potential material personal interest relating to the Club's procurement activities, the nature of that interest will be disclosed at the earliest possible meeting of the Board and conflicted directors will absent themselves from the Board's consideration of the procurement.

37. Proper documented and Board-approved selection criteria will be used to appoint third parties.

### **Major Capital Works**

38. We are committed to ensuring that major capital works represent quality and good value, and are done in the best interests of the Club.

39. We have in place a sound framework for major capital works based on the following criteria:

- a) All projects will be properly defined, documented, cost planned and approved.
- b) All projects will be subject to appropriate written contracts with the chosen supplier.

40. The Board of Directors will act diligently and in the best interests of the Club in approving and overseeing major capital works projects.

41. If a director of Our Club has a real or potential material personal interest relating to the Club's major capital works, the nature of that interest will be disclosed at the earliest possible opportunity and conflicted directors will absent themselves from the Board's consideration of the project.

### **Responsible Provision of Gaming**

42. We support the provision of a responsible gaming environment for all patrons<sup>11</sup>.

### **Responsible Serving of Alcohol**

43. We will demonstrate Our commitment to the responsible serving of alcohol by:

- a) Providing approved training of management and staff in the responsible serving of alcohol<sup>12</sup>;

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<sup>10</sup> Major procurements are defined in the Guidelines for Procurement of Goods and Services as those having a value of \$ 10 000 or greater.

<sup>11</sup> ClubSafe and BetSafe are the two recognised Best Practice Programs for dealing with problem gambling.

<sup>12</sup> Trainers must be approved by the Department of Gaming and Racing

- b) Refusing to serve alcohol to persons who are obviously or visibly affected by alcohol;
- c) Avoiding the promotion of alcohol in a way that could encourage minors to seek to purchase or to consume alcohol
- d) Avoiding the promotion of alcohol in a way that could encourage the excessive consumption of alcohol;
- e) Refusing alcohol service to under age persons and requiring the presentation of Proof of Age and other approved forms of identification before providing services to persons We suspect of being minors;
- f) Making club patrons aware of their responsibility under the law in respect of the supply of alcohol to minors and intoxicated persons;
- g) Not supporting any pricing practice which encourages the excessive consumption of alcohol<sup>12</sup>.

### **Conduct of Elections**

44. We are committed to promoting fair and democratic elections and maximising member involvement by following appropriate procedures for the conduct of Club elections (e.g. as set out in the ClubsNSW Guideline for the Conduct of Board Elections).

### **Financial Management & Reporting**

45. Financial management practices will be consistent with the appropriate standards (e.g. as described in the ClubsNSW Guidelines for Financial Reporting to Members.

46. Financial decisions will be consistent with the Board's approved goals and approved budgets.

47. The Board will supervise the management of the Club with the objective of avoiding financial harm and material deviation from expenditures approved by the Board.

48. The Board will establish boundaries and limits regarding:

- a) Capital investments
- b) Remuneration and benefits
- c) Protection of assets
- d) Tendering
- e) Cost containment
- f) Efficient use of labour

and obtain from Management prompt and detailed reporting where limits and boundaries are exceeded.

49. Financial reports which accurately reflect the true financial position of the Club will be provided for each Board meeting.

50. The operation of financial systems and financial safeguards will be subject to external audit at least on an annual basis.

### **Complaints Handling and Dispute Resolution**

51. The scope of ClubsNSW's enforcement procedures is limited to alleged breaches of the Code and does not include mediation of complaints by individuals or organisations against Clubs which do not involve an alleged breach of the Code and would normally be dealt with by the Member's internal complaints handling process.

52. Members must have in place speedy, responsive, accessible and user friendly procedures for dealing with complaints. These procedures should conform with the Australian Standard for Complaints Handling AS 4269 (available from Standards Australia).

# PART C:

## Monitoring and Administration

53. ClubsNSW has established an independent Code Authority and Code Administrator to oversee Member compliance with the Code.

54. The role of the Code Administrator will be to:

- a) Hear and prepare a report for the Code Authority on complaints against Members involving alleged breaches of the Code;
- b) Investigate Code-related complaints with the full cooperation of Members;
- c) Review Member compliance with the Code;
- d) Prepare an annual report for the Board on his/her activities;
- e) Oversee training and education initiatives in relation to the Code; and
- f) Promptly answer all enquiries from Members relating to the Code and its application, and from time to time suggest, for consideration by the Board of ClubsNSW, changes or additions to make the Code more effective.

55. The Code Authority will be made up of equal numbers of industry and non-industry members and an independent chair being a

person with experience in the Clubs industry nominated by ClubsNSW in consultation with the Minister for Gaming and Racing. Its role is to make rulings in matters relating to alleged breaches of the Code.

56. The Code Authority will report to the Board of Directors of ClubsNSW annually<sup>13</sup>.

57. In addition, an Independent Code Review Panel will:

- a) within three years after commencement of this Code, and once every three years thereafter, produce a report on the operation of the Code, which will be submitted, along with the Code Administrator's written response to this report, to the Minister for Gaming & Racing within 30 business days of the report being finalised;
- b) recommend amendments to the Code, at any time that it considers them necessary or desirable for the effective operation of the Code, on request or by its own initiative; and
- c) where an amendment has been recommended, complete the steps necessary to make an amendment to the Code.

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<sup>13</sup> The Chair of the Code Authority will be available to meet from time to time with the Minister for Gaming and Racing or the Minister's designee to provide updates on the Industry's compliance with the Code.



# PART D:

## Code Enforcement

**Responsibility of Member**

**Review of compliance**

**Publication of participants and Annual  
Report by the Code Administrator**

**Reporting to Code Authority**

**Further investigation**

**Sanctions imposed by the Code Authority**

**Reporting**

**Review of sanctions**

**Failure to comply**

**Naming and enforcement of sanctions**

### **Responsibility of Member**

58. A Member shall ensure that it:

- a) implements appropriate systems and documentation for the Member to comply with the Code;
- b) prepares an Annual Report to the Code Administrator on the operation and compliance with the Code in accordance with the guidelines approved by the Board of ClubsNSW;
- c) monitors disputes with members and patrons and compliance with the Code.

### **Review of compliance**

59. The Code Administrator may from time to time review compliance with this Code by a Member. Members shall co-operate with the Code Administrator in such a review and provide information about any alleged breach and the procedures adopted by the Member to comply with the Code;

60. The Code Administrator shall receive complaints about alleged breaches of the Code by Members and shall consult with Members in respect of the alleged breaches and make recommendations to the Member, if necessary, about the alleged breach and the Member's compliance with the Code;

61. If the Code Administrator forms the opinion that a breach of the Code has occurred which has not been adequately rectified, the Code Administrator shall advise the Member and the Member shall take all reasonable steps to

ensure that procedures are established to stop any breach occurring or recurring.

### **Publication of participants and annual report by the Code Administrator**

62. The Code Administrator shall publish an annual report on the operation of the Code, including compliance by Members.

### **Reporting to Code Authority**

63. The Code Administrator shall provide reports to the Code Authority at regular intervals and in a form required by the Code Authority. In addition to these reports, the Code Administrator shall report immediately to the Code Authority any matter which it considers may constitute a material breach of the Code.

64. The Code Administrator shall immediately report to the Code Authority any matter where it considers after investigation there is evidence which may constitute a breach of the Code or a series of breaches of the Code which indicate a systemic failure in respect of compliance.

65. Where a report is made under paragraph 64, the Code Administrator shall provide a copy of that report to the Board of the Member to which the report relates.

### **Further investigation**

66. If the Code Authority believes that a matter contained in a report made to it by the

Code Administrator under paragraphs 63-65 requires further investigation, then the Code Authority may request the Code Administrator to carry out the investigation and to report back to the Code Authority as to its outcome within a reasonable time.

### **Sanctions imposed by the Code Authority**

67. If the Code Authority is satisfied that a Member has:

- a) committed a material breach of the Code; or
- b) committed a series of breaches of the Code which indicates a systemic failure in respect of compliance,

it shall consult with the Member and ask for the breach or breaches to be rectified. The Member shall have an opportunity to make representation to the Code Authority in respect of such breach or breaches and in respect of the steps taken by the Member to rectify the breach and to stop the breach or breaches recurring.

68. If, after considering these submissions, the Code Authority is of the opinion that:

- a) there has been a serious material breach or a serious systemic failure; or
- b) there has been a material breach or a systemic failure and the steps taken for rectification and to stop the breach or breaches recurring are inadequate,

the Code Authority shall advise the Board of the Member in writing and give notice to the Member whether or not it proposes to impose sanctions on the Member for non-compliance with the Code.

69. Where the Code Authority is of the view that, although a material breach or systemic failure has occurred, the breach or failure is not serious, the steps taken to rectify the matter

are satisfactory and that appropriate steps have been put in place to stop the breach or breaches recurring, the Code Authority shall advise the Board of the Member in writing of that conclusion.

70. The Code Authority shall not impose sanctions for at least 20 business days after notice under paragraph 68 has been given. The Member shall have an opportunity during this period to make further representations to the Code Authority in respect of such breach or breaches for the Code Authority's further consideration. If at the end of that period the Code Authority is still of the opinion that:

- a) there has been a serious material breach or a serious systemic failure; or
- b) there has been a material breach or a systemic failure and the steps taken for rectification and to stop the breach or breaches recurring are inadequate,

the Code Authority may impose sanctions.

71. When imposing any sanctions on a Member, the Code Authority shall have regard to:

- a) the objectives and the principles governing the Code; and
- b) the severity of the breach of the Code and the appropriateness of the sanction.

72. The Code Authority may impose one or more of the following sanctions:

- a) a requirement that particular remedial steps be taken by the Member in accordance with a specified timetable;
- b) a requirement that Staff or Management training be undertaken;
- c) a requirement that a Member help to educate the wider Membership in how to avoid a particular breach;



- d) a requirement that an apology be offered (if appropriate);
- e) a recommendation that financial compensation be made (if appropriate);
- f) a requirement that the club perform a specified community service (if appropriate);
- g) a requirement that a compliance audit be undertaken;
- h) a requirement that corrective advertising be placed; and
- i) the Code Authority may name a Member either immediately or in the annual report as not having complied with the Code and setting out the nature of the non compliance;
- j) referral of the matter, according to an agreed protocol, to the Minister for Gaming and Racing or other Government Authority for further unspecified action; and
- k) publish the fact that a Member has had its Membership cancelled.

### Reporting

73. The Code Authority may report to the Board of ClubsNSW in respect of its activities but it shall not disclose the name of a Member who is alleged to have breached the Code or on whom sanctions have been imposed unless it recommends that the Member be named immediately or in the annual report or unless the Member consents. Any complaint against non-members received by ClubsNSW in relation to the terms of this Code will be referred to the NSW Department of Gaming and Racing.

### Review of sanctions

74. A Member who is sanctioned under this Code may request that the sanction be reviewed

by the Board of ClubsNSW and in that case, if the Board considers that there are grounds for review, the Board may refer the matter to the Code Authority for reconsideration.

### Failure to comply

75. The Code Authority will report to the Board of ClubsNSW any failure by a Member to comply with a sanction imposed on it and recommend action to be taken by the Board.

76. A copy of the report to the Code Authority by the Code Administrator shall be given to the Board of the Member and the Member is entitled within 20 business days of receiving that report or in such further period as the Code Authority may permit to make a submission to the Code Authority in relation to the matters contained in the report.

### Naming and enforcement of sanctions

77. The Code Authority, after considering any submission made by the Member under paragraph 76, may determine to name a Member immediately or in the annual report as having failed to comply with the Code and set out the nature of the non compliance.

78. The Code Administrator may take such steps as it believes appropriate to enforce any sanctions imposed by it or the Code Authority and may report such a matter to the Minister of Gaming and Racing.

# Appendix 1

Listed below are the main Acts (and their accompanying Regulations) that apply to the clubs industry<sup>14</sup>. Note: this is not an exhaustive list and Acts are not presented in any particular order.

1. Registered Clubs Act 1976;
2. Gaming Machines Act 2001;
3. Gaming Machines Tax Act 2001;
4. Charitable Fundraising Act 1991;
5. Liquor Act 1982;
6. Fair Trading Act 1987;
7. Corporations Act 2001;
8. Industrial Relations Act 1996;
9. Club Managers' (State) Award 1999;
10. Club Employees (State) Award 1999;
11. Annual Holidays Act 1994;
12. Long Service Leave Act 1955;
13. Lotteries and Art Unions Act 1901;
14. Privacy Act 2001;
15. Public Lotteries Act 1996;
16. Racing Administration Act 1998;
17. Trade Practices Act 1974;
18. Occupational Health and Safety Act 2000;
19. Apprenticeship and Traineeship Act 2001;
20. The Unlawful Gambling (Two-up) Act 1998;
21. Smoke Free Environment Act 2000.

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<sup>14</sup> In practice, the Code will mainly be accessed via the internet. This will enable ClubsNSW to provide links to the relevant legislation and regulation.

# Appendix 2

Listed below are guidelines promulgated by ClubsNSW to assist Members in meeting their compliance obligations under the Code. Copies of the guidelines will be made available to all members of ClubsNSW.

1. Major capital works
2. Procurement of goods and services
3. Board elections
4. Financial reporting
5. Community support
6. Financial benchmarking
7. Executive remuneration
8. Board operation
9. Overseas travel



# NOTES



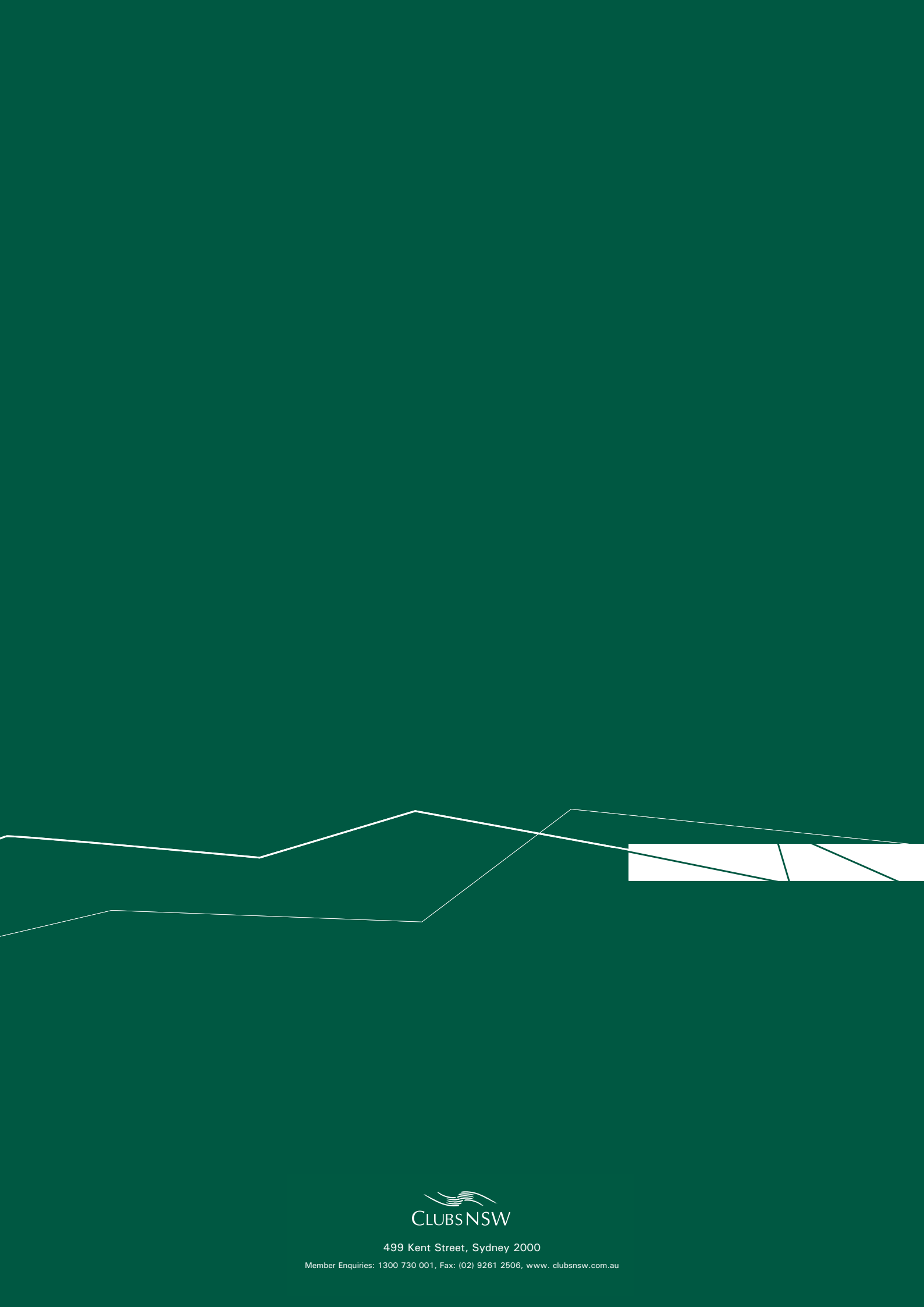
# NOTES



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