

Sixty Martin Place
Level 14, 60 Martin Place
Sydney NSW 2000 Australia

T +61 2 8248 5800 | F +61 2 8248 5899

MEMORANDUM OF UNDERSTANDING

BETWEEN

Dubbo RSL Memorial Club Ltd
ABN 18 000 965 355
(DRSL)

AND

Wingham District Memorial Services Club Ltd
ABN 15 000 982 730
(WSC)

TABLE OF CONTENTS

BACKGROUND	3
1 DEFINITIONS AND INTERPRETATION	3
1.1 Definitions	3
1.2 Interpretation	5
2 AMALGAMATION	6
2.1 Amalgamation generally	6
2.2 Purpose of this MOU	6
2.3 Effect of this MOU	6
3 PROCESS FOR AMALGAMATION	6
4 APPROVALS	7
4.1 WSC Meeting	7
4.2 DRSL Meeting	8
4.3 Amalgamation Application	8
5 TRANSFER OF MEMBERS AND CHANGES TO THE CONSTITUTION OF DRSL	9
6 FUTURE MANAGEMENT OF THE WSC PREMISES	9
6.1 General	9
6.2 Management structure, Secretary/CEO of the Amalgamated Club and Manager of the WSC Premises	10
7 TRADITIONS, AMENITIES AND COMMUNITY SUPPORT THAT WILL BE PRESERVED OR CONTINUED BY THE AMALGAMATED CLUB	10
7.1 General	10
7.2 Advisory Committee	10
7.3 Sponsored Sporting Clubs	12
8 INTENTIONS REGARDING THE FUTURE DIRECTION OF THE AMALGAMATED CLUB	12
8.1 General	12
8.2 WSC Premises and facilities	12
8.3 Payment of Subscriptions	13
9 EMPLOYEES	13
9.1 WSC Employees	13
9.2 DRSL Employees	14
10 INTENTIONS FOR WSC'S ASSETS	14
10.1 Core Property	14
10.2 Non-Core Property	14
10.3 Cash and Investments	15
10.4 Gaming Machine Entitlements	15
10.5 Other assets	15
11 RISKS OF NOT MEETING ANY SPECIFIED INTENTIONS REGARDING PRESERVATION OF THE CORE PROPERTY OF WSC	16
12 AGREEMENT UNDER SECTION 17A(1) OF THE REGISTERED CLUBS ACT RELATING TO THE PERIOD DURING WHICH THE MAJOR ASSETS OF WSC MUST NOT BE DISPOSED	16
13 CEASING TO TRADE FROM THE WSC PREMISES OR CHANGING OBJECTS	16
14 MINIMUM PERIOD	17

15	TRADING, DEBT AND ASSET OBLIGATIONS OF WSC PENDING AMALGAMATION COMPLETION	18
15.1	General trading and maintenance of Assets by WSC pending Amalgamation Completion	18
15.2	Trading debts and other liabilities of WSC pending Amalgamation Completion	18
16	CO-OPERATION BETWEEN THE CLUBS	19
17	DUE DILIGENCE	19
17.1	Due Diligence investigations	19
17.2	Due Diligence timing	20
17.3	Termination	20
17.4	Effect of termination	20
17.5	Confidentiality	20
18	PUBLICITY	20
19	CONFIDENTIALITY	20
20	LIABILITIES	21
21	TRANSFER OF ASSETS	21
21.1	Risk, title and insurance	21
21.2	Benefit of contracts	21
21.3	Amalgamation Completion	21
22	DISSOLUTION OF WSC	22
23	FORCE MAJEURE	23
24	REPRESENTATIONS AND WARRANTIES	23
24.1	General	23
24.2	WSC warranties	23
25	DISPUTE RESOLUTION	23
26	TERMINATION	24
27	COSTS AND STAMP DUTY	25
27.1	Cost and expenses	25
27.2	Stamp duty	25
28	NOTICES	25
29	GENERAL	25
29.1	Governing law and Jurisdiction	25
29.2	Service	26
29.3	Severability	26
29.4	No waiver	26
29.5	Variation	26
29.6	Further assurances	26
29.7	Entire agreement	26
29.8	Counterparts	26
29.9	Electronic execution	26
29.10	Assignment	27
NOTES		27

This Memorandum of Understanding is made on.....22.April.....2024

BETWEEN

DUBBO RSL MEMORIAL CLUB LTD (ABN 18 000 965 355) of 178-188 Brisbane Street Dubbo NSW 2830 (**DRSL**).

and

WINGHAM DISTRICT MEMORIAL SERVICES CLUB LTD (ABN 15 000 982 730) of 28-38 Bent Street, Wingham NSW 2429 (**WSC**).

BACKGROUND

- A. DRSL and WSC operate as registered clubs.
- B. WSC called for expressions of interest in amalgamation from other registered clubs.
- C. DRSL submitted an expression of interest to WSC.
- D. WSC has accepted the expression of interest from DRSL and, following further negotiation, DRSL and WSC have agreed to the terms set out in this MOU.
- E. DRSL and WSC propose to amalgamate the two clubs (subject to the approval of the Authority and subject to the terms of this MOU) in accordance with the provisions of this MOU, the Registered Clubs Act, the Registered Clubs Regulation, the Liquor Act and the Corporations Act.
- F. This MOU is entered into in accordance with clause 7 of the Registered Clubs Regulation.

1 DEFINITIONS AND INTERPRETATION

1.1 Definitions

In this MOU unless the context otherwise requires:

- (a) **Advisory Committee** means the Advisory Committee referred to in clause 7.2(a);
- (b) **Amalgamated Club** mean the registered club from the amalgamation of the DRSL and WSC, the corporate vehicle of which will be DRSL;
- (c) **Amalgamation Application** means the application by the Clubs for the transfer of WSC's Club Licence to the DRSL pursuant to Sections 60(6) and (7) of the Liquor Act;
- (d) **Amalgamation Completion** means the day on which the Assets of WSC are transferred to DRSL the Final Order is granted (i.e. being a transfer of WSC's Club Licence to DRSL);
- (e) **Assets** means all of the goodwill, land, buildings, personal property, equipment, stock, intellectual property, gaming machine entitlements, gaming machines, contracts, agreements and all other property (including leases of property, including leases of land), tangible or intangible belonging to WSC as at the Amalgamation Completion;
- (f) **Authority** means the Independent Liquor and Gaming Authority;

- (g) **Board** means the Board of Directors of DRSL or of the Amalgamated Club, as the case may be;
- (h) **Claim** means any claim, notice, demand, debt, account, action, expense, cost, lien, liability proceeding, litigation, investigation or judgement of any nature, whether known or unknown;
- (i) **ClubGRANTS** means the ClubGRANTS scheme established under the *Gaming Machine Tax Act 2001* (NSW) for the granting of a rebate of gaming machine tax levied on registered clubs for expenditure on community development and support;
- (j) **Clubhouse** means the clubhouse building located at WSC Premises;
- (k) **Clubs** means the DRSL and WSC;
- (l) **Club Licence** means the club licence issued to a registered club under the *Liquor Act*;
- (m) **Confidential Information** means all information relating to a party, its business, employees or suppliers which is or might reasonably be considered by the other party to be confidential and which is not in the public domain, including all financial data and information relating to a party, business plans, unpublished financial accounts, data and reports, supply lists and information relating to the business of a party's suppliers;
- (n) **Debts** means the accumulated debts of WSC at the time of Amalgamation Completion;
- (o) **DRSL's CEO** means the individual who fulfils the Secretary or Secretary Manager's role at DRSL;
- (p) **DRSL Premises** means the DRSL's freehold premises located at 178-188 Brisbane Street Dubbo NSW 2830 (being its main premises) and from its other registered club premises and venues;
- (q) **EBITDA** means earnings before interest, taxes, depreciation and amortisation;
- (r) **Employee Entitlements** means all entitlements to salary or wages, annual leave, long service leave and other entitlements under any industrial instrument or agreement between WSC and any of its employees;
- (s) **Final Order** means the final order pursuant to Section 60(8) of the Liquor Act by the Authority whereby WSC's Club Licence is transferred to the DRSL;
- (t) **Force Majeure Event** means an event which is beyond the reasonable control of a party and includes but is not limited to:
 - (i) an act of God;
 - (ii) a breakdown or destruction of plant and equipment;
 - (iii) a shortage of or inability to secure fuel, power, material or labour;
 - (iv) a flood, earthquake, rock fall or landslide;
 - (v) a government act or regulation including but not limited to, exchange control by government having jurisdiction over the parties effected;
 - (vi) a blockade, riot, civil insurgence, act of terrorism or war;

- (vii) lightning, fire or explosion; or
- (viii) epidemic/pandemic or quarantine restriction;
- (u) **Government Agency** means a government or any governmental, semi-governmental or judicial entity or authority, including but not limited to a self-regulating organisation established under statute and includes the Authority;
- (v) **GST** means Goods and Services Tax under A New Tax System (Goods and Services Tax) Act 1999;
- (w) **Liabilities** means all liabilities, losses, damages, outgoing, costs and expenses of WSC (whatever description) as at Amalgamation Completion;
- (x) **Liquor Act** means the *Liquor Act 2007* (NSW) and its associated regulations;
- (y) **Major Assets of WSC** means the WSC Premises;
- (z) **Member** means a member of either WSC, DRSL or the Amalgamated Club as the case may be, as shown on the relevant club's register of members at the relevant time;
- (aa) **Minimum Period** means the period of three (3) years commencing on the date of Amalgamation Completion;
- (bb) **MOU** means this Memorandum of Understanding;
- (cc) **Party** includes the management and Board of Directors of WSC and the DRSL respectively;
- (dd) **Provisional Order** means the provisional approval of the Amalgamation Application by the Authority pursuant to Section 60(7) of the Liquor Act;
- (ee) **Records** means all originals and copies of documents, records, sales brochures and catalogues, lists of clients, books, files, accounts, plans and correspondence belonging to or used by WSC in the conduct of WSC's business including but not limited to corporate, accounting and statutory records;
- (ff) **Registered Clubs Act** means the *Registered Clubs Act 1976* (NSW) and its associated regulations;
- (gg) **Registered Clubs Regulation** mean the *Registered Clubs Regulation 2015* (NSW);
- (hh) **Sunset Date** means the date which is twelve (12) months after the date of this MOU;
- (ii) **WSC Premises** means:WSC's freehold premises known as 28-34 Bent Street, Wingham (being part of lot 20 in deposited plan 801981 on which the Clubhouse, members and guests facilities, including car parking are located, and excluding shops and residential premises known as 36-38 Bent Street, Wingham which formerly were contained in lot 7 of deposited plan 312071 and lot A in deposited plan 362661 prior to the consolidation of those lots into lot 20 in deposited plan 801981 and described as "Non-Core Property" in clause 10.2);
- (jj) **WSC's CEO** means the individual who fulfils the Secretary or Secretary Manager's role at WSC. .

1.2 Interpretation

In this MOU unless the context otherwise requires:

Thomson Geer

Memorandum of Understanding

Reference: BAB:SSM:5653666
C:\NRPortbl\Legal\SMOAUAKKASSA\85949154_12.doc

- (a) headings are for convenience only and do not affect interpretation;
- (b) the singular includes the plural and vice versa;
- (c) where a word or phrase is defined, its other grammatical forms have a corresponding meaning;
- (d) a reference to a person, trust, partnership, joint venture, association, corporation, organisation, society, firm, authority or other entity includes any of them;
- (e) a reference to any legislation or provision of legislation includes all amendments, consolidations or replacements and all regulations or instruments issued under it;
- (f) a reference to a Party to a document includes that Party's successors, permitted assigns, administrators and substitutes;
- (g) an agreement on the part of two (2) or more persons bind them jointly and severally;
- (h) a reference to a notice from, consent or approval of a Party and agreement between the Parties for the purposes of this MOU means a written notice, consent, approval or agreement;
- (i) mentioning anything after 'include', 'includes' or 'including' does not limit what else might be included; and
- (j) a reference to "dollars" or "\$" is to Australian currency.

2 AMALGAMATION

2.1 Amalgamation generally

- (a) The Amalgamation is intended to enhance the facilities and services available to all Members of the Amalgamated Club.
- (b) The parties agree to Amalgamate:
 - (i) in accordance with the Registered Clubs Act and the Liquor Act; and
 - (ii) on the terms of this MOU.
- (c) In accordance with section 17(2)(a) of the Registered Clubs Act, the Amalgamation will be effected by the continuation of DRSL and the dissolution of WSC, and transfer of the Assets and Club Licence of WSC to DRSL.

2.2 Purpose of this MOU

This MOU is entered into in accordance with clause 7 of the Registered Clubs Regulation and also provides for commercial terms and other details agreed by the parties with respect to the Amalgamation.

2.3 Effect of this MOU

DRSL and WSC agree that this MOU is binding on them and for that purpose is executed as a Deed.

3 PROCESS FOR AMALGAMATION

The process for the amalgamation will be as follows:

- (a) the Clubs will enter into this MOU;
- (b) the members of WSC and DRSL will be asked to approve the amalgamation at separate general meetings of the ordinary members of each club. These meetings will be called and held in the manner referred to in clause 4;
- (c) the members of DRSL will be asked to approve (by special resolution) amendments to DRSL' Constitution in the manner provided for in clause 4.2(b)(iii);
- (d) once the approvals in clauses 4.1 and 4.2 have been obtained, the Amalgamation Application will then be made to the Authority. The Amalgamation Application will be made in the manner referred to in clause 4.3;
- (e) after the Amalgamation Application is granted and on the date of the Final Order:
 - (i) the Assets of WSC will be transferred to the DRSL in the manner referred to in clause 21;
 - (ii) all eligible members of WSC will, with their consent, be admitted as members of the DRSL in accordance with the procedure set out in clause 5;
 - (iii) employees of WSC who have accepted an offer of employment from the DRSL will become employees of the Amalgamated Club.
- (f) after Amalgamation Completion, the DRSL will continue as the body corporate of the Amalgamated Club.
- (g) from Amalgamation Completion, WSC Premises will become additional licensed premises of the DRSL and will be available to all members of the Amalgamated Club. WSC Premises will be operated in the manner set out in clauses 4; 7, 8 and 10.
- (h) after Amalgamation Completion, WSC will be liquidated or otherwise voluntarily deregistered in the manner referred to in clause 22.

4 APPROVALS

4.1 WSC Meeting

- (a) WSC will convene a general meeting of the Members of WSC for the purposes of its Members entitled to vote under its constituent documents and the Registered Clubs Act to be held as soon as reasonably practicable after the date of this MOU, but no later than 3 months after the date of this MOU (or such greater period agreed by DRSL).
- (b) At the meeting referred to in clause 4.1(a), the ordinary members of WSC will consider and vote on a resolution in accordance with section 17AEB(d) of the Registered Clubs Act to:
 - (i) approve the Amalgamation in principle;
 - (ii) approve the transfer of Assets from WSC to DRSL in accordance with this MOU;
 - (iii) approve the making of the Application for the Final Order; and
 - (iv) approve any other matters required to give effect to this MOU.
- (c) The form of resolution referred to in clauses 4.1(a) and 4.1(b) to be put to Members of WSC is contained in Schedule 1.

4.2 DRSL Meeting

- (a) DRSL will convene a general meeting of its Members entitled to vote under its constituent documents and the Registered Clubs Act to be held before or as soon as reasonably practicable after the WSC meeting referred to in clause 4.1 above.
- (b) At that meeting the Members will consider and vote on resolutions in accordance with section 17AEB(d) of the Registered Clubs Act to:
 - (i) approve the Amalgamation in principle and
 - (ii) approve the making of the Amalgamation Application;
 - (iii) pass the special resolution to amend DRSL Constitution and referred to in clause 4.2(a); and
 - (iv) approve any other matters required to give effect to this MOU.
- (c) The form of the resolutions referred to in clauses 4.2(a) and 4.2(b) to be put to Members of DRSL is contained in Schedule 2.
- (d) All eligible members of WSC will be able to apply for membership of the Amalgamated Club in the manner referred to in clauses 4.2(e) to 4.2(f) .
- (e) As soon as practicable after the Provisional Order, the Amalgamated Club will forward to each member of WSC, who is not already a member of DRSL, a written invitation to become a member of the Amalgamated Club.
- (f) Any person who, at Amalgamation Completion, is a Life member of WSC will:
 - (i) not become a Life member of the Amalgamated Club; and
 - (ii) continue to be recognised as a Life member of WSC but only in respect of WSC Premises; and
 - (iii) only be required to pay to the Amalgamated Club the minimum annual subscription, if any, required by the Registered Clubs Act .

4.3 Amalgamation Application

- (a) Within 10 Business Days of the meeting under clause 4.1, WSC will give to DRSL:
 - (i) a certified copy of the notice of meeting and minutes of the meeting; and
 - (ii) certification that the notice of meeting and this MOU have been displayed as required by the Registered Clubs Act and Registered Clubs Regulation.
- (b) Within 10 Business Days of the meeting under clause 4.2, DRSL will give to WSC:
 - (i) a certified copy of the notice of meeting and minutes of the meeting; and
 - (ii) certification that the notice of meeting and this MOU have been displayed as required by the Registered Clubs Act and Registered Clubs Regulation.
- (c) DRSL will prepare and lodge the Amalgamation Application with the Authority as soon as reasonably practicable if approval is given by its members under clause 4.2.
- (d) WSC agrees to sign all documents and provide all information and documents reasonably necessary for DRSL to complete and lodge the Amalgamation Application,

including responding to any submissions made in response to the Amalgamation Application or requisitions raised by the Authority or Liquor and Gaming NSW.

5 TRANSFER OF MEMBERS AND CHANGES TO THE CONSTITUTION OF DRSL

- (a) At the DRSL Members' meeting referred to in clause 4.2, the Members of DRSL will consider the special resolution as contained in Schedule 2 to this MOU to amend the constituent documents of DRSL (with effect from Amalgamation Completion) to add a new class of Ordinary members of DRSL to be known as "Wingham Services Club members" and for the purposes of section 17AC(2) of the Registered Clubs Act to identify members of WSC who join the Amalgamated Club pursuant to the Amalgamation, for as long as they remain members of the Amalgamated Club;
- (b) As soon as practicable after the Provisional Order, DRSL will send every Member of WSC (who is not already a Member of DRSL) an invitation to become a member of the Amalgamated Club which includes the requirements for application for membership). DRSL will permit Members of WSC who make application under this clause to be admitted as Members of the Amalgamated Club (without the need for a proposer and seconder to sign their application) for Wingham Services Club membership or such classes of ordinary membership of DRSL for which they are eligible to join. For example, Junior members of WSC can join DRSL as Junior Sporting members of DRSL. In relation to Life Members of WSC, refer to clause 5(e).
- (c) A Member of WSC may accept the invitation by completing and returning the application for membership of the Amalgamated Club (in a class of membership for which they are eligible) to DRSL prior to Amalgamation Completion.
- (d) A Member of WSC who applies for membership of the Amalgamated Club under this clause will, subject to any restrictions contained in the constituent documents of DRSL and the requirements of section 30(2) of Registered Clubs Act, be admitted to membership of the Amalgamated Club with effect from Amalgamation Completion.
- (e) Any person who, at Amalgamation Completion, is a Life Member of WSC, and becomes an Ordinary member of the Amalgamated Club:
 - (i) will continue to be recognised as a Life Member in respect of the WSC Premises and will not be required to pay an annual WSC subscription; and
 - (ii) will not be required to pay an annual subscription to the Amalgamated Club unless an annual subscription is required under the Registered Clubs Act or if the Amalgamated Club is directed by the Authority to charge an annual subscription, in which case such person will only be required to pay the Amalgamated Club the minimum annual subscription required by the Registered Clubs Act.

6 FUTURE MANAGEMENT OF THE WSC PREMISES

Clause 7(2)(a) of the Registered Clubs Regulation

6.1 General

- (a) The WSC Premises will become additional registered club premises of DRSL.
- (b) The Amalgamated Club will operate and trade from the DRSL Premises and WSC Premises.

- (c) The WSC Premises will be available for the use of all Members of the Amalgamated Club (subject to its Constitution and by-laws).
- (d) DRSL will take over responsibility and control of the WSC Premises with effect from Amalgamation Completion.

6.2 Management structure, Secretary/CEO of the Amalgamated Club and Manager of the WSC Premises

- (a) The Board of DRSL will be the Board of the Amalgamated Club.
- (b) The management structure of the Amalgamated Club will be the management structure of DRSL at the date of Amalgamation Completion, amended according to the operational requirements of the Amalgamated Club as determined by the Board from time to time.
- (c) DRSL CEO will be the Secretary and Chief Executive Officer of the Amalgamated Club.
- (d) In accordance with the Liquor Act, DRSL will appoint an approved manager for the WSC Premises.

7 TRADITIONS, AMENITIES AND COMMUNITY SUPPORT THAT WILL BE PRESERVED OR CONTINUED BY THE AMALGAMATED CLUB

Clause 7(2)(b) of the Registered Clubs Regulation

7.1 General

- (a) The traditions, amenities and memorabilia of WSC will be maintained by the Amalgamated Club at the WSC Premises.
- (b) Any honour boards at the WSC Premises may be displayed in their present form, electronically or in such other manner agreed by the Amalgamated Club and the Advisory Committee.
- (c) The Amalgamated Club will explore opportunities to maintain and enhance community support to the local community of the WSC Premises.

7.2 Advisory Committee

- (a) On Amalgamation Completion the Board of DRSL will create the "Wingham Services Club Advisory Committee" (**Advisory Committee**) under rule 55(a) of its Constitution.
- (b) The Advisory Committee will not have any governance or management powers in the Amalgamated Club and it shall be subject to the overall control and direction of the Board and management of the Amalgamated Club at all times.
- (c) The Advisory Committee will initially be made up of the DRSL's CEO or their delegate and the following (who, for the purposes of this clause will be referred to as "**WSC Advisory Committee Members**"):
 - (i) the existing President, Senior Vice President and Junior Vice President of WSC, as at the date of Completion of the Amalgamation; or

- (ii) if any of the directors referred to in clause (c)(i) are not willing to form the Advisory Committee, then any other member of WSC approved by the Board of WSC,

who have given written consent to DRSL to be members of the Advisory Committee,

(First Advisory Committee).

- (d) Those members of the First Advisory Committee who are WSC Advisory Committee Members shall hold office until the first election of the Advisory Committee. The first election of the Advisory Committee will be held on or before the date of DRSL's Annual General Meeting in 2025. The exact date of the first election of the Advisory Committee will be determined by the Board of the Amalgamated Club;
- (e) With effect from the first election of the WSC Advisory Committee Members, the Advisory Committee will comprise of five (5) members being:
 - (i) the Approved Manager of WSC Premises;
 - (ii) DRSL's CEO or their delegate; and
 - (iii) three (3) Wingham Services Club members,elected in accordance with the this clause 7.2.
- (f) A person will cease to be a member of the Advisory Committee immediately if he or she:
 - (i) ceases to be a member of the Amalgamated Club; or
 - (ii) is removed as a member of the Advisory Committee by resolution of the Board; or
 - (iii) is otherwise removed in accordance with the by-laws relating to the Advisory Committee, for example, failing to be re-elected or reappointed to the Advisory Committee, as the case may be.
- (g) The Advisory Committee may make any recommendations to the Board and management of the Amalgamated Club regarding the following matters:
 - (i) the operations of the WSC Premises;
 - (ii) ClubGRANTS to be made by the Amalgamated Cub that are attributable to the WSC Premises;
 - (iii) membership matters at the WSC Premises (including member disciplinary matters);
 - (iv) The engagement and relationships with community clubs and sponsored sporting clubs.
- (h) Pursuant to Rule 55 of DRSL's Constitution, the Board of the Amalgamated Club will consider delegating its powers under Rules 45 and 46 of DRSL's Constitution to the Advisory Committee to permit the Advisory Committee to hear and determine disciplinary matters relating to Wingham Services Club members and the WSC Premises. Any such delegation will be subject to the terms of DRSL's Constitution

and for such period and on such terms (including, without limitation as to reporting requirements or restrictions) as the Board shall from to time determine.

- (i) The Advisory Committee may be required to provide reports to the Board and management of the Amalgamated Club as determined by them in their absolute discretion.
- (j) The Advisory Committee will be provided twice yearly with an updated profit and loss or trading statement or such accounting or unaudited records as may be reasonably available and disclosed, and as reasonably determined by the Board of the Amalgamated Club for the Advisory Committee to determine the financial position of the WSC Premises, for use by the Advisory Committee only.
- (k) After the first election of the WSC Advisory Committee Members referred to in clause 7.2(e), the WSC Advisory Committee Members will be elected biennially on such date or dates as may be determined by the Board of the Amalgamated Club in consultation with the Advisory Committee.
- (l) The WSC Advisory Committee Members will be elected by Wingham Services Club members of the Amalgamated Club only.
- (m) The Advisory Committee shall be in force and effect for the Minimum Period. After the expiry of the Minimum Period, the Board of the Amalgamated Club will review on an annual basis the continuation or otherwise of the Advisory Committee, in consultation with the Advisory Committee.

7.3 **Sponsored Sporting Clubs**

In the first year after Amalgamation Completion, the Amalgamated Club will give serious consideration to continuation of any existing sponsorship arrangements of WSC, including but not limited to Wingham Tigers Rugby League Football Club and Wingham Junior Rugby League.

8 INTENTIONS REGARDING THE FUTURE DIRECTION OF THE AMALGAMATED CLUB

Clause 7(2)(c) of the Registered Clubs Regulation

8.1 **General**

- (a) The future direction of the Amalgamated Club will be subject to the overall strategic plan of the Amalgamated Club and its finances.
- (b) The Amalgamated Club will operate and trade from the DRSL Premises and WSC Premises under the name "Wingham Services Club" including internal/external branding of the Clubhouse under the DRSL group of business and co-branded in accordance with DRSL's current policy, subject to the Amalgamated Club obtaining any required authorisation or consent from any Government Agency). If the Amalgamated Club is unable to obtain the necessary authorisation or consent then the WSC Premises will be named and trade under such name as determined by the Board in consultation with the Advisory Committee.

8.2 **WSC Premises and facilities**

- (a) Subject to clauses 12 and 13, the Amalgamated Club will:
 - (i) maintain the WSC Premises and carry on the business of a licensed registered club under the Registered Clubs Act and Liquor Act at the WSC

Premises with the usual facilities and amenities of a registered club in accordance with this clause 8;

- (ii) undertake necessary upgrades, repairs, replacements, refurbishments and renovations to the WSC Premises and facilities (including the Clubhouse, and surrounding areas which constitute members and guests facilities);
 - (iii) endeavour to ensure the WSC Premises is relevant to its membership and its local community and will maintain operating hours which are no less than those operating hours as at the date of this MOU;
 - (iv) endeavour to improve the trading and revenue of the WSC Premises and work towards operating the WSC Premises 7 days per week, subject to the requirements of any relevant Laws and Government Agencies;
 - (v) introduce its existing members benefits programs at the WSC Premises.
- (b) WSC Premises will continue to trade for at least 3 years post completion of the Amalgamation. The Amalgamated Club intends to trade WSC Premises for so long as it is financially viable to do so and provided WSC Premises has tenure.

8.3 Payment of Subscriptions

DRSL will treat any annual subscriptions which have been paid to WSC for the subscription period current as at the date of the Amalgamation Completion as being annual subscriptions which have been paid to the Amalgamated Club. This will also apply to any multi-year membership subscriptions.

9 EMPLOYEES

Clause 7(2) (d) of the Registered Clubs Regulation

9.1 WSC Employees

- (a) As part of the Amalgamation, WSC will be wound up/liquidated. As part of the winding up/liquidation of WSC and but for the following paragraphs of this clause 9, the employment of all WSC's employees by WSC would otherwise come to an end.
- (b) Subject to clause 9.1(d), prior to the Amalgamation Completion and after the Provisional Order, DRSL will offer employment to each of WSC's current employees employed by WSC as at the date of this MOU, and any subsequently engaged employee (if they are approved by DRSL under clause and subject to clause 15.2), subject to the following:
 - (i) satisfactory interviews of the employees;
 - (ii) the employees satisfactorily undertaking and passing normal pre-employment testing and meeting the Amalgamated Club's general standards and prerequisites for employment; and
 - (iii) the terms and conditions of employment to be offered to existing WSC employees being on terms and conditions presently offered to DRSL employees in similar roles and consistent with the Amalgamated Club's own practices, policies and procedures.
- (c) Subject to clause 9.1(d), WSC will terminate the employment of all its employees in writing, or accept their written resignation, on Amalgamation Completion.

- (d) WSC and WSC's CEO (Dean McCarthy) as at the date of signing of this MOU have agreed that Mr McCarthy will resign from his employment within 7 days of the date of this MOU. DRSL enters into this MOU on the basis that as at Amalgamation Completion, Mr McCarthy will not be employed by WSC as at Amalgamation Completion following his resignation, and that WSC will appoint Jen Gralton as temporary CEO/Secretary of WSC following such resignation until Amalgamation Completion. WSC shall be responsible for payment of all Mr McCarthy's Employee Entitlements and superannuation contributions following his resignation from employment with WSC.
- (e) Any employee of WSC who accepts in writing an offer from DRSL made under clause 9.1(b) will be employed by the Amalgamated Club on Amalgamation Completion on the terms of that offer, and that person's Employee Entitlements accrued with WSC up to and including Amalgamation Completion will be recognised by the Amalgamated Club.
- (f) If any employee of WSC does not receive or accept an offer of employment from DRSL made in accordance with clause 9.1(b), then:
 - (i) that employee will be paid all accrued Employee Entitlements by WSC as at Amalgamation Completion, which will be the end date of that employee's employment by WSC (unless the employee's employment ceases prior to Amalgamation Completion);
 - (ii) WSC must make all superannuation contributions it is obliged to make for that employee up to the end date of that person's employment; and
 - (iii) WSC will obtain written acknowledgment of receipt of such payments from that employee as at Amalgamation Completion.

9.2 DRSL Employees

Each employee of the DRSL will continue to be employed by the Amalgamated Club after the Amalgamation Completion, subject to the terms and conditions of employment between each of those employees and the DRSL.

10 INTENTIONS FOR WSC'S ASSETS

Clause 7(2) (e) of the Registered Clubs Regulation

10.1 Core Property

- (a) For the purposes of the Registered Clubs Act, the WSC Premises are the "core property" of WSC for the purposes of section 41E of the Registered Clubs Act and are the Major Assets of WSC for the purposes of section 17A1 of the Registered Clubs Act.
- (b) Subject to this MOU, the DRSL will retain the core property of WSC and operate the WSC Premises for at least the Minimum Period in the manner referred to in clause 8. Continuation of trade and retention of the core property/Major Assets of WSC after the Minimum Period is subject to clause 13(d).

10.2 Non-Core Property

- (a) The shops and residential premises known as 36-38 Bent Street which are also located on lot 20 in deposited plan 801981, being that part of the lot which was formerly contained in lot 7 of deposited plan 312071 and lot A in deposited plan

362661 prior to the consolidation of those lots into lot 20 in deposited plan 801981 (**shops and residential premises**) do not form part of "core property" of WSC for the purposes of section 41E of the Registered Clubs Act and are not Major Assets of WSC for the purposes of section 17A1 of the Registered Clubs Act because:

- (i) the shops and residential premises were acquired by WSC in or about 1981 when they were part of a separate lot;
 - (ii) the shops and residential premises were subsequently consolidated into the lot on which WSC's clubhouse is located in or about 1990;
 - (iii) the shops and residential premises have been let commercially by WSC since they were acquired by WSC and do not form part of the registered club operations of WSC and are not subject to the Club Licence of WSC; and
 - (iv) WSC's Board of Directors considers the shops and residential premises as non-core property for the purposes of section 41E of the Registered Clubs Act.
- (b) Following Amalgamation Completion, the Amalgamation Club will, for the purposes of section 41E(5) of the Registered Clubs Act, record the shops and residential premises as non-core property in its annual reports.
- (c) The shops and residential premises, being non-core property for the purposes of section 41E of the Registered Clubs Act may be leased, licensed or otherwise disposed of as may be determined by the Board of the Amalgamated Club.

10.3 Cash and Investments

The cash and investments of WSC (if any) will be transferred in accordance with clause 21 to the general reserves of the Amalgamated Club.

10.4 Gaming Machine Entitlements

- (a) As at the date of this MOU, WSC has fifty (50) gaming machine entitlements attached to its Club Licence. The ownership of those fifty (50) gaming machine entitlements will be transferred to the Amalgamated Club with effect from the Amalgamation Completion.
- (b) WSC must ensure that all of the 50 gaming machine entitlements held in respect of WSC's Club Licence, and all gaming machines kept at WSC's premises as at the date of this MOU (and any additional gaming machines kept at the WSC Premises as at Amalgamation Completion) and all its other Assets are transferred to the Club as part of the Amalgamation.
- (c) The Amalgamated Club will retain an appropriate number of the gaming machine for WSC's Club Licence as it sees fit.

10.5 Other assets

Other Assets will form part of the assets of the Amalgamated Club on Amalgamation Completion and may be used, maintained or disposed of in the ordinary course of its business, but the Major Assets of WSC must be retained in accordance with this clause 10 and subject to clauses 13 and 14.

11 RISKS OF NOT MEETING ANY SPECIFIED INTENTIONS REGARDING PRESERVATION OF THE CORE PROPERTY OF WSC

Clause 7(2)(e1) of the Registered Clubs Regulation

- (a) The risks of the Amalgamated Club not meeting the intentions to preserve the core property of WSC include that:
- (i) the only core property of WSC is the WSC Premises; and
 - (ii) if the WSC Premises are disposed, then the ability to use the WSC Premises as a registered club will cease.
- (b) The likelihood that the risks outlined in clause 11(a) will be realised are mitigated because of the restrictions on disposal of the Major Assets of WSC contained in the Registered Clubs Act and the additional restrictions set out in clauses 13 and 14 of this MOU.

12 AGREEMENT UNDER SECTION 17A(1) OF THE REGISTERED CLUBS ACT RELATING TO THE PERIOD DURING WHICH THE MAJOR ASSETS OF WSC MUST NOT BE DISPOSED

Clause 7(2)(e2) of the Registered Clubs Regulation

The Amalgamated Club may not dispose of the Major Assets of WSC for the Minimum Period after Amalgamation Completion unless the disposal has been approved by the Authority and is made in accordance with the Registered Clubs Act, or in accordance with clauses 13(d) and 14.

13 CEASING TO TRADE FROM THE WSC PREMISES OR CHANGING OBJECTS

Clause 7(2)(f) of the Registered Clubs Regulation

- (a) DRSL does not intend to cease trading from the WSC Premises for at least the Minimum Period.
- (b) With effect from Amalgamation Completion, the objects of the Amalgamated Club will be the objects of DRSL and WSC.
- (c) DRSL intends to operate the Amalgamated Club in the manner referred to in clause 8.
- (d) For the purposes of clauses 7(2)(f) and 7(2)(g) of the Registered Clubs Regulation, DRSL and WSC have agreed that the Amalgamated Club may cease trading at the WSC Premises in the following circumstances:
- (i) after the Minimum Period:
 - (A) *for the fourth and fifth years after Amalgamation Completion*: if the EBITDA attributable to the WSC Premises is below 9% in a financial year of the Amalgamated Club;
 - (B) *for the sixth year and subsequent years after Amalgamation Completion*: if the Board determines that continued trading from the WSC Premises is not in the best interests of the Amalgamated Club

because trading from the WSC Premises is not financially viable or because the overall financial viability of the Amalgamated Club is threatened by continuing to trade from the WSC Premises. Financial viability will be determined at the discretion of the Board, but may, among other things, take into account the registered club industry standard of financial viability, which is currently EBITDA of 15% for each venue or for a club group of venues in a financial year of the Amalgamated Club.

- (ii) upon the order of any Court or body with jurisdiction to administer the laws in relation to liquor, gaming and registered clubs;
 - (iii) upon the lawful order of any Government Agency to permanently cease trading from the WSC Premises, or revoking any licence, approval or consent necessary for the Amalgamated Club to continue trading from the WSC Premises and it is not reasonably possible (as determined by the Amalgamated Club) for the relevant licences, approvals or consents to be obtained;
 - (iv) if the WSC Premises were destroyed or partially destroyed by fire, flood, storm or other similar event such that it is not lawful for a licensed registered club to be operated from the WSC Premises except where appropriate insurance cover is available to reinstate or rebuild the WSC Premises, including the Clubhouse, to at least the same level and standard that the WSC Premises and Clubhouse were at Amalgamation Completion, or where it is otherwise economically viable to do so; or
 - (v) if required to avoid an Insolvency Event occurring in respect of the Amalgamated Club as determined by an independent company auditor.
- (e) For the purposes of clause 13(d)(i), the Amalgamated Club must:
- (i) prepare separate financial reports for the WSC Premises; and
 - (ii) not knowingly or wilfully do anything or omit to do anything which adversely impacts on the financial viability of the WSC Premises which is required by the Amalgamated Club for ongoing operations at the WSC Premises, including the imposition of inappropriate and unjustifiable Amalgamated Club allocations. The levying of Amalgamated Club expenses in relation to the business, management and operations of the WSC Premises and the reasonable expenditure on repairs, replacements, refurbishments, maintenance and upgrades to the WSC Premises or reasonable changes to the operating hours will not constitute the Amalgamated Club engaging in any acts which adversely impact upon the financial viability of the WSC Premises for the purposes of this clause.

14 MINIMUM PERIOD

Clause 7(2)(g) of the Registered Clubs Regulation

DRSL does not intend to cease trading from the WSC Premises and intends to operate the WSC Premises in the manner referred to in clause 8 for at least the Minimum Period and would only cease to trade in the circumstances referred to in clause 13.

15 TRADING, DEBT AND ASSET OBLIGATIONS OF WSC PENDING AMALGAMATION COMPLETION

15.1 General trading and maintenance of Assets by WSC pending Amalgamation Completion

- (a) On and from the date of this MOU up to Amalgamation Completion WSC must:
- (i) trade in the ordinary course of business and with due care and skill;
 - (ii) maintain the following insurance policies with a reputable insurer in Australia:
 - (A) public liability insurance in the amount of \$20,000,000 for each single claim, and unlimited in aggregate;
 - (B) property damage insurance to the full replacement value of all Assets insurable under such a policy; and
 - (C) workers compensation insurance;
 - (iii) maintain the Assets in the same state of repair as at the date of this MOU (subject to reasonable wear and tear) and keep the Assets insured in amounts representing their full replacement or reinstatement value against fire and other risks normally insured;
 - (iv) give DRSL a copy of its certificates of currency for any insurance policy held under subclauses (ii) and 15.1(a)(iii) on request;
 - (v) immediately notify DRSL of anything which may result in a claim on an insurance policy held under subclauses 15.1(a)(ii) and 15.1(a)(iii);
 - (vi) comply with any agreement to which it is a party;
 - (vii) carry on its operations with normal and prudent practice using best endeavours to reduce losses and increase profitability and use best endeavours to maintain and increase the value of the Assets;
 - (viii) provide DRSL each week (or at such other times as requested) any details or documents relating to the operation and financial position of WSC;
 - (ix) include all trading liabilities of WSC in the trading accounts of WSC prior to Amalgamation Completion, and be fully transparent and cooperative with DRSL regarding any requests for information or documentation in relation to its current and non-current liabilities in its annual accounts;
 - (x) comply with all applicable laws;
 - (xi) not do anything which may damage its reputation or the reputation of DRSL; and
 - (xii) not enter into any negotiations, discussions or communications with any other registered club with respect to a possible amalgamation with such a registered club.

15.2 Trading debts and other liabilities of WSC pending Amalgamation Completion

On and from the date of this MOU to Amalgamation Completion WSC must not without the prior written consent of DRSL:

- (a) incur any single actual debt or liability in excess of five thousand dollars (\$5,000) plus goods and services tax outside the usual ordinary course of business;
- (b) incur any contingent liabilities whether in relation to those operations or otherwise;
- (c) vary, enter into, or exercise any option to renew an agreement except in the ordinary course of its business;
- (d) enter into, terminate or alter any term of any material contract, arrangement or understanding including a lease, licence or easement in relation to its operations or otherwise except in the ordinary course of its business;
- (e) employ any person as a permanent employee (whether on part time or full time basis), or at any level above a level 3 classification under the *Registered and Licensed Clubs Award 2020* (whether on a part-time, full time or casual basis);
- (f) seek to borrow or borrow money from any third party; or
- (g) except in the usual and routine conduct of its operations, dispose of, lease, license, mortgage, charge or otherwise encumber, or permit any encumbrance to arise, over any of its Assets.

16 CO-OPERATION BETWEEN THE CLUBS

- (a) From the date of this MOU to Amalgamation Completion the parties will each nominate suitably authorised officers to hold regular discussions about:
 - (i) the management of WSC up to Amalgamation Completion;
 - (ii) the efficient transfer of the Assets and Club Licence of WSC to DRSL and efficient payment of liabilities of WSC by DRSL;
 - (iii) management of the transfer of the Members of WSC to DRSL under this MOU; and
 - (iv) any other matters considered necessary by the parties.
- (b) Both parties agree to carry out all acts necessary to give effect to this MOU promptly and in good faith.

17 DUE DILIGENCE

17.1 Due Diligence investigations

- (a) As at the date of this MOU, the parties have made available to the other their Records for the purposes of due diligence and, subject to this clause 17, have satisfactorily completed their due diligence investigations.
- (b) As at the date of this MOU, DRSL has not completed its due diligence inquiries in relation to the legal, financial, funding, accounting (including but not limited to payroll/superannuation records, accounts for current and non-current liabilities), compliance matters and the real property owned or licensed by WSC. For that purpose:
 - (i) WSC must make its Records available to DRSL for inspection and copying by DRSL or its authorised representatives for the purposes of due diligence, within a reasonable time of receiving a request from the other party;

- (ii) WSC permitting DRSL and its authorised representatives to enter and access any part of the land occupied by WSC for the conduct of its business(es) on request, in order to carry out inspections, surveys or any other assessment of the land (provided that DRSL must use reasonable endeavours not to unduly interfere with the trading activities of WSC on the WSC Premises);
- (iii) WSC signing all consents or applications (if necessary) as requested by DRSL to enable DRSL to complete its due diligence; and
- (iv) DRSL being satisfied (at its sole discretion) with the outcome of its due diligence investigations and not giving a notice of termination under clause 17.3.

17.2 Due Diligence timing

DRSL's due diligence investigations under clause 17.1 must be completed by the date of WSC's General Meeting referred to in clause 4.1(a).

17.3 Termination

Despite anything else in this MOU, if DRSL is not satisfied (in its sole discretion) with the outcome of its due diligence investigations under clause 17.1, DRSL may by the date of WSC's General Meeting referred to in clause 4.1(a) give written notice of termination of this MOU with immediate effect to WSC without penalty.

17.4 Effect of termination

Termination of this MOU pursuant to this clause 17 does not affect any right or Liability of a party accrued prior to such termination.

17.5 Confidentiality

Each party must comply with the terms of clause 19 of this MOU in respect of any information that is provided to it by the other club as part of the due diligence process.

18 PUBLICITY

A party must not make any public announcement or statement relating to the Amalgamation without the prior written consent of the other party (which must not be unreasonably withheld).

19 CONFIDENTIALITY

- (a) A party must not, and must ensure that its employees, agents and contractors do not, disclose any Confidential Information of the other party to any person except:
 - (i) as required to carry out its obligations under this MOU;
 - (ii) if required by law;
 - (iii) if the other party ceases to treat that information as being confidential; or
 - (iv) with the prior written consent of the other party.
- (b) If this MOU is terminated, then a party must return or destroy any Confidential Information of the other party in its possession in any form, at the request of the other party except to the extent it is required to retain such a Record for financial reporting purposes or under any law.

20 LIABILITIES

- (a) DRSL will be responsible for and pay when due all debts and liabilities of WSC:
 - (i) which have not been paid or discharged in full as at Amalgamation Completion, but DRSL may require a final reconciliation of all WSC's debts (current and non-current liabilities); and
 - (ii) which are reasonably incurred after Amalgamation Completion, including without limitation the costs of the winding up of WSC.
- (b) As at Amalgamation Completion, the total debts and liabilities of WSC must not exceed \$2,200,000 plus minor trading liabilities incurred by WSC in accordance with this MOU (or such higher amount as agreed by DRSL). If DRSL has advanced loan moneys to WSC prior to Amalgamation Completion for WSC to discharge the total debts and liabilities referred to in this clause, then that amount advanced by DRSL shall not be exceeded by WSC. That is, where DRSL is the lender and WSC's debts and liabilities have been discharged by DRSL, WSC must not incur other additional debts and liabilities other than those minor debts and liabilities incurred by WSC in accordance with this MOU.

21 TRANSFER OF ASSETS

21.1 Risk, title and insurance

The parties agree and acknowledge:

- (a) unencumbered legal and beneficial title to the business and in the Assets of WSC will pass to DRSL on Amalgamation Completion;
- (b) until Amalgamation Completion, WSC remains the owner of, and bears all risk in connection with, its business and the Assets; and
- (c) from Amalgamation Completion, the DRSL becomes the owner of and bears all risk in connection with such business and the Assets.

21.2 Benefit of contracts

If the Assets include the benefit of contracts with WSC which cannot effectively be assigned to DRSL without the consent of a third party or except by an agreement or novation:

- (a) prior to and after Amalgamation Completion, the parties will use all reasonable endeavours to obtain consent to assignment or to procure a novation of particular contracts specified by DRSL; and
- (b) unless and until consent is obtained or such contracts are novated DRSL will for its own benefit and to the extent that the contracts permit, perform on behalf of WSC (but at DRSL's expense) all the obligations of WSC arising after Amalgamation Completion.

21.3 Amalgamation Completion

- (a) WSC must on Amalgamation Completion (unless otherwise specified in this MOU or unless it is required to retain such items by law until completion of the winding up and de-registration of WSC):
 - (i) **(Assets)** deliver to DRSL duly signed transfer and similar forms in respect of all Assets that require such forms for their transfer;

- (ii) **(intellectual property rights)** assign and transfer absolutely all its right, title and interest in all intellectual property rights (including but not limited to all proposals, expressions of interest, plans, feasibility studies and any other documentation relating to WSC's proposed alternate uses and redevelopment and ongoing operation prepared by Augusta Advisors) by delivering to DRSL deeds of assignment or transfers of such Assets all in form and substance reasonably required by DRSL;
 - (iii) **(delivery)** deliver to DRSL those Assets, including plant and equipment, capable of transfer by leaving those Assets in situ at the WSC Premises;
 - (iv) **(possession)** permit DRSL to take possession of all those Assets which are not on the WSC Premises, at the location where they are usually retained;
 - (v) **(Records)** deliver to DRSL the Records;
 - (vi) **(IT Asset licences)** deliver to DRSL executed transfers or assignments in favour of DRSL of all information technology Asset licences;
 - (vii) **(deeds of assignment or novation)** deliver to DRSL duly executed deeds of assignment or novation, all in form and substance as reasonably required by DRSL in respect of all contracts;
 - (viii) **(release of encumbrances)** deliver evidence satisfactory to DRSL of the release of all encumbrances (if any) over its business and the Assets;
 - (ix) **(consents and approvals)** deliver to DRSL signed copies of all required Government Agency and regulatory approvals or other third party approvals and consents to the actions required by this MOU;
 - (x) **(utilities)** surrender or cause to be surrendered all telephone and related lines, electricity, gas and other utility services as relate to the WSC Premises
 - (xi) **(general)** deliver to DRSL such other documents and material and do all other things reasonably required to effect the transfer of the business of WSC and the Assets to DRSL on Amalgamation Completion and perform all other obligations to be performed by WSC on Amalgamation Completion under this MOU.
- (b) WSC must give DRSL or its solicitors all such documents within a reasonable period prior to Amalgamation Completion for stamping where necessary. All such documents must be held by DRSL or its solicitors in escrow pending Amalgamation Completion.
 - (c) On winding up of WSC it must give to DRSL the balance of all records described in clause 21.3(a).

22 DISSOLUTION OF WSC

- (a) After Amalgamation Completion at such time as agreed between WSC and DRSL, WSC will:
 - (i) call a general meeting of its Members entitled to vote under its constituent documents to consider and, if thought fit, pass the resolutions required for a members voluntary winding up of WSC; and
 - (ii) carry out all acts necessary to effect such winding up after the approval of those Members has been given.

- (b) Each of the parties warrant to the other that it will co-operate with the other and their respective advisors, and provide all documents and information reasonably required, for the preparation, lodgement and finalisation of matters referred to in this clause 22.
- (c) This clause 22 survives Amalgamation Completion.

23 FORCE MAJEURE

- (a) A party is deemed not to be in breach of an obligation under this MOU if it cannot comply with its obligations because of a Force Majeure Event.
- (b) A party which is subject to a Force Majeure Event must take all reasonable steps to mitigate the effects of that event, keep the other party notified of progress of mitigation actions, and comply with its obligations under this MOU.

24 REPRESENTATIONS AND WARRANTIES

24.1 General

Each party represents and warrants that:

- (a) it has full power and authority to enter into and perform its obligations under this MOU;
- (b) to the best of its knowledge:
 - (i) the Records and accounts which it has given to the other party before the execution of this MOU contain all information necessary to give a true and fair view of its financial situation and state of affairs and are prepared in accordance with any applicable Accounting Standard;
 - (ii) it has complied with all laws relating to payment of taxes;
 - (iii) each of the representations and warranties it has made in this MOU are correct; and
 - (iv) all information that it has provided to the other party is true and correct in all respects and is not misleading by omission of information.

24.2 WSC warranties

WSC represents and warrants that:

- (a) it is the registered proprietor of the WSC Premises;
- (b) it is not a tenant or licensee of any other premises or land; and
- (c) it does not own any premises or land other than the WSC Premises.

25 DISPUTE RESOLUTION

- (a) A party must not commence proceedings in relation to a dispute under this MOU without first following the procedures in this clause, except to seek urgent injunctive or other interlocutory relief.
- (b) If there is a dispute between the parties, then either party may give a notice to the other which must:
 - (i) succinctly set out the details of the dispute; and

- (ii) state that it is a dispute notice given under this clause.
- (c) The parties must meet within 5 Business Days after the date of delivery of the dispute notice and attempt to resolve the dispute.
- (d) Each party must use its best endeavours to resolve the dispute and act in good faith.
- (e) If the parties cannot solve the dispute within a further 10 Business Days, either party may refer the dispute for mediation by giving the other party notice.
- (f) A mediation conducted under this clause will be in accordance with the mediation rules of the Law Society of New South Wales and the President of the Law Society of NSW (or his or her nominee) will determine the mediator's remuneration.
- (g) If a dispute is not resolved by mediation under this clause within 30 Business Days of referral to a mediator, or a longer period agreed by the parties, any party may take any action available to it at law.

26 TERMINATION

- (a) In addition to the termination right of DRSL contained in clause 17.3, a party may terminate this MOU immediately by giving notice to the other party if:
 - (i) the Members of either party do not approve the resolutions proposed under clauses 4.1 and 4.2;
 - (ii) the Authority refuses the Amalgamation Application;
 - (iii) Amalgamation Completion does not occur by the Sunset Date (or such later date as may be agreed by the parties in writing);
 - (iv) the other party is in breach of an obligation under this MOU and:
 - (A) that breach is not capable of rectification; or
 - (B) the other party fails to rectify that breach within 10 Business Days of being given notice to do so; or
 - (v) the other party suffers an Insolvency Event, subject to the Act.
- (b) DRSL may terminate this MOU:
 - (i) immediately by giving notice to WSC if the Authority proposes to approve the Amalgamation Application on terms and conditions which are unacceptable to DRSL in its absolute discretion; or
 - (ii) immediately by giving notice to WSC if the total debts and liabilities of WSC as at Amalgamation Completion exceed the amount stated in clause 20(b) (or such higher amount as may be agreed by DRSL under that clause); or
 - (iii) immediately by giving notice to WSC if WSC's CEO (Dean McCarthy) as at the date of this MOU has not resigned from his employment and/or his Employee Entitlements and superannuation contributions have not been paid by WSC in accordance with clause 9.1(d).
- (c) Termination of this MOU by a party under clauses 17.3, 26(a)(i), 26(a)(ii), 26(b)(i) or 26(a)(iii) is without penalty to either party.

27 COSTS AND STAMP DUTY

27.1 Cost and expenses

Subject to any other express provision of this MOU, each party must pay its own legal and other costs and expenses relating to:

- (a) negotiation, preparation and execution of this MOU; and
- (b) effecting Amalgamation Completion.

27.2 Stamp duty

DRSL must pay any stamp duty assessable in relation to this MOU.

28 NOTICES

- (a) A notice, approval, consent or other communication to a person relating to this MOU must be in writing and executed by duly authorised persons.
- (b) If the notice is to the DRSL then it must be addressed as follows:
 - (i) **Name:** Dubbo RSL Memorial Club Limited
 - (ii) **Attention:** Agostino (Gus) Lico
 - (iii) **Address:** 178-188 Brisbane Street Dubbo NSW 2830
 - (iv) **Email:** rslgm@dubborisl.com.au
- (c) If the notice is to WSC then it must be addressed as follows:
 - (i) **Name:** Wingham District Memorial Services Club Ltd
 - (ii) **Attention:** CEO/Secretary
 - (iii) **Address:** 28-38 Bent Street, Wingham NSW 2429
 - (iv) **Email:** manager@winghamservicesclub.com.au
- (d) Notice is sent by the sender and received by the receiver:
- (e) if the notice is hand delivered, upon delivery to the receiving party; or
- (f) if the notice is sent by email, upon the successful completion of the relevant transmission;
- (g) if the notice is sent by post, two (2) business days after the notice is posted.

29 GENERAL

29.1 Governing law and Jurisdiction

- (a) This MOU is governed by the laws of New South Wales.
- (b) The parties submit to the New South Wales. The parties' submission to the jurisdiction includes submission to a court of appeal.

29.2 Service

A document may be served on a party by delivering it to that party in accordance with the notice provisions of clause 28.

29.3 Severability

- (a) If a provision of this MOU is invalid, illegal or unenforceable, then that provision to the extent of the invalidity, illegality or unenforceability must be ignored in the interpretation of this MOU.
- (b) All the other provisions of this MOU remain in full force and effect.

29.4 No waiver

- (a) A party's agreement to waive a right or entitlement under this MOU is only effective if that party gives written notice of that waiver to the party seeking the benefit of the waiver.
- (b) Waiver by a party of anything required to be done under this MOU is not a waiver of any other thing required to be done under this MOU.
- (c) A failure or delay in exercising a right arising from a breach of this MOU is not a waiver of that right.

29.5 Variation

The parties can only vary a term of this MOU if the variation is in writing and both parties sign.

29.6 Further assurances

Each party must do everything necessary in good faith to give full effect to this MOU.

29.7 Entire agreement

This MOU:

- (a) is the entire agreement between the parties with respect to the Amalgamation; and
- (b) supersedes all previous agreements.

29.8 Counterparts

- (a) A party may execute this MOU by signing any counterpart. All counterparts constitute one document when taken together.
- (b) Satisfactory evidence of execution of this MOU will include evidence by email or facsimile of execution by the relevant party and in such case the executing party undertakes to provide the other party with an original of the executing party's counterpart as soon as reasonably practicable after execution.

29.9 Electronic execution

A party may sign this MOU electronically through DocuSign or similar or by signing a copy of this MOU and scanning the copy of the deed to other parties, and bind itself accordingly. This will satisfy any statutory or other requirements for this MOU to be in writing and signed by that party.

29.10 Assignment

Neither party may can assign this MOU or any right, obligation or benefit under it.

NOTES

1. Before this MOU was executed, the Clubs each displayed notices to members which are required under section 17AE of the *Registered Clubs Act 1976* (NSW) and clause 4(5) of the *Registered Clubs Regulation 2015* (NSW).
2. This MOU is to be:
 - (a) made available to the ordinary members of WSC and the DRSL at least twenty one (21) days before any meeting of the members of each Club for the purpose of voting on whether to approve the proposed amalgamation.
 - (b) made available for inspection on the premises of each club (i.e. on notice boards) and on the website of each club for at least twenty one (21) days before any meeting as referred to in paragraph (a) of these Notes is held;
 - (c) lodged with any application under section 60 of the *Liquor Act 2007* (NSW) to transfer the club licence held by WSC to the DRSL

Schedule 1

Resolution to be put to members of WSC
--

Ordinary Resolution

"That the ordinary members of Wingham District Memorial Services Club Ltd hereby:

1. *approve in principle the amalgamation of Wingham District Memorial Services Club Ltd ABN 15 000 982 730 (**WSC**) with Dubbo RSL Memorial Club Ltd ABN 18 000 965 355 (**DRSL**) such an amalgamation to be effected by:*
 - (a) *the continuation of DRSL (as the amalgamated club) and the dissolution of WSC;*
 - (b) *the transfer of WSC's assets (including land) to DRSL; and*
 - (c) *the transfer of the club licence of WSC to DRSL;*

2. *approve in principle the making of an application to the Independent Liquor and Gaming Authority for the transfer of the club licence of WSC to DRSL for the purposes of such an amalgamation."*

Schedule 2

Resolutions to be put to members of DRSL

Ordinary Resolution

"That the members hereby:

1. approve in principle the amalgamation of Wingham District Memorial Services Club Ltd ABN 15 000 982 730 (**WSC**) with Dubbo RSL Memorial Club Ltd ABN 18 000 965 355 (**DRSL**) such an amalgamation to be effected by:
 - (a) the continuation of DRSL (as the amalgamated club) and the dissolution of WSC;
 - (b) the transfer of WSC's assets (including land) to DRSL; and
 - (c) the transfer of the club licence of WSC to DRSL;

and

2. approve in principle the making of an application to the Independent Liquor and Gaming Authority for the transfer of the club licence of WSC to DRSL for the purposes of such an amalgamation."

Special Resolution (to be considered only if the Ordinary Resolution is passed)

"That on the date on which the Independent Liquor and Gaming Authority transfers the club licence of Wingham District Memorial Services Club Ltd ABN 15 000 982 730 (**WSC**) with Dubbo RSL Memorial Club Ltd ABN 18 000 965 355 (**DRSL**), the Constitution of DRSL be amended by:

- inserting the following new rule 20(e):

"(e) Wingham Services Club members."
- inserting new rule 23(e):

"(e) **Wingham Services Club members**
Wingham Services Club members shall be those persons who are full members (as defined in the Registered Clubs Act) and are not Junior members of Wingham District Memorial Services Club Ltd ABN 15 000 982 730 and who were admitted to membership of the Club pursuant to Rule 34A for the purposes of the amalgamation between the Club and Wingham District Memorial Services Club Ltd."
- Deleting rule 25 and inserting instead the following new rule 25:

"25. Only Life members, financial R.S.L members, financial Associate members, financial Dubbo City Bowling Club members and financial Wingham Services Club members are entitled (subject to any further restriction in this Constitution):

 - (a) to attend and to vote at all General Meetings (except that Associate members, Dubbo City Bowling Club members and Wingham Services Club members are not entitled to vote on any Special Resolution to alter or amend this Constitution);
 - (b) to vote at the election of the Board; and
 - (c) to be nominated for, elected to and hold office on the Board."

- Inserting new rule 34A(e) immediately after existing rule 34A(d):

"(e) Whenever the Club, as the continuing club or parent club, completes an amalgamation with another registered club as the dissolving or child club (**Amalgamating Club**) under the Registered Clubs Act and Liquor Act, each full member (as defined by the Registered Clubs Act) of the Amalgamating Club who is admitted as a Full member of the Club pursuant to the amalgamation and whilst they continue to be a Full member of the Club, must for the purposes of section 17AC(2) of the Registered Clubs Act be identified in the Club's records by a descriptor chosen by the Board that identified them as a former member of the Amalgamating Club."
- Deleting rule 50(b) and inserting instead the following new rule 50(b):


"(b) The Officers of the Board are the President, two (2) Vice Presidents and four (4) Ordinary Members of the Board. The President, two (2) Vice Presidents and one (1) Ordinary Member of the Board must be Life members or RSL members. The remaining three (3) Ordinary Members of the Board must be Life members, Associate members, Dubbo City Bowling Club members or Wingham Services Club members."
- Deleting rule 51(d) and inserting instead the following new rule 51(d):

"(d) A person must not be nominated for or elected to or hold office as a member of the Board unless he or she is a Life member, R.S.L member, Associate member, Dubbo City Bowling Club member, or Wingham Services Club member."
- Deleting rule 52(a) and inserting instead the following new rule 52(a):

"(a) Nominations for election of person who are Life members or R.S.L members must be made in writing and signed by 2 members who must be Life members or R.S.L members. Nominations for election of persons who are Associate members, Dubbo City Bowling Club members or Wingham Services Club members must be made in writing and signed by 2 members who must be Life members, R.S.L members or Associate members. The nominee must signify his or her consent to the nomination in writing."

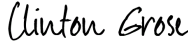
Executed as a deed.

**Executed by Dubbo RSL Memorial Club Ltd
ABN 18 000 965 355** in accordance with
section 127 of the *Corporations Act 2001* (Cth):

DocuSigned by:

0B8FAEC29BA6449...
*Director/*Company Secretary

Agostino Lico

Name of *Director/*Company Secretary
(BLOCK LETTERS)
*please delete as appropriate

DocuSigned by:

6284DB227AAE481...
Director

Clinton Grose

Name of Director
(BLOCK LETTERS)


**Executed by Wingham District Memorial
Services Club Ltd ABN 15 000 982 730** in
accordance with section 127 of the
Corporations Act 2001 (Cth):

DocuSigned by:

C5C014C4EBCD4A4...
*Director/*Company Secretary

Ron Sullivan

Name of *Director/*Company Secretary
(BLOCK LETTERS)
*please delete as appropriate

DocuSigned by:

7E1043C1E1434D2...
Director

James Charles Dean

Name of Director
(BLOCK LETTERS)