
Thomson Geer

Lawyers

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

Lake Cathie Bowling & Recreation Club Ltd
ABN 65 000 995 595
(LCBRC)

Thomson Geer

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Memorandum of Understanding

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This Memorandum of Understanding is made on..... 7 January 2025 ~~2024~~

BETWEEN

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

and

LAKE CATHIE BOWLING & RECREATION CLUB LTD (ABN 65 000 995 595) of 45 Evans Street, Lake Cathie NSW 2445 (**LCBRC**).

BACKGROUND

- A. DRSL and LCBRC operate as registered clubs.
- B. LCBRC called for expressions of interest in amalgamation from other registered clubs.
- C. DRSL submitted an expression of interest to LCBRC.
- D. LCBRC has accepted the expression of interest from DRSL and, following further negotiation, DRSL and LCBRC have agreed to the terms set out in this MOU.
- E. DRSL and LCBRC 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 9.2(a);
- (b) **Amalgamated Club** mean the registered club from the amalgamation of the DRSL and LCBRC, the corporate vehicle of which will be DRSL;
- (c) **Amalgamation Application** means the application by the Clubs for the transfer of LCBRC'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 LCBRC are transferred to DRSL the Final Order is granted (i.e. being a transfer of LCBRC's Club Licence to DRSL);
- (e) **Assets** means all of the goodwill, land, buildings, personal property, equipment, stock, intellectual property, Club Licence and gaming machine entitlements, gaming machines, contracts, agreements and all other property (including leases of property, including leases of land such as the Crown Leases), tangible or intangible belonging to LCBRC 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 LCBRC Premises;
- (k) **Clubs** means the DRSL and LCBRC;
- (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) **Corporations Act** means the *Corporation Act 2001 (Cth)*;
- (o) **CPI** means:
 - (i) the All Groups Consumer Price Index applicable to Sydney published by the Australian Bureau of Statistics; or
 - (ii) if the price index referred to in paragraph (i) of this definition is discontinued or abolished or if the items or weighting of the items whose prices are considered vary so as to change the basis of the price index then any price index the Club selects that, as nearly as practicable, serves the same purpose;
- (p) **Crown Leases** means the following leases of the Leasehold Lots:
 - (i) Special Lease 1971/2 referred to on the title to all of the Leasehold Lots; and
 - (ii) Perpetual Lease referred to on the title to all of the Leasehold Lots;which are subject to the provisions of the *Crown Land Management Act 2016 (NSW)*;
- (q) **Debts** means the accumulated debts of LCBRC at the time of Amalgamation Completion;
- (r) **DRSL's CEO** means the individual who fulfils the Secretary or Secretary Manager's role at DRSL;
- (s) **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;
- (t) **EBITDA** means earnings before interest, taxes, depreciation and amortisation;

- (u) **Employee Entitlements** means all entitlements to salary or wages, annual leave, long service leave and other entitlements under any industrial instrument or agreement between LCBRC and any of its employees;
- (v) **Final Order** means the final order pursuant to Section 60(8) of the Liquor Act by the Authority whereby LCBRC's Club Licence is transferred to the DRSL;
- (w) **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;
- (x) **Freehold Lots** means those parts of the LCBRC Premises which contain the Clubhouse and car park and are held by LCBRC as registered proprietor/owner, being the following lots:
 - (i) Lot 10 in section 3 in deposited plan 253295 contained in title reference auto consol 15389-30;
 - (ii) Lot 11 in section 3 in deposited plan 253295 contained in title reference auto consol 15389-30;
 - (iii) Lot 635 in deposited plan 754434 contained in title reference auto consol 15389-30;
 - (iv) Lot 651 in deposited plan 43906 contained in title reference auto consol 15389-30; and
 - (v) Lot 658 in Deposited Plan 495953 contained in title reference folio identifier 658/495953;
- (y) **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;
- (z) **GST** means Goods and Services Tax under A New Tax System (Goods and Services Tax) Act 1999;
- (aa) **LCBRC's CEO** means the individual who fulfils the Secretary or Secretary Manager's role at LCBRC as at the date of this MOU;
- (bb) **LCBRC Premises** means LCBRC's freehold and leasehold premises known as Lake Cathie Bowling & Recreation Club located at 45 Evans Street, Lake Cathie NSW

2445, being the Freehold Lots and Leasehold Lots comprising the Clubhouse, members and guests facilities, including bowling greens and car park.

- (cc) **Leasehold Lots** means those parts of the LCBRC Premises which contain the bowling greens and associated improvements and which are occupied by LCBRC under the Crown Leases, being the following lots:
- (i) Lot 636 in deposited plan 754434 contained in title reference folio identifier 636/754434;
 - (ii) Lot 652 in deposited plan 43906 contained in title reference folio identifier 652/43906; and
 - (iii) Lot 695 in deposited plan 729823 contained in title reference folio identifier 695/729823;
- (dd) **Liabilities** means all liabilities, losses, damages, outgoing, costs and expenses of LCBRC (whatever description) as at Amalgamation Completion;
- (ee) **Liquor Act** means the *Liquor Act 2007* (NSW) and its associated regulations;
- (ff) **Major Assets of LCBRC** means the LCBRC Premises (being the core property of LCBRC);
- (gg) **Member** means a member of either LCBRC, DRSL or the Amalgamated Club as the case may be, as shown on the relevant club's register of members at the relevant time;
- (hh) **Minimum Period** means the period of three (3) years commencing on the date of Amalgamation Completion;
- (ii) **MOU** means this Memorandum of Understanding;
- (jj) **Party** includes the management and Board of Directors of LCBRC and the DRSL respectively;
- (kk) **Provisional Order** means the provisional approval of the Amalgamation Application by the Authority pursuant to Section 60(7) of the *Liquor Act*;
- (ll) **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 LCBRC in the conduct of LCBRC's business including but not limited to corporate, accounting and statutory records;
- (mm) **Registered Clubs Act** means the *Registered Clubs Act 1976* (NSW) and its associated regulations;
- (nn) **Registered Clubs Regulation** means the *Registered Clubs Regulation 2015* (NSW); and
- (oo) **Sunset Date** means the date which is twelve (12) months after the date of this MOU.

1.2 Interpretation

In this MOU unless the context otherwise requires:

- (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 LCBRC, and transfer of the Assets and Club Licence of LCBRC 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 LCBRC 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 LCBRC 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 LCBRC will be transferred to the DRSL in the manner referred to in clause 23;
 - (ii) all eligible members of LCBRC will, with their consent, be admitted as members of the DRSL in accordance with the procedure set out in clause 5;
 - (iii) employees of LCBRC 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, LCBRC Premises will become additional licensed premises of the DRSL and will be available to all members of the Amalgamated Club. LCBRC Premises will be operated in the manner set out in clauses 4; 9, 10 and 12.
- (h) after Amalgamation Completion, LCBRC will be liquidated or otherwise voluntarily struck off and/or deregistered in the manner referred to in clause 24.

4 APPROVALS

4.1 LCBRC Meeting

- (a) LCBRC will convene a general meeting of the Members of LCBRC 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 LCBRC 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 LCBRC 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 LCBRC 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 LCBRC 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 LCBRC 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 LCBRC, 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 LCBRC will:
 - (i) not become a Life member of the Amalgamated Club; and
 - (ii) continue to be recognised as a Life member of LCBRC but only in respect of LCBRC Premises and the relevant sub club(s) at the LCBRC 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, LCBRC 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 LCBRC:
 - (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) LCBRC 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 LEASES FOR THE LEASEHOLD LOTS

- (a) DRSL enters into this MOU subject to having the right to occupy the Leasehold Lots on and from Amalgamation Completion pursuant to assignment and novation of the Crown Leases for the Leasehold Lots on terms acceptable to DRSL in its absolute discretion. That is, this MOU is conditional upon the Crown Leases being assigned to DRSL on Amalgamation Completion on terms acceptable to DRL in its absolute discretion.
- (b) LCBRC acknowledges and agrees that:
 - (i) the Perpetual Lease for that part of the Leasehold Lots does not have an expiry date;
 - (ii) the Special Lease for that part of the Leasehold Lots is subject to periodic or annual renewal; and
 - (iii) the annual rent payable under the Crown Leases (i.e. rent under both the Perpetual Lease and Special Lease) is \$14,500 per annum as at the date of this MOU; andthat DRSL expects that an assignment and novation of the Leasehold Lots must be consistent with these requirements from the date of such assignment and novation and not change the terms and conditions of those tenures.
- (c) LCBRC must do all things reasonably required by DRSL or any Government Agency to facilitate the assignment and novation of the Crown Leases to DRSL, such transfer and novation to be effective on Amalgamation Completion.

6 ENCROACHMENT OF CLUBHOUSE IMPROVEMENTS ONTO PART OF THE LEASEHOLD LOTS

- (a) LCBRC discloses to DRSL that part of the Clubhouse located on that part of the Freehold Lots contained in lot 651 in Deposited Plan 43906 and lot 658 in Deposited Plan 45953 (**Clubhouse Encroachment**) encroach onto part of the Leasehold Lots being lot 636 in Deposited Plan 754434 and Lot 652 in Deposited Plan 43906 (**Encroached Leasehold Lots**).
- (b) LCBRC warrants that, in respect of the Clubhouse Encroachment onto the Encroached Leasehold Lots:
 - (i) a one off compensation payment has been made by LCBRC to the Department of Crown Lands, such payment being for an amount agreed by LCBRC and Department of Crown Lands in full and final settlement for the Clubhouse Encroachment; and
 - (ii) as at the date of this MOU, LCBRC is awaiting formal confirmation from the Department of Crown Land regarding the registration of an easement over that part of the Encroached Leasehold Lots for the area of the Clubhouse Encroachment to the registered proprietor of the aforementioned Freehold Lots which include the Clubhouse Encroachment (**Easement**).
- (c) DRSL enters into this MOU subject to the Easement being registered or registrable on the title to the Encroached Leasehold Lots on or before Amalgamation Completion and there being no further compensation payable to the Department of Crown Lands

or any other Government Agency in relation to the Clubhouse Encroachment or Easement or their subject matter.

- (d) LCBRC must do all things reasonably required by the Department of Crown Lands and any Government Agency to register the Easement over the Encroached Leasehold Lots on or before Amalgamation Completion.

7 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 (closed) class of Ordinary members of DRSL to be known as "Lake Cathie Bowling & Recreation Club members";
- (b) As soon as practicable after the Provisional Order, DRSL will send every Member of LCBRC (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 LCBRC 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 Lake Cathie Bowling & Recreation Club membership or such classes of ordinary membership of DRSL for which they are eligible to join. For example, Junior members of LCBRC can join DRSL as Junior Sporting members of DRSL. In relation to Life Members of LCBRC, refer to clause 7(e).
- (c) A Member of LCBRC 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 LCBRC 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 LCBRC, and becomes an Ordinary member of the Amalgamated Club:
 - (i) will continue to be recognised as a Life Member in respect of the LCBRC Premises and the relevant sub clubs(s) at the LCBRC Premises and they will not be required to pay an annual LCBRC 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.

8 FUTURE MANAGEMENT OF THE LCBRC PREMISES

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

8.1 General

- (a) The LCBRC Premises will become additional registered club premises of DRSL.

- (b) The Amalgamated Club will operate and trade from the DRSL Premises and LCBRC Premises.
- (c) The LCBRC 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 LCBRC Premises with effect from Amalgamation Completion.

8.2 **Management structure, Secretary/CEO of the Amalgamated Club and Manager of the LCBRC 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) For the purposes of section 66 of the Liquor Act, the Amalgamated Club will appoint LCBRC's CEO as the approved manager for the LCBRC Premises on terms no less favourable than the terms of his current employment with LCBRC, unless LCBRC's CEO is a different person to whom filled the role at the date of this MOU in which case DRSL will determine the person (and terms on which the person) is to be appointed as the approved manager for the LCBRC Premises.

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

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

9.1 **General**

- (a) The traditions, amenities and memorabilia of LCBRC will be maintained by the Amalgamated Club at the LCBRC Premises.
- (b) Any honour boards at the LCBRC 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 LCBRC Premises.

9.2 **Advisory Committee**

- (a) On Amalgamation Completion the Board of DRSL will create the "Lake Cathie Bowling & Recreation 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 (except if such powers are delegated to it by the Board and management of DRSL) 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 "**LCBRC Advisory Committee Members**"):
- (i) the existing Chairperson and the two Deputy Chairpersons of LCBRC as at the date Amalgamation Completion; or
 - (ii) if any of the directors referred to in clause 9.2(c)(i) are not willing to form the Advisory Committee, then any other member of LCBRC approved by the Board of LCBRC,

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 LCBRC 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 following Amalgamation Completion provided there is sufficient time to allow for nominations and elections to be held and if there is not sufficient time then on or before the date of DRSL's subsequent Annual General Meeting. 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 LCBRC Advisory Committee Members, the Advisory Committee will comprise of five (5) members being:
- (i) the Approved Manager of LCBRC Premises;
 - (ii) DRSL's CEO or their delegate; and
 - (iii) three (3) Lake Cathie Bowling & Recreation Club members,
- elected in accordance with this clause 9.2.
- (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 LCBRC Premises;
 - (ii) ClubGRANTS to be made by the Amalgamated Club that are attributable to the LCBRC Premises;
 - (iii) membership matters at the LCBRC 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 Lake Cathie Bowling & Recreation Club members and the LCBRC 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 time 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 LCBRC Premises, for use by the Advisory Committee only.
- (k) After the first election of the LCBRC Advisory Committee Members referred to in clause 9.2(e), the LCBRC 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 LCBRC Advisory Committee Members will be elected by Lake Cathie Bowling & Recreation Club members of the Amalgamated Club only.
- (m) The Advisory Committee shall be in force and effect for at least 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.

9.3 **Bowling Activities and Bowling Sub-Club**

- (a) DRSL recognises that LCBRC has a bowling sub club called "Lake Cathie Bowling Club".
- (b) DRSL agrees that the bowling sub-club will be created as a sub club of the Amalgamated Club and be eligible to affiliate with BowlsNSW or such other bodies controlling bowls in New South Wales on such terms and conditions (not inconsistent with the Constitution of DRSL or the Registered Clubs Act) as such controlling bodies may from time to time require.
- (c) DRSL agrees that for two (2) years from the date of Amalgamation Completion:
 - (i) the green fees at the LCBRC Premises will remain at \$15.00 per player; and
 - (ii) the bowling sub club will retain \$10.00 from each green fees per player.
- (d) After the two (2) year period specified in clause 9.2(c) any increase in green fees portion or percentage of the green fees to be retained by the bowling sub-club will be determined by the Amalgamated Club's Board. However, the Amalgamated Club agrees that the bowling sub-club will be entitled to retain sufficient funds (as determined by the Board acting reasonably and in good faith) from the green fees collected at the LCBRC Premises to ensure the proper management, administration and operation of the sub-club activities..

- (e) The Amalgamated Club will be responsible for the costs for the maintenance and repair of the bowling greens and surrounds (including any upgrades or refurbishments which may be required from time to time).

9.4 Other Sub Clubs

- (a) DRSL acknowledges that the fishing and social golf sub-clubs also exist at the LCBRC Premises and it undertakes to create those sub clubs as sub clubs of the Amalgamated Club and support the activities of each of these sub-clubs (including without limitation, by providing financial support to those sub clubs) for as long as those sub-clubs have a minimum number of 20 members per sub-club or such other number determined by the Board acting reasonably and in good faith make them financially viable.
- (b) If, at the date of this MOU, there are any sub-clubs at the LCBRC Premises (other than the bowling, fishing and golf sub-clubs referred to above), the Board of the DRSL will allow those sub-clubs to continue to exist provided all members of those sub clubs become members of DRSL and provided they retain a minimum number of 20 members per sub-club, or such number determined by the Board acting reasonably and in good faith make them financially viable.

10 INTENTIONS REGARDING THE FUTURE DIRECTION OF THE AMALGAMATED CLUB

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

10.1 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 LCBRC Premises under the name "Lake Cathie Bowling & Recreation 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 LCBRC Premises will be named and trade under such name as determined by the Board in consultation with the Advisory Committee.

10.2 LCBRC Premises and facilities

- (a) Subject to clauses 14 and 15, the Amalgamated Club will:
 - (i) maintain the LCBRC Premises and carry on the business of a licensed registered club under the Registered Clubs Act and Liquor Act at the LCBRC Premises with the usual facilities and amenities of a registered club in accordance with this clause 10;
 - (ii) undertake the following upgrades, repairs, replacements, refurbishments and renovations to the LCBRC Premises and facilities:
 - (A) renovate the functions room area to ensure proper segregation from non-functions areas of the LCBRC Premises within three (3) years after Amalgamation Completion;
 - (B) install minor kitchen equipment as considered necessary and appropriate within two (2) years after Amalgamation Completion;

- (C) renovate the bathrooms in the Clubhouse within three (3) years after Amalgamation Completion;
 - (D) renovate the front entrance to reception of the Clubhouse located at the LCBRC Premises within three (3) years after Amalgamation Completion;
 - (E) upgrade and replace the gaming machines installed at the LCBRC Premises immediately or as soon as is practicably possible after Amalgamation Completion; and
 - (F) create a larger outdoor gaming area to accommodate a better installation of gaming machines immediately or as soon as is practicably possible after Amalgamation Completion;
- (iii) introduce its existing members benefits programs at the LCBRC Premises.
- (b) LCBRC Premises will continue to trade for at least 3 years post Amalgamation Completion. The Amalgamated Club intends to trade LCBRC Premises for so long as it is financially viable to do so and provided LCBRC Premises has tenure.

10.3 Amenities

- (a) DRSL agrees to take an assignment of the contract for the Bistro Caterer in place as at the date of this MOU, which is to remain in effect for 12 months after the date of Amalgamation Completion, unless it is terminated earlier under its terms (e.g. because of default) and subject to the Bistro Caterer accepting a renewal or extension of the contract for a period of up to 12 months after Amalgamation Completion to be offered under clause 2.3 of the contract by either LCBRC or DRSL, as the case may be.
- (b) DRSL agrees to take an assignment of the contract for the Bowls Co-Ordinator in place as at the date of this MOU, who is to remain engaged on a part time basis, subject to the contract being reviewed by DRSL/the Amalgamated Club 12 months after the date of Amalgamation Completion.

10.4 Payment of Subscriptions

DRSL will treat any annual subscriptions which have been paid to LCBRC 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.

11 EMPLOYEES

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

11.1 LCBRC Employees

- (a) As part of the Amalgamation, LCBRC will be wound up/liquidated and deregistered. As part of the winding up/liquidation of LCBRC and but for the following paragraphs of this clause 11, the employment of all LCBRC's employees by LCBRC would otherwise come to an end.
- (b) Prior to the Amalgamation Completion and after the Provisional Order, DRSL will offer employment to each of LCBRC's current employees employed by LCBRC as at the

date of this MOU, and any subsequently engaged employee (if they are approved by DRSL under clause and subject to clause 17.2), 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 LCBRC 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) For the purposes of section 66 of the Liquor Act, the Amalgamated Club will appoint LCBRC's CEO as the approved manager for the LCBRC Premises on terms no less favourable than the terms of his current employment with LCBRC, unless LCBRC's CEO is a different person to whom filled the role at the date of this MOU in which case DRSL will determine the person (and terms on which the person) is to be appointed as the approved manager for the LCBRC Premises. LCBRC will terminate the employment of all its employees in writing, or accept their written resignation, on Amalgamation Completion.
- (d) Any employee of LCBRC who accepts in writing an offer from DRSL made under clause 11.1(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 LCBRC up to and including Amalgamation Completion will be recognised by the Amalgamated Club.
- (e) If any employee of LCBRC does not receive or accept an offer of employment from DRSL made in accordance with clause 11.1(b), then:
- (i) that employee will be paid all accrued Employee Entitlements by LCBRC as at Amalgamation Completion, which will be the end date of that employee's employment by LCBRC (unless the employee's employment ceases prior to Amalgamation Completion);
 - (ii) LCBRC 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) LCBRC will obtain written acknowledgment of receipt of such payments from that employee as at Amalgamation Completion.

11.2 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.

12 INTENTIONS FOR LCBRC'S ASSETS

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

12.1 Major Assets

- (a) For the purposes of the Registered Clubs Act, the LCBRC Premises are the "core property" of LCBRC for the purposes of section 41E of the Registered Clubs Act and

Thomson Geer

Memorandum of Understanding

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are the Major Assets of LCBRC for the purposes of section 17A1 of the Registered Clubs Act.

- (b) Subject to this MOU, the DRSL will retain the core property of LCBRC and operate the LCBRC Premises for at least the Minimum Period in the manner referred to in clause 10. Continuation of trade and retention of the core property/Major Assets of LCBRC after the Minimum Period is subject to clause 15 of this MOU.

12.2 Cash and Investments

The cash and investments of LCBRC (if any) will be transferred in accordance with clause 23 to the general reserves of the Amalgamated Club.

12.3 Gaming Machine Entitlements

- (a) As at the date of this MOU, LCBRC has thirty six (36) gaming machine entitlements attached to its Club Licence. The ownership of those thirty six (36) gaming machine entitlements will be transferred to the Amalgamated Club with effect from the Amalgamation Completion.
- (b) LCBRC must ensure that all of the thirty six (36) gaming machine entitlements held in respect of LCBRC's Club Licence, and all gaming machines kept at LCBRC's premises as at the date of this MOU (and any additional gaming machines kept at the LCBRC 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 all thirty six (36) gaming machine entitlements held in respect of LCBRC's Club Licence and operate thirty six (36) machines at those premises for the Minimum Period.
- (d) After the Minimum Period, the Amalgamated Club will retain an appropriate number of the gaming machines for LCBRC's Club Licence as it sees fit provided that the Amalgamated Club is satisfied that any reduction of entitlements or machines will not adversely affect the financial viability of the LCBRC Premises.

12.4 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 LCBRC must be retained in accordance with this clause 12 and subject to clauses 15 and 16.

13 RISKS OF NOT MEETING ANY SPECIFIED INTENTIONS REGARDING PRESERVATION OF THE CORE PROPERTY OF LCBRC

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 LCBRC include that:
 - (i) the only core property of LCBRC is the LCBRC Premises; and
 - (ii) if the LCBRC Premises are disposed, then the ability to use the LCBRC Premises as a registered club will cease.
- (b) The likelihood that the risks outlined in clause 13(a) will be realised are mitigated because of the restrictions on disposal of the Major Assets of LCBRC contained in the

Registered Clubs Act and the additional restrictions set out in clauses 15 and 16 of this MOU.

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

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

The Amalgamated Club may not dispose of the Major Assets of LCBRC 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 15(d) and 16.

15 CEASING TO TRADE FROM THE LCBRC PREMISES OR CHANGING OBJECTS

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

- (a) DRSL does not intend to cease trading from the LCBRC 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 LCBRC.
- (c) DRSL intends to operate the Amalgamated Club in the manner referred to in clause 10.
- (d) For the purposes of clauses 7(2)(f) and 7(2)(g) of the Registered Clubs Regulation, DRSL and LCBRC have agreed that the Amalgamated Club may cease trading at the LCBRC 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 LCBRC 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 LCBRC Premises is not in the best interests of the Amalgamated Club because trading from the LCBRC Premises is not financially viable or because the overall financial viability of the Amalgamated Club is threatened by continuing to trade from the LCBRC 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) if any time after Amalgamation Completion:
 - (A) the Crown Leases are terminated by the landlord/Crown; or
 - (B) the terms and conditions of the Crown leases (other than the rent payable) are materially amended by the landlord/Crown to the

- dissatisfaction of the Board of the Amalgamated Club, acting reasonably; or
- (C) the Easement referred to in clause 6 is amended or extinguished in a manner which is adverse to the interests of DRSL without the agreement of the Amalgamated Club; or
 - (D) the Department of Crown Lands or any other Government Agency seeks any additional compensation for the Easement or the Clubhouse Encroachment referred to in clause 6;
- (iii) upon the order of any Court or body with jurisdiction to administer the laws in relation to liquor, gaming and registered clubs;
 - (iv) upon the lawful order of any Government Agency to permanently cease trading from the LCBRC Premises, or revoking any licence, approval or consent necessary for the Amalgamated Club to continue trading from the LCBRC Premises and it is not reasonably possible (as determined by the Amalgamated Club) for the relevant licences, approvals or consents to be obtained;
 - (v) if the LCBRC 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 LCBRC Premises except where appropriate insurance cover is available to reinstate or rebuild the LCBRC Premises, including the Clubhouse, to at least the same level and standard that the LCBRC Premises and Clubhouse were at Amalgamation Completion, or where it is otherwise economically viable to do so; or
 - (vi) 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 15(d)(i), the Amalgamated Club must:
- (i) prepare separate financial reports for the LCBRC Premises; and
 - (ii) not knowingly or wilfully do anything or omit to do anything which adversely impacts on the financial viability of the LCBRC Premises which is required by the Amalgamated Club for ongoing operations at the LCBRC Premises, including the imposition of inappropriate and unjustifiable Amalgamated Club allocations, but there will be no breach of this obligation for any action undertaken which satisfies the business judgment rule in section 180 of the Corporations Act. The reasonable levying of Amalgamated Club expenses in relation to the business, management and operations of the LCBRC Premises and the reasonable expenditure on repairs, replacements, refurbishments, maintenance and upgrades to the LCBRC 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 LCBRC Premises for the purposes of this clause.

16 MINIMUM PERIOD

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

DRSL does not intend to cease trading from the LCBRC Premises and intends to operate the LCBRC Premises in the manner referred to in clause 10 for at least the Minimum Period and would only cease to trade in the circumstances referred to in clause 15.

17 TRADING, DEBT AND ASSET OBLIGATIONS OF LCBRC PENDING AMALGAMATION COMPLETION

17.1 General trading and maintenance of Assets by LCBRC pending Amalgamation Completion

- (a) On and from the date of this MOU up to Amalgamation Completion LCBRC 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 17.1(a)(iii) on request;
 - (v) immediately notify DRSL of anything which may result in a claim on an insurance policy held under subclauses 17.1(a)(ii) and 17.1(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 LCBRC;
 - (ix) include all trading liabilities of LCBRC in the trading accounts of LCBRC 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.

17.2 Trading debts and other liabilities of LCBRC pending Amalgamation Completion

On and from the date of this MOU to Amalgamation Completion LCBRC 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.

18 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 LCBRC up to Amalgamation Completion;
 - (ii) the efficient transfer of the Assets and Club Licence of LCBRC to DRSL and efficient payment of liabilities of LCBRC by DRSL;
 - (iii) management of the transfer of the Members of LCBRC 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.

19 DUE DILIGENCE

19.1 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 19, 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 real property owned, leased or licensed by LCBRC, terms and conditions applicable to the Crown Leases. For that purpose:
- (i) DRSL will obtain from various Government Agencies property inquiry certificates relating to the LCBRC Premises;
 - (ii) LCBRC 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;
 - (iii) LCBRC permitting DRSL and its authorised representatives to enter and access any part of the land occupied by LCBRC 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 LCBRC on the LCBRC Premises);
 - (iv) LCBRC signing all consents or applications (if necessary) as requested by DRSL to enable DRSL to complete its due diligence; and
 - (v) DRSL being satisfied (at its sole discretion) with the outcome of its due diligence investigations and not giving a notice of termination under clause 19.4.

19.2 Noted Disclosure

DRSL confirms that LCBRC has disclosed to it as part of its due diligence investigations of LCBRC that there is a further encroachment in respect of the LCBRC Premises wherey part of the back section of the Clubhouse has been built onto Crown Land.

19.3 Due Diligence timing

DRSL's due diligence investigations under clause 19.1 must be completed by the date of LCBRC's General Meeting referred to in clause 4.1(a).

19.4 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 19.1, DRSL may by the date of LCBRC's General Meeting referred to in clause 4.1(a) give written notice of termination of this MOU with immediate effect to LCBRC without penalty.

19.5 Effect of termination

Termination of this MOU pursuant to this clause 19 does not affect any right or Liability of a party accrued prior to such termination.

19.6 Confidentiality

Each party must comply with the terms of clause 21 of this MOU in respect of any information that is provided to it by the other club as part of the due diligence process.

20 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).

21 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.

22 LIABILITIES

- (a) DRSL will be responsible for and pay when due all debts and liabilities of LCBRC:
 - (i) which have not been paid or discharged in full as at Amalgamation Completion, but DRSL may require a final reconciliation of all LCBRC'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 LCBRC.
- (b) As at Amalgamation Completion, the total debts and liabilities of LCBRC must not exceed the amount disclosed by LCBRC to DRSL prior to the signing of this MOU plus any liabilities referred to in sub paragraph (a)(i) above (or such higher amount as agreed by DRSL).

23 TRANSFER OF ASSETS

23.1 Risk, title and insurance

The parties agree and acknowledge:

- (a) unencumbered legal and beneficial title to the business and in the Assets of LCBRC will pass to DRSL on Amalgamation Completion;
- (b) until Amalgamation Completion, LCBRC 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.

23.2 Benefit of contracts

If the Assets include the benefit of contracts with LCBRC 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 LCBRC (but at DRSL's expense) all the obligations of LCBRC arising after Amalgamation Completion.

23.3 Amalgamation Completion

- (a) LCBRC 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 LCBRC):
 - (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 LCBRC'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 LCBRC Premises;
 - (iv) **(possession)** permit DRSL to take possession of all those Assets which are not on the LCBRC 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 LCBRC 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 LCBRC and the Assets to DRSL on Amalgamation Completion and perform all other obligations to be performed by LCBRC on Amalgamation Completion under this MOU.
- (b) LCBRC 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/deregistration of LCBRC it must give to DRSL the balance of all records described in clause 23.3(a).

24 DEREGISTRATION/DISSOLUTION OF LCBRC

- (a) After Amalgamation Completion at such time as agreed between LCBRC and DRSL, LCBRC will:
 - (i) arrange for voluntary striking off/deregistration and/or 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 LCBRC; and
 - (ii) carry out all acts necessary to effect such striking off/deregistration and/or 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 24.
- (c) This clause 24 survives Amalgamation Completion.

25 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.

26 REPRESENTATIONS AND WARRANTIES

26.1 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.

26.2 LCBRC warranties

LCBRC represents and warrants that:

- (a) it is the registered proprietor of the Freehold Lots making up the LCBRC Premises;
- (b) it has paid all rent and other moneys due as at the MOU under the Crown Leases and is not in material breach of the Crown Leases;
- (c) as at the date of this MOU, it has not received a notice of breach from the landlord(s) under the Crown Leases;
- (d) it is not a tenant or licensee of any other premises or land other than the Crown Leases of the Leasehold Lots; and
- (e) it does not own any premises or land other than the Freehold Lots making up the LCBRC Premises.

27 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.

28 TERMINATION

- (a) In addition to the termination right of DRSL contained in clause 19.4, 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) by giving 14 days' written notice to LCBRC if DRSL is unable to obtain a transfer/assignment of Crown Leases on terms satisfactory to DRSL in its absolute discretion or the requirements of clause 5 are not met;
 - (ii) immediately by giving notice to LCBRC if the Authority proposes to approve the Amalgamation Application on terms and conditions which are unacceptable to DRSL acting reasonably; or
 - (iii) immediately by giving notice to LCBRC if the total debts and liabilities of LCBRC as at Amalgamation Completion exceed the amount stated in clause 22(b) (or such higher amount as may be agreed by DRSL under that clause).
- (c) Termination of this MOU by a party under clauses 19.4, 28(a)(i), 28(a)(ii), 28(b)(i) or 28(a)(iii) is without penalty to either party.

29 COSTS AND STAMP DUTY

29.1 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.

29.2 Stamp duty

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

30 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:** rsiqm@dubborisl.com.au
- (c) If the notice is to LCBRC then it must be addressed as follows:
 - (i) **Name:** Lake Cathie Bowling & Recreation Club Ltd

- (ii) **Attention:** Rhys Birrane
- (iii) **Address:** 45 Evans Street, Lake Cathie NSW 2445
- (iv) **Email:** rhys@clublakecathie.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.

31 GENERAL

31.1 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.

31.2 Service

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

31.3 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.

31.4 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.

31.5 Variation

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

31.6 Further assurances

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

31.7 Entire agreement

This MOU:

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

31.8 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.

31.9 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.

31.10 Assignment

Neither party may 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 LCBRC 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 LCBRC to the DRSL.

Schedule 1

Resolution to be put to members of LCBRC

Ordinary Resolution

"That the ordinary members of Lake Cathie Bowling & Recreation Club Ltd hereby:

1. *approve in principle the amalgamation of Lake Cathie Bowling & Recreation Club Ltd ABN 65 000 995 595 (LCBRC) 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 LCBRC;*
 - (b) *the transfer of LCBRC's assets (including land and leases held by LCBRC) to DRSL;*
and
 - (c) *the transfer of the club licence of LCBRC 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 LCBRC 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 Lake Cathie Bowling & Recreation Club Ltd ABN 65 000 995 595 (LCBRC) 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 LCBRC;
 - (b) the transfer of LCBRC's assets (including land and leases held by LCBRC) to DRSL; and
 - (c) the transfer of the club licence of LCBRC 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 LCBRC 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 Lake Cathie Bowling & Recreation Club Ltd ABN 65 000 995 595 (LCBRC) with Dubbo RSL Memorial Club Ltd ABN 18 000 965 355 (DRSL), the Constitution of DRSL be amended by:

- Inserting a new sub-rule in rule 20 which lists the following new class of Ordinary membership of the Club:

"(g)* Lake Cathie Bowling & Recreation Club Members."
- Inserting a new sub-rule in rule 23 which contains the following regarding eligibility for the new Ordinary class of membership to be known as "Lake Cathie Bowling & Recreation Club Members":

"(g)* **Lake Cathie Bowling & Recreation Club Members**
Lake Cathie Bowling & Recreation Club members shall be those persons who are full members (as defined in the Registered Clubs Act) and are not Junior members of Lake Cathie Bowling & Recreation Club Ltd ABN 65 000 995 595 and who were admitted to membership of the Club pursuant to Rule 34A for the purposes of the amalgamation between the Club and Lake Cathie Bowling & Recreation Club Ltd."
- Adding in rule 25 among those classes of members eligible to attend at vote at General Meetings, except Special Resolutions, and eligible to vote in elections of the Board and to be nominated for, elected to and hold office on the Board:

"Lake Cathie Bowling & Recreation Club members"

For the avoidance of doubt, Lake Cathie Bowling & Recreation Club members will not be eligible to vote on Special Resolutions.

- Adding in rule 50(b) among the classes of members who may hold up to three positions on the Board (excluding the positions of President, two (2) Vice Presidents and one Ordinary Board member), the following:

"Lake Cathie Bowling & Recreation Club members"

For the avoidance of doubt, Lake Cathie Bowling & Recreation Club members may not hold positions on the Board reserved for Life members or RSL members. "

- Adding in rule 51(d) among the classes of members who may be nominated to hold office on the Board:

"Lake Cathie Bowling & Recreation Club members"

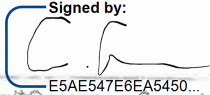
- Adding in rule 52(a) among the classes of members who may be nominated by Life Members or RSL Members for election to the Board for non-Life Member and non-RSL Member Board positions:

"Lake Cathie Bowling & Recreation Club members"

***Note:** Paragraph/sub-rule numbers to be added to the amended Constitution following completion of the amalgamation with Lake Cathie Bowling & Recreation Club Ltd as there are other separate amalgamations being considered by DRSL and if those amalgamations also proceed to completion, the numbering of the sub-rules may change.

Executed as a deed.

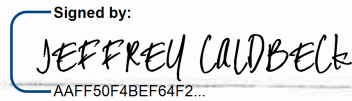
Executed by Dubbo RSL Memorial Club Ltd
ABN 18 000 965 355 in accordance with
section 127 of the Corporations Act 2001 (Cth):

Signed by:


~~*Director/*Company Secretary~~

CLINTON GROSE

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

Signed by:


Director

JEFFREY CALDBECK

Name of Director
(BLOCK LETTERS)

Executed by Lake Cathie Bowling &
Recreation Club Ltd ABN 65 000 995 595 in
accordance with section 127 of the
Corporations Act 2001 (Cth):



~~*Director/*Company Secretary~~

RHYS BIRRANE

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



Director

MICHAEL RICHARD RYAN

Name of Director
(BLOCK LETTERS)