

# MEMORANDUM OF UNDERSTANDING

**DATED** 25 June 2025

## **PARTIES**

**QUEANBEYAN SPORTS & COMMUNITY CLUB LIMITED**  
**ACN 606 192 965**

**AND**

**BERMAGUI COUNTRY CLUB LIMITED**  
**ACN 001 027 916**

**AND**

**TUGGERANONG VALLEY RUGBY UNION & SPORTS CLUB LIMITED**  
**ACN 098 763 314**

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This Memorandum of Understanding is made on 25 June 2025

## **BETWEEN**

**QUEANBEYAN SPORTS & COMMUNITY CLUB LIMITED (ACN 606 192 965)** of 97 Campbell St, Queanbeyan, NSW 2620 (**QSCC**)

and

**BERMAGUI COUNTRY CLUB LIMITED (ACN 001 027 916)** of Tuross St, Bermagui, NSW 2546 (**Bermagui Country Club**)

and

**TUGGERANONG VALLEY RUGBY UNION & SPORTS CLUB LIMITED (ABN 48 098 763 314)** of 6 Ricardo Street, Wanniasa, Australian Capital Territory, 2903 (**Vikings**)

## **BACKGROUND**

- (A) QSCC, Bermagui Country Club and Vikings are public companies limited by guarantee which prohibit the distribution of surplus or dividends to their members.
- (B) QSCC and Bermagui Country Club both operate registered clubs in New South Wales and Vikings operates licensed clubs in the Australian Capital Territory.
- (C) Subject to the overall control of the Board of QSCC, the business and operations of QSCC are currently managed by Vikings under a management contract which has been approved by the Authority.
- (D) Vikings has also loaned funds to Bermagui Country Club secured by a first registered mortgage over the Land and Water Access Licence and a General Security Agreement.
- (E) QSCC called for expressions of interest in amalgamation from other registered clubs.
- (F) Bermagui Country Club submitted an expression of interest to the QSCC.
- (G) QSCC has accepted the expression of interest from Bermagui Country Club and, following further negotiation, QSCC and Bermagui Country Club have agreed to the terms set out in this Memorandum.
- (H) QSCC and Bermagui Country Club propose to amalgamate the two clubs (subject to the approval of the Authority and subject to the terms of this Memorandum) in accordance with the provisions of this Memorandum, the RCA, the Regulations, the Liquor Act and the Corporations Act.
- (I) The Regulations require clubs which are proposing to amalgamate to enter into a Memorandum of Understanding.

## **1. DEFINITIONS AND INTERPRETATIONS**

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1.1 In this Memorandum unless the context otherwise requires:

- (a) “**Advisory Committee**” means the Advisory Committee referred to in clause 5.10.

- (b) **“Amalgamated Club”** mean the amalgamated registered club of QSCC and the Bermagui Country Club, the corporate vehicle of which will be QSCC;
- (c) **“Amalgamation”** means the amalgamation of the Clubs in accordance with this Memorandum;
- (d) **“Amalgamation Application”** means the provisional application for the transfer of the Bermagui Country Club’s Liquor Licence to QSCC pursuant to Sections 60(6) and (7) of the Liquor Act by QSCC and Bermagui Country Club;
- (e) **“Assets”** means all of the goodwill, personal property, equipment, stock, intellectual property, gaming machine entitlements, gaming machines, Leases and all other property, tangible or intangible belonging to the Bermagui Country Club at the time of Completion of the Amalgamation excluding the Land and Water Access Licence;
- (f) **“Authority”** means the Independent Liquor and Gaming Authority;
- (g) **“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;
- (h) **“ClubGRANTS”** means the ClubGRANTS scheme established under the Gaming Machine Tax Act 2001 for the granting of a rebate of gaming machine tax levied on registered clubs for expenditure on community development and support.
- (i) **“Clubs”** means both QSCC and the Bermagui Country Club;
- (j) **“Bermagui Country Club member”** has the meaning given to it in clause 2.4(f)(iv) of this Memorandum;
- (k) **“Bermagui Country Club Premises”** means Bermagui Country Club’s premises located on the entirety of the Land, including without limitation the clubhouse, golf course, tennis courts, bowling greens, and all other club facilities and ancillary areas;
- (l) **“Bermagui Country Club’s Secretary Manager”** means the individual who fulfils the Secretary or Secretary Manager’s role at the Bermagui Country Club;
- (m) **“Bowling Viability”** means maintaining or increasing the average number of full bowling members calculated by reference to the number of full bowling member of Bermagui Country Club in 2022, 2023, 2024 and 2025;
- (n) **“Clubhouse”** means the clubhouse at the Bermagui Country Club Premises;
- (o) **“Completion of the Amalgamation”** means the day on which:
  - (i) the Final Order is granted and Bermagui Country Club’s Liquor Licence is transferred to QSCC; and
  - (ii) the Assets, Debts and Liabilities of Bermagui Country Club are transferred to QSCC, as referred to in clause 18.1;
  - (iii) the Land and Water Access Licence of Bermagui Country Club are transferred to Vikings or QSCC,

- (iv) Bermagui Country Club's members become members of QSCC and all members of the Bermagui Country Club and QSCC become members of the Amalgamated Club;
- (v) QSCC takes over responsibility for the management and control of the Bermagui Country Club Premises.
- (p) **"Conditions Precedent"** means the conditions precedent to Completion of the Amalgamation as set out in clause 17 of this Memorandum.
- (q) **"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;
- (r) **"Corporations Act"** means the Corporations Act 2001 (Commonwealth), and the Regulations made thereunder;
- (s) **"Debts"** means the accumulated debts of the Bermagui Country Club at the time of Completion of the Amalgamation;
- (t) **"EBITDARD"** means earnings before interest, taxes, depreciation, amortisation, rent and donations;
- (u) **"Final Order"** means the final order pursuant to Section 60(8) of the Liquor Act by the Authority whereby Bermagui Country Club's Liquor Licence will be transferred to QSCC;
- (v) **"Gaming Machines Act"** means the Gaming Machines 2001 (NSW) and the Regulations made thereunder;
- (w) **"Golf Course Viability"** means maintaining or increasing the average number of full golfing members calculated by reference to the number of full golfing members of Bermagui Country Club in 2022, 2023, 2024 and 2025;
- (x) **"GST"** means the goods and services tax as imposed by the GST Law;
- (y) **"GST Act"** means A New Tax System (Goods and Services Tax) Act 1999 (Cth) or, if that Act does not exist for any reason, means any Act imposing or relating to the imposition of a goods and services tax in Australia;
- (z) **"GST Amount"** means in relation to a Taxable Supply the amount of GST for which the maker of the Taxable Supply ("Supplier") is liable in respect of the Taxable Supply;
- (aa) **"GST-Free"** has the meaning given to that term by the GST Law. "GST Group" has the meaning given to that term by the GST Law. "GST Law" has the meaning given to that term in the GST Act;
- (bb) **"Land"** means all of the land owned by the Bermagui Country Club, including without limitation the land located at Tuross St, Bermagui, NSW 2546 (Folio Identifiers Lot 101 DP 1240330; Lot 3 DP 599423; Lot 8 DP 250333; Lot 307 DP 735144 and Lot 1 DP 18/758095);

- (cc) **“Leases”** means all leases and licences between Bermagui Country Club that have been disclosed to QSCC during the due diligence period and which QSCC considers are not prohibitive to the ongoing financial viability and profitability of the Bermagui Country Club Premises;
- (dd) **“Liabilities”** means all liabilities, losses, damages, outgoings, costs and expenses of Bermagui Country Club (whatever description) at the time of Final Order;
- (ee) **“Liquor Act”** means the Liquor Act 2007 (NSW) and the Regulations made thereunder;
- (ff) **“Liquor Licence”** means the club licence issued to a registered club under the Liquor Act;
- (gg) **“Management Agreement”** means a management contract entered into following compliance with section 5 of the Registered Club Accountability Code, which is Schedule 2 of the Registered Club Regulation.
- (hh) **“Memorandum”** means this Memorandum of Understanding;
- (ii) **“Order”** means the conditional grant of the Amalgamation Application by the Authority pursuant to Section 60(7) of the Liquor Act;
- (jj) **“Party”** means Bermagui Country Club, Vikings and QSCC;
- (kk) **“Records”** means all original and copy records, sales brochures and catalogues, lists of clients, documents, books, files, accounts, plans and correspondence belonging to or used by the relevant party in the conduct of the parties business including but not limited to corporate, accounting and statutory records;
- (ll) **“Regulations”** mean the Regulations to the RCA;
- (mm) **“RCA”** means the Registered Clubs Act 1976 (NSW) and the Regulations made thereunder;
- (nn) **“Tennis Viability”** means maintaining or increasing the average number of full tennis playing members calculated by reference to the number of full tennis playing members of Bermagui Country Club in 2022, 2023, 2024 and 2025;
- (oo) **“QSCC’s CEO”** means the individual who fulfils the Secretary or Secretary Manager’s role at QSCC;
- (pp) **“QSCC Premises”** means QSCC’s premises located at 97 Campbell St, Queanbeyan, NSW 2620;
- (qq) **“Water Access Licence”** means the water access licence held by the Bermagui Country Club in respect of the Bermagui Country Club Premises (Folio Identifier WAL23125);

1.2 In this Memorandum 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 2 or more persons binds 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 Deed 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. EACH CLUB'S POSITION REGARDING THE PROPOSED AMALGAMATION**

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- 2.1 QSCC and the Bermagui Country Club agree to amalgamate in accordance with this Memorandum, the RCA, the Regulations, the Liquor Act and the Corporations Act.
- 2.2 The Amalgamation is intended to preserve and where possible enhance the existing facilities and amenities of both Clubs.
- 2.3 The amalgamation will be effected by the continuation of QSCC and the dissolution of the Bermagui Country Club.

### **Process for Amalgamation**

- 2.4 The process for the amalgamation will be as follows:
  - (a) The Clubs will enter into this Memorandum.
  - (b) The members of the Bermagui Country Club and QSCC 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 14 below.
  - (c) The ordinary members of Bermagui Country Club will be asked to declare the Land and Water Access Licence of Bermagui Country Club as non-core property under section 41E of the RCA for the purpose of allowing the Land and Water Access Licence to be transferred to Vikings. These meetings will be called and held in the manner referred to in clause 14 below.
  - (d) The members of QSCC will be asked to approve (by special resolution) amendments to QSCC's Constitution in the manner provided for in clause 14.5 below.
  - (e) Once the approvals in paragraphs (b) to (d) inclusive 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 15 below.

- (f) After the Amalgamation Application is granted and on the date of the Final Order:
  - (i) the Assets, Debts and Liabilities of the Bermagui Country Club will be transferred to QSCC in the manner referred to in clause 17 below;
  - (ii) the Land and Water Access Licence of Bermagui Country Club are transferred to Vikings;
  - (iii) QSCC and Vikings will enter into a lease in accordance with clause 3.4 of this Memorandum to give QSCC the right to continue to occupy the Bermagui Country Club Premises and operate a registered club from the Bermagui Country Club Premises;
  - (iv) all eligible members of the Bermagui Country Club will, with their consent, be admitted as members of QSCC and will be identified as a separate class of ordinary membership called "*Bermagui Country Club members*". This will occur in accordance with the procedure set out in clause 14.5 below (that is, the category of membership will be inserted into QSCC's Constitution pursuant to the special resolution referred to in that clause);
  - (v) employees of the Bermagui Country Club who have accepted an offer of employment from QSCC will become employees of the Amalgamated Club.
- (g) After Completion of the Amalgamation, QSCC will continue as the body corporate of the Amalgamated Club.
- (h) From Completion of the Amalgamation, the Bermagui Country Club Premises will become additional licensed premises of QSCC and will be available to all members of the Amalgamated Club. The Bermagui Country Club Premises will be operated in the manner set out in clause 3, clause 4 and clause 5 below.
- (i) After Completion of the Amalgamation, the Bermagui Country Club will be wound up in the manner referred to in clause 18 below.

## **Due Diligence**

- 2.5 The Bermagui Country Club may, at its own expense, undertake a due diligence review of QSCC's and Vikings financial position and operations.
- 2.6 QSCC may, at its own expense, undertake a due diligence review of the Bermagui Country Club's financial position and operations.
- 2.7 Each Club and Vikings will, if required by any of the other, provide a list of information (including, but not limited to, details of its Assets, Debts, Liabilities, Leases, Land and Water Access Licences) and assistance to any of the others in order for a party to properly carry out and complete its due diligence review.

**3. THE MANNER IN WHICH THE PREMISES AND OTHER FACILITIES OF THE BERMAGUI COUNTRY CLUB WILL BE MANAGED AND THE DEGREE OF AUTONOMY THAT WILL BE PERMITTED IN THE MANAGEMENT OF THE BERMAGUI COUNTRY CLUB PREMISES AND FACILITIES [REGULATIONS – CLAUSE 7(2)(A)]**

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- 3.1 The Bermagui Country Club Premises will become additional premises of QSCC.
- 3.2 The Amalgamated Club will operate and trade from the QSCC Premises and the Bermagui Country Club Premises. QSCC will take over responsibility and control of the Bermagui Country Club Premises, and Vikings will (for a management fee) manage the Bermagui Country Club Premises for and on behalf of QSCC, with effect from Completion of the Amalgamation.
- 3.3 Subject to clause 22,3, Vikings will take over ownership of the Land and Water Access Licence with effect from Completion of the Amalgamation.
- 3.4 Subject to clause 22.3, Vikings will grant a lease to QSCC so that QSCC can occupy, operate and trade from the Bermagui Club Country Premises after Completion of the Amalgamation. The terms of the lease must be agreed by Bermagui Country Club, QSCC and Vikings acting reasonably before the Completion of the Amalgamation and such terms must:
  - (a) not be inconsistent with the terms of this Memorandum;
  - (b) allow for the fulfilment in all respects by QSCC of its obligations to Bermagui Country Club under the Memorandum (subject to QSCC complying with the terms of the lease); and
  - (c) must be for a term of not less than twenty (20) years (subject to any agreed termination rights).
- 3.5 The Board of QSCC will be the Board of the Amalgamated Club.
- 3.6 QSCC's CEO will be the Secretary and Chief Executive Officer of the Amalgamated Club.
- 3.7 The Amalgamated Club will appoint an approved manager for the Bermagui Country Club Premises following the Final Order.

**Golf Course, Bowling Greens and Tennis Courts**

- 3.8 Subject to clause 10.8, QSCC and Bermagui Country Club agree that:
  - (a) QSCC will provide an eighteen (18) hole golf course at the Bermagui Country Club Premises for at least twenty (20) years from the date of the Final Order;
  - (b) QSCC will provide one (1) bowling green at the Bermagui Country Club Premises for at least four (4) years from the date of the Final Order; and
  - (c) QSCC will provide tennis courts at the Bermagui Country Club Premises for at least eight (8) years from the date of the Final Order.



**4. A LIST OF THE TRADITIONS, AMENITIES AND COMMUNITY SUPPORT THAT WILL BE PRESERVED OR CONTINUED BY THE AMALGAMATED CLUB  
[REGULATIONS – CLAUSE 7(2)(B)]**

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- 4.1 The traditions, amenities, culture, golfing facilities, golfing amenities and memorabilia of the Bermagui Country Club will be maintained by the Amalgamated Club at the Bermagui Country Club Premises. For the avoidance of doubt, the honour boards at the Bermagui Country Club Premises may be displayed in their present form or electronically (or a combination of both).
- 4.2 The Amalgamated Club will continue to support the community organisations that were supported by the Bermagui Country Club (as at the date of this Memorandum), and it will explore opportunities to expand community support.

**5. INTENTIONS REGARDING THE FUTURE DIRECTION OF THE AMALGAMATED CLUB  
[REGULATIONS – CLAUSE 7(2)(C)]**

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- 5.1 The future direction of the Amalgamated Club will be subject to the overall strategic plan of the Amalgamated Club and its finances. However, QSCC will operate the Amalgamated Club and the Bermagui Country Club Premises in accordance with this clause 5 and the terms and conditions of this Memorandum.

**Appointment of a Bermagui Country Club member to the Board of QSCC**

- 5.2 QSCC and Bermagui Country Club agree that, as and from Completion of the Amalgamation, Bermagui Country Club will have one director on the Board of QSCC (**Bermagui Director**).
- 5.3 The Board of QSCC will appoint the President of Bermagui Country Club to the Board of QSCC for a term of three (3) years as the first Bermagui Director, with such appointment to take effect from Completion of the Amalgamation. This appointment will be made under Regulation 31 of the Registered Clubs Regulation.
- 5.4 QSCC agrees that on and from the third anniversary of Completion of the Amalgamation, QSCC's board will include one (1) person who is:
- (a) a Bermagui Country Club member or who joined the Amalgamated Club at the Bermagui Country Club Premises after Completion of the Amalgamation and whose principal residential premises is located within fifty (50) kilometres of the Bermagui Country Club Premises; and
  - (b) who is elected by the members of the Bermagui Country Club Premises and approved by the board of QSCC.
- 5.5 QSCC undertakes to propose amendments to its Constitution, to give effect to clauses 5.2 to 5.4 inclusive and if these proposed amendments are not passed, QSCC must use the power contained in Regulation 31 of the Registered Clubs Regulation to ensure that there is a Bermagui Director on the Board of QSCC at all times (subject to any casual vacancies which may arise from time to time).

**Amalgamated Club Premises**

- 5.6 The Amalgamated Club will operate and trade from the QSCC Premises and the Bermagui Country Club Premises.

## **Bermagui Country Club Premises**

- 5.7 The Bermagui Country Club Premises will be named and trade as "*Bermagui Country Club*" or such other name as the Board of QSCC may determine.
- 5.8 Subject to clause 10, QSCC:
- (a) will maintain the Bermagui Country Club Premises and carry on the business of a licensed registered club under the RCA and the Liquor Act at the Bermagui Country Club Premises with the usual facilities and amenities of a registered club in accordance with the terms and conditions of this Memorandum;
  - (b) intends to operate the Bermagui Country Club Premises as a successful and well supported local based social, sporting and community club;
  - (c) intends to improve trading at the Bermagui Country Club Premises;
  - (d) will maintain the golf course to at least the standard it is in at the date of this Memorandum and agrees to place particular emphasis on water management and the sustainability of the golf course; and
  - (e) will maintain and where possible enhance, the social facilities, services, amenities and activities at the Bermagui Country Club Premises.
- 5.9 QSCC (with the assistance of Vikings) will conduct a review of the Bermagui Country Club Premises and implement a capital improvement and investment strategy with the aim of bringing the Bermagui Country Club Premises facilities and amenities up to an acceptable standard as determined by QSCC.

## **Advisory Committee**

- 5.10 The management of the Amalgamated Club will create the Advisory Committee in respect of the Bermagui Country Club Premises and the following shall apply in respect of the Advisory Committee:
- (a) 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.
  - (b) The Advisory Committee will initially be made up of QSCC's CEO or his delegate and two (2) existing directors of the Bermagui Country Club or any alternative two (2) members of the Bermagui Country Club as the directors of the Bermagui Country Club may select, who consent in writing to becoming members of the Advisory Committee.
  - (c) If a casual vacancy arises on the Advisory Committee, the remaining members of the Advisory Committee can fill the casual vacancy by appointing another Bermagui Country Club member of the Amalgamated Club provided the Board of the Amalgamated Club has first approved the person who is proposed to be appointed to fill the casual vacancy.
  - (d) The Advisory Committee will have its own set of rules governing the roles, responsibilities and operations of the Advisory Committee provided such rules are approved by the Board of the Amalgamated Club in its absolute discretion.
  - (e) The Advisory Committee will meet at such intervals as may be determined by the

Advisory Committee from time to time.

- (f) The Advisory Committee may make recommendations to the Board and Management of the Amalgamated Club regarding the following matters:
  - (i) the operations of the Bermagui Country Club Premises; and
  - (ii) ClubGRANTS to be made by the Amalgamated Club that are attributable to the Bermagui Country Club Premises;
  - (iii) membership matters at the Bermagui Country Club Premises;
  - (iv) the operation of the golf course and conduct of golfing activities at the Bermagui Country Club.
- (g) The Advisory Committee may be required to provide reports to the Board of the Amalgamated Club.
- (h) The Advisory Committee shall be in force and effect for at least the first two (2) years after Completion of the Amalgamation.

### **Golfing Activities and Golfing Sub-Club**

- 5.11 The Amalgamated Club will create a golfing sub-club to conduct and administer golf at the Bermagui Country Club Premises on behalf of the Amalgamated Club.
- 5.12 It is intended that the golfing sub-club will:
  - (a) have its own rules, committees and members; and
  - (b) be authorised to operate a bank account (for fund raising);
  - (c) continue using its existing name and insignia;
  - (d) elect its own committees;
  - (e) be eligible to affiliate with such bodies controlling golf in New South Wales on such terms and conditions (not inconsistent with the Constitution of QSCC or the RCA) as such controlling bodies may from time to time require;
  - (f) be created with the persons referred to in clause 14.5(h) recognised as life members of the sub-club.

### **Other Sub Clubs**

- 5.13 If, at the date of this Memorandum, there are any sub-clubs at Bermagui Country Club (other than the golfing sub-club referred to above), the Board of the Amalgamated Club will allow those sub-clubs to continue to exist provided all members of those sub clubs become members of the Amalgamated Club.

### **Subscriptions**

- 5.14 QSCC will treat any annual subscriptions which have been paid to Bermagui Country Club for the subscription period current as at the date of the Completion of the Amalgamation as being annual subscriptions which have been paid to the Amalgamated Club.

## **General Meeting of the Amalgamated Club**

- 5.15 QSCC agrees that it will allow Bermagui Country Club members to attend, participate and vote (if eligible) in general meetings (including the Annual General Meeting) of the Amalgamated Club by electronic means from the Bermagui Country Club Premises.

## **6. THE EXTENT TO WHICH THE EMPLOYEES OF THE AMALGAMATED CLUB WILL BE PROTECTED [REGULATIONS – CLAUSE 7(2) (D)]**

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- 6.1 As part of the Amalgamation, the Bermagui Country Club will be wound up/liquidated. As part of the winding up/liquidation of the Bermagui Country Club, the employment of all of the Bermagui Country Club's employees with the Bermagui Country Club will come to an end.
- 6.2 As soon as reasonably practicable after the Order but prior to the Completion of the Amalgamation, QSCC will undertake a review of the staffing requirements at the Bermagui Country Club Premises and it will only make offers of employment to those employees of the Bermagui Country Club that are requisite to the needs of the Amalgamated Club after Completion of the Amalgamation.
- 6.3 The offers of employment:
- (a) will be made as soon as reasonably practicable after the Order; and
  - (b) will be conditional upon and be effective from the Completion of the Amalgamation;
  - (c) will be on the same terms and conditions presently offered by QSCC to employees of QSCC in similar roles provided that it does not result in any employee of the Bermagui Country Club receiving lesser benefits than they presently receive from the Bermagui Country Club.
- 6.4 On the date of the Final Order, any employee of the Bermagui Country Club who receives and accepts an offer of employment with QSCC will receive continuity of employment and their accrued entitlements will be honoured by QSCC.
- 6.5 Any employee of the Bermagui Country Club who does not receive an offer of employment from QSCC or who receives but does not accept an offer of employment with QSCC will be paid their full entitlements when their employment with the Bermagui Country Club comes to an end on the date of the Final Order and QSCC will provide Bermagui with any necessary funding to make such payments if required.
- 6.6 If any employee of Bermagui Country Club ceases to be an employee of Bermagui Country Club for any reason (such as resignation) before the date of the Final Order, that employee will be paid their full entitlements by Bermagui Country Club when their employment with Bermagui Country Club comes to an end.

**7. INTENTIONS REGARDING THE FOLLOWING ASSETS OF THE BERMAGUI COUNTRY CLUB:**

- 1. ANY CORE PROPERTY;**
  - 2. ANY CASH OR INVESTMENTS;**
  - 3. ANY GAMING MACHINE ENTITLEMENTS**
- [REGULATIONS – CLAUSE 7(2)(E)]**
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**Core Property**

7.1 For the purposes of the RCA, if the resolution referred to in clause 14.1(b):

- (a) is approved by the members of Bermagui Country Club, Bermagui Country Club will have no “core property” and consequently, the Bermagui Country Club Premises, including without limitation the Land and the Water Access Licence, will be non core property of the Amalgamated Club; and
- (b) is not approved by the members of Bermagui Country Club, Bermagui Country Club’s “core property” will be the Bermagui Country Club Premises, including without limitation the Land and the Water Access Licence, and consequently, the Bermagui Country Club Premises including without limitation the Land and the Water Access Licence, will be core property of the Amalgamated Club.

7.2 Subject to this Memorandum, QSCC proposes to operate the Amalgamated Club and the Bermagui Country Club Premises in the manner referred to in clause 5 and the other terms and conditions of this Memorandum.

**Cash and Investments**

7.3 The cash and investments (if any) of the Bermagui Country Club will be transferred (in accordance with clause 18) to the general reserves of the Amalgamated Club.

**Gaming Machine Entitlements**

7.4 The Bermagui Country Club has forty-six (46) gaming machine entitlements at the Bermagui Country Club Premises and ownership of those entitlements will be transferred to QSCC with effect from the Completion of the Amalgamation.

7.5 The Amalgamated Club will retain the forty six (46) gaming machine entitlements at the Bermagui Country Club Premises for as long as it trades from the Clubhouse.

7.6 The Amalgamated Club will operate forty-six (46) gaming machines at the Clubhouse for as long as it trades from those premises.

**8. RISKS OF NOT PRESERVING THE BERMAGUI COUNTRY CLUB’S CORE PROPERTY AND HOW THOSE RISKS ARE TO BE ADDRESSED [REGULATIONS – CLAUSE 7(2) (E1)]**

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8.1 The Amalgamated Club can only cease trading from the Bermagui Country Club Premises in the circumstances set out in clauses 10.5 and, 10.8 of this Memorandum.

8.2 If the resolution referred to in clause 14.1(b) is approved by the members of Bermagui Country Club but subject to the terms of this Memorandum, the Amalgamated Club can dispose of the Bermagui Country Club Premises, including without limitation the Land and the Water Access Licence, to Vikings during the first three (3) years after Completion of the Amalgamation subject to a lease being in place in accordance with the requirements of clause 3.4 of this Memorandum.

- 8.3 If the resolution referred to in clause 14.1(b) is not approved by the members of Bermagui Country Club, the Amalgamated Club cannot dispose of the Bermagui Country Club Premises, the Land and the Water Access Licence during the first three (3) years after Completion of the Amalgamation, subject to the terms of this Memorandum.

**9. DISPOSAL OF THE BERMAGUI COUNTRY CLUB'S MAJOR ASSETS  
[REGULATIONS – CLAUSE 7(2) (E2)]**

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- 9.1 If the resolution referred to in clause 14.1(b) is approved by the members of Bermagui Country Club:

- (a) Bermagui Country Club will have no “core property;” and
- (b) the Bermagui Country Club Premises, including without limitation the Land and the Water Access Licence, will be non core property of the Amalgamated Club; and
- (c) section 17AI of the Registered Clubs Act will not apply in respect of the Bermagui Country Club Premises including without limitation the Land and the Water Access Licence.

- 9.2 If the resolution referred to in clause 14.1(b) is not approved by the members of Bermagui Country Club:

- (a) the Bermagui Country Club Premises, including without limitation the Land and Water Access Licence, will remain core property and major assets of the Amalgamated Club; and
- (b) the Bermagui Country Club Premises, the Land and the Water Access Licence will be core property of the Amalgamated Club; and
- (c) section 17AI of the Registered Clubs Act will apply in respect of the Bermagui Country Club Premises, the Land and the Water Access Licence.

**10. THE CIRCUMSTANCES THAT WOULD PERMIT THE AMALGAMATED CLUB TO  
CEASE TRADING ON THE PREMISES OF THE BERMAGUI COUNTRY CLUB OR TO  
SUBSTANTIALLY CHANGE THE OBJECTS OF THE BERMAGUI COUNTRY CLUB  
[REGULATIONS – CLAUSE 7(2)(F)]**

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- 10.1 QSCC does not intend to cease trading from the Bermagui Country Club Premises.

- 10.2 However, the objects of the Bermagui Country Club will, with effect from Completion of the Amalgamation, be subsumed by and will become objects of QSCC.

- 10.3 QSCC intends to operate the Amalgamated Club in the manner referred to in clause 5.

- 10.4 However, for the purposes of clause 7(2)(f) of the Regulations, QSCC and the Bermagui Country Club are required to agree to the matters set out in clauses 10.5, 10.6 and 10.8.

- 10.5 For the purposes of clause 7(2)(f) of the Regulations, QSCC and the Bermagui Country Club have agreed that the Amalgamated Club:

- (a) may immediately cease trading from the Bermagui Country Club Premises or any part thereof:
  - (i) upon receiving a lawful order from any Court or body with relevant jurisdiction which orders the permanent closure of the Bermagui Country

Club Premises or any part thereof;

- (ii) if the premises or any part thereof were destroyed or partially destroyed by fire, floods, storms or Force Majeure event, except where appropriate insurance cover is available to reinstate the Bermagui Country Club Premises or any part thereof or where it is otherwise economically viable to do so.
  - (b) may immediately cease trading from the Clubhouse:
    - (i) if, after the first two (2) years after Completion of the Amalgamation, it is not financially viable for the Amalgamated Club to continue to trade from the Clubhouse, which shall be determined in accordance with clause 10.6; or
    - (ii) upon the lawful order of any government authority to permanently cease trading from the Clubhouse, or revoking any licence, approval or consent necessary for the Amalgamated Club to continue trading from the Clubhouse and it is not reasonably possible for the relevant licences, approvals or consents to be re-instated or new/replacement licences, approvals or consents to be obtained;
  - (c) may immediately cease golfing activities at the Bermagui Country Club Premises if the circumstances in clause 10.8(a) arise;
  - (d) may immediately cease bowling activities at the Bermagui Country Club Premises if the circumstances in clause 10.8(b) arise;
  - (e) may immediately cease tennis activities at the Bermagui Country Club Premises if the circumstances in clause 10.8(c) arise.
- 10.6 For the purposes of clause 10.5(b)(i), the Bermagui Country Club Premises will not be financially viable if, at any time after the second anniversary of the Completion of the Amalgamation, the Bermagui Country Club Premises does not make an EBITDARD of twenty-five thousand dollars (\$25,000) in any subsequent twelve (12) month period provided that if the Bermagui Country Club Premises is affected by a natural disaster which materially impacts the trading performance of the Bermagui Country Club Premises the Amalgamated Club must have regard to that matter in the implementation of this clause.
- 10.7 For the purposes of clause 10.5(a), the Amalgamated Club must take out and maintain appropriate building insurance for the Bermagui Country Club Premises which is sufficient to cover reinstatement of the Bermagui Country Club Premises to the same or better standard that they were in as at Completion of the Amalgamation.
- 10.8 If, after Completion of the Amalgamation the Bermagui Country Club Premises fails to achieve:
- (a) Golf Course Viability in three (3) consecutive years, the Amalgamated Club will immediately cease to be bound by the commitment contained in clause 3.8(a) of this Memorandum; and/or
  - (b) Bowling Viability in three (3) consecutive years, the Amalgamated Club will immediately cease to be bound by the commitment contained in clause 3.8(b); and/or
  - (c) Tennis Viability in three (3) consecutive years, the Amalgamated Club will immediately cease to be bound by the commitment contained in clause 3.8(c).

**11. AN AGREED PERIOD OF TIME BEFORE THE AMALGAMATED CLUB WILL CEASE TRADING FROM THE BERMAGUI COUNTRY CLUB PREMISES OR SUBSTANTIALLY CHANGE THE OBJECTS OF THE BERMAGUI COUNTRY CLUB PREMISES  
[REGULATIONS – CLAUSE 7(2)(G)]**

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- 11.1 QSCC does not intend to cease trading from the Bermagui Country Club Premises, and intends to operate the Amalgamated Club in the manner referred to in clause 5 and would only cease to do so in the circumstances referred to in clause 10.
- 11.2 The objects of QSCC will become the objects of the Bermagui Country Club with effect from Completion of the Amalgamation.
- 11.3 However, for the purposes of clause 7(2)(g) of the Regulations, QSCC and the Bermagui Country Club are required to agree to the matters set out in clause 11.4.
- 11.4 For the purposes of clause 7(2)(g) of the Regulations, QSCC and the Bermagui Country Club have agreed that the Amalgamated Club will continue to trade from the Bermagui Country Club Premises clubhouse for at least three (3) years, (except in the circumstances referred to in clauses 10.5(b) to (e) inclusive).

**12. ADMISSION OF MEMBERS AFTER MEMORANDUM DATE**

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- 12.1 QSCC and the Bermagui Country Club agree that on and from the date of this Memorandum each Club will not admit any new members into any class of “*full members*” (as defined in section 4 of the RCA) until:
- (a) Completion of the Amalgamation; or
  - (b) termination of this Memorandum.
- 12.2 The Clubs acknowledge and agree that this clause:
- (a) is intended to:
    - (i) ensure that the proposed Amalgamation is only considered by those persons who were full members of each Club at the date of the Memorandum; and
    - (ii) prevent persons joining the relevant Club only for the purpose of attending and voting at the meetings referred to in clauses 14.1 and 14.3 respectively.
  - (b) is not intended to prohibit a Club from accepting membership applications and admitting those applicants to provisional membership of the respective Club, provided those applicants can be admitted to provisional membership without being for such period referred to in clause 12.1, without being admitted as full members.

**13. BINDING EFFECT OF MEMORANDUM**

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- 13.1 QSCC, Vikings and the Bermagui Country Club agree that this Memorandum is binding on them and for that purpose is executed as a Deed.



#### **14. CALLING OF MEETINGS AND ADMISSION OF BERMAGUI COUNTRY CLUB MEMBERS TO MEMBERSHIP OF QSCC**

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- 14.1 Bermagui Country Club will call a general meeting of the ordinary members of the Bermagui Country Club for the purposes of:
- (a) considering and if thought fit passing a resolution approving in principle the Amalgamation in accordance with section 17AEB(d) of the RCA; and
  - (b) considering and if thought fit passing a resolution declaring the Land (including the Bermagui Country Club Premises and the Water Access Licence) to be “non-core property” of Bermagui Country Club.
- 14.2 The meeting referred to in clause 14.1 must be held as soon as reasonably practicable after the date of this Memorandum but in any event within three (3) months of the date.
- 14.3 QSCC will call a general meeting of the ordinary members of QSCC for the purposes of considering and if thought fit passing a resolution approving in principle the amalgamation in accordance with section 17AEB(d) of the RCA.
- 14.4 The meeting referred to in clause 14.3 will be scheduled at QSCC’s discretion after the date of the meeting referred to in clause 14.1 provided that the resolution approving in principle the Amalgamation in accordance with section 17AEB(d) of the RCA is approved at that meeting.
- 14.5 In addition to the resolution referred to in clause 14.4, QSCC will, at the meeting referred to in clause 14.3, submit to those members eligible to attend and vote on a special resolution to amend the Constitution of QSCC to give effect to the following:
- (a) Any member of the Bermagui Country Club who, at Completion of the Amalgamation, has been:
    - (i) refused admission to or been turned out of Bermagui Country Club; or
    - (ii) suspended from QSCC;
    - (iii) expelled from QSCC,
 shall not be eligible to apply for and/or be admitted to membership of QSCC.
  - (b) All eligible members of the Bermagui Country Club who apply to become members of QSCC will, subject to the Amalgamated Club’s Constitution, be admitted to membership of QSCC.
  - (c) All eligible members of the Bermagui Country Club will be able to apply for membership of QSCC in the manner referred to in paragraphs (d) to (h) inclusive of this clause 14.5.
  - (d) A member of the Bermagui Country Club will not be required to be proposed or seconded for membership of QSCC.
  - (e) As soon as practicable after the Order, QSCC will forward to each member of the Bermagui Country Club, who is not already a member of QSCC, a written invitation to become a member of QSCC.
  - (f) Any member of the Bermagui Country Club who accepts the invitation and agrees

in writing to be bound by the Constitution of QSCC will, subject to the Amalgamated Club's Constitution and the requirements of the RCA being satisfied, be elected by a resolution of the Board of QSCC to membership of QSCC with effect from the date of Completion of the Amalgamation.

- (g) The Bermagui Country Club's members who are admitted to membership of QSCC will be identified as a separate class called the "Bermagui Country Club Members" but may transfer to any other class of membership of QSCC for which they are eligible to join. For the avoidance of doubt, Bermagui Country Club members will be subject to any qualifying periods contained in QSCC's Constitution.
- (h) Any person who, at Completion of the Amalgamation, is a Life member of the Bermagui Country Club will:
  - (i) not become a Life member of the Amalgamated Club; and
  - (ii) continue to be recognised as a Life member of the Bermagui Country Club but only in respect of the Bermagui Country Club Premises;
  - (iii) not be required to pay an annual subscription to the Amalgamated Club (unless the RCA requires such a subscription to be paid).
- (i) Bermagui Country Club members will have the same rights and entitlements as Social members under QSCC's Constitution except for the fact that Bermagui Country Club members:
  - (i) will be entitled to hold office on the Board of the Amalgamated Club as the Bermagui Director only; and
  - (ii) will not be entitled to vote in the election of the Board (except for the Bermagui Director) until after the fifth anniversary of Completion of Amalgamation.

## 15. **AMALGAMATION APPLICATION TO THE INDEPENDENT LIQUOR AND GAMING AUTHORITY**

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- 15.1 QSCC and its lawyers will prepare and file the Amalgamation Application.
- 15.2 The Bermagui Country Club will co-operate with QSCC and its lawyers and will provide all documents and information reasonably required for the preparation, lodgement and finalisation of the Amalgamation Application, including the notices of meeting and the minutes of the meetings referred to in clause 15.1.

## 16. **WARRANTIES AND OPERATIONAL ARRANGEMENTS**

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- 16.1 The Bermagui Country Club warrants to QSCC that from the date of this Memorandum to the date of Completion of the Amalgamation, the Bermagui Country Club will:
  - (a) carry on its business in the usual ordinary course and in a diligent manner and unless incurred in the usual and ordinary course of business, will not incur any single debt or liability (including, but not limited to, the purchase of any capital equipment) over the sum of two thousand dollars (\$2,000.00) plus GST without the prior approval of QSCC's CEO or his delegate;
  - (b) attend to the payment of any existing debts and liabilities using its cash reserves (provided that it will not be in breach of this warranty if its cash reserves are

insufficient to pay out all of its existing debts and liabilities);

- (c) maintain the Assets in the same state of repair as they are at the date of the Memorandum 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;
- (d) carry on its operations with normal and prudent practice using best endeavours to reduce losses, increase profitability, and endeavour to maintain and increase the value of the Assets;
- (e) provide QSCC's CEO each week (or at such other times as requested) any details or documents relating to the operation and financial position of the Bermagui Country Club;
- (f) not do anything which may damage the goodwill of its business or that of QSCC;
- (g) notify QSCC of any of the circumstances referred to clause 16.4 within a reasonable time of becoming aware of the relevant circumstances;
- (h) not without the prior written consent of QSCC:
  - (i) enter into, terminate or alter any term of any contract, arrangement or understanding including any lease, licence or easement in relation to its operations or otherwise;
  - (ii) except in the usual and routine conduct of its trading operations in conformity with and in the manner of recent times, incur any actual or contingent liabilities whether in relation to those operations or otherwise;
  - (iii) dispose of, agree to dispose of, encumber or grant an option over, or grant any interest in any of the Assets (including without limitation any gaming machine entitlements);
  - (iv) employ any person;
  - (v) terminate the employment of any employee;
  - (vi) alter the terms of employment (including the terms of remuneration and or superannuation or any other benefit) of any employee;
  - (vii) seek to borrow or borrow money from any third party;
  - (viii) increase the level of debt of the Bermagui Country Club beyond that existing as at the date of this Memorandum other than any debt incurred in the normal day to day trading of the Bermagui Country Club; or
  - (ix) engage in discussions or negotiations with anyone other than QSCC concerning an amalgamation or the sale or disposal of all or any part of the Assets,
- (i) must advise QSCC of any solicitation by any third party to participate in any such discussion or negotiation concerning an amalgamation or the sale or disposal of all or any part of the Assets.

16.2 Each of the Bermagui Country Club's warranties contained in clause 16.1 remains in full

force and effect notwithstanding Completion of the Amalgamation.

16.3 QSCC's CEO and the Bermagui Country Club's CEO will have regular discussions about the management and operations of the Bermagui Country Club with the object of:

- (a) providing for an orderly transfer of the management and operations of the Bermagui Country Club to QSCC on the date of Completion of the Amalgamation; and
- (b) achieving efficiencies and cost savings in the Bermagui Country Club;
- (c) implementing operational changes in preparation for Completion of the Amalgamation.

16.4 If, before Completion of the Amalgamation, in relation to either of the Clubs (the subject Club):

- (a) an event occurs which has or may have a material effect on the profitability of the premises or value of any of the Assets of the subject Club;
- (b) an event occurs which makes any warranty, or any of the subject Club's representations or other warranties made or given to the other Club untrue or misleading;
- (c) any Claim of any nature is threatened or asserted by or against the subject Club; or
- (d) there is any material adverse change in the condition (financial or otherwise) or prospects of the subject Club or of its operations,

then the subject Club must within a reasonable time on becoming aware of the circumstances, give notice to the other Club fully describing the circumstances.

16.5 Title to, property in and risk of the Bermagui Country Club's Assets remain solely with the Bermagui Country Club until such time as they are passed to the Amalgamated Club in accordance with clause 16.

16.6 For the avoidance of doubt it is acknowledged that no liability is accepted or will exist for any breach of a warranty in the absence of actual knowledge by Bermagui Country Club.

## **17. CONDITION PRECEDENTS TO COMPLETION OF THE AMALGAMATION**

17.1 Completion of Amalgamation is subject to and conditional upon the following:

- (a) Bermagui Country Club making available its Records for review and copying by QSCC for due diligence purposes;
- (b) QSCC and Vikings making available its Records for review and copying by Bermagui Country Club for due diligence purposes;
- (c) Bermagui Country Club's due diligence on QSCC and Vikings being satisfactory to Bermagui Country Club;
- (d) QSCC's and Vikings due diligence on Bermagui Country Club being satisfactory to QSCC and Vikings;

- (e) Bermagui Country Club passing the resolution set out in clause 14.1(a) of this Memorandum;
  - (f) QSCC passing the resolutions set out in clause 14.3 and 14.5 of this Memorandum;
  - (g) The Final Approval being issued by the Authority to transfer Bermagui Country Liquor Licence to QSCC;
  - (h) if the resolution set out in clause 14.1(b) of this Memorandum has been passed by the members of Bermagui Country Club:
    - (i) that the parties have agreed terms of the lease between the Vikings and QSCC with respect to the Land and Water Access Licence in accordance with clause 3.4 of the Memorandum; and
    - (ii) that QSCC and Vikings have entered into the lease on terms agreed by the parties in accordance with and pursuant to clause 3.4 of this Memorandum;
  - (i) QSCC and Vikings have entered into a Management Agreement providing Vikings management control over the Bermagui Country Club Premises; and
  - (j) The Management Agreement referred to in clause 17.1(i) above includes a requirement that Vikings abide by the terms of this Memorandum.
- 17.2 Bermagui Country Club, QSCC and Vikings will use all reasonable endeavours to ensure the satisfaction of the conditions set out in clause 17.1 above as far as they lie within their respective powers to do so.
- 17.3 If any of the above conditions in clause 17.1 are not satisfied or waived by the party, or parties, that benefits from the condition, either partially or fully, on or before the date which is twenty four (24) months from the date of this Memorandum then any party may terminate this Memorandum by written notice of the same to the others and no party shall be entitled to make a claim against any other party in connection with this Memorandum.

## 18. **DISSOLUTION OF THE BERMAGUI COUNTRY CLUB AND TRANSFER OF ITS ASSETS, DEBTS AND LIABILITIES TO QSCC**

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- 18.1 Prior to the Completion of the Amalgamation, the Bermagui Country Club and Vikings must do all things necessary to enable QSCC to be the bona fide occupier of the Bermagui Country Club Premises by way of lease on Completion of Amalgamation, subject to the resolution set out in clause 14.1(b) of this Memorandum being passed by the members of Bermagui Country Club.
- 18.2 As soon as practicable after the Order, but subject to the Final Order, Bermagui Country Club and QSCC must ensure:
- (a) the Assets, Debts and Liabilities of Bermagui Country Club are transferred to QSCC (less an amount sufficient for the purposes of the winding up of the Bermagui Country Club in the manner referred to in clause 18.6 and for directors' and officers' liability insurance pending deregistration and in the absence of any such amount QSCC will fund the cost of these activities);
  - (b) all contract rights and obligations of Bermagui Country Club are novated to QSCC;
  - (c) the Land and Water Access Licence of Bermagui Country Club are transferred to Vikings subject to the prior passing of the resolution set out in clause 14.1(b) of

this Memorandum and the entering into by QSCC and Vikings of the required lease pursuant to clause 3.4 of this Memorandum; and

- (d) if the Land and Water Access Licence of Bermagui Country Club are not transferred to Vikings, pursuant to clause 18.2(c) then, they will be transferred to QSCC.
- 18.3 The parties acknowledge that it is proposed for the transfer of the Assets, Debts, Liabilities, Land and Water Access Licence referred to in clause 18.2 to occur on the date of the Final Order wherever possible.
- 18.4 For the purposes of clause 18.2, the Bermagui Country Club, QSCC and Vikings must do all things necessary and execute all documents to cause all of the Assets, Debts, Liabilities, Land and Water Access Licence to be transferred to or assigned as contemplated in clause 18.2 with effect from the date of Final Order wherever possible. Such transfers and assignments will without limitation be in respect of:
- (a) the Land and all other real property of the Bermagui Country Club;
  - (b) the Water Access Licence;
  - (c) all contract rights and obligations including without limitation hire purchase agreements and existing service agreements in respect of the Bermagui Country Club Premises;
  - (d) all intellectual property rights (including business names);
  - (e) all physical assets, furniture and fittings and stock in trade,
  - (f) all Debts and Liabilities;
- owing, owned or entered into by the Bermagui Country Club.
- 18.5 The transfers, novations and assignments referred to in clause 18.4 must be executed by the Bermagui Country Club before Completion of the Amalgamation and be given to and be held in escrow by QSCC pending Completion of the Amalgamation.
- 18.6 The Bermagui Country Club must ensure that the Assets Land and Water Access Licence are transferred in accordance with clause 18.2 of this Memorandum, free of charges, security interests and encumbrances of any other nature (other than as approved by QSCC in its absolute discretion) to enable transferee to become the absolute and beneficial owner of the Assets, Land and Water Access Licence, with effect from Completion of the Amalgamation. For the purposes of this clause, QSCC and Vikings will discharge and release any security interests over Bermagui Country Club and mortgages over the Land from Completion of the Amalgamation and QSCC will be deemed to have unencumbered title and ownership of an Asset if the Bermagui Country Club has obtained a written undertaking from the relevant secured party on or before Completion of the Amalgamation which meets with the approval of QSCC and states that the relevant secured party will release their interest in the Asset after Completion of the Amalgamation.
- 18.7 QSCC will be responsible for and pay when due all Debts and Liabilities of Bermagui Country Club which:
- (a) have not been paid or otherwise discharged in full by Bermagui Country Club as at the Completion of the Amalgamation;

- (b) are reasonably incurred by Bermagui Country Club after Completion of the Amalgamation with QSCC including without limitation the costs of director's and officers liability insurance pending deregistration of Bermagui Country Club as a corporate entity; or
- (c) arise from QSCC not accepting the assignment or novation of any contracts as required by this Memorandum.

18.8 After QSCC has advised the Bermagui Country Club that it is satisfied that all matters related to the Amalgamation have been completed, the Bermagui Country Club must, as soon as reasonably practicable, ensure the Bermagui Country Club is voluntarily wound up and any surplus Assets (if any) are transferred to QSCC.

18.9 Each of the parties warrants to the other 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 the matters referred to in this clause 18.

## **19. ACCESS TO RECORDS**

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19.1 From the date of this Memorandum, the Bermagui Country Club will provide to QSCC at all reasonable times access to the Bermagui Country Club Premises, Records and other information and material reasonably required by QSCC (including for the purpose of any due diligence referred to in clause 2.6).

19.2 From the date of this Memorandum, QSCC and Vikings will provide to the Bermagui Country Club at all reasonable times access to Records and other information and material reasonably required by the Bermagui Country Club for the purposes of the due diligence referred to in clause 2.5).

## **20. CONFIDENTIALITY**

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20.1 A party must not without the prior written approval of the other disclose the other party's Confidential Information.

20.2 Each party must take all reasonable steps to ensure its employees and agents, subcontractors and consultants do not disclose or make public the other parties Confidential Information.

20.3 A party must on demand return to the other any documents supplied by the other in connection with this Memorandum.

20.4 This clause 20 survives completion of this Memorandum.

## **21. RESOLUTION OF DISPUTES ARISING UNDER THIS MEMORANDUM**

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21.1 A party must not commence any Court or arbitration proceedings relating to a dispute unless it complies with this clause.

21.2 A party claiming a dispute has arisen under or in relation to this Memorandum or the amalgamation process must give written notice to the other party specifying the nature of the dispute.

21.3 On receipt of that notice by the other party the parties must endeavour in good faith to resolve the dispute expeditiously using informal dispute resolution techniques, such as mediation, expert evaluation or expert determination or other techniques as may be

agreed by them.

21.4 If the parties do not within seven (7) days of the receipt of the notice referred to in **clause 21.2** or any extended period agreed in writing between the parties as to:

- (a) the dispute resolution technique or procedures to be adopted;
- (b) the timetable for steps in those procedures; and
- (c) the selection and compensation of an independent person required for such dispute resolution technique or procedures,

The parties must mediate the dispute in accordance with the mediation rules of the Law Society of New South Wales. The parties must request the President of the Law Society of New South Wales or the President's nominee to select the mediator and determine the mediator's remuneration.

21.5 If the dispute is not resolved within twenty eight (28) days after notice is given under clause 21.2 a party which has complied with the provisions of this clause 21 may by written notice to the other terminate any dispute resolution process undertaken pursuant to this clause and may then refer the dispute to arbitration or commence Court proceedings in relation to the dispute.

21.6 The parties acknowledge the purpose of any exchange of information or documents or the making of any offer of settlement pursuant to this clause 21 is to settle the dispute concerned. Neither party may use any information or documents obtained through any dispute resolution process undertaken pursuant to this clause for any purpose other than in an attempt to settle the dispute.

## 22. **COSTS**

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22.1 Each party shall pay its own costs of and in relation to the preparation, execution and completion of this Memorandum.

## 23. **STAMP DUTY**

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23.1 The parties acknowledge that section 65(3) of the *Duties Act (NSW)* provides no duty is chargeable on a transfer of dutiable property to give effect to an amalgamation of registered clubs provided such information and documents as the Chief Commissioner of the Office of State Revenue requires are provided.

23.2 Despite the exemption from duty referred to in clause 23.1 the parties agree that any duty payable by any party to bring into effect the provisions of this Memorandum shall be paid by QSCC except for duty payable on the transfer of the Water Licence and Land which will be paid by Vikings.

23.3 Notwithstanding anything contained in this Memorandum, if stamp duty is deemed to be payable on the transfer of the Land and Water Access Licence to Vikings:

- (a) Vikings may, in writing, direct Bermagui Country Club to transfer the Land and Water Access Licence to QSCC; and
- (b) if the direction in clause 23.3(a) is given to Bermagui Country Club then on Completion of the Amalgamation:
  - (i) Bermagui Country Club will transfer the Land and Water Access Licence to



QSCC ;

- (ii) Vikings' registered mortgage will remain on the titles for the Land;
- (iii) QSCC will be the owner of the Land and Water Access Licence as and from Completion of the Amalgamation and consequently, it will not lease the Land from Vikings; and
- (iv) the restrictions on the disposal of Bermagui Country Club Premises, cessation of trade from the Bermagui Country Club Premises clubhouse and cessation of golf, bowls and tennis activities will continue to apply.

## 24. **GST**

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- 24.1 All Payments, save to the extent provided for otherwise elsewhere in this Memorandum of Understanding, have been calculated without regard to GST;
- 24.2 If the whole or any part of any Payment, is Consideration for a Taxable Supply, the Recipient of the Taxable Supply must pay to the Supplier an amount additional to the relevant Consideration provided for elsewhere in this Memorandum of Understanding equal to the GST Amount. Unless otherwise agreed in writing, such amount equal to the GST Amount is to be paid within five Business Days of the Supplier issuing to the Recipient a valid Tax Invoice for the Taxable Supply.
- 24.3 The amount equal to the GST Amount must be paid in full and without deduction, notwithstanding any entitlement that the Purchaser may have to a credit or offset however arising;
- 24.4 If either party is required to reimburse to the other any cost or expense or other amount incurred by the other party under or in connection with this Memorandum of Understanding, the amount to be reimbursed must be reduced by any part of that amount for which that other party can claim an Input Tax Credit, partial Input Tax Credit or other like set-off;
- 24.5 If a party is a member of a GST Group, references to GST for which the party is liable and to Input Tax Credits to which the party is entitled include GST for which the Representative Member of the GST Group is liable and Input Tax Credits to which the Representative Member is entitled; and
- 24.6 If, in relation to a Taxable Supply, an Adjustment Event occurs that gives rise to an Adjustment then the GST Amount will be adjusted accordingly and where necessary a payment will be made to reflect that adjustment. If a payment is required it will be made within five Business Days of the date on which the Adjustment Note is issued by the Supplier.

## 25. **GENERAL**

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- 25.1 This Memorandum constitutes the whole and entire agreement between the parties and any warranty, representation, guarantee or other term or condition of any nature not contained or recorded in this Memorandum is of no force or effect.
- 25.2 No provision of this Memorandum is in any way modified, discharged or prejudiced by reason of any investigation made, or information acquired, by or on behalf of either Club respectively, whether prior to or after the date of this Memorandum.
- 25.3 The rights, powers, remedies and privileges provided in this Memorandum are cumulative,

and are not exhaustive of any other rights, powers, remedies and privileges provided by law, except as may be expressly stated otherwise in this Memorandum.

- 25.4 If any provision of this Memorandum is invalid and not enforceable in accordance with its terms, other provisions which are self-sustaining and capable of enforcement continue to be valid and enforceable in accordance with their terms.
- 25.5 Neither party may assign this Memorandum or any benefit under it without the prior written consent of the other which it may refuse in its absolute discretion.
- 25.6 Each party must do, sign and deliver all acts and documents reasonably required of it by notice from the other to effectively carry out and give full effect to this Memorandum.
- 25.7 This Memorandum is governed by and is to be construed in accordance with the law of New South Wales.

## 26. TERMINATION

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- 26.1 QSCC may, without penalty or liability, terminate this Memorandum at any time by giving written notice to the Bermagui Country Club if:
  - (a) the Bermagui Country Club breaches any warranty **contained in clause 16.1**; or
  - (b) **the members of the Bermagui Country Club have not passed the resolution referred to in clause 14.1 within three (3) months of the date of this Memorandum or such other later date agreed by the parties in writing.**
  - (c) **the due diligence review undertaken by it on the Bermagui Country Club** (as referred to in **clause 2.6**) is not satisfactory to the Board of QSCC.
- 26.2 The Bermagui Country Club may terminate this Memorandum without penalty or liability by giving written notice to QSCC if the members of QSCC have not passed the resolutions referred to in **clauses 14.3 and 14.5** within six (6) months of the members of the Bermagui Country Club passing the resolution referred to in **clause 14.1** or such other later date agreed by the parties.
- 26.3 Bermagui Country Club may, without penalty or liability, terminate this Memorandum on or before 1 July 2025 by giving written notice to QSCC if the due diligence review undertaken by it on QSCC (as referred to in **clause 2.5**) is not satisfactory to the Board of Bermagui Country Club. If this right of termination is not exercised on or before 1 July 2025, the condition precedent set out in **clause 17.1(c)** is deemed to be satisfied.
- 26.4 Notwithstanding anything contained in this Memorandum, if Completion of the Amalgamation has not occurred within twenty four (24) months of the date of this Memorandum (or such later date agreed by the parties), then either party by giving written notice to the other may, without penalty, terminate this Memorandum.
- 26.5 Any delay or forbearance in giving or withdrawing a notice pursuant to this **clause 26** by a party shall not prejudice its rights to subsequently terminate this Memorandum pursuant to this **clause 26**.
- 26.6 If this Memorandum is terminated in accordance with this **clause 26** the Amalgamation terminates.

## 27. NOTICES

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- 27.1 A notice, approval, consent or other communication to a person relating to this Memorandum must be in writing and executed by duly authorised persons.
- 27.2 If the notice is to QSCC, then it must be addressed as follows:
- (a) **Name:** Queanbeyan Sports & Community Club Limited
  - (b) **Attention:** Andrew Hunter
  - (c) **Address:** 97 Campbell St, Queanbeyan, NSW 2620
  - (d) **Email:** Andrew.Hunter@campbellandgeorge.com.au
- 27.3 If the notice is to the Bermagui Country Club, then it must be addressed as follows:
- (a) **Name:** Bermagui Country Club Limited
  - (b) **Attention:** Anthony Corbitt
  - (c) **Address:** Tuross Street, Bermagui, NSW 2546
  - (d) **Email:** Anthony.c@bermaguicountryclub.com.au
- 27.4 If the notice is to the Vikings, then it must be addressed as follows:
- (a) **Name:** Tuggeranong Valley Rugby Union & Sports Club Limited
  - (b) **Attention:** Anthony Hill
  - (c) **Address:** 6 Ricardo Street, Wanniasa, Australian Capital Territory, 2903
  - (d) **Email:** Anthony.Hill@vikings.com.au
- 27.5 Notice is sent by the sender and received by the receiver:
- (a) if the notice is hand delivered, upon delivery to the receiving party; or
  - (b) if the notice is sent by email, upon the successful completion of the relevant transmission;
  - (c) if the notice is sent by post, one (1) day after the notice is posted.

## 28. PROCESS FOR THE VARIATION OF THIS MEMORANDUM

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No variation or waiver of any provision of this Memorandum is of any force or effect unless it is confirmed in writing and signed by both Parties. The variation or waiver is effective only to the extent for which it is made or given.

## 29. WAIVER AND THE EXISTENCE OF A POWER OR A RIGHT

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No failure, delay, relaxation or indulgence on the part of either Party in exercising any power or right conferred on that Party by this Memorandum operates as a waiver of that power or right. No single or partial exercise of any such power or right will preclude any other or future exercise of it, or the exercise of any other power or right under this Memorandum.

## 30. **NOTES**

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- 30.1 Before this Memorandum was executed, the Clubs each displayed notices to members which are required under section 17AE of the RCA and **clause 4(5)** of the Regulations.
- 30.2 This Memorandum is to be:
- (a) made available to the ordinary members of the Bermagui Country Club and QSCC 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 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 to transfer the club licence held by the Bermagui Country Club to QSCC.

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EXECUTED AS A DEED:

Executed by **QUEANBEYAN SPORTS & COMMUNITY CLUB LIMITED ACN 606 192 965** pursuant to Section 127 of the Corporations Act 2001

Director

Director

Name of Director

Name of Director

Executed by **BERMAGUI COUNTRY CLUB LIMITED ACN 001 027 916** pursuant to Section 127 of the Corporations Act 2001

Signed by:  
*Debra Evans*  
39F79D84857F4FA...

Director / Secretary

Debra Evans

Name of Director/Secretary

Signed by:  
*Anthony Corbitt*  
6E57A8FB78F6497...

Director / Secretary

Anthony Corbitt

Name of Director/Secretary

Executed by **TUGGERANONG VALLEY RUGBY UNION & SPORTS CLUB LIMITED (ABN 48 098 763 314)** pursuant to Section 127 of the Corporations Act 2001

Director / Secretary

Director / Secretary

Name of Director/Secretary

Name of Director/Secretary

**EXECUTED AS A DEED:**

Executed by QUEANBEYAN SPORTS & )  
COMMUNITY CLUB LIMITED ACN )  
606 192 965 pursuant to Section 127 of the  
Corporations Act 2001



Director

Raymond George Sweeney  
Name of Director



Director

ROY M EGAN  
Name of Director

Executed by BERMAGUI COUNTRY )  
CLUB LIMITED ACN 001 027 916 )  
pursuant to Section 127 of the )  
Corporations Act 2001

\_\_\_\_\_  
Director / Secretary

\_\_\_\_\_  
Name of Director/Secretary

\_\_\_\_\_  
Director / Secretary

\_\_\_\_\_  
Name of Director/Secretary

Executed by TUGGERANONG )  
VALLEY RUGBY UNION & SPORTS )  
CLUB LIMITED (ABN 48 098 763 314) )  
pursuant to Section 127 of the  
Corporations Act 2001



Director / Secretary

TIM HUTCHISON  
Name of Director/Secretary



Director / Secretary

ANTHONY D HILL  
Name of Director/Secretary





