



## MEMORANDUM OF UNDERSTANDING

**Date:**

**Parties:** WESTERN SUBURBS LEAGUE CLUB  
(CAMPBELLTOWN) LTD  
(ACN 000 841 958)

THE RUGBY LEAGUE COUNTRY CLUB  
LTD (ACN 000 479 407)

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This Memorandum of Understanding is made on 26<sup>TH</sup> OCTOBER 2011.

**BETWEEN**

**WESTERN SUBURBS LEAGUE CLUB (CAMPBELLTOWN) LTD**  
(ACN 000 841 958) of 10 Old Leumeah Road, Leumeah, New South Wales (“Wests”).

**AND**

**THE RUGBY LEAGUE COUNTRY CLUB LTD (ACN 000 479 407)** of 810 Camden Valley Way, Catherine Field, New South Wales (“the RLCC”).

**BACKGROUND**

- (A) The RLCC and Wests both operate registered clubs in the Macarthur Region of New South Wales.
- (B) The RLCC has called for expressions of interest for amalgamation from registered clubs within a radius of 50 kilometres from the RLCC.
- (C) Wests submitted an expression of interest to the RLCC which has been accepted by the RLCC.
- (D) The Regulations require a Memorandum of Understanding between the Clubs that are proposing to amalgamate to deal with or include the matters contained in clauses 2 to 8 inclusive below but other matters of importance to both clubs are included in this Memorandum of Understanding.

**1. DEFINITIONS AND INTERPRETATIONS**

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1.1 In this Memorandum unless the context otherwise requires:

“**Amalgamated Club**” means the registered club formed by the amalgamation of the RLCC and Wests the corporate vehicle of which will be Wests;

“**Amalgamation**” means the amalgamation of the Clubs in accordance with this Memorandum;



**“Amalgamation Application”** means an application for the transfer of the RLCC’s two (2) Liquor Licences to Wests pursuant to Section 60(6) of the Liquor Act;

**“Assets”** means all of the goodwill, land, personal property, equipment, stock, intellectual property and all other property, tangible or intangible belonging to the RLCC at the time of Completion of the Amalgamation but excluding cash and money in bank accounts;

**“Authority”** means the Casino, Liquor and Gaming Control Authority;

**“Camden Valley Development Agreement”** means the agreement between SH Camden Valley Pty Limited its successors and assigns, Narellan Properties Holdings Pty Limited and others referred to in a variation of lease dated 26 June 2009;

**“Camden Valley Golf Resort”** means Camden Valley Golf Club on Camden Valley Way, Catherine Field, New South Wales;

**“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;

**“Clubs”** means both the RLCC and Wests;

**“Completion of the Amalgamation”** means that day on which:

- (a) the RLCC’s Liquor Licences are transferred to Wests; and
- (b) the Assets of the RLCC are transferred to Wests, as referred to in clause 15; and
- (c) the leases under which the RLCC has tenure to its premises are assigned to Wests.
- (d) the RLCC members become members of Wests and all thereby become members of the Amalgamated Club.
- (e) The Board and CEO of Wests take over responsibility and control of both the premises of the RLCC.

**“CEO”** means the individual who fulfils the Secretary or Secretary Manager’s role of the RLCC or Wests (as the context permits);

**“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;

**“Corporations Act”** means the *Corporations Act 2001 (Commonwealth)* and the Regulations made thereunder;

**“Debts”** means the accumulated debts of the RLCC at the time of Completion of the Amalgamation;

**“Gaming Machines Act”** means the *Gaming Machines Act 2001* and the Regulations made thereunder;

**“GST”** means Goods and Services Tax under the A New Tax System (Goods and Services Tax) Act 1999;

**“Liabilities”** means all liabilities, losses, damages, outgoings, costs and expenses of whatever description whether actual or contingent and whether current or prospective at the time of Completion of the Amalgamation;

**“Liquor Act”** means the Liquor Act 2007 (NSW) and Regulations made thereunder;

**“Liquor Licence”** means a club licence under the Liquor Act 2007 issued to the RLCC or Wests (as the context permits);

**“Memorandum”** means this Memorandum of Understanding;

**“Order”** means the conditional or provisional grant of approval of the Amalgamation Application by the Authority for the purposes of Section 60(6) of the Liquor Act;

**“Regulations”** means the Regulations to the RCA;

**“RCA”** means the *Registered Clubs Act 1976 (NSW)*;

**“RLCC Premises”** means “Camden Valley Golf Club” on Camden Valley Way Catherine Field, New South Wales and “Camden Lakeside” on Raby Road, Catherine Field, New South Wales;

**“The Golf Club Premises”** means Camden Lakeside Golf Club incorporating clubhouse and golf course.

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 CLUBS POSITION REGARDING THE PROPOSED AMALGAMATION AND THE MANNER IN WHICH THE PREMISES AND OTHER FACILITIES OF THE RLCC WILL BE MANAGED AND THE DEGREE OF AUTONOMY THAT WILL BE PERMITTED IN THE MANAGEMENT OF THE RLCC PREMISES AND FACILITIES**

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- 2.1 The RLCC and Wests agree to amalgamate in accordance with the RCA and the Liquor Act.
- 2.2 The Amalgamation will be effected by the continuation of Wests and the dissolution of the RLCC.

- 2.3 The premises of the Amalgamated Club will include the premises of Wests League Club and Wests Tennis Club at Leumeah, New South Wales and the two premises of the RLCC at Camden Valley Way Catherine Fields, New South Wales and at Raby Road, Raby, New South Wales.
- 2.4 Wests will be responsible for and will provide funds for the settlement of the Debts and Liabilities of the RLCC at the date of Completion of the Amalgamation, and for any Liabilities of the RLCC during the voluntary winding up of the RLCC. In particular:
- (a) the loan from St George Bank will be paid out by Wests on Completion of the Amalgamation;
  - (b) Debts of the RLCC other than those referred to in (a) shall be paid either on Completion of the Amalgamation or as they fall due thereafter.
- 2.5 Wests will either pay out or accept an assignment of or transfer of all finance leases and rental agreements that are binding on the RLCC as at the date of Completion of the Amalgamation.
- 2.6
- (a) The Board of Wests will establish a Golf Advisory Board which will include the RLCC CEO (or other officer), the RLCC Golf Manager, Golf Pro, regular golfers and Head Greenkeeper.
  - (b) The Board of Wests will also establish a Golfing section (or sub-club) pursuant to Rule 59(n) of the Constitution of Wests for the conduct of golf and the classes of membership of that section shall include those classes of Golfing membership referred to in the Special Resolution in clause 11.5.
  - (c) The Golf Advisory Board referred to in (a) will be the committee of management of the section (or sub-club) referred to in (b).
  - (d) Life members of the RLCC will not become Life members of Wests pursuant to the Amalgamation but they may be referred to and recognised as Life members of the Golfing section referred to in (b).
- 2.7 Wests will maintain the physical standard of the golf course at Camden Lakeside over time.
- 2.8 Both Clubs have made all necessary inquiries in relation to each other and are prepared to proceed with the Amalgamation on the knowledge each has of the other.

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- 2.9 The RLCC premises and facilities will become additional premises and facilities of the Amalgamated Club by way of a transfer or assignment to Wests of the current leases under which the RLCC has tenure to and occupies those premises.
- 2.10 For the purposes of the RCA, the CEO of Wests will be the Secretary and Chief Executive Officer of the Amalgamated Club, but approved managers appointed under section 66 of the Liquor Act will be appointed to manage the RLCC Premises.
- 2.11 The Board of Wests will be the Board of the Amalgamated Club.

3. **A LIST OF THE TRADITIONS, AMENITIES AND COMMUNITY SUPPORT THAT WILL BE PRESERVED OR CONTINUED BY THE AMALGAMATED CLUB**

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- 3.1 The traditions, amenities and culture of the RLCC will be maintained by the Amalgamated Club but in particular the Amalgamated Club will maintain on display in the premises of Camden Lakeside the memorabilia and honour boards of the RLCC.
- 3.2 The RLCC and Wests agree they are located in the Macarthur Region and support or have supported organisations in that Region. As far as financially possible, the Amalgamated Club will continue to support the community and organisations that were supported by the RLCC.

4. **INTENTIONS REGARDING THE FUTURE DIRECTION OF THE AMALGAMATED CLUB**

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**Premises Name and Marketing**

- 4.1 From completion of the Amalgamation, Wests intends to carry on the business of a registered club under the Registered Clubs Act at the two RLCC Premises, with all the usual facilities and amenities of a registered club and those premises will be open to and available to all members of the Amalgamated Club.
- 4.2 The RLCC's Premises at Camden Valley Way will be known and promoted as "Camden Valley Country Club" those at Raby Road will be known as "Camden Lakeside Country Club" but the licensee of both of those premises will be Wests.

5. **THE EXTENT TO WHICH THE EMPLOYEES OF THE AMALGAMATED CLUB WILL BE PROTECTED**

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- 5.1 Wests will assume all of the accrued entitlements of the RLCC's employees who take up employment in the amalgamated club and will ensure that those employees are

fully paid their entitlements on cessation of their employment with the Amalgamated Club.

- (a) Prior to Completion of the Amalgamation, Wests will invite all of the RLCC's greens, gaming and bar employees to apply for employment on comparable terms and conditions with Wests and those that accept employment and whose pay rates are up to 20% above the relevant award rates shall be paid at those higher rates but subject to compliance with Wests' standards, policies and staff handbook.
- (b) all other employees of the RLCC will be assessed according to needs of the Amalgamated Club.
- (c) all employees of the RLCC who do not take up comparable employment with the Amalgamated Club will (to the extent that the funds of the RLCC are insufficient) be paid by Wests their entitlements including any redundancy payments.

5.2 Any employee of the RLCC who satisfies Wests' employment criteria referred to in clause 5.1(a) and Wests' requirements in clause 5.1(b) will be employed by Wests.

5.3 As and from the date of this Memorandum, the RLCC will not, without the previous written consent of Wests' CEO, engage any new employee (including a casual employee) nor will it alter or seek to change the remuneration package or any other benefits provided to any employee of the RLCC.

5.4 Nothing in this clause 5 shall affect the ability of the RLCC to terminate the employment of any of its employees prior to Completion of the Amalgamation provided that Wests CEO has given his prior approval to such termination which approval shall not be unreasonably withheld.

## 6. INTENTIONS REGARDING THE FOLLOWING ASSETS OF THE RLCC:

1. ANY CORE PROPERTY;
2. ANY CASH OR INVESTMENTS;
3. ANY POKER MACHINE ENTITLEMENTS

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### Core Property

6.1 For the purposes of the RCA, the following are the "core property" of the RLCC:

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- the RLCC licensed premises and car parks at Camden Lakeside and at Camden Valley Golf Club; and
- the golf course at Camden Lakeside.

6.2 Wests intends to retain the core properties referred to in Clause 6.1 and operate from those properties in the manner referred to in clause 4 for at least three (3) years from the date of Completion of the Amalgamation.

### **Cash and Investments**

6.3 The cash and investments (if any) and bank accounts of the RLCC will be applied towards the payment of the Debts and Liabilities of the RLCC on its winding up and any surplus remaining will be paid or transferred to Wests.

### **Poker Machine Entitlements**

6.4 Poker machine entitlements to be retained at the RLCC Premises will be not less than 40.

### **7. AGREED PERIOD OF TIME BEFORE THE AMALGAMATED CLUB WILL CEASE TRADING FROM THE RLCC PREMISES OR SUBSTANTIALLY CHANGE THE OBJECTS OF THE RLCC**

7.1 Subject to Clause 7.3 the Amalgamated Club does not intend to:

- cease trading from the premises of the RLCC; or
- substantially change the objects of the RLCC.

7.2 The Amalgamated Club intends to operate the Amalgamated Club in the manner referred to in clause 4.

7.3 However, for the purposes of clause 6(2)(f) of the Regulations, Wests and the RLCC have agreed that after the expiration of three (3) years from the date of Completion of the Amalgamation, the Amalgamated Club would cease trading from either of the RLCC Premises in the following circumstances:

- if it is not financially viable for the Amalgamated Club to continue to trade from either of those premises, particularly by reason of the introduction of pre-commitment legislation in relation to poker machines; or

- (b) upon the order of any Court or body with jurisdiction to administer the laws in relation to liquor, gaming and registered clubs requiring the cessation of trading;
- (c) upon the lawful order of any government authority requiring or necessitating the cessation of trading;
- (d) if the premises are destroyed or partially destroyed by fire, flood, storm, or other similar cause;
- (e) if the lessor of those premises terminates or does not agree to an extension or renewal of the Amalgamated Club's lease over the premises.

**8. AN AGREED PERIOD OF TIME BEFORE THE AMALGAMATED CLUB WILL CEASE TRADING FROM THE COUNTRY CLUB PREMISES OR SUBSTANTIALLY CHANGE THE OBJECTS OF THE RLCC PREMISES**

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- 8.1 For the purposes of clause 6.2(g) of the Regulation, the Amalgamated Club intends to operate the RLCC Premises in the manner referred to in clause 4 for three (3) years and thereafter clause 7.3 shall apply.

**9. BINDING EFFECT OF MEMORANDUM**

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For the avoidance of doubt the RLCC and Wests agree that this Memorandum is binding on them and for that purpose is executed as a Deed.

**10. PROCESS OF AMALGAMATION**

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10.1 The process for the Amalgamation will be as follows:

- (a) the members of the RLCC and Wests will be asked to approve the amalgamation at separate extraordinary general meetings of the ordinary members of each club. These meetings will be called and held in the manner referred to in clause 11 below;
- (b) once the approvals in paragraph (a) have been obtained, the Amalgamation Application will then be made in the manner referred to in clause 12 below;
- (c) after the Amalgamation Application is granted, but subject to satisfaction of the condition precedent in clause 14 the RLCC's Assets will be transferred to Wests in the manner referred to in clause 15 below;
- (d) Wests will continue as the body corporate of the Amalgamated Club;

- (e) the RLCC Premises, together with the premises of Wests will be the licensed premises of the Amalgamated Club and will be available to all members of the Amalgamated Club;
- (f) all members of the RLCC will, with their consent, be admitted as members of the Amalgamated Club and will be identified as a separate class of members called "RL Country Club members". This will occur in accordance with the procedure set out in clause 11.5 below;
- (g) After Completion of the Amalgamation the RLCC will proceed to voluntary liquidation in the manner referred to in clause 16 below.

## **11. CALLING OF MEETINGS AND ADMISSION OF RLCC MEMBERS TO MEMBERSHIP OF WESTS**

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- 11.1 The RLCC will call an extraordinary general meeting of the ordinary members of the RLCC 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.
- 11.2 The meeting referred to in clause 11.1 must be held as soon as reasonably practicable after the date of this Memorandum.
- 11.3 Wests will call an extraordinary general meeting of the ordinary members of Wests 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.
- 11.4 The meeting referred to in clause 11.3 will be held as soon as reasonably practicable after the date of this Memorandum with the intention that if possible it will be held on, or shortly after the day, on which the meeting referred to in clause 11.1 is held.
- 11.5 In addition to the resolution referred to in clause 11.4, Wests will, at the meeting referred to in clause 11.3, submit to those members eligible to attend and vote, a special resolution to amend the Constitution of Wests which amendment will admit members of the RLCC as members of Wests on and from Completion of the Amalgamation and which will be in the form set out in annexure "A" to this Memorandum.
- 11.6 The Board of Wests will retain the rates of the annual subscriptions payable for the various classes of Golfing membership referred to in the Special Resolution being annexure "A" to this Memorandum as last levied by the RLCC immediately prior to

the date of this Memorandum and will take all reasonable steps to keep future increases to a minimum.

## 12. **AMALGAMATION APPLICATION TO THE CASINO, LIQUOR AND GAMING CONTROL AUTHORITY**

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- 12.1 As soon as reasonably practicable after the meetings referred to in clauses 11.1 and 11.3, each Club must forward to the lawyers for Wests the following documents:
- (a) a true copy of the notice of the meeting;
  - (b) a true copy of the minutes of the meeting which include the number of members present at the meeting and whether or not the resolution was passed.
- 12.2 Wests and its lawyers will be responsible for the preparation and filing of the Amalgamation Application.
- 12.3 The RLCC will co-operate with Wests and the lawyers for Wests in the preparation of the Amalgamation Application and will provide all documents and information reasonably required for that purpose.
- 12.4 The approved Chairman or Secretary of the RLCC will sign the Amalgamation Application.

## 13. **WARRANTIES AND OPERATIONAL ARRANGEMENTS**

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- 13.1 The RLCC warrants to Wests that from the date of this Memorandum to the date of Completion of the Amalgamation, the RLCC will:
- (a) carry on its business in the usual ordinary course and in a diligent manner and will not incur any single debt or liability over the sum of \$5,000 plus GST without the prior approval of Wests CEO or his delegate.;
  - (b) keep the Assets and the premises of the RLCC insured in amounts representing their full replacement or reinstatement value against fire and other risks normally insured;
  - (c) 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;
  - (d) provide Wests CEO each week or at such other times as requested any details or documents relating to the operation and financial position of the RLCC;

- (e) not do anything which may damage the goodwill of its business or that of Wests;
- (f) comply with all the terms of all leases (including concurrent leases) and licences of the RLCC Premises;
- (g) not without the prior written consent of Wests –
  - (i) enter into, terminate or alter any term of any material 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 by way of any forms of security or charge or grant an option over, or any interest in any of the RLCC's Assets;
  - (iv) employ any further employee on a permanent, part time or casual basis;
  - (v) terminate the employment of any employee or alter the terms of employment (including the terms of remuneration and or superannuation or any other benefit) of any employee;
  - (vi) seek to borrow or borrow money from any third party;
  - (vii) increase the level of debt of the RLCC beyond that existing as at the date of this Memorandum other than any debt incurred in the normal day to day trading of the RLCC; or
  - (viii) engage in discussions or negotiations with anyone other than Wests concerning the sale or disposal of all or any part of the RLCC's Assets (otherwise than as permitted under (iii) above), and the RLCC must advise Wests of any solicitation by any third party in respect of any such discussion or negotiation.

13.2 Each of the RLCC's warranties contained in clause 13.1 remain in full force and effect notwithstanding Completion of the Amalgamation.

- 13.3 Without limiting its other rights, and notwithstanding any other provision of this Memorandum, Wests may (but subject to clause 23.4) terminate this Memorandum and the Amalgamation at any time prior to Completion of the Amalgamation if there is any material breach of any of the RLCC's warranties set out in clause 13.1.
- 13.4 Wests' CEO will have regular discussions with the RLCC about the management and operations of the RLCC with the object of:
- (a) providing for an orderly transfer of the management and operations of the RLCC to Wests on the date of Completion of the Amalgamation;
  - (b) achieving efficiencies and cost savings in the RLCC.
- 13.5 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 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 material 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.
- 13.6 Title to, property in and risk of the RLCC's Assets remain solely with the RLCC until such time as they are passed to the Amalgamated Club in accordance with clause 15.
- 13.7 For the purposes of section 17AEB of the Registered Clubs Act Wests as the "parent club" for the purposes of that section, warrants that:
- (a) Wests will meet the requirements of section 10(1) of the Registered Clubs Act;
  - (b) Wests will be financially viable.

13.8 Further to paragraph (b) of clause 13.7 Wests warrants that:

- (a) Wests is not involved in any litigation actually commenced or threatened in writing that is not covered by insurance or which if not covered by insurance and Wests was held liable in the litigation would not materially adversely affect the financial viability of Wests;
- (b) there has been no material adverse change to the financial position of Wests since its last audited accounts.

13.9 **RLCC Officers**

- (a) This MOU has been prepared by the solicitors for Wests but incorporating amendments requested by the solicitors to RLCC and in particular this clause 13.9.
- (b) Wests acknowledges and covenants as follows, as a deed poll in favour of each of RLCC's directors, executives, consultants and advisers as at the date of this Memorandum ("RLCC's Officers").
- (c) Each of RLCC's Officers may rely upon these acknowledgments and covenants, and plead the following releases in bar in any relevant proceedings (judicial or otherwise), irrespective of not being named as a party or being a signatory and by virtue of the signing and delivery by West of a counterpart of this deed to RLCC irrespective of non-delivery to any of RLCC's Officers.
- (d) Wests acknowledges that it is relying entirely on information it has obtained independently and on its own investigations, decisions and advice taken and is not in connection with this MOU or the Amalgamation or RLCC relying on any representation by any of RLCC's Officers or arising out of or implied by the conduct of any of them.
- (e) Without limiting those general words, Wests acknowledges that neither of RLCC's Officers signing this deed on behalf of RLCC nor any other of RLCC's Officers, makes any representation on which Wests relies in connection with any matter about which RLCC itself gives or makes any warranty, covenant or representation.
- (f) Wests releases each of RLCC's Officers from any liability of any type for anything done or omitted by them in connection with this MOU or the

Amalgamation or RLCC including but not limited to any liability to RLCC itself.

- (g) The exceptions to the above acknowledgments and releases are:
- (i) in the case of one of RLCC's Officers signing this deed on behalf of RLCC, the implied warranty of authority to sign for RLCC;
  - (ii) in the case of any particular RLCC Officer:
    - (1) any liability to the extent caused or contributed to by their own fraud, illegal conduct or wilful misconduct or knowingly causing a breach of this Memorandum;
    - (2) any liability from which the officer may not be exempted or indemnified under Part 2D.2 of the Corporations Act;
- (h) Wests must and does hereby indemnify each of RLCC's Officers who has been an officer of RLCC, in accordance with Rule 104 of Wests' Constitution as if that rule applies to the officer as an officer of RLCC and the Rules refers to RLCC instead of Wests and all of that Rule applies in that regard in respect of that officer in their capacity or previous capacity as an officer of RLCC. Without limiting those general words, Wests must use its best endeavours on and from Completion until the seventh anniversary of Completion to maintain its current policies of insurance (or similar insurance with another Australian licensed insurance company) with the appropriate extension against liabilities arising out of the officer's conduct as an officer or RLCC, in the manner permitted by Rule 104 of Wests' Constitution as if that provision referred to RLCC and not the Wests.

#### 14. **CONDITIONS PRECEDENT**

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14.1 Completion of the Amalgamation will not take place unless:

- (a) the resolutions referred to in clause 11.1, 11.3 and 11.5 have been duly passed;
- (b) the lessors (including concurrent lessors and licensors where applicable) of the RLCC Premises have respectively provided written consents to the assignment of the leases to Wests and that any terms for those assignments have been accepted in writing by Wests and communicated to the lessors of the premises;

- (c) that Wests is satisfied that the instruments effecting the assignment of the leases, concurrent leases and licences of real estate are in the correct form and have all been executed by the respective lessors, concurrent lessors and licensors and are held in escrow either by Wests or the lessors, concurrent lessors or licensors pending Completion of the Amalgamation;
- (d) that Wests has agreed with each of the partners in the partnership called Narellan Property Holdings and the company Narellan Properties Holdings Pty Ltd as to the terms upon which each departing partner will compromise or forgive loans to the RLCC;
- (e) Wests is satisfied that there has been no breach which has not been remedied nor is there a continuing breach of the Camden Valley Development Agreement by any party to that agreement;
- (f) that the licensee of motel licence LIQ0600476406 on the site of the Camden Valley Golf Club, or if that licensee is no longer an employee of the RLCC or is no longer in attendance at the Camden Valley Golf Club in his capacity as licensee, the RLCC as business owner of that licence, has consented to, or applied for, the transfer of that licence to Wests or a nominee of Wests, and Wests is satisfied that the form for the transfer has been properly executed and is held in escrow by the solicitors for Wests pending Completion of the Amalgamation.
- (g) that discharges of mortgages, charges and other securities of the RLCC have been executed and held in escrow pending completion of the Amalgamation.

14.2 If all the conditions precedent in clause 14.1 are not satisfied within three (3) months from the date of this Memorandum of Understanding or have not been waived by Wests (which in its absolute discretion it may do), Wests can terminate this Memorandum pursuant to clause 23 without penalty or liability to RLCC.

## 15. **COMPLETION OF THE AMALGAMATION**

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15.1 As soon as practicable after the Order is made by the Authority the RLCC must do all things necessary and execute all documents to cause all of the Assets of the RLCC to be transferred to or assigned to Wests with effect from the date of Completion of the

Amalgamation. Such transfers and assignments will without limitation be in respect of:

- (a) all leases and license agreements in respect of real estate;
- (b) all contract rights including leases and hire purchase agreements;
- (c) all intellectual property rights;
- (d) all physical assets, furniture and fittings and stock in trade;
- (e) all poker machines and poker machine entitlements;
- (f) the liquor licence in respect of the motel on the site of the Camden Valley Golf Club,

owned or entered into by the RLCC.

15.2 The parties acknowledge that it is proposed that the transfers of the Assets referred to in clause 15.1 are to occur on the date on which the Liquor Licences of the RLCC are transferred to Wests pursuant to section 60(6) of the Liquor Act.

15.3 The transfers and assignments referred to in clause 15.1 may be executed by the RLCC and held in escrow by Wests pending Completion of the Amalgamation.

## 16. DISSOLUTION OF THE RLCC

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16.1 As soon as practicable after Completion of the Amalgamation, the RLCC must proceed to:

- (a) call a general meeting of its members at which members will consider, and if thought fit, pass all the appropriate resolutions for the voluntary liquidation of the RLCC; and
- (b) thereafter liquidate the RLCC and after payment of all Debts and Liabilities transfer any remaining money of the RLCC to Wests and to the extent that the RLCC is unable to pay the Debts and Liabilities, Wests will pay those Debts and Liabilities and indemnify the RLCC in that regard.

16.2 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 16.

**17. ACCESS TO RECORDS**

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17.1 From the date of this Memorandum the RLCC will provide to Wests at all reasonable times access to the RLCC's premises, its Records and Assets and other information and material reasonably required by Wests.

**18. CONFIDENTIALITY**

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

18.2 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.

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

18.4 This clause 18 survives completion of this Memorandum.

**19. RESOLUTION OF DISPUTES ARISING UNDER THIS MEMORANDUM**

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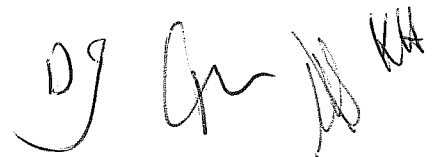
19.1 A party must not commence any Court or arbitration proceedings relating to a dispute unless it complies with this clause.

19.2 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.

19.3 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.

19.4 If the parties do not within seven (7) days of the receipt of the notice referred to in clause 19.2 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.

- 19.5 If the dispute is not resolved within twenty eight (28) days after notice is given under clause 19.2 a party which has complied with the provisions of this clause 19 may by written notice to the other terminate any dispute resolution process undertaken pursuant to this clause any may then commence Court proceedings in relation to the dispute.
- 19.6 The parties acknowledge the purpose of any exchange of information or documents or the making of any offer of settlement pursuant to this clause 19 is to settle the dispute. 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.

## 20. COSTS

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

## 21. STAMP DUTY

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- 21.1 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 two registered clubs provided such information and documents as the Chief Commissioner of the Office of State Revenue requires are provided.
- 21.2 Despite the exemption from duty referred to in clause 21.1 the parties agree that any duty payable by either party to bring into effect the provisions of this Memorandum shall be paid by Wests.

## 22. GENERAL

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- 22.1 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.

- 22.2 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.
- 22.3 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.
- 22.4 If any provision of this Memorandum is invalid and not enforceable in accordance with its terms, other provisions which are self sustaining and capable enforcement are and continue to be valid and enforceable in accordance with their terms.
- 22.5 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.
- 22.6 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.
- 22.7 This Memorandum is governed by and is to be construed in accordance with the law of New South Wales and the parties submit to the non exclusive jurisdiction of the Courts of New South Wales and any Court hearing appeals from those Courts.

### **23. TERMINATION**

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- 23.1 If the members of Wests or the members of the RLCC have not passed the resolutions referred to in clauses 11.1 and 11.3 within three (3) calendar months from the date of this Memorandum either club by giving not less than fourteen (14) days notice to the other may terminate this Memorandum without penalty.
- 23.2 Wests may terminate this Memorandum at any time if a condition precedent referred to in clause 14.1 has not been satisfied by the time limited by clause 14.2
- 23.3 (a) Notwithstanding anything contained in this Memorandum, if Completion of the Amalgamation has not occurred by 31 December 2012 either party (in its absolute discretion and without penalty) may terminate this Memorandum by giving the other party not less than twenty one (21) days notice in writing.

- (b) Any delay or forbearance in giving or the withdrawal of a notice pursuant to paragraph (a) of this clause 23.3 by a party shall not prejudice its rights to subsequently terminate this Memorandum pursuant to this clause 23.3.

23.4 In addition to any other provision contained herein, Wests may terminate this Memorandum at any time without penalty or liability if the RLCC breaches any warranty contained within clause 13 and after Wests has given the RLCC not less than fourteen (14) days notice of the breach and requiring the breach to be remedied the RLCC remains in breach of the warranty.

23.5 Termination of this Memorandum pursuant to this clause 23 also thereby terminates the Amalgamation.

## 24. NOTICES

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24.1 A notice to be given by one club to the other pursuant to this Memorandum must be:

- (a) in writing;
- (b) directed to the recipients address specified in this Memorandum or as varied by written notice;
- (c) left at, or sent by pre-paid registered post, hand delivery or by facsimile to that address.

24.2 A notice given in accordance with subparagraphs (a), (b), (c) of paragraph 24.1 will be deemed to be duly given:

- (a) on the day of delivery;
- (b) two days after the date of posting by pre-paid post;
- (c) if sent by facsimile, when the answer back or message confirmation is received,

as the case may be.

## 25. PROCESS FOR THE VARIATION OF THIS MEMORANDUM

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25.1 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.

26. **WAIVER AND THE EXISTENCE OF A POWER OR A RIGHT**

26.1 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.

NOTES

This Memorandum is to be:

1. Made available to the ordinary members of the RLCC and Wests at least 21 days before any meeting of the members of each club for the purpose of voting on whether to approve the proposed amalgamation.
2. Made available for inspection on the premises of each club and on the website of each club (if the club has a website) for at least 21 days before any meeting as referred to in paragraph 1 of these Notes is held.
3. Lodged with any application under section 60 of the Liquor Act 2007 to transfer the club licence held by the Country Club to Wests.

Executed by **WESTERN SUBURBS )  
LEAGUE CLUB )  
(CAMPBELLTOWN) LTD** pursuant to )  
Section 127 of the Corporations Act )  
2001

W. Thomson  
Director / Secretary

WARDEN S THOMSON  
Name of Director/Secretary  
(print name)

Executed by **THE RUGBY LEAGUE )  
COUNTRY CLUB LTD** pursuant to )  
Section 127 of the Corporations Act )  
2001

K Hurst  
Director / Secretary

KENNETH WILLIAM HURST  
Name of Director/Secretary  
(print name)

Tony Mathew  
Director / Secretary

Tony MATHEW  
Name of Director/Secretary  
(print name)

Douglas Jones  
Director / Secretary

DOUGLAS ALLAN JONES  
Name of Director/Secretary  
(print name)

*DJ* *WA* *KA* *W*

## Annexure A

### SPECIAL RESOLUTION

That conditional on the members of The Rugby League Country Club Limited (either before or after the meeting at which this Special Resolution is passed) passing a resolution in the same terms or to the same effect as the Ordinary Resolution above, the Constitution of Western Suburbs League Club (Campbelltown) Ltd be amended as follows:

(a) by **inserting** in Rule 21(a) the following new categories of membership:

- “• *R.L. Country Club members;*
- *Golfing members.*”

(b) by **inserting** the following new paragraphs into Rule 22:

“(j) ***RL Country Club members***

*RL Country Club members are those members who are full financial members of The Rugby League Country Club Limited and who are admitted to membership of the Club for the purposes of the amalgamation of the Club with The Rugby League Country Club Limited.*

(k) ***Golfing members***

*Golfing members are:*

(i) *all RL Country Club members who under the Constitution of The Rugby League Country Club Limited on admission to membership of the Club are in the following classes of membership:*

- *Life members*
- *Full Pensioner members*
- *Country members*
- *Country Pensioner members*
- *Sunday members*
- *Mid Week members*
- *Colt or Cadet members*
- *Junior members; and*

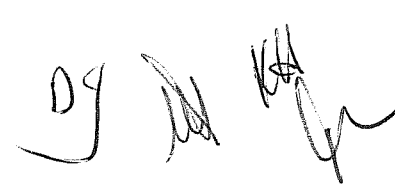
- (ii) *any person who is admitted to membership of the Club as a Golfing member or who transfers to Golfing membership in accordance with this Constitution. Only Golfing members are permitted to use the golf course and golfing facilities of the Club."*
- (c) by **inserting** in Rule 24 the words "*and Golfing members*" after the words "*Tennis members*" wherever appearing.
- (d) by **inserting** the following new Rule 35A:
- "35A*
- (a) *Rules 34 and 35 shall not apply to a person who is admitted as a member of the Club, pursuant to an amalgamation between the Club and The Rugby League Country Club Limited. This rule 35A shall be the only rule to apply to the admission of such a person to membership of the Club.*
- (b) *A person shall be admitted as a member of the Club pursuant to an amalgamation with The Rugby League Country Club Limited if that person:*
- (i) *is a full member of The Rugby League Country Club Limited and the Casino, Liquor and Gaming Control Authority has approved the amalgamation with that Club: and*
- (ii) *has agreed to be a member of the Club pursuant to the amalgamation.*
- (c) *The agreement referred to in paragraph (b)(ii) shall be given in accordance with paragraph (d).*
- (d) (i) *As soon is practicable or after the Casino, Liquor and Gaming Control Authority has approved the amalgamation between the Club and The Rugby League Country Club Limited, the Club shall forward a notice to each person who is a member of The Rugby League Country Club Limited (other than those who are already members of the Club or who have been expelled from the Club);*
- (ii) *the notice referred to in sub-paragraph (i) above will be to the effect that the Club invites the person to become a member of the Club and that unless the person informs*

*the Club in writing within fourteen (14) days from the date of the Notice that the person does not accept the invitation then the person will be deemed to have accepted the invitation and consented to be a member of the Club with effect from the date of completion of the amalgamation;*

- (iii) The name of each person who pursuant to this Rule 35A is deemed to have consented to become a member of the Club shall (subject to the Club complying with section 30(2)(a) and (b) of the Registered Clubs Act in relation to that person) become a member pursuant to a resolution of the Board of the Club to that effect;*
- (iv) All persons admitted to membership of the Club pursuant to this Rule 35A shall be identified in the register of members as being RL Country members but shall be allocated to either Golfing membership or Social membership depending on whether in the case of Golfing membership they have the qualifications referred to in Rule 22(k)(i) and in the case of Social membership they are Social members of the Rugby League Country Club Limited;*
- (v) All persons who are under the age of eighteen (18) years who are referred to in Rule 22(k)(i) shall be admitted to Junior Sporting membership pursuant to this Rule 35A provided that the consents of the parent or guardian of each such person as referred to in Rule 22(i) is received by the Club in each case;*
- (vi) All persons admitted to membership of the Club pursuant to this Rule 35A shall be deemed to have paid the annual subscription applicable to their class of membership until the first date that annual subscriptions fall due for payment after the date of*



*completion of the amalgamation between the Club and  
the Rugby League Country Club Limited.*

Three handwritten signatures in black ink, located in the bottom right corner of the page. The signatures are stylized and appear to be initials or names.