MEMORANDUM OF UNDERSTANDING

DATED 1ST NOVEMBER **2024**

PARTIES

PENRITH R S L CLUB LTD
ABN 59 000 995 568

AND

KEMPS CREEK SPORTING & BOWLING CLUB LTD
ABN 64 000 488 077

Date 1ST NOVEMBER 2024

Parties

Name	**Penrith R S L Club Limited**
ABN	**59 000 995 568**
Short form name	**Penrith**
Notice details	Neel Chand Chief Executive Officer 8 Tindale Street, Penrith NSW 2750 Email: neelc@penrithrsl.com.au

Name	**Kemps Creek Sporting & Bowling Club Ltd**
ABN	**64 000 488 077**
Short form name	**Kemps Creek**
Notice details	John Henry 1490 Elizabeth Drive, Cecil Park NSW 2178 Email: johnh@kcsb.com.au cc: david.kennedy@cbp.com.au

together "the Parties" or separately "a Party"

RECITALS

(A) Kemps Creek and Penrith both operate registered clubs premises in NSW pursuant to Club Licences.

(B) The Penrith Premises is located within fifty (50) kilometres of the Kemps Creek Premises.

(C) Kemps Creek called for expressions of interest (**EOI**) from other registered clubs interested in amalgamation on the basis of the Kemps Creek being the dissolving club in any such amalgamation.

(D) Penrith lodged an EOI.

(E) The parties have had discussion and negotiations on a possible amalgamation.

(F) The parties now propose to amalgamate the two Clubs (subject to the approval of the Authority and subject to the terms of this MOU) in accordance with the provisions of this MOU, the RCA, the Regulations, the Liquor Act and the Corporations Act.

(G) The proposed Amalgamation is consistent with Penrith's objects under its Constitution.

(H) Penrith's Constitution does not stipulate any condition precedent for the proposed Amalgamation such as requiring some specific form of approval.

(I) The proposed Amalgamation is consistent with Kemps Creek's Constitution (including its objects under its Constitution including Memorandum clause 2(h) and (r)), status as a registered club and its legal capacity and powers including under section 124 of the Corporations Act.

(J) Article 33 of Kemps Creek's Constitution stipulates that the power of Kemps Creek's Committee to dispose of land does not extend to land covered by Kemps Creek's Certificate of Registration, which fairly interpreted is a reference to the Kemps Creek Premises. However, that does not create any fetter to, or entrench any precondition in relation to, Kemps Creek proceeding with the proposed Amalgamation pursuant to an approval of its members.

(K) The Regulations require clubs that are proposing to amalgamate to enter into a Memorandum of Understanding and the Clubs are accordingly entering into this MOU for that purpose amongst others.

(L) The Regulations require the MOU to deal with or include the matters dealt with below. However, there are other matters of importance to the Clubs that are included in this MOU.

(M) Kemps Creek is entering into this MOU strictly in reliance on the understanding (and Penrith so represents) that Penrith:

(a) is not relying on any warranty or representation, stated or implied, by or in connection with Kemps Creek or any of its officers, except to the extent stated in this MOU;

(b) is very experienced and has deep expertise in registered club operations and has fully satisfied itself regarding all requirements for registered club amalgamations; and in determining to enter into this MOU, Penrith has (apart from what is expressed in this MOU) relied entirely on its own independent investigations and assessments after taking such expert advice as it determined appropriate.

OPERATIVE SECTION

1 INTERPRETATION

1.2 In this MOU, unless the context otherwise requires:

Amalgamated Club means the amalgamated registered club from the amalgamation of Penrith and Kemps Creek.

Amalgamation means an amalgamation between Penrith and Kemps Creek pursuant to the RCA and the Liquor Act.

Amalgamation Application means the provisional application for the transfer of Kemps Creek Liquor Licence to Penrith pursuant to sections 60(6) and (7) of the Liquor Act to be made by the Clubs and to the extent that the case permits, includes an application for appropriate change to the name of the Kemps Creek Premises and an application for approval of the proposed approved manager for those premises.

Assets

(a) means all of the goodwill, land, personal property, equipment, stock, intellectual property, gaming machine entitlements, gaming machines and all other property, tangible or intangible belonging to Kemps Creek at the time of Completion of the Amalgamation excluding however:

(i) any right to the benefit of this MOU;

(ii) (without limiting the other provisions of this document), any right to Kemps Creek's Statutory Records; and

(iii) any right of Kemps Creek to the benefit of the D&O Insurance.

Authority means the Independent Liquor and Gaming Authority.

Authorisation includes any consent, authorisation, registration, lodgement, agreement, notarisation, certificate, licence, approval or exemption prescribed by law or regulation or required by any Government Agency.

Business Day means any day (other than a Saturday, Sunday or public holiday) on which banks are open for general business in Sydney, 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 Penrith and Kemps Creek.

Completion of the Amalgamation	means completion of the Amalgamation in accordance with this MOU.
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 but not limited to all correspondence by letter and/or electronic mail, compact discs, digital video discs, universal serial USB sticks, 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 debts of Kemps Creek (of whatever description, known and unknown, whether or not currently due, and whether or not contingent), and including for Tax, at the time of Final Order.
D&O Insurance	means the policy of insurance that is to be procured pursuant to clause 5.10 below.
Final Order	means the final order pursuant to section 60(8) of the Liquor Act by the Authority whereby the Kemps Creek Liquor Licence will be transferred to Penrith.
Gaming Machines Act	means the Gaming Machines 2001 (NSW) and the Regulations made thereunder.
Kemps Creek Land	means the land owned by Kemps Creek.
Kemps Creek Premises	means the premises of Kemps Creek located at 1490 Elizabeth Drive, Cecil Park NSW 2178
Kemps Creek Advisory Committee	means the committee referred to in clause 5.8.
Kemps Creek's Statutory Records	means the minimum records that Kemps Creek is required by corporations, taxation or other legislation, to maintain for itself
Liabilities	means all liabilities, losses, damages, outgoings, costs and expenses of Kemps Creek (of whatever description, known and unknown, whether or not currently due, and whether or not contingent), at the time of Final Order.
Liquor Act	means Liquor Act NSW 2007.
Liquor Licence	means the Club Licence held by Kemps Creek pursuant to the Liquor Act 2007.

MOU	means this MOU.
Order	means the conditional grant of the Amalgamation Application by the Authority pursuant to section 60(7) of the Liquor Act, approving of the transfer of the Liquor Licence conditional on to notification by the parties of Completion of the Amalgamation.
Permitted Securities	means any security within a registration on the Personal Property Securities Register as at midnight at the end of [...2024], and also any purchase money security interest, in respect of Kemps Creek
Penrith CEO	means the individual who fulfills the role of secretary and chief executive officer at Penrith.
Penrith Premises	means the premises of Penrith located at 8 Tindale Street, Penrith NSW 2750.
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 Kemps Creek in the conduct of its Business including but not limited to corporate, accounting and statutory records, excluding however Kemps Creek's Statutory Records.
Regulations	mean the Regulations to the RCA.
RCA	means the Registered Clubs Act 1976 (NSW) and the Regulations made thereunder.
Tax	means any direct or indirect tax of any nature or description including income tax, capital gains tax, GST and gaming machine tax, and any associated penalty, levy or surcharge.

1.3 In this MOU, including the Recitals, unless the context otherwise requires:

(a) the singular includes the plural and vice versa;

(b) a reference to a person includes a natural person, body corporate, firm, partnership, joint venture, association, unincorporated body, authority, trust, state or government;

(c) a reference to any gender includes all genders;

(d) a reference to a recital, clause, schedule or annexure is to a recital, clause, schedule or annexure of or to this MOU;

(e) a schedule or annexure forms part of this MOU;

(f) a reference to any agreement or document is to that agreement or document (and, where applicable, any of its provisions) as amended, novated, supplemented, varied or replaced from time to time;

(g) a reference to any legislation or legislative provision includes any statutory modification or re-enactment of or any legislative provision substituted for, and any subordinate legislation under, that legislation or legislative provision

(h) a reference to any party to this MOU or any other document or arrangement includes that party's executors, administrators, substitutes, successors and permitted assigns;

(i) the words 'includes' and 'including' are not words of limitation;

(j) headings are for convenience only and do not affect interpretation;

(k) a reference to dollars or $ is to Australian currency;

(l) a reference to conduct includes any omission and any statement or undertaking, whether or not in writing;

(m) where a word or phrase is defined, its other grammatical forms have a corresponding meaning.

1.4 No provision of this MOU will be construed adversely to a party solely on the ground that the party was responsible for the preparing of this MOU or that provision.

1.5 If the day on or by which something is required to be done or may be done is not a Business Day, that thing must be done on or by the next Business Day.

2. EACH CLUB'S POSITION REGARDING THE PROPOSED AMALGAMATION

2.1 Penrith and Kemps Creek agree to amalgamate in accordance with this MOU, 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 Penrith and the dissolution of Kemps Creek.

Due Diligence

2.4 Following execution of this MOU, Penrith may, at its own expense, undertake a further due diligence review of Kemps Creek.

2.5 Kemps Creek will, if required by Penrith, provide information (including, but not limited to, details of Assets, Debts and Liabilities and Records) and assistance to Penrith in order for Penrith to properly carry out and complete the due diligence review.

Process for Amalgamation

2.6 The process for the Amalgamation will be as follows:

(a) The Clubs enter into this MOU.

(b) The members of Penrith and Kemps Creek 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 13.

(c) The members of Penrith will be asked to also approve (by special resolution) amendments to Penrith's Constitution at the general meeting held to approve the Amalgamation in the manner provided for in clause 13.5.

(d) Once the approvals in clauses 2.6 (b) and (c) have been obtained, the Amalgamation Application will then be made to the Authority in the manner referred to in clause 14.

(e) When and if an Order is obtained, and within 10 Business Days of the Order and the period permitted by the Order, simultaneously:

(i) the Assets, Debts and Liabilities will be transferred to Penrith in the manner referred to in clause 16;

(ii) all members of Kemps Creek will, with their consent, be admitted as members of Penrith and will be identified as a separate class of ordinary membership called "Kemps Creek Club members"; and

(iii) all employees Kemps Creek will be offered similar employment with Penrith, and if they accept, will be employed by Penrith: this will occur in accordance with the procedure set out in clause 6; and.

(f) After Completion of the Amalgamation, Penrith will continue as the body corporate of the Amalgamated Club.

(g) From Completion of the Amalgamation, the Kemps Creek Premises will become additional licensed premises of Penrith and will be available to all members of the Amalgamated Club.

(h) The Kemps Creek Premises will be operated in the manner set out in clauses 3, 4 and 5.

(i) After Completion of the Amalgamation, Kemps Creek will be liquidated in the manner referred to in clause 16 below.

3. THE MANNER IN WHICH THE PREMISES AND OTHER FACILITIES OF KEMPS CREEK WILL BE MANAGED AND THE DEGREE OF AUTONOMY THAT WILL BE PERMITTED IN THE MANAGEMENT OF KEMPS CREEK PREMISES AND FACILITIES

[Regulations – Clause 7(2) (a)]

3.1 The Kemps Creek Premises and facilities will become premises of Penrith as the surviving club in the Amalgamation.

3.2 The Amalgamated Club will operate and trade from the Penrith Premises and the Kemps Creek Premises.

3.3 For the purposes of the RCA, the Penrith CEO will be the Secretary and Chief Executive Officer of the Amalgamated Club.

3.4 The Board of Penrith will be the Board of the Amalgamated Club.

3.5 The Amalgamated Club will take over responsibility and control of the Kemps Creek

Premises with effect from Completion of the Amalgamation.

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)]

4.1 The traditions, amenities, culture and memorabilia of Kemps Creek will be maintained by the Amalgamated Club at end from the Kemps Creek Premises.

4.2 The Amalgamated Club will continue to support the local community generally in the manner and to the extent that the local community has been supported by Kemps Creek (in periods immediately up to the date of this MOU) and it will explore opportunities to expand community support.

5. INTENTIONS REGARDING THE FUTURE DIRECTION OF THE AMALGAMATED CLUB [Regulations – Clause 7(2) (c)]

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, the Amalgamated Club will operate the Kemps Creek Premises in accordance with this clause 5 and the other provisions of this MOU.

Amalgamated Club Premises

5.2 The Amalgamated Club will operate and trade from the Penrith Premises and the Kemps Creek Premises.

Kemps Creek Premises

5.3 The Kemps Creek Premises will be named and promoted as "Kemps Creek Sports Club".

5.4 Subject to clauses 9, 10 and 11, the Amalgamated Club intends to:

(a) seek to enhance the social facilities, amenities and activities at the Kemps Creek Premises.

(b) maintain and where possible enhance, the existing facilities and activities at the Kemps Creek Premises.

(c) make improvements to the clubhouse and surrounds at the Kemps Creek Premises in order to provide superior facilities and food offerings.

5.5 The parties acknowledge and agree that as at the date of this MOU and for a time after Completion of the Amalgamation, trading at the Kemps Creek Premises will continue to be affected by the construction of the Western Sydney Airport, M12 motorway and related works. During this time, the focus of the Amalgamated Club will be improving trading during these works.

5.6 Penrith has engaged Altis Architects to prepare a master plan for the Kemps Creek Premises and site to develop those premises and site.

5.7 Within the first three (3) years of Completion of the Amalgamation, the Amalgamated Club will undertake a feasibility study for the works contained in the Kemps Creek

masterplan referred to in clause 5.6..

Advisory Committee

5.8 The Board of the Amalgamated Club will seek to create an Advisory Committee in respect of the Kemps Creek Premises and the following shall apply in respect of the Committee:

(a) The Committee will comprise the directors of Kemps Creek at the Completion of the Amalgamation who accept the invitation to join the Committee.

(b) If any casual vacancy arises on the Advisory Committee:

(i) the remaining members of the Advisory Committee will continue to act as the Committee; and

(ii) the Board may appoint a member of the Amalgamated Club who was a member of Kemps Creek as at Completion of the Amalgamation to fill that vacancy.

(c) The Advisory Committee will continue to exist for 2 years following Completion of the Amalgamation.

(d) The Advisory Committee may make recommendations to the Board and/or management of the Amalgamated Club regarding the Amalgamated Club's operations at the Kemps Creek Premises.

(e) The Advisory Committee:

(i) will not have any governance or management powers in the Amalgamated Club (except if specifically delegated to it by resolution of the Board) and it shall be subject to the overall control and direction of the Board and management of the Amalgamated Club; and

(ii) will be required to provide reports to the Board of the Amalgamated Club.

(f) The Board of the Amalgamated Club will propose a resolution at each Annual General Meeting while the Advisory Committee exists that the committee members be paid an honorarium of $250 to be paid by way of club rewards points to committee members.

Sub clubs

5.9 In relation to the sub clubs operating at Kemps Creek at the date of this MOU, Penrith agrees that they can

(a) retain their own constitutions, by-laws, committees and members;

(b) retain committees elected by members of each sub-club;

(c) are authorised to operate their own bank account;

(d) continue using their existing names.

(e) continue using insignia of Sporting & Bowling Club;

(f) receive annual subsidy funding from Penrith.

Insurance

5.10 Prior to the Completion of the Amalgamation Kemps Creek, with the cooperation of Penrith, must use its best endeavours to procure prepaid run-off D&O insurance cover for the Directors of Kemps Creek to remain in force for at least three years after the date of Completion of the Amalgamation, that takes into account the intended dissolution of Kemps Creek following Completion of the Amalgamation, with an Australian licensed insurer with an excess or deductible in respect of any one claim not exceeding $5000, cover for claim or claims in aggregate up to a maximum of $20 million and otherwise on terms to the reasonable satisfaction Kemps Creek and Penrith it with the consent of Penrith not be unreasonably delayed or withheld.

6. THE EXTENT TO WHICH THE EMPLOYEES OF THE AMALGAMATED CLUB WILL BE PROTECTED [Regulations – Clause 7(2) (d)]

6.1 As part of the Amalgamation, Kemps Creek will be wound up and dissolved.

6.2 On Completion of the Amalgamation, the employment of all of Kemps Creek's four permanent employees will be terminated and Kemps Creek must pay to those employees all accrued entitlements and payments due at the end of their employment under any applicable legislation and their individual contracts of employment.

6.3 Prior to Completion of the Amalgamation, Penrith will make offers of employment to all of Kemps Creek's employees, including those made redundant, apart from any Kemps Creek employee who informs or has informed Kemps Creek or Penrith that they do not wish to receive such an offer.

6.4 The offers of employment will be:

(a) made no later than as soon as reasonably practicable after the Order;

(b) conditional upon, and the proffered employment will only become effective from, the Completion of the Amalgamation; and

(c) not offer recognition for past service (noting that Kemps Creek will pay out all accrued entitlements of its employees in respect of periods up to Completion of the Amalgamation), except to the minimum extent required by statute; and

(d) on the same terms and conditions presently offered by Penrith to employees of Penrith in similar or near-similar roles.

7. INTENTIONS REGARDING THE FOLLOWING ASSETS OF KEMPS CREEK:
1. ANY CORE PROPERTY;
2. ANY CASH OR INVESTMENTS;
3. ANY GAMING MACHINE ENTITLEMENTS

[Regulations – Clause 7(2) (e)]

Core Property

7.1 For the purposes of the RCA, the Kemps Creek Premises (including all of the land owned by Kemps Creek) is the "core property" of Kemps Creek.

7.2 Subject to and without limiting the other provisions of this MOU, the Amalgamated Club will retain the core property of Kemps Creek and operate the Amalgamated Club in the manner referred to in clause 5 for the greater of the period referred to in clause 10 and the period of at least 3 years from Completion of the Amalgamation.

Cash and Investments

7.3 The cash and investments (if any) Kemps Creek will be transferred (in accordance with clause 16) to the general reserves of the Amalgamated Club.

Gaming Machine Entitlements

7.4 As at the date of this MOU, Kemps Creek has 100 gaming machine entitlements attached to Kemps Creek Premises.

7.5 The Board of the Amalgamated Club will retain a minimum of 100 gaming machine entitlements as currently issued to Kemps Creek Premises and have a minimum of 100 gaming machines operating at Kemps Creek Premises, while the Kemps Creek Premises is trading.

8. RISKS OF NOT PRESERVING KEMPS CREEK'S CORE PROPERTY AND HOW THOSE RISKS ARE TO BE ADDRESSED

[Regulations – Clause 7(2) (e1)]

8.1 Subject to clauses 9, 10 and 11, the Amalgamated Club will not dispose of the core property Kemps Creek during the first eight (8) years after Completion of the Amalgamation.

8.2 The risks of the Amalgamated Club not meeting the intentions of the parties in preserving the core property of Kemps Creek or not continuing to trade from the Kemps Creek Premises, are -

(a) the occurrence of the circumstances set out in clause 10.4;

(b) coupled with the theoretical risk of future insolvency that may mean the Amalgamated Club does not have the means to do so (noting that this risk is judged to be small because Penrith currently has a strong balance sheet and a strong positive cash flow); and

(c) the risk that those intentions are otherwise frustrated due to some legal or other external development beyond the control of the Amalgamated Club (noting that this risk is also judged to be small; and the Amalgamated Club must use its reasonable endeavours to avoid itself doing anything that would cause that result).

9. DISPOSAL OF KEMPS CREEK MAJOR ASSETS [Regulations – Clause 7(2) (e2)]

9.1 For the purposes of the RCA, Kemps Creek Premises are the "core property" and hence major assets, of Kemps Creek.

9.2 Subject to clauses 10 and 11 of this MOU, the Amalgamated Club will not dispose of the major assets of Kemps Creek or the gaming machine entitlements acquired as a consequence of Completion of the Amalgamation, during the first 8 (eight) years after Completion of the Amalgamation.

10. THE CIRCUMSTANCES THAT WOULD PERMIT THE AMALGAMATED CLUB TO CEASE TRADING IN THE PREMISES OF KEMPS CREEK OR TO SUBSTANTIALLY CHANGE THE OBJECTS KEMPS CREEK [Regulations – Clause 7(2) (f)]

10.1 The Amalgamated Club does not intend to:

(a) cease trading from the Kemps Creek Premises; or

(b) substantially change the objects of Kemps Creek.

10.2 The Amalgamated Club intends to operate the Kemps Creek Premises in the manner referred to in clause 5.

10.3 However, for the purposes of clause 7(2)(f) of the Regulations, Penrith and Kemps Creek are required to agree to the matters set out in clause 10.4.

10.4 For the purposes of clause 7(2)(f) of the Regulations, Penrith and Kemps Creek have agreed that the Amalgamated Club would not cease trading from nor change the objects Kemps Creek Premises except in any of the following circumstances:

(a) After eight years from the Completion of the Amalgamation;

(b) Upon the order of any Court or body with jurisdiction to administer the laws in relation to liquor, gaming and registered clubs (which the Amalgamated Club must use its reasonable endeavours to avoid);

(c) Upon the lawful order of any government authority (which the Amalgamated Club must use its reasonable endeavours to avoid);

If the Kemps Creek licensed premises/clubhouse is destroyed or partially destroyed by fire, floods, storms etc such that it is not lawful for a licensed premises/clubhouse to be operated at that site and any resulting insurance claim is not sufficient to re-instate or re-build licensed premises/clubhouse at that site.

11. AN AGREED PERIOD OF TIME BEFORE THE AMALGAMATED CLUB WILL CEASE TRADING FROM KEMPS CREEK PREMISES OR SUBSTANTIALLY CHANGE THE OBJECTS KEMPS CREEK [Regulations – Clause 7(2) (g)]

11.1 The Amalgamated Club does not intend to cease trading from the Kemps Creek Premises. The Amalgamated Club intends to operate the Kemps Creek Premises in the manner referred to in clause 5 and would only cease to do so in the

circumstances referred to in clauses 9 and 10.

11.2 The objects of the Amalgamated Club will be the objects of Penrith with effect from Completion of the Amalgamation.

11.3 However, for the purposes of clause 7(2)(g) of the Regulations, Penrith and Kemps Creek 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, Penrith and Kemps Creek have agreed that the Amalgamated Club will continue to trade from the Kemps Creek Premises for at least 8 years from Completion of the Amalgamation, subject to the other provisions of this MOU.

12. BINDING EFFECT OF MOU

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

13. CALLING OF MEETINGS AND ADMISSION OF KEMPS CREEK MEMBERS TO MEMBERSHIP OF PENRITH

13.1 Each Club must:

(a) promptly on the signing of this MOU give its members an Amalgamation Notification for the purposes of section 17AE(2) of the RCA; and

(b) at the appropriate time with the appropriate timing make a copy of this MOU available to its ordinary members (within the meaning of the RCA), and available for inspection, as required by clause 7(3) of the Regulations.

13.2 Kemps Creek will promptly call a general meeting of the ordinary members (within the meaning of the RCA) of Kemps Creek for the purposes of considering and if thought fit passing resolutions;

(a) approving in principle the Amalgamation in accordance with section 17AEB(d) of the RCA; and

(b) approving of Kemps Creek's Committee causing the disposal of Kemps Creek's Assets to Penrith in accordance with this MOU on Completion of the Amalgamation.

13.3 The meeting referred to in clause 13.2 must be held as soon as reasonably practicable after the date of this MOU and Kemps Creek's notice of general meeting and any explanatory memorandum or other information to be sent to Kemps Creek's members in relation to the meeting must be approved by Penrith before it is to be sent to Kemps Creek's members, such approval not to be unreasonably delayed, withheld or conditioned.

13.4 Penrith will likewise promptly call a general meeting of the ordinary members (within the meaning of the RCA) of Penrith 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. Penrith's notice of general meeting and any explanatory memorandum or other information to be sent to Penrith's members in relation to the meeting must be approved by Kemps Creek before it is to be sent to Penrith's members, such approval not to be unreasonably delayed, withheld or

conditioned.

13.5 The meeting referred to in clause 13.4 will be scheduled to be held as soon as reasonably practicable after the meeting referred to in clause 13.2.

13.6 In addition to the resolution referred to in clause 13.4, Penrith will, at the meeting referred to in clause 13.4, submit to those members eligible to attend and vote one or more Special Resolutions to amend the Constitution of Penrith as follows:

(a) All ordinary members of Kemps Creek (within the meaning of the RCA), who apply to become members of Penrith will be admitted to membership of Penrith.

(b) All members of Kemps Creek will be able to apply for membership of Penrith in the manner referred to in this clause.

(c) As soon as practicable after the Order, Penrith will forward to each member of Kemps Creek, who is not already a member of Penrith, a written invitation to become a member of Penrith.

(d) Any member of Kemps Creek who accepts the invitation and agrees in writing to be bound by the Constitution of Penrith will (subject to the name of that person being displayed on the noticeboard of Penrith for not less than 7 days and a period of not less than 14 days elapsing after the receipt of the acceptance by Penrith) be elected by a resolution of the Board of Penrith to membership of Penrith with effect from the date of Completion of the Amalgamation.

(e) Kemps Creek's members who are admitted to membership of Penrith will be identified as a separate class of ordinary membership called the "Kemps Creek Sports Club Members" but will have the same rights and entitlements as an Associate member of Penrith.

(f) Kemps Creek Sports Club Members of Penrith will be acknowledged in the amendments to be made to Penrith's Constitution, to constitute a class of Penrith's members, within the meaning of Part 2F.2 of the Corporations Act, whose rights may be varied or cancelled only by a special resolution of the members of Penrith that is either supported by a special resolution passed at a meeting of the members in that class or has the written consent of at least 75% of those members

(g) Any person who, at Completion of the Amalgamation, is a Life member of Kemps Creek is to be admitted to Life membership of Penrith, with Penrith's Constitution to be amended for Life members to be admitted under this clause.

13.7 Notwithstanding anything contained elsewhere in this MOU, Penrith is not required to admit to membership any member of Kemps Creek who, at Completion of the Amalgamation,:

(a) is then suspended from Penrith pursuant to Penrith's Constitution; or

(b) has been expelled from Penrith pursuant to Penrith's Constitution;

although Penrith warrants that as at the date of this MOU it is not aware of any

Kemps Creek member in either of those situations.

14. AMALGAMATION APPLICATION TO THE INDEPENDENT LIQUOR AND GAMING AUTHORITY

14.1 Penrith and its lawyers, in conjunction with Kemps Creek's lawyers, will prepare and file the Amalgamation Application.

14.2 Kemps Creek will co-operate with Penrith and its lawyers and through its lawyers will provide all documents and information reasonably required for the preparation, lodgement and finalisation of the Amalgamation Application.

15. OPERATIONAL ARRANGEMENTS

15.1 Kemps Creek agrees that from the date of this MOU to the date of Completion of the Amalgamation, Kemps Creek will, subject to clause 15.2,:

(a) carry on its business in the usual ordinary course and in a diligent manner and will not incur any single debt or liability otherwise than in the normal and ordinary course of business over the sum of $10,000 plus GST without the prior approval of Penrith's CEO or the CEO delegate;

(b) maintain the Assets of Kemps Creek in the same state of repair as they are at the date of this MOU, subject to reasonable wear and tear, and keep the Assets of Kemps Creek insured in amounts representing Kemps Creek's understanding of their full replacement or reinstatement value against fire and other risks normally insured;

(c) carry on its operations with normal and prudent practice using reasonable endeavours to reduce losses and increase profitability and use reasonable endeavours to maintain the value of the Assets;

(d) provide the Penrith's CEO each month, if reasonably requested, any details or documents relating to the operation and financial position of Kemps Creek;

(e) not do anything which may damage the goodwill of its business or that of Penrith;

(f) not without the prior written consent of Penrith's CEO or his delegate, otherwise than in the normal and ordinary course of business:

(i) enter into, terminate or alter any term of any contract, arrangement or understanding including any lease, licence or easement in relation to Kemps Creek's 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 Kemps Creek's Assets;

(iv) employ any employee (other than a casual employee);

(v) terminate the employment of any employee (other than a casual 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 Kemps Creek beyond that existing as at the date of this MOU other than any debt incurred or credit obtained, in the normal day to day trading of Kemps Creek; or

(ix) engage in discussions or negotiations with anyone other than Penrith concerning the sale of all or any part of the Assets, and Kemps Creek must advise Penrith of any solicitation by any third party in respect of any such discussion or negotiation.

15.2 If, before Completion of the Amalgamation, an event occurs which prevents or frustrates Kemps Creek from complying with a covenant contained in clause 15.1, Kemps Creek must promptly on becoming aware of the circumstances, give notice to Penrith fully describing the circumstances.

15.3 Without limiting its other rights, and notwithstanding any other provision of this MOU, Penrith may terminate this MOU at any time prior to Completion of the Amalgamation if there is any material and substantial breach of any covenant set out in clause 15.1.

15.4 Penrith's CEO and Kemps Creek's CEO will have regular discussions about the management and operations of the Amalgamated Club with the object of:

(a) providing for an orderly transfer of the management and operations of Kemps Creek to Penrith on Completion of the Amalgamation; and

(b) achieving efficiencies and cost savings; and

(c) planning and even possibly implementing operational changes in preparation for Completion of the Amalgamation.

15.5 Title to, property in and risk of the Assets will remain solely with Kemps Creek until such time as the Assets are transferred to the Amalgamated Club in accordance with clause 16.

16. DISSOLUTION KEMPS CREEK AND TRANSFER OF ITS ASSETS, DEBTS AND LIABILITIES TO PENRITH

16.1 Prior to the Completion of the Amalgamation Kemps Creek, with the cooperation of Penrith, must discharge its Debts, to the fullest extent reasonably practicable.

16.2 As soon as practicable after the Order, but subject to the Final Order, Kemps Creek must ensure the Assets of Kemps Creek are transferred to Penrith (less an amount on account of the likely costs of the finalisation of the Amalgamation and the liquidation of Kemps Creek; and an amount on account of anticipated Tax).

16.3 For the purposes of and subject to clause 16.2, Kemps Creek must do all things necessary and execute all documents to cause all of the Assets to be transferred to or assigned to Penrith, and with effect from the date of Final Order. Such transfers and assignments will without limitation be in respect of all the following comprised in the Assets:

(a) all gaming machines and all gaming machine entitlements;

(b) all relevant contract rights including hire purchase agreements;

(c) all intellectual property rights;

(d) all physical assets, furniture and fittings and stock in trade,

free of all securities except Permitted Securities.

16.4 Following obtaining of the Order, the transfers and assignments referred to in clause 16.3 must be executed by Kemps Creek and held in escrow by Penrith pending Completion of the Amalgamation.

16.5 Penrith, subject to Completion of the Amalgamation, as its deed poll for the benefit of the beneficiaries identified by name or class below, agrees to and does hereby indemnify:

(a) Kemps Creek for or in respect of, and will be responsible for and pay when due, all of Kemps Creek's debts and liabilities which have not been paid or otherwise discharged in full by Kemps Creek as at the Completion of the Amalgamation including any debt or liability reasonably incurred by Kemps Creek (before or after Completion) in connection with the Amalgamation, and including without limitation any debt or liability:

(i) that arises from Penrith not accepting the assignment or novation of any contract as required by this MOU;

(ii) that arises from the dissolution of Kemps Creek; or

(iii) that relates to any Liability of Kemps Creek for any tax; and

(b) each officer and former officer of Kemps Creek and each employee and former employee of Kemps Creek, from and against every liability of any nature incurred by them in those respective capacities but only to the extent that such persons were entitled to be indemnified by Kemps Creek, only to the extent that such indemnity is permitted by law, and out of the Assets.

16.6 After Completion of the Amalgamation Kemps Creek must, as soon as reasonably practicable, use its best endeavours to ensure that Kemps Creek is put into liquidation so that it can be and is deregistered as company, with the liquidator authorised on completion of the deregistration to pass Kemps Creek's Statutory Records to Penrith for safekeeping.

16.7 The Amalgamated Club will nominate the proposed liquidator (with consent from Kemps Creek which Kemps Creek must not unreasonably withhold, delay or condition) to be appointed to Kemps Creek and the Amalgamated Club will bear and promptly pay the proper and reasonable costs incurred by Kemps Creek following Completion of the Amalgamation in any way in connection with the liquidation and

dissolution of Kemps Creek or anything else required to be done by Kemps Creek under this document, to the extent exceeding the amount withheld by Kemps Creek on that account had Completion (and Kemps Creek must account to Penrith for any excess of that amount withheld, after payment of all such costs, and the excess belongs to Penrith).

16.8 Penrith must keep Kemps Creek's Statutory Records, once received, safe and available for production for at least seven years after the date of the registration of Kemps Creek and during that period must allow any former director or other officer of Kemps Creek to have access to and take copies of Kemps Creek's Statutory Records as they might reasonably require from time to time.

16.9 Each of the parties warrant 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

17.1 From the date of this MOU, Kemps Creek will provide to Penrith at all reasonable times, access to Kemps Creek's Premises, Records and other information and material reasonably required by Penrith for the purposes of the Amalgamation.

17.2 From the date of this MOU, Penrith will provide to Kemps Creek at all reasonable times, access to Penrith's Records and other information and material reasonably required by Kemps Creek for the purposes of the Amalgamation.

17.3 However, despite anything said or implied elsewhere in this MOU, the management and administration of Kemps Creek and the Kemps Creek Premises, remain solely with the Kemps Creek Board and CEO at all times up to Completion of the Amalgamation.

18. CONFIDENTIALITY

18.1 A party must not without the prior written approval of the other disclose the other party's Confidential Information, except to the minimum extent reasonably necessary to comply with any legal obligation or request from any authority or regulator.

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 party's Confidential Information.

18.3 A party must on demand return to the other any documents supplied by the other in connection with this MOU. This does not require the surrender of any Board Pack or minutes, bone fide and duly prepared or maintained by the party.

18.4 This clause 18 survives completion of this MOU.

19. RESOLUTION OF DISPUTES ARISING UNDER THIS MOU

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 MOU 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 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 Guidelines of The Law Society of New South Wales; and the provisions of those guidelines apply.

19.5 If the dispute is not resolved within 45 Business 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 and 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 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.

20. COSTS

Each party shall pay its own costs arising out of and incidental to the preparation, execution and completion of this MOU.

21. STAMP DUTY

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 Revenue NSW 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 MOU shall be paid by Penrith.

22. GENERAL

22.1 This MOU 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 MOU is of no force or effect.

22.2 No provision of this MOU 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 MOU.

22.3 The rights, powers, remedies and privileges provided in this MOU 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 MOU.

22.4 If any provision of this MOU 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.

22.5 Neither party may assign this MOU 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 MOU.

22.7 This MOU is governed by and is to be construed in accordance with the law of New South Wales.

23. TERMINATION

(a) .

23.2 If:

(a) the members of Kemps Creek have not passed the resolution referred to in clause 13.2within 6 months of the date of this MOU; or

(b) the members of Penrith have not passed the resolutions referred to in clauses 13.4 and 13.6 within 6 months of the date of this MOU;

then either party by giving written notice to the other may, without penalty or liability to the other, terminate this MOU.

23.3 Notwithstanding anything contained in this MOU, if Completion of the Amalgamation has not occurred within 10 months of the date of this MOU (or such later date agreed in writing by the parties), then either party by giving written notice to the other may, without penalty, terminate this MOU.

23.4 Any delay or forbearance in giving or withdrawing a notice pursuant to this clause 23 by a party shall not prejudice its rights to subsequently terminate this MOU pursuant to this clause 23.

23.5 If this MOU is terminated in accordance with this clause 23 the Amalgamation terminates. That termination is without prejudice to the rights of a party in relation to any act or omission of the other party up to the date of termination; but neither party is entitled to compensation or reimbursement from the other as a consequence of termination.

24. NOTICES

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

(a) in writing;

(b) directed to the recipient's address specified in this MOU or as varied by written notice; and

(c) left at, or sent by pre-paid post, hand delivery or by email to that address.

24.2 A notice given in accordance with clause 24.1 will be deemed to be duly given:

(a) two days after the date of posting by pre-paid registered post;

(b) on the day of hand delivery;

(c) if sent by email, the day after the email was sent,

as the case may be.

25. PROCESS FOR THE VARIATION OF THIS MOU

No variation or waiver of any provision of this MOU 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

No failure, delay, relaxation or indulgence on the part of either Party in exercising any power or right conferred on that Party by this MOU 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 MOU.

27. NOTES

27.1 Before this MOU was executed, the Clubs each displayed the Intentions and Proposals notices to members which are required under section 17AE of the RCA and clause 4(5) of the Regulations to the RCA.

27.2 This MOU is to be:

(a) made available to the ordinary members Kemps Creek and Penrith 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;

(b) made available for inspection on the premises of each club and on the website of each club for at least 21 days before any meeting as referred to in paragraph (a) of these Notes is held; and

(c) lodged with any application under section 60 of the Liquor Act 2007 to transfer the club licence held by Kemps Creek to Penrith.

EXECUTED as a Deed

Executed by **PENRITH R S L CLUB LTD (ABN 59 000 995 568)** pursuant to Section 127 of the Corporations Act 2001)

Director / Secretary	Director / Secretary
FRANCIS A PORTELLI	NEEL CHAND
Name of Director/Secretary (print name)	Name of Director/Secretary (print name)

EXECUTED as a Deed

Executed by **KEMPS CREEK SPORTING & BOWLING CLUB LTD (ABN 64 000 488 077)** pursuant to Section 127 of the Corporations Act 2001)

Director / ~~Secretary~~	Director / ~~Secretary~~
STEPHEN J. LEACH	CRAIG PETER SIMMONDS
Name of Director/~~Secretary~~ (print name)	Name of Director/~~Secretary~~ (print name)