MEMORANDUM OF UNDERSTANDING BETWEEN PROPOSED AMALGAMATING CLUBS

Date 21 May 2019

Parties

Name Mingara Recreation Club Limited
ABN 81 001 662 648
Description Mingara
Notice details Address Mingara Drive, Tumbi Umbi NSW 2261

Name The Entrance Bowling Club Ltd t/as The Greens The Entrance
ABN 29 000 956 052
Description The Greens
Notice details Address Corner Park Road and Warrigal Street, The Entrance NSW 2261

Background

A Mingara and The Greens are registered clubs under the Registered Clubs Act (the Act). Mingara holds club liquor licence LIQC300245754 and The Greens holds club liquor licence LIQC300236153 and the relevant licensed premises are well within 50 kilometres of each other.

B Mingara and The Greens enter into this memorandum of understanding with respect to a proposed Amalgamation between them, pursuant to clause 7 of the Registered Clubs Regulation 2015 (the Regulation).

C The Greens called for expressions of interest in amalgamating from each other registered club that has premises within a radius of 50 kilometres of The Greens' premises, on 22 January 2019 pursuant to clause 4 of the Regulation.

D The Greens considered the Expressions of Interest that it subsequently received including that from Mingara and has determined that the preferred proposal is Mingara's proposal for Amalgamation.

E As required by the Regulation, this Memorandum states each club's position regarding the proposed Amalgamation and deals with or includes the matters prescribed by the Regulation.

F Under the proposed Amalgamation:

(a) Mingara will continue as the Amalgamated Club and The Greens will be dissolved, and

(b) The Greens will transfer all of its rights and assets including its club liquor licence, to Mingara as the continuing Amalgamated Club.

G This Memorandum provides a description of the proposed Amalgamation so that the members of each club can consider the proposal including judging whether the...
Amalgamated Club will be financially viable and whether the proposed Amalgamation would be in the interests of the members of each of the clubs.

H This Memorandum does not become legally binding until and unless Mingara and The Greens agree on and sign an Amalgamation Deed for the proposed Amalgamation. Until that time each club remains free to act as it chooses exclusively in its own interest as it sees fit in determining whether or not to proceed but that is subject to the provisions set out in this Memorandum (if any) that are stated to be legally binding.

I The proposed Amalgamation is consistent with The Greens' objects under its Constitution which include the objects of co-operating with any other Association whether incorporated or not whose objects are altogether or in part similar – Rule 4.1(f); and to make donations directly or indirectly conducive to any of its objects or otherwise expedient – Rule 4.1(e); to effect its objects either singly or in conjunction with any other corporation – Rule 4.1(f); and to effect its objects by doing all such lawful things as are incidental or conducive to the attainment of its other objects or any of them – Rule 4.1(u); and which also provides that in the event that The Greens is wound up or dissolved and there is any surplus then that is to be given or transferred to an institution or institutions having objects similar to The Greens' objects and which prohibit the distribution of its or their income and property amongst its or their members to an extent at least as great as is imposed on The Greens - Rule 7.1.

J The Greens' Constitution does not stipulate any condition precedent for the proposed Amalgamation such as requiring some specific form of approval for the proposed Amalgamation.

K The proposed Amalgamation is also consistent with Mingara’s objects under its Constitution which include the object of amalgamating with or participating in any amalgamation with, another registered club or clubs - Rule 4.1(e); and which provides a prohibition on the distribution of its income and property amongst its or their members to an extent at least as great as imposed on The Greens – Rule 49.

L Mingara's Constitution does not stipulate any condition precedent for the proposed Amalgamation such as requiring some specific form of approval for the proposed Amalgamation.

M At the date of this Memorandum, Mingara is in the process of putting in place an unsecured loan facility under which Mingara will consider making a loan or loans to The Greens of up to a total of $200,000 on request so that The Greens can comfortably continue to meet its obligations.

N If an Amalgamation Deed is signed, then:

(a) Mingara will continue with its due diligence investigations;

(b) each of Mingara and The Greens will forthwith convene a meeting of its members to seek member approval of the proposed Amalgamation, including for the purposes of section 17AEB(d) of the Act;

(c) then Mingara and The Greens will cooperate in making the necessary application to the Authority for consent to the transfer of The Greens' club liquor licence; Mingara will have the carriage of that application and The Greens will cooperate in that application;

(d) and if and when:

(i) provisional approval of that application is obtained from the Authority, and
(ii) all of the conditions precedent that are required by Mingara and The Greens that are to be stated in the Amalgamation Deed, including Mingara completing its due diligence enquiries in connection with The Greens to its satisfaction, have been satisfied or waived;

Mingara will invite all of The Greens' Full members (assuming that they are not amongst the handful of people on Mingara's excluded list) to become members of Mingara as follows without entrance fees or payment of the then current Mingara annual subscription. For the purposes of the Act, Mingara will create a separate category of membership for members of The Greens who are admitted to membership of Mingara as the Amalgamated Club. Subject to paragraph (i) below, Financial Bowling Members and also Life Members who were formally Bowling Members of The Greens will have the same rights of membership as Mingara Ordinary Members, Social Members and any remaining Life Members will have the same rights of membership as Mingara Social Members and any Junior Members will have the same rights of membership as Mingara Junior Members;

(e) The Greens' Life Members who were formerly Bowling Members of The Greens, will be recognised as life members of the relevant new The Entrance Bowls sub club within Mingara but they will not be Life members of Mingara.

(f) In addition, Life Members of The Greens who become Ordinary Members of Mingara will be noted in the records of Mingara as having formerly been Life Members of The Greens although they will not be Life Members of Mingara.

(g) Mingara will recognise the pre-paid one and three year memberships of members of The Greens who become members of Mingara. A member will not be liable to pay Mingara annual subscriptions until the period commencing from their birthday that falls after the end of the period for which they have paid subscriptions at The Greens. To the extent necessary, Mingara will apply part of the assets transferred from The Greens to cover any mandatory minimum annual subscription in the meantime.

(h) In any event, Mingara will set special initial annual subscriptions for new Mingara Ordinary members who were formerly Bowling members of The Greens or who join through The Greens venue during the first 12 months after completion of the amalgamation, so that in the first 12 months after completion of the amalgamation they will not have to pay more than the statutory minimum subscription of $2.

(i) Under Mingara's Constitution, members of The Greens who become members of Mingara:

(l) will not be entitled to vote on any special resolution to amend Mingara's Constitution;

(ii) will be regarded together as a "single interest group", limited to no more than two members on Mingara's Board; and

(iii) will not be eligible to be a director of Mingara until they have been a Full member of Mingara for not less than five years as at the date of their nomination for election (unless that requirement is waived for the particular Individual) or if they are otherwise disqualified from being an Mingara director under the Mingara Constitution which provides for disqualifications in connection with - associations with another registered club; interests in certain hotel liquor licences; possessing a certain type of interest in a contract or arrangement for the supply of goods or services to Mingara; having a relevant interest in land zoned for non-residential use that is within 500 metres of any of Mingara's licensed premises; or anyone who
resides more than 50 kilometres away from the main premises of Mingara at Tumbi Umbi, NSW.

(j) Mingara’s Constitution (including but not limited to the provisions of Part 4) contain various provisions regulating who is qualified to stand for election to or be on the Board of Mingara.

O On completion of the Amalgamation, Mingara will pay out The Greens’ existing financial facilities and finance leases and hire purchase agreements, and accept responsibility for all of The Greens’ other liabilities (although not promising to meet any presently unknown liability that would take Mingara’s exposure for other liabilities beyond the net value of The Greens’ assets received into the Amalgamated Club net after taking account of the amounts being paid out, or taken on, by Mingara).

P That includes Mingara funding the payout of The Greens’ existing debts and liabilities that as of 30 June 2018 were noted by The Greens to be in the order of $2 million, and covering the employment entitlements of The Greens’ employees (estimated by The Greens to be in the order of $500,000).

Q That also includes Mingara paying the arrears owed under The Greens’ expired lease from the local council, which is a precondition to the local council reopening negotiations for renewal of that lease.

R If the Amalgamation proceeds, Mingara will also bear or pay all proper costs and expenses of The Greens in connection with the required winding up and deregistration of The Greens after Amalgamation completion.

1. Manner in which The Greens’ premises and other facilities will be managed and the degree of autonomy that will be permitted in the management of those premises and facilities

(a) After completion of the proposed Amalgamation, The Greens’ venue will become additional premises of the Amalgamated Club and will be operated by Mingara.

(b) Mingara also currently proposes to continue operating from each of its other existing premises. The facilities and amenities of Mingara’s existing premises will be made available to members of The Greens who join Mingara, with effect from completion of the amalgamation.

(c) Mingara will be managed and administered in accordance with the Act, by Mingara’s Board.

(d) Mingara’s Chief Executive Officer will continue as the Approved Secretary of the Amalgamated Club with ultimate executive responsibility also for The Greens venue.

(e) The Amalgamated Club will engage and appoint a premises manager for The Greens venue, who will need to be approved by the Authority.

(f) The continuing Amalgamated Club will be Mingara, under the Mingara Board and Mingara management.
2. Traditions, amenities and community support preserved or continued by the Amalgamated Club

(a) Mingara as the Amalgamated Club will preserve or continue traditions, amenities and community support previously observed or provided by The Greens in the following manner and also as set out elsewhere in this Memorandum.

(b) Mingara will ensure that after completion of the Amalgamation, The Greens venue continues to trade as "The Greens the Entrance".

(c) Mingara will ensure that the Amalgamated Club maintains the role of a part-time or full-time Bowls Manager or Coordinator for lawn bowling at The Greens venue and it will look to enhance the role whilst utilising those skills for coaching and mentoring many new bowling members.

(d) The Entrance Men's Bowling Club and The Entrance Women's Bowling Club will be re-positioned and formally established as their own separate sub clubs within the Amalgamated Club, with their own Constitutions, Committees and members drawn from within the Amalgamated Club. As sub clubs of the Amalgamated Club, both will be supported financially with a view to ensuring their success on the greens – and see also further below.

(e) The funds of the existing The Entrance Women's Bowling Club (currently approximately $33,000) will become funds of the new The Entrance Women's Bowling Club sub club within Mingara, to be administered by that new sub club.

(f) Mingara will ensure that the Amalgamated Club supports and encourages the utilisation of the bowling greens at The Greens venue, to host major tournaments, pennants, social bowls, social events and for community and charitable purposes.

(g) Mingara will ensure that the Amalgamated Club continues to respect the importance of Bowls pennants as an integral part of positioning lawn bowling at The Greens venue at the centre of the Bowls community on the Central Coast.

(h) Mingara will work to achieve its vision for the Amalgamated Club, for The Greens venue to be the Centre of Excellence for lawn bowls on the Central Coast. Mingara is aware that the CEO of the Central Coast Academy of Sport (Ian Robilliards OAM) is excited by this prospect and the potential for the opportunity to attract and develop junior bowls talent in particular, adding to the support for the long-term success of lawn bowls at the venue.

(i) To assist in the lawn bowls transition, and to retain and attract lawn bowling patrons for The Greens venue, Mingara will cause the Amalgamated Club to seed fund each of the two new lawn bowls sub clubs with an amount equal to $500 per bowling member of The Greens who transitions to the Amalgamated Club at the time of completion of the Amalgamation. Each new sub club of course will hold and manage the funds in its own separate bank account, subject to their respective new constitutions and the Constitution of the Amalgamated Club.

(j) Mingara will also further look to cause the Amalgamated Club to uphold the lawn bowling traditions of The Greens as follows.

(k) The Amalgamated Club will encourage and assist the two lawn bowls sub clubs to transition existing sponsorship arrangements and also to actively seek additional sponsorships to assist their ongoing success.
Directed support of the two lawn bowls sub clubs, Mingara will look for the Amalgamated Club to continue to provide for the maintenance of bowling greens.

The arrangements in relation to green fees collected in respect of the greens at The Greens venue will be as follows. In the first year, the respective new bowls sub clubs will bank all but $2 of each green fee, to their sub club bank account; in year two, they will bank all but $3 of each green fee collected; and in year three, they will bank 50% of each green fee. The sub clubs will apply the funds in the bank accounts administered by them towards their own operations including the expenses of the types of lawn bowls club championship events, special event hosting and other related bowling activities that have been fostered or supported in recent times.

The Amalgamated Club will facilitate all of the other existing The Greens sub clubs joining up with existing corresponding sub clubs within the Amalgamated Club or consideration will be given to supporting the setting up additional or new sub clubs within the Amalgamated Club as appropriate.

Having its largest and original premises within the same local area, Mingara has relationships with the organisations that currently receive ClubGRANTS from The Greens and will look for the Amalgamated Club to continue to maintain those links with existing beneficiaries and continue to support important local initiatives supported by The Greens.

Mingara is committed to continuing, maintaining and improving at least three bowling greens at The Greens venue, as part of the venue.

The Amalgamated Club will continue to provide for lawn bowling-related signage, digital honour boards and other memorabilia at The Greens venue although the Amalgamated Club in consultation with the new advisory committee (see below) will have the final right to oversee and approve the nature of signage and materials displayed, and their location within the premises.

Mingara will pay the relevant membership fees to Bowls NSW and Women’s Bowls NSW for all members of the new men’s and women’s bowling sub clubs, for the year commencing 1 July 2020.

Mingara is committed to ensuring that the Amalgamated Club for the foreseeable future will offer support for community events in the same circumstances as The Greens has been offering support, out of available ClubGRANT funding in connection with The Greens venue.

Mingara intends that the Amalgamated Club will continue to source services and supplies from local suppliers wherever reasonably possible and will look to leverage existing supplier relationships particularly existing local supplier relationships.

The Amalgamated Club will ensure that members of The Greens who become members of the Amalgamated Club as a consequence of the amalgamation, and also future members of the Amalgamated Club who join through The Greens venue, will retain a unique identifier in the records of the Amalgamated Club that identifies them with The Greens venue as their local club — although they will of course also have all the recognition and benefits of a member of the Amalgamated Club with full member access to all of the other Mingara Leisure Group venues.
3. Intentions regarding the future direction of the Amalgamated Club

(a) Mingara intends that the Amalgamated Club to use its best endeavours to ensure that The Greens venue is the local venue of choice in The Entrance and subject to sections 8 and 9 of this Memorandum, Mingara intends to trade from The Greens' venue indefinitely.

(b) Mingara intends that the strategy of the Amalgamated Club will be to operate The Greens venue as a successful and well supported, modestly sized, local based sporting and community club which is an alternative to the Amalgamated Club's larger regional club offering.

(c) Mingara will cause the Amalgamated Club to create an advisory committee in respect of The Greens venue, to operate under the Constitution of the Amalgamated Club in a similar manner to the advisory committees that are in place for Mingara's other existing premises.

(d) Subject to their consent in each case, the first members of the advisory committee for The Greens venue will be the individuals who are directors of The Greens at the time of completion of the amalgamation

(e) Mingara will cause the Amalgamated Club to use its strategic marketing expertise and capabilities to see the Greens venue develop as a preferred business partner for local tourism providers through face-to-face relationships and out-of-home marketing tactics, supported by research and highly targeted digital marketing initiatives to influence potential visitors and locals to use and support the venue.

(f) Mingara is committed to using its best endeavours to after completion of the proposed Amalgamation, to resolve the issue with the local council in relation to the expired lease for Crown land, held by The Greens, and obtain a renewal of that lease on reasonable terms. Mingara has not asked for the Amalgamation to be conditional on that being resolved before completion, so that need not hold up the Amalgamation.

(g) Mingara also recognises that The Greens venue has renovation and refurbishment potential and that substantial improvements are appropriate.

(h) Mingara intends that the Amalgamated Club from its other existing resources will:

(i) reactivate the upstairs dining option;

(ii) arrange for the offer of quality barista coffee and light meals on the ground level;

(iii) enhance the standard of furnishings and decor in the venue generally;

(iv) improve the Eastern section for the use of bowlers, and for presentations and community activities;

(v) respond to the anticipated increase in patronage by improving and increasing the parking capacity on site for the better ease of parking by members and other patrons who use the venue;

(vi) provide staff at The Greens venue with up-to-date and reliable technology – that being one of the keys to excelling in the level of customer service provided to members and other patrons - ensuring all systems and tools are modern, and reliable with good technical support from within the
Amalgamated Club from the unit provides support already across Mingara's existing venues;

(vii) inject capital into the gaming area at The Greens venue including installing updated gaming machines and improving the environment and amenities provided for patrons.

(i) Mingara has also identified the following areas for capital works at The Greens venue, that Mingara will look to ensure that the Amalgamated Club undertakes in the periods after completion of the Amalgamation as shown:

(i) replacement of air conditioning and repair/replacement of roof $500,000 – within the first 12 months;
(ii) installation of two synthetic greens and provision of covers $2,500,000 – within four years;
(iii) upgrade of systems, tools and gaming machine products $1 million – within the first 12 months;
(iv) expenditure on general upgrades to fittings fixtures and equipment including restaurant facilities, furniture, carpet and paint $700,000 – within the first 12 months.

(j) Mingara will look to ensure that the Amalgamated Club provides members and patrons at The Greens venue with competitive pricing of beverage and dining, bringing efficiencies of scale, expertise and support.

(k) Mingara will ensure that The Greens venue enjoys the benefits of enhanced products, service quality and margins that can be brought to bear because of the increased scale of operations and the benefits of the Mingara Leisure Group's buying power, expertise and resources.

(l) In the interests of transparency Mingara intends that the Amalgamated Club will treat The Greens venue as a separate operation within the Amalgamated Club for management accounting purposes, to allow separate financial reporting.

4. The extent to which the employees of the Amalgamated Club will be protected

(a) All employees of the Amalgamated Club including all existing employees of The Greens, will be protected.

(b) As part of the Amalgamation, the corporate structure of The Greens will be wound up. As part of the winding up of the corporate structure of The Greens, the employment of all of The Greens’ employees would but for section 4(c) below come to an end.

(c) Prior to Completion of the Amalgamation, Mingara (as the Amalgamated Club) will offer similar employment to all of The Greens’ employees. The offer of employment will be:

(i) on similar terms and conditions presently offered by Mingara to employees of Mingara and such that each employee of The Greens overall would be no worse off than they are presently as an employee of The Greens; and

(ii) effective from the completion of the amalgamation.
(d) Any employee of The Greens who accepts the offer of employment with Mingara (as the Amalgamated Club) will receive continuity of employment and their accrued entitlements will be carried forward to and will be honoured by the Amalgamated Club.

(e) Any employee of The Greens who does not accept the offer of employment with the Amalgamated Club will be paid their full entitlements when their employment with The Greens comes to an end on the completion of the amalgamation.

(f) Employees of The Greens who accept the offer of employment with the Amalgamated Club will be provided with ongoing training and support to reach their full potential and to deliver great service to the members and patrons of The Greens venue. In addition they will have free access to the Amalgamated Club's Fitness and Aquatics Centre at Tumbi Umbi, to encourage them to maintain a healthy lifestyle.

(g) Mingara does not intend that the employment of any of its current employees will be affected by the Amalgamation.

5. Intentions regarding The Greens' core property; cash or investments; and gaming machine entitlements

(a) All of The Greens' assets including real estate, gaming machine entitlements, gaming machines and cash on hand, will become assets of the Amalgamated Club as part of the general assets and working capital of the Amalgamation Club.

(b) For the purposes of the Act, all of the Greens' real estate is core property of The Greens and will be recognised as such by the Amalgamated Club for the first three years after completion of the Amalgamation - but this does not limit the following provision.

(c) Mingara intends that the Amalgamated Club will retain The Greens' venue and surrounding real estate interests and gaming machine entitlements indefinitely (subject to sections 8 and 9 of this Memorandum).

(d) Mingara also commits that whilst trading continues from The Greens venue, the Amalgamated Club will not transfer any of the existing 75 gaming machine entitlements away from that venue.

(e) And see also section 7 below.

6. The risks of not meeting any specified intentions regarding the preservation of the core property of The Greens and how those risks are to be addressed if realised

(a) The Amalgamated Club after completion of the proposed Amalgamation will have net assets in excess of $110 million thus providing enormous financial stability and capacity to support The Greens venue and the commitments being made by Mingara.

(b) Mingara has a demonstrated history of honouring commitments made during amalgamations and is in a very strong financial position to continue to do so, with almost $5 million in term deposits and strategic funds deposit accounts.

(c) Mingara has a demonstrated record of integrity, reputation and strong governance standards, supported by an experienced and stable management team; and a
demonstrated record of honourable and transparent, mutually beneficial and mutually rewarding amalgamations.

(d) Mingara and The Greens agree that the only identified risks to the Amalgamated Club not being able to meet the specified intentions regarding the preservation of the core property of The Greens and the other commitments stated elsewhere in this Memorandum including to continue trading from the Greens venue (with at least three bowling greens) indefinitely for the future and anyway for at least 10 years after completion of the amalgamation, are in the very unlikely event that either:

(i) the Amalgamated Club ceases to have the capacity to meet those intentions or

(ii) those intentions are otherwise frustrated due to some external development.

(e) With the support and financial injections to which Mingara is committing, and taking account of the other circumstances, Mingara and The Greens assess that there is only a very low risk of any of the defeating circumstances specified in section 8(c).

(f) Mingara and The Greens assess that accordingly there is only a negligible risk of the Amalgamated Club not meeting the specified intentions regarding the preservation of the core property of The Greens and the other commitments stated elsewhere in this Memorandum to continue trading from the Greens venue (with at least three bowling greens) indefinitely for the future including at least 10 years after completion of the amalgamation.

(g) As those identified risks are most entirely external, neither Mingara nor The Greens has identified any reasonable and practicable step that could be taken to address those risks if realised.

7. Any agreement under the legislation relating to the period during which the major assets of The Greens must not be disposed of

(a) For the purposes of the Act, The Greens' real estate constitutes its "major assets".

(b) Under the legislation, the Amalgamated Club is automatically prohibited from disposing of any of that real estate during the three years immediately after completion of the amalgamation unless there are exceptional circumstances and disposal is approved of both by the continuing members from The Greens and also by the Independent Liquor & Gaming Authority.

(c) In addition, Mingara undertakes that the Amalgamated Club will continue trading from, and retain, The Greens venue (including offering at least three bowling greens) for at least 10 years after completion of the amalgamation and for that period at least, retain all or substantially all of The Greens' other existing real estate interests, subject to section 8 below.

(d) There is no other agreement relating to the period during which the major assets of The Greens must not be disposed of.
8. Circumstances that would permit the Amalgamated Club to cease trading at The Greens venue or to substantially change the objects of The Greens

(a) As already noted, Mingara commits that the Amalgamated Club will not cease trading at The Greens venue (along with the provision of at least three bowling greens) or substantially change the broad nature of the venue, and will retain all or substantially all of The Greens' other existing real estate interests, indefinitely but for at least 10 years after completion of the amalgamation and during that period Mingara will cause the Amalgamated Club to predominantly use the value of The Greens' assets for the purpose of supporting The Greens venue and operations at the venue including lawn bowling.

(b) Continuation of operations on the council leasehold land is necessarily conditional on the Amalgamated Club obtaining a renewal of the relevant Council lease. Mingara commits to ensuring that the Amalgamated Club uses its best endeavours (including as already noted, paying the arrears of rent currently due to the council), in order to obtain a renewal of that lease so that trading can continue from The Greens venue.

(c) The other circumstances that would cause and permit the Amalgamated Club to cease trading from the venue or otherwise depart from that commitment are if:—

(i) the operation of the venue in the future despite all the planned investments and initiatives, becomes and continues for a material time to be substantially cash flow negative or substantially non-profitable.

(ii) (although this seems very unlikely), there is some development that means that continuation of the operation of the venue would likely expose the Amalgamated Club or its officers to unacceptable risk or likely be legally non-compliant;

(iii) there is a resumption of a material part of the relevant site;

(iv) (although this also seems very unlikely), that is otherwise prevented or materially constrained by some circumstance beyond the reasonable control of the Amalgamated Club.

9. An agreed period of time before any action can be taken by the Amalgamated Club to cease trading or substantially change objects

(a) There is no proposal to change the objects of the Amalgamated Club.

(b) The Amalgamated Club will not take any action to cease trading from The Greens venue or substantially change the broad nature of the venue for at least 10 years after completion of the Amalgamation, subject only to the circumstances noted in sections 8(b) and 8(c) above.

10. Amalgamation conditions

Unless otherwise varied by the parties in writing, completion of the Amalgamation is conditional on the following matters, which will be more fully addressed in an Amalgamation Deed:

(a) final completion of the Amalgamation by no later than Friday 20 December 2019;
(b) the members of Mingara duly passing a special resolution in the form required by Mingara to amend Rule 7.14(b) to make it clear that on an amalgamation Mingara may admit each member who is a financial full member of the other club, in each case as a member in a Mingara membership category determined by the Mingara Board as most appropriate in the circumstances;

(c) the total liabilities and provisions of The Greens (which will need to be paid out or absorbed by Mingara as at completion of the Amalgamation inclusive of The Greens' costs and expenses in connection with the Amalgamation), not exceeding the total value of The Greens' Assets which will be transferred to Mingara (as the Amalgamated Club) as part of the Amalgamation;

(d) the required resolutions from the members of each of Mingara and The Greens, approving in principle the Amalgamation;

(e) Mingara completing its due diligence enquiries to its satisfaction by Friday 28 June 2019;

(f) provisional approval from the Authority;

(g) the Amalgamated Club with the financial support to be provided by Mingara, being able to obtain absolute title free of any security interest or other encumbrance, to all of the Assets.

11. Statutory Records

(a) Despite anything to the contrary elsewhere, The Greens will retain its Statutory Records after Amalgamation Completion.

(b) The Greens will agree to give the Amalgamated Club any assistance as and when reasonably required by the Amalgamated Club with respect to any legal proceedings instigated by or against the Amalgamated Club in connection with any right, title, interest or power accruing to the Amalgamated Club as a consequence of Amalgamation, including to the extent reasonably necessary providing access to The Greens' Statutory Records. For so long as those Statutory Records remain in existence, The Greens will authorise any liquidator of The Greens to honour this commitment.

(c) The Greens will use its best endeavours to have its members authorise The Greens' liquidator on completion of the liquidation of The Greens after completion of the Amalgamation to deliver up all of The Greens' Statutory Records to the Amalgamated Club. In the meantime, The Greens will agree to use its best endeavours to maintain and protect all of its Statutory Records.

(d) The Amalgamated Club will retain all of The Greens' Statutory Records after receipt for at least five years after the date of deregistration of The Greens, subject to section 262A of the Income Tax Assessment Act 1936 Cth.

12. Definitions and Interpretation

12.1 Definitions

In this Memorandum the following words and expressions have the meaning shown unless the context requires otherwise:

Act has the meaning stated in the Background section

Amalgamated Mingara as the proposed parent club that will continue after
Club  completion of the Amalgamation
Amalgamation  amalgamation of Mingara and The Greens in accordance with this Memorandum, the Act and all other relevant legislation
Completion of the Amalgamation  Completion of the proposed amalgamation of Mingara and The Greens including final completion of the transfer of The Greens' Assets including its club liquor licence to Mingara and the assumption of The Greens' liabilities by Mingara to the extent required by the Amalgamation Deed
Amalgamation Deed  a deed between Mingara and The Greens providing for the proposed Amalgamation of the two clubs generally in conformity with this document
Assets  in relation to The Greens, means all of The Greens' assets including all real estate interests, 75 gaming machines, 75 gaming machine entitlements, cash on hand being cash floats, and all of The Greens' other tangible and intangible assets including goodwill, personal property, plant equipment fixtures and fittings, stock in trade, intellectual property rights, accrued legal rights including the benefit of contracts, and book debts
Authority  Independent Liquor & Gaming Authority
Memorandum  means this Memorandum of Understanding between Mingara and The Greens
Regulation  has the meaning stated in the Background section
Statutory Records  in relation to The Greens, all of the books and records that The Greens is required by law to maintain in relation to its corporate affairs including its records maintained to meet the minimum requirements of the Corporations Act 2001 Cth or any taxation legislation

12.2 Interpretation

In the interpretation and application of this Memorandum, unless the context otherwise requires:

(a) where an expression, word or phrase is given a particular meaning, then other parts of speech based on that expression, word or phrase and other grammatical forms of that expression, word or phrase, have corresponding meanings;

(b) the rule of interpretation which sometimes requires that a document be interpreted to the disadvantage of the party which put the document forward, does not apply;

(c) headings are for convenience of reference only and do not affect interpretation;

(d) a mention of anything after include, includes or including, does not limit what else might be included;

(e) if an example is given of anything, including an example of a right, obligation or concept, the example does not limit the scope of that thing;

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

(g) a reference to dollars or $ is to an amount in Australian currency;

(h) the singular includes the plural and vice versa.

Notes

This Memorandum of Understanding is to be:

1. made available to the ordinary members of each of the two clubs at least 21 days before any meeting is held by the members of the club for the purposes 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, for at least 21 days before any such meeting is held, and

3. lodged with any application to the Authority under section 60 of the Liquor Act in relation to the proposed amalgamation.
Signing page
Signed as an agreement

Signed by Mingara Recreation Club Limited
ABN 81 001 662 648

DIRECTOR
office (director or secretary)
GARY KNIGHT
full name

DIRECTOR
office (director or secretary)
PHILIP A. WALKER
full name

Signed by The Entrance Bowling Club Limited
ABN 29 000 956 052

TREASURER/DIRECTOR
office (director or secretary)
JOHN ROBERT ELLISON
full name

DIRECTOR
office (director or secretary)
JOHN FRANCIS EDWARDS
full name