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MEMORANDUM OF UNDERSTANDING

DATED 3/10/2025

PARTIES

LIVERPOOL CATHOLIC CLUB LTD
ACN 000 874 073

AND

PICTON BOWLING CLUB LTD
ACN 000 816 713

PIGOTT STINSON

Tel +61 2 8251 7777

Fax +61 2 9262 4288

Email partners@pigott.com.au

Web www.pigott.com.au

SYDNEY OFFICE

Level 3, 10 Barrack St
Sydney NSW 2000
(DX 125 Sydney)

GPO Box 3380
Sydney NSW 2001

NEWCASTLE OFFICE

Suite 5, 142 Union St
The Junction NSW 2291

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ABN 82 680 297 642

This Memorandum of Understanding is made on

3/10/2025

BETWEEN

LIVERPOOL CATHOLIC CLUB LTD (ACN 000 874 073) of 424-458 Hoxton Park Road, Prestons, NSW 2170 (**Liverpool Club**)

and

PICTON BOWLING CLUB LTD (ACN 000 816 713) of 10 Cliffe Street, Picton, NSW 2571 (**Picton Club**)

BACKGROUND

- (A) Liverpool Club and Picton Club both operate registered clubs in New South Wales.
- (B) Picton Club called for expressions of interest in amalgamation from other registered clubs.
- (C) Liverpool Club submitted an expression of interest to the Picton Club.
- (D) The Picton Club has accepted the expression of interest from Liverpool Club and, following further negotiation, Liverpool Club and Picton Club have agreed to the terms set out in this Memorandum.
- (E) Liverpool Club and the Picton Club propose to amalgamate the two clubs (subject to the approval of the Authority and subject to the terms of this Memorandum) in accordance with the provisions of this Memorandum, the RCA, the Regulations, the Liquor Act and the Corporations Act.
- (F) The Regulations require clubs which are proposing to amalgamate to enter into a Memorandum of Understanding.

1. DEFINITIONS AND INTERPRETATIONS

1.1 In this Memorandum unless the context otherwise requires:

- (a) **“Advisory Committee”** means the Advisory Committee referred to in clause 5.5.
- (b) **“Amalgamated Club”** mean the amalgamated registered club of Liverpool Club and the Picton Club, the corporate vehicle of which will be Liverpool Club;
- (c) **“Amalgamation”** means the amalgamation of the Clubs in accordance with this Memorandum;
- (d) **“Amalgamation Application”** means the provisional application for the transfer of the Picton Club’s Liquor Licence to Liverpool Club pursuant to Sections 60(6) and (7) of the Liquor Act by Liverpool Club and Picton Club;
- (e) **“Assets”** means all of the goodwill, land (including the Land), personal property, equipment, stock, intellectual property, gaming machine entitlements, gaming machines and all other property, tangible or intangible belonging to the Picton Club at the time of Completion of the Amalgamation;

- (f) **“Authority”** means the Independent Liquor and Gaming Authority;
- (g) **“Claim”** means any claim, notice, demand, debt, account, action, expense, cost, lien, liability proceeding, litigation, investigation or judgement of any nature, whether known or unknown;
- (h) **“ClubGRANTS”** means the ClubGRANTS scheme established under the Gaming Machine Tax Act 2001 for the granting of a rebate of gaming machine tax levied on registered clubs for expenditure on community development and support.
- (i) **“Clubs”** means both Liverpool Club and the Picton Club;
- (j) **“Completion of the Amalgamation”** means the day on which:
 - (i) the Final Order is granted and Picton Club’s Liquor Licence is transferred to Liverpool Club; and
 - (ii) the Assets (including the Land and Water Access Licence), Debts and Liabilities of the Picton Club are transferred to Liverpool Club, as referred to in clause 16.1;
 - (iii) Picton Club’s members become members of Liverpool Club and all members of the Picton Club and Liverpool Club become members of the Amalgamated Club;
 - (iv) Liverpool Club takes over responsibility for the management and control of the Picton Club Premises.
- (k) **“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;
- (l) **“Corporations Act”** means the Corporations Act 2001 (Commonwealth), and the Regulations made thereunder;
- (m) **“Debts”** means the accumulated debts of the Picton Club at the time of Completion of the Amalgamation;
- (n) **“Final Order”** means the final order pursuant to Section 60(8) of the Liquor Act by the Authority whereby Picton Club’s Liquor Licence will be transferred to Liverpool Club;
- (o) **“Gaming Machines Act”** means the Gaming Machines 2001 (NSW) and the Regulations made thereunder;
- (p) **“GST” means** Goods and Services Tax under A New Tax System (Goods and Services Tax) Act 1999;
- (q) **“Land”** means all of the land owned by the Picton Club, including without limitation the land located at 10 Cliffe Street Picton, NSW, 2571 (Folio Identifiers (to be provided));

- (r) **“Liabilities”** means all liabilities, losses, damages, outgoings, costs and expenses of Picton Club (whatever description) at the time of Final Order;
- (s) **“Liquor Act”** means the Liquor Act 2007 (NSW) and the Regulations made thereunder;
- (t) **“Liquor Licence”** means the club licence issued to a registered club under the *Liquor Act*;
- (u) **“Liverpool Club’s CEO”** means the individual who is the Secretary or Chief Executive Officer at Liverpool Club;
- (v) **“Liverpool Club Premises”** means Liverpool Club’s premises located at 424-458 Hoxton Park Road, Prestons, NSW, 2170;
- (w) **“Memorandum”** means this Memorandum of Understanding;
- (x) **“Order”** means the conditional grant of the Amalgamation Application by the Authority pursuant to Section 60(7) of the Liquor Act;
- (y) **“Party”** means the respective management and Board of Directors of the Picton Club and Liverpool Club;
- (z) **“Picton Club Premises”** means Picton Club’s premises located at 10 Cliffe Street, Picton, NSW, 2571;
- (aa) **“Picton Club’s Secretary”** means the individual who in accordance with the RCA is the Secretary of the Picton Club;
- (bb) **“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 Picton Club in the conduct of Picton Club business including but not limited to corporate, accounting and statutory records;
- (cc) **“Regulations”** mean the Regulations to the RCA;
- (dd) **“RCA”** means the Registered Clubs Act 1976 (NSW) and the Regulations made thereunder;
- (ee) **“Secretary”** in relation to either club means the person approved as the secretary of the club pursuant to section 33 of the RCA;
- (ff) **“Year”** means a period of twelve (12) months commencing on the anniversary of the date of the Final Order and concluding on the day immediately before the next anniversary date of the Final Order.

1.2 In this Memorandum unless the context otherwise requires:

- (a) headings are for convenience only and do not affect interpretation;
- (b) the singular includes the plural and vice versa;
- (c) where a word or phrase is defined, its other grammatical forms have a corresponding meaning;

- (d) a reference to a person, trust, partnership, joint venture, association, corporation, organisation, society, firm, authority or other entity includes any of them;
- (e) a reference to any legislation or provision of legislation includes all amendments, consolidations or replacements and all regulations or instruments issued under it;
- (f) a reference to a Party to a document includes that Party's successors, permitted assigns, administrators and substitutes;
- (g) an agreement on the part of 2 or more persons binds them jointly and severally;
- (h) a reference to a notice from, consent or approval of a Party and agreement between the Parties for the purposes of this Deed means a written notice, consent, approval or agreement;
- (i) mentioning anything after 'include', 'includes' or 'including' does not limit what else might be included; and
- (j) a reference to "dollars" or "\$" is to Australian currency.

2. EACH CLUB'S POSITION REGARDING THE PROPOSED AMALGAMATION

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

Process for Amalgamation

- 2.4 The process for the amalgamation will be as follows:
 - (a) The Clubs will enter into this Memorandum.
 - (b) The members of the Picton Club and Liverpool Club 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 below.
 - (c) Once the approvals in paragraph (b) have been obtained, the Amalgamation Application will then be made to the Authority. The Amalgamation Application will be made in the manner referred to in clause 15 below.
 - (d) After the Amalgamation Application is granted and on the date of the Final Order:
 - (i) the Assets (including the Land), Debts and Liabilities of the Picton Club will be transferred to Liverpool Club in the manner referred to in clause 17 below;

- (ii) all eligible members of the Picton Club will, with their consent, be initially admitted as Social members of Liverpool Club and will be identified in the Register of Members as also being "Picton Club members." This will occur in accordance with the procedure set out in clause 14 below;
- (iii) employees of the Picton Club who have accepted an offer of employment from Liverpool Club will become employees of the Amalgamated Club.
- (e) After Completion of the Amalgamation, Liverpool Club will continue as the body corporate of the Amalgamated Club.
- (f) From Completion of the Amalgamation, the Picton Club Premises will become additional licensed premises of Liverpool Club and will be available to all members of the Amalgamated Club. The Picton Club Premises will be operated in the manner set out in clause 3, clause 4 and clause 5 below.
- (g) After Completion of the Amalgamation, the Picton Club will be wound up in the manner referred to in clause 17 below.

Due Diligence

- 2.5 The Picton Club may, at its own expense, undertake a due diligence review of Liverpool Club's financial position and operations.
- 2.6 Liverpool Club may, at its own expense, undertake a due diligence review of the Picton Club's financial position and operations.
- 2.7 Each Club will, if required by the other, provide a list of information (including, but not limited to, details of its Assets, Debts and Liabilities) and assistance to the other Club in order for the other Club to properly carry out and complete the due diligence review.

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

[Regulations – Clause 7(2)(a)]

- 3.1 The Picton Club Premises will become additional premises of Liverpool Club.
- 3.2 The Amalgamated Club will operate and trade from the Liverpool Club Premises and the Picton Club Premises.
- 3.3 Liverpool Club will take over responsibility and control of the Picton Club Premises with effect from Completion of the Amalgamation.
- 3.4 The Board of Liverpool Club will be the Board of the Amalgamated Club.
- 3.5 Liverpool Club's CEO will be the Secretary and Chief Executive Officer of the Amalgamated Club.
- 3.6 The Amalgamated Club will appoint an approved manager for the Picton Club Premises following the Final Order.

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

[Regulations – Clause 7(2)(b)]

- 4.1 The traditions, amenities, culture, bowling facilities, bowling amenities and memorabilia of the Picton Club will be maintained by the Amalgamated Club at the Picton Club Premises. For the avoidance of doubt, the honour boards at the Picton Club Premises may be displayed in their present form or electronically (or a combination of both).
- 4.2 The Amalgamated Club will retain at least two of three bowling greens at the Picton Club for bowls, being Bowling Greens 1 and 3, and each green containing at least 6 rinks each. Bowling Green 2 will be retained for further development of the club facilities and until such development, will continue to be used for bowls..
- 4.3 The Amalgamated Club will continue to support the community organisations that were supported by the Picton Club (as at the date of this Memorandum), and it will explore opportunities to expand community support.

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

[Regulations – Clause 7(2)(c)]

- 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, Liverpool Club will operate the Amalgamated Club and the Picton Club Premises in accordance with this clause 5.

Amalgamated Club Premises

- 5.2 The Amalgamated Club will operate and trade from the Liverpool Club Premises and the Picton Club Premises.

Picton Club Premises

- 5.3 The Picton Club Premises will be named and trade as “Picton Bowling Club”.
- 5.4 Subject to clauses 10 and 10.8, Liverpool Club:
- (a) will maintain the Picton Club Premises and carry on the business of a licensed registered club under the RCA and the Liquor Act at the Picton Club Premises with the usual facilities and amenities of a registered club;
 - (b) intends to operate the Picton Club Premises as a successful and well supported local based social, sporting and community club;
 - (c) will undertake improvements to the value of at least \$5 million to the Picton Club Premises and facilities with the intention that the process to undertake these works (for example and without limitation, preparation of plans, application for development approval) will be commenced within 12 months of Completion of the Amalgamation and otherwise the timeframe, nature and budget for those improvements will be determined by the Board of the Amalgamated Club, but those improvements will include improved irrigation for bowling greens 1 and 3.

- (d) intends to improve trading at the Picton Club Premises; and
- (e) will maintain and where possible enhance, the social and bowling facilities, services, amenities and activities at the Picton Club Premises.
- (f) Will bring in house the catering facilities at the Picton Club Premises as soon as practicable after the Completion of the Amalgamation

Advisory Committee

5.5 The management of the Amalgamated Club will create the Advisory Committee in respect of the Picton Club Premises and the following shall apply in respect of the Advisory Committee:

- (a) The Advisory Committee will not have any governance or management powers in the Amalgamated Club and it shall be subject to the overall control and direction of the Board and Management of the Amalgamated Club at all times.
- (b) The Advisory Committee will initially be made up of Liverpool Club's CEO or his delegate and two (2) existing directors of the Picton Club as at the date of Completion of the Amalgamation or any alternative two (2) members of the Picton Club as the directors of the Board of the Amalgamated Club may select, who consent in writing to becoming members of the Advisory Committee.
- (c) If a casual vacancy arises on the Advisory Committee, the remaining members of the Advisory Committee can fill the casual vacancy by appointing another Picton Club member of the Amalgamated Club provided the Board of the Amalgamated Club has first approved the person who is proposed to be appointed to fill the casual vacancy.
- (d) The Advisory Committee will have its own set of rules governing the roles, responsibilities and operations of the Advisory Committee provided such rules are approved by the Board of the Amalgamated Club in its absolute discretion;
- (e) The Advisory Committee will meet at such intervals as may be determined by the Advisory Committee from time to time.
- (f) The Advisory Committee may make recommendations to the Board and Management of the Amalgamated Club regarding the following matters:
 - (i) the operations of the Picton Club Premises; and
 - (ii) ClubGRANTS to be made by the Amalgamated Club that are attributable to the Picton Club Premises;
 - (iii) membership matters at the Picton Club Premises;
 - (iv) the operation of the bowling greens and conduct of bowling activities at the Picton Club.
- (g) The Advisory Committee may be required to provide reports to the Board of the Amalgamated Club.
- (h) The Advisory Committee shall be in force and effect for at least the two (2) years after Completion of the Amalgamation and after completion of that two

(2) year period the Liverpool Club will review the need and effectiveness of the Advisory Committee to determine if an extension of the operation of the Advisory Committee is required.

Bowling Activities and Bowling Sub-Club

- 5.6 The Amalgamated Club will create a bowling sub-club to conduct and administer bowling at the Picton Club Premises on behalf of the Amalgamated Club.
- 5.7 It is intended that the bowling sub-club will:
- (a) have its own rules, (based on the pro forma sub club constitution applicable to all sub clubs of the Liverpool Club), committees and members; and
 - (b) be authorised to operate a bank account;
 - (c) continue using its existing name and insignia;
 - (d) elect its own committees;
 - (e) be eligible to affiliate with such bodies controlling bowls in New South Wales on such terms and conditions (not inconsistent with the Constitution of Liverpool Club or the RCA) as such controlling bodies may from time to time require;
 - (f) be created with the persons referred to in clause 14.1(h) recognised as life members of the sub-club.
- 5.8 The Amalgamated Club will have assigned to it the contract between the Picton Club and its current green keeper.
- 5.9 The Amalgamated Club will ensure that green keeping services are provided at the Picton Premises.
- 5.10 The Amalgamated Club will maintain, and replace where necessary, the current equipment supplied by the Picton Club for the upkeep of the bowling greens.
- 5.11 The Amalgamated Club will not charge green fees to bowlers when:
- (a) playing in tournaments;
 - (b) practicing or training, ie roll ups;
 - (c) coaching other players.
- 5.12 The Amalgamated Club will increase green fees only in accordance with increases in the Consumer Price Index for the first three (3) years following Completion of the Amalgamation and thereafter the green fees will be determined according to market pricing for green fees in comparable bowling clubs in the Macarthur region. The parties acknowledge that the green fees charged by the Picton Club as at the date of this MOU is \$8.00 per game.
- 5.13 In any future development of the Picton Premises, the Amalgamated Club may consider the installation of a synthetic green and installing a roof covering that green.
- 5.14 The Amalgamated Club will provide a bowls office of a similar size to the one existing as at the date of this Memorandum.

- 5.15 Bowlers who attend the Picton Premises at the invitation of the Club to play bowls in tournaments will be able to pay members prices for beverages.

Other Sub Clubs

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

Subscriptions

- 5.17 Liverpool Club will treat any annual subscriptions which have been paid to Picton Club for the subscription period current as at the date of the Completion of the Amalgamation as being annual subscriptions which have been paid to the Amalgamated Club.

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, the Picton Club will be wound up/liquidated. As part of the winding up/liquidation of the Picton Club, the employment of all of the Picton Club's employees with the Picton Club will come to an end.
- 6.2 As soon as reasonably practicable after this Memorandum is signed Liverpool Club will make offers of employment to the employees of the Picton Club.
- 6.3 The offers of employment:
- (a) will be made as soon as reasonably practicable after this Memorandum is signed; and
 - (b) will be conditional upon and be effective from the Completion of the Amalgamation;
 - (c) will be on the same terms and conditions presently offered by Liverpool Club to employees of Liverpool Club in similar roles provided that it does not result in any employee of the Picton Club receiving lesser benefits than they presently receive from the Picton Club;
 - (d) will provide that the employees of the Picton Club will only be required to work at the Picton Premises, unless they agree to work at other premises of the Amalgamated Club
- 6.4 Any employee of the Picton Club who receives and accepts an offer of employment with Liverpool Club will receive continuity of employment and their accrued entitlements will be honoured by Liverpool Club.
- 6.5 Any employee of the Picton Club who does not accept an offer of employment with Liverpool Club will be paid their full entitlements when their employment with the Picton Club comes to an end, which will be on or before Completion of the Amalgamation.

7. INTENTIONS REGARDING THE FOLLOWING ASSETS OF THE PICTON CLUB:

- 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 Picton Club Premises and bowling greens is the “core property” of the Picton Club.
- 7.2 Subject to this Memorandum, Liverpool Club will retain the core property of the Picton Club and operate the Amalgamated Club in the manner referred to in clause 5.

Cash and Investments

- 7.3 The cash and investments (if any) of the Picton Club will be transferred (in accordance with clause 17) to the general reserves of the Amalgamated Club.

Gaming Machine Entitlements

- 7.4 The Picton Club has fifty (50) gaming machine entitlements and fifty (50) gaming machines at the Picton Club Premises and ownership of those entitlements will be transferred to Liverpool Club with effect from the Completion of the Amalgamation.
- 7.5 The Amalgamated Club will retain all the gaming machine entitlements and operate fifty (50) gaming machines at the Picton Club Premises for as long as it trades from those premises.

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

- 8.1 Subject to clauses 9, 10 and 10.8 and the RCA the Amalgamated Club will not dispose of the core property of the Picton Club 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 the Picton Club are those set out in clause 10.4.
- 8.3 If the risks (or any of them) in clause 10.4 are realised during the first three (3) years after the Completion of the Amalgamation, clause 8.1 and section 17A1 of the RCA will prevent the Amalgamated Club from disposing the core property.
- 8.4 If the risks (or any of them) in clause 10.4 are realised after the first eight (8) years after Completion of the Amalgamation, the Amalgamated Club will use its best endeavours to find ways to address those risks so that the disposal of core property will be considered only after all reasonable alternatives have been exhausted and provided the disposal is in accordance with the RCA.

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

- 9.1 For the purposes of the RCA, the Picton Club Premises and bowling greens are the "core property" and "major assets" of the Picton Club.
- 9.2 Subject to clauses 9, 10 and 10.8 of this Memorandum, the Amalgamated Club will not dispose of the major assets of the Picton Club during the first three (3) years after Completion of the Amalgamation.

**10. THE CIRCUMSTANCES THAT WOULD PERMIT THE AMALGAMATED CLUB TO
CEASE TRADING ON THE PREMISES OF THE PICTON CLUB OR TO
SUBSTANTIALLY CHANGE THE OBJECTS OF THE PICTON CLUB**

[Regulations – Clause 7(2)(F)]

- 10.1 Liverpool Club does not intend to cease trading from the Picton Club Premises.
- 10.2 However, the objects of the Picton Club will, with effect from Completion of the Amalgamation, be subsumed by and will become objects of Liverpool Club.
- 10.3 Liverpool Club intends to operate the Amalgamated Club in the manner referred to in clause 5.
- 10.4 For the purposes of clause 7(2)(f) of the Regulations, Liverpool Club and the Picton Club have agreed that the Amalgamated Club would cease trading from the Picton Club Premises in the following circumstances:
- (a) if, after the first eight (8) years after Completion of the Amalgamation, it is not financially viable for the Amalgamated Club to continue to trade from the Picton Club Premises, which shall be determined in accordance with clause 10.5 and the Liverpool Club in its absolute discretion elects to cease trading from the Picton Club Premises; or
 - (b) upon the order of any Court or body with jurisdiction to administer the laws in relation to liquor, gaming and registered clubs which orders the permanent closure of the Picton Club Premises;
 - (c) upon the lawful order of any government authority to permanently cease trading from the Picton Club Premises, or revoking any licence, approval or consent necessary for the Amalgamated Club to continue trading from the Picton Club Premises and it is not reasonably possible for the relevant licences, approvals or consents to be re-instated or new/replacement licences, approvals or consents to be obtained;
 - (d) if the premises were destroyed or partially destroyed by fire, floods, storms or Force Majeure event, except where appropriate insurance cover is available to reinstate the Picton Club Premises or where it is otherwise economically viable to do so.

- 10.5 For the purposes of clause 10.4(a), the Picton Club Premises will not be financially viable if, after the eighth anniversary of Completion of the Amalgamation, the Picton Club Premises fails to achieve an EBITDA* percentage greater than 10% in each of two (2) successive years.
- 10.6 For the purposes of clause 10.4(d), the Amalgamated Club must take out and maintain appropriate building insurance for the Picton Club Premises which is sufficient to cover reinstatement of the Picton Club Premises to the same or better standard that they were in as at Completion of the Amalgamation.
- 10.7 If the Amalgamated Club wishes to cease trading from the Picton Club Premises for the reasons set out in clause 10.4(a), the following shall apply:
- (a) The Amalgamated Club must call for expressions of interests from other registered clubs for an amalgamation with the Picton Club Premises, with such amalgamation being subject to a successful de-amalgamation between the Amalgamated Club and the Picton Club Premises (**simultaneous de-amalgamation and amalgamation**); and
 - (b) The simultaneous de-amalgamation and amalgamation must be effected on terms which are acceptable to the Amalgamated Club but, amongst other things, it must involve:
 - (i) the Amalgamated Club successfully de-amalgamating from the Picton Club Premises; and
 - (ii) the Picton Club Premises successfully amalgamating with another registered club (**Amalgamation Partner**);
 - (iii) the Amalgamated Club transferring the Club Licence for the Picton Club Premises, the Land and fifty (50) gaming machine entitlements to the Picton Club Premises as part of the de-amalgamation;
 - (iv) the Picton Club (using funds from the Amalgamation Partner) making an acceptable payment to the Amalgamated Club, with the amount of such payment to be determined by the Amalgamated Club in its absolute discretion.
 - (c) If the Amalgamated Club issues the expression of interest referred to in clause (a) and one of the following events occurs afterwards, then the Amalgamated Club may immediately cease trading from the Picton Club Premises and dispose of the Picton Club Premises:
 - (v) no registered club formally responds to the expression of interest referred to in clause 10.8(a) within two (2) months of the expression of interest being issued; and
 - (vi) the Amalgamated Club and the Picton Club Premises do not enter into an agreement for the de-amalgamation on terms acceptable to the Amalgamated Club within three (3) months of the expression of interest being issued;

* ("EBITDA" means earnings before interest, taxes, depreciation and amortisation)

- (vii) the Picton Club Premises and the Amalgamation Partner do not enter into an agreement for the amalgamation (in the form of a memorandum of understanding) within three (3) months of the expression of interest being issued;
 - (viii) the members of the Amalgamated Club do not approve the de-amalgamation within six (6) months of the expression of interest being issued;
 - (ix) the members of the Picton Club Premises do not approve the de-amalgamation and/or amalgamation within six (6) months of the expression of interest being issued;
 - (x) the members of the Amalgamation Partner do not approve the amalgamation within six (6) months of the expression of interest being issued;
 - (xi) The Authority does not approve the de-amalgamation and/or amalgamation within twelve (12) months of the date of the expression of interest being issued;
 - (xii) the de-amalgamation and/or amalgamation are not completed within eighteen (18) months of the date of the expression of interest being issued.
- 10.8 For the avoidance of doubt, the Amalgamated Club may immediately cease trading from the Picton Club Premises without complying with the requirements of clause 10.7 if any of the circumstances in clauses 10.4(b) to 10.4(d) apply.

11. AN AGREED PERIOD OF TIME BEFORE THE AMALGAMATED CLUB WILL CEASE TRADING FROM THE PICTON CLUB PREMISES OR SUBSTANTIALLY CHANGE THE OBJECTS OF THE PICTON CLUB PREMISES

[Regulations – Clause 7(2)(G)]

- 11.1 Liverpool Club does not intend to cease trading from the Picton Club Premises, and intends to operate the Amalgamated Club in the manner referred to in clause 5 and would only cease to do so in the circumstances referred to in clause 10.
- 11.2 The objects of Liverpool Club will become the objects of the Picton Club with effect from Completion of the Amalgamation.
- 11.3 For the purposes of clause 7(2)(g) of the Regulations, Liverpool Club and the Picton Club have agreed that the Amalgamated Club will continue to trade from the Picton Club Premises for at least ten (10) years, (except during that time in the circumstances referred to in clauses 10.4(b) to 10.4(d) inclusive).

12. BINDING EFFECT OF MEMORANDUM

- 12.1 Liverpool Club and the Picton Club agree that this Memorandum is binding on them and for that purpose is executed as a Deed.

13. CALLING OF MEETINGS AND ADMISSION OF PICTON CLUB MEMBERS TO MEMBERSHIP OF LIVERPOOL CLUB

- 13.1 The Picton Club will call a general meeting of the ordinary members of the Picton Club 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.
- 13.2 To be passed, the resolution referred to in clause 13.1 must receive votes in its favour from not less than 67% of the ordinary members of Picton present and voting on the resolution at the meeting.
- 13.3 The meeting referred to in clause 13.1 must be held as soon as reasonably practicable after the date of this Memorandum but in any event within three (3) months of the date.
- 13.4 Liverpool Club will call a general meeting of the ordinary members of Liverpool Club 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.
- 13.5 The meeting referred to in clause 13.4 will be scheduled at Liverpool Club's discretion after the date of the meeting referred to in clause 13.1 provided that the resolution approving in principle the Amalgamation in accordance with section 17AEB(d) of the RCA is approved at that meeting.

14. ADMISSION OF PICTON CLUB MEMBERS TO THE LIVERPOOL CLUB

- 14.1 (a) Any member of the Picton Club who, at Completion of the Amalgamation, has been:
- (i) refused admission to or been turned out of Picton Club; or
 - (ii) expelled from or refused membership of Liverpool Club,
- shall not be eligible to apply for and/or be admitted to membership of Liverpool Club.
- (b) All eligible members of the Picton Club who apply to become members of Liverpool Club will, subject to the Constitution of Liverpool Club, be admitted to membership of Liverpool Club.
- (c) All eligible members of the Picton Club will be able to apply for membership of Liverpool Club in the manner referred to in paragraphs (d) to (h) inclusive of this clause 14.
- (d) A member of the Picton Club will not be required to be proposed or seconded for membership of Liverpool Club.
- (e) As soon as practicable after the Order, Liverpool Club will forward to each member of the Picton Club, who is not already a member of Liverpool Club, a written invitation to become a member of Liverpool Club.
- (f) Any member of the Picton Club who accepts the invitation and agrees in writing to be bound by the Constitution of Liverpool Club will, subject to the Amalgamated Club's Constitution and the requirements of the RCA being satisfied, be elected by a resolution of the Board of Liverpool Club to Social

membership of Liverpool Club with effect from the date of Completion of the Amalgamation.

- (g) The Picton Club's members who are admitted to membership of Liverpool Club will initially be Social members under the Constitution of the Liverpool Club but will also be identified in the Register of Members of Liverpool Club as "Picton Club Members" and may transfer to any other class of membership of Liverpool Club for which they are eligible to join.
- (h) Any person who, at Completion of the Amalgamation, is a Life member of the Picton Club will:
 - (i) not become a Life member of the Amalgamated Club; and
 - (ii) continue to be recognised as a Life member of the Picton Club but only in respect of the Picton Club Premises;
 - (iii) not be required to pay an annual subscription to the Amalgamated Club (unless the RCA requires such a subscription to be paid).

15. AMALGAMATION APPLICATION TO THE INDEPENDENT LIQUOR AND GAMING AUTHORITY

15.1 Liverpool Club and its lawyers will prepare and file the Amalgamation Application.

15.2 The Picton Club will co-operate with Liverpool Club and its lawyers and will provide all documents and information reasonably required for the preparation, lodgement and finalisation of the Amalgamation Application, including the notices of meeting and the minutes of the meetings referred to in clause 13.1.

16. WARRANTIES AND OPERATIONAL ARRANGEMENTS

16.1 The Picton Club warrants to Liverpool Club that from the date of this Memorandum to the date of Completion of the Amalgamation, the Picton Club will:

- (a) carry on its business in the usual ordinary course and in a diligent manner and unless incurred in the usual and ordinary course of business, will not incur any single debt or liability (including, but not limited to, the purchase of any capital equipment) over the sum of five thousand dollars (\$5,000.00) plus GST without the prior approval of Liverpool Club's CEO or his delegate;
- (b) attend to the payment of any existing debts and liabilities using its cash reserves (provided that it will not be in breach of this warranty if its cash reserves are insufficient to pay out all of its existing debts and liabilities);
- (c) maintain the Assets in the same state of repair as they are at the date of the Memorandum subject to reasonable wear and tear and keep the Assets insured in amounts representing their full replacement or reinstatement value against fire and other risks normally insured;
- (d) carry on its operations with normal and prudent practice using best endeavours to reduce losses, increase profitability, and endeavour to maintain and increase the value of the Assets;

- (e) provide Liverpool Club's CEO each week (or at such other times as requested) any details or documents relating to the operation and financial position of the Picton Club;
 - (f) not do anything which may damage the goodwill of its business or that of Liverpool Club;
 - (g) notify Liverpool Club of any of the circumstances referred to clause 16.4 within a reasonable time of becoming aware of the relevant circumstances;
 - (h) not without the prior written consent of Liverpool Club:
 - (i) enter into, terminate or alter any term of any contract, arrangement or understanding including any lease, licence or easement in relation to its operations or otherwise;
 - (ii) except in the usual and routine conduct of its trading operations in conformity with and in the manner of recent times, incur any actual or contingent liabilities whether in relation to those operations or otherwise;
 - (iii) dispose of, agree to dispose of, encumber or grant an option over, or grant any interest in any of the Assets (including without limitation any gaming machine entitlements);
 - (iv) employ any person;
 - (v) terminate the employment of any employee;
 - (vi) alter the terms of employment (including the terms of remuneration and or superannuation or any other benefit) of any employee;
 - (vii) seek to borrow or borrow money from any third party;
 - (viii) increase the level of debt of the Picton Club beyond that existing as at the date of this Memorandum other than any debt incurred in the normal day to day trading of the Picton Club; or
 - (ix) engage in discussions or negotiations with anyone other than Liverpool Club concerning an amalgamation or the sale or disposal of all or any part of the Assets,
 - (i) must advise Liverpool Club of any solicitation by any third party to participate in any such discussion or negotiation concerning an amalgamation or the sale or disposal of all or any part of the Assets.
- 16.2 Each of the Picton Club's warranties contained in clause 16.1 remains in full force and effect notwithstanding Completion of the Amalgamation.
- 16.3 Liverpool Club's CEO and the Picton Club's Secretary will have regular discussions about the management and operations of the Picton Club with the object of:
- (a) providing for an orderly transfer of the management and operations of the Picton Club to Liverpool Club on the date of Completion of the Amalgamation; and
 - (b) achieving efficiencies and cost savings in the Picton Club;

- (c) implementing operational changes in preparation for Completion of the Amalgamation.

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

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

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

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

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

17. DISSOLUTION OF THE PICTON CLUB AND TRANSFER OF ITS ASSETS, DEBTS AND LIABILITIES TO LIVERPOOL CLUB

17.1 Prior to the Completion of the Amalgamation, the Picton Club must do all things necessary to enable Liverpool Club to be the bona fide occupier of the Picton Club Premises on Completion of Amalgamation.

17.2 As soon as practicable after the Order, but subject to the Final Order, the Picton Club must ensure the Assets, Debts and Liabilities of the Picton Club are transferred to Liverpool Club (less an amount sufficient for the purposes of the winding up of the Picton Club in the manner referred to in clause 17.5 and for directors' and officers' liability insurance pending deregistration). The parties acknowledge that it is proposed for the transfer of the Assets, Debts and Liabilities referred to in clause 17.1 to occur on the date of the Final Order wherever possible.

17.3 For the purposes of clause 16.2, the Picton Club must do all things necessary and execute all documents to cause all of the Assets to be transferred to or assigned to Liverpool Club with effect from the date of Final Order wherever possible. Such transfers and assignments will without limitation be in respect of:

- (a) the Land and all other real property of the Picton Club; and
- (b) all contract rights including without limitation hire purchase agreements and existing service agreements in respect of the Picton Club Premises;
- (c) all intellectual property rights (including business names);

- (d) all physical assets, furniture and fittings and stock in trade,
owned or entered into by the Picton Club.
- 17.4 The transfers and assignments referred to in clause 17.3 must be executed by the Picton Club before Completion of the Amalgamation and be given to and be held in escrow by Liverpool Club pending Completion of the Amalgamation.
- 17.5 The Picton Club must ensure that the Assets are transferred to Liverpool Club free of charges, security interests and encumbrances of any other nature (other than as approved by Liverpool Club in its absolute discretion) to enable Liverpool Club to become the absolute and beneficial owner of those Assets with effect from Completion of the Amalgamation. For the purposes of this clause, Liverpool Club will be deemed to have unencumbered title and ownership of an Asset if the Picton Club has obtained a written undertaking from the relevant secured party on or before Completion of the Amalgamation which meets with the approval of Liverpool Club and states that the relevant secured party will release their interest in the Asset after Completion of the Amalgamation.
- 17.6 After Liverpool Club has advised the Picton Club that it is satisfied that all matters related to the Amalgamation have been completed, the Picton Club must, as soon as reasonably practicable, ensure the Picton Club is voluntarily wound up and any surplus Assets (if any) are transferred to Liverpool Club.
- 17.7 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 17 at the cost of Liverpool Club.

18. ACCESS TO RECORDS

- 18.1 From the date of this Memorandum, the Picton Club will provide to Liverpool Club at all reasonable times access to the Picton Club Premises, Records and other information and material reasonably required by Liverpool Club (including for the purpose of any due diligence referred to in clause 2.6).
- 18.2 From the date of this Memorandum, Liverpool Club will provide to the Picton Club at all reasonable times access to Records and other information and material reasonably required by the Picton Club for the purposes of the due diligence referred to in clause 2.5).

19. CONFIDENTIALITY

- 19.1 A party must not without the prior written approval of the other disclose the other party's Confidential Information.
- 19.2 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.
- 19.3 A party must on demand return to the other any documents supplied by the other in connection with this Memorandum.
- 19.4 This clause 19 survives completion of this Memorandum.

20. RESOLUTION OF DISPUTES ARISING UNDER THIS MEMORANDUM

- 20.1 A party must not commence any Court or arbitration proceedings relating to a dispute unless it complies with this clause.
- 20.2 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.
- 20.3 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.
- 20.4 If the parties do not within seven (7) days of the receipt of the notice referred to in clause 20.2 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.

- 20.5 If the dispute is not resolved within twenty eight (28) days after notice is given under clause 20.2 a party which has complied with the provisions of this clause 20 may by written notice to the other terminate any dispute resolution process undertaken pursuant to this clause and may then refer the dispute to arbitration or commence Court proceedings in relation to the dispute.
- 20.6 The parties acknowledge the purpose of any exchange of information or documents or the making of any offer of settlement pursuant to this clause 20 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.

21. COSTS

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

22. STAMP DUTY

- 22.1 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.

- 22.2 Despite the exemption from duty referred to in clause 22.1 the parties agree that any duty payable by either party to bring into effect the provisions of this Memorandum shall be paid by Liverpool Club.

23. GENERAL

- 23.1 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.
- 23.2 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.
- 23.3 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.
- 23.4 If any provision of this Memorandum is invalid and not enforceable in accordance with its terms, other provisions which are self-sustaining and capable of enforcement continue to be valid and enforceable in accordance with their terms.
- 23.5 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.
- 23.6 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.
- 23.7 This Memorandum is governed by and is to be construed in accordance with the law of New South Wales.

24. TERMINATION

- 24.1 Liverpool Club may, without penalty or liability, terminate this Memorandum at any time by giving written notice to the Picton Club if:
- (a) the Picton Club breaches any warranty contained in clause 16.1; or
 - (b) the members of the Picton Club have not passed the resolution referred to in clause 13.1 within three (3) months of the date of this Memorandum or such other later date agreed by the parties in writing.
 - (c) the due diligence review undertaken by it on the Picton Club (as referred to in clause 2.6) is not satisfactory to the Board of Liverpool Club.
- 24.2 The Picton Club may terminate this Memorandum without penalty or liability by giving written notice to Liverpool Club if the members of Liverpool Club have not passed the resolutions referred to in clauses 13.4 and 14 within twelve (12) months of the members of the Picton Club passing the resolution referred to in clause 13.1 or such other later date agreed by the parties.
- 24.3 Notwithstanding anything contained in this Memorandum, if Completion of the Amalgamation has not occurred within twenty four (24) months of the date of this Memorandum (or such later date agreed by the parties), then either party by giving written notice to the other may, without penalty, terminate this Memorandum.

24.4 Any delay or forbearance in giving or withdrawing a notice pursuant to this clause 24 by a party shall not prejudice its rights to subsequently terminate this Memorandum pursuant to this clause 24.

24.5 If this Memorandum is terminated in accordance with this clause 24 the Amalgamation terminates.

25. NOTICES

25.1 A notice, approval, consent or other communication to a person relating to this Memorandum must be in writing and executed by duly authorised persons.

25.2 If the notice is to Liverpool Club, then it must be addressed as follows:

- (a) **Name:** Liverpool Catholic Club Limited
- (b) **Attention:** David Vidler
- (c) **Address:** Hoxton Park Road, Liverpool West, NSW 2170
- (d) **Email:** davev@liverpoolcatholic.com.au

25.3 If the notice is to the Picton Club, then it must be addressed as follows:

- (a) **Name:** Picton Bowling Club Limited
- (b) **Attention:** Robert Lang
- (c) **Address:** 10 Cliffe Street, Picton NSW 2571
- (d) **Email:** boolang@pictonbowlingclub.com.au

25.4 Notice is sent by the sender and received by the receiver:

- (a) if the notice is hand delivered, upon delivery to the receiving party; or
- (b) if the notice is sent by email, upon the successful completion of the relevant transmission;
- (c) if the notice is sent by post, one (1) day after the notice is posted.

26. PROCESS FOR THE VARIATION OF THIS MEMORANDUM

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.

27. 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 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.

28. NOTES

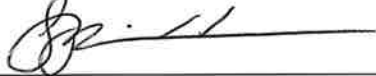
28.1 Before this Memorandum was executed, the Clubs each displayed notices to members which are required under section 17AE of the RCA and clause 4(5) of the Regulations.

28.2 This Memorandum is to be:

- (a) made available to the ordinary members of the Picton Club and Liverpool Club at least twenty-one (21) days before any meeting of the members of each club for the purpose of voting on whether to approve the proposed amalgamation.
- (b) made available for inspection on the premises of each club and on the website of each club for at least twenty-one (21) days before any meeting as referred to in paragraph (a) of these Notes is held.
- (c) lodged with any application under section 60 of the Liquor Act 2007 to transfer the club licence held by the Picton Club to Liverpool Club.

SIGNING PAGE

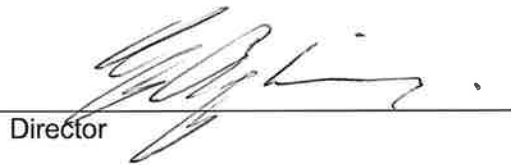
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Director

GREGORY RICHARDSON

Name of Director

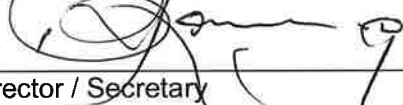


Director

GEORGE ATKEY

Name of Director

Executed by **PICTON BOWLING CLUB LIMITED ACN 000 816 713** pursuant to Section 127 of the Corporations Act 2001



Director / Secretary

ROBERT LANE

Name of Director/Secretary



Director / Secretary

AUDREY FERRARA

Name of Director/Secretary