



Deed of Variation and Confirmation

Chairman of City Tattersall's Club
ABN 44 004 054 353

The Catholic Club Limited
ABN 35 000 982 436

Date 20th April 2021

Parties

CTC Chairman of City Tattersall's Club ABN 44 004 054 353
Address 194-204 Pitt Street, Sydney, NSW, 2000
Attention Mr Marcelo Veloz, CEO
Email mveloz@citytatts.com.au

TCCL The Catholic Club Limited ABN 35 000 982 436
Address 197-199 Castlereagh Street, Sydney, NSW, 2000
Attention Gordon Phillips
Email ceo@thecastlereaghclub.com.au

Background

- A The parties entered into a Memorandum of Understanding (**MOU**) and a Deed of Amalgamation (**DOA**) on 5 June 2020.
- B Each document includes provisions about the Board of the Amalgamated Club which are inconsistent with each other.
- C CTC and TCCL wish to clarify the MOU and DOA and confirm their intentions at the time the MOU and DOA were entered.

Operative Provisions

1 Definitions

- 1.1 Unless the context otherwise requires the terms used in this document have the same meaning as those contained in the MOU.

2 Variation

- 2.1 The parties agree to vary the MOU and DOA with effect from the Amalgamation Date as follows (words underlined are added and words struck through are deleted):

- (a) clause 3.2(a)(i) of the MOU:

up to the fifth (5th) anniversary after Amalgamation Completion and any earlier de-amalgamation referred to in clause 10, at least three (3) members on the Board of the Amalgamated Club must be current directors of TCCL provided that if the requisite number of current directors of TCCL are not willing or are unable to hold office on the Board of the Amalgamated Club then any former members of TCCL as at the date of this Memorandum may be elected or appointed to the Board of

the Amalgamated Club to fill any positions which have not been filled by current directors of TCCL.

- (b) clause 3.2(a)(iii) of the MOU:

the required number of Board members holding office as at Amalgamation Completion ~~will cease~~ ceasing to hold office on or before Amalgamation Completion so that there will be a total of 6 directors on the Board of the Amalgamated Club and subject to clause 3.2(a)(i), three (3) positions on the Board will be available for ~~former members~~ current directors of TCCL as at the date of the Memorandum. For example:

- (A) if there are 9 directors on the Board immediately preceding Amalgamation Completion, City Tattersall's must ensure that 3 directors will cease to hold office under the amended City Tattersall's Rules on or before Amalgamation Completion to allow for 3 appointments as set out under clause 3.2(a)(iv); and
- (B) if there are 8 directors on the Board at the time of Amalgamation Completion, City Tattersall's must ensure 2 directors will cease to hold office under the amended City Tattersall's Rules on or before Amalgamation Completion to allow for 3 appointments as set out under clause 3.2(a)(iv);

- (c) clause 3.2(a)(iv) of the MOU:

upon the required number of directors ceasing to hold office as described in clause 3.2(a)(iii), the Board will, with effect from Amalgamation Completion, appoint as directors of the Amalgamated Club:

- (A) 1 ~~director~~ nominee of TCCL to fill the casual vacancy left on the elected Board of 7 caused by clause 3.2(a)(iii), such appointment being pursuant to clause 5(1) of the Triennial Rule; and
- (B) 2 ~~directors~~ nominees of TCCL who will hold office until the 2023 election of directors, such appointments being pursuant to section 30(1)(b1) of the Registered Clubs Act and clause 31 of the Registered Clubs Regulation,

with the intent that for up to 5 years after Amalgamation Completion:

- (C) there will be a total of 9 directors on the Board of the Amalgamated Club; and
- (D) subject to clause 3.2(a), at least 3 of the 9 directors will be ~~former~~ current directors of TCCL.

- (d) clause 3.2(v) of the MOU:

The Board of TCCL will nominate the ~~directors~~ persons to be appointed to the Board of the Amalgamated Club and City Tattersall's must appoint those ~~directors of TCCL~~ persons to the Board of the Amalgamated Club with effect from Amalgamation Completion. This is subject to those ~~directors of TCCL~~ persons becoming members of the Amalgamated Club as and from Amalgamation Completion

- (e) clause 4.1(d)(i) of the DOA:

up to the fifth (5th) anniversary after Amalgamation Completion and any earlier de-amalgamation referred to in clause 10 of the MOU, at least three (3) members on the Board of the Amalgamated Club must be current directors of TCCL provided that if the requisite number of current directors of TCCL are not willing or are unable to hold office on the Board of the Amalgamated Club then any former members of TCCL as at the date of this Memorandum Deed may be elected or appointed to the Board of the Amalgamated Club to fill any positions which have not been filled by current directors of TCCL.

- (f) clause 4.1(d)(iii) of the DOA:

the required number of Board members holding office as at Amalgamation Completion ceasing to hold office on or before Amalgamation Completion so that there will be a total of 6 directors on the Board of the Amalgamated Club and subject to clause 4.1(d)(i), three (3) positions on the Board will be available for ~~former members~~ current directors of TCCL ~~as at the date of the Memorandum~~. For example:

- (E) if there are 9 directors on the Board immediately preceding Amalgamation Completion, City Tattersall's must ensure that 3 directors will cease to hold office under the amended City Tattersall's Rules on or before Amalgamation Completion to allow for 3 appointments as set out under clause 4.1(d)(iv); and
- (F) if there are 8 directors on the Board at the time of Amalgamation Completion, City Tattersall's must ensure 2 directors will cease to hold office under the amended City Tattersall's Rules on or before Amalgamation Completion to allow for 3 appointments as set out under clause 4.1(d)(iv);

- (g) clause 4.1(d)(iv) of the DOA:

upon the required number of directors ceasing to hold office as described in clause 4.1(d)(iii), the Board will, with effect from Amalgamation Completion, appoint as directors of the Amalgamated Club:

- (G) 1 ~~director~~ nominee of TCCL to fill the casual vacancy left on the elected Board of 7 caused by clause 4.1(d)(iii), such appointment being pursuant to clause 5(1) of the Triennial Rule; and
- (H) 2 ~~directors~~ nominees of TCCL who will hold office until the 2023 election of directors, such appointments being pursuant to section 30(1)(b1) of the Registered Clubs Act and clause 31 of the Registered Clubs Regulation,

with the intent that for up to 5 years after Amalgamation Completion:

- (I) there will be a total of 9 directors on the Board of the Amalgamated Club; and
- (J) subject to clause 4.1(d)(i), at least 3 of the 9 directors will be former current directors of TCCL.

- (h) clause 4.2 of the DOA:

The Board of TCCL will nominate the ~~director of TCCL~~ person who will fill the casual vacancy referred to in sub paragraph (iv)(A) above and the two (2) ~~directors of TCCL~~ persons who will be appointed to the Board pursuant to sub paragraph (iv)(B) above and City Tattersall's must appoint those nominees to the Board of the Amalgamated Club with effect from Amalgamation Completion. This is subject to the nominees becoming members of the Amalgamated Club as and from Amalgamation Completion.

- (i) clause 6.1(e) of the DOA:

the names of the ~~directors of TCCL~~ persons to be appointed to the Board pursuant to section 30(1)(b1) of the Registered Clubs Act and clause 31 of the Registered Clubs Regulation and the name of the ~~director of TCCL~~ person to be appointed to the Board to fill the casual vacancy referred to in clause 4.1(d)(iv), together with written consents signed by each nominee to be appointed as a director of the Amalgamated Club; and

3 Confirmation

- 3.1 The parties agree that the intention of the parties at the time the MOU and DOA were entered into, was for at least 3 current directors of TCCL to be on the Board of the Amalgamated Club provided that if the requisite number of current directors of TCCL were not willing or were unable to hold office on the Board of the Amalgamated Club then any former member of TCCL as at the date of those documents could be elected or appointed to the Board of the Amalgamated Club to fill any positions which have not been filled by current directors of TCCL.
- 3.2 The parties acknowledge that clause 5.6, clauses 6.18(a)-(c) and clauses 6.18(e)(i) – (iv) of the City Tattersall's Rules are not consistent and ought to be interpreted to reflect the intention of the parties as recorded in clause 3.1 above, and by the variations to the MOU and DOA under clause 2.1 of this document.

4 General

4.1 No reliance

Each party has entered into this document without relying on any representation by any other party or any person purporting to represent that party except as contained in this document.

4.2 Entire agreement

This document records the entire agreement between the parties in relation to its subject matter. It supersedes all prior contracts, arrangements, understandings or negotiations by, or between, the parties in relation to the subject matter of this document.

4.3 Further assurance

Each party must (at its own expense) do all things that any other party reasonably requires of it to give the other party the full benefit of any obligations owed to the other party and expressed in this document.

4.4 Counterparts

This document and any variation of this document may be executed and take effect in two or more counterparts, each of which when taken together, will constitute one and the same instrument.

4.5 No waiver

The failure, delay or omission by a party to exercise, or to partially exercise, a right, power or remedy under this document does not operate as a waiver of that right, power or remedy. A party which exercises, or partially exercises, a right, power or remedy maintains its right to further exercise the same right, power or remedy or to exercise another right, power or remedy. A party waives a right, power or remedy only by explicitly doing so in a written notice to the other party and the waiver is strictly limited to the matters specified in the notice.

4.6 Severability

If any provision of this document is determined by a court or other competent tribunal or authority to be illegal, invalid or unenforceable then:

- (a) where the offending provision can be read down so as to give it a legal, valid and enforceable operation of a partial nature it must be read down to the extent necessary to achieve that result;
- (b) where the offending provision cannot be read down then that provision must be severed from the document in which event, the remaining provisions of this document operate as if the severed provision had not been included; and
- (c) the legality, validity or enforceability of that provision in any other jurisdiction or of the remaining provisions in that or any other jurisdiction is not affected,

but only to the extent that is consistent with giving substantial effect to the intentions of the parties under this document.

4.7 Variation

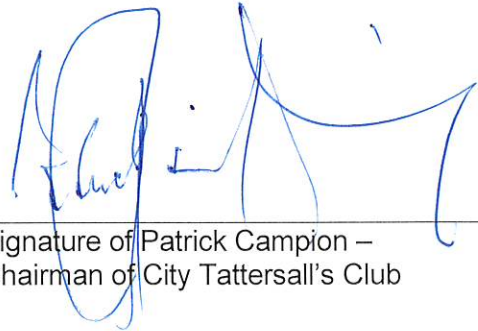
This document can only be amended, supplemented or replaced by another document signed by the parties.

4.8 Governing law and jurisdiction

This document is governed by the law of New South Wales. Each party submits to the jurisdiction of the courts in New South Wales in connection with matters concerning this document.

Executed as a deed

Executed by the **Chairman of City
Tattersall's Club** in the presence of:



Signature of Patrick Campion –
Chairman of City Tattersall's Club



Signature of Witness

Stephanie Lowe

Name of Witness

198 Pitt St Sydney NSW 2000

Address of Witness

Executed by **The Catholic Club
Limited** in accordance with section 127
of the *Corporations Act 2001* (Cth) by its
authorised officers:



Signature of director

John Ireland

Name



Signature of director/secretary

BRIAN PATTERSON

Name