

14 January 2022

Scott Sharry and Paula Noble
Clayton Utz

By email

pnable@claytonutz.com

Dear Scott and Paula

Logan City Council lease to Australian Golf Management Corporation Pty Limited Meadowbrook Gold Course - Consents

We confirm receipt of your correspondence dated 23 December 2021 and acknowledge your request for the information as requested in your correspondence by 15 January 2022.

We note that there is currently a litigation claim between Logan City Council and Australian Golf Management Corporation Pty Limited (AGMC) in respect of the Meadowbrook Golf Course. We are instructed that Mr Sharry of Clayton Utz is acting for Logan City Council in respect of this matter.

Mullins Lawyers is not representing AGMC in respect of this matter, nor do we have any knowledge of other involvement in the claim.

Our client strongly requests that the requests outlined in our correspondence dated 2 December 2021 and any other matters associated with the liquor and gaming licences and new sublease are dealt with distinctly separate from the claim.

The litigation aside, AGMC has spent millions of dollars to improve the facility to date, and the proposal will see this further improve through significant ongoing reinvestment into the facility. This is of course a Council asset, so the investments made, and improvements carried out to date has resulted in a material increase to the value of Council's asset, together with a material increase in the Rent paid to Council under the lease.

AGMC is now seeking to implement this structure to facilitate further major investment into Council's asset. AGMC's significant investment to effect this structure will immediately improve the facility and the new structure will facilitate a significant and sustainable on-going investment from the Club into the development of the asset. The key beneficiaries of this new structure will be the Club, it's members, local community and Council.

AGMC and its related entities will provide support to the Club to ensure its continued success through a loan agreement and management agreement (detailed further below). This is a common structure used in Queensland Clubs to ensure their sustainability and success, and our firm has submitted many of these applications with the Office of Liquor and Gaming Regulation with the feasibility / financial projections component prepared by Prosperity Partners using their significant industry knowledge and experience to forecast benchmark financials for greenfield club sites.

We note that the Head Lease provides that the Tenant will not conduct gambling at the Premises unless it is permitted by law, in this instance being approval by the Office of Liquor and Gaming Regulation of the gaming machine licence and associated agreements that the Club proposes to operate under – sublease, management agreement and loan agreement. Accordingly, we submit that the Head Lease already contemplates the operation of gaming at the Premises as part of the Permitted Use and the Tenant will continue to comply with this under the proposed structure, subject to approval by the OLGR.

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Information Request

By reference to the numbering in your correspondence, we respond as follows:

- 1 A copy of Meadowbrook Country Golf Club Inc's constitution – Please see **attached**.
- 2 Details of the purpose of the Meadowbrook Country Golf Club, its proposed members and any structure information available – Refer to rule 5.1 of the **attached** constitution detailing the proposed classes of membership and structure. We confirm that the "Golf Members" class of membership has been created to ensure that the existing members of the Golf Course continue to be acknowledged and involved in the new club (social premises). The Ordinary Members will be members of the new club. We confirm that both Golf Members and Ordinary Members will have voting rights, together with Life Members.
- 3 Details of Meadowbrook Country Golf Club Inc's financial capacity to meet the substantial obligations set out in the draft sublease including projected income and balance sheets – Please find **attached**:
 - 3.1 5yr Projection Analysis for Meadowbrook Golf Club prepared by Prosperity Advisers dated 2 December 2020; and
 - 3.2 Loan Agreement between Meadowbrook Country Golf Club Inc. and Australian Golf Management Corporation Pty Limited.

As can be seen from the Projection Analysis prepared by Prosperity Advisers, *"the Club is anticipated to generate \$150,000 in the first year and average \$482,583 for the next four years totalling \$2.08M over the five-year period. Within these funds, over the five-year forecast period, the Club will have contributed an \$1.04M to a development fund which it can use to further its purpose in the promotion of the sport of golf"*.

Under the Proposed Sublease, the Landlord has agreed to provide the Club with a Rent Indemnity to acknowledge the fact that the Club is starting a new enterprise and should only be required to pay rent that it has the capacity to pay. This Rent Indemnity serves to discount the Rent payable by the Club under the Lease, in whole or in part, until the Tenant makes a net profit of \$50,000 in any lease year. For example:

- 3.3 where the Club achieves an annual profit of \$50,000, the Rent payable by the Club under the Lease for that Lease year will be \$0; or
- 3.4 where the Club achieves an annual profit of \$220,000, the Rent payable by the Club under the Lease for that Lease year will be \$450,000; or
- 3.5 where the Club achieves an annual profit of \$770,000, then the Full Rent will be payable by the Club under the Lease.

This is intended to guarantee the Club a profitable start and allow it to remain competitive for the initial period.

After the initial term, as Prosperity Advisers have highlighted, the profitability of the Club in year two is expected to increase such that the Rent Indemnity will not apply and the Club will generate a profit of \$56,138 with the full rent charged.

Thereafter profitability in years three to five is expected to be \$185,479, \$621,870 and \$744,131 respectively after full rent has been paid. The profitability and growth of the Club is expected to get to this level on the increase in membership base and the flow on effect to food, beverage and gaming. Note that profitability in these periods are before contributions to the development fund.

Under the Loan Agreement Australian Golf Management Corporation Pty Limited will advance Meadowbrook Country Golf Club Inc. an amount of \$1,750,000 for the purpose of establishing and operating the proposed club at Meadowbrook Golf Club, including gaming. This is intended to cover start-up costs, purchase of gaming machines and gaming entitlements.

- 4 Details of Meadowbrook Country Golf Club Inc's experience and capability to demonstrate it is respectable and responsible – We confirm that the Meadowbrook Country Golf Club Inc.



proposes to engage the existing operator of the golf course, Meadowbrook Golf Pty Ltd, as the manager of the new premises under the **attached** Management Agreement. Under this Agreement, the existing operator will be providing management services to the Club to assist them in the running of the new premises.

As Council is aware, the operation of the golf course has been going from strength to strength under the guidance of Meadowbrook Golf Pty Ltd. Meadowbrook Country Golf Club Inc, proposes to leverage the experience of Meadowbrook Golf Pty Ltd to ensure the successful operation of the new premises.

- 5 Any other information which proves that Meadowbrook Country Golf Club Inc meets the requirements of clause 12.2 of the Lease.

Subject to the approval of the liquor and gaming machine licence from the OLGR, together with Council's consent to the requests outlined in our initial correspondence, Meadowbrook Country Golf Club Inc. will make a major investment into the clubhouse, golf course and surrounding development. This will ensure the continued sustainability of the premises and the golf course for years to come.

Section 342 of the Gaming Machine Act 1991

We note your comments in respect of the proposed sublease terms and in particular in light of s342 of the Gaming Machine Act 1991. We respectfully disagree with your interpretation of the Lease as it relates to the special condition providing the Rent Indemnity (as detailed above).

This clause purely relates to the calculation of an adjusted rental amount, where the Club does not generate sufficient profit to leave \$50,000 net profit after the payment of the full rent. This clause does not purport to calculate the full rent payable under the Lease by reference to the Club's turnover.

This is permissible under s342 of the Gaming Machine Act 1991, and we are aware of many other Club Premises which have similar provisions.

If you would like to discuss any matters relating to the information outlined above, or the proposal generally, please let us know.

Yours faithfully



Curt Schatz
Managing Partner