

22 June 2022

Paula Noble and George Kontonleon  
Clayton Utz

By email

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Dear Paula and George

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

We refer to your correspondence dated 15 June 2022, in response to our correspondence dated 1 June 2022.

We note your comments regarding the test for subleasing under clauses 12.2 and 12.3 of the Headlease, and respectfully disagree.

Irrespective of this, we are instructed that in the interests of progressing this matter and in good faith, our client responds as follows:

#### **Financial Information**

- (a) We note your comment that "*Meadowbrook Country Golf Club Inc will be a new entity*". We refer to the **attached** correspondence confirming that in fact Meadowbrook Country Golf Club Inc is not a new entity. This entity was incorporated on 8 July 1999.
- (b) In respect of the payments that Meadowbrook Golf Club Inc will be obliged to make referred to at Item 1, we confirm as follows:
  - (i) **Rent:** The Full Rent Amount of \$720,000 will not be payable until such time that the Club generates a Net Profit (excluding Rent) of \$770,000, allowing it to pay the Full Rent and still retain \$50,000 Profit. Until this time, the Rent will be payable on a pro-rata basis to ensure that in every year the Club generates a \$50,000 Net Profit.  
  
This Rent structure has been offered by the Landlord to ensure that the Club has time to build its business up and can still remain viable in the early start-up stages.
  - (ii) **Management Fees:** Under the Management Agreement, the Management Fee is only payable from surplus in working capital. Please refer to clause 11(b). If the Club has insufficient surplus in working capital to pay the Manager the Management Fee, then the unpaid amount accrues but will not be payable until the Club has sufficient working capital to do so.  
  
Further, at clause 13, the obligation of the Club to pay the Incentive to the General Manager only commences after the Club meets the threshold to pay the full rent under the Lease, and the Club makes a Net Profit for the respective Financial Year.
  - (iii) **Loan Repayments:** The Loan Agreement has a 5 year term, with no specified Repayment Dates other than at the end of the term. Accordingly, there is no short term obligation for the Club to repay the loan amount.
  - (iv) **Usual Operating Expenses:** As the site is a presently operating site, it has a working base of members and guests who will become members of the social club premises.

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Accordingly, it is not expected that the Club will be working up from "ground zero" in respect of operating. For this reason, it is expected that the Club will be able to meet its usual operating expenses particularly in light of the above concessions under the Lease, Management Agreement and Loan Agreement made to ensure the Club's success.

Accordingly, the financial obligations of the Meadowbrook Golf Club Inc will be significantly less than represented in your correspondence.

- (c) The arrangement has been structured in a way to ensure the viability of the Club in its start-up process. The Landlord will essentially be guaranteeing the Club's obligations until such time as it can generate a Net Profit which exceeds the threshold for it to pay the Full Rent. In any event, as a Sublessee under the Headlease with AGMC, there will be no exposure to Council as AGMC will continue to pay its Rent under the Headlease. Where the Club is unable to pay its obligations, then they would not pay, and AGMC would continue to pay its Rent under the Headlease as is.

In any event, we note that the Financial Forecasts prepared by Prosperity Providers indicated that the income received through the operation of the club will be more than enough for the Club to meet its ongoing financial obligations.

- (d) Our client instructs that the financials of Australian Golf Management Corporation Pty Ltd (AGMC) and Meadowbrook Golf Pty Ltd are not audited. In light of this, our client is unable to provide the audited financial statements requested however we are instructed to provide the **attached** Financial Statements for Australian Golf Management Corporation Pty Ltd and Meadowbrook Golf Pty Ltd, prepared by Findex and M W Clarke & Associates respectively.

For convenience, we also **attach** a copy of the correspondence from Findex previously provided to your office which outlines the net financial position of Mr Bill Henderson (80% owned of AGMC).

We submit that this information should be sufficient for Council to consider the request for consent made particularly in light of the fact that:

- (i) AGMC has held a Head Lease with Council for over a decade. During this time, it has spent millions on the Golf Course and is continuing to invest millions on the site through the current proposal. This should evidence to the Council that AGMC has more than adequate financial standing.
- (ii) We do not believe that the financials are necessary or required under the terms of the Headlease.
- (iii) Our client has never been requested to provide a similar level of information on previous requests for Council to consent to a Sublease, in particular in relation to the current Sublease to Meadowbrook Golf Pty Ltd which was approved on 6 October 2017.
- (iv) Your office has only given our client very limited time to provide a response, with a unilaterally imposed deadline of 22 June 2022.

On this basis, we hereby request that you please finalise this matter without delay for presentation to the City Governance Committee Meeting on 20 July 2022.

Yours faithfully

**Curt Schatz**  
Managing Partner