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# STRATHFIELD COUNCIL

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## LICENCE AGREEMENT

BETWEEN

**STRATHFIELD MUNICIPAL COUNCIL**  
("Council")

AND

**STRATHFIELD GOLF CLUB**  
("Licensee")

FOR

**PART OF FRESHWATER PARK**  
("Community Land")

## **PARTIES TO THE AGREEMENT**

This deed made on the \_\_\_\_\_ of July 2021 between **STRATHFIELD MUNICIPAL COUNCIL** (ABN: 52 719 940 263) of 65 Homebush Road, Strathfield ("Council") and **STRATHFIELD GOLF CLUB** (ACN: 21000029 354) of Clubhouse, 52 Weeroona Road, Strathfield ("Licensee")

WHEREAS

## **PURPOSE OF AGREEMENT**

- A. Council owns and/or manages the Community Land known as Freshwater Park.
- B. Council owns the Community Land identified as Lot 3 DP854298 at Centenary Rd and Ada Avenue, Strathfield ("Community Land").
- C. The Community Land is coloured green on the annexed plan marked "A" ("the premises").
- D. Council's Plan of Management ("Plan") for the Community Land expressly authorises its use for the purpose of playing golf and to promote the use of the land and provision of facilities, to meet current and future needs of the local community and to the wider public.
- E. The Licensee has requested that Council grant to them a licence for the use of the premises for the purposes of playing golf.
- F. Council has agreed to grant such a licence on the terms set out hereafter.

NOW THIS DEED WITNESSETH AS FOLLOWS:

### **1. USE OF PREMISES AND PERIOD OF USE**

- (a) During the term of this Licence Agreement, the Licensee shall be permitted to use that part of the Community Land that is coloured green on the Annexed Plan at Annexure A ("the premises") at the times and for the periods set out herein.
- (b) Council and the Licensee hereby agree and declare as follows:
  - (i) That it is not the intention of either of them to create between them the relationship of landlord and tenant;
  - (ii) That this Licence shall not in any way confer or impose upon either of them any of the rights or obligations of a landlord or tenant or any other rights or obligations save those expressed or implied by law in this licence.
  - (iii) That legal possession and control of the premises shall at all times remain vested in Council and the Licensee shall not hereby acquire any estate or interest therein;
- (c) The Licensee will not use or permit to be used the premises or any part of them for any purpose other than for the playing of golf as part of a golf course.

- Any activity incidental to the provision of the above service
- (d) This licence agreement shall be for a period of **five (5) years** commencing on 30 July 2021 and expiring the 29 July 2026. If the Licensee continues to occupy the premises beyond the expiration of the term of this agreement with the consent of Council it shall do so on a monthly basis only, at a fee equal to 1/12th of the then current annual licence fee at the expiration of the term of this agreement increased by the Consumer Price Index All Groups Sydney during the preceding 12 month period. Such continuing licence agreement may be terminated at any time by either party giving to the other one month's notice in writing but otherwise shall be subject to the terms and conditions set out herein.
- (e) The Licensee shall have the use of the premises during the following times and days, namely:
- Sunrise to Sunset
- (f) The Licensee may make a written request to Council to temporarily amend the times and days of use of the premises. Approval may only be provided in writing by the General Manager of the Council, whose decision shall be final. Any such request may not be unreasonably refused.
- (g) The Licensee shall not restrict access to the any person entitled to use the remaining part of the Community Land not licensed for use by the Licensee.
- (h) The Licensee shall grant unrestricted access to the premises by the following persons for the following purposes and during the times and days nominated below:
- Authorised officers of Council or their representatives at any time with due notice to the Licensee for the purposes of and in accordance with the terms of this agreement, except that no prior notice shall be required in case of emergency.

## **2. IMPROVEMENT OF PREMISES**

- (a) The Licensee may not carry out works to the premises without Council's prior written approval. If Council gives approval, it may impose reasonable conditions. This clause does not relate to routine, general maintenance required to maintain the golf course.
- (b) The Licensee must ensure that any works it does, are done:
- (i) By contractors approved by Council (which may not unreasonably withhold its approval);
  - (ii) In a proper and workmanlike manner;
  - (iii) In accordance with any plans and specifications approved by Council;
  - (iv) If applicable, be subject to the Licensee obtaining for development consent where required and be subject to that development consent;

- (v) In accordance with all laws and the requirements of government authorities; and
- (vi) In accordance with Council's reasonable requirements and directions.
- (vii) Be at the Licencee's cost.
- (c) All advertising signs or other signs which are visible to the general public shall not be erected unless Council grants prior written consent for such signs.
- (d) All improvements done to the subject premises by the Licensee shall vest in Council on completion of such works.
- (e) When considering whether to approve any proposed improvements to the premises, Council will consider amongst other things whether such improvements will contribute to the overall community value of the premises.
- (f) The Licensee will at once make good any damage or injury which may at any time hereafter be directly or indirectly occasioned to all or any part of the premises due to any alterations now or at any time hereafter made by the Licensee.

### **3. LICENCE FEE**

- (a) The Licensee shall pay to Council a licence fee of \$66,000 exc.GST per annum by equal monthly instalments in advance, the first of such payments to be payable on the date hereof and each subsequent payment to be made on the first day of each month.
- (b) The annual licence fee hereinbefore specified and the instalments by which such annual licence fee is payable, shall be varied or further varied annually on each anniversary of the commencement of the term in the same proportion that the index number at the commencement of any one year of the term bears to the index number at the commencement of the term of this licence. Each year shall be calculated from the date of commencement of this licence and subsequent annual anniversaries thereof. In this clause, the words "index number" shall mean the Consumer Price Index all groups for Sydney published from time to time in the Commonwealth Statistician's Summary of Australian Statistics.
- (c) The licence fee is to be payable to Strathfield Council at 65 Homebush Road, Strathfield or such other place nominated in writing by Council from time to time.
- (d) The Licensee shall pay to Council interest on any licence fees or any other sum payable to Council hereunder in respect of which default has been made at the rate of 10% per annum during the period of default provided that no interest shall be payable if the payment is made within 14 days of the due date therefor.
- (e) The licence fee and any other monies payable by and on behalf of the Licensee under this licence are exclusive of Goods and Services Tax or like impost (GST).
- (f) Liability for GST (payable in respect of any taxable supply) is additional. It is payable by the Licensee to Council at the same time as licence fees and other monies are payable.

#### **4. SERVICES AND METERED UTILITIES**

- (a) The Licensee shall pay to the relevant statutory authorities, all charges associated with the use and supply of electricity consumed on the premises and for all water usage and supply charges insofar as they relate to their usage of the premises and in accordance with accounts rendered. If the Licensee makes default in payment thereof, it shall be optional for the Council to pay the same and in addition to Council's other remedies it shall be lawful for the Council to recover the amount so paid as if same was overdue annual licence fees hereunder.

#### **5. MAINTENANCE AND REPAIRS**

- (a) The Licensee acknowledges that, except for possible latent defects of which the Licensee could not be aware, the premises were in good repair at the commencement date of this licence agreement.
- (b) The Licensee shall, at its own cost, keep and maintain the premises clean and in good order and repair at all times during the continuance of this licence and shall keep and maintain any fencing erected and the grounds themselves in good order and condition.
- (c) For the avoidance of any doubt, the Licensee is responsible, at its own cost, for the routine, general maintenance of the premises including but not limited to, mowing and attending to the greens and associated areas to ensure they remain in good condition.
- (d) If the Licensee fails to do any work that the Licensee must do, Council can give the Licensee a notice in writing stating what the Licensee has failed to do. After the notice is given, the Licensee must:
  - (i) Do the work immediately if there is an emergency; and
  - (ii) Do the work promptly and diligently in any other case.

If the Licensee does not do the work, Council can do it and the Licensee must reimburse Council for the cost of the work.

- (e) Council may enter the premises at reasonable times on reasonable notice to see if the Licensee is complying with its obligations under this licence or to do anything that Council must or may do under this licence. If Council decides there is an emergency, Council may enter at any time without notice.

#### **6. HEALTH AND SAFETY**

- (a) The Licensee shall give to Council prompt notice (no later than 48 hours) of any accidents on the premises, or any accident to or defects in the water pipes, gas pipes, electrical installation or fixtures and Council shall have the right but not the obligation to enter the premises at reasonable hours, and upon reasonable notice as often as may be necessary to attend thereto.

- (b) The Licensee acknowledges and declares that no promise, warranty, representation or undertaking has been given by Council in respect to the suitability of the premises for the purpose contained in this licence.
- (c) The Licensee is responsible for ensuring that the premises are safe and adequate for the approved purpose and activities proposed to be conducted thereon.

## **7. ENVIRONMENTAL PERFORMANCE**

- (a) The Licensee shall conduct its use of the premises with due regard to the amenity of the surrounding land uses.
- (b) The Licensee shall not cause, permit, or allow the use of the premises for any activity that is dangerous, offensive, noxious, illegal or immoral or that may become a noise nuisance or other nuisance or cause annoyance to Council or to the owner or occupier of any neighbouring property.
- (d) The Licensee shall, at its own cost, keep the premises clean and well maintained, including but not limited to the existing fences, gates, trees and other vegetation at the premises and shall dispose of waste properly and at its own cost.
- (e) The Licensee shall not:
  - (i) Do anything that might invalidate any insurance policy covering the premises that might increase the premium;
  - (ii) Hold any auction, bankrupt or fire sale in the premises;
  - (iii) Display signs or advertisements on the outside of the premises, or that can be seen from the outside, unless Council consents in writing;
  - (iv) Store or use inflammable, volatile or explosive substances on the premises;
  - (v) Do anything or cause, permit or allow anything to be done in or around the premises which in Council's reasonable opinion may be annoying, dangerous or offensive;
  - (vi) Burn off any waste or refuse of any kind
- (f) The Licensee shall, at its own cost, control and remove noxious weeds as defined in the *Noxious Weeds Act 1993* (or equivalent in the *Biosecurity Act 2015*) and proactively manage all pest animals including but not limited to foxes, feral cats, rabbits and rats excluding the native Water Rat *Hydromys chrysogaster*.
- (g) The Licensee shall comply with all the requirements of the *Threatened Species Conservation Act (1995)* as it relates to flora or fauna on the premises such as those species that contribute to the Cooks River Castlereagh Ironbark Forest which is a listed endangered ecological community.
- (h) The Licensee shall within six months of the commencement of this license

prepare an update to the 2017 River Management Plan for the Cooks River in Freshwater Park. The updated River Management Plan shall outline the proposed approach and resources allocated on an annual basis as part of the annual maintenance schedule for the Golf Course.

- (i) The River Management Plan must provide for a minimum of \$11,000 per annum to be spent on river management issues as agreed to by the Licensee and Council.
- (ii) The Licensee solely shall be liable for the amount (a minimum of \$11,000) per annum in clause 7(h)(i).
- (iii) The amount to be expended on River Management as set out in clause 7(h) shall be varied (increased but not decreased) in accordance with the CPI annual increase on each anniversary of the commencement of the term of this licence.

Note: The portion of Freshwater Park known as Yarrowee Wetland falls outside the area of responsibility of the Licensee.

## **8. RIVER WORKS**

- (a) The Licensee acknowledges that Council may perform works along the Cooks River waterway In Hedges Avenue and the portion of Freshwater Park that is public open space.
- (b) The Licensee also acknowledges that the Council will use its best endeavours to cause as little inconvenience to the Licensee as possible but Council will not be liable for any costs, claims, expenses or any damages caused by such works under clause 9(a).

## **9. INSURANCE**

- (a) The Licensee must maintain at all times with an insurance company, and upon terms approved by Council, the following policies of insurance In relation to the premises with Strathfield Council named as an Interested Party:
  - (i) In respect of public liability for an amount of \$20,000,000.00 (twenty million dollars);
  - (ii) Loss of licence fees where Council is to be the beneficiary of the policy;
  - (iii) Any other risk as Council may stipulate, prior to the execution of this licence agreement.
  - (iv) Workers compensation covering all employed workers and voluntary workers at the premises from time to time.
- (b) The Licensee shall notify Council immediately, if an insurance policy required by these provisions is cancelled or an event occurs which may lead to a claim against the policy,
- (c) The Licensee will in no way whatever do any act or thing which will invalidate any policy or policies or insurance on the premises. If the Licensee invalidates

any such policy, it shall be responsible for any loss to the Council as a result.

- (d) The Licensee shall annually provide copies of insurance certificates of currency for the insurance policies specified in sub-clause (a) upon commencement, renewal thereof, or upon written request from Council.

## **10. LIABILITY**

- (a) The Licensee warrants that it has relied only on its own enquiries in connection with this licence and not on any representation or warranty by Council or any person acting or seeming to act on Council's behalf.
- (b) The Licensee agrees to occupy and use and keep the premises at the risk of the Licensee and hereby releases to the full extent permitted by law, Council and its agents, servants, contractors and employees from all claims and demands of every kind and the Licensee expressly agrees that Council shall not have responsibility or liability for any loss of or damage to fixtures or personal property of the Licensee, however caused.
- (c) The Licensee will and does hereby indemnify Council from and against all actions, claims, demands, losses, damages, costs and expenses for which Council shall or may be or become liable in respect of or arising from:
  - (i) The negligent use, misuse, waste or abuse by the Licensee or any servant, agent, or sub--tenant of or any person claiming through or under the Licensee of the water, gas, electricity, lighting and other services and facilities of the premises or by faulty fittings and fixtures fixed by the Licences to the premises;
  - (ii) Overflow or leakage of water (including rainwater) into or from the premise
  - (ii) Loss, damage or injury from any cause whatsoever to property or persons within or without the premises occasioned or contributed to by any act, omission, neglect, breach or default of the Licensee or any servant, agent or other person as aforesaid.

## **11. COMPLIANCE**

- (a) The Licensee shall comply with all laws regulating how the premises are used, in particular Work Health and Safety, Environmental Planning and Assessment, and Protection of the Environment legislation, rules and regulations, obtain any consents or licences needed, comply with the conditions of this licence and any other consent, and keep current any licences or registrations for the use of the premises, or for the conduct of the Licensee's business or operations thereon.

## **12. REPORTING AND MONITORING REQUIREMENTS**

- (a) The Licensee shall report annually to Council, by the 30th of September



each year on the following matters in accordance with Council's reporting guidelines to enable Council to incorporate these details into its quarterly and annual reports:

- (i) the contribution made to the community by the Licensee as evidenced by the uses, activities, user and membership numbers and a survey of user and community views;
- (ii) the enhancement of the local environment by the activities;
- (iii) the financial performance of the Licensee detailing the profit and loss and balance sheet details with membership and subscription being separated from the actual takings of the Licensee;
- (iv) how the Licensee has managed its public risk responsibilities by detailing measures undertaken by the Licensee to lessen the risk factors for its use of the premises;
- (v) other required reporting responsibilities to be specified by Council from time to time.

A failure to meet the deadline in relation to the obligations hereunder after two (2) written requests for the same shall lead to the automatic termination of this agreement without the requirement for Council to give any notices to terminate the licence.

- (b) The Licensee acknowledges and accepts that Council is entitled to review and audit the reports provided by the Licensee and use the data provided in those reports, in the preparation of Council's own public reports.
- (c) If there is any inconsistency between the performance reports provided to Council and the actual performance by the Licensee, the Licensee shall demonstrate to the Council, why the licence should not be terminated by Council as a result of the failure to comply with the performance standards.

### **13. SUB-LICENSING**

Any proposals to transfer this licence or for the grant of a sub-licence must comply with the plan of management and the following requirements:

- (a) The Licensee must not transfer this licence or grant a sub-licence without prior written consent of Council.
- (b) Council can withhold consent if:
  - (i) The proposed transferee or sub-licensee, proposes to change the use to which the premises are put;
  - (ii) The proposed transferee or sub-licensee has skills in relation to the proposed use inferior to those of the Licensee.
  - (iii) Sub-licensing is not approved in a current Plan of Management for the Community Land.
  - (iv) Council has reasonable concerns about the financial circumstances of

the transferee or sub-licensee.

- (c) A request for Council's consent to a transfer or sub-licence of the licence must be made in writing and the Licensee must provide Council with such information as Council may reasonably require concerning the experience of the proposed transferee or sub-licensee.
- (d) The terms of any sub-licence shall generally be in accordance with the terms of the head licence as approved by Council.
- (e) The Licensee acknowledges that as part of any consent to any transfer or sub-licence of this licence Council may impose a condition requiring the amendment of this agreement in various respects including, amongst other things, a variation in the licence fee payable under this agreement.

#### **14. TERMINATION OF LICENCE**

- (a) If the Licensee shall fail to observe and perform any of the agreements and undertakings on the Licensee's part herein contained then Council may by giving one (1) month's notice in writing served upon the Licensee forthwith terminate this licence and the Licensee shall forthwith vacate the premises and remove there from all things belonging to the Licensee.

- (b) On termination of this licence no compensation shall be payable by either party "without prejudice" to any remedies which might otherwise be available to Council for arrears of rent or preceding breach of covenant.
- (c) On termination and delivery up of the premises to Council, they shall be delivered up in the same condition as at the commencement of the licence, fair wear and tear accepted, other than any improvements that may have been made during the course of the licence agreement. The Licensee shall not remove any vegetation, improvements, plant or equipment which is not the property of the Licensee.
- (d) On termination of this licence should there be a breach of sub-clause (c) hereof or should repairs be required to the premises or access route which are the responsibility of the Licensee then Council shall be entitled to rectify the Licensee's breach and recover the costs thereof from the Licensee.
- (e) Should the Licensee or Council wish to terminate this Licence Agreement before the expiration of the five (5) year term for reason other than a failure of the kind specified in sub-clause (a) then either may do so by giving to the other a minimum of 1 (one) months notice in writing.

#### **15. VARIATION**

- (a) Any variation or amendment of this licence agreement must be in writing, signed by all parties.

#### **16. CONTACT PERSON FOR PURPOSES OF NOTICES AND NEGOTIATIONS/PROCEDURES**

- (a) A document under or relating to this licence is:
  - (i) Served if it is served in any manner provided in Section 170 of the Conveyancing Act 1919;
  - (ii) Served on the Licensee if it is left at premises.
- (b) For the purposes of negotiations in relation to any disputes that may arise under this agreement, it is agreed that the following persons are empowered to make decisions which will bind the parties:

Council: Director, Office of CEO

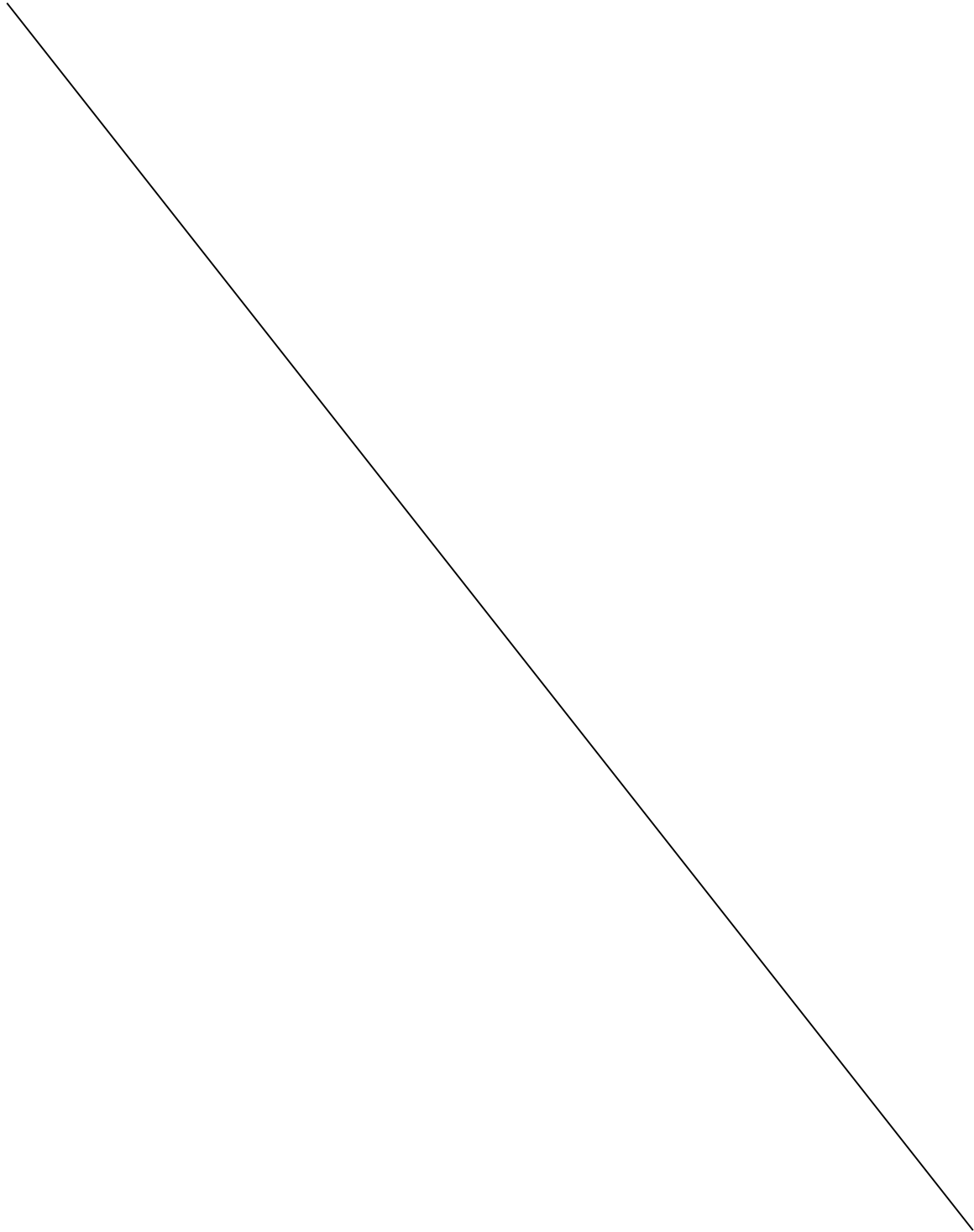
Licensee: Secretary Manager

- (c) In the case of a dispute in relation to the interpretation of this agreement, then the dispute shall be referred to the Chief Executive Officer of Council, whose decision shall be final.

#### **17. FURTHER COVENANTS BY THE LICENSEE**

The Licensee agrees it will:

- (a) In relation to admitting new members of the golf club, the Licensee will give preference to persons residing in the Strathfield Local Government Area over persons not so residing, all other considerations equal.
- (b) Allow the public to the golf course for the purpose of playing golf after 1:30pm each day of the week, excluding Saturday and Sunday.



**Executed by Licensor- STRATHFIELD MUNICIPAL COUNCIL**  
**ABN: 52 719 940 263**

Signed for and on behalf of Strathfield  
Municipal Council by its duly authorised officer:

.....  
Signature

.....  
Title

.....  
(Print) Full Name

.....  
Witness

.....  
(Print) Full Name

.....  
Address

.....  
Date

**Executed by Licensee – STRATHFIELD GOLF CLUB**  
**ACN: 21000029354**

Executed on behalf of Strathfield Golf Club  
by a duly authorized officer

.....  
Signature

.....  
Title

.....  
(Print) Full Name

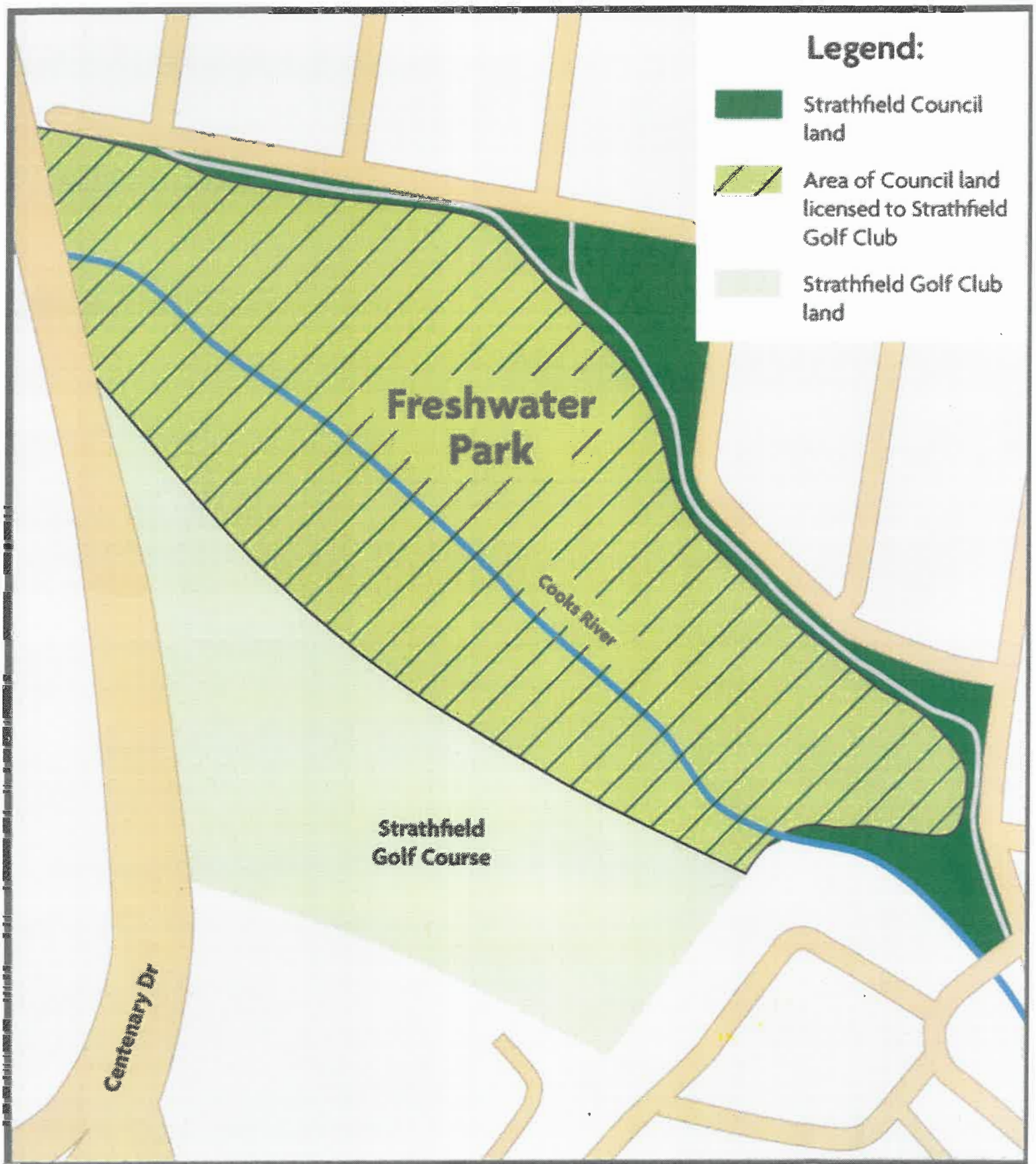
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Witness

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(Print) Full Name

.....  
Address

.....  
Date

ANNEXURE A



**ANNEXURE B**

**FRESHWATER PARK  
COOKS RIVER MANAGEMENT PLAN**

**Guidelines for preparation**

### **Water Quality**

- Establish a monitoring regime to assess the following:
  - Litter
  - Siltation
  - Dissolved oxygen
  - Algae
  - Nutrients
  - Bacteria
  - Pesticides
  - Heavy metals
  - Contaminants - licenced and unlicenced discharges
- Ensure follow up programs are in place to ensure improvements in water quality are achieved and maintained.
- Investigate liaison with local schools for Streamwatch involvement.

### **Litter/Pollution Control**

- Outline any proposals for installation of litter/gross pollution control devices and methods of cleaning and maintaining such devices
- Outline how the club intends to control fertiliser and pesticide application rates with respect to keeping applications to a minimum.

### **Sedimentation**

- Outline proposals to control sedimentation during any works within the course
- Outline how the club can play a role in monitoring sedimentation that may have come from upstream activities
- Outline proposals to reduce sediment loading in the river

### **River Bank Management/ Erosion control**

- Prepare a detailed plan and design for reinstatement of river banks through Freshwater Park, covering stabilisation and revegetation issues.

### **Noxious Weeds**

- Outline a program of detection and control of noxious weeds, both terrestrial and aquatic, that occur in the vicinity of the river and throughout the course.



### Threatened Species

- Identify existing remnant vegetation
- Ensure Licenced required by the **NPWS** for works to an endangered community are current
- Identify plans for revegetation works outlining species, and stages of works

### MANAGEMENT PLAN FORMAT

The plan must be presented in a fashion that includes strategies to address the issues, an outline of all issue facing the river through Freshwater Park and an outline of action to indicate how the strategies are to be implemented.

<b>Issue</b>	<b>Strategies</b>
<i>Noxious weed invasion</i>	<ul style="list-style-type: none"><li>• <i>To prevent invasion of the river by noxious weeds</i></li><li>• <i>To control weeds in the River and the banks</i></li></ul>

The action plan is the working part of the document and should outline all activities to be undertaken. Each action or activity must have a timeframes, a resource allocation and list the responsible party, an example of a plan is given below:

<b>Actions</b>	<b>Resources</b>	<b>Timing</b>	<b>Responsibility</b>
<i>Identify source of weed infestations</i>	<i>Staff identification and observation</i>	<i>Ongoing</i>	<i>Maintenance</i>
<i>Write to other land owners that may be responsible for noxious weed control, advising them a/any concerns with infestation if known.</i>	<i>Staff time</i>	<i>On detection of the problem as required</i>	<i>Maintenance</i>
<i>Notify local authority of noxious weeds on other lands upstream or on neighbouring properties</i>	<i>Staff time</i>	<i>When necessary</i>	<i>Sec. Manager Maintenance</i>

<i>Remove all noxious weeds from the River and river banks.</i>	<i>Say \$2000pa</i>	<i>Ongoing control and immediately when detected</i>	<i>Maintenance</i>
<i>Prepare a maintenance schedule for weed detection and control</i>	<i>Staff time</i>	<i>By December 2017</i>	<i>Maintenance</i>
<i>Notify Council of actions to control weeds.</i>	<i>Staff time</i>	<i>annual reporting to Council and when necessary</i>	<i>Sec. Manager</i>