



## PENRITH & DISTRICTS BASKETBALL ASSOCIATION INCORPORATED

P.O. Box 8047 Werrington County NSW 2747

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20 February 2025

### Town Hall- 20<sup>th</sup> February 2025- Statement

Good evening, all – I would like to take the opportunity to firstly welcome you here on the behalf of the PDBA. For those who do not know me, my name is Kurt Watts, and I am currently the President of the Board of Directors for the PDBA. Sitting along side me, are the other members of our elected board, Daniel Milosev and Jason Faber. Unfortunately, due to work commitments, James-Dean McDonald is unable to be here with us, but he also holds an elected position. Vanessa Campbell is the final member of our board; she is currently in an appointed role and will tonight be taking our minutes.

I want to first outline to you the general etiquette I would like us all to follow. As President, I will chair this meeting, providing you with our agenda and give the background and statement on behalf of the board in regard to the current situation with the merger. You will have the opportunity to ask questions and clarify any statement that has been made, and we as a board will do our best to answer. Everything will be documented, and we will attempt to answer all of the pre-submitted questions which have been provide to the association prior to the town hall. I would like to ask that you hold all questions until the end of my statements, I will happily answer any questions you have and make clarification around any points you need more information on.

In late August 2023, the then Chairman of the PVRSC board, Kim Murphy requested a meeting with the then President of the PDBA, Nathan Blatch. This meeting was attended by me, Nathan, Kim, and John Thain another board member of the PVRSC and current sitting Councillor with Penrith City Council. At this time, the PVRSC had shut courts 5&6 due to the ongoing issue with termites. In this meeting Kim requested \$6,000 a week from the PDBA to assist the PVRSC due to the loss of income following the closure of courts 5&6. He followed this request by starting the PDBA had the option to provide these funds, or the PVRSC would remove the PDBA and begin to run their own basketball competitions as they needed that income. We as a basketball board determined that in the interest of good faith, we would provide these payments to the stadium during this period to demonstrate our commitment to the facility. At the end of this first meeting, it was first raised by John and Kim about the potential for the two organisations to merge as ultimately this would be for the betterment of both organisations and the future of the facility.

We provided approximately \$106,000 total over the next 3 months. There was no conditions to this money, and it was invoiced as an emergency levy. At this time, the PVRSC were seeking a loan from Council in order to do the necessary repairs to



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courts 5&6. In order to receive this loan, the PDBA wrote a letter of support to Penrith City Council, outline that our board were open to having discussions around the potential of a merger between the 2 organisations. We highlighted that the PVRSC has been the home of Penrith basketball since it was built, and we had no intention of leaving. It was on this letter that Penrith City Council provide the PVRSC with a \$1.6 million dollar loan in order to facilitate the works for courts 5&6. Council placed a condition on this that the PVRSC must change their business model to demonstrate their ability to be self sustaining. It was at this point that Michael Jackson joined the negotiating from the PVRSC and Daniel Milosev joined from the PDBA side. Discussions begin around how the potential for the merger with a number of potential ideas floating at a starting point.

In the background to this, in December 2023/January 2024, the PVRSC approached the PDBA with the request for the \$6,000 a week levy to remain until the courts were able to be opened. We negotiated that instead the PDBA would provide the PVRSC a \$80,000 interest free loan, with repayments to start 6 months post the opening of courts 5&6 which worked out to be November 2024 – as a note to this, in September 2024 the PVRSC requested a 6-month extension on these loan repayments, which was granted with repayments to begin in May 2025.

In regard to the merger discussions, as a member under Basketball NSW we engaged with the state board as we are required to indicate any potential constitutional changes with them. We also wanted their support and for them to back the merger as a sign of support when it was time to present to our members. As part of this Maria Nordstrum, CEO Basketball NSW, provide the association with access to Landers & Rogers to act on our behalf in regard to reviewing all documents relating to the merger. Maria, Geoff Tripp (BNSW General Manager Community Growth & Marketing) met with Michael Jackson, Daniel Milosev, Nathan Blatch, and I met during November of 2023 to discuss the merger and how it could be possible under the PDBA constitution and other potential avenues we could explore. At this time, the PDBA raised with the PVRSC the potential for a commercial agreement to be put into place in the interim which would guarantee court hire and rent for the office space, whilst we were negotiating the conditions of the merger. This was rejected by the PVRSC.

The merger discussions have centred on a number of key issues between both organisations. These issues have centred around representation on the new board, ring fencing of the association's current funds, demerger processes. We felt that it was important that the Association be able to retain some autonomy in regard to the



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way in which the competitions were run and that the members still had the ability to elect representatives.

The current proposal put forward by the PVRSC is:

- 2 board positions for the association on the new PVRSC board of 7.
- Ring fencing of all basketball funds including the \$80,000 loan, to only be used for basketball purposes.
- The association would be dissolved
- There would be a process in which the association would be able to demerge and reform if at any stage it was determined that it was no longer in the best interest of basketball to remain merged i.e. Council take the facility
- All staff would move over to the PVRSC on the same conditions and pay, however the PDBA would have to pay out all leave liabilities before they joined the merged entity.

The concerns we have with this is that once the Association was dissolved, we would no longer exist and therefore could not ensure anything was protected moving into the future. We may agree that the proposed new board would not change anything, however our concern was that things may change, and board members may be replaced, and currently there was no safeguards in place in order to protect if future boards decide to make changes to the constitution or remove the basketball elements. Once we were dissolved, we would be part of the PVRSC and therefore conform to their constitution.

On 2 September 2024, PDBA received a draft Heads of Agreement (HOA) from PVRSC, along with a response to our requests aimed at ensuring greater clarity and confidence for our members regarding specific aspects of the proposed merger.

Following receipt of the HOA, we sought independent legal advice and were strongly advised not to sign it, as its provisions stipulated that once a "Yes" vote was passed, the agreement would become legally binding the following day.

To ensure a comprehensive assessment, we engaged two legal firms—one affiliated with Basketball NSW and another recommended by former President Nathan Blatch. Both firms advised that an initial non-binding agreement should have been in place, allowing both parties to refine the constitutions, complete due diligence, and finalise formal merger processes before executing a legally binding document. Both recommended entering a commercial agreement in the interim as well.



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Had PDBA signed this version of the HOA, it would have left the organisation with no ability to negotiate or guarantee key aspects previously discussed, as no formal processes had been established within this agreement. Based on this advice, we informed PVRSC that we could not proceed with signing the current version of the HOA.

Subsequently, we met with PVRSC to formally communicate our position. PVRSC advised that we could not make this decision without member approval. However, we clarified that, given the significant risks identified, it was not in the best interests of our members to enter into a binding agreement at this stage without first addressing outstanding formalities. We again raised going into a commercial arrangement and PVRSC said that it was not enough. PVRSC then indicated they may consider issuing a 28-day notice for our exit.

We continue to make it clear, we want to be able to get it to the members to ultimately decide what happens next, so we were open to continue exploring alternatives to make that happen.

Therefore, we have pushed for parity in board representation, a clear understanding of how the demerger process will work and the conditions around this and finally a way in which the association did not need to be dissolved in order for this to be achieved. Unfortunately, we could not reach any compromise on these issues which has led us to this point where the PVRSC have made the decision to provide the Association with notice that they will be removing our competitions from the facility and would no longer do business with the PDBA. BasketballNSW have stated they are in support of the association and will not be providing another organisation with a licence to play BNSW affiliated competitions within the Penrith LGA.

At this point in time, we have reengaged with our own legal firm who we first used to assess the viability of the merger. They are currently continuing negotiations with the PVRSC on our behalf and seeking reassurances around the financial situation of the PVRSC, the commitment of Council for any upcoming works which may be required, as well as the assurance that basketball will remain apart of the facility.

In October 2024, the PVRSC and PDBA the following letter from Penrith City Council. The letter outlined that Council had appointed Otium Planning Group Pty Ltd (Otium) to conduct an independent Management and Business Operations Review of PVRSC. It also contained the scope of works required as part of the review.

The PDBA had the opportunity in November to participate as a stakeholder in this review. The Council has not yet received any feedback regard the outcomes of this review, with the final report expected sometime in March.



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Our intention throughout this process has been to reach a stage where members could review the proposal, have their say, and vote on the merger. However, we do not believe we have yet reached that point, particularly as due diligence remains incomplete and key measures have not been implemented to ensure that our requests are formally documented and guaranteed.

Kurt Watts  
President

On behalf of the board of the  
Penrith & Districts Basketball Association