



**CLUB MERGERS
AND
AMALGATIONS**

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Mergers and Amalgamations of Clubs

1. There are around 3000 clubs in New Zealand that hold liquor licences and these are spread throughout the country, varying in size from very large clubs to those with a membership of less than 50. There are also a great number of sporting, recreational, cultural and special interest clubs throughout the country.
2. In 1999, the Hilary Commission released a discussion paper called "**Sportsville**" that identified the need to rationalise many club facilities, which are currently provided throughout the country. This paper describes a model whereby facilities are better utilised, rationalised and there is a general improvement in the financial viability of the clubs of all sorts. In 2010 local governments seem keener than ever to create a "**Sportsville**" environment utilising council land and funding, along with the assets and equity of well established clubs. Already this concept has been successfully implemented with fabulous facilities being created for its members by the merger and/or amalgamation of two or more clubs, including sports clubs, workingmen's clubs and council amenities. Two fine examples are Clubs of Marlborough/Marlborough Convention Centre (previously Blenheim RSA, Blenheim Workingmen's Club and Marlborough Club) and Mount Maunganui Club (previously Cosmopolitan Club Mt. Maunganui and the local Bowling and Croquet Clubs).
3. In 2000 the Minister of Sport, Fitness and Leisure commissioned a report called "*Getting Set*". This report details in some areas, the issues of clubs and the need to rationalise the facilities. Again, it does not require that clubs merge or amalgamate; rather it seeks to get a better return from the resources that are currently used in the total clubs scene.

Merge or Amalgamate

4. As separate incorporated bodies, clubs and their membership quite naturally look on any form of combining with another club as a loss of identity and therefore to be viewed with suspicion. ***Whatever the clubs decide on going forward, our member clubs that have already gone through the process of merging or amalgamating can't emphasise strongly enough how important it is to communicate with the local council in the first instance.***
5. It should be clearly understood by all involved in any discussions as to what is being considered. The word "merger" or "amalgamation" means "combining of two companies into one" respectively. **Merger** is a fusion between two or more clubs, whereby the identity of one or more is lost and the result is a single club. **Amalgamation** signifies blending of two or more existing clubs into one club, the blended companies losing their identities and forming themselves into a separate legal identity, often with a new name.
6. A merger will see one organisation effectively swallow up the other and this is when some clubs become concerned. Whereas an amalgamation may allow two organisations to combine their resources and create a new larger structure and still allow each organisation to retain its identity, and when required, operate independently.

7. Any successful venture of this nature will result in an organisation where all of the membership and constituent parts are comfortable with what has been achieved. It is in this vein that any change to a club should be considered.

What Are We Talking About

8. Many clubs these days are having difficulty in sustaining a level of activity that makes them financially viable. If one visits any small or indeed large town, they will find a large number of clubs are using facilities that in many cases duplicate facilities that are also available in that area.
9. Single code sports clubs may have facilities that are not used at all out of season. A sports ground may have completely separate buildings for each of the sports codes, duplicating a wide range of services.
10. A great deal of club support is derived from volunteer activity, and anyone involved in that area will confirm that voluntary labour is more and more difficult to get. Changes to New Zealand's society and lifestyle have imposed a completely different working and recreational mix. Clubs are becoming far more sophisticated and along with compliance issues, now require professional, highly trained staff, to operate their bars and facilities.
11. Ongoing changes to the Occupational Health and Safety legislation includes volunteers who may be working in the Club.
12. From time to time, this Association has been approached as to how to assist clubs who are considering merging or amalgamating and help has been sought as to how they should best achieve this objective.
13. Clubs that are members of this Association are competent at running a club. That is a resource that may be very useful to other clubs that may have a sporting code(s), recreational or special interest theme.
14. The purpose of this paper is to give a framework that will assist clubs who wish to consider or investigate merging or amalgamating with another club in their area.

Should Clubs Merge or Amalgamate And What Are The Issues?

15. Examination of any club reveals that there are a number of administrative and financial functions that will be found in other clubs. There will be a committee, probably a Manager and a Secretary, a Treasurer, and some form of financial activity that allows the club to remain viable.
16. Whether that club is an R.S.A, a sports club, chartered club or any club representing an ethnic or recreational interest, there will be a number of common characters found in each and every organisation.

17. Clubs are autonomous, independent, and self-governing bodies operating under the appropriate legislation. It is important to remember that a merger or amalgamation can only take place when it is with the approval of the members of each of the clubs that is involved.
18. It is also important that each committee member involved in this process understands and is fully aware that they have fiduciary duty to act in the best interests of the membership. They must at all times act in the best interests of the members that they are elected to represent.

When Should Clubs Merge or Amalgamate?

19. There is no appropriate time when such a merger or amalgamation should take place but it can be viewed very much in the same vein as a marriage in that it can only take place when all parties are willing to take the step. However leaving it to the last minute, when one or more of the clubs are facing closure may be too late.
20. It is therefore important that the membership of each club involved is fully briefed on the reasons for any move in this area. It is imperative that those attending the appropriate general meetings of the club to decide on this matter are fully informed and can as a result, make an informed decision.

How To Merge or Amalgamate A Club

21. There is no formal procedure although there are some legislative requirements that need to be met. A structured and orderly process is more likely to have a satisfactory result for all parties rather than a haphazard approach. Later in this paper there is a step-by-step guide on how to initiate, conduct and conclude this process.
22. It is important when initiating a merger or amalgamation for a club that there is a very small but competent working party established. The members of the working party should comprise one or two members from each of the clubs concerned and should be selected for their ability rather than for the position they hold, or for any other factor. Regardless of the size of either entity representation on such a body needs to be equal in number. The future of the clubs concerned will depend on their ability to negotiate their way through all of the various tasks that need to be completed.
23. The Working Party needs to determine what the required outcomes are of any potential merger and the pathway to achieving those outcomes. That pathway will include a draft business plan with clearly defined benefits and any negative impacts.
24. One extremely important issue that will need to be considered is that relating to employees. A merger or amalgamation may involve changes to the staffing within the clubs concerned and it is very important that such moves be made in a manner that will minimise employee dislocation.

25. A merger or amalgamation may also involve clubs with different cultures, business models and methods of operations. Some may be very proactive while others will be laid back and not progressive. The blending of these cultures will need to be done with care.
26. As soon as it is identified that there may have to be changes to staffing positions it is essential that qualified advice be obtained on this issue at the very earliest opportunity. In addition, there are requirements under the Employment Relations Act that staff be advised of potential changes and the implications discussed with them as soon as possible. Employees must be kept informed and seen to be involved throughout the ongoing merger or amalgamation process. All options, including redundancy, must be explored.

The Legislation

27. Before even considering the various pieces of legislation that will need to be met, first read the club's constitution. Ensure that what is proposed is permitted by the Constitution and in the case of the club eventually being wound up on a successful merger or amalgamation, understand what requirements have to be met.
28. At this point, it is strongly advised that legal advice be obtained to ensure that the club complies with its own rules and with the various Acts.
29. There are a number of pieces of legislation of which clubs need to be aware to make sure this process is legal and complete. Legislation includes:
 - a. The Incorporated Societies Act 1908
 - (1) The majority of clubs are incorporated societies.
 - b. The Friendly Societies and Credit Unions Act 1982.
 - (1) A small number clubs are friendly societies and as such enjoy some tax advantages over clubs that are incorporated societies. It would be advisable to ensure that other clubs merging or amalgamating with that club retained such advantages if possible.
 - c. The Sale and Supply of Alcohol Act 2012
 - (1) The majority of clubs hold a Club Licence and many hold an Off Licence under this legislation. If two clubs are merging or amalgamating, the club that has the best licence conditions should be the one to retain the licences if possible. While the merger or amalgamation may introduce a new name for the clubs to be recognised by and come under the umbrella of, the original clubs may still remain as individual clubs under the incorporated or friendly societies acts. By retaining the licences with, and trading under one or other of the merging or amalgamating clubs, this will save a considerable amount of time and money. It may also ensure that clubs don't have to go through the process of applying for new licences, where current government or local body legislation may prevent them from being issued with a new licence.
 - (2) Where a club holds a Permanent Charter, a review of the perceived benefits of retaining a charter must be carefully considered. Again, this may be a case of

that club being the organisation that other clubs merge or amalgamate with to retain the benefits, if any, of a Permanent Charter.

- d. Gambling Act 2003 (the Act only mentions mergers, not amalgamations)
 - (1) This is the legislation that licences gaming machines.
 - (a) It allows for two clubs that genuinely merge, to have the lesser of:
 - i 30 Gaming machines; or
 - ii The total of gaming machines licensed to the two clubs that merge (eg Club A has 12 machines and Club B has 9 machines therefore the merged club would be permitted 21 machines).
 - (b) The increase above 18 machines per site is subject to:
 - i Approval by the Minister.
 - ii Territorial Local Authority consent.
 - (c) New gaming machine venues licensed after 17 October 2001 will only be permitted up to a maximum of 9 machines. The Minister however may increase the number of machines on a club site.
 - (2) There is a set procedure to be followed in obtaining Ministerial consent for up to 30 gaming machines on merger, and it is important that the procedure be followed, prior to and subsequent to the Minister's consent.
 - (3) Once Ministerial consent is approved, the corporate societies may then apply jointly for a class 4 venue licence for the proposed venue, but the Secretary of the Department of Internal Affairs must not issue a class 4 venue licence until the corporate societies have:
 - (a) Merged; and
 - (b) Obtained a class 4 operator's licence.
 - (4) Funding from gaming machines will be an important source of finance for the merger and subsequent expenditure. It is therefore absolutely crucial that qualified advice on the matter of gaming machines be obtained early on in the negotiations.
- e. Inland Revenue
 - (1) There will be a number of requirements including:
 - (a) PAYE for all employees, recipients of honoraria and payments made under the Resident Withholding Tax regime to cleaners, entertainers and for sports prizes over \$500.
 - (b) ACC payments in respect of employees.
 - (c) Gaming Duty and Problem Gambling Levy in respect of all gaming machines.
 - (d) GST registration and returns.
 - (e) Fringe Benefit Tax returns.
 - (f) Ensuring disposal of surplus assets does not adversely impact the clubs tax status.
- f. Resource Management Act 1991 (including the Resource Management Amendment Act 2005) and all local authority requirements and licensing procedures, if the entity is to be located in a place that is not an operational club. If the new entity wishes to expand existing club premises, it would be prudent to ensure that such expansion will not pose a difficulty from a local authority viewpoint.

Names

30. The name of a club gives it identity, for that is how it is known and that is what makes it immediately identifiable from all other clubs or organisations.
31. Consequently, the name can evoke great passion and parochialism, and can be the issue on which an otherwise successful merger or amalgamation can founder.
32. Changing the name of a club is little more than a change to the rules, followed by notification to various authorities and expenditure relating to signage etc. Therefore, rather than create a new identity for a merger or amalgamation, it is often more practical for a club or clubs to merge or amalgamate with an existing club which after the merger or amalgamation then changes its name to the one selected for the new entity. This can ensure the club licences remain intact under the original club's names. This is often expressed as XYZ Workingmen's Club **trading as** Club XYZ. Also as to the new name you need to have the story which supports the name – simply to choose a name which sounds good will not be tolerated by members.

Talking And Finding Out

33. It is often useful to talk with those who have undergone this process and can advise what the pitfalls are. Why reinvent the wheel when there are clubs that have successfully merged or amalgamated and are now thriving? Why not find out how they did it. It is a feature of club life that people will help each other.
34. Also seek advice from the clubs legal and financial advisers. Ensure that they understand what is intended and are kept up to date with developments.
35. Talk with the local authority and find out if there are any limitations in what is proposed that would have an adverse effect on a new entity. Also ensure that there are no upcoming changes to government legislation or local territorial authority policies that may conflict with any proposed merger or amalgamation. This may include Class 4 Gambling, Sale of Liquor or Resource Consent applications.
36. Find out if there are any plans by the local or regional authorities or any other organisations to foster mergers, amalgamations or club rationalisation, to meet the objectives outlined in the "*Sportsville*" and *Getting Set*" papers discussed at the beginning of this document. There may well be financial and other assistance available but you will not know if you do not ask. Councils often have access to money and assets that clubs could never otherwise get their hands on.
37. Finally, talk with your Association, see if we can assist, offer advice or help in any way. We have been involved in a few mergers and amalgamations and we can put you in touch with clubs that have successfully merged and some that have not.

General

38. Merging or amalgamating two or more clubs will not be an easy task but it is one that may ensure the survival of the different entities involved. More importantly, the new organisation will continue to serve the joint membership as well as continue to provide a community facility.
39. Finally, beware the three P's. They can destroy the most logical and sensible plans and can do untold harm to any organisation. It is important that those involved in the merger or amalgamation discussions recognise the three P's and ensure their impact is minimal. The Three P's are:

Politics

Personalities

Parochialism

MERGING OR AMALGAMATING WITH ANOTHER CLUB

Demographics

40. Name of the town/suburb/area/locality where the club is situated.
41. Name of the closest major town.
42. Distance from the closest major town.
43. Population of your area?
44. Are the population predominantly old, young families, grown families, a mixture?

Performance.

45. How is your club performing?
46. Have you had a free Balance Sheet Analysis carried out? If not, get one done before proceeding.
47. How are local clubs performing?
48. How many local clubs are there:
- a. Chartered clubs.
 - b. R.S.A.s
 - c. Sports clubs with liquor licences.
 - d. Other recreational, social or interest clubs with liquor licences.
49. Are there too many clubs in your local area?

50. Are there clubs within a 5 kilometre radius of your club, which you could merge or amalgamate with?

Local Authority

51. Visit your local territorial authority (Council).

52. Are there any plans or projects concerning rationalisation of sports and/or club facilities?

53. What plans or schemes are being considered along with policy changes?

54. Do they involve clubs in your immediate or close proximity?

55. What is the objective of those plans?

56. Is there any financial assistance or other Council support to clubs that may be affected or involved in the plans?

Is A Merger or Amalgamation Possible?

57. Can you identify a club or clubs that your club could merge or amalgamate with to your mutual advantage?

58. For each club or clubs that are identified as a possible:

- a. How are those clubs performing?
- b. Is there membership compatible with your club's membership?
- c. What are your current relations with the clubs?
- d. Is there a person identified within the club with whom discrete contact could be made?
- e. At this point, your club may well have established that a merger or amalgamation with another club or clubs would be good for all involved. Another club may have approached your club with the idea. However you have come to this point, it is now time to start seriously working on the issue. This is the time to determine potential outcomes, establishing the data to test these outcomes, then consideration of positives and negatives. Develop the model to support the argument to go further with the process.

Your Committee's Task

59. The Executive of the club should meet and in committee, discuss the issue. Remember that each Executive Member is charged with acting in the best interest of the membership.

60. Select two or no more than three competent persons (they need not be Executive Members) to form a small working group to pursue this idea. Remember equal representation – and the best people.

61. Establish contact with the prospective clubs.
62. It may be useful to meet for the first time on neutral territory. Go out for dinner somewhere (not a club).
63. If there is more than one prospective club, meet with each club separately.
64. Broach the subject with tact. This is just an opportunity to test the water and see what reaction there is. Do not do a hard sell, rather gently sow the seed and let the idea blossom.
65. Do not get into details that will come much later.
66. Do not reject any proposal raised in response, be open-minded and let the discussions be as open as they can. Do not place barriers or limits at the start.
67. Identify if there is interest.
68. Identify a couple of people in that club with whom your working party can commence informal and wide-ranging discussions.
69. Beware of rumours, they spread like wildfire.
70. At this point, if there is interest then further action is required and the process may become more formal.

The Process

71. The club should at this point, seek legal and financial advice as to what requirements are going to have to be met. Again, talk with your Association.
72. Familiarise yourself with the attributes of each of the clubs that may be involved, in terms of:
 - a. Facilities.
 - b. Assets.
 - c. Liabilities.
 - d. Liquor and Gaming licences (if one of the clubs holds a Permanent Charter, it is suggested that advice on how to protect that is obtained from this Association).
73. The Committee if it wishes to proceed should formally resolve to investigate the possibility of merging or amalgamating with the club or clubs identified. The Working Party should test the possibilities and come back with recommendations – allow up to six months. It will be important that each of the clubs take this action at the same time so that a joint announcement can be made. Communications is a key aspect – ensure people hear what is going on formally rather than by rumour. Also ensure members are well briefed before any

potential voting so they have time to understanding what is proposed and the chance to discuss and consider before having to vote.

74. This proposal should be made known to the members as soon as possible, so that discussion around the bar is informed and not speculative.
75. Staff should also be briefed at this time but only after qualified advice has been sought on the implications under industrial legislation.
76. Establish who the contacts are in the other clubs, meet and establish a timetable. Meetings should be held regularly either on neutral ground or rotating through each of the clubs involved.
77. It may be useful for an independent person who is not a member of any of the clubs, to chair these meetings. Good minutes should be kept, which not only show the decisions taken but the action required and who is to perform those tasks.
78. There will be many issues to be identified, and some of these will depend on the individual clubs involved:
 - a. Future premises for the clubs.
 - b. Funding.
 - c. Existing premises, sale or disposal.
 - d. Facilities currently within the clubs, what is to be retained or transferred?
 - e. Fixtures and fittings.
 - f. Staff, existing and future staffing requirements.
 - g. Financial position of each of the parties involved.
 - h. Current liquor licences held, including hours.
 - i. Current gaming licences held and implications if a new venue licence is sought.
 - j. Status of clubs, incorporated or friendly societies.
 - k. Proposed name of the new club (note it is easier to change the name of an existing club than it is to create a new entity with a new name).
 - l. Sporting adjuncts and their resources, facilities and assets.
 - m. Local authority limitations on the premises where the proposed new club will be.
 - n. Membership of national organisations.
 - o. Existing suppliers and future requirements.
 - p. Time requirements for:
 - (1) Meeting each clubs Constitutional requirements.
 - (2) Making the selected premises ready for the new entity, including any structural alterations.
 - (3) An orderly transition from the various locations to the final choice.
 - (4) Publicity to members advising them of the proposal and inviting their comments. Asking members what they think and what they would like could be very beneficial. Rather than using written questionnaires, the working group could mingle within the clubs and discuss the proposal with members over a beer. Ensure the Table of Seven is consulted.
 - (5) Transfer of assets to comply with rules and taxation requirements.

- (6) Composition of new committee.
- (7) Preservation if needed, of particular character or identity.

79. Ultimately, the matter will need to be put to a general meeting of each of the clubs concerned. That process has more chance of success if a proper and structured presentation, jointly by the clubs concerned, is made to each of the general meetings and members have the opportunity to question the working group concerned. Again this needs to be done at least a month before members vote.
80. The merger or amalgamation may involve the winding up of one or more of the clubs and the transfer of the assets from those clubs to another club. It is crucial that legal and financial assistance be involved at this time, to ensure that the Constitutions of the clubs are complied with and that taxation requirements are met.
81. It is vitally important that the motions put to and approved by the general meetings authorise the Executives to take the appropriate course of actions. A suggested motion to be presented at a General Meeting of each of the clubs involved in the merger or amalgamation is:

“That the XYZ Club merge with the ABC Club and that the executive of the XYZ Club is authorised to take all the necessary steps to effect the merger/amalgamation”.

82. Motions put to general meetings must, where applicable:
- a. Authorise the winding up of the club.
 - b. Transfer assets to the new entity or to an existing entity.
 - c. Approve a new Constitution.
 - d. Change a name.
 - e. Adopt a new badge.
 - f. Authorise any other action that is necessary.

Other factors

83. Do not forget that there are a host of administrative matters that need to be actioned. These include:
- a. Signage.
 - b. Stationery and printing.
 - c. Computers, integrating programmes and data, linking/networking.
 - d. Disaster recovery and backup systems for computers.
 - e. Storage services for records and surplus items.
 - f. Uniforms and badges for staff, blazers for Executive.
 - g. Security services, alarm and fire monitoring, cash collection, courier deliveries.

Notification

84. After the merger or amalgamation is complete, there will be a lot of people to be notified, including:
- a. Registrar of Incorporated Societies or Friendly Societies.
 - b. The banks and financial institutions. (New cheque books, deposit slips)
 - c. Alcohol Regulatory and Licensing Authority/District Licensing Committee (do not forget to arrange for the surrender and cancellation of any surplus liquor licences).
 - d. Department of Internal Affairs and Territorial Local Authority, if there are gaming machines involved.
 - e. The Police.
 - f. NZ Fire service.
 - g. Public and local Health authorities.
 - h. Spark and also Spark Directories (white and yellow pages).
 - i. NZ Post, including redirection from old addresses and PO Box numbers.
 - j. Power and utility companies.
 - k. Taxi companies (so they know where to pick up your patrons from).
 - l. Your suppliers.
 - m. Your creditors.
 - n. Other clubs, this Association and other organisations with which you associate.
 - o. Sporting organizations with which you play sport.
 - p. The media (invite them to the opening)

Helpful Hints

85. Give each member of the working group a good size folder and ensure that they receive copies of all minutes and relevant correspondence. Not only does this keep them well informed, it also means that there are copies available in case of fire or loss.
86. The completed folder will be a record of how the merger and/or amalgamation started and how it ended.
87. Very often, the two expressions "**merger**" and "**amalgamation**" are taken as the same. But there is a very minor difference. Merger is restricted to a case where the assets and liabilities of the clubs get vested in another club, the club which is merged losing its identity and its members becoming members of the other club.
88. On the other hand, amalgamation is an arrangement, whereby the assets and liabilities of two or more clubs become vested in another club (which may or may not be one of the original clubs) and which would have as its members substantially, all the members of the amalgamating clubs. It is important for each club to understand the differences and decide whether they wish to merge or amalgamate. In some circumstances, especially where more than two clubs are concerned, there may be a need for a combination of both.
89. Have the working party contact a club which has been through a similar process so that prior knowledge can be obtained. You can utilise the professional services of people/companies who have been involved with such mergers or amalgamations. This will

assist in providing quality advice and a reduction in costs i.e: Cosmopolitan Club uses same lawyers as the Bowling Club while also co-opting a Bowling Club Board member who was involved in the merger or amalgamation.