

LEASE
New South Wales
Real Property Act 1900

PRIVACY NOTE: Section 31B of the Real Property Act 1900 (RP Act) authorises the Registrar General to collect the information required by this form for the establishment and maintenance of the Real Property Act Register. Section 96B RP Act requires that the Register is made available to any person for search upon payment of a fee, if any.

STAMP DUTY

Revenue NSW use only

(A) TORRENS TITLE

Property leased

1/840412 BEING 2 GOLF LINKS ROAD MARRANGAROO, EXCLUDING THE AREA SHOWN IN ANNEXURE B

(B) LODGED BY

Document Collection Box	Name, Address or DX, Telephone, and Customer Account Number if any	CODE L
	Reference: <input type="text"/>	

(C) LESSOR

LITHGOW CITY COUNCIL (ABN 59 986 092 492)

The lessor leases to the lessee the property referred to above.

(D)

Encumbrances (if applicable):

(E) LESSEE

LITHGOW GOLF CLUB LIMITED (ACN 001 037 823)

TENANCY:

- (G) 1. TERM TWO (2) YEARS**
2. **COMMENCING DATE** TO BE COMPLETED
3. **TERMINATING DATE** TO BE COMPLETED
4. With an **OPTION TO RENEW** for a period of N.A. set out in clause N.A. of N.A.
5. With an **OPTION TO PURCHASE** set out in clause N.A. of N.A.
6. Together with and reserving the **RIGHTS** set out in clause N.A. of N.A.
7. Incorporates the provisions or additional material set out in **ANNEXURE(S)** A, B, C AND D hereto.
8. Incorporates the provisions set out in N.A. No. N.A.
9. The **RENT** is set out in clause No. 3 of ANNEXURE A

DATE

(H) I certify that I am an eligible witness and that an authorised officer of the lessor signed this dealing in my presence. [See note* below].

Certified correct for the purposes of the Real Property Act 1900 by the authorised officer named below.

Signature of witness:

Signature of authorised officer:

Name of witness:
Address of witness:

Authorised officer's name: Craig Butler
Authority of officer: s377 Local Government Act 1993
Signing on behalf of: Lithgow City Council

Certified correct for the purposes of the Real Property Act 1900 and executed on behalf of the company named below by the authorised person(s) whose signature(s) appear(s) below pursuant to the authority specified.

Company: Lithgow Golf Club Ltd (ACN 001 037 823)
Authority: section 127 of the Corporations Act 2001

Signature of authorised person:

Signature of authorised person:

Name of authorised person:
Office held:

Name of authorised person:
Office held:

(I) STATUTORY DECLARATION*

I solemnly and sincerely declare that—

- 1. The time for the exercise of option to in expired lease No. has ended; and
- 2. The lessee under that lease has not exercised the option.

I make this solemn declaration conscientiously believing the same to be true and by virtue of the provisions of the Oaths Act 1900.

Made and subscribed at in the State of New South Wales on
in the presence of of

- Justice of the Peace (J.P. Number:) Practising Solicitor
- Other qualified witness [specify]

who certifies the following matters concerning the making of this statutory declaration by the person who made it:

- 1. I saw the face of the person OR I did not see the face of the person because the person was wearing a face covering, but I am satisfied that the person had a special justification for not removing the covering; and
- 2. I have known the person for at least 12 months OR I have confirmed the person's identity using an identification document and the document I relied on was a [Omit ID No.]

Signature of witness:

Signature of applicant:

* As the services of a qualified witness cannot be provided at lodgment, the declaration should be signed and witnessed prior to lodgment. # If made outside NSW, cross out the witness certification. If made in NSW, cross out the text which does not apply.

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ANNEXURE A TO LEASE BETWEEN LITHGOW CITY COUNCIL ABN 59 986 092 492 (LESSOR)
AND LITHGOW GOLF CLUB LIMITED ACN 001 037 823 (LESSEE)

DATED

1. DEFINITIONS AND INTERPRETATION

1.1 Definitions

Unless otherwise provided in this Lease, the following meanings apply:

Authority includes any government or governmental, semi-governmental, administration, fiscal or financial body, department, commission, council, authority, tribunal, agency or entity.

Business Day means any day that is not a Saturday, Sunday or public holiday in New South Wales.

Claim means any cost, claim, compensation, expense, loss, damage, demand or liability of any kind.

Commencing Date means the commencing date specified in Item 2 on the front page of this Lease.

Excluded Area means the new 18 mtr x 12 mtr machinery shed installed by the Lessor, located in the area framed in red on the plan at Annexure B1, but does not include the bay area framed in pink on Annexure B2.

Expiry Date means the terminating date specified in item 3 on the front page of this Lease.

Golf Course means the 18 hole golf course and practice green, which forms part of the Premises.

Greens Committee means two representatives of the Lessor, authorised by the Lessor to participate in the Greens Committee and two representatives of the Lessee, authorised by the Lessee to participate in the Greens Committee, as may be varied from time to time.

Holding Over means the monthly occupancy described in clause 2.2.

Laws means any statute, regulation, regulatory instrument, ordinance or proclamation that applies in New South Wales including, but not limited to, *Environmental Planning & Assessment Act 1979*, *Local Government Act 1993*, *Anti-Discrimination Act 1977*, *Work Health and Safety Act 2011*, *Liquor Act 2007*, *Registered Clubs Act 1976*, *Smoke-Free Environment Act 2000*, and any law that amends or replaces them.

Lessee's Employees and Visitors means each of the Lessee's employees, officers,

agents, contractors and invitees at any time on the Premises.

Lessee's Property means all items of equipment, furniture, materials, chattels or contents belonging to the Lessee or the Lessee's Employees and Visitors.

Lessor's Property means all improvements, fixtures, fittings, plant, equipment, machinery, furniture, materials and chattels in or on the Premises and includes the shed highlighted in pink on Annexure B2.

Licensee means the holder of the Liquor Licence, from time to time.

Liquor Act means the *Liquor Act 2007 (NSW)*.

Liquor Licence means LIQC300237966, which attaches to the Premises.

Maintenance and Repair Table means the table which forms **Annexure C** to this Lease.

Maintenance Equipment means any maintenance equipment, machinery or apparatus owned by the Lessor and located on the Premises for the purpose of undertaking golf course maintenance.

Maintenance Program means the document titled "Lithgow Golf Course Maintenance Program", a copy of which forms **Annexure D** to this Lease, as may be varied from time to time.

Outgoings means:

- (a) council rates;
- (b) water and sewer rates (but not usage charges);
- (c) land tax (if applicable);
- (d) the Lessor's insurance premiums,

and all associated duties and GST.

Permitted Use means golf course, licensed golf club house, golf pro shop, upstairs manager's residence (subject to clause 8.4), and all activities associated with operating a golf club and golf course including meetings and social functions.

Person includes natural persons and incorporated and unincorporated bodies and associations.

Premises means 2 Golf Links Drive, Marrangaroo being the land comprised in certificate of title folio identifier 1/840412 including the car park and all buildings and infrastructure on the land, but not the Excluded Area.

Registered Clubs Act means the *Registered Clubs Act 1976 (NSW)*.

Rent means the sum of \$[TO BE INSERTED] plus GST per annum (on the Commencing Date) as varied under clause 3.2 of this Lease.

Rent Review Date means each one year anniversary during the Term and any Holding Over period.

Term means the term specified in item 1 on the front page of this Lease.

1.2 Interpretation

Unless otherwise provided in this Lease:

- (a) headings in this Lease do not form part of the content of this Lease and do not affect the meaning of this Lease;
- (b) words importing the singular include the plural and vice versa and words importing a particular gender include every gender;
- (c) any agreement in this Lease by two or more Persons binds them jointly and each of them severally;
- (d) if any part of this Lease is invalid, illegal or unenforceable in any respect, then unless the basic purpose of the lease is defeated thereby, the remaining parts of this Lease are unaffected and enforceable;
- (e) all covenants or obligations in this Lease are separate and independent covenants made by a party to this Lease in favour of the other party;
- (f) the law of New South Wales applies to this Lease and the Courts of New South Wales, the High Court of Australia and Federal Court of Australia have jurisdiction over the parties to this lease;
- (g) this Lease contains the whole agreement between the Lessor and the Lessee. The Lessor and the Lessee agree that nothing will be implied by this Lease or will arise between the Lessor and the Lessee (whether by other agreement or because of any promise, representation, warranty or undertaking given by or for the Lessor or the Lessee); and
- (h) reference to any body (including, but not limited to, any institute, association, authority or government agency) which ceases to exist or whose powers or functions are transferred to any other body also includes the body which replaces it or which takes over its powers and functions.

2. LEASE TERM AND HOLDING OVER

2.1 Lease term

The Lessor leases the Premises to the Lessee for the Term in accordance with this Lease.

2.2 Holding over

If the Lessor allows the Lessee to continue to occupy the Premises after the Expiry Date (other than under a new lease) the Lessee will become a monthly lessee and the terms and conditions of this Lease apply, except that:

- (a) the Rent will be apportioned and payable monthly;
- (b) either party may give the other party one month's notice in writing of termination.

2.3 Vacating the Premises

- (a) On the Expiry Date or earlier termination of this Lease the Lessee must:
 - (i) peacefully vacate the Premises and deliver possession to the Lessor in the state and condition required by this Lease; and
 - (ii) remove all of the Lessee's Property from the Premises and make good any damage caused to the Premises by such removal.
- (b) If the Lessee fails to remove the Lessee's Property from the Premises in accordance with clause 2.3(a)(ii) and has not made suitable arrangements with the Lessor regarding removal:
 - (i) the Lessee is deemed to have abandoned its property; and
 - (ii) at the option of the Lessor, the Lessor acquires title to the Lessee's Property through abandonment; and
 - (iii) the Lessor may remove, sell or otherwise dispose of the Lessee's Property and is not obliged to account to the Lessee for the value of any property where title vests in the Lessor by abandonment.

3. RENT

3.1 Rent

The Lessee will pay Rent to the Lessor yearly in advance on or before the due date stated in the relevant tax invoice issued by the Lessor.

3.2 Rent Reviews

- (a) The Rent from and including the relevant Rent Review Date is the greater of the Rent payable immediately preceding that CPI Rent Review Date and the amount resulting from the following calculation:

$$\frac{A \times C}{B}$$

in which -

- A is the Australian Statistician's Consumer Price Index (All Groups) figure for Sydney last published before the Rent Review Date;
 - B is the Australian Statistician's Consumer Price Index (All Groups) figure for Sydney last published before the Commencing Date or before the most recent Rent Review Date (whichever is the later); and
 - C is the Rent payable immediately before the Rent Review Date.
- (b) If the Australian Bureau of Statistics makes a change in the reference base of the index and there is a published co-relation between the old and new base then the published co-relation is to be applied to convert the B figure to the new reference base. If there is none then the Lessor and the Lessee agree to accept the calculations of the Lessor who must determine a fair co-relation between the old and the new series of numbers.
 - (c) If the Consumer Price Index is discontinued or suspended, within 21 days after the Rent Review Date, the Lessor and the Lessee will try to agree on an alternative index which reflects fluctuations in the cost of living in Sydney for computing the calculation in Clause 3.2(a).

3.3 Abatement of Rent

- (a) If the Premises is damaged or destroyed:
 - (i) the Lessee will not be liable to pay the Rent or any other money payable to the Lessor under this Lease so long as the Premises cannot be used or are inaccessible; or
 - (ii) if the Premises are only partly useable or their accessibility is reduced, the Lessee's liability for Rent and any other money payable under this Lease will be reduced, while the Premises are not fully useable or their accessibility is reduced, in proportion to the reduction in their useability or accessibility.
- (b) Clause 3.3(a) will not apply if the damage or destruction is caused or contributed to by an act or omission of the Lessee or the Lessee's Employees and Visitors.

4. UTILITIES AND OUTGOINGS

4.1 The Lessee will promptly pay all:

- (a) usage charges relating to water, sewer and drainage, including trade waste and liquid trade waste charges;
- (b) effluent removal and septic tank cleanout charges.

4.2 The Lessee will arrange and maintain, in its own name, accounts for services, including electricity, gas, telephone, internet and any other service the Lessee requires for the Permitted Use. The Lessee will pay all charges for such services as and when they fall due.

4.3 The Lessor will pay the Outgoings as and when they fall due.

5. MAINTENANCE CONTRIBUTION

5.1 The Lessor will maintain the Golf Course as set out in clause 13 of this Lease.

5.2 The Lessee will make a contribution towards the cost of materials used to maintain the Golf Course, by paying to the Lessor 20% of its operating profit each year (Maintenance Contribution).

5.3 Within thirty (30) days after the Lessee's Annual General Meeting each year the Lessee will:

(a) provide the Lessor with a copy of the Lessee's annual audited statement of accounts to be filed with the Australian Securities and Investment Commission; and

(b) pay to the Lessor an amount equivalent to 20% of the operating profit stated in the audited statement of accounts for the relevant year, plus GST.

5.4 If the Lessee does not make an operating profit in any given year, the Lessee is not required to pay the Maintenance Contribution.

6. GST

6.1 The supply of the Premises under this Lease is a taxable supply under the *A New Tax System (Goods and Services Tax) Act 1999*.

6.2 In addition to the Rent payments by the Lessee to the Lessor, the Lessee will pay the applicable GST amount to the Lessor, which at the Commencing Date is 10% of the amount of the taxable supply.

6.3 The Lessor will provide the Lessee with an annual tax invoice in respect of the Rent and GST or any other payments due by the Lessee.

6.4 If GST applies to any other supply made under this Lease or any other rights granted pursuant to this Lease then the Lessor will be entitled to recover from the Lessee an additional amount on account of GST, calculated in accordance with the relevant GST legislation.

7. PAYMENTS TO BE MADE WITHOUT DEMAND OR SETOFF

All Rent and other payments to be made by the Lessee to the Lessor under this Lease are to be paid in full (without demand or setoff) to the Lessor's nominated bank

account.

8. PERMITTED USE

8.1 The Lessee will only use the Premises for the Permitted Use.

8.2 At all times the Lessee will comply with all Laws affecting the:

- (a) Premises;
- (b) Liquor Licence;
- (c) the Lessee's use of the Premises.

8.3 At all times the Lessee will comply with all notices and orders given by any Authority in relation to the Premises, the Lessee's use of the Premises, the Liquor Licence and the Lessee's Property.

8.4 Upstairs manager's residence

- (a) At the date of this Lease the upstairs manager's residence is not in a safe and habitable condition and use of it is prohibited unless and until the local authority has approved the residence as safe and habitable to occupy.
- (b) Nothing in this lease obliges the Lessor to undertake any repair or renovation to the manager's residence.
- (c) The Lessee may, at its own cost, undertake the necessary works to render the manager's residence safe and habitable, subject to receiving the Lessor's prior consent in writing.
- (d) Any work undertaken by the Lessee in accordance with clause 8.4(c) must be completed in a proper and workmanlike manner to the satisfaction of the Lessor by contractors with appropriate professional indemnity and public liability insurance cover.

9. USE OF PREMISES

9.1 The Lessee will:

- (a) keep the Premises in a clean and tidy condition and in a similar condition to their condition at the Commencing Date;
- (b) keep all waste pipes and drains in the Premises free from blockages;
- (c) keep the Premises free from rubbish and ensure that all rubbish is stored properly within the Premises;
- (d) keep the Premises free of all pests and vermin;

- (e) thoroughly fumigate and disinfect the Premises at the Lessee's cost in the event of any infectious disease occurring upon the Premises;
- (f) ensure that the Premises complies with all relevant conditions of the Liquor Licence and the Liquor Act and the Registered Clubs Act;
- (g) endeavour to keep the Premises and any property in the Premises safe from theft and will keep the Premises secure when the Premises are not in use;
- (h) observe and comply with all smoking regulations consistent with the *Smoke-Free Environment Act 2000* and all other applicable laws;
- (i) observe and comply with work place health and safety regulations set out in the *Work Health and Safety Act 2011* and all other applicable laws;
- (j) conduct the Lessee's business in the Premises in a reputable manner;
- (k) keep the Premises open for business at times usual for a business of the kind conducted from the Premises.

9.2 The Lessee will not:

- (a) use the Premises in an unsafe, noisy, offensive or unlawful manner;
- (b) use the Lessor's Property for any purposes other than those for which they were supplied;
- (c) mark or damage the Premises without the Lessor's prior written consent;
- (d) put on the outside of the Premises or anywhere within the Premises that is visible from outside the Premises any sign, advertisement or notice without the Lessor's prior written consent;
- (e) do anything that might result in a statutory authority issuing a notice;
- (f) store inflammable or dangerous substances in the Premises other than where reasonably required by the Lessee in connection with the Permitted Use but then only in such quantities and containers as are permitted by law;
- (g) allow any keys to the Premises to come into possession of any other Person;
- (h) remain open for business during any times prohibited by Law or an Authority for that class of Premises;
- (i) use the toilets and other waste apparatus for any purpose other than for which they were constructed and no unsuitable substances will be thrown in the toilets or other waste apparatus;

- (j) bring anything onto the Premises that will or is likely to overload the floors, roof (including any false ceiling) walls or structure of the Premises;
- (k) cut any timber on the Premises.

10. LIQUOR LICENCE

10.1 The Lessee covenants that the Lessee will carry on and conduct the Lessee's business at the Premises and exercise the Liquor Licence in a lawful, proper and efficient manner and strictly in accordance with the provisions of:

- (a) the *Registered Clubs Act*, the *Liquor Act* and all other relevant Laws; and
- (b) this Lease.

10.2 The Lessee will not do anything in, on or about the Premises whereby the Liquor Licence becomes liable to be forfeited, suspended, cancelled or a restrictive condition imposed or endorsed on it.

10.3 The Lessee will comply with:

- (a) the conditions and requirements imposed under the *Registered Clubs Act*, the *Liquor Act* and all other relevant Laws that relate to the Liquor Licence and the Premises;
- (b) the conditions and requirements imposed on the Licensee as the holder of the Liquor Licence;
- (c) all lawful demands or requirements of an Authority with jurisdiction over the Lessee or the Licensee.

10.4 The Lessee will provide to the Lessor a copy of any:

- (a) notices, summonses, orders or correspondence received from any Authority; and
- (b) correspondence received from any other person which concerns the exercise of the Liquor Licence;
- (c) proceedings instituted against the Lessee or the Licensee; and
- (e) convictions of the Licensee for any offence relating to or affecting the Liquor Licence or the Premises,

within 48 hours of receiving same.

Thereafter the Lessee will keep the Lessor fully informed in relation to the matter the subject of the notice, summons, order, correspondence, proceedings or conviction and comply with any direction of the Lessor in relation to it.

10.5 The Lessee will not (and will not permit the Licensee to):

- (a) make any application or take any action to:
 - (i) surrender the Liquor Licence;
 - (ii) remove the Liquor Licence to other premises;
 - (iii) vary any condition endorsed on the Liquor Licence or consent to the endorsement of any condition on the Liquor Licence;
 - (iv) mortgage, charge or give any security interest over the Liquor Licence;
 - (v) extend or reduce the licensed area of the Premises;
 - (vi) alter the Premises; and
 - (vii) apply to change the name of the Premises;
- (b) declare a trust of or dispose of any interest in the Liquor Licence or grant any power of attorney over it (except to the Lessor under clause 10.6 of this Lease);
- (c) suspend or cancel or allow to be suspended or cancelled the Liquor Licence; or
- (d) change the use of the Premises,

unless the Lessee first has the written consent of the Lessor which it may decline to give in its absolute discretion.

10.6 The Lessee irrevocably appoints the Lessor as the Lessee's attorney to:

- (a) remedy any breach or default by the Licensee of the conditions of the Licence or comply with any lawful requirements of any Authority and do so at the Lessee's expense;
- (b) make or oppose any application to any Authority with regard to the Liquor Licence in order to maintain and preserve the Liquor Licence at the Premises and the value of the business of the Premises and to protect the Lessor's interest in the Liquor Licence;
- (c) receive all licences, certificates and other documents concerning the Liquor Licence;
- (d) conduct the business at the Premises and make such applications as are required in relation to the Liquor Licence when:
 - (i) the Lessee has ceased trading at the Premises;

- (ii) the Lessee has vacated the Premises;
 - (iii) a default has occurred under the Lease which entitles the Lessor to re-enter and take possession of the Premises;
 - (iv) the Lease has expired or has been terminated;
 - (vi) the Licence has been cancelled or suspended or a restrictive condition imposed on it without the prior written consent of the Lessor;
 - (vii) the Licensee has been disqualified from holding the Licence;
- (e) make, sign, seal, execute and deliver any document to any person or Authority necessary to give effect to this clause 10.6.

10.7 The Lessee agrees to ratify and confirm whatever the attorney does or causes to be done in relation to the Premises which the attorney is authorised to do under clause 10.6.

10.8 The Lessee agrees to procure the transfer or cause to be transferred to the Lessor or the Lessor's nominee, the Liquor Licence when the Lease expires or is terminated. No compensation is payable to the Lessee or Licensee for or arising out of the transfer of the Liquor Licence.

10.9 This clause shall survive expiry or termination of this Lease.

11. CLUB NAME, CONSTITUTION, INSPECTION, PUBLIC ACCESS AND FEES

11.1 Name of Premises

- (a) The Premises is commonly known as 'Lithgow Golf Club'.
- (b) The Lessee will not advertise, promote or market the Premises by any name other than 'Lithgow Golf Club' without the Lessor's prior written consent.

11.2 Constitution

The Lessee will not alter the Objects set out in clause 3 of its Constitution (registered with ASIC on 5 October 2012, being ASIC document 027084592) without the prior written consent of the Lessor.

11.3 Inspection of financial records and minutes

The Lessee will permit the Lessor or anyone authorised on behalf of the Lessor, on giving 48 hours notice, to inspect the Lessee's books of account, financial records, records of management and minutes of meetings.

11.4 Public access to golf course and fees

- (a) The Lessee will allow members of the public access to the Golf Course and to the licensed club house at all times the Lessee is open for business, other than during times reserved exclusively for club competitions and other events that have the prior approval of the Lessor.
- (b) The Lessee will not increase the fees payable by members of the public for the use of the Golf Course without the Lessor's prior approval.

12. MAINTENANCE AND REPAIR

12.1 Repair

The Lessee must keep the Premises in good repair and condition having regard to the condition of the Premises on the Commencing Date.

12.2 Repair and maintenance obligations

- (a) The maintenance and repair obligations of the Lessor and Lessee are set out in the Maintenance and Repair Table, which forms **Annexure C** to this Lease.
- (b) Notwithstanding the Lessee's obligations set out in the Maintenance and Repair Table, the Lessor is responsible for repair or replacement of any item if the need for repair or replacement is caused or contributed to by the negligence, act or omission of the Lessor or its employees, volunteers, contractors or agents.
- (c) Notwithstanding the Lessor's obligations set out in the Maintenance and Repair Table, the Lessee is responsible for repair or replacement of any item if the need for repair or replacement is caused or contributed to by the negligence, act or omission of the Lessee or the Lessee's Employees and Visitors.
- (d) If a repair is needed and it is not covered by clauses 12.2(a), 12.2(b) or 12.2(c), the following will apply:
 - (i) the Lessor will be responsible for structural or other repairs needed due to fair wear and tear;
 - (ii) the Lessee will be responsible for all other repairs.
- (e) Each party must promptly make good and repair any damage caused by it when carrying out its repair or maintenance obligations under this Lease.

12.3 Notice of defects

- (a) The Lessee will promptly notify the Lessor in writing of any defect in or need to repair the Premises or any part of it and of any circumstance of which the Lessee is aware which is likely to cause a danger or hazard to the Premises or to any Person on the Premises.
- (b) The Lessor is not liable to the Lessee for the Lessor's failure to take action to

prevent any damage if the Lessee has not provided written notice of the defect or need for repair to the Lessor.

13. MAINTENANCE OF GOLF COURSE

13.1 Maintenance Program

The Lessor will maintain the Golf Course in a manner consistent with the standard of the course as at the Commencing Date and in accordance with the Maintenance Program, subject to available budget and resources.

13.2 Notice of competitions and events

The Lessee will place all Golf Course events in the Events Calendar and notify the Lessor's greenkeeper, or other representative of the Lessor, at least seven (7) days prior to the event taking place.

13.3 Greens Committee meetings

- (a) The Greens Committee will meet once per month to discuss maintenance and improvements to the Golf Course.
- (b) One week prior to each scheduled meeting, the Lessee's representative of the Greens Committee will circulate a meeting agenda to all representatives of the Greens Committee.
- (c) If agreed by the Greens Committee, the Lessor will update the Maintenance Program as necessary, to incorporate any changes agreed by all representatives of the Greens Committee.

13.4 Dispute or disagreement within Greens Committee

- (a) If there is a dispute within the Greens Committee in respect of the Maintenance Program or the maintenance of the Golf Course generally, such dispute is to be resolved in good faith, in a conciliatory and professional manner.
- (b) If a dispute cannot be resolved, despite best efforts:
 - (i) either party may by written notice to the other declare that an unresolved dispute has arisen; and
 - (ii) require the other party to meet with the party giving the notice to make a final attempt to resolve the matter within fourteen (14) days from the date of such notice.
- (c) If there is no resolution of such dispute within fourteen (14) days:

- (i) either party may refer the dispute to the Council's General Manager or Group Manager Operations for determination; and
- (ii) the determination of the General Manager or Group Manager Operations shall be final and binding upon the parties.

13.5 Access for maintenance

- (a) The Lessee grants unfettered access to the Golf Course to the Lessor, its employees, volunteers, contractors and agents, for the purpose of implementing the Maintenance Program and accessing the Excluded Area.
- (b) During such access, the Lessor will ensure the least amount of interference to the Lessee and the Lessee's Employees and Visitors.

13.6 Maintenance Equipment

- (a) Despite any other provision of this Lease, the Lessor's Maintenance Equipment does not form part of this Lease.
- (b) The Lessor is responsible for the Maintenance Equipment and the Lessee must not use or interfere with the Maintenance Equipment.

14. IMPROVEMENTS OR ALTERATIONS TO PREMISES

14.1 The Lessee must not make any structural alterations or additions to the Premises without first obtaining the Lessor's prior written consent. The Lessor may give or withhold consent to the works in its absolute discretion.

14.2 If the Lessor gives in principle approval to works:

- (a) the Lessee will submit detailed plans and specifications of the works to the Lessor for approval. The Lessor may give or withhold approval of the plans and specifications in the Lessor's absolute discretion;
- (b) if required by the Lessor, the works must be undertaken by the Lessor in which case the Lessor is entitled to require the Lessee to lodge with the Lessor a deposit equal to the likely cost of the works;
- (c) if the Lessor does not require that the works be carried out by the Lessor, then the works must be carried out by Persons approved by the Lessor;
- (d) in undertaking the works the Lessee must comply with the requirements of the Lessor, the law and the relevant Authorities; and
- (e) the Lessee must pay the Lessor's costs and expenses in connection with the works.

15. INSPECTION OF PREMISES

In addition to access to the Golf Course authorised under clause 13.5, the Lessor may enter the Premises upon giving at least 48 hours prior notice to the Lessee (except in an emergency when no notice is required) to:

- (a) inspect their condition;
- (b) carry out any repairs considered necessary or desirable by the Lessor or do anything which the Lessor is required to do under this Lease (but in doing so must endeavour to minimise disruption to the Lessee); and
- (c) carry out any repairs or works which the Lessee is required or liable to do under this Lease or by any law or by any Authority requirement but has failed to do (at the Lessee's expense).

16. LESSEE'S RISK

16.1 Suitability of premises

- (a) The Lessor gives no warranty and makes no representation to the Lessee that the Premises are or will remain suitable or adequate for the Lessee's purpose.
- (b) Any warranty implied by law about the suitability or adequacy of the Premises is excluded from this Lease to the extent not prohibited by law.

16.2 Assumption of risk

The Lessee occupies and uses the Premises at its own risk.

17. INSURANCES

17.1 Lessor's insurance

The Lessor will maintain the following insurance cover during the Term and any Holding Over period:

- (a) building insurance for its full replacement value as determined on the advice of its insurer;
- (b) workers compensation insurance for its employees and volunteers who perform maintenance work on the Premises;
- (c) public liability insurance to the extent of its risk under this Lease.

17.2 Lessee's insurance

On or before the Commencing Date the Lessee will effect insurance policies covering:

- (a) public liability for an amount in respect of any single accident of not less than

\$20,000,000 or any other amount as the Lessor may notify the Lessee from time to time; and

(b) plate glass for its replacement value,

and will keep these policies current during the Term and any Holding Over period.

17.3 Certificate of currency

The Lessee will, prior to the Commencing Date and following each renewal of the policy, give the Lessor a certificate of currency of insurance evidencing the insurances listed in clause 17.2 and noting the Lessor as an interested party on the policy.

17.4 Lessee's other insurances

The Lessee will keep current, insurances for:

(a) workers compensation (in accordance with the *Workers Compensation Act 1987* and any other applicable legislation); and

(b) damage to or loss of the Lessee's Property,

and any other insurance cover the Lessee is required to hold by Law.

17.5 Reputable insurer

All insurances required to be effected and maintained under this clause 17 are to be effected with an insurance company licensed by the Australian Prudential Regulatory Authority (APRA).

17.6 Conduct voiding insurances

Neither party will do anything which would make any insurance taken out by the Lessor or the Lessee void or voidable.

18. LESSEE'S INDEMNITY

The Lessee indemnifies the Lessor against any liability for loss, damage, injury or death to Person or property caused by:

(a) any act or omission or negligence on the part of the Lessee or the Lessee's Employees and Visitors; or

(b) the Lessee's use or occupation of the Premises,

except to the extent it is caused by the act or omission or negligence of the Lessor, its employees or others under its control.

19. RESTRICTIONS ON ASSIGNMENT, SUB-LETTING, MORTGAGING

The Lessee must not:

- (a) sub-lease the Premises or any part of them; or
- (b) transfer or assign this Lease; or
- (c) licence or otherwise part with the Premises; or
- (d) mortgage, charge or give any security interest over the Lessee's interest in this Lease, the Lessee's Property or the Lessor's Property,

except with the prior consent of the Lessor, which the Lessor may withhold in its absolute discretion.

20. TERMINATION

20.1 Acquisition

If the Premises or any part of it is acquired by compulsory process for any public purpose, this Lease shall automatically terminate and neither party shall be liable to the other for any Claim in respect of such termination.

20.2 Force Majeure event

If the Premises is totally or partially destroyed or damaged by fire, storm, tempest or other force majeure event:

- (a) and the Premises are substantially unfit for use or access cannot be given; and
- (b) the Lessor elects not to repair or rebuild the Premises after its damage,

either party can terminate this Lease by giving the other party fourteen (14) days' notice in writing and neither party shall be liable to the other for any Claim in respect of such termination.

20.3 Breach

If and whenever there is a breach by a party of any of the terms or conditions of this Lease:

- (a) the non-defaulting party may provide the defaulting party with a notice in writing specifying the nature of the breach and requiring the defaulting party to rectify the breach within the period specified in the notice;
- (b) the period specified in the notice must be reasonable having regard to the nature of the breach;
- (c) if the defaulting party has not rectified the breach by the expiration of the period specified in the notice, the non-defaulting party may terminate this Lease by giving thirty (30) days' notice in writing to the defaulting party, but without prejudice to any claim which the non-defaulting party may have against the defaulting party in respect of any breach under this Lease.

20.4 Lessor's rights

If the Lessor gives the Lessee a notice of termination under clause 20.3(c) the Lessor may do any one or more of the following:

- (a) re-enter and take possession of the Premises;
- (b) recover from the Lessee any loss suffered by the Lessor as a result of the Lessee's default; and
- (c) exercise any of its other legal rights.

20.5 Waiver

A waiver by either party of a particular breach will not operate as a waiver of the same or any subsequent breach.

21. DISPUTE RESOLUTION

21.1 In the event of a dispute between the parties as to any matter arising out of this Lease, before initiating court proceedings other than an application for urgent interlocutory relief:

- (a) the parties will make diligent efforts to resolve the dispute in good faith within twenty eight (28) days from the date the matter first arises;
- (b) if the matter remains unresolved after twenty-eight (28) days or such other time agreed between the parties, either party may submit the matter to the Resolution Institute (ACN 008 651 232) for mediation; and
- (c) The parties must share equally the fees and expenses of the dispute resolution process, and bear the cost of their own expenses;
- (d) the parties agree to continue performing their obligations under this Lease while the dispute is being dealt with in accordance with this clause 21;

- (e) the parties agree to adhere to any decision reached during the dispute resolution process.

21.2 This clause 21 continues after the expiry or sooner termination of this Lease.

22. LESSOR AS LESSEE'S POWER OF ATTORNEY

22.1 The Lessee irrevocably appoints the Lessor as the Lessee's power of attorney to do any of the following in the Lessee's name after any event occurs entitling the Lessor to re-enter the Premises and terminate this Lease:

- (a) enter the Premises and exercise all of the Lessee's rights in relation to the Premises including delivering possession of the Premises to the Lessor to the exclusion of the Lessee;
- (b) sign and register any transfer or surrender of this Lease;
- (c) accept any new lease of the Premises expiring before the Expiry Date and otherwise on the same terms as this Lease except that registration of the new lease will not be required.

22.2 The Lessee authorises the Lessor to appoint and to remove any sub-attorney and ratify anything that such sub-attorneys lawfully do.

22.3 Before exercising any of its powers under Clause 22.1 the Lessor will give the Lessee 7 days' written notice.

22.4 A statutory declaration by the Lessor will be sufficient proof that the conditions precedent to the exercise of the Lessor's powers under this clause have been satisfied.

22.5 The Registrar General is authorised to accept and to act on such statutory declaration as sufficient evidence of the Lessor's powers under this Clause 22.

23. LESSOR'S PROPERTY

23.1 The Lessor's Property vests in the Lessor absolutely.

23.2 The Lessee must not charge or encumber or grant a security interest in the Lessor's Property.

23.3 The Lessor and Lessee covenant that other than this Lease, the Lessee has no legal, equitable, common law, or other right or interest in the Lessor's Property, and the Lessee will not make any Claim against the Lessor in this regard.

24. CAPACITY OF LESSOR

24.1 The Lessor is a consent authority with statutory rights and obligations under the *Local Government Act 1993*, the *Environmental Planning and Assessment Act 1979* and other

NSW legislation.

- 24.2 The Lessor enters into this Lease in its capacity as the registered proprietor of the Premises.
- 24.3 This Lease does not, and is not to be construed as, conferring on the Lessee any right, licence, approval or consent that is required to be obtained from Lithgow City Council in its capacity as a local consent authority.
- 24.4 The Lessee must, independent of this Lease, obtain and maintain throughout the Term of this Lease any approval, consent, authorisation or licence required for the Permitted Use or any other approval required in respect of the Premises.

25. NOTICES

Any notice given under this Lease:

- (a) must be in writing addressed to the intended recipient at the address shown below or the address last notified in writing by the Lessor or the Lessee (as appropriate):
- (i) Lessor:
- The General Manager
Lithgow City Council
180 Mort Street
LITHGOW NSW 2790
- (ii) Lessee:
- Ms Henriette Evans
Secretary
Lithgow Golf Club Limited
2 Golf Links Drive
MARRANGAROO NSW 2790
- (b) must be signed by an authorised representative of the sender; and
- (c) will be taken to have been given or served:
- (i) if delivered in person, the date of delivery;
- (ii) if sent by ordinary post, four (4) Business Days after it was posted;
- (iii) if sent by registered post, the date the recipient accepted delivery, according to the records of Australia Post.

26. MISCELLANEOUS

26.1 Waiver, Variation

None of the provisions of this Lease shall be taken either at law or in equity to have been varied, waived, discharged or released by the Lessor or the Lessee except by express agreement in writing signed by both parties.

26.2 Relationship between the parties

Nothing in this Lease creates the relationship of partnership, principal and agent, or joint venture between the parties to this Lease. The only relationship between the parties to this Lease is that of Lessor and Lessee on the terms of this Lease.

26.3 Non-merger

The obligations of the parties will not merge on expiry or sooner termination in relation to any breach or obligation arising prior to, or consequent upon, such expiry or termination.

26.4 Rights cumulative

The rights and remedies under this Lease are cumulative and not exclusive of any rights or remedies provided by law or any other right or remedy.

26.5 Costs

Each party must pay its own costs and expenses in connection with the negotiation, preparation, execution, and performance of this Lease.

AS WITNESS the hands and seals of the parties hereto were hereunto affixed on the date of making this Lease.

Signed by the General Manager of **Lithgow**)
City Council (ABN 59 986 092 492) pursuant)
to section 377 of the Local Government Act)
1993)

.....
Witness Signature

Name:

Address:

.....
General Manager
Name:

Executed by **Lithgow Golf Club Limited (ACN)**
001 037 823) pursuant to section 127(1) of)
the Corporations Act 2001)
)

.....
Director

Name:

.....
Director/Secretary

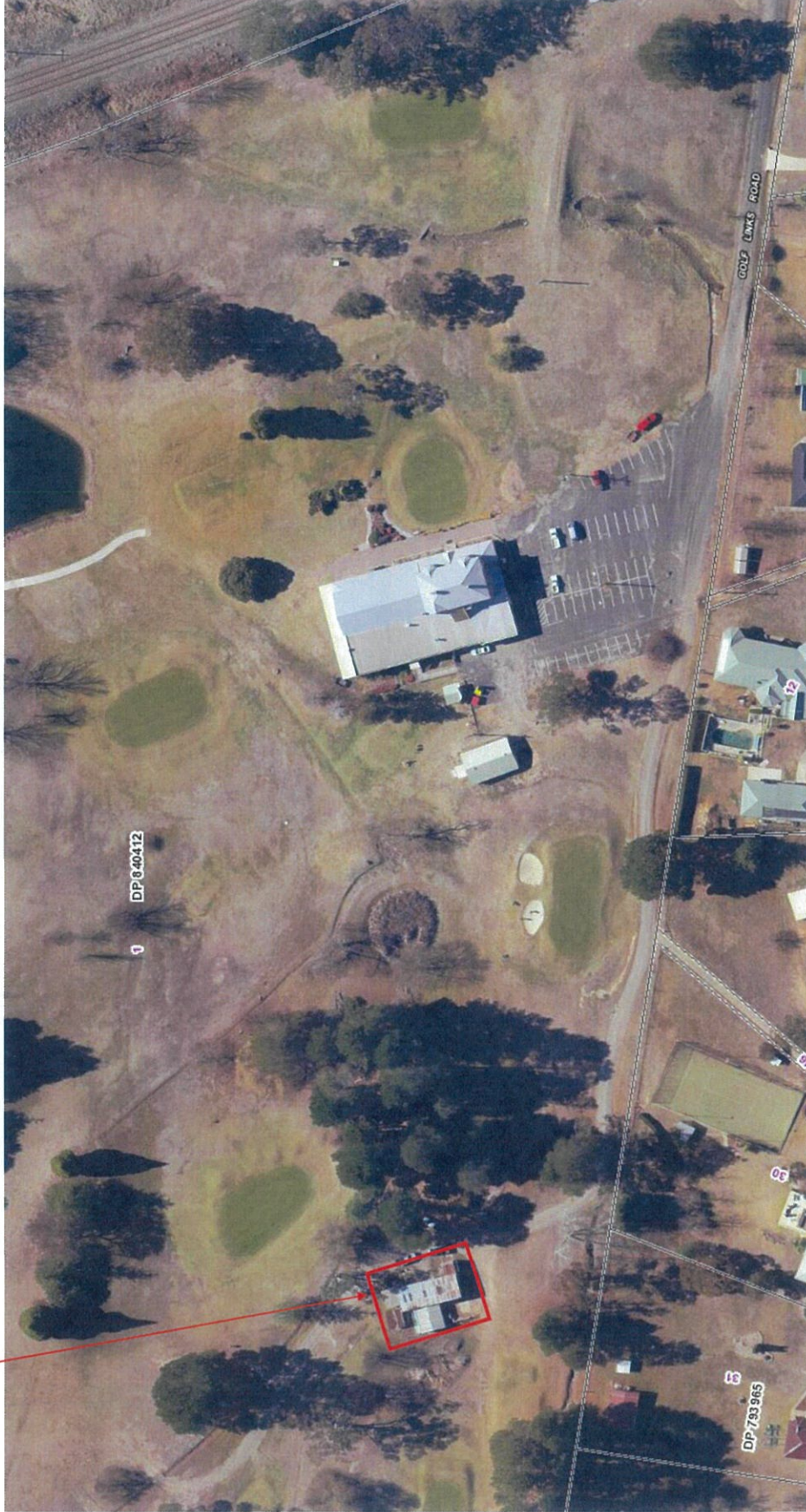
Name:

ANNEXURE B1 - EXCLUDED AREA

ANNEXURE B1

LEASE BETWEEN LITHGOW CITY COUNCIL AND LITHGOW GOLF CLUB LIMITED
PREMISES: 2 GOLF LINKS ROAD, MARRANGAROO

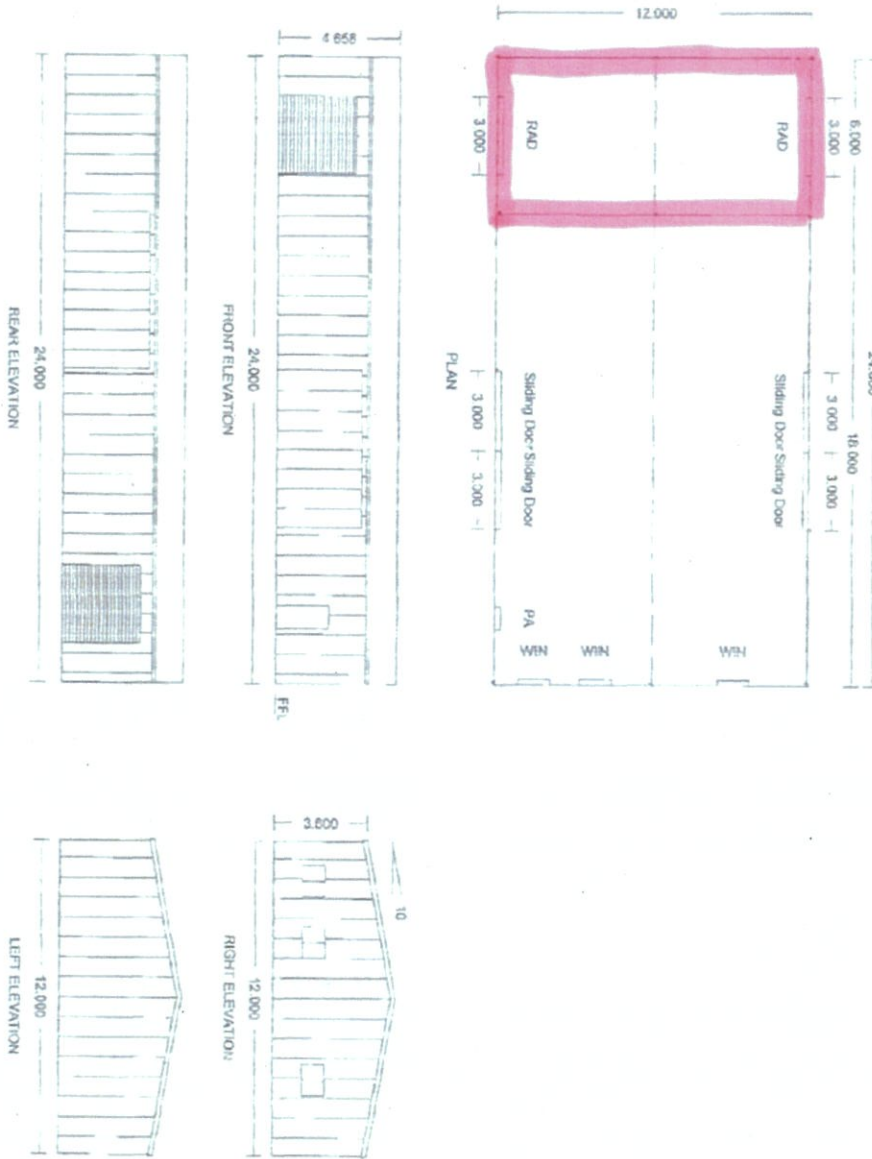
EXCLUDED AREA



ANNEXURE B2

ANNEXURE B2

LEASE BETWEEN LITHGOW CITY COUNCIL AND LITHGOW GOLF CLUB LIMITED
 PREMISES: 2 GOLF LINKS ROAD, MARRANGAROO



PROPOSED Industrial 12,000x24,000x3,800 A2	
A1 x x	
For Dallas Bennett	
Wall Colour - CB To Be Advised	Roof colour - CB To Be Advised
Barge Colour - CB To Be Advised	Roller Door Colour - CB To Be Advised
Job No JaNAR1602130609/Quote No QaNAR2408191208/420scale 1:200	
All Work To Be In Accordance With Accompanying Engineers Details	

Ultra Steel
 Sheds & Garages

ANNEXURE C – MAINTENANCE AND REPAIR TABLE

MAINTENANCE AND REPAIR TABLE

LITHGOW GOLF CLUB

No	Item in or serving Premises	Limitation or expansion of Lessee's responsibility	Limitation or expansion of Lessor's responsibility
1.	External and internal building walls		Lessor's responsibility
2.	Downpipes, roof and guttering		Lessor's responsibility
3.	Floors under any floor coverings, including expansion and construction joints		Lessor's responsibility
4.	Floor coverings	To keep in repair to the extent of ensuring that normal regular preventative repair and maintenance is carried out.	To replace at the end of its effective life.
5.	Ceilings (including suspended ceilings)	To keep in repair to the extent of ensuring that normal regular preventative repair and maintenance is carried out.	To replace at the end of its effective life.
6.	Ceiling fans	To keep in repair to the extent of ensuring that normal regular preventative repair and maintenance is carried out.	To replace at the end of its effective life.
7.	Painting	To paint the interior of the Premises as needed (other than parts of the Premises not previously painted or primed)	To paint the exterior of the Premises as needed
8.	Heating, ventilation and air condition servicing the Premises	To ensure the normal regular repair and maintenance is carried out in accordance with:	To do what is required over and above the Lessee's obligations in order to keep the air-conditioning plant operating in a satisfactory manner and providing an adequate service.

MAINTENANCE AND REPAIR TABLE

LITHGOW GOLF CLUB

No	Item in or serving Premises	Limitation or expansion of Lessee's responsibility	Limitation or expansion of Lessor's responsibility
		<p>(a) the relevant manufacturer's instructions (for each piece of equipment);</p> <p>(b) any legislation and regulatory requirements; and</p> <p>(c) a planned preventative maintenance plan in accordance with industry practice.</p> <p>To give the Lessor any certification of compliance with maintenance obligations required by law.</p>	<p>if necessary, the Lessor must replace the entire plant or major component parts of it (such as compressor, condenser fans, evaporative fans, coils and motor and boiler and heating coils (if any) when repair is not economical or practical or the item has reached the end of its effective life (except where the plant and equipment has not been properly maintained in accordance with the Lessee's obligations under this Lease).</p>
9.	<p>Fire Safety Measures, including the following to the extent they apply to the Premises:</p> <ul style="list-style-type: none"> • Smoke Detection and heat detection • Emergency warning and intercommunication systems including evacuation systems • Automatic fire suppression system (sprinklers) • Fire hydrant and hose reels • Emergency lighting 	<p>To ensure that regular preventative service, repairs and maintenance, testing and certification are carried out in accordance with:</p> <p>(a) the relevant manufacturer's instructions (for each piece of equipment);</p> <p>(b) any legislation and regulatory requirements; and</p> <p>(c) a planned preventative maintenance plan in accordance with industry practice.</p> <p>To give the Lessor any certification of compliance with maintenance obligations required by law.</p>	<p>To do what is required over and above the Lessee's obligations to keep the systems operating in a satisfactory manner including to replace the entire equipment or any component part (including sprinkler heads and piping) where repairs or reinstatement is not economical or practical or the item has reached the end of its effective life.</p>

MAINTENANCE AND REPAIR TABLE

LITHGOW GOLF CLUB

No	Item in or serving Premises	Limitation or expansion of Lessee's responsibility	Limitation or expansion of Lessor's responsibility
	<ul style="list-style-type: none"> • Access panels • Penetration • Exit signs • Fire dampers • Fire shutters • Fire mains and water supply • Mechanical air handling systems • Automatic fail safe devices • Portable fire extinguishers • Fire doors 		
10.	Electrical switchboards and standby generator (if any)	To maintain in clean and sound condition using a planned preventative maintenance program.	To replace when repair becomes uneconomical (unless repairs are due to overload caused by the Lessee's installations) or when the item has reached the end of its effective life including when the item fails to deliver its designed output.

MAINTENANCE AND REPAIR TABLE

LITHGOW GOLF CLUB

No	Item in or serving Premises	Limitation or expansion of Lessee's responsibility	Limitation or expansion of Lessor's responsibility
11.	Waste pipes, drains and sewerage pipes	To keep in clean and free flowing condition between their points of origin in the Premises and entry into any trunk pipe or drain on the boundaries of the Premises.	To replace when repair is not economical or practical or when the item has reached the end of its effective life.
12.	Refrigeration services	Tenant's responsibility for repair, maintenance and replacement.	
13.	Mechanically or electrically operated doors	To keep in repair to the extent of ensuring that normal preventative service and maintenance is carried out. To supply parts and materials necessary for preventative maintenance excluding the replacement of components other than those which arise in the course of and as part of preventative maintenance.	To replace the doors and their motors and controls when repair is not economical or practical or when the item has reached the end of its effective life.
14.	Doors (other than mechanically or electrically operated doors) and door furniture	To maintain and repair internal and external doors and the maintenance of the hardware of all the doors. To replace the internal doors when it is not economical or practical to replace them or they reach the end of their effective life.	To replace the perimeter doors when it is not economical or practical to replace them or they reach the end of their effective life.
15.	Internal and external lighting of Premises (bulbs and tubes)	Bulbs, tubes and starters are the Lessee's responsibility.	To replace light fittings (but not bulbs, tubes and starters) at the end of their effective life.
16.	Plate glass, shopfront and windows of or in the Premises	To maintain the windows in good and substantial repair, working order and condition.	To replace any broken or damaged glass for which the Lessee is not responsible.

MAINTENANCE AND REPAIR TABLE

LITHGOW GOLF CLUB

No	Item in or serving Premises	Limitation or expansion of Lessee's responsibility	Limitation or expansion of Lessor's responsibility
		To replace all broken or damaged glass windows, doors and display cases in the Premises except where any breakage or damage occurs as a consequence of subsidence or any structural defect.	
17.	Water supply to the Premises	To repair and replace all tap washers and valve packing for services within the Premises to eliminate leakage from the system.	To repair and replace where necessary in order to maintain to the standard at commencement of the Lease, subject to requirements of relevant Authority.
18.	Grease trap	To regularly clean and service to the relevant Authority's requirements.	To replace when repair is not economical or practical or when the item has reached the end of its effective life.
19.	Septic tank	To regularly clean and service to the relevant Authority's requirements.	To replace when repair is not economical or practical or when the item has reached the end of its effective life.
20.	Water tanks (if any)	To regularly clean and service to the relevant Authority's requirements.	To replace when repair is not economical or practical or when the item has reached the end of its effective life.
21.	Golf course and grounds		Lessor's responsibility
22.	Furniture, equipment and shelving	Lessee's responsibility	
23.	Curtains and blinds	Lessee's responsibility	

MAINTENANCE AND REPAIR TABLE

LITHGOW GOLF CLUB

No	Item in or serving Premises	Limitation or expansion of Lessee's responsibility	Limitation or expansion of Lessor's responsibility
24.	Built in cupboards, benches, drawers and doors	Lessee to maintain	To replace when repair is not economical or practical or when the item has reached the end of its effective life.
25.	Coat pegs, towel rails, soap and paper towel dispensers, hand dryers, toilet roll holders, partition walls, mirrors and toilet seats	Lessee's responsibility	
26.	Handrails, steps, ramps and decking	To maintain to a clean and safe condition	To replace when repair is not economical or practical or when the item has reached the end of its effective life.
27.	Fencing, gates and sheds	To maintain to a clean and safe condition	To replace when repair is not economical or practical or when the item has reached the end of its effective life.
28.	Pest control	Lessee's responsibility	
29.	Damage due to vandalism or graffiti		Lessor's responsibility
30.	Carpark	To maintain to a clean and safe condition	Lessor to repair
31.	Lessee's Property	Lessee's responsibility	

ANNEXURE D – LITHGOW GOLF COURSE MAINTENANCE PROGRAM

LITHGOW GOLF COURSE MAINTENANCE PROGRAM

(pursuant to clause 13 of the Lease between Lithgow City Council and
Lithgow Golf Club Limited)

DATED **2021**

Subject to weather conditions, the minimum levels of maintenance set out in this document will be provided by Lithgow City Council.

Where appropriate Lithgow City Council will engage the services of its inducted volunteers to assist with carrying out the works required under this maintenance program.

A. CONTACTS

The representatives of the Greens Committee, as varied from time to time, are the points of contact for communication in relation to maintenance of the Golf Course.

B. VOLUNTEER RULES

1. All volunteers are to observe Lithgow City Council's WH & S Volunteers Package. This will ensure volunteers are covered by the Council's public liability insurance. All Volunteers must notify Council's Greenkeeper or other appropriate Council representative prior to commencing any works or activity.
2. All volunteers are to be appropriately inducted to the work site and hold relevant/appropriate certificates, in accordance with Council's WH & S Volunteers Package.
3. All volunteers are to be approved by Council's Greenkeeper or other appropriate Council representative prior to any works being carried out by the volunteer(s). Council may, at any time, stipulate that certain persons are NOT to carry out volunteering on the Lithgow Golf Course.
4. In consultation with and subject to the approval of Council's Greenkeeper or other appropriate Council representative, volunteers may conduct and carry out the following works on and around the Golf Course:
 - (a) Garden maintenance
 - (b) Pathway construction and maintenance
 - (c) Clear away leaf litter and fallen branches
 - (d) Hand mow and whipper snip

- (e) Refuel equipment
- (f) Assist with watering of Fairways
- (g) Other activities as agreed between Council's Greenkeeper or other appropriate Council representative and volunteers

5. Volunteers shall comply with all conditions and directions imposed or given by Council's Greenkeeper or other appropriate Council representative in conducting and carrying out works on and around the Golf Course.

C. MINIMUM LEVELS OF MAINTENANCE

"Summer months" means from 1 October to 30 April in each year.

"Winter months" means from 1 May to 30 September in each year.

Greens

1. The Greens will be cut as required. These activities will be monitored and reviewed in line with weather conditions.
2. Greens will be cut to a length of 4 mm during the summer months, and in the winter months the greens will be cut to a length of 3 mm.
3. Greens fertilizing will be undertaken fortnightly or as deemed required by Council's Greenkeeper or other appropriate council representative.
4. On competition days, once greens have been cut, it may be necessary to follow up with watering in severe heat. Watering will take precedence over competition.
5. Renovation of Greens i.e. Veri drains/coring maintenance, will be conducted annually in October by contractors, in line with budgetary constraints.
6. Pin locations shall be changed by Council's Greenkeeper or other appropriate Council representative in consultation with the Golf Club Professional/Club Captain.

Fairways and rough

1. Subject to weather conditions, fairways during the summer months will be mowed once per week and during the winter months will be mowed fortnightly or as required.

2. Mowing the Rough and other areas will be ongoing through the summer months, and mowing the Rough will be carried out as required and deemed necessary by Council's Greenkeeper or other appropriate Council representative.
3. General maintenance will be conducted on Tees, Fairways and the Rough on an as-needs basis, as deemed necessary by Council's Greenkeeper or other appropriate Council representative.
4. Fairways will be cut to a length of 18 mm. If site conditions are not favourable, this will be varied and determined by Council's Greenkeeper or other appropriate Council representative in consultation with the Golf Club Greens Committee.
5. Rough areas shall be cut to a length of 75-80 mm.
6. Surrounds and Tees are to be mowed twice per week during the summer months and once per fortnight during the winter months.
7. Subject to weather and course conditions, Green Surrounds and Tees shall be cut to a length of 14 mm.
8. With the assistance of volunteers, watering of the Fairways will be conducted daily during the summer months.