

DATE

2021

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Between

**LITHGOW CITY COUNCIL  
(ABN 59 986 092 492)**

and

**AUSTRALIAN CARAVAN CLUB LIMITED  
(ACN 121 300 856)**

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**LICENCE AGREEMENT  
TONY LUCHETTI SHOWGROUND AND LITHGOW CIVIC BALLROOM**

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**Lithgow City Council**  
180 Mort Street  
LITHGOW NSW 2790  
Tel: (02) 6354 9999  
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Email: [council@lithgow.nsw.gov.au](mailto:council@lithgow.nsw.gov.au)

## TABLE OF CONTENTS

1.	DEFINITIONS .....	1
2.	GRANT OF LICENCE FOR THE LICENCE PERIOD .....	3
3.	LICENCE .....	3
4.	LICENCE FEE .....	3
5.	BOND .....	3
6.	GOODS AND SERVICES TAX .....	4
7.	PERMITTED USE .....	4
8.	LICENSOR ACCESS TO THE FACILITY .....	5
9.	SAFETY AND EMERGENCY .....	5
10.	COVID-19 SAFETY .....	6
11.	CLEANING, RUBBISH AND DISPOSAL OF WASTEWATER/GREY WATER .....	6
12.	DELIVERING UP AT END OF LICENCE PERIOD .....	6
13.	INSURANCE .....	7
14.	INDEMNITIES .....	7
15.	LICENCE IS A PERSONAL RIGHT .....	8
16.	TERMINATION .....	8
17.	NOTICES .....	9
18.	MISCELLANEOUS .....	9



**“Emergency Management Plan”** means a plan in writing to measure and manage risks to the community and the environment.

**“Emergency Services”** means the relevant NSW agencies responsible for the protection and preservation of life and property from harm resulting from incidents and emergencies.

**“Expiry Date”** means 5pm on 24 October 2022.

**“Event”** the annual National Muster to be held at the Facility during the Licence Period.

**“Facility”** means that part of Tony Luchetti Sportsground including the Civic Ballroom, delineated in black on Annexure A.

**“Fire Equipment”** means any fire-fighting, prevention, warning, evacuation or detection equipment in or on the Facility.

**“GST”** means a tax in the nature of a supply of goods and services tax levied or imposed by the Commonwealth of Australia.

**“Land”** means the land known as Tony Luchetti Showground at Geordie Street, Lithgow and legally identified as Lot 1 in Deposited Plan 1123449.

**“Laws”** means any requirement of any statute, regulation, regulatory instrument, proclamation or common law present or future, whether local, state, federal or otherwise.

**“Licence Fee”** means the amount plus GST to be notified in writing by the Licensor to the Licensee on or before 31 January 2022, referred to as the Event Fee in the Memorandum of Understanding between the parties dated 2021 .

**“Licence Period”** means the period from the Commencing Date until the Expiry Date.

**“Licensee’s Invitees”** mean the Licensee’s members, employees, contractors, sub-contractors, suppliers, volunteers, agents, consultants, visitors, invitees, guests, howsoever described.

**“Licensee’s Property”** means all vehicles, items of equipment, furniture, chattels or fittings, which are brought onto the Facility by the Licensee or the Licensee’s Invitees.

**“Permitted Use”** means an orderly gathering of people, with their vehicles including caravans and campervans, to conduct meetings and social gatherings consistent with the Licensee’s purpose.

**“Termination Amount”** means the total of amounts incurred, expended, paid or payable by the Licensor in preparation for the Event, including amounts paid or payable by the Licensor for equipment hire that are non-refundable.

## **2. GRANT OF LICENCE FOR THE LICENCE PERIOD**

The Licensor grants this licence to the Licensee for the Licence Period on the terms and conditions contained in this agreement.

## **3. LICENCE**

During the Licence Period, the Licensor agrees to provide the following:

- (a) the Facility, for use by the Licensee;
- (b) the following equipment, for use by the Licensee:
  - Generators
  - Power distribution
  - Showers
  - Water supply to vans (materials only)
  - Waste water collection tanks
- (c) 3 ground staff for 4 hours per day for 7 days. During this time, ground staff will remove rubbish and attend to grey water disposal. For the avoidance of doubt, ground staff will not clean toilets or showers or perform other services.

## **4. LICENCE FEE**

4.1 In consideration for this licence, the Licensee agrees to pay the Licence Fee to the Licensor.

4.2 The Licensee agrees to pay the Licence Fee as follows:

- (a) 50% of the total by 30 June 2022; and
- (b) 50% of the total by 30 September 2022,

by direct deposit into the account shown on the Licensor’s tax invoice.

## **5. BOND**

5.1 The Licensee must pay the Bond to the Licensor prior to the Commencing Date.

5.2 The Licensor may draw upon the Bond if any amount payable under this licence agreement is unpaid, charges are incurred for repair, cleaning, loss of keys, or staff or security are called to the Facility during the Event.

- 5.3 Lithgow City Council's Fees & Charges for 2022/23 will apply in relation to charges incurred under clause 5.2, and if a charge for an item is not listed in that document, the charge will be a fair and reasonable amount as determined by the Licensor.
- 5.4 If the Bond is insufficient to cover any charges incurred under clause 5.2, the Licensee agrees to pay to the Licensor any shortfall within five (5) Business Days of receiving a tax invoice from the Licensor.
- 5.5 If no charges are incurred under clause 5.2, the Licensor agrees to refund the Bond to the Licensee within five (5) Business Days of inspecting the Facility.

## **6. GOODS AND SERVICES TAX**

- 6.1 The supply under this agreement is a taxable supply under the *A New Tax System (Goods and Services Tax) Act 1999*.
- 6.2 In addition to the Licence Fee, the Licensee agrees to pay the applicable GST amount to the Licensor, which at the Commencing Date is 10% of the Licence Fee.
- 6.3 The Licensor will provide the Licensee with a tax invoice in respect of such Licence Fee and GST.
- 6.4 If GST applies to any other supply made under this agreement or any other rights granted pursuant to this agreement then the Licensor will be entitled to recover from the Licensee an additional amount on account of GST, calculated in accordance with the relevant GST legislation.

## **7. PERMITTED USE**

- 7.1 The Licensee has satisfied itself as to the suitability and adequacy of the Facility for the Permitted Use, and acknowledges that it uses the Facility at its own risk.
- 7.2 The Licensee agrees to:
- (a) only use the Facility for the Permitted Use;
  - (b) comply on time with all Laws and requirements of any Authority in connection with the Licensee's use of the Facility;
  - (c) obtain and maintain all licences, permits, consents or approvals required for the Permitted Use;
  - (d) ensure that the Licensee's Invitees behave in an orderly manner at all times;
  - (e) promptly notify the Licensor (by telephone to **Lithgow Tourism on 1300 760 276 or 0427 929 944**) of any damage caused to the Facility by the Licensee or the Licensee's Invitees;

- (f) promptly notify the Licensor (by telephone to **Lithgow Tourism on 1300 760 276 or 0427 929 944**) of any circumstance involving the Facility of which the Licensee is aware which is likely to cause a danger or hazard to any person.

7.3 The Licensee must not:

- (a) use the Facility for any purpose other than the Permitted Use;
- (b) cause any nuisance to any person who owns or occupies surrounding land or property;
- (c) use the Facility in an unsafe, noisy, offensive or unlawful manner;
- (d) take onto the Facility any inflammable or dangerous substances;
- (e) smoke in any building or within 4 metres of any exit or entry point;
- (f) use smoke machines;
- (g) take any unauthorised animal into any building;
- (h) tamper or remove with any Fire Equipment found in any building on the Facility;
- (i) use open spit roasters or other portable cookers indoors.

**8. LICENSOR ACCESS TO THE FACILITY**

8.1 Access to the Facility will be required for certain staff of the Licensor during the Licence Period. For this purpose, the following staff will be provided with an access pass:

- Recreation staff
- Plumbers
- Cleaners
- Tourism staff including event clients on a site inspection
- Environment & Development staff

8.2 The Licensee agrees to allow access to staff who hold an access pass.

**9. SAFETY AND EMERGENCY**

The Licensee is responsible for the safety and behaviour of the Licensee's Invitees attending the Event and must:

- (a) ensure their health and safety at all times;

- (b) have an Emergency Management Plan and inform appropriate Emergency Services in relation to the Event and satisfy any requirements of such Emergency Services;
- (c) nominate a person to be in charge and contactable by the Licensor and Emergency Services at all times during the Event.

## **10. COVID-19 SAFETY**

- 10.1 Prior to the Commencing Date, the Licensee must provide the Licensor with a copy of its COVID-19 Safety Plan that has been registered with NSW Health and must comply with its plan and all public health orders that are relevant for the Licence Period.
- 10.2 The Licensee must at all times during the Licence Period comply with any indoor or outdoor capacity restrictions published by a relevant Authority.

## **11. CLEANING, RUBBISH AND DISPOSAL OF WASTEWATER/GREY WATER**

- 11.1 The Licensor will ensure the Facility is available to the Licensee in a clean and tidy state on the Commencing Date and will undertake scheduled maintenance of grassed areas and cleaning of all amenities, floors and kitchen facilities prior to the Commencing Date.
- 11.2 During the Licence Period the Licensee must ensure that:

- (a) the Facility is maintained in a clean state, in accordance with its COVID-19 Safety Plan;
- (b) all rubbish is disposed of appropriately in rubbish bins available at the Facility, ready for removal by the Licensor;
- (c) all wastewater/grey water generated by the Licensee's Invitees is captured and disposed of into the sewerage disposal facility (mobile van discharge point) located within the Facility;

*(NOTE: The discharge of grey water or any wastewater into the storm water system or environment contravenes the Protection of the Environment Operations Act 1997, and breaches may result in an on the spot penalty infringement notice of \$4000 for individuals and \$8000 for corporations being issued)*

- (d) stocks of hygiene and sanitation items, such as toilet paper, hand towels, soap, hand sanitiser and cleaning supplies, are to be supplied by the Licensee for use by the Licensee's Invitees.

## **12. DELIVERING UP AT END OF LICENCE PERIOD**

On the Expiry Date or sooner termination, the Licensee must:



- (a) remove the Licensee's Property from the Facility;
- (b) ensure the Facility is left in good repair, and pay for any damage caused to any part of the Facility by the Licensee or the Licensee's Invitees;
- (c) leave the Facility in a clean and tidy condition having regard to the condition on the Commencing Date, and ensure that:
  - (i) equipment and furniture is returned to the place it was found;
  - (ii) floors have been mopped;
  - (iii) kitchens and amenities have been cleaned;
  - (iv) any decorations including sticky tape, masking tape and blu-tack have been removed;
  - (v) all rubbish has been placed in bins.
- (d) return all keys and access cards (as applicable) to the Licensor.

## **13. INSURANCE**

### **13.1 Public liability cover**

- (a) The Licensee must effect and keep current during the Licence Period, public liability cover of \$20,000,000 in respect of any single event.
- (b) Prior to the Commencing Date, the Licensee must provide to the Licensor a certificate of currency of public liability insurance noting the following:
  - (i) Lithgow City Council as an interested party;
  - (ii) the location as Tony Luchetti Showground, Geordie Street, Lithgow NSW 2790, unless the location covered by the policy is Australia Wide or similar.

### **13.2 Licensee's Property**

- (a) Any vehicle driven or parked at the Facility is entirely at the owner's risk and the Licensor takes no responsibility for damage to the Licensee's Property.
- (b) The Licensee is responsible for obtaining insurance cover in relation to the Licensee's Property while at the Facility and indemnifies the Licensor against any Claim regarding the Licensee's Property.

## **14. INDEMNITIES**

14.1 The Licensee indemnifies the Licensor against all Claims for which the Licensor may become liable in respect of, arising from or contributed to by:

- (a) any breach of this agreement by the Licensee;

- (b) any negligence, acts or omissions of the Licensee or the Licensee's Invitees;
- (c) the Licensee's use of the Facility.

## **15. LICENCE IS A PERSONAL RIGHT**

The parties agree that:

- (a) this agreement does not confer exclusive possession on the Licensee;
- (b) the Licensee may not exclude the Licensor, its officers, employees or invitees from:
  - (i) entering the Facility;
  - (ii) inspecting the Facility;
  - (iii) the performance of any work to the Facility,

provided that such entry, inspection of and/or performance of work does not unreasonably interfere with the Licensee's use of the Facility during the Licence Period.

## **16. TERMINATION**

16.1 This agreement will automatically terminate if a public health order or announcement issued by an Authority imposes restrictions on travel or gatherings that would deem the Event unlawful.

16.2 The Licensee may terminate this agreement without cause or reason by giving Notice to the Licensor prior to the Commencing Date.

16.3 The Licensor may terminate this agreement prior to or during the Licence Period, by giving Notice to the Licensee, if:

- (a) due to unforeseen circumstances or an uncontrollable event, in the Licensor's reasonable opinion the Permitted Use cultivates a risk to health and safety;
- (b) the Licensee has not complied with a provision of this licence agreement,

and the Licensee may not make a Claim against the Licensor for termination under this clause 16.3.

### **16.4 Termination Amount**

- (a) If this agreement is terminated on or before 11 August 2022 under this clause 16, no amount shall be payable by the Licensee.

- (b) If this agreement is terminated under this clause 16 on or after **12 August 2022**, the Licensee must pay the Termination Amount.
- (c) The Licensor may deduct the Termination Amount from the Licence Fee paid by the Licensee under clause 4.2, and the Licensee agrees to pay the shortfall (if any) within five (5) Business Days of receiving a tax invoice from the Licensor.
- (d) The Licensor agrees to refund to the Licensee, the difference between the Licence Fee paid and the Termination Amount within five (5) Business Days of termination.

## **17. NOTICES**

### **17.1 Notice prior to or after the Licence Period**

- (a) Prior to or after the Licence Period, a Notice under this agreement must be given in writing by email to the intended recipient's email address shown below:

**Licensor:**

Lithgow City Council

Email: [council@lithgow.nsw.gov.au](mailto:council@lithgow.nsw.gov.au)

and to [robbie.park@lithgow.nsw.gov.au](mailto:robbie.park@lithgow.nsw.gov.au)

**Licensee:**

Australian Caravan Club Limited

Email: [secretary@australiancaravanclub.com.au](mailto:secretary@australiancaravanclub.com.au)

- (b) A Notice under clause 17.1 will be taken to have been given or served on the day it was sent, if it is sent by email before 3pm on a Business Day. If sent after 3pm on a Business Day, the Notice will be taken to have been given or served on the next Business day.

### **17.2 Notice during the Licence Period**

During the Licence Period, a Notice under this agreement must be given by verbal communication (by telephone or in person) to an authorised representative of the intended recipient.

## **18. MISCELLANEOUS**

### **18.1 Waiver, Variation**

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

## **18.2 No Partnership**

Nothing contained in this agreement shall be deemed to constitute a partnership or joint venture between the parties.

## **18.3 Governing Law**

This agreement is governed by the laws of New South Wales.

## **18.4 Severability**

If any part of this agreement is void or voidable then that part is severed from this agreement but without affecting the continued operation of the remainder of the agreement.

## **18.5 No assignment, novation or sub-licence**

This licence is personal to the Licensee and the Licensee may not assign this agreement nor grant any sub-licence.

## **18.6 Non-merger**

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

## **18.7 Rights Cumulative**

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

## **18.8 Entire agreement**

This agreement is the entire agreement between the parties on the subject matter. All representations, communications and prior agreements in relation to the subject matter are merged in and superseded by this agreement.

## **18.9 Costs**

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

**EXECUTED** by the parties as an agreement

**EXECUTED** by **LITHGOW CITY COUNCIL** )  
**(ABN 59 986 092 492)** by its General )  
Manager pursuant to section 377 of the )  
Local Government Act 1993 and resolution )  
number 21-138 dated 28 June 2021, in the )  
presence of:

.....  
Witness signature

.....  
Craig Butler  
General Manager

.....  
Witness name

.....  
Witness address

**EXECUTED** by **AUSTRALIAN CARAVAN** )  
**CLUB LIMITED (ACN 121 300 856)** )  
pursuant to section 127(1) of the )  
Corporations Act 2001:

.....  
Director

.....  
Director/Secretary

Name:

Name:

**ANNEXURE "A"  
FACILITY**

