



CABONNE COUNCIL

CONTRACT No. 1019013

QUALITY ASSURANCE, LUMP SUM CONTRACT

for the

**MANAGEMENT OF MOLONG CARAVAN PARK
FOR A THREE (3) YEAR PERIOD**

PREPARED BY:
COUNCIL'S DEPARTMENT OF ENGINEERING
& TECHNICAL SERVICES SECTION
DATE: JUNE 2019



CABONNE COUNCIL

CONTRACT No. 1019013

QUALITY ASSURANCE, LUMP SUM CONTRACT

for the

**MANAGEMENT OF MOLONG CARAVAN PARK
FOR A THREE (3) YEAR PERIOD**

INFORMATION FOR TENDERERS

PREPARED BY:
COUNCIL'S DEPARTMENT OF ENGINEERING
& TECHNICAL SERVICES SECTION
DATE: JUNE 2019

CONTENTS

	PAGE
1 PROJECT IDENTIFICATION AND DESCRIPTION.....	1
2 SITE INFORMATION.....	2
2 RELEVANT DOCUMENTS.....	3
3 TENDERING METHOD.....	3
4 COUNCIL'S CONTACT PERSON.....	3
5 SITE INSPECTION.....	3
6 TENDER LODGMENT REQUIREMENTS.....	4

INFORMATION FOR TENDERERS

GENERAL

1 PROJECT IDENTIFICATION AND DESCRIPTION

This tender is for Contract No. 1019013 Management of Molong Caravan Park for a 3-year period. The Molong Caravan Park is located at Watson Street, Molong NSW 2866.

This is a Quality Assurance contract with method of payment being Lump Sum.

LOCATION PLAN



Details of sites available at Molong Caravan Park

TYPE OF SITE	TOTAL SITES AVAILABLE FOR HIRE
Powered Site	16
Unpowered Site	5
Small Cabin – 1 Bedroom	1
Small Cabin – 2 Bedroom	2
Large Cabin – Managers Cottage	1* (please note this is only available for hire if not taken as the Manager's Residence)

A list of current fees and charges are available on our website

<https://www.cabonne.nsw.gov.au>

2 RELEVANT DOCUMENTS

(a) The Contract Documents for this project are:

. **Specifications (Duties & Responsibilities)**

. **Tender Submission Forms**

. **Instrument of Agreement**

(b) The following documentation is provided for the information of the Tenderer's and do not form part of the Contract Documents:

. Information for Tenderers

. Conditions of Tendering

The documents are available from Council's Engineering and Technical Services section, Main Street Cudal, Council's Website www.cabonne.nsw.gov.au and Council's E-tendering website www.tenderlink.com/cabonne.

The Tenderer warrants and represents that it will, prior to submission of tender, obtain the information and documentation referred to above and will obtain all other information relevant to the works, contingencies and other circumstances having an effect on its tender.

3 TENDERING METHOD

This Contract shall follow the "The Procedures of Open Tendering" in accordance with AS4120-1994 Clause 6.2.3(b), The Principal invites the public advertisement without restriction on the numbers of tenders sought.

4 COUNCIL'S CONTACT PERSON

Enquiries regarding this tender may be directed to:

Engineering Department

Phone: (02) 6390 7100

Email: council@cabonne.nsw.gov.au

SITE INSPECTION

A conforming tender must include a signed statement that the Tenderer has visited the site and has included all site conditions in their Tender Price. Tenderers may contact the above contact to arrange a site inspection.

6 TENDER LODGEMENT REQUIREMENTS

Tenders shall be submitted on the Tender Forms provided by the Principal and are to be enclosed in a sealed envelope and the envelope marked legibly as follows:

Contract No. **1019013**

Tender for **Management of Molong Caravan Park for a 3 Year Period**

and either:

delivered by hand or by courier and placed in the:

Tender Box
Cabonne Council
Bank Street
MOLONG NSW 2866

or

mailed to the Tender Box addressed as follows:

Tender Box
Cabonne Council
PO BOX 17
MOLONG NSW 2866

or

submitted electronically via Council's E-Tendering Website:

www.tenderlink.com/cabonne

so as to be received **before the closing time and date for tenders.**

Time: 12:00 pm

Date: Wednesday 31st July 2019



CABONNE COUNCIL

CONTRACT No. 1019013

QUALITY ASSURANCE, LUMP SUM CONTRACT

for the

**MANAGEMENT OF MOLONG CARAVAN PARK
FOR A THREE (3) YEAR PERIOD**

CONDITIONS OF TENDERING

PREPARED BY:
COUNCIL'S DEPARTMENT OF ENGINEERING
& TECHNICAL SERVICES SECTION
DATE: JUNE 2019

CONTENTS

CLAUSE	PAGE
GENERAL.....	1
1. PREAMBLE.....	1
2. PROJECT INFORMATION.....	1
3. RELEVANT DOCUMENTS.....	1
4. CONTRACTOR'S RESPONSIBILITY.....	2
5. COUNCIL'S CONTACT PERSON.....	2
TENDER SUBMISSION INFORMATION.....	3
6. SUPPORTING INFORMATION FROM TENDERERS.....	3
7. SUBCONTRACTORS.....	3
8. SITE INSPECTION.....	3
9. ALTERNATIVE PROPOSALS.....	3
10. TENDER VALIDITY PERIOD.....	3
11. TENDER LODGMENT REQUIREMENTS.....	4
12. LATE TENDERS.....	4
13. 'IN-HOUSE' TENDER.....	5
14. TENDER EVALUATION AND SELECTION.....	5
15. POST TENDER SUBMISSIONS.....	5
16. POST TENDER NEGOTIATIONS.....	5
17. COST OF TENDERING.....	5
18. CONTRACT COMMENCEMENT DATE.....	6

CONDITIONS OF TENDERING

GENERAL

1. PREAMBLE

The Conditions of Tendering have been prepared in accordance with the obligations of the Principal contained in the Australian Standard 4120, Code of Tendering, which sets out the ethics and obligations of the Principal and Tenderers in tendering in the construction industry.

Tenderers and Principal shall comply with the requirements of this AS 4120. In particular attention is drawn to the obligations of Tenderers, in the preparation and submission of their tender for this project.

Without limiting the above obligations:-

- Tenderers shall not submit tenders without a firm intention to proceed.
- Tenderers must not engage in any form of collusive practice.
- Any Tenderer who directly or indirectly canvasses support from an elected member or servant of the Council will be disqualified.

It should be noted that in all contract documentation words importing a gender include every gender.

2. PROJECT INFORMATION

The complete project description, scope of work, specific site and project requirements shall be as defined in the Technical Specification (Duties & Responsibilities).

This tender is for Contract No. 1019013 Management of Molong Caravan Park for a 3 Year Period.

The Molong Caravan Park is located at Watson Street, Molong NSW 2866.

It is a Quality Assurance contract with the method of payment being Lump Sum.

3. RELEVANT DOCUMENTS

(a) The contract documents for this project are:

Technical Specification (Duties & Responsibilities)

- Technical specification for Contract No. 1019013 Management of Molong Caravan Park for a 3 Year Period.

Tender Submission Documents

- Tender Form
- Lump Sum Tender Form
- Bill of Quantities
- Tenderer's Particulars – Personnel
- Register of Tenderer's Subcontractors and Suppliers
- Statutory Declaration on Non-Collusive Tender Submission
- Acquaintance with Site
- Receipt of Addenda
- Statement of Conformance

Instrument of Agreement

- (b) The following documents do not form part of the Contract documents but are supplied as additional information to assist the Tenderer in the preparation of the tender.
- Information for Tenderers
 - Conditions of Tendering

The Principal does not guarantee that the information contained in any of these documents is accurate or complete and the Tenderer must make their own assessment as to the validity of the information when preparing the tender.

4 CONTRACTOR'S RESPONSIBILITY

It shall be the responsibility of the Contractor to ascertain all information relating to the services, the works and site conditions that may affect the progress or method of performing all services and works as specified within the scope of this contract and to prepare for every contingency that may arise. It is further understood that just provision for these contingencies have been accounted for, implicitly or explicitly within the Bill of Quantities submitted.

5 COUNCIL'S CONTACT PERSON

Enquiries regarding this tender may be directed to the:

Engineering Department

Phone: (02) 6390 7100

Email: council@cabonne.nsw.gov.au

TENDER SUBMISSION INFORMATION

6 SUPPORTING INFORMATION FROM TENDERERS

The Tenderer shall provide documentary evidence to prove they have the necessary competence, resources, industrial relations, quality and safety management and financial capacity to carry the position of Manager. **The names, positions and telephone numbers of two (2) referees are also to be provided.**

7 SUBCONTRACTORS

The Tenderer is required to provide, on the tender form in the Tender Submission Documents, the names and telephone numbers of Tenderer's Subcontractors and recognise by initials the Principal's listing of Selected and Nominated Contractors.

8 SITE INSPECTION

A conforming tender must include a signed statement that the Tenderer has visited the site and has included all site conditions in their tender price. Tenderers may contact Council's Engineering Department to arrange a site inspection.

9 ALTERNATIVE PROPOSALS

Alternative proposals, which satisfy the Principal's basic commercial and performance objectives, technical and legal requirements, may be submitted as options but only in addition to a conforming tender. All costs associated with the design and documentation of any alternative proposal shall be borne by the Tenderer.

10 TENDER VALIDITY PERIOD

Tenders will be valid for a period of 60 days from the tender closing date. In the event of the withdrawal of the tender prior to the expiration of this period, the Tenderer shall be liable for all costs, losses or damages suffered by the Principal by reason of that withdrawal.

11 TENDER LODGMENT REQUIREMENTS

Tenders shall be submitted on the forms provided by the Principal, Tender Submission Documents, and shall be enclosed in a sealed envelope and the envelope marked legibly as follows:

Contract No. 1019013

Tender for: Management of Molong Caravan Park for a 3 Year Period

and either:

delivered by hand or by courier and placed in the:

Tender Box
Cabonne Council
Bank Street
MOLONG NSW 2866

or

mailed to the Tender Box addressed as follows:

Tender Box
Cabonne Council
PO Box 17
MOLONG NSW 2866

or

submitted electronically via Council's E-Tendering Website:

www.tenderlink.com/cabonne

so as to be received **before the closing time and date for tenders**

Time: 12:00 pm

Date: Wednesday 31st July 2019

12 LATE TENDERS

A posted tender which is received after the closing time and date will only be considered if the Tenderer can satisfy Council that:

- The formal tender documents and all other requisite essential information were posted or lodged at a Post Office or other recognised delivery agency within a reasonable time to ensure delivery before the deadline for closing of tenders, and the Tenderer has taken all possible action to expedite delivery when notified of a late arrival.

“Essential information” shall mean all information in the Tender Form and all information which is required by the Conditions of Tendering to be submitted with the Tender Form.

13 'IN-HOUSE' TENDER

The Principal is willing to accept a tender from Council's Operations Section as an 'In-house' tender. 'In-house' tenders shall be prepared in accordance with the NSW Department of Local Government document "Pricing and Costing for Council Businesses - A Guide to Competitive Neutrality, July 1997" and shall provide documentation to this effect.

'In-house' tenders shall comply with all requirements of the Contract Documents and these Conditions of Tendering.

"In-house" tenders will be assessed using the same criteria as external tenders.

14 TENDER EVALUATION AND SELECTION

Evaluation, negotiation and selection of tenders shall be in accordance with the requirements of AS4120, Code of Tendering and NSW Local Government (Tendering) Regulation 1993 under the NSW Local Government Act 1993.

The evaluation criteria shall be:

- Conformity with the Tender Documents
- Value for money
- Evidence of capability
- Industry reputation
- Quality System

The Principal is not bound to accept the lowest, or any tender.

The successful Tenderer, and the price which is accepted, shall be notified in writing to all Tenderers.

15 POST TENDER SUBMISSIONS

The Principal may call for post tender submissions from some or all tenderers in order to assist with the evaluation.

Such submissions will be confidential between the Principal and Tenderer.

The call for such submissions will not bind the Principal to proceed to accept a tender.

16 POST TENDER NEGOTIATIONS

The Principal may enter into negotiation with a Preferred Tenderer or a number of candidate tenderers.

Such negotiations will be confidential between the Principal and Tenderer and will be conducted in accordance with guidelines set out in AS 4120-1994.

The undertaking of negotiations will not bind the Principal to proceed to accept a tender.

17 COST OF TENDERING

All costs associated with tender preparation and submission shall be borne by the Tenderer.

18 CONTRACT COMMENCEMENT DATE

The commencement of the Contract is nominated as the date of Instrument of Agreement between Council and the successful Tenderer. There shall be no Contract prior to the issue of a letter of acceptance and a signed Instrument of Agreement.



CABONNE COUNCIL

CONTRACT No. 1019013

QUALITY ASSURANCE, LUMP SUM CONTRACT

for the

**MANAGEMENT OF MOLONG CARAVAN PARK
FOR A THREE (3) YEAR PERIOD**

CONDITIONS OF CONTRACT

PREPARED BY:
COUNCIL'S DEPARTMENT OF ENGINEERING
& TECHNICAL SERVICES SECTION
DATE: JUNE 2019

CONDITIONS OF CONTRACT

CONTENTS

GENERAL CONDITIONS OF CONTRACT

**ANNEXURE A, B & C TO GENERAL CONDITIONS
OF CONTRACT**

GENERAL CONDITIONS OF CONTRACT

THE GENERAL CONDITIONS OF CONTRACT
SHALL BE
AUSTRALIAN STANDARD (AS) 4000-1997
THIS DOCUMENT IS DEEMED TO BE INCLUDED IN THE
CONTRACT DOCUMENTS

Copies are available from Standards Australia.

Contract No. 1019013

ANNEXURE

to the

**GENERAL CONDITIONS OF
CONTRACT**

Contract No. 1019013

ANNEXURE to the Australian Standard
General Conditions of Contract AS 4000-
1997

PART A – CABONNE COUNCIL

This Annexure shall be completed and issued as part of the tender documents and, subject to any amendments to be incorporated into the *Contract*, is to be attached to the General Conditions of Contract and shall be read as part of the *Contract*.

Item

1 *Principal*
(clause 1)

CABONNE COUNCIL
ABN: 41 992 919 200

2 *Principal's address*

PO Box 17
MOLONG NSW 2866
Ph 6390 7100 Fax 63907160

3 *Contractor*
(clause 1)

ACN:.....

4 *Contractor's address*

5 *Superintendent*
(clause 1)

**Cabonne Council's Director of Engineering and
Technical Services**
Ph 63907100 Fax 63907160

6 *Superintendent's address*

PO Box 17
MOLONG NSW 2866

7 Date for *practical completion*
(clause 1)

20 September 2022

8 Governing law:
(page 5, clause 1(h))

New South Wales

9 (a) Currency
(page 5, clause 1(g))

Australian Dollar

(b) Place of payments
(page 5, clause 1(g))

Bank Street
MOLONG NSW 2866

(c) Place of Business of Bank
(page 5, clause 1(d))

MOLONG, NSW 2866

10 Bill of Quantities
(subclause 2.2)

(a) Alternative applying (subclause 2.2) **Alternative 1**

(b) If Alternative 2 applies, is the bill of quantities to be priced (subclause 2.2) **N/A**

(c) Lodgement time (subclause 2.3 (b)) **Prior to Tenders Closing
12.00pm Wednesday 31st July 2019**

11 Quantities in *schedule of rates*, limits of accuracy (Clause 2.5(b)) **N/A**

As assessed by the Superintendent

Provisional sum, percentage for profit and

12 attendance (clause 3)
1.

- 13 (a) Form **N/A** (clause 5)
- (b) Amount or maximum percentage of **N/A** *contract sum* (clause 5)
- (c) If retention moneys, percentage of each **N/A** *progress certificate* (clause 5 and subclause 37.2)
- (d) Time for provision (except for retention moneys) **N/A** (clause 5)
- (e) *Additional security* for unfixed plant and materials **Nil** (subclauses 5.4 and 37.3)
- (f) *Contractor's security* upon *certificate of practical completion* is reduced by **N/A** (subclause 5.4)

14 *Principals security*

- (a) Form **N/A** (clause 5)
- (b) Amount or maximum percentage of **N/A** *contract sum* (clause 5)
- (c) Time for provision **N/A** (clause 5)
- (d) *Principal's security* upon *certificate of practical completion* is reduced by **N/A** (subclause 5.4)

15	<i>Principal</i> -supplied documents (subclause 8.2)	<p>Contract documents including:</p> <ul style="list-style-type: none"> • Conditions of Contract; • Specifications (Roles & Responsibilities) • Tender Submission Documents
16	Time for <i>Superintendent's direction</i> about documents (subclause 8.3)	14 days
17	Subcontract <i>work</i> requiring approval (subclause 9.2)	All Subcontract Work
18	Novation (subclause 9.4)	N/A
19	<i>Legislative requirements</i>	
	(a) Those excepted	N/A (subclause 11.1)
	(b) Identified <i>WUC</i>	N/A (subclause 11.2(a)(ii))
20	Insurance of <i>the Works</i> (clause 16A)	
	(a) Alternative applying	Alternative 2
	If Alternative 1 applies	NIL
	(b) Provision for demolition and removal of debris	
	(c) Provision for <i>consultant's</i> fees and fees	NIL <i>Principals</i> consultants'
	(d) Value of materials or things to be supplied	NIL by the <i>Principal</i>
	(e) Additional amount or percentage	NIL
21	Public liability insurance (clause 17)	
	(a) Alternative applying	Alternative 2 If Alternative 1 applies
	(b) Amount per occurrence shall be not less than	N/A

	Date of Acceptance of Tender
22 a) Time for giving possession (subclause 24.1)	
23 <i>Qualifying cause of delay.</i> Cause of delay for which <i>FOTs</i> will not be granted (page 3, paragraph (b)(iii) of clause 1 and subclause 34.3)	N/A
24 Liquidated damages, rate (subclause 34.7)	N/A
25 Bonus for early <i>practical completion</i> (Clause 34.8)	N/A
26 Delay Damages, other <i>compensable clauses</i> (page 1, clause 1 and subclause 34.9)	N/A
27 <i>Defects liability period</i> (Clause 35)	N/A
28 <i>Progress Claims</i> (subclause 37.1)	
a) Times for progress claims	By the fourteenth (14th) day of each month for WUC done to the fourteenth (14th) day of that month.
29 Unfixed plant and materials for which payment claims may be made (subclause 37.3)	N/A
30 Interest rate on overdue payments (subclause 37.5)	15% per annum
31 Time for <i>Principal</i> to rectify inadequate possession (subclause 39.7)	Fourteen (14) days

32 Arbitration and *Expert Determination*:
(subclause 42.3)

- (a) Person to nominate an arbitrator **The President of the Australasian Dispute Centre**
- (b) Rules for arbitration: **Rules 5-18 of the Rules of The Institute of Arbitrators & Mediators Australia for the Conduct of Commercial Arbitrations**
- (c) Appointing Authority under UNCITRAL Arbitration Rules: **President of the Australasian Dispute Centre**

ANNEXURE - PART B (DETAILS)

ANNEXURE PART B DETAILS

1. Deletions

No clauses have been deleted from the General Conditions in AS 4000-1997

2. Amendments

No clauses of AS 4000-1997 have been amended.

3. Additions

The following clauses have been added to AS 4000-1997:

CLAUSE 44. WORK HEALTH AND SAFETY (W H & S)

- 44.1** The Contractor must provide summary details of their relevant WHS Management Systems and how these systems will be implemented on the Contract. The details are to be provided in a single page word format. No large company brochures are required.
- 44.2** Within 30 days of acceptance of the subsequent Tenders, the Contractor must deliver to the Principal a copy of the project specific Workplace Health and Safety Quality Management System documentation that will be used on the project.
- 44.3** The Contractor is to note that they (the Contractor), their Employees and Sub-Contractors are required to fully comply with the Work Health and Safety Act and Regulations 2011 and Council Policies and Procedures. Failure to comply will be seen as a major breach of the Contract and may result in the termination of the Contract.
- 44.4** Attention is drawn to the requirement for the Contractor to comply with Council's suite of Policies and Procedures, including but not limited to:
- a) Procurement (including local preference) policy;
 - b) Code of Conduct Policy;
 - c) Work, Health and Safety Policy;
 - d) No Smoking Policy;
 - e) Alcohol and other Drugs Policy; and
 - f) Risk Management Policy.
- These are all available at www.cabonne.nsw.gov.au or on request.
- 44.5** The Contractor shall:
- a) Demonstrate to the Principal whenever requested that the requirement of the Contract and statutory requirements for Work Health and Safety are being met.
 - b) If the period of the Contract exceeds three (3) months the Contractor is to provide the Principal with a monthly certification that requirements of the Contract and statutory requirements for Work Health and Safety are being met.
-

- 44.6** Where inappropriate or inadequate provision of Work Health and Safety Management by the Contractor or Contractor's Sub-Contractor results in costs, losses or damages incurred by the Principal or claims by third parties against the Principal for either direct or consequential costs, losses or damages, the Contractor shall be liable for costs, losses or damages associated with any claim including but not limited to administration costs incurred by the Principal in resolving such claim.

CLAUSE 45. ENVIRONMENTAL SYSTEMS PLANNING

45.1 The Contractor shall:

- a) Comply with all requirements of the Contract and statutory requirements for protection of the environment.
- b) Ensure that each of its Subcontractors and Consultants comply in like manner.
- c) Demonstrate to the Principal by mutual inspection and/or documentation whenever requested that requirements of the Contract and statutory requirements for the protection of the environment are being met.
- d) Prior to the commencement of work, provide the Principal with certification that the requirements of the Contract and statutory requirements for the protection of the environment are capable of being met by the Contractors' organisation and management.
- e) If the period of the contract exceeds three months the Contractor is to provide the Principal with a monthly certification that the requirements of the Contract and statutory requirements for protecting the environment are being met.
- f) The Contractor is responsible for and must at its own cost make good any damage to the environment caused by the execution of the works.

45.2 Where inappropriate or inadequate provision of environmental management by the Contractor or Contractor's Subcontractor results in costs, losses or damages incurred by the Principal or claims by third parties against the Principal for either direct or consequential costs, losses or damages, the Contractor shall be liable for costs, losses or damages associated with any claim including but not limited to administration costs incurred by the Principal in resolving such claim.

CLAUSE 46. ACCESS TO INFORMATION (GIPA Act, s.121)

46.1 The Contractor must, within seven (7) days of receiving a written request by Council, provide Council with immediate access to the following information contained in records held by the Contractor:

- a) information that relates directly to the performance of the services provided to Council by the Contractor pursuant to the Contract;
- b) information collected by the Contractor from members of the public to whom it provides, or offers to provide, the services pursuant to the Contract; and
- c) information received by the Contractor from Council to enable it to provide the services pursuant to the Contract.

46.2 For the purposes of sub-clause 47.1, information does not include:

- a) information that discloses or would tend to disclose the Contractor's financing arrangements, financial modelling, cost structure or profit margin;
- b) information that the Contractor is prohibited from disclosing to Council by provision made by or under any Act, whether of any State or Territory, or of the Commonwealth; or
- c) information that, if disclosed to Council, could reasonably be expected to place the Contractor at a substantial commercial disadvantage in relation to Council, whether at present or in the future.

46.3 The Contractor will provide copies of any of the information in sub-clause 47.1, as requested by Council, at the Contractor's own expense.

46.4 Any failure by the Contractor to comply with any request pursuant to sub clause 47.1 or 47.3 will be considered a breach of an essential term and will allow Council to terminate the Contract by providing notice in writing of its intention to do so with the termination to take effect seven (7) days after receipt of the notice. Once the

Contractor receives the notice, if it fails to remedy the breach within the seven (7) day period to the satisfaction of Council, then the termination will take effect seven (7) days after receipt of the notice.

CLAUSE 47. CONSULTATION (GIPA Act, s.54)

47.1 Council will take reasonably practicable steps to consult with the Contractor before providing any person with access to information relating to the Contract, in response to an access application under the Government Information (Public Access) Act 2009 (GIPA Act), if it appears that:

- a) the information:
 - i. includes personal information about the Contractor or its employees;
 - ii. concerns the Contractor's business, commercial, professional or financial interests; or
 - iii. concerns research that has been, is being, or is intended to be, carried out by or on behalf of the Contractor; or
 - iv. concerns the affairs of a government of the Commonwealth or another State (and the Contractor is that government);
- b) the Contractor may reasonably be expected to have concerns about the disclosure of the information; and
- c) those concerns may reasonably be expected to be relevant to the question of whether there is a public interest consideration against disclosure of the information.

47.2 If, following consultation between Council and the Contractor, the Contractor objects to disclosure of some or all of the information, the Contractor must provide details of any such objection (including the information objected to and the reasons for any such objection) within 5 days of the conclusion of the consultation process.

47.3 In determining whether there is an overriding public interest against disclosure of government information, Council will take into account any objection received by the Contractor.

47.4 If the Contractor objects to the disclosure of some or all of the information but Council nonetheless decides to release the information, Council must not provide access until it has given the Contractor notice of Council's decision and notice of the Contractor's right to have that decision reviewed.

47.5 Where Council has given notice to the Contractor in accordance with sub-clause 48.4, Council must not provide access to the information:

- a) before the period for applying for review of the decision under Part 5 of the GIPA Act has expired; or
- b) where any review of the decision duly applied for is pending.

47.6 The reference in sub-clause 48.5(a) to the period for applying for review of the decision under Part 5 of the GIPA Act does not include the period that may be available by way of extension of time to apply for review.

CLAUSE 48. PUBLIC INTERESTS DISCLOSURE ACT 1994

Under the provisions of the Public Interests Disclosure Act 1994, Contractors have a statutory responsibility to report suspected wrongdoing in the four categories covered by the Public Interests Disclosure Act 1994 (the PID Act), i.e. corruption, maladministration, serious and substantial waste or public money and government information contravention.

- i) Corrupt Conduct

Corrupt Conduct is the dishonest or partial exercise of official functions by a public official. For example, this could include:

- The improper use of knowledge, power or position for personal gain or the advantage of others;
- Acting dishonestly or unfairly, or breaching public trust;
- A member of the public influencing a public official to use their position in a way that is dishonest, biased or breaches public trust.

- ii) Maladministration

Maladministration is conduct that involves action or inaction of a serious nature that is contrary to law, unreasonable, unjust, oppressive or improperly discriminatory or based wholly or partly on improper motives. For example, this could include:

- Making a decision and/or taking action that is unlawful;
- Refusing to grant someone a licence for reasons that are not related to the merits of their application.

iii) Serious and substantial waste in Local Government

Serious and substantial waste is the uneconomical, inefficient or ineffective use of resources that could result in the loss or wastage of local government money, this includes all revenue, loans and other money collected, received or held by, for or on account of the Council. For example, this could include:

- Poor project management practices leading to projects running over time;
- Having poor or no processes in place for a system involving large amounts of public funds.

iv) Government Information Contravention

A government information contravention is a failure to properly fulfil functions under the Government Information (Public Access) Act 2009 (GIPA Act). For example, this could include:

- Destroying, concealing or altering records to prevent them being released;
- Knowingly making decisions that are contrary to the legislation;
- Directing another person to make a decision that is contrary to the legislation.

Although reports about the previous four (4) categories of conduct can attract the specific protections of the PID Act, Contractors should report all activities or incidents that they believe are wrong. For example, this could include:

- Harassment or unlawful discrimination;
- Reprisal action against a person who has reported wrongdoing;
- Practices that endanger the health or safety of staff or the public.

It is the Contractor's responsibility to report any known or suspected incidents. To do so is to help promote integrity, accountability and good governance within the Council.

The Contractor who makes a report will be kept informed of the progress and outcome of such report.

For a report to be considered a protected disclosure, it has to meet all the requirements of the PID Act. These requirements are:

- The person making the disclosure must honestly believe on reasonable grounds that the information shows or tends to show wrongdoing;
- The report has been made to Council's Disclosure Officers.

For more information see the NSW Ombudsman's guidelines on what can be reported at www.ombo.nsw.gov.au

ANNEXURE - PART C

**ANNEXURE PART C
STATUTORY DECLARATION**

I,

(Full name of Declarant)

of

(Address)

do hereby solemnly declare and affirm that:

1. I am the representative of the Contractor:

(Name of Contractor and ACN if applicable)

in the Office Bearer capacity of:

(Position Title of Declarant)

the said Contractor having a contract for:

(Name of Contract)

with _____ and I am in a position to know the facts attested to. *(Name of Principal)*

2. All workers who have at any time been engaged by the Contractor have been paid all moneys due and payable to them in respect of their employment on work under the Contract, with the exception of the workers and the respective amounts listed below: *(INSERT NAMES & ADDRESSES OF WORKERS, THE AMOUNTS OWING, AND WHETHER IN RESPECT OF WAGES, HOLIDAY PAY, ALLOWANCES, ETC).*

3. All subcontractors and suppliers to the Contractor have been paid all moneys due and payable to them for the performance of work under the Contract and the supply of materials for use in work under the Contract, with the exception of the subcontractors and suppliers and the respective amounts listed below: *(INSERT NAMES & ADDRESSES OF SUBCONTRACTORS AND SUPPLIERS, THE AMOUNTS OWING AND WHETHER IN RESPECT OF MATERIALS SUPPLIED, WORK PERFORMED, ETC).*

4. The Contractor has been informed by each subcontractor to the Contractor by Statutory Declaration in equivalent terms to this declaration that all workers, subcontractors, and suppliers engaged by them or their subcontractors have been paid all moneys due and payable to them in respect of their work under the Contract, with the exception of the workers, subcontractors and suppliers and the respective amounts listed below. I am not aware of anything to the contrary, and on the basis of the contents of the statutory declarations provided I believe that information to be true: *(INSERT NAMES & ADDRESSES, THE AMOUNTS OWING AND WHETHER IN RESPECT OF WAGES, MATERIALS, ETC).*

I make this solemn declaration, as to the matter aforesaid, according to the law in this behalf made, and subject to the punishment by law provided for any wilfully false statement in any such declaration.

(Signature of Declarant)

Declared at:

this

(day month year)

before me

(Signature of JP or authorised person)



CABONNE COUNCIL

CONTRACT No. 1019013

QUALITY ASSURANCE, LUMP SUM CONTRACT

for the

**MANAGEMENT OF MOLONG CARAVAN PARK
FOR A THREE (3) YEAR PERIOD**

**SPECIFICATIONS
(DUTIES & RESPONSIBILITIES)**

PREPARED BY:
COUNCIL'S DEPARTMENT OF ENGINEERING
& TECHNICAL SERVICES SECTION
DATE: JUNE 2019

CONTENTS

TENDERERS DUTIES & RESPONSIBILITIES.....	1
1. MANAGERS DUTIES.....	1
2. MANAGER'S RESPONSIBILITIES FOR COSTS.....	2
3. COUNCIL'S RESPONSIBILITIES FOR COSTS.....	2
4. PAYMENT.....	2

TENDERERS DUTIES & RESPONSIBILITIES

1. MANAGERS DUTIES

1. All duties and responsibilities stated in the Agreement – 5. Managers Rights and Obligations (Contract 1019013 Management of Molong Caravan Park for a 3 Year Period)
2. Accept bookings, welcome guests, allocate sites and distribute information and Caravan Park rules.
3. Receive payments and issue receipts on behalf of Council.
4. Maintain a daily guest register of Caravan Park residents.
5. Enforce Council's adopted Caravan Park rules.
6. Deposit payments of Caravan Park Fees and Charges promptly at the Council's office or in a manner otherwise directed by Council.
7. Ensure that the numbers of permanent and casual Caravan Park residents in the park do not exceed the licensed maximum.
8. Carry out maintenance (minimum twice daily or more frequently as required), cleaning and disinfection of all parts of the Caravan Park's amenities and facilities included but not limited to the Managers Cottage.
9. Cleaning and tidying of the Caravan Park kitchen facilities, units/cabins and campsites as reasonably required.
10. Maintain the Caravan Park grounds in a neat and tidy manner except those areas which are maintained by Council.
11. Irrigate the lawns and trees as reasonably required.
12. Collect and dispose of any rubbish, litter and fallen leaves within the Caravan Park area.
13. Liaise with Council including Council's Operations Manager and other engineering staff where necessary.
14. Notify Council where repairs and / or replacement of items are required.
15. Issue and track possession of any Caravan Park keys, for example shower and toilet amenity keys and ensure their return by residents or guests.
16. Liaise with Council on the screening and assessment of prospective permanent Caravan Park residents. The Manager is not authorised to enter into or grant permanent residency status to any Caravan Park resident including entering into any Residential Tenancy Agreement. Council is responsible for all permanent residency decisions and agreements.
17. Liaise with Council on prospective long-term casual occupants of a Caravan Park site. The Manager is not authorised to enter into or grant any occupation agreement to any occupant of a site. Council is responsible for all long-term casual occupation agreements.
18. Attend quarterly meetings with Council's Caravan Park Committee.

19. Ensure that all guests (except approved permanent residents or long-term casual occupants) do not extend their stay in the Caravan Park beyond sixty (60) days.
20. Ensure any uncollected goods left by any guests, permanent residents or long-term casual occupants are removed, sold or disposed of in accordance with the Caravan Park rules and any applicable Law.
21. Keep the Caravan Park open during the hours of operation for the Caravan Park.
22. Such other reasonable related or ancillary duties to the above or to the management and operation of the Caravan Park that Council may request from time to time.
23. Caravan Park consumables – for example toilet paper, hand towels and replacement keys (including cleaning materials).

2 MANAGER'S RESPONSIBILITIES FOR COSTS

- i. Own Worker's Compensation Insurance.
- ii. Worker's Compensation Insurance for all Subcontractors employed by the Manager.
- iii. Caravan Park consumables – for example toilet paper, hand towels and replacement keys (including cleaning materials).

The Manager must provide evidence of such insurance to the Council to prove the existence and continuity of cover.

3 COUNCIL'S RESPONSIBILITIES FOR COSTS

Council will be responsible for the following costs:

- i. Public Liability insurance.
- ii. Building and contents insurance.
- iii. Council rates.
- iv. Rubbish & waste disposal fees.
- v. Caravan Park utility costs including electricity, gas, water & sewerage.
- vi. Lawn mower and lawn mower fuel.
- vii. Installation, repair and replacement of any Caravan Park equipment - for example washing machines, driers and lawn mower.
- viii. Installation, repair and replacement of any Caravan Park buildings/structures.

Council costs do not include any amounts for which the Manager is liable or responsible for under this Agreement.

4 PAYMENT

Payment to the Manager will be as stated in the Schedule.



CABONNE COUNCIL

CONTRACT No. 1019013

QUALITY ASSURANCE, LUMP SUM CONTRACT

for the

**MANAGEMENT OF MOLONG CARAVAN PARK
FOR A THREE (3) YEAR PERIOD**

TENDER SUBMISSION DOCUMENTS

PREPARED BY:
COUNCIL'S DEPARTMENT OF ENGINEERING
& TECHNICAL SERVICES SECTION
DATE: JUNE 2019

NOMINATION OF REQUIRED TENDER SUBMISSIONS

All Submitted information will be treated as confidential

TENDER FORMS AND DECLARATIONS

1. Tender Form
2. Lump Sum Tender Form
3. Bill of Quantities
4. Tenderer's Particulars - Personnel
5. Register of Tenderer's Subcontractors and Suppliers
6. Statutory Declaration on Non-Collusive Tender Submission
7. Acquaintance with Site
8. Receipt of Addenda
9. Statement of Conformance

INSTRUCTION TO CONTRACTOR

The Contractor shall complete in full and submit the forms in numerical order listed above. The completed forms, declarations and required information shall comprise the Tender Submission Documents. Initial and date each form at the bottom right hand side of each page.

COMPLETION OF DOCUMENTS

The omission of / failure to complete the forms listed above may, at the absolute discretion of the Principal, result in a nonconforming tender and be subject to rejection.

CONTRACTORS ACKNOWLEDGMENT

Contract: Management of Molong Caravan Park for a 3 Year Period

Contract No: 1019013

Date:

Signature of Tenderer:

TENDER SUBMISSION FORM 1

TENDER FORM

The Contractor must complete and submit with Tender submission.
All Submitted information will be treated as confidential

I, _____ (Print name)

of _____

_____ (Address)

on this _____ day of _____, Year _____

having fully acquainted myself with the Conditions of Tender and accordingly the obligations and responsibilities of the Contract do hereby tender to perform the work described below:

Contract: Management of Molong Caravan Park for a 3 Year Period

Contract No: 1019013

as invited by : CABONNE COUNCIL, in accordance with the following documents.

Information for Tenderers

Technical Specification (Roles & Responsibilities)

Tender Submission Documents

Instrument of Agreement

By submitting this Tender the Contractor warrants and represents that the Contractor has made their own enquiries and investigations and has obtained professional advice and all other relevant information so as to inform itself of all risks and contingencies which may affect the Tender price. The Contractor warrants and represents that it has included for all such risks and contingencies in the Submission.

Contract	Management of Molong Caravan Park for a 3 Year Period		
Contract Number	1019013	Tenderer to Complete	
Council	Cabonne Council	Tenderer's Initial	
Submission Date	12.00pm Wednesday 31st July 2019	Date	

TENDER SUBMISSION FORM 1 continued

Signature of Contractor:_____

Phone and facsimile numbers:

Subscribed and declared this:_____ Day of _____ Year _____

Before me: _____ (Print name)

Witness: _____ (Signature)

Referees

Name	Position	Telephone No.
1. _____		
2. _____		

Contract	Management of Molong Caravan Park for a 3 Year Period		
Contract Number	1019013	Tenderer to Complete	
Council	Cabonne Council	Tenderer's Initial	
Submission Date	12.00pm Wednesday 31st July 2019	Date	

TENDER SUBMISSION FORM 2**LUMP SUM TENDER FORM**

The Contractor must complete and submit with tender.
All Submitted information will be treated as confidential

The Contractor shall complete all or part of the following information in accordance with their Tender Submission. Amounts specified for these Lump Sum amount shall equal the extended totals from the relevant Bill of Quantities

All amounts shall be inclusive of GST.

Tender Submission Form	Description	Lump Sum Amount for a 3 Year Term (including GST)
3	All Works under Contract	

Signature of Contractor: _____

Phone and facsimile numbers:

Subscribed and declared this: _____ **Day of** _____ **(Year)** _____

Before me : _____ *(Print name)*

Witness : _____ *(Signature)*

Contract	Management of Molong Caravan Park for a 3 Year Period		
Contract Number	1019013	Tenderer to Complete	
Council	Cabonne Council	Tenderer's Initial	
Submission Date	12.00pm Wednesday 31st July 2019	Date	

TENDER SUBMISSION FORM 3

BILL OF QUANTITIES

The Contractor must complete and submit with tender.
All Submitted information will be treated as confidential

1. The quantities shown are estimated quantities only and are not to be taken as correct quantities of work to be carried out.
2. All prices and rates shall CPI indexed and GST inclusive.
3. Prices shall be fixed for the Term of the Contract.

PAYMENT PER ANNUM INCLUDING GST	
€ _____ per annum	
Being \$ _____ per week	
Total Lump Sum amount for 3 Years including GST <i>* Total to be entered on Tender Submission Form 2</i>	\$ _____

Contract	Management of Molong Caravan Park for a 3 Year Period		
Contract Number	1019013	Tenderer to Complete	
Council	Cabonne Council	Tenderer's Initial	
Submission Date	12.00pm Wednesday 31st July 2019	Date	

TENDER SUBMISSION FORM 4

TENDERER'S PARTICULARS - PERSONNEL

The Tenderer must complete and submit with tender
All Submitted information will be treated as confidential

Provide the names of the Project Manager and Site Manager or Responsible Officer in the event of a winning tender.

1. Contractor Project Manager

Name	Company Role	Estimated Time Commitment (%)	Years' Experience	
			In current firm	prior

Work responsibilities for this Project:

2. Any additional employees

Name	Company Role	Estimated Time Commitment (%)	Years' Experience	
			In current firm	prior

Work responsibilities for this Project:

3. Any additional employees

Name	Company Role	Estimated Time Commitment (%)	Years' Experience	
			In current firm	Prior

Work responsibilities for this project:

Contract	Management of Molong Caravan Park for a 3 Year Period		
Contract Number	1019013	Tenderer to Complete	
Council	Cabonne Council	Tenderer's Initial	
Submission Date	12.00pm Wednesday 31st July 2019	Date	

TENDER SUBMISSION FORM 5

REGISTER OF TENDERER'S SUBCONTRACTORS AND SUPPLIERS

The Contractor must complete and submit with Tender submission
All Submitted information will be treated as confidential

The Tenderer is instructed to compile a listing below of all Selected Subcontractors and Suppliers which the Tenderer expects to use to execute the Works under the terms of this Contract.

Supplier or Contractor	Telephone No.	Description of work or materials
1.		
2.		
3.		
4.		
5.		
6.		
7.		
8.		
9.		
10.		
11.		
12.		
13.		
14.		
15.		

Contract	Management of Molong Caravan Park for a 3 Year Period		
Contract Number	1019013	Tenderer to Complete	
Council	Cabonne Council	Tenderer's Initial	
Submission Date	12.00pm Wednesday 31st July 2019	Date	

TENDER SUBMISSION FORM 6

STATUTORY DECLARATION ON NON-COLLUSIVE TENDER DECLARATION

The Contractor must complete and submit with Tender submission
All Submitted information will be treated as confidential

I, _____ (Print name),
of _____ (Address),

do hereby solemnly declare and affirm the following ;

1. I, after having made due inquiry believe the following to be completely accurate to the best of my knowledge.
2. Neither the Tenderer nor the Tenderers Agents or Servants have entered into any contract or agreement to offer payment of any kind to a representative of the Principal in the event of a winning tender.
3. Neither the Tenderer nor the Tenderers Agents or Servants have had any knowledge of the price of Tender submitted by its competitors nor did the Tenderer furnish the price of the enclosed tender to any external source prior to the close of the tender date as specified within this Contract.
4. Neither the Tenderer nor the Tenderers Agents or Servants have entered into any contract or agreement to offer payment of any kind to an unsuccessful Tenderer in the event of a winning submission.
5. The Tenderer is not aware of any facts which would affect the decision of the Principal in accepting the Tender nor has the Tenderer attempted to acquire information relevant to the Tenderer award process by soliciting the Principal, the Superintendent or their Representative's Agents or Servants.
6. Neither the Tenderer nor the Tenderers Agents or Servants have entered into any agreement with other Tenderers or third party which results in a payment of unsuccessful Tender fees.
7. The contents of this document are true and correct to the best of my knowledge and in no way have been written under duress of any form.

I make this solemn declaration as to the matter aforesaid, according to the law in this behalf made, and subject to the punishment by law provided for any wilfully false statement in any such declaration.

Signature of Tenderer: _____

Subscribed and declared at: _____

This: _____ **Day of** _____ **Year** _____

Before me: _____ (Print name)

Witness: _____ (Signature)

(Justice of the Peace or authorised person)

Contract	Management of Molong Caravan Park for a 3 Year Period		
Contract Number	1019013	Tenderer to Complete	
Council	Cabonne Council	Tenderer's Initial	
Submission Date	12.00pm Wednesday 31st July 2019	Date	

TENDER SUBMISSION FORM 7

ACQUAINTANCE WITH SITE

The Tenderer must complete and submit with tender
All Submitted information will be treated as confidential

This form shall be signed by the Tenderer as a guarantee to the Principal that in lieu of a formal site meeting held by the Principal the Tenderer has undertaken a site inspection without direction of the Principal so as to be fully acquainted with the physical characteristics of the site.

Site Description: Molong Caravan Park, Watson Street, MOLONG NSW 2866.

DECLARATION OF SITE INSPECTION

I, _____, of the Tendering Organisation _____

have, of my own accord, conducted an inspection of the aforementioned site and in doing so I have acquired a sound knowledge of the physical characteristics of the site and any consequential procedures and processes that may arise as a result of any environmental or geographical constraints or conditions and in doing so have abided by all National, State, and Council regulations, legislation and bylaws.

The Tenderer understands that it is the responsibility of the Tendering Organisation to inform all personnel, agents and Subcontractors of the Tendering Organisation of all information pursuant to the preceding paragraph.

Name: _____

Signature: _____

Date: _____

Contract	Management of Molong Caravan Park for a 3 Year Period		
Contract Number	1019013	Tenderer to Complete	
Council	Cabonne Council	Tenderer's Initial	
Submission Date	12.00pm Wednesday 31st July 2019	Date	

TENDER SUBMISSION FORM 8

RECEIPT OF ADDENDA

The Tenderer must complete and submit with tender
All Submitted information will be treated as confidential

The Tenderer is to acknowledge that it received the addenda listed below during the tender period and that the tender has been prepared having regard to these addenda.

Addenda No.	Brief Description (eg. Specification Page N^o, Clause N^o, Schedule N^o)	Date Received

This Tender has been prepared having regard to the addenda listed above.

Contract	Management of Molong Caravan Park for a 3 Year Period		
Contract Number	1019013	Tenderer to Complete	
Council	Cabonne Council	Tenderer's Initial	
Submission Date	12.00pm Wednesday 31st July 2019	Date	

TENDER SUBMISSION FORM 9

STATEMENT OF CONFORMANCE

The Tenderer must complete and submit with tender
All Submitted information will be treated as
confidential

The Tenderer is to signify whether or not the submitted Tender conforms with the requirements of the
Tender Documents by striking out below ** that which is not applicable.

This Tender ** does / does not ** conform.

Should the Tender not conform with the requirements of the Tender Documents, the Tenderer shall list below
all areas of non-conformance and the reasons for such non-conformance and shall value * each such non-
conformance so that in the event of the non-conformance being deemed unacceptable, the Contract sum can
be adjusted accordingly. If the non-conformances are not priced and are deemed to be unacceptable, the
tender may not be further considered.

Table with 2 columns: Area of Non-Conformance and Reason, *Value of Non-Conformance (\$)

Table with contract details: Contract (Management of Molong Caravan Park for a 3 Year Period), Contract Number (1019013), Council (Cabonne Council), Submission Date (12.00pm Wednesday 31st July 2019), Tenderer to Complete, Tenderer's Initial, Date.

INSTRUMENT OF AGREEMENT

This instrument shall be completed by Principal and Contractor after acceptance of the tender. It is included here for the Tenderer's information.

This form comprises a binding Contractual Agreement between:

CABONNE COUNCIL (Principal) and..... (Contractor)

to faithfully execute the whole of the Works as set out in the documents below for the

Contract: Management of Molong Caravan Park for a 3 Year Period

Contract No: 1019013

Within the Area of Cabonne Council

in accordance with: Tender dated.....and Letter of Acceptance dated..... ..

Contractual Document Parts Include

Specifications (Roles & Responsibilities)

Tender Submission Documents

Instrument of Agreement

The Principal does not guarantee that information provided as additional to the Contract Documents to assist the Tenderer in the preparation of the tender is accurate or complete and the Tenderer must make their own assessment as to the validity of the information.

Parties:

CABONNE COUNCIL of 101 Bank Street, Molong NSW 2866.
("Council")

("Manager")

Background:

- A. The Council is the owner of the Caravan Park
- B. The Council wishes to grant the Manager, and the Manager wishes to accept, an authority to control conduct and manage the Caravan Park.
- C. The Manager will control, conduct and manage the Caravan Park on the terms and conditions set out in this Agreement.

Objective Part:

1. DICTIONARY

1.1 Definitions

In this Agreement unless the context otherwise requires, the following words have these meanings.

Accountant means an accountant who is a member of a recognised Australian professional body such as CPA Australia, the Institute of Chartered Accountants in Australia, or the National Institute of Accountants.

Business Day means any day except a Saturday, Sunday or Public Holiday in New South Wales.

Caravan Park means the caravan park known as Molong Caravan Park, Watson Street, MOLONG NSW 2866 which is contained in the Premises.

Caravan Park Fees and Charges means the fees and charges payable by Caravan Park guests and residents as adopted or determined by Council from time to time and as may be amended from time to time.

Caravan Park Rules means any rules or regulations imposed by Law or Council from time to time relating to the use, occupation and/or access to the Caravan Park.

Commencement Date means the commencement date specified in the Schedule.

Confidential Information means the Records and anything marked as 'confidential'.

Council Cost means all costs in relation to:

- a) insurance including public liability insurance, building and contents insurance;
- b) Council rates;
- c) rubbish and waste disposal fees;
- d) Caravan Park utility costs including electricity, gas, water and sewerage;
- e) lawn mower and lawn mower fuel;
- f) Installation, repair and replacement of any Caravan Park equipment – for example washing machines, driers and lawn mower.
- g) Installation, repair and replacement of any Caravan Park buildings/structures.

Council costs do not include any amounts for which the Manager is liable or responsible for under this Agreement.

CPI means the method of adjustment that is in accordance with the following formula:

- a) take the relevant amount to be adjusted as of the last review date or if none, the Commencement Date
- b) divide that amount by the Consumer Price Index for Sydney (All Groups) for the quarter ended just before that last review date or if none, the Commencement Date
- c) multiply the result by the Consumer Price Index for Sydney (All Groups) for the quarter ended just before the new review date.

General Manager means the General Manager appointed by the Council or an employee of the Council with the written delegation of the General Manager to act on behalf of the General Manager for the purposes of this Agreement.

GST means the goods and services tax imposed under the GST Act.

GST Act means *A New Tax System (Goods and Services Tax) Act 1999 (Cwlth)* and the regulations thereunder.

Guarantor means the person(s) specified as guarantors in the Schedule.

Law includes all statutes, regulations, ordinances, proclamations, rules, by-laws and any other laws that may be applicable whether legislative, regulatory, governmental, departmental or otherwise. Without limiting the foregoing, this includes the *Local Government Act 1993 (NSW)* and the *Local Government (Manufactured Home Estates, Caravan Parks, Camping Grounds and Moveable Dwellings) Regulations 2005 (NSW)*, *Holiday Parks (Long-Term Casual Occupation) Act 2002 (NSW)*, *Holiday Parks (Long-Term Casual Occupation) Regulation 2009 (NSW)*, *Residential Parks Act 1998 (NSW)* and *Residential Parks Regulation 2006* as amended and any other applicable legislation.

Manager's Duties means the Manager's duties specified in Annexure "A" to this Agreement.

Manager's Fee means the Manager's fee payable as specified in the Schedule.

WHS Regulations means the *Work Health and Safety Act 2011 (NSW)*, the *Work Health and Safety Regulation 2011 (NSW)*, any other relevant Laws relating to work health and safety and Council's work health and safety policies (as may be amended, introduced or replaced from time to time) including any UV Protection Policy.

Option means the option specified in the Schedule.

Premises means the premises described in the Schedule.

Records means all records (including the Caravan Park guest register), accounts, books, and data (including information stored on a computer and any other system which stores data) in relation to the Caravan Park.

Schedule means the schedule attached to this Agreement.

Term means the term specified in the Schedule.

Termination Date means the termination date specified in the Schedule or such other date if a holding over period or option period applies, subject to any earlier right of termination set out in this Agreement or available at Law.

1.2 Interpretation Aids

Other interpretation aids appear at or near the end of this document.

2. GRANT OF RIGHTS

2.1 Management Rights

In consideration of the Manager complying with the terms and conditions of this Agreement, the Council grants the Manager the right to operate the Caravan Park for the period starting on the Commencement Date and ending on the Termination Date.

3. PAYMENTS

3.1 Manager's Fee

Subject to the Manager complying with the terms and conditions of this Agreement, the Council will pay the Manager's Fee to the Manager in accordance with the timeframes for payment set out in the Schedule.

3.2 GST

Unless otherwise specified, all amounts are expressed to be exclusive of GST. If GST is applicable, the amount payable shall be increased by the relevant amount of GST and is payable at the same time and in the same manner as the amount to which it relates is payable.

4. MANAGER'S COTTAGE

- a) The Manager has the option of whether or not to reside in the Manager's Cottage (and if the Manager chooses to do so the Council may require a separate residential tenancy agreement to be entered into in such form and content as the Council reasonably requires as a condition of residence);
- b) If a separate residential tenancy agreement is entered into and there is an inconsistency between the terms of this Agreement and the terms of the residential tenancy agreement, the terms of the residential tenancy agreement prevail to the extent of any inconsistency;
- c) If the Manager resides in the Manager's Cottage the Manager is responsible for the Cottage costs.
- d) If the Manager chooses to not reside in the Cottage, the Cottage would then form part of the caravan park accommodation and is available for hire.

5. MANAGER'S RIGHTS AND OBLIGATIONS

5.1 No Interruption

Subject to the Manager complying with the terms and conditions of this Agreement and also subject to any rights granted to Council under this Agreement or any Law, Council will not unreasonably interrupt the Manager's use and enjoyment of the Caravan Park.

5.2 Collection of Caravan Park Fees and Charges

a) The Manager must collect rents and other charges from Caravan Park guests and residents in accordance with Caravan Park Fees and Charges and the Manager must deposit these monies regularly and promptly in the manner and within the timeframes directed by Council.

b) The Manager must keep accurate documentation and receipts for all Caravan Park Fees and Charges paid and submit this to Council within the timeframes directed by Council.

5.3 Manager's Duties

a) From the Commencement Date the Manager must conduct the business and manage the Caravan Park in a proper, businesslike and orderly manner to a high standard in accordance with the Manager's Duties.

Without limiting the foregoing, the Manager must be courteous, attempt to serve the Council's best interest in respect of the Caravan Park and not engage in any conduct that causes or may cause the Council or Caravan Park loss of prestige or regard.

- b) The Manager will not permit or allow any disorderly conduct in or about the Caravan Park, or permit or allow any improper use of the Caravan Park including anything that amounts to a breach of any law.
- c) The Manager must not permit or allow excess noise to be emitted from the Caravan Park being noise above allowable noise levels determined by Council from time to time).
- d) The Manager will maintain and repair all equipment, fixtures, fittings and facilities in the Caravan Park in good working order and condition including cleaning and tidying the equipment, fixtures, fittings and facilities as often as required.
- e) The Manager will not permit any person onto the roof of any Caravan Park building and will not allow the erection of any fixtures and fittings without first obtaining Council's prior written consent.
- f) The Manager must complete all reports and submit all paperwork required by Council relating to the Caravan Park as and when required by Council including incident reports and details of all complaints, demands or claims relating to the Caravan Park.
- g) If required by Council, the Manager must attend at any meetings requested by Council to discuss the affairs of, and matters pertaining to, the Caravan Park.

5.4 Compliance with Laws

- a) The Manager must obtain and maintain any registrations, licenses, permits or other authorities to conduct the Manager's Duties.
- b) The Manager will comply with all WH&S Regulations and all other Laws when undertaking any maintenance or repair works or when supervising any maintenance or repair works.

5.5 Caravan Park Rules

- a) The Manager is responsible for ensuring the Caravan Park Rules are obeyed by residents, guests and other Caravan Park users.
- b) The Council will promptly inform the Manager of the introduction, amendment or replacement of any of the Caravan Park Rules.

5.6 Advertising

- a) All advertising, marketing and promotion must comply with all Laws, any Council requirements and be designed to maximise the utilisation of the Caravan Park.
- b) The Manager cannot advertise, market or promote any discounts or special offers in relation to the Caravan Park unless they are firstly approved of by the Council in writing.

5.7 Not to Encumber

The Manager must not mortgage or otherwise encumber the business of the Caravan Park.

5.8 Not to Contract on the Council's Behalf

Notwithstanding **clause 16** of this Agreement, the Manager may not enter into any contracts or agreements on Council's behalf and has no authority to bind the Council except as expressly authorised by the Council in writing. Without limiting the foregoing, the Manager is not authorised to incur expenses on behalf of the Council except as expressly authorised under this Agreement or as otherwise expressly authorised by the Council in writing.

6. COUNCIL'S RIGHTS AND OBLIGATIONS

6.1 Council Inspections

The Manager must permit any person or persons appointed by Council at any time to enter and inspect:

- a) the Records; and
- b) any buildings, equipment, fixtures and fittings and any other Caravan Park facilities.

6.2 Caravan Park Fees and Charges in Arrears

If any Caravan Park Fees and Charges payable by the Manager to the Council remain unpaid and in arrears by more the seven (7) days, the Council reserves the right to do any one or more of the following (without notice of demand):

- a) to claim upon any Security held by the Council;
- b) to re-enter into possession of the Caravan Park;

c) to seize any of the Manager's goods, plant and chattels within the Caravan Park and to sell such goods, plant and chattels to recover any arrears and return any surplus from such sale to the Manager. To the fullest extent permitted by law, Council is not required to obtain the best price, market price or fair price when selling the goods, plant and chattels.

6.3 **Adjustment to Caravan Park Fees and Charges**

a) Council reserves the right to adjust at any time the Caravan Park Fees and Charges that are payable including introducing new fees and charges, increasing the fees and charges that are payable and removing fees and charges.

b) Fees and charges are indexed annually

c) If Council makes such changes:

i) it will promptly notify the Manager in writing and also specify when such changes are to take effect.

ii) the Manager is responsible for notifying guests and residents of those changes and when they will take effect as well as ensuring any advertising, marketing and promotional material displaying the Caravan Park Fees and Charges are promptly updated to reflect the changes.

6.4 **Council Costs**

The Council is responsible for the Council Costs.

6.5 **Council's Right to Repair**

The Council may at any time enter the Caravan Park and effect any repairs, replacements, additions or alterations but, to the fullest extent permitted by law, the Council is not bound to perform any such repairs, replacements, additions or alterations.

7. **INSURANCES AND INDEMNITIES**

7.1 **Public Liability**

During the term of this Agreement the Council will take out and maintain public liability insurance for such sum as it reasonably determines and which contains other terms satisfactory to Council including insurance of goods, fixtures and fittings in the Caravan Park.

7.2 **Workers' Compensation**

The Manager will take out and maintain the following insurance policies:

a) all insurances required by Law (including under the *Workers Compensation act 1987 (NSW)*;

b) such other insurance policies as the Council reasonably requires.

The Manager must provide evidence of such insurance to the Council together with premium receipts and such other evidence as may be required to prove the existence and continuity of cover.

7.3 **Indemnities**

a) To the fullest extent permitted by law, the Manager indemnifies the Council against all actions, suits, claims, demands, proceedings, losses, damages, compensation, costs, charges, expenses (including legal costs on a full indemnity basis) and all other liability arising out of or in respect of any damage or injury to persons or property upon or connected to the Caravan Park and any breach or default by the Manager of its obligations.

b) Without limiting the foregoing the Manager is liable for any repairs or replacements caused by the negligent or willful act or omission or breach or default by the Manager or any agent, contractor, employee or officer of the Manager.

c) The Council is entitled to deduct any monies due or becoming due to the Manager towards satisfaction of this indemnity.

7.4 **Releases**

a) The Manager agrees to occupy, use and operate the Caravan Park at its own risk in all things and releases to the fullest extent permitted by law the Council and its officers, employees, agents and contractors from all actions, suits, claims, demands, proceedings, losses, damages, compensation, costs, charges, expenses and all other liability resulting from any accident or event occurring within or about the Caravan Park except to the extent that it is caused by the negligence of the Council, its employees, agents or contractors.

b) Without limiting the generality of the foregoing, if any stock-in-trade or the Manager's fixtures and fittings or any other property of any description or kind whatsoever of or in the possession of the Manager contained in or about the Caravan Park shall be lost or damaged by heat, fire, electricity, vermin, explosion, tempest, bursting pipes or by the entry of water from any source whatsoever (including rainwater and storm water) or by the operation of any fire equipment, or otherwise arising, no part of the loss or damage suffered by the Manager thereby (including any loss of profits or economic loss resulting therefrom) shall be borne by the Council and the Manager releases the Council from liability in respect of such loss or damage except to the extent that it is caused by the negligence of the Council or its employees, agents or contractors.

c) Notwithstanding anything to the contrary, the Council shall not be liable to the Manager for any indirect, special or consequential loss of any kind whatsoever (even if the Council was made aware of the possibility of such loss) including loss of profits or economic loss howsoever caused including that caused or contributed to by:

i) the act, omission, negligence, breach or default of the Council or its agents, officers, employees or contractors; or

ii) the Council or its agents, officers, employees or contractors taking any action permitted by this Agreement, or in law, or equity, or enforcing, or attempting to enforce, or failing to enforce, or delaying in enforcing any of its rights.

7.5 **Third Parties**

To the fullest extent permitted by law, the parties agree that the agents, officers, employees and contractors of the Council shall have the benefit of, and be entitled to enforce the benefit of, any provisions of this clause which operate to their favour.

7.6 **Control of the Caravan Park**

The Manager acknowledges and agrees that for the purposes of the WH&S Regulations the Manager has control of the Caravan Park and the Manager hereby releases and holds harmless the Council from any and all obligations thereunder in respect of the Caravan Park.

8. REPORTS AND ACCOUNTING

8.1 **True and Accurate Records**

The Manager must keep true and accurate Records and must store such Records for at least 7 years (unless Council elects to store such Records).

8.2 **Reports**

The Manager is responsible, at its own cost, for the preparation and submission to Council of any reports in relation to the business of the Caravan Park that the Council reasonably requires.

8.3 **Compliance with Legislation**

The Manager agrees it is responsible, at its own cost, for the preparation of all statements and reports necessary for the business of the Caravan Park and will comply with all laws including taxation laws and employment laws (including employment and staff payments and entitlements). The Manager will outsource to an Accountant all responsibilities for which it does not have the professional expertise, for example, income tax returns.

8.4 **Provision of Records**

The Manager agrees that in compliance with this clause the Manager must give the Council copies of all Records kept by it together with any supporting documents as may be requested by Council from time to time.

9. TERMINATION

9.1 **Term**

This Agreement will operate for the Term unless earlier terminated.

9.2 **Termination by Council**

a) The Council may immediately terminate this Agreement and all other agreements between the Council and the Manager by giving notice to the Manager if the Manager:

i) fails to pay any money payable under this Agreement to the Council and that money is more than 14 days overdue (whether or not a formal demand has been made for payment);

ii) breaches this Agreement and:

- A) the breach is capable of rectification but the Manager fails to do so within 14 days of receiving a notice from the Council to rectify the breach; or
- B) the breach is not capable of rectification; or
- C) notwithstanding sub-clause A), the breach is of an essential term;

iii) becomes insolvent or bankrupt

iv) has a receiver, receiver or manager, liquidator, provisional liquidator, controller or any form of external administrator appointed to or over it;

v) enters into a scheme, arrangement, agreement or compromise with its creditors or calls a meeting of creditors;

vi) is convicted of a criminal offence;

vii) fails to obtain the Council's consent when required; or

viii) ceases to conduct the business of the Caravan Park for any reason.

9.3 **Effect of Expiration or Termination**

The termination or expiration of this Agreement shall not affect any provision of this Agreement expressed or capable of operating or having effect subsequent to termination or expiration and shall be without prejudice to any accrued right or remedy of a party in relation to any breach of or default by the other party occurring prior to termination or expiration. This applies irrespective of whether or not a clause is stated not to merge on expiration or termination.

9.4 **Council May Rectify Breach**

Without prejudice to any right or remedy of Council, the Council may, at its discretion, rectify any breach or default by the Manager of this Agreement at the Manager's cost. Such costs must be paid by the Manager on demand.

9.5 **Termination by Notice**

The Council may terminate this Agreement (without the need to give any reasons) by giving the Manager at least 30 days prior written notice.

9.6 **Suspension**

a) If the Manager defaults or fails or delays in performing its obligations then in addition to and without prejudice to any other rights or remedies of the Council (including exercising a right of termination after suspension), the Council may suspend the performance of its obligations until such breach is rectified without being liable to the Manager for any loss or damage of any kind suffered by the Manager as a result of such suspension.

b) The Council is entitled to a reasonable extension of any timeframe applicable to its obligations as a result of such suspension.

10. **WHEN AGREEMENT ENDS**

10.1 **Manager's Right and Obligations**

The Manager must immediately and at its own cost:

a) deliver to the Council all keys, telephone connections, e-mail addresses, equipment and other Council property at the Caravan Park;

b) cease using any of the keys, telephone connections, e-mail addresses, equipment and other Council property at the Caravan Park;

c) quietly yield up the Caravan Park to the Council in the same condition it was in at the Commencement Date (fair wear and tear excepted); and

d) pay all moneys owing to any service provider which the Manager had direct agreements with.

10.2 **No Rebate or Compensation**

At the end of this Agreement (for whatever reason), the Manager is not entitled to any rebate or refund of:

a) any fees or any other money paid by the Manager to the Council or any other person.

b) any marketing, promotional or advertising or any other activities relating to the Caravan Park; or

c) any compensation or loss suffered by the Manager resulting from this Agreement ending.

11. NOT USED**12. OPTION AND HOLDING OVER****12.1 Option For Further Term**

a) If an Option is specified, the Council may elect to renew this Agreement with the Manager, with such renewal to be on the same terms as this Agreement (as they then exist) except that no further Option shall apply and the Termination Date shall be extended to the end of the Option period.

For clarity, no new Caravan Park Management Agreement needs to be signed to give effect to the renewed term unless Council requires this to be done in which case the Manager must sign (and have any Guarantors sign) and return such new agreement to the Council within 14 days after it is given to the Manager.

b) If the Council elects to renew this Agreement, the Council must provide at least 3 months written notice to the Manager prior to the end of Term.

c) The Council reserves the right to call for new tenders to manage the Caravan Park.

13. HOLDING OVER**13.1 Holding Over**

If the Manager continues to operate the Caravan Park after the Termination Date with the consent of the Council, then the Manager does so on the same terms as this Agreement (as they then exist) except that either party during that holding period may end this Agreement by giving the other at least 30 days prior written notice.

14. GUARANTEE**14.1 Guarantee and Indemnity**

In consideration of the Council granting this Agreement to the Manager, the Guarantor hereby:

a) guarantees to the Council the due and punctual payment of all moneys hereby covenanted or agreed to be paid and the due and punctual observance and performance by the Manager of all the terms contained in this Agreement and on the part of the Manager to be observed and performed; and

b) indemnifies the Council and agrees at all times hereafter to keep the Council indemnified from and against all claims, demands, actions, suits and proceedings and all costs (including legal costs and disbursements on a full indemnity basis), expenses, loss and damage made against, suffered, paid or incurred by the Council consequent upon or arising directly or indirectly of any breach, non-observance or non-performance by the Manager of any of the terms contained in this Agreement and on the part of the Manager to be observed and performed.

14.2 Conditions

The Guarantor agrees that:

a) where there is more than one person named as Guarantor the failure or refusal of any Guarantor to execute this Agreement as Guarantor or the fact that the execution of this Agreement by any Guarantor (other than the person sought to be made liable) is or may become unenforceable, void or voidable shall not prejudice or affect the liability or obligations of any Guarantor who does so execute this Agreement;

b) the guarantee and indemnity shall not be prejudicially affected by any other security or guarantee given in favour of the Council in respect of matters the subject of this guarantee and indemnity;

c) the guarantee and indemnity shall be a continuing guarantee and indemnity and shall be irrevocable and remain in full force and effect until the due and proper and complete performance of all the obligations the subject of the guarantee and indemnity; the liability of the Guarantor shall not be affected notwithstanding any of the following circumstances:

- i) any other person becoming or ceasing to be a Guarantor;
- ii) the death, bankruptcy, insolvency, liquidation or other disability of the Manager or a Guarantor;
- iii) the granting of any time, credit or other indulgence or concession to the Manager or the Guarantor;

iv) composition, compromise, release, discharge, arrangement, abandonment, waiver, variation, relinquishment or renewal of any security or right by the Council;
vii) any transfer or assignment of the Agreement;

viii) any determination of the Agreement (whether by effluxion of time, re-entry, forfeiture, surrender or otherwise);

ix) any absolute or partial release of the Manager or the Guarantor or any compromise with the Manager or the Guarantor; or

x) any exercise or purported exercise by the Council of its right or re-entry;

xi) any other act, matter or thing that may or would otherwise prevent in whole or part the Council from relying upon the guarantee and indemnity given by a Guarantor;

any each of the above circumstances shall be construed separately and independently and so as not be limited by the provisions of any other clause of this Agreement;

e) notwithstanding that as between the Guarantor and the Manager the Guarantor is the guarantor of the Manager, the obligations of the Guarantor shall so far as concern the Council and without limiting, reducing or prejudicing any other rights contained herein in any way whatsoever be deemed to be obligations of a primary and principal character;

f) the guarantee and indemnity may be enforced by the Council without any steps to claim, enforce or recover against the Manager, and within any time whatsoever after the right to take any such steps against the Manager has arisen and notwithstanding any delay, laches or acts or omission by the Council whatsoever;

g) neither the Guarantor's liability nor the Council's rights under this clause shall be prejudiced or discharged by any act or omission or any event or securities of any description which might be otherwise have the effect (whether at law, in equity or under statute) of prejudicing or discharging the liability of the Guarantor hereunder either as a Guarantor or principal debtor or as an indemnifier;

h) any and all moneys received by the Council from time to time from the Guarantor shall be applied towards the satisfaction of the default, breach or lack of performance of the obligations hereunder;

i) the Guarantor shall not be entitled to claim or seek to enforce or recover moneys paid pursuant to his obligations contained in this clause from the Manager unless and until all of the obligations the subject of the guarantee and indemnity shall have been fully and completely performed;

j) any and all moneys received by the Council from time to time from the Manager shall be regarded as payments in gross without any right on the part of the Guarantor to stand in place of the Council in respect of or to claim the benefit of any such moneys unless and until all of the obligations the subject of the guarantee and indemnity shall have been fully and completely performed;

k) in the event of the bankruptcy or liquidation of the Manager:

i) the Guarantor shall not prove in such bankruptcy or liquidation in competition with the Council, and

ii) the Guarantor hereby authorises the Council;

A) to prove for any and all moneys which the Guarantor has paid pursuant to the provisions of this clause; and

B) to retain and carry those moneys to a suspense account; and

C) to appropriate in the discretion of the Council those moneys until the Council shall have received full and complete payment of moneys owing pursuant to the obligations the subject of the guarantee and indemnity;

l) the Guarantor hereby waives in favour of the Council any and all rights whatsoever it may have against the Council or the Manager or any other person, estate or assets so far as may be necessary to give effect to any act, matter or thing the subject of this guarantee and indemnity;

m) until the due and proper and complete performance of all the obligations the subject of this guarantee and indemnity no party shall be or be able to be released and discharged from those obligations except by the execution by the Council of an agreement to that effect;

n) if there is more than one person forming the Guarantor such guarantee and indemnity is given by those persons jointly and severally;

o) it shall execute any and all documents and instruments which may be required to complete or bring into effect the provisions of the guarantee and indemnity;

p) notwithstanding anything else contained in this Agreement to the contrary, should this Agreement be terminated or be or become or be rendered void, voidable, unenforceable or in any way inoperative in whole or in part, the liability of the Guarantor shall remain as if the Agreement remained in force to the extent required to cover the performance of any obligations pursuant to the provisions of the guarantee and indemnity;

q) if the Manager becomes bankrupt or goes into liquidation and the trustee or liquidator disclaims this Agreement, the obligations of the Guarantor contained in this clause shall extend to any loss or damage suffered or incurred by the Council as a result of such disclaimer and the Council shall not be required, before calling upon the Guarantor to make good such loss or damage, to prove or take any other steps in the bankruptcy or liquidation.

15. CONFIDENTIALITY

15.1 Confidentiality of Information

The Manager must keep all Confidential Information confidential and not disclose same to any third party except as expressly provided for in this Agreement or otherwise unless the prior written consent of the Council is obtained. If the Manager is uncertain as to whether the information is confidential, the Manager agrees to treat it as confidential until the Council otherwise notifies it in writing. The Manager must immediately return any Confidential Information of the Council upon demand.

16 RELATIONSHIPS BETWEEN THE PARTIES

16.1 No Partnership

The Manager:

a) acknowledges that the success of the Caravan Park business depends on the Manager's efforts and that of its employees; and

b) acknowledges that it conducts the Caravan Park business as an agent and representative of the Council subject to the restrictions and limitations set out in this Agreement and/or as otherwise notified to the Manager in writing by the Council from time to time. The Manager must not hold out or represent that it is a partner, joint venturer or employee of the Council.

17. NOTICE

17.1 Service of Notice by Manager

Any notice required to be served by the Manager shall be valid if in writing and signed by the Manager and deemed to be served on Council if served:

a) to the General Manager personally; or

b) by pre-paid post addressed to the General Manager of Council in which case it is deemed to have been served 2 Business Days after (and not including) the day of posting; or

c) by facsimile at the business address of the Council – in which case it is deemed to have been served at the time and on the day that the whole of the notice has been transmitted from the sending facsimile machine;

However, any notice that is served after 5pm on a Business Day or anytime on a non-Business Day, is deemed to have been served at 9am on the next Business Day.

17.2 Service of Notice by Council

Any notice required to be served by Council shall be valid if in writing and signed by the General Manager, or Council's solicitor, or any other person authorised by Council from time to time and deemed to be served on the Manager if:

a) delivered to the Manager personally; or

b) by pre-paid post addressed to the Manager in which case it is deemed to have been served 2 Business Days after (and not including) the day of posting; or

c) by facsimile to the facsimile at the business address of the Manager – in which case it is deemed to have been served at the time and on the day that the whole of the notice has been transmitted from the sending facsimile machine;

If however, any notice that is served after 5pm on a Business Day or anytime on a non-Business Day, is deemed to have been served at 9am on the next Business Day. When serving the notice, the Manager does not reside in the Caravan Park, Council may in addition to the above, serve a notice by pre-paid post to the Manager's last known place of business or abode.

18 MISCELLANEOUS PROVISIONS

18.1 Interpretation

In this Agreement, unless the context otherwise requires:

- a) headings and underlines are for convenience only and do not affect the interpretation of this Agreement;
- b) words importing the singular include the plural and vice versa;
- c) words importing a gender include any gender;
- d) an expression importing a natural person includes any company, partnership, joint venture, association, Trust, corporation or other owner's corporation;
- e) a reference to anything includes a part of that thing;
- f) a reference to a part, clause, party, schedule or annexure is a reference to a part, clause, party, schedule or annexure to this Agreement;
- g) a reference to any statute, regulation, proclamation, ordinance or by-law includes all statutes, regulations, proclamations, ordinances or by-laws varying, consolidating or replacing them, and a reference to a statute includes all regulations, proclamations, ordinances and by-laws issued after that statute;
- h) a reference to a document or an agreement includes an amendment or supplement to, or replacement or novation of that document or agreement;
- i) a reference to a party to this Agreement or in any other document or agreement includes that party's permitted successors and permitted assigns;
- j) where the day on which any thing is to be done is not a Business Day, that thing must be done on the next Business Day;
- k) no rule of construction applies to the disadvantage of a party because that party was responsible for the preparation of this Agreement or any part of it;
- l) a reference to an agreement includes an undertaking, deed, agreement or legally enforceable arrangement or understanding whether or not in writing;
- m) a covenant, an agreement or acknowledgement on the part of, or in favour of, two or more persons, binds them or ensures to their benefit jointly and severally.
- n) the words "includes", "including", "for example", "eg", "ie", "such as" and similar expressions are not words of limitation.

18.2 Governing Law

This Agreement shall be governed by and construed in accordance with the laws of the State of New South Wales.

18.3 Jurisdiction

Any legal action or proceedings with respect to this Agreement against any party or any of its property and assets may be brought in the Courts of the State of New South Wales and, by execution and delivery of this Agreement that party accepts, for itself and in respect of its property and assets, generally and unconditionally the jurisdiction of the Courts of that State.

18.4 Variations

Subject to the terms of this Agreement, any amendments, variation or modification to or of, or consent to departure by any party from the terms of this Agreement shall have no force or effect unless effected by a document executed by the parties.

18.5 Third Parties

Subject to the terms of this Agreement, this Agreement shall confer rights and benefits only upon a person expressed to be a party and not upon any other person.

18.6 Assignment

- a) The Council may transfer or assign its rights and obligations under this Agreement without the prior consent of the Manager.
- b) The Manager shall not transfer or assign its rights or obligations under this Agreement without the prior consent in writing of the Council.

18.7 Sub-Contracting

The Manager must not sub-contract part or all of its rights or obligations.

18.8 Waivers

The failure to exercise or delay in exercising by any party of any right conferred by this Agreement shall not operate as a waiver and the single or partial exercise of any right by that party shall not preclude any other or further exercise of that or any other right by that party.

18.9 Remedies The rights of a party conferred by this Agreement are cumulative and are not exclusive of any rights provided by law.

18.10 Pre-Contractual Negotiation

- a) This Agreement expresses and incorporates the entire agreement between the parties in relation to its subject matter, and all the terms of that agreement and supersedes and excludes any prior or collateral negotiation, understanding, communication, agreement, representation or warranty by or between the parties in relation to that subject matter or any term of that agreement.
- b) Neither party shall, after execution of this Agreement, be entitled, as against the other party or other officers of any party, to bring suit on the basis of any verbal or written communications, representations, inducements, undertakings, agreements or arrangements except expressly as provided by this Agreement.

18.11 Further Assurance Each party shall execute all documents and perform all acts necessary to give full effect to this Agreement.

18.12 Severability

Any provision of this Agreement which is prohibited or unenforceable in any jurisdiction shall, as to that jurisdiction, be ineffective to the extent of that prohibition or unenforceability, without invalidating the remaining provisions of this Agreement or affecting the validity or enforceability of that provision in any other jurisdiction.

18.13 Counterparts

This Agreement may be executed in any number of counterparts, all of which taken together shall be deemed to constitute on and the same document.

18.14 Power of Attorney

Each party who grants a power of attorney by this Agreement hereby declares that the power of attorney is irrevocable, has been given for valuable consideration, may be exercised during any subsequent legal incapacity on the donor's part and may be exercised notwithstanding any conflict of interest.

Signature: x _____ Date: _____

Address: _____

Witness: _____(signature)

THE COMMON SEAL of CABONNE COUNCIL is hereto affixed this _____ day of _____ 2019 in pursuance of a resolution passed on the _____ day of _____ 2019

SCHEDULE

Item 1	Manager:	
Item 2	Commencement Date:	20 September 2019
Item 3	Termination Date:	19 September 2022
Item 4	Term:	3 Years
Item 5	Premises	Molong Caravan Park Watson Street MOLONG NSW 2866 Lot 40 DP709682 Zoning: B 2 – Local Centre Land Category: N/A Classification: N/A
Item 6	Manager’s Fee	\$_____per annum including GST. Being \$_____ per week including GST.
Item 7	Guarantor:	Not Applicable
Item 8	Option for Further Term:	Not Applicable

ANNEXURE "A" - MANAGER'S DUTIES

1. All duties and responsibilities stated in the Agreement – 5. Managers Rights and Obligations (Contract 1019013 Management of Molong Caravan Park for a 3 Year Period)
2. Accept bookings, welcome guests, allocate sites and distribute information and Caravan Park rules.
3. Receive payments and issue receipts on behalf of Council.
4. Maintain a daily guest register of Caravan Park residents.
5. Enforce Council's adopted Caravan Park rules.
6. Deposit payments of Caravan Park Fees and Charges promptly at the Council's office or in a manner otherwise directed by Council.
7. Ensure that the numbers of permanent and casual Caravan Park residents in the park do not exceed the licensed maximum.
8. Carry out maintenance (minimum twice daily or more frequently as required), cleaning and disinfection of all parts of the Caravan Park's amenities and facilities including but not limited to the Manager's Cottage,.
9. Cleaning and tidying of the Caravan Park kitchen facilities, units/cabins and campsites as reasonably required.
10. Maintain the Caravan Park grounds in a neat and tidy manner except those areas which are maintained by Council.
11. Irrigate the lawns and trees as reasonably required.
12. Collect and dispose of any rubbish, litter and fallen leaves within the Caravan Park area.
13. Liaise with Council including Council's Operations Manager and other engineering staff where necessary.
14. Notify Council where repairs and / or replacement of items are required.
15. Issue and track possession of any Caravan Park keys, for example shower and toilet amenity keys and ensure their return by residents or guests.
16. Liaise with Council on the screening and assessment of prospective permanent Caravan Park residents. The Manager is not authorised to enter into or grant permanent residency status to any Caravan Park resident including entering into any Residential Tenancy Agreement. Council is responsible for all permanent residency decisions and agreements.
17. Liaise with Council on prospective long-term casual occupants of a Caravan Park site. The Manager is not authorised to enter into or grant any occupation agreement to any occupant of a site. Council is responsible for all long-term casual occupation agreements.
18. Attend quarterly meetings with Council's Caravan Park Committee.
19. Ensure that all guests (except approved permanent residents or long-term casual occupants) do not extend their stay in the Caravan Park beyond sixty (60) days.
20. Ensure any uncollected goods left by any guests, permanent residents or long-term casual occupants are removed, sold or disposed of in accordance with the Caravan Park rules and any applicable Law.

21. Keep the Caravan Park open during the hours of operation for the Caravan Park.
22. Such other reasonable related or ancillary duties to the above or to the management and operation of the Caravan Park that Council may request from time to time.
23. Caravan park consumables – for example toilet paper, hand towels and replacement keys (including cleaning materials).