

LEASE AGREEMENT



BETWEEN

SHIRE OF DARDANUP

AND

**DARDANUP AEROMODELLERS
SOCIETY (INC)**

FOR

**PORTION OF LOT 4579 PANIZZA ROAD,
DARDANUP**

PARTICULARS

Council	Shire of Dardanup
Club	Dardanup AeroModellers Society Inc C/- 46 Millard Street, Eaton WA 6232
Property	Portion of Lot 4579 Panizza Road, Dardanup
Fee	Peppercorn
From	1 January 2008
To	31 December 2012
Purpose	Conduct Model Aircraft Flying Activities
Conditions	The Club will be responsible for minor maintenance and repairs to existing shed if utilised (Not suitable for clubrooms), maintaining existing fencing, utility costs including connection fee, keeping area used in clean condition, provision of portable toilet and adequate public liability insurance.

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LEASE OF PORTION OF LOT 4579 PANIZZA ROAD, DARDANUP FOR FLYING MODEL AIRPLANES

THIS AGREEMENT is made the _____ day of _____ 200__ .

BETWEEN The Shire of Dardanup (Council)

AND Dardanup AeroModellers Society (Inc) (the Club)

RECITALS:

- A.** Council is the owner of Lot 4579 Panizza Road, Dardanup.
- B.** Council and the Club have mutually agreed that the Club will have the usage of a central portion of Lot 4579 on the terms and conditions set out in this Agreement and identified on the attached drawing.

1. DEFINITIONS AND INTERPRETATION

This Agreement is to be interpreted according to the following definitions:

CEO means Chief Executive Officer of Shire.

Club means the Dardanup AeroModellers Society (Inc).

Council means Shire of Dardanup.

Fee means Peppercorn Rental.

Land means the Land depicted on the attached drawing.

Parties means Council and the Club

Term means the period of this agreement and shall be five 5 years with an option for a further five (5) years, commencing on the 1 January 2008.

- 1.2 References to laws include Acts, Regulations, Instruments and Local Laws and all other subordinate legislation or orders made by any authority with jurisdiction over the land. Illegal means contrary to a law as defined in this sub clause.
- 1.3 This Agreement must be interpreted so that it complies with all laws applicable in Western Australia. If any provision of this Agreement does not comply with any law, then the provision must be read down so as to give it as much effect as possible. If it is not possible to give the provision any effect at all, then it must be severed from the rest of the Agreement.

- 1.4 Any change to this Agreement must be in writing and signed by the Parties.
- 1.5 Headings and the Summary are for ease of reference only and shall not affect the interpretation or construction of this Agreement.

2. RIGHTS TO USE PORTION OF LAND

- 2.1 Council grants to the Club the right to use the central portion of Lot 4579 Panizza Road for the Dardanup AeroModellers Society (Inc) and associated activities during the term, on the conditions set out in this Agreement.
- 2.2 Council currently uses the front portion facing Panizza Road, for the extraction of sand and gravel for use in the Shire's works program, this activity will continue during the lease, the Club's access to the property will be via the Western most gate by linking their own padlock into the existing padlock which allows Council access to the property.

No Access is permitted through the Eastern Access gate or within the gravel pit at any time.

- 2.3 Council reserves the right to sell the whole or any part of Lot 4579 Panizza Road, Dardanup, including that part of the land covered by this lease, at any time, giving the Club 120 days notice in writing of its intention to do so. No compensation will be payable to the Club in the event that Council sells or disposes of this property.
- 2.4 If in the future Council needs to expand the area currently used for the extraction of sand or gravel, then written notice will be provided to the Club advising the extent of the proposed expansion, and may direct the Club to move its activities on the Land to allow the expansion. Council will not be liable for any costs incurred by the club for re-locating the matting material, wind-socks or other infrastructure used on the airstrip.

3. CLUB'S OBLIGATIONS

- 3.1 The Club shall:

- 3.1.1 Community Owned Property

In recognition that the Land is a community owned property:

- a) Encourage Use

Promote the use of the leased land to encourage people to fly model aircraft at the site so that they can develop their flying skills in a safe and controlled environment.

- b) Functions on Property

The Club is not to hire out the leased land and has no rights to sub-lease the property.

Any event/functions held by the Club shall not proceed beyond 1am, the Club will be responsible for obtaining the appropriate approvals for any public event.

If liquor is to be consumed on the property an application for a liquor licence is to be forwarded to the Chief Executive Officer of the Shire for approval.

Sale of liquor on the land is not permitted.

3.1.2 Utility Costs

Take responsibility for the connection to the shed of all services required and must pay when due all charges for the provision of those services including electricity and telephone if connected.

The Club should be aware that the site is not connected to mains water and any water obtained from the site is not suitable for human consumption.

3.1.3 Toilet Facilities

The Club will be responsible for the provision of toilet facilities at the site at no cost to Council, a application for approval from Council is required before toilets can be installed.

3.1.4 Maintenance

At the Club's cost maintain the existing perimeter fencing on the leased area of land to the satisfaction of Council.

3.1.5 Rubbish

Be responsible for the collection and removal of litter, waste and debris from the land utilised.

3.1.6 Fee

Peppercorn Lease.

3.1.7 Insurance

Maintain public liability insurance cover for the Club of not less than \$10,000,000 in the joint names of the Club and Council. A Certificate of Currency and/or a copy of the insurance policy together with proof of payment of the current premium shall be provided to Council within 14 days after the date of this Agreement and thereafter annually. The Club will be responsible for taking out adequate property and contents insurance for planes and other equipment.

3.1.8 Defect Notices

Carry out repairs within 14 days of being served with a written notice of any defect or lack of repair which the Club is obliged to make good under this Agreement. If the Club does not comply with the notice, Council may carry out the repairs and the Club shall repay the cost to Council on demand.

3.1.9 Permit Council to Enter

Permit Council, its agents or employees to enter the land bringing any necessary equipment, during normal business hours, to undertake the following;

- a) Extract sand or gravel
- b) to carry out repairs or agreed alterations; and
- c) to do anything necessary to comply with notices or orders of any authority and
- d) carry on with the usual business activity of a Council as owner of the property.

3.1.10 Fire Prevention

Take all precautions required by law against fire and comply with the Council Fire Break Notice, and directions of the Council or Bushfire Brigade Fire Control Officer as to the prevention, detection and limitation of fire.

Fuel is not to be stored on the property at any time.

3.1.11 Contact Details

Ensure that Council is always provided with the current contact details for the authorised representatives of the Club and with contacts for emergency situations.

3.2 The Club shall not allow anyone without the written consent of Council to do any of the following:

3.2.1 Nothing Illegal

Use the Property for any illegal purpose.

3.2.2 Noise Management

All activities on the property shall comply with the Environmental Protection (noise) Regulations at all times.

3.2.3 Not Affect Insurance

Do anything which might affect any insurance policy relating to the Property by causing:

- a) it to become void or voidable; or
- b) any claim on it being rejected.

3.2.4 Locks

The Club is to provide its own gate padlock, which will be entwined with Council's padlock to ensure entry for both parties.

3.2.5 Council Consent for Signs

Place any sign without Council's written consent.

3.3 Risk and Indemnity

The Club:

3.3.1 Uses and occupies the land at its own risk. If any event occurs beyond Council's control which results in the disruption of the Club's operation of the land, Council will not be liable for any loss whatsoever sustained by the Club including loss of profit.

3.3.2 Releases Council from any claim, action or demand due to any damage, loss, injury or death occurring on the Property except to the extent that Council causes this by any act of negligence.

3.3.3 Indemnifies Council and holds harmless against any claim, action or demand due to any damage, loss, injury or death caused by:

- a) the Club's negligence; or
- b) the Club's use or occupation of the Land by the Club or its employees, agents, contractors, customers or visitors while using the Property, except to the extent that Council caused this by any act of negligence.

4. COUNCIL'S OBLIGATIONS

4.1 Public Liability

Council will maintain an appropriate public liability insurance cover for risks associated with Council's relationship to the land.

5. TRANSFERS AND ASSIGNMENTS

The Club does not have the power to transfer or assign this Agreement.

6. AT THE END OF THE AGREEMENT

6.1 When the Agreement ends, the Club must:

6.1.1 Return possession of the land to Council in a clean and good condition as required by this Agreement; and

6.1.2 Remove the Club's installations and other goods from the Property and make good any damage caused in removing it.

6.1.3 Remove the Clubs padlock from the gate.

6.2 If the Club leaves any of its installations or other goods on the Property after the end of the Agreement, unless Council and the Club agree otherwise, that property will be considered abandoned and may become the property of Council.

7. EVENTS OF DEFAULT AND COUNCIL'S RIGHTS

7.1 Grounds for Ending the Agreement

Council may re-enter the Property and end this Agreement if:

7.1.1 The Club does not meet its obligations under this Agreement within 14 days of a notice of default being sent to the Club; or

7.1.2 The Club, without Council's written consent, discontinues its usage of the Property.

7.1.3 The Club is wound up, goes into liquidation, is placed under official management or has a receiver or receiver/manager appointed or has an administrator appointed whether by the Courts or voluntarily.

7.2 Re-entry by Council onto the portion of land covered by this lease ends this Agreement,

7.3 Even though Council does not exercise its rights under this Agreement on one occasion, it may do so on any later occasion.

7.4 The Club shall meet all costs incurred by Council with respect to any breach of this agreement or any exercise or attempted exercise by Council of any right or remedy against the Club.

8. DESTRUCTION OR DAMAGE

If the land is damaged so that it cannot be used for the permitted use:

- 8.1 Council is not obliged to re-instate any structures; and
- 8.2 If the re-instatement does not start within three months, or is not complete within six months, Council or the Club may end this Agreement by giving the other written notice.

9. CONSENTS AND WARRANTIES BY THE PARTIES

- 9.1 Council must not unreasonably withhold its consent to any act by the Club which needs consent unless any other clause provides otherwise, but;
 - 9.1.1 Council may impose reasonable conditions before consenting;
 - 9.1.2 the Club must reimburse Council's reasonable expenses resulting from an application for its consent, including fees paid to consultants.
- 9.2 This Agreement contains the whole agreement of the Parties. Neither Party is entitled to rely on any warranty or statement in relation to:
 - the conditions on which this Agreement has been agreed;
 - the provisions of this Agreement; or
 - the Property,

which is not contained in those documents.

10. FURTHER TERM

- 10.1 Council may agree to renew the Agreement, on such terms and for such a period as agreed by the parties, if the Club gives Council a written request for renewal not more than six months nor less than three months before this Agreement expires.
- 10.2 Any such renewed Agreement shall:
 - 10.2.1 commence on the day after the date this Agreement expires;
 - 10.2.2 be of a negotiated set of terms and conditions taking into account the experiences gained from operating under the terms and conditions contained in this Agreement.
- 10.3 Council does not have to renew this Agreement if:
 - 10.3.1 there is any unremedied default of which Council has given the Club written notice; or
 - 10.3.2 the Club has persistently defaulted under this Agreement throughout its Term and Council has given the Club written notices of the defaults.

11. ABANDONMENT OF THE PROPERTY

If the Club vacates the Land during the Term, Council may:

- a) remove the Clubs lock,
- b) enter the Property/land to inspect, maintain or repair them, or
- c) show the Property to prospective occupiers,

without this being re-entry or waiver of Council's rights to recover the other money under this Agreement.

12. NOTICES

- 12.1 A notice given under this Agreement by either party may be given by post, by facsimile, and/or by delivery to Council or to the Club's contact address or at the Clubrooms.
- 12.2 Posted notices will be taken to have been received 72 hours after posting unless proved otherwise.
- 12.3 Notices delivered or sent by facsimile after 4.00pm will be taken to have been received at 9.00am on the next business day at the place where it is received.
- 12.4 Any notices intended for the Club which come instead to the Council shall be forwarded to the Club without delay.

13. MEDIATION

- 13.1 The Parties agree to resolve any dispute by mediation where the costs of the mediation and the mediator will be shared equally between the Parties.
- 13.2 The mediation procedure will be determined by the accredited mediator.

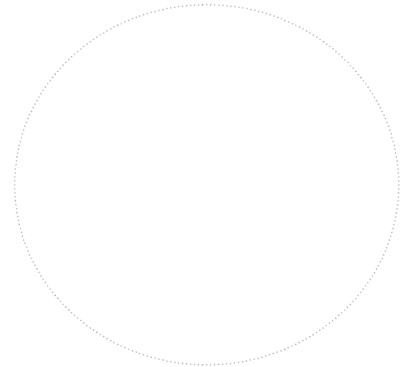
SIGNATURES & AFFIXING OF THE SEAL

THE COMMON SEAL of the **SHIRE OF DARDANUP**

was hereunto affixed

this _____ day of _____ 200__.

in the presence of:



CR. BRADLEY G DAY
Shire President

MR MARK L CHESTER
Chief Executive Officer

SIGNED for by the **DARDANUP AEROMODELLERS SOCIETY INC.**

this _____ day of _____ 200__.

By:

Signature: _____

Committee Member: Dardanup AeroModellers Society Inc.

Name: _____

Address: _____

Signature: _____

Committee Member: Dardanup AeroModellers Society Inc.

Name: _____

Address: _____

APPENDICES