

**District Council of Peterborough
Depasturing Licence**

Reference Schedule

<p>Item 1 Licensee</p>	<p>Name: Address: Telephone: Email:</p>
<p>Item 2 Licensed Area</p>	<p>The [whole/portion] of the land comprised in [Certificate of Title/Crown Record] Volume [insert] Folio [insert] as depicted on the plan at Annexure A</p>
<p>Item 3 Land</p>	<p>The whole of the land comprised in [Certificate of Title/Crown Record] Volume [insert] Folio [insert]</p>
<p>Item 4 Term</p>	<p>One year commencing on [commencement date] (Commencement Date) and expiring at midnight on [expiry date]</p>
<p>Item 5 Renewal Term</p>	<p>One further term of one year, subject to the conditions set out at clause 12</p>
<p>Item 6 Type and number of animals to be depastured</p>	<p>[insert]</p>
<p>Item 7 Licence Fee</p>	<p>[\$annual Licence Fee] per annum (exclusive of GST) payable annually in advance on the Commencement Date and on the commencement of the Renewal Term (if any)</p>
<p>Item 8 Permitted Use</p>	<p>Grazing only</p>
<p>Item 9 Special conditions</p>	<p>[special conditions]</p>

BACKGROUND

- A. The Council is the registered proprietor, or has the care, control and management, of the Land.
- B. The Licensee has requested a licence to use the Licensed Area for the Permitted Use during the Term.
- C. The Council has resolved to grant the Licensee a licence of the Licensed Area and (if necessary) undertaken public consultation and/or been granted Parliamentary approval in accordance with the *Local Government Act 1999* (SA).
- D. The Council and Licensee wish to record the terms of their agreement.

AGREED TERMS

1. DEFINITIONS

In this licence:

Commencement Date means the commencement date described in Item 4 of the Reference Schedule.

Council means the party described as 'Council' in this licence and where the context permits includes the employees, contractors, agents and other invitees of the Council.

GST has the meaning given to that term in the GST Legislation.

GST Legislation means the *A New Tax System (Goods and Services Tax) Act 1999* (Cth) and any ancillary or similar legislation.

GST Rate means 10% or the rate of GST imposed from time to time under the GST Legislation.

Initial Term of this licence described in Item 4 of the Reference Schedule

Land means the land described in Item 3 of the Reference Schedule.

Legislation includes any relevant Act of Parliament (whether State or Federal) and any regulation or by-law including by-laws issued by any local government body or authority.

Licence Fee means the fee described in Item 7 of the Reference Schedule.

Licensed Area means the Licensed Area described in Item 2 of the Reference Schedule including all existing improvements.

Licensee means the party described in Item 1 of the Reference Schedule as 'Licensee' and where the context permits includes the employees, contractors, agents, customers and other invitees of the Licensee.

Licensee's Equipment means any and all fixtures and fittings and other equipment installed in or brought on to or kept in the Licensed Area by the Licensee.

Permitted Use means the use described in Item 8 of the Reference Schedule.

Renewal Term means the term (if any) of renewal or extension in Item 5 of the Reference Schedule

Statutory Authorities means any government or authorities created by or under any relevant Legislation.

Statutory Requirements means all relevant Legislation and all lawful conditions, requirements, notices and directives issued or applicable under any such Legislation or by any Statutory Authorities.

Term means the Initial Term the Renewal Term and any period during which the Licensee holds over or remains in occupation of the Licensed Area.

2. **GRANT OF LICENCE**

The Council grants to the Licensee a licence over the Licensed Area for the Term as set out in this licence.

3. **NATURE OF LICENCE**

3.1 The rights of the Licensee are contractual and this licence does not confer any tenancy, estate or leasehold interest in the Licensed Area or the Land. The rights granted under this licence do not confer any right of exclusive possession or occupation of the Licenced Area or the Land.

3.2 The Council makes no warranty or representation regarding the suitability of the Licensed Area for the Permitted Use or any other purpose.

4. **LICENCE FEE**

The Licensee must pay the Licence Fee at the times and in the manner set out in Item 7 of the Reference Schedule.

5. **WATER SUPPLY**

If water is supplied to the Licenced Area the Licensee must pay or reimburse the Council for water consumption on the following basis:

5.1.1 The Council will be responsible for water supply or connection charges;

5.1.2 The Licensee will be responsible for water consumption or usage charges;

5.1.3 The Council will arrange a meter reading at the commencement and expiry (or termination) of this licence; and

- 5.1.4 The Council will invoice all water consumption charges to the Licensee and such charges will be payable in accordance with Council's invoice and will be treated as outgoings for the purposes of this licence.

6. **USE OF LICENSED AREA**

- 6.1 The Licensee may use the Licensed Area only for the Permitted Use and must not use or allow the Licensed Area to be used for any other use without the Council's prior written consent.
- 6.2 The Licensee must comply with all Statutory Requirements relating to:
 - 6.2.1 the Licensee's use of the Licensed Area;
 - 6.2.2 the Permitted Use.
- 6.3 The Licensee must comply with any applicable industry health, safety and animal welfare standards relevant to the Permitted Use.
- 6.4 The Licensee must not:
 - 6.4.1 alter or remove any fixtures or fittings in or on the Land or the Licenced Area; or
 - 6.4.2 install or erect any structures in or on the Land or the Licenced Area, without the Council's prior written consent.
- 6.5 The Licensee must not permit overgrazing of the Licenced Area and must not cause erosion to the Land or allow dust to a level that becomes a nuisance to neighbours and other persons within the locality of the Land.
- 6.6 The Licensee must not suffer or permit more than the number or other than the type of animals listed at Item 6 of the Reference Schedule to be kept or depastured on the Licenced Area.
- 6.7 The Licensee must comply with the Special Conditions set out at Item 9 of the Reference Schedule (if any), and the Special Conditions prevail over the terms in the body of this licence to the extent of any inconsistency.

7. **INSURANCE**

- 7.1 The Licensee must keep current during the Term (in connection with the Licensed Area) public risk insurance for at least \$20 million for each claim.
- 7.2 Each policy must:
 - 7.2.1 be with an insurer and on terms reasonably approved by the Council;
 - 7.2.2 note the interest of the Council;
 - 7.2.3 have no limit on the number of claims that can be made under it;

- 7.2.4 cover events occurring during the policy's currency regardless of when claims are made; and
- 7.2.5 note that despite any similar policies of the Council, the Licensee's policies will be primary policies.
- 7.3 On or before the Commencement Date, the Licensee must give the Council a copy of the certificate evidencing the currency of the policy. During the Term the Licensee must:
 - 7.3.1 pay each premium before it is due for payment;
 - 7.3.2 give the Council a copy of the certificate of currency each year when the policies are renewed and at other times the Council reasonably requests;
 - 7.3.3 not vary, allow to lapse or cancel any insurance policy without the Council's prior written consent;
 - 7.3.4 notify the Council immediately if a policy is cancelled or if an event occurs which could prejudice or give rise to a claim under a policy.
- 7.4 The Licensee must not do anything which may:
 - 7.4.1 prejudice any insurance of the Licensed Area; or
 - 7.4.2 increase the premium for that insurance.
- 7.5 If the Licensee does anything (with or without the Council's consent) that increases the premium of any insurance the Council has in connection with the Licensed Area, the Licensee must on demand pay the amount of that increase to the Council.

8. REPAIR AND MAINTENANCE

- 8.1 The Licensee must keep and maintain the Licensed Area in good and neat condition and repair.
- 8.2 The Licensee is responsible for maintaining any fencing located on or surrounding the Licenced Area and must ensure that the fencing remains sound and suitable for the Permitted Use.
- 8.3 The Licensee must keep and maintain in good repair any fixtures or improvements on or attached to the Licensed Area whether or not the Licensee's Equipment or the property of the Council.
- 8.4 If the Council so requires, the Licensee must promptly repair any damage to the Land caused or contributed to by the act, omission, negligence or default of the Licensee.

9. **FERTILISER**

The Licensee may apply fertilisers or other soil improving products to the Licenced Area from time to time at such rates and frequency as is appropriate to maintain the Licenced Area for the Permitted Use.

10. **TRANSFERRING, SUBLETTING AND CHARGING**

The Licensee must not transfer, sublicense or charge its interest in the Licensed Area or this licence.

11. **COUNCIL'S OBLIGATIONS AND RIGHTS**

11.1 Subject to the Council's rights and to the Licensee complying with the Licensee's obligations under this licence, the Licensee may use the Licensed Area throughout the Term without interference from the Council.

11.2 The Council may enter the Licensed Area at any time.

11.3 In an emergency the Council may:

11.3.1 close or restrict access to the Licensed Area; and

11.3.2 prevent the Licensee from entering the Licensed Area.

12. **RENEWAL**

12.1 If a right of renewal is specified in Item 5 of the Reference Schedule and the Licensee wishes to exercise that right of renewal, then the Licensee must give a written notice to the Council not less than 1 month and not more than 3 months before the expiry of the Initial Term stating it wishes to renew this licence for the period specified in Item 5 of the Reference Schedule. If such notice is given the Council must renew this licence for the Renewal Term on the terms in this licence (except this clause) commencing immediately after the Initial Term expires.

12.2 The Licensee is not entitled to renew this licence if:

12.2.1 the Licensee has been in breach of this licence at any time before giving notice of exercise of the right of renewal;

12.2.2 the Licensee is in breach of this licence at the time of giving that notice; or

12.2.3 the Licensee is in breach or commits a breach of this licence after giving that notice but before commencement of the Renewal Term.

13. **TERMINATION**

13.1 If:

13.1.1 the Council proposes to sell or otherwise dispose of the Licensed Area or the Land; or

13.1.2 the Council determines that this licence should be terminated due to conditions of drought persisting in the Council's area,

the Council may terminate this licence on one month's notice in writing to the Licensee.

13.2 The Council may terminate this licence immediately by giving written notice to the Licensee if the Land is Crown land dedicated to a particular purpose and:

13.2.1 it is withdrawn from the Council's care control and management;

13.2.2 the purpose for which it has been dedicated is altered under section 18 of the *Crown Land Management Act 2009 (SA)*; or

13.2.3 the dedication is revoked under section 19 of the *Crown Land Management Act 2009 (SA)* or other legislation.

13.3 Termination of this licence under this clause releases each party from further liability under this licence, but does not affect a party's rights or liabilities for a prior breach.

14. **END OF LICENCE**

14.1 This licence comes to an end at midnight on the last day of the Term unless it is terminated earlier by the Council or the Licensee under this licence.

14.2 Before this licence comes to an end, the Licensee must:

14.2.1 remove any improvements made to the Licensed Area by the Licensee (whether made with or without the consent of the Council);

14.2.2 repair any damage to the Licensed Area caused or contributed to by the activities of the Licensee.

14.3 If, with the Council's consent, the Licensee continues to use the Licensed Area after the end of this licence, the Licensee does so under a monthly licence which:

14.3.1 either party may terminate on one month's notice given at any time; and

14.3.2 is on the same terms as this licence.

15. **BREACH**

15.1 The Licensee must make payments due under this licence:

15.1.1 without demand (unless otherwise provided);

15.1.2 without set-off, counter-claim, withholding or deduction;

15.1.3 to the Council or as the Council directs; and

- 15.1.4 by direct debit or other means directed by the Council.
- 15.2 If the Licensee breaches any provision of this licence and fails to remedy the breach within a reasonable time after being requested in writing to do so, the Council may terminate this licence by notice in writing to the Licensee.
- 15.3 The Council may at the Licensee's cost do anything which the Licensee should have done under this licence but which the Licensee has not done or which the Council reasonably considers the Licensee has not done properly.
- 15.4 A power or right of the Council under this licence or at law resulting from a breach or repudiation of this licence by the Licensee, or the exercise of such power or right, does not limit the Council's powers or rights.

16. **INDEMNITY AND RELEASE**

- 16.1 The Licensee uses the Licensed Area at the Licensee's risk.
- 16.2 The Licensee is liable for and must indemnify the Council against all actions, liabilities, penalties, claims or demands for any loss, damage, injury or death directly or indirectly arising as a result of this licence including in connection with:
 - 16.2.1 any act or omission of the Licensee;
 - 16.2.2 the overflow or leakage of water or any other harmful agent into or from the Licensed Area;
 - 16.2.3 any fire originating on or from the Licensed Area;
 - 16.2.4 loss or damage to property or injury or death to any person caused by the Licensee, the use of the Licensed Area by the Licensee or otherwise relating to the Licensed Area;
 - 16.2.5 a breach of this licence by the Licensee; or
 - 16.2.6 the Licensee's use of the Licensed Area.
- 16.3 The Licensee releases the Council from all actions, liabilities, penalties, claims or demands for any damage, loss, injury or death occurring in the Licensed Area except to the extent that they are caused by the Council's negligence.

17. **GOODS AND SERVICES TAX**

- 17.1 If the Council is liable to pay GST in connection with a supply under this licence then:
 - 17.1.1 the consideration for that supply is exclusive of GST;
 - 17.1.2 the Council may increase the consideration or the relevant part of the consideration by the GST Rate; and

- 17.1.3 the Licensee must pay the increased consideration on the due date for payment by the Licensee of the consideration.
- 17.2 Where the consideration is increased under this clause, the Council must, on or before the date on which the consideration is payable, issue a tax invoice to the Licensee.
- 17.3 If the Licensee breaches this clause and as a result the Council becomes liable for penalties or interest for late payment of GST, then the Licensee must pay the Council on demand an amount equal to the penalties and interest.

EXECUTED as an agreement

Signed for the District Council of Peterborough by its authorised delegate in the presence of:

.....
Signature of witness	Signature of authorised delegate <i>(Please delete as applicable)</i>
.....
Name of witness (print)	Name of authorised delegate (print)
Date:	Date:

	Position of authorised delegate

Signed by the Licensee in the presence of:

.....
Signature of witness	Signature of Licensee
.....
Name of witness (print)	Name of Licensee (print)
Date:	Date:

Annexure A Plan