

# Crown water frontages

An explanatory guide to your licence conditions



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## **Photo credit**

Riparian fencing in the Upper Wimmera catchment. Photographer: David Fletcher

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# Acronyms

The following acronyms are used in this document:

*CaLP Act 1994 – Catchment and Land Protection Act 1994*

CFA – Country Fire Authority

CMA – Catchment Management Authority

DEDJTR – Victorian Department of Economic Development, Jobs, Transport and Resources

DELWP – Victorian Department of Environment, Land, Water and Planning

DEPI – Department of Environment and Primary Industry

EPA Victoria – Environment Protection Authority Victoria

GST – Goods and Services Tax

# 1. Introduction

This document has been developed to explain Crown land water frontage licences issued under Section 130 of the *Land Act 1958* and their conditions.

## Overview

A Crown land water frontage is a strip of public land (owned by the State) that runs alongside certain rivers and wetlands. Crown land water frontage widths can vary considerably, from 20 to 100 metres, or more in some cases. Approximately 30,000 kilometres of Victoria's 170,000 kilometres of water frontage is Crown land. The remainder is generally privately owned land. Crown land water frontages are sometimes referred to as Crown water frontages or simply Crown frontages. Throughout this document they will be referred to as Crown water frontages.

## Objective for the management of Crown water frontages

The *Victorian Waterway Management Strategy* (DEPI 2013)<sup>1</sup> and the *Victorian Regional Riparian Action Plan* (DELWP 2015)<sup>2</sup> state that 'the objective for the management of riparian land, particularly Crown water frontages, is to maintain or improve its condition to support environmental, social, cultural and economic values.'

## Licensing of Crown water frontages

A right to access and use a Crown water frontage can be granted to another person through the issue of an 'Agricultural Licence' under section 130 of the *Land Act 1958*. A licence provides conditions upon which access and use can occur, including the management of the licensed land.

The licensing of Crown water frontages is generally the responsibility of the Department of Environment, Land Water and Planning (DELWP). In occasional cases, Parks Victoria may issue a Crown water frontage licence<sup>3</sup>.

A licence for a water frontage is generally issued to an owner/occupier<sup>4</sup> of the adjoining private land for the purpose of grazing, and/or riparian management, and/or (less frequently) cropping.

A riparian management licence for a Crown water frontage is a licence under Section 130 of the *Land Act 1958* that recognises that all or part of the frontage is being managed to protect and improve the riparian environment (e.g. the waterway is fenced out and supporting native vegetation).

Crown water frontage licences are generally renewed every five years but some are annual licences.

The obligations of a licence holder (licensee) fall into various categories:

- those imposed by the licence and its conditions
- those imposed by the *Land Act 1958* and *Land Regulations 2006* (Regulation 10) and
- those imposed by other legislation.

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<sup>1</sup> Department of Environment and Primary Industries (2013) *Improving Our Waterways: Victorian Waterway Management Strategy*. Department of Environment and Primary Industries. Melbourne.

<sup>2</sup> Department of Environment, Land, Water and Planning (2015) *Regional Riparian Action Plan: Working in partnership to improve riparian land in regional Victoria*. Department of Environment, Land, Water and Planning. Melbourne.

<sup>3</sup> Parks Victoria has the delegation under Section 11 of the *Conservation Forests and Lands Act 1987* for granting Crown water frontage licences for land it manages. In some cases, management responsibility for a Crown water frontage may be assigned to a committee of management under the *Crown Land (Reserves) Act 1978*.

<sup>4</sup> When the adjacent freehold land is leased to a third party, they are considered the occupier.

## **A licence is not a lease**

A licence is not a lease. Licences are an authority to use the land for specific purposes, rather than authority to occupy or use it exclusively. DELWP does not generally issue leases over Crown water frontages.

A licence over a Crown water frontage authorises the licensee to enter and use the land for the specified purpose but does not give the licensee exclusive use of the land.

Section 401A of the *Land Act 1958* provides that any person may enter and remain on a licensed frontage for recreational use, and that the licensee must provide means of access along the frontage for that purpose.

## **Who is the licensor?**

The term, 'the licensor' is used frequently in the licence conditions and this document. It is defined in the licence conditions as the Minister of the Crown responsible at the time for administering Division 8 of Part 1 of the *Land Act 1958* (currently the Minister for Energy, Environment and Climate Change), or such other Minister of the Crown or Government Authority to whom responsibility for the licence may be given.

The Minister has delegated the responsibility to issue agricultural licences granted under Section 130 of the *Land Act 1958* to officers of DELWP and Parks Victoria.

For ease of interpretation, in this document the licensor will be referred to as 'the Licensor (DELWP)' meaning that that the Minister has delegated the responsibility to issue licences to officers of DELWP.

Any communications (e.g. letters or invoices) the licensee may receive regarding their licence will generally be from DELWP or, in some cases, Parks Victoria.

## **Licence conditions**

### ***What does each licence include?***

The conditions attached to a licence recognise the responsibilities of the licensee. Each licence includes:

- standard licence conditions and
- a schedule which lists:
  - statutory and other conditions and
  - special conditions (site specific).

### ***Compliance with licence conditions***

*It is the responsibility of the licensee to understand their Crown water frontage licence, its conditions, and what they must do or not do to comply with these conditions.*

*It is also important that the licensee is aware of the boundary of the licensed Crown water frontage and adjacent freehold land.*

This document will help to describe the intent of each clause in the licence conditions; what licence holders must do to comply with each clause; and identify further things to consider, relevant to each clause.

Other legislation also guides the use and activities that can occur on public land; this document is intended as a guide only and does not include all of these requirements.

## **Rights of the licensor**

The licensor (DELWP) has authorised officers who may inspect Crown water frontages from time to time to ensure compliance with the licence purpose and licence conditions. They have a right to request a copy of the licence and discuss management of the licensed Crown water frontage.

## **Rights of other government authorities**

There are many pieces of government legislation permitting authorised staff of government authorities to access water frontages. For example, the *Water Act 1989* allows agencies such as catchment management authorities (CMAs) to inspect the bed and banks of waterways and the *Catchment and Land Protection Act 1994* allows Department of Economic Development, Jobs, Transport and Resources (DEDJTR) and DELWP staff to inspect land for evidence of pest plants and animals.

## **Public land managers**

In some cases, a public land manager may have been appointed by the Minister for a particular area of Crown water frontage. This public land manager may be Parks Victoria, a CMA, water authority, Melbourne Water or a committee of management. The public land manager is involved in the management of the Crown water frontage and may develop strategic directions and make day to day recommendations about land use and rehabilitation. The public land manager will only issue the licence or formally interact with the licensee, if the Minister has delegated this responsibility to them.

## **Sale of land and licence transfer**

If a licensee decides to sell their freehold property, they need to advise their solicitor/selling agent of any Crown water frontage licences adjoining the property that may need to be transferred in part or full to the new owners. Licence transfers are subject to a fee and approval by DELWP.

## **Contacts**

Licensees are encouraged to contact DELWP (or Parks Victoria if they are responsible for licensing in a particular case) if they have any enquiries regarding licence conditions, responsibilities, other requirements, or to report a breach of the law on a licensed Crown water frontage. DELWP or Parks Victoria may refer licensees on to other relevant agencies, such as local government, if the enquiry relates to matters outside their area of responsibility. Contact the DELWP Customer Service Centre on 136 186 or via the web at <https://www2.delwp.vic.gov.au>. Contact Parks Victoria on 131 963 or via the web at <http://parkweb.vic.gov.au>.

## 2. Explaining the licence conditions

The following sections provide guidance for the licensee (you) on each condition within a Crown water frontage licence, under the following headings:

### ***‘Licence clause’***

This provides the exact wording in the licence condition in a box. It is written in a formal and legal manner.

### ***‘What does this licence clause mean?’***

The licence clause is followed by a short description of the intent of the licence clause, provided in plain English.

### ***‘As a Crown water frontage licence holder you have the following responsibilities’***

This provides some basic information about what compliance with the licence condition means and the responsibilities of licensees to meet that licence condition.

### ***‘Additional things to consider’***

This provides more information on the clause and other matters that you may need to consider enabling you to meet your responsibilities under the licence and/or other requirements.

## **Licence Clause 1 - Grant**

### *Licence clause wording:*

The rights conferred by this Licence are non-exclusive, do not create or confer upon the Licensee any tenancy or any estate or interest in or over the licensed land or any part of it, and do not comprise or include any rights other than those granted or to which the Licensee is otherwise entitled by law.

### **What does this licence clause mean?**

You have a licence to undertake only the licensed activity on the Crown water frontage. You do not have an exclusive right to the use of the Crown water frontage and the public is entitled to access the frontage.

### **As a Crown water frontage licence holder you have the following responsibilities**

- Only undertake those activities consistent with the licence purpose and conditions for the Crown water frontage.
- Do not limit or discourage public access to the Crown water frontage.

### **Additional things to consider**

A licence is not a lease. Licences are an authority to use the land for specific purposes, rather than authority to occupy or use it exclusively.

Crown water frontages were set aside for public purposes and the public is entitled to access the frontage (refer Section 3 – Licence Schedule). There are some constraints on what the public is permitted to do on licensed Crown water frontage once they have accessed it for recreational purposes. For instance, camping and the lighting of campfires are prohibited <https://www.forestsandreserves.vic.gov.au/land-management/crown-land-leases-licences-and-permits>.

## Licence Clause 2 - Licensee's obligations (positive)

The following licence sub-clauses are 'positive' obligations as they outline what the licensee must do.

### 2.1 Licence fee

#### *Licence clause wording:*

(The Licensee Hereby Covenants with the Licensor that during the term the Licensee will-) duly and punctually pay or cause to be paid the licence fee to the Licensor at the payment address advised by the Licensor from time to time on the days and in the manner provided in Item 8 of the Schedule without demand, deduction, set-off or abatement.

#### **What does this licence clause mean?**

You, or an agent acting on your behalf, must pay a fee to the licensor (DELWP) for your Crown water frontage licence by the due date. The licence fee is listed in item 7 of your licence schedule.

#### **As a Crown water frontage licence holder you have the following responsibilities**

- Pay the fee identified in Item 7 of your licence schedule by the due date at the address provided.

#### **Additional things to consider**

Crown land used for agricultural purposes will attract a licence rental fee that is determined by the carrying capacity of the land. Crown water frontage licences issued for riparian management purposes only, generally attract a reduced licence fee as low as "\$1 payable on demand".

### 2.2 Rates and taxes

#### *Licence clause wording:*

(The Licensee Hereby Covenants with the Licensor that during the term the Licensee will:)

- Duly and punctually pay as and when they respectively fall due all rates and taxes on the licensed land (2.2.1)
- If requested to do so by the Licensor, produce receipts to the Licensor evidencing payment of the rates and taxes (2.2.2)
- Duly and punctually pay to the Licensor at the same time and in the same manner as the licence fee is payable to the Licensor (or as otherwise notified to the Licensee by the Licensor) under clause 2.1 above the amount of any GST payable on or in relation to this licence and/or the rent payable thereunder or that becomes payable by the Licensor during the period covered by the fee (2.2.3)

#### **What does this licence clause mean?**

There may be other fees and taxes associated with the licensed land. You will be responsible for paying these fees (e.g. local government rates and fire services levy) as a condition of your Crown water frontage licence. This clause also highlights that GST is payable for Crown water frontage licences.

#### **As a Crown water frontage licence holder you have the following responsibilities**

- In addition to the licence fee, pay any other fees and taxes associated with the licensed Crown water frontage.

#### **Additional things to consider**

The types of rates and taxes that this clause relates to will differ according to the location of the licensed Crown water frontage. For example, the majority of, but not all, local government areas rate licensed Crown water frontages.

## 2.3 Indemnity

### *Licence clause wording:*

(The Licensee Hereby Covenants with the Licensor that during the term the Licensee will-) indemnify the Crown in respect of any claim or liability for property damage and/or injury or death of any person which arises directly or indirectly out of negligence, tort, contract, or breach of a statutory duty by the Licensee or any associated party consequential to the use or occupation of the licensed land, including, but without restricting the generality of the foregoing, the pollution or contamination of land or water, and any costs, charges and expenses incurred in connection therewith.

### **What does this licence clause mean?**

If you (or an associate) use the land in such a way that a person is hurt or their property damaged, or you cause pollution or contamination, you indemnify the licensor from liability and you assume liability to the extent of your contribution to the injury or damage.

### **As a Crown water frontage licence holder you have the following responsibilities**

- Take all reasonable steps to avoid risk of harm to a person or their property as a result of your use of the land under the licence
- Promptly report any defects or public safety risks on the licensed land to the licensor (DELWP).

### **Additional things to consider**

It is recommended that you notify your insurer of your responsibilities under the licence and include the licensed Crown water frontage in your public liability insurance policy.

## 2.4 Maintenance

### *Licence clause wording:*

(The Licensee Hereby Covenants with the Licensor that during the term the Licensee will-) throughout the term keep the licensed land in good order and condition and the improvements (if any) on it in good order and condition having regard to their condition at the commencement date or, if constructed or added to the licensed land after the commencement date, at the date of such construction or addition as the case may be and in particular but without restricting the generality of the foregoing will (2.4.1):

- Keep the licensed land free of pest animals and weeds (2.4.1.1);
- Remedy every default of which notice is given by the Licensor to the Licensee within a reasonable time specified in the notice but in any event the time specified in the notice will not be less than 14 days (2.4.1.2).

### **What does this licence clause mean?**

You are required to maintain the licensed land and any improvements in good order and condition. In particular, you need to manage pest animals and weeds on the licensed land and fix any defect on the licensed land if you are notified to do so by the licensor (DELWP) or appropriate agency within a specified timeframe.

### **As a Crown water frontage licence holder you have the following responsibilities**

- Keep the licensed land in good order and condition. As a minimum, licensees are expected to:
  - Take all reasonable steps to ensure the percentage of bare ground within the licensed area does not exceed 20% of the total licensed area (excluding stream banks) (unless recent climate conditions or disturbance events beyond the licensee's control (e.g. drought, floods or fire) have been a significant factor). Bare ground is defined as soil that is not protected by plants (including lichens and moss), leaf litter, standing dead vegetation, gravel, or rocks.

- Ensure the presence of any livestock tracks and camping areas along the stream bank does not exceed 25% of the stream bank length.
- Ensure any improvements on a licensed Crown water frontage should not pose a risk to public safety (e.g. falling from a height >1m, impalement, etc.) or contribute to environmental degradation (erosion, pest animal harbour, etc.). The licence conditions define improvements as including buildings, dams, levees, channels, signs, permanent fences, or other structures and any additions to an existing improvement.
- Keep the licensed land free of pest animals and weeds. As a minimum, licensees are expected to:
  - Prevent the spread of, and as far as possible eradicate, established pest animals (European hare, goat (feral or wild), European rabbit (feral or wild), pig (feral or wild) and red fox).
  - Take all reasonable steps to:
    - > eradicate regionally prohibited weeds, and
    - > prevent the growth and spread of regionally controlled weeds.
- Fix every defect that you are notified about by the licensor (DELWP) within the specified timeframe.

### **Additional things to consider**

#### *Good order and condition*

Under the *CaLP Act 1994* you must also take all reasonable steps to:

- avoid causing or contributing to land degradation which causes or may cause damage to land of another land owner
- conserve soil
- protect water resources.

#### *Pest animals*

Rabbits, and foxes are the most common established pest animals on Crown water frontages. As a general rule, on Crown water frontages, it is expected that:

- There is not more than one active rabbit burrow entrance per hectare
- There is no evidence of vegetation impacts attributable to rabbits
- There are no active fox dens present.

More information on rabbit and fox presence, abundance and control, and pest animals in general, is available at <http://agriculture.vic.gov.au/agriculture/pests-diseases-and-weeds>.

#### *Weeds*

As a general rule on Crown water frontages, licensees should have in place an ongoing weed management program which ensures that regionally controlled weeds do not have a detrimental impact on riparian values or pose a threat to adjoining freehold land. Licensees are also strongly encouraged to manage restricted weeds.

Under the *CaLP Act 1994* there are a range of things you must not do in terms of spreading noxious weeds. Noxious weeds are defined as State prohibited weeds, regionally prohibited weeds, regionally controlled weeds and restricted weeds. In particular, you are not allowed to plant or propagate a noxious weed.

To determine regionally prohibited, regionally controlled and restricted weeds in your region, noxious weeds and their classifications for each CMA region can be accessed via <http://agriculture.vic.gov.au/agriculture/pests-diseases-and-weeds/protecting-victoria-from-pest-animals-and-weeds/legislation-policy-and-permits/new-noxious-weed-and-pest-animal-declarations>.

## 2.5 Fire protection works

### *Licence clause wording:*

(The Licensee Hereby Covenants with the Licensor that during the term the Licensee will-) undertake all fire protection works on the licensed land required by law to the satisfaction of the Licensor and the responsible fire Authority.

### **What does this licence clause mean?**

Licensed Crown water frontages are subject to the same requirements for fire protection works as private land. In most instances, local government will be the authority who will administer fire prevention works under the guidance of the Country Fire Authority (CFA). However, the licensor (DELWP) may also require fire protection works to be undertaken. These requirements may be directed through the provisions of the *Country Fire Authority Act 1958*, *Metropolitan Fire Brigades Act 1958* and the *Forests Act 1958*.

### **As a Crown water frontage licence holder you have the following responsibilities**

- Undertake all fire protection works required by the licensor (DELWP) and the responsible fire authority.

## 2.6 Condition of termination

### *Licence clause wording:*

(The Licensee Hereby Covenants with the Licensor that during the term the Licensee will-) on expiry or prior determination of this Licence return the licensed land to the Licensor in good order and condition and otherwise in accordance with the Licensee's obligations.

### **What does this licence clause mean?**

When a licence expires, or is terminated, you are required to return the land to the licensor (DELWP), in good order and condition and in accordance with your other responsibilities throughout the licence period (refer to Clause 2.4 for a description of "good order and condition").

### **As a Crown water frontage licence holder you have the following responsibilities**

- Ensure that the land is maintained in good order and condition (as described in Clause 2.4) and in accordance with your other responsibilities throughout the licence period.
- Return the land to good order and condition if it is not currently, in accordance with your responsibilities.

## 2.7 Notice of defects and other matters

### *Licence clause wording:*

(The Licensee Hereby Covenants with the Licensor that during the term the Licensee will:)

- Give the Licensor prompt notice in writing of any accident to or defect in the licensed land and of any circumstances likely to cause any damage risk or hazard to the licensed land or any person on it (2.7.1);
- Give to the Licensor within 7 days of its receipt by the Licensee a true copy of every notice, proposal or order given, issued or made in respect of the licensed land and full details of the circumstances of it (2.7.2);
- Without delay take all necessary steps to comply with any notice, proposal or order referred to in paragraph 2.7.2 with which the Licensee is required to comply (2.7.3); and
- At the request of the Licensor make or join with the Licensor in making such objections or representations against or in respect of any notice, proposal or order referred to in paragraph 2.7.2 as the Licensor deems expedient (2.7.4).

### What does this licence clause mean?

You must inform the licensor (DELWP) of any significant incidents that occur on the licensed Crown water frontage that may pose a risk to the land, water or the public. Some examples are incidents such as chemical spills, fires, significant flood damage, dumping of rubbish by the public, dangerous trees or a significant erosion event.

The next part of this clause requires you to forward any legal notices, proposals or orders to the licensor (DELWP) within seven days. Some examples are *CaLP Act 1994* pest plant and animal notices, *Planning and Environment Act 1987* enforcement orders, *Mineral Resources (Sustainable Development) Act 1990* notices or *Country Fire Authority Act 1958*, *Metropolitan Fire Brigades Act 1958* and the *Forests Act 1958* Fire Protection notices.

You must comply with these orders, however in some cases, the licensor (DELWP) may have concerns with these orders and may work with you to identify the appropriate actions associated with the orders.

### As a Crown water frontage licence holder you have the following responsibilities

- Promptly inform the licensor (DELWP) in writing of any significant incidents that occur on the licensed Crown water frontage that may pose a risk to the land, water or the public.
- Forward details of any orders, notices or proposals received in respect of the licensed Crown water frontage to the licensor (DELWP) within 7 days of their receipt.
- Comply with any orders, notices or proposals received, unless requested to object or make representations against them by the licensor (DELWP).

### Additional things to consider

It is important to inform the licensor (DELWP) once an order, notice or proposal has been acted upon.

## 2.8 Compliance with the law

#### *Licence clause wording:*

(The Licensee Hereby Covenants with the Licensor that during the term the Licensee will-) comply at the Licensee's cost with the provisions of all statutes, regulations, local laws and by-laws relating to the licensed land and all lawful orders or direction made under them;

### What does this licence clause mean?

You must comply with all laws as well as your licence.

### As a Crown water frontage licence holder you have the following responsibilities

- Comply with all relevant laws as well as your licence.

## 2.9 Compliance with directions

#### *Licence clause wording:*

(The Licensee Hereby Covenants with the Licensor that during the term the Licensee will-) at the Licensee's cost forthwith comply with any written direction given by the Secretary during the term as to the (2.9.1):

- grazing or management of the licensed land (including fencing), or the number and type of stock which may be depastured on the licensed land (2.9.1.1);
- frequency, timing and method of cultivation (2.9.1.2);
- water supply and other improvements (2.9.1.3);
- reclamation of eroded areas and land degradation (2.9.1.4); or
- retention or clearance of native vegetation (2.9.1.5).

### What does this licence clause mean?

The licensor (DELWP) may choose to issue you with some specific requirements relating to the use of the licensed land if your use of the land is having detrimental effects on the condition of the licensed area. These requirements may be in regard to:

- livestock management including fencing, and stocking rates and types
- specifications regarding the frequency, timing and method of land cultivation
- water supply and other improvements
- land reclamation including erosion management
- management of native vegetation.

The licensor (DELWP) may provide specific direction for the management of licensed Crown water frontages through this clause.

### As a Crown water frontage licence holder you have the following responsibilities

- Comply with all written directions from the licensor (DELWP) relating to the items listed above regarding your licensed Crown water frontage at your own cost.

### Additional things to consider

Opportunity to comment on how this direction will affect you will be provided by the licensor (DELWP). Where there is a public benefit, public funding through CMAs or other land managers may be available to assist you to comply with this direction.

## 2.10 Arrears and interest

#### *Licence clause wording:*

(The Licensee Hereby Covenants with the Licensor that during the term the Licensee will-) pay to the Licensor (2.10.1):

- on any moneys payable by the Licensee to the Licensor and outstanding for thirty (30) days or on any judgment for the Licensor in an action arising under the Licence, interest at the penalty rate of interest for the time being made payable under the Penalty Interest Rates Act 1983 computed from the date the moneys or judgment became payable until all moneys (including interest on them) are paid in full (2.10.1.1);
- on demand all the Licensor's legal costs and disbursements payable in respect of or in connection with any assignment of this Licence or under-licensing of the licensed land, any surrender of this Licence, the giving of any consent by the Licensor or any failure by the Licensee to perform and observe this Licence, or any deed or other document executed in connection with this Licence (2.10.1.2).

### What does this licence clause mean?

You have a requirement to pay licence fees, GST and any other money owed to the licensor (DELWP) on time. If these fees are not paid within 30 days, the licensor (DELWP) may require payment of the licence fees with interest.

In certain cases, the licensor (DELWP) may seek payment to cover legal and administrative costs as the result of non-compliance with licence conditions or an application to assign the licence to another licensee.

### As a Crown water frontage licence holder you have the following responsibilities

- Pay all licence fees, GST and any other money owed to the licensor (DELWP) by the due date.
- Comply with all licence conditions to avoid additional costs associated with non-compliance.

## 2.11 Further conditions

### *Licence clause wording:*

(The Licensee Hereby Covenants with the Licensor that during the term the Licensee will-) comply with the Statutory and other Conditions contained in Item 13 of the Schedule and with the Special Conditions contained in Item 14 of the Schedule.

### **What does this licence clause mean?**

You must be aware of and comply with all requirements and/or responsibilities for use of the licensed Crown water frontage.

### **As a Crown water frontage licence holder you have the following responsibilities**

- Be aware of and comply with the Statutory and other Conditions and the Special Conditions in your licence schedule (refer Section 3 – Licence Schedule).

### **Licence Clause 3 - Licensee's obligations (negative)**

The following licence sub-clauses are 'negative' obligations as they outline what the licensee must *not* do.

## 3.1 Use of licensed land

### *Licence clause wording:*

(The Licensee Hereby Covenants with the Licensor that during the term the Licensee will not-) use the licensed land for any purpose other than the specified purpose referred to in Item 12 of the Schedule or any additional purpose specified in Item 14 of the Schedule without first obtaining the Licensor's written consent which can be given or withheld at the absolute discretion of the Licensor or be given subject to conditions.

### **What does this licence clause mean?**

Each Crown water frontage licence lists the specified purpose (licensed use) in the Schedule in item 12. The most common uses for Crown water frontages are:

- grazing
- riparian management i.e. protection and/or rehabilitation of streamside vegetation
- cropping, or
- a combination of the above.

Any additional purpose/s may be listed in the Schedule in item 14 as special conditions.

This clause identifies your licence purpose. You may request to change your licence purpose which may or may not be supported by the licensor (DELWP), or it may be supported with additional conditions.

### **As a Crown water frontage licence holder you have the following responsibilities**

- Only undertake the licensed use on the Crown water frontage as detailed in Item 12 of the Schedule.
- Obtain written approval from the licensor (DELWP) before using the land for any purpose other than that detailed in Item 12 of the Schedule.

### **Additional things to consider**

If your licence purpose is grazing, you have an obligation to ensure that livestock are contained within your property or the licensed area.

You have the same rights as the public in terms of access for recreational use. Your licence does not permit any additional recreational uses beyond this. Recreational uses of Crown water frontages are described in <https://www.forestsandreserves.vic.gov.au/land-management/crown-land-leases-licences-and-permits>.

Some licensees choose to manage all or part of the Crown water frontage for riparian management purposes. If you wish to change the purpose of all or part of a Crown water frontage licence to riparian management, contact DELWP to make the agreed licence amendments. You may wish to contact your local CMA or Melbourne Water to discuss funding options to assist you in undertaking riparian rehabilitation projects.

### 3.2 Allow rubbish

#### *Licence clause wording:*

(The Licensee Hereby Covenants with the Licensor that during the term the Licensee will not-) permit any rubbish to accumulate in or about the licensed land.

#### **What does this licence clause mean?**

You must not let rubbish accumulate on or near the licensed land.

Rubbish includes any solid or liquid domestic or commercial waste, refuse, debris or litter including any waste glass, metal, plastic, paper, fabric, non-indigenous wood, food, soil, sand, concrete, bricks or stones, abandoned vehicles or abandoned vehicle parts, garden remnants and clippings and any animal carcass or parts.

#### **As a Crown water frontage licence holder you have the following responsibilities**

- Ensure that rubbish does not accumulate over time on any part of the Crown water frontage under licence.

#### **Additional things to consider**

This clause is designed to protect water quality and the aquatic and riparian environment and prevent the risk of injury or death to the public.

You should also ensure that rubbish does not accumulate over time on any land adjoining the licensed frontage. Rubbish from adjoining land may be spread by wind or other movement to the Crown water frontage. Storage of rubbish should occur well away from the Crown water frontage or floodplain.

EPA Victoria has specific requirements for the storage and disposal of rubbish at [www.epa.vic.gov.au](http://www.epa.vic.gov.au).

### 3.3 Hazardous chemicals

#### *Licence clause wording:*

(The Licensee Hereby Covenants with the Licensor that during the term the Licensee will not-) keep any hazardous chemical on the licensed land without the Licensor's written consent which can be given or withheld at the absolute discretion of the Licensor or be given subject to conditions.

#### **What does this licence clause mean?**

You must not store any hazardous chemicals on the licensed Crown water frontage without the written permission of the licensor (DELWP).

Hazardous chemicals include gas, inflammable liquids (including petrol and diesel), explosive substances, pesticides, herbicides, fertiliser and other chemicals.

#### **As a Crown water frontage licence holder you have the following responsibilities**

- Ensure that hazardous chemicals are not stored on the licensed Crown water frontage without the written permission of the licensor (DELWP).
- Obtain written consent from the licensor (DELWP) regarding the storage of hazardous chemicals on licensed Crown water frontages. When seeking permission, the type of chemicals to be stored (including classification), the method of storage, approximate quantities and reasons why the hazardous chemicals cannot be stored on the freehold land must be provided in writing.

### **Additional things to consider**

This clause is designed to ensure the protection of water quality and the aquatic and riparian environment and to protect the public from the risk of injury or death.

Where permission to store hazardous chemicals is approved, you should consider the seasonality and levels of flood waters that may impact the storage on the licensed Crown water frontage. Areas subject to regular inundation should not be used for this purpose.

EPA Victoria provides guidance on the storage and handling of dangerous goods and provides reference to the “Dangerous Goods (Storage and Handling) Regulations” found at [www.epa.vic.gov.au](http://www.epa.vic.gov.au).

### **3.4 Burning**

#### *Licence clause wording:*

(The Licensee Hereby Covenants with the Licensor that during the term the Licensee will not-) undertake any burning of vegetation or any other matter on the licensed land without first obtaining any necessary permit and the written approval of the Licensor which can be given or withheld at the absolute discretion of the Licensor or be given subject to conditions PROVIDED HOWEVER that the consent of the Licensor is not required for the burning of crop stubble.

#### **What does this licence clause mean?**

You must obtain written approval from the licensor (DELWP) to light a fire on a licensed Crown water frontage. This clause also requires that you obtain any other necessary permits for burning from other authorities such as the CFA.

#### **As a Crown water frontage licence holder you have the following responsibilities**

- Obtain written permission from the licensor (DELWP) prior to starting a fire on a licensed Crown water frontage (excluding the burning of crop stubble).
- Ensure that all other appropriate permits are obtained from the appropriate fire authority prior to starting a fire.

#### **Additional things to consider**

Damaging indigenous vegetation (whether living or dead) and lighting fires on Crown water frontages are prohibited activities under the *Land Regulations 2006*. However, in some cases burning on Crown water frontages may be allowed, with the permission of the licensor (DELWP).

Some examples are:

- regeneration burn of native grasses or other suitable indigenous plants for environmental management purposes
- burning of flood debris
- burning of non-indigenous plants as part of weed management works.

In addition to obtaining the written approval of the licensor (DELWP), it is your responsibility to enquire and obtain all necessary permits prior to burning. Different permits may be required depending on where and when burning is to be undertaken.

### 3.5 Assignment

*Licence clause wording:*

(The Licensee Hereby Covenants with the Licensor that during the term the Licensee will not-) without first obtaining the written consent of the Licensor assign, under-license, mortgage, or charge this Licence or part with or share possession of the licensed land or any part of it.

#### **What does this licence clause mean?**

You must obtain approval from the licensor (DELWP) prior to transferring, assigning, mortgaging or charging your rights in the licensed land or allowing another person to use it. This relates to licensed uses only and not to the public's right to access the licensed Crown water frontage for recreational purposes.

#### **As a Crown water frontage licence holder you have the following responsibilities**

- Obtain written approval from the licensor (DELWP) prior to transferring, assigning, mortgaging or charging your rights in the licensed land or allowing another person to use it.

### 3.6 Licensor's entry

*Licence clause wording:*

(The Licensee Hereby Covenants with the Licensor that during the term the Licensee will not-) prevent, attempt to prevent or in any other way hinder, obstruct or permit the hindrance or obstruction of the Licensor or the Licensor's employee or agent at any time from entering and remaining on the licensed land either with or without motor vehicles or other equipment for any purpose and in particular, but without restricting the generality of the foregoing, for any of the following purposes (3.6.1):

- retaking or attempting to retake possession of the licensed land (3.6.1.1);
- inspection (3.6.1.2); or
- any other lawful purpose (3.6.1.3).

#### **What does this licence clause mean?**

The licensor (DELWP), or other public land managers, or their agent assigned responsibility for the licensed Crown water frontage, have a right to enter the licensed Crown water frontage for inspections and other lawful purposes.

#### **As a Crown water frontage licence holder you have the following responsibilities**

- Allow the licensor (DELWP), or other public land managers assigned responsibility for the licensed Crown water frontages, onto the licensed Crown water frontage.
- Allow the licensor (DELWP), or other public land managers assigned responsibility for the licensed Crown water frontages, to bring vehicles and other equipment onto the frontage if required.

#### **Additional things to consider**

Other lawful purposes may include licence compliance activities, monitoring and survey. This may also include enforcing the land regulations on recreational uses of Crown water frontages by the public.

### 3.7 Void insurance

*Licence clause wording:*

(The Licensee Hereby Covenants with the Licensor that during the term the Licensee will not-) do or allow anything to be done which might result in any insurance's relating to the licensed land becoming void or voidable or which might increase the premium on any insurance.

#### **What does this licence clause mean?**

You must be aware of the conditions of your insurance and you must not act in a way which is inconsistent with that insurance, or the insurance held by the licensor (DELWP).

#### **As a Crown water frontage licence holder you have the following responsibilities**

- You must not undertake an activity or act in a way which would void or increase the premium of your insurance over the Crown water frontage.

#### **Additional things to consider**

It is recommended that you have insurance which would cover the purpose of the Crown water frontage licence during the term of the licence.

### 3.8 Cultivation and use of licensed land

*Licence clause wording:*

(The Licensee Hereby Covenants with the Licensor that during the term the Licensee will not-) without the Licensor's prior written approval, which can be given or withheld at the absolute discretion of the Licensor or be given subject to conditions (3.8.1):

- fell, ringbark, injure, destroy or remove any living or dead vegetation (except weeds) or fallen timber on the licensed land (3.8.1.1);
- plough, cultivate, work, break up or remove soil or construct any earthworks on the licensed land (3.8.1.2);
- plant any vegetation, seed or crop on the licensed land (3.8.1.3); or
- apply fertilizer to the licensed land (3.8.1.4).

#### **What does this licence clause mean?**

You must obtain written permission from the licensor (DELWP) before you can:

- damage or remove standing vegetation (other than weeds)
- remove fallen timber (including firewood)
- damage or remove soil
- plant any indigenous or non-indigenous plant, propagative part of a plant (e.g. seed, cutting, bud, bulb, tubers) or crop or
- apply any material to the soil or to a plant to improve the supply of nutrients and promote plant growth.

### **As a Crown water frontage licence holder you have the following responsibilities**

- Obtain written consent from the licensor (DELWP) prior to undertaking any of the works or activities identified above that could impact the health and structure of the vegetation, soils or habitats of a licensed Crown water frontage.

### **Additional things to consider**

It is important that you are aware of the boundary of the licensed Crown water frontage and adjacent freehold land to ensure you do not cultivate the licensed land without permission. If permission is granted, it will generally be limited to activities that are directly linked to the licensed use of the land.

### **3.9 Erection of improvements**

#### *Licence clause wording:*

(The Licensee Hereby Covenants with the Licensor that during the term the Licensee will not-) erect or permit the erection of any improvement on the licensed land without the Licensor's prior written approval, which can be given or withheld at the absolute discretion of the Licensor or be given subject to conditions.

### **What does this licence clause mean?**

You must obtain written approval from the licensor (DELWP) prior to construction of any improvements on a Crown water frontage. Improvements are defined as including buildings, dams, levees, channels, signs, permanent fences, or other structures and any additions to an existing improvement.

### **As a Crown water frontage licence holder you have the following responsibilities**

- Obtain written approval from the licensor (DELWP) prior to the construction of any improvements.

### **Additional things to consider**

Additional planning approvals may be required for the construction of some improvements. These may be through organisations such as local government, CMAs, Melbourne Water, rural water authorities, EPA Victoria and urban water authorities.

If you plan to undertake construction work near the Crown water frontage/freehold land boundary you should engage a licensed surveyor to determine the boundary. Structures built on Crown land without permission (whether intentional or not), may be removed by the licensor (DELWP) at your cost.

## Licence Clause 4 - General conditions

### 4.1 Termination upon default

#### *Licence clause wording:*

If the Licensor is satisfied, after giving the Licensee a reasonable opportunity to be heard, that the licensee has failed to comply with any terms or conditions of the licence, the Licensor may, by notice published in the Government Gazette, declare that the licence is cancelled, and upon cancellation the licensee will not be entitled to any compensation whatsoever.

#### **What does this licence clause mean?**

The licensor (DELWP) may cancel your licence if the licence conditions have not been met and you are found to be not complying. Prior to cancellation of a licence the licensor (DELWP) will have given you a reasonable opportunity to make a submission as to why your licence should not be cancelled. Licence fees are not refundable if the licence has been cancelled due to licence conditions not being met.

#### **As a Crown water frontage licence holder you have the following responsibilities**

- Ensure that you meet all of your licence conditions, as described in this document.
- Discuss any licence management issues with the licensor (DELWP) at any time.
- If the licensor (DELWP) has found that you are not complying with your licence conditions, you should engage with the licensor (DELWP) to seek a suitable outcome.

#### **Additional things to consider**

If your licence is cancelled under this clause, the boundary between the freehold land and the Crown water frontage may need to be fenced, at your expense.

### 4.2 Termination without default

#### *Licence clause wording:*

- In addition to and not in substitution for the power to cancel this Licence under clause 4.1, the Licensor may by giving to the Licensee three months' written notice to that effect cancel this Licence upon a date to be specified in that notice notwithstanding that there has been no breach by the Licensee of any term or condition of this Licence (4.2.1).
- If the licence is terminated under this clause the Licensee is entitled to receive and will be paid by the Licensor a refund of an amount of the licence fee paid (4.2.2).
- The amount of refund will be determined by the Licensor on a pro rata basis, taking into account any period of the licence remaining at the date of cancellation (4.2.3).
- Except as provided in sub clause 4.2.2 above no compensation is payable in respect of the cancellation of the licence (4.2.4).

#### **What does this licence clause mean?**

In some circumstances, the licensor (DELWP) may choose to cancel a licence, despite you meeting all responsibilities and conditions. In these cases, the licensor (DELWP) must give you three month's written notice and refund a pro rata amount of the licence fees for the remaining period.

#### **As a Crown water frontage licence holder you have the following responsibilities**

- Comply with any cancellation notice provided by the licensor (DELWP) and cease to undertake your licensed use in accordance with the timelines identified in the notice.

### Additional things to consider

If your licence is cancelled under this clause, the boundary between the freehold land and the Crown water frontage may need to be fenced, at your expense.

### 4.3 Licensee's improvements

#### *Licence clause wording:*

- The Licensee's improvements shall remain the property of the Licensee (4.3.1)
- On the cancellation or expiration of the Licence the Licensee must, within a period of time specified by the Secretary, remove all Licensee's improvements from the licensed land and forthwith make good all damage caused to the licensed land by the affixing, retention or removal of Licensee's improvements to the satisfaction of the Secretary (4.3.2).

#### What does this licence clause mean?

Any improvements that you may erect on the licensed Crown water frontage belong to you unless specified in Item 14 of the Licence Schedule. Your improvements are defined as (growing) crops, buildings, structures, signs, fences and other structural improvements including dams, levees, channels or any other earthworks but does not include any improvement shown in Item 14 of the Schedule.

If your licence is cancelled, expires or is transferred, the licensor (DELWP) will request that all of your improvements (except those shown in Item 14 of the Schedule) be removed within a certain timeframe at your cost. Any damage to the land as a result of the location or removal of these improvements must be repaired so that the land is left in good order and condition.

#### As a Crown water frontage licence holder you have the following responsibilities

- You must remove any improvements on the Crown water frontage in the time specified by the licensor (DELWP) if your licence is cancelled or expires. This excludes any boundary fences and items specifically listed in Item 14 of your licence Schedule.

### Additional things to consider

You should talk to the licensor (DELWP) prior to removing any improvements on the licensed land that have been established to protect the riparian environment, such as fencing or off-stream watering infrastructure.

### 4.4 Secretary may remove and dispose of property

#### *Licence clause wording:*

If the Licence expires, or is cancelled under clauses 4.1 or 4.2, the Secretary may at the end of the period of time specified under Clause 4.3.2 remove the Licensee's chattels and improvements and store them at the Licensee's expense without being liable to the Licensee for trespass, detinue, conversion or negligence. After storing them for at least one month, the Secretary may sell or dispose of them by auction, private sale, gift, distribution or otherwise and apply the net proceeds towards the payment of any moneys owed by the Licensee to the Licensor.

#### What does this licence clause mean?

The licensor (DELWP) may remove any of your improvements if you choose not to, or are unable to, following licence cancellation or expiry. Any items will be stored for a period of at least one month and then the licensor (DELWP) may sell them and retain the proceeds to pay any money owed by you regarding the licence. The licensor (DELWP) may also recoup the cost of removal and storage of your improvements.

#### As a Crown water frontage licence holder you have the following responsibilities

- Allow the licensor (DELWP) or their contractors, onto the licensed Crown water frontage to undertake the task of removing any improvements that you have not removed in accordance with any notice referred to in Clause 4.1 and 4.2.

## 4.5 Licensor's / Secretary's agents

### *Licence clause wording:*

Every act or thing to be done, decision to be made or document to be signed pursuant to this Licence by the Licensor or the Secretary and not required by law to be done, made or signed by the Licensor or the Secretary personally may be done made or signed by any person to whom such power has been delegated by the Licensor or the Secretary.

### **What does this licence clause mean?**

The licensor's (DELWP) staff have been delegated the responsibility for administration and licensing of Crown water frontages, as well as compliance activities associated with managing these frontages.

### **As a Crown water frontage licence holder you have the following responsibilities**

- Follow directions and requirements of documentation from the licensor's staff relating to the management of your licensed Crown water frontage.

### **Additional things to consider**

As discussed earlier, other public land managers, such as CMAs, water authorities, Melbourne Water or committees of management, may be assigned responsibility for Crown water frontages. Staff from these agencies may discuss your Crown water frontage licence. However, all formal correspondence will be directed to and from the licensor (DELWP). If changes to the licensing responsibilities for Crown water frontages occur, then licence holders will be informed of these changes.

## 4.6 Notices

### *Licence clause wording:*

Any notice consent or demand or other communication to be served on or given to the Licensee by the Licensor under this Licence shall be deemed to have been duly served or given if it is in writing signed by the Licensor and delivered or sent by pre-paid post to the Licensee's address set out in Item 4 of the Schedule or to the latest address stated by the Licensee in any written communication with the Licensor.

### **What does this licence clause mean?**

The licensor (DELWP) will consider that you are aware of any notice or direction given by them, if they have provided it in writing and sent it to your current known address.

### **As a Crown water frontage licence holder you have the following responsibilities**

- Keep a record of written correspondence received from DELWP including your licence document.
- Comply with written directions from the licensor (DELWP).
- Ensure that the postal address details provided in Item 4 of the licence schedule remain up to date. This will ensure that the licensor (DELWP) is able to provide important information to you in a timely manner.

## 4.7 Review of licence fee

### *Licence clause wording:*

The licence fee, unless it has been paid in full for the term, will be reviewed by the Licensor every three years from 1st October 1997, and the reviewed fee shall commence on the day following the date fixed for each such review.

### **What does this licence clause mean?**

The licensor (DELWP) will review licence fees every three years. If you pay your licence fees for the full term of your licence you will be exempt from any increases in licence fees until the end of the licence term.

### **As a Crown water frontage licence holder you have the following responsibilities**

- Be aware that licence fees may increase over the term of the licence, and unless you pay for the full term of your licence up front, you will be subject to any increase in fees.

## 4.8 Debt recovery

### *Licence clause wording:*

All moneys payable by the Licensee to the Licensor under this Licence are recoverable from the Licensee as liquidated debts payable on demand.

### **What does this licence clause mean?**

Your licence fees are clearly stated in your licence schedule. The licensor (DELWP) has the right to demand payment for this amount and any additional amounts payable as a result of actions by the licensor (DELWP) under clauses 2, 3 and 4 of your licence.

### **As a Crown water frontage licence holder you have the following responsibilities**

- Pay your Crown water frontage licence fees by the due date.
- Pay any other outstanding amounts identified by the licensor (DELWP) and provided to you in writing as a result of actions by the licensor (DELWP) under clauses 2, 3 or 4 of your licence by the due date.

## 3. Licence schedule

### Contents of the licence schedule

Each Crown water frontage licence includes a licence schedule. Each item listed on the licence schedule is listed below.

1. Licence number
2. Licensor - the relevant Minister
3. Licensee -Licensee name or Business name
4. Address – the Licensee’s address
5. Commencement date – date the licence started
6. Term - the number of years for which the licence is issued
7. Licence fee – in dollars, excluding GST
8. Paid - how often the licence is paid, e.g. annually, every five years, or on demand
9. Licensed land – a description of the licensed land e.g. municipality, Crown allotment and parish
10. Area –of the licensed land in hectares
11. Powers under which land is granted - the relevant legislation and section under which the licence is granted e.g. Section 130, *Land Act 1958*
12. Specified purpose – e.g. ‘riparian management’ or ‘grazing’
13. Statutory and other conditions – these are generally on all Crown water frontage licences (refer below).
14. Special conditions – any additional site specific conditions of the licence (refer below)

Further information on the statutory and other conditions, as well as special conditions is provided below.

### Statutory and other conditions (Item 13)

Three statutory and other conditions are commonly listed on Crown water frontage licence schedules. These are described in more detail below.

#### *Licence clause wording:*

- A) (The licensee) must erect and maintain a stile, gate or some other suitable means of pedestrian access in any fence or fences on or around the licensed land except any fence between the licensed land and the adjoining private land;

#### **What does this licence clause mean?**

You must not block the public right to enter the licensed Crown water frontage from another area of public land e.g. an adjoining reserve. If you have erected fences or other barriers across or around the Crown water frontage then you must provide and maintain a stile, gate or other suitable means of pedestrian access from the adjoining Crown land. The clause relates to pedestrian access and does not require access for vehicles, horses or other equipment.

#### **As a Crown water frontage licence holder you have the following responsibilities**

- Erect and maintain a stile, gate or other suitable means of pedestrian access in any fence on or around the licensed Crown water frontage other than fences adjoining private land. The construction of the pedestrian access must meet relevant safety standards.

### Additional things to consider

The Australian Standard covering the construction of stiles is AS 1657-1992 for “Fixed platforms, walkways, stairways and ladders – Design, construction and installation” published by Standards Australia and can be found on their website [www.standards.org.au](http://www.standards.org.au). Conforming to this standard will minimise risk to the public and to your liability for any accident associated with using the stile.

#### *Licence clause wording:*

- B) (The licensee) must not erect or permit to remain on the licensed land or on any fence across the licensed land any signs that purport or convey that public pedestrian access to the licensed land is restricted in any way;

### What does this licence clause mean?

A Crown water frontage licence does not allow for exclusive use of the frontage. Crown water frontages are public land and the public are entitled to visit this land.

This clause requires that you do not erect or allow to remain, any signs that could restrict or discourage public access to the licensed Crown water frontage. Any existing signs must be removed.

### As a Crown water frontage licence holder you have the following responsibilities

- Do not put up or allow signs to remain in place that discourage the public from using the licensed Crown water frontage.

### Additional things to consider

You may wish to erect signage indicating the Crown land boundary with your private land. You may also wish to erect signage indicating a land rehabilitation or revegetation area. In some cases, where public funding for these works has been provided, a sign may be provided or required as part of the project requirements. You are also encouraged to contact the licensor (DELWP) if you consider the public use of the licensed frontage is inappropriate.

#### *Licence clause wording:*

- C) (The licensee) pursuant to Section 401A of the Land Act 1958 acknowledges that any person may enter and remain on the licensed land for recreational purposes (except camping) and the licensee must not do anything to suggest or convey to any person that he or she may not enter the licensed land for this purpose.

### What does this licence clause mean?

You must be aware of the public’s right to access the licensed Crown water frontage for recreational purposes and you must not do anything to suggest that the public cannot enter the licensed land.

Recreational purposes are described in <https://www.forestsandreserves.vic.gov.au/land-management/crown-land-leases-licences-and-permits>.

### As a Crown water frontage licence holder you have the following responsibilities

- Allow members of the public pedestrian access to the licensed Crown water frontage for recreational activities such as walking, fishing and bird watching.
- Not do anything (such as erect a sign) which suggests that the public cannot enter the licensed land.

## Additional things to consider

You may wish to report inappropriate land use by the public on licensed frontages. These inappropriate uses are highlighted in <https://www.forestsandreserves.vic.gov.au/land-management/crown-land-leases-licences-and-permits> and provided below.

It is inappropriate to:

- light fires
- camp
- enter revegetation or erosion control sites
- cut, fell, pick, remove, take, destroy or damage any native vegetation whether alive or dead
- bring vehicles, including trail bikes onto Crown water frontage
- interfere with livestock
- interfere with the habitat of any native bird or animal
- remove or dig any soil, sand, rock or gravel
- bring on a dog, or let a dog remain on the land
- deface, damage or interfere with any infrastructure, including fences and signs
- carry a firearm without the permission of the licensee. Except where, the licensed Crown water frontage provides the only access to land for the purpose of hunting in accordance with the *Wildlife Act 1975* e.g. access to a Game Reserve.

The *Land Regulations 2006* provide an exemption for you to operate a vehicle on the licensed Crown water frontage as long as it is associated with the licence purpose e.g. managing livestock or spraying weeds.

## Special conditions (Item 14)

Special conditions are specific to an individual licence and may be used to direct a particular management regime or restrict certain activities on the licensed land.

Special conditions are commonly used on riparian management licences for Crown water frontages. These are an Agricultural Licence under Section 130 of the *Land Act 1958* that recognise that all or part of the frontage is being managed to protect and improve the riparian environment (e.g. the waterway is fenced out and supporting native vegetation). In these cases, special conditions are used to specify any long-term management or maintenance obligations for a Crown water frontage that a licensee has agreed to, such as the maintenance of a fence, or a controlled grazing regime. These conditions are generally related to a funded landholder agreement with a CMA or Melbourne Water. However, they can also relate to the management of approved self-funded riparian works on the Crown water frontage.

On transfer of the riparian management licence to another party in the future, the special conditions generally remain with the licence, ensuring that this management regime continues.

The special conditions are listed at item 14 on the licence schedule (Appendix 2) and are referred to in clauses 2.11 of the licence conditions.

# Appendix 1 – Licence conditions

## Licence Clause 1 - Grant

The rights conferred by this Licence are non-exclusive, do not create or confer upon the Licensee any tenancy or any estate or interest in or over the licensed land or any part of it, and do not comprise or include any rights other than those granted or to which the Licensee is otherwise entitled by law.

## Licence Clause 2 - Licensee's Obligations (Positive)

(The Licensee Hereby Covenants with the Licensor that during the term the Licensee will: -)

### Licence fee (2.1)

Duly and punctually pay or cause to be paid the licence fee to the Licensor at the payment address advised by the Licensor from time to time on the days and in the manner provided in Item 8 of the Schedule without demand, deduction, set-off or abatement.

### Rates and taxes (2.2)

- Duly and punctually pay as and when they respectively fall due all rates and taxes on the licensed land (2.2.1).
- If requested to do so by the Licensor, produce receipts to the Licensor evidencing payment of the rates and taxes (2.2.2).
- Duly and punctually pay to the Licensor at the same time and in the same manner as the licence fee is payable to the Licensor (or as otherwise notified to the Licensee by the Licensor) under clause 2.1 above the amount of any GST payable on or in relation to this licence and/or the rent payable thereunder or that becomes payable by the Licensor during the period covered by the fee (2.2.3).

### Indemnity (2.3)

Indemnify the Crown in respect of any claim or liability for property damage and/or injury or death of any person which arises directly or indirectly out of negligence, tort, contract, or breach of a statutory duty by the Licensee or any associated party consequential to the use or occupation of the licensed land, including, but without restricting the generality of the foregoing, the pollution or contamination of land or water, and any costs, charges and expenses incurred in connection therewith.

### Maintenance (2.4)

Throughout the term keep the licensed land in good order and condition and the improvements (if any) on it in good order and condition having regard to their condition at the commencement date or, if constructed or added to the licensed land after the commencement date, at the date of such construction or addition as the case may be and in particular but without restricting the generality of the foregoing will (2.4.1): -

- Keep the licensed land free of pest animals and weeds (2.4.1.1);
- Remedy every default of which notice is given by the Licensor to the Licensee within a reasonable time specified in the notice but in any event the time specified in the notice will not be less than 14 days (2.4.1.2).

### Fire protection works (2.5)

Undertake all fire protection works on the licensed land required by law to the satisfaction of the Licensor and the responsible fire Authority.

### Condition of termination (2.6)

On expiry or prior determination of this Licence return the licensed land to the Licensor in good order and condition and otherwise in accordance with the Licensee's obligations.

### **Notice of defects and other matters (2.7)**

- Give the Licensor prompt notice in writing of any accident to or defect in the licensed land and of any circumstances likely to cause any damage risk or hazard to the licensed land or any person on it (2.7.1);
- Give to the Licensor within 7 days of its receipt by the Licensee a true copy of every notice, proposal or order given, issued or made in respect of the licensed land and full details of the circumstances of it (2.7.2);
- Without delay take all necessary steps to comply with any notice, proposal or order referred to in paragraph 2.7.2 with which the Licensee is required to comply (2.7.3); and
- At the request of the Licensor make or join with the Licensor in making such objections or representations against or in respect of any notice, proposal or order referred to in paragraph 2.7.2 as the Licensor deems expedient (2.7.4).

### **Compliance with the law (2.8)**

Comply at the Licensee's cost with the provisions of all statutes, regulations, local laws and by-laws relating to the licensed land and all lawful orders or direction made under them;

### **Compliance with directions (2.9)**

At the Licensee's cost forthwith comply with any written direction given by the Secretary during the term as to the: -

- grazing or management of the licensed land (including fencing), or the number and type of stock which may be depastured on the licensed land (2.9.1.1);
- frequency, timing and method of cultivation (2.9.1.2);
- water supply and other improvements (2.9.1.3);
- reclamation of eroded areas and land degradation (2.9.1.4); or
- retention or clearance of native vegetation (2.9.1.5).

### **Arrears and interest (2.10)**

Pay to the Licensor (2.10.1):-

- on any moneys payable by the Licensee to the Licensor and outstanding for thirty (30) days or on any judgment for the Licensor in an action arising under the Licence, interest at the penalty rate of interest for the time being made payable under the Penalty Interest Rates Act 1983 computed from the date the moneys or judgment became payable until all moneys (including interest on them) are paid in full (2.10.1.1);
- on demand all the Licensor's legal costs and disbursements payable in respect of or in connection with any assignment of this Licence or under-licensing of the licensed land, any surrender of this Licence, the giving of any consent by the Licensor or any failure by the Licensee to perform and observe this Licence, or any deed or other document executed in connection with this Licence (2.10.1.2).

### **Further conditions (2.11)**

Comply with the Statutory and other Conditions contained in Item 13 of the Schedule and with the Special Conditions contained in Item 14 of the Schedule.

## Licence Clause 3 - Licensee's Obligations (Negative)

(The Licensee Hereby Covenants with the Licensor that during the term the Licensee will not-)

### Use of licensed land (3.1)

Use the licensed land for any purpose other than the specified purpose referred to in Item 12 of the Schedule or any additional purpose specified in Item 14 of the Schedule without first obtaining the Licensor's written consent which can be given or withheld at the absolute discretion of the Licensor or be given subject to conditions.

### Allow rubbish (3.2)

Permit any rubbish to accumulate in or about the licensed land.

### Hazardous chemicals (3.3)

Keep any hazardous chemical on the licensed land without the Licensor's written consent which can be given or withheld at the absolute discretion of the Licensor or be given subject to conditions.

### Burning (3.4)

Undertake any burning of vegetation or any other matter on the licensed land without first obtaining any necessary permit and the written approval of the Licensor which can be given or withheld at the absolute discretion of the Licensor or be given subject to conditions PROVIDED HOWEVER that the consent of the Licensor is not required for the burning of crop stubble.

### Assignment (3.5)

Without first obtaining the written consent of the Licensor assign, under-license, mortgage, or charge this Licence or part with or share possession of the licensed land or any part of it.

### Licensor's entry (3.6)

Prevent, attempt to prevent or in any other way hinder, obstruct or permit the hindrance or obstruction of the Licensor or the Licensor's employee or agent at any time from entering and remaining on the licensed land either with or without motor vehicles or other equipment for any purpose and in particular, but without restricting the generality of the foregoing, for any of the following purposes (3.6.1):-

- retaking or attempting to retake possession of the licensed land (3.6.1.1);
- inspection (3.6.1.2); or
- any other lawful purpose (3.6.1.3).

### Void insurance (3.7)

Do or allow anything to be done which might result in any insurance's relating to the licensed land becoming void or voidable or which might increase the premium on any insurance.

### Cultivation and use of licensed land (3.8)

Without the Licensor's prior written approval, which can be given or withheld at the absolute discretion of the Licensor or be given subject to conditions (3.8.1), :-

- fell, ringbark, injure, destroy or remove any living or dead vegetation (except weeds) or fallen timber on the licensed land (3.8.1.1);
- plough, cultivate, work, break up or remove soil or construct any earthworks on the licensed land (3.8.1.2);
- plant any vegetation, seed or crop on the licensed land (3.8.1.3); or
- apply fertilizer to the licensed land (3.8.1.4).

### **Erection of improvements (3.9)**

Erect or permit the erection of any improvement on the licensed land without the Licensor's prior written approval, which can be given or withheld at the absolute discretion of the Licensor or be given subject to conditions.

## **Licence Clause 4 - General Conditions**

### **Termination upon default (4.1)**

If the Licensor is satisfied, after giving the Licensee a reasonable opportunity to be heard, that the licensee has failed to comply with any terms or conditions of the licence, the Licensor may, by notice published in the Government Gazette, declare that the licence is cancelled, and upon cancellation the licensee will not be entitled to any compensation whatsoever.

### **Termination without default (4.2)**

- In addition to and not in substitution for the power to cancel this Licence under clause 4.1, the Licensor may by giving to the Licensee three months' written notice to that effect cancel this Licence upon a date to be specified in that notice notwithstanding that there has been no breach by the Licensee of any term or condition of this Licence (4.2.1).
- If the licence is terminated under this clause the Licensee is entitled to receive and will be paid by the Licensor a refund of an amount of the licence fee paid (4.2.2).
- The amount of refund will be determined by the Licensor on a pro rata basis, taking into account any period of the licence remaining at the date of cancellation (4.2.3).
- Except as provided in sub clause 4.2.2 above no compensation is payable in respect of the cancellation of the licence (4.2.4).

### **Licensee's improvements (4.3)**

- The Licensee's improvements shall remain the property of the Licensee (4.3.1).
- On the cancellation or expiration of the Licence the Licensee must, within a period of time specified by the Secretary, remove all Licensee's improvements from the licensed land and forthwith make good all damage caused to the licensed land by the affixing, retention or removal of Licensee's improvements to the satisfaction of the Secretary (4.3.2).

### **Secretary may remove and dispose of property (4.4)**

If the Licence expires, or is cancelled under clauses 4.1 or 4.2, the Secretary may at the end of the period of time specified under Clause 4.3.2 remove the Licensee's chattels and improvements and store them at the Licensee's expense without being liable to the Licensee for trespass, detinue, conversion or negligence. After storing them for at least one month, the Secretary may sell or dispose of them by auction, private sale, gift, distribution or otherwise and apply the net proceeds towards the payment of any moneys owed by the Licensee to the Licensor.

### **Licensor's/ Secretary's agents (4.5)**

Every act or thing to be done, decision to be made or document to be signed pursuant to this Licence by the Licensor or the Secretary and not required by law to be done, made or signed by the Licensor or the Secretary personally may be done made or signed by any person to whom such power has been delegated by the Licensor or the Secretary.

### **Notices (4.6)**

Any notice consent or demand or other communication to be served on or given to the Licensee by the Licensor under this Licence shall be deemed to have been duly served or given if it is in writing signed by the Licensor and delivered or sent by pre-paid post to the Licensee's address set out in Item 4 of the Schedule or to the latest address stated by the Licensee in any written communication with the Licensor.

### Review of licence fee (4.7)

The licence fee, unless it has been paid in full for the term, will be reviewed by the Licensor every three years from 1st October 1997, and the reviewed fee shall commence on the day following the date fixed for each such review.

### Debt recovery (4.8)

All moneys payable by the Licensee to the Licensor under this Licence are recoverable from the Licensee as liquidated debts payable on demand.

## Licence Conditions Clause 5 - Definitions

Unless inconsistent with the context or subject matter each word or phrase defined in this clause has the same meaning when used elsewhere in the licence.

**"commencement date"** means the date described in Item 5 of the Schedule and is the first day of the term;

**"Crown"** means the Crown in right of the State of Victoria and includes the Secretary and each employee and agent of the Crown or the Secretary;

**"GST"** means a goods and services tax within the meaning of the *A New Tax System (Goods and Services Tax) Act 1999*.

**"Department"** means the Department of Environment, Land, Water and Planning<sup>5</sup> or its successor in law;

**"flora"** has the same meaning as in the *Flora and Fauna Guarantee Act 1988*;

**"hazardous chemical"** includes gas, inflammable liquid, explosive substance, pesticide, herbicide, fertiliser and other chemicals;

**"improvement"** includes building, dam, levee, channel, sign, permanent fence, or other structure and any addition to an existing improvement;

**"licensed land"** means the land described in Item 9 of the Schedule;

**"Licence fee"** means the licence fee described in Item 7 of the Schedule as varied during the term;

**"Licensee"** means the person named in Item 3 of the Schedule and includes the permitted assigns and successors in law to a Licensee;

**"Licensee's Improvements"** includes growing crop, building, structure, sign, fence and any other structural improvement including dam, levee, channel or any other earthworks but does not include any such improvement shown in Item 14 of the Schedule as being or becoming the property of the Licensor.

**"Licensor"** means the Minister of the Crown for the time being administering Division 8 of Part 1 of the *Land Act 1958* or such other Minister of the Crown or Government Authority to whom responsibility for this Licence may at any time be given;

**"person"** includes a body corporate as well as an individual;

**"pest animals"** has the same meaning as in the *Catchment and Land Protection Act 1994*;

**"rates and taxes"** means all existing and future rates (including excess water rates and any special rates or levies) taxes, charges, tariffs, assessments, impositions and outgoings whatsoever now or at any time imposed, charged or assessed on or against the licensed land or the Licensor or the Licensee or payable by the owner or occupier of the licensed land;

**"schedule"** means the schedule to this Licence;

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<sup>5</sup> Some licences conditions may refer to the previous Department of Sustainability and Environment or Department of Environment and Primary Industry

**"Secretary"** means The Secretary to the Department of Environment, Land, Water and Planning, the body corporate established under the *Conservation, Forests and Lands Act 1987*;

**"sign"** includes names, advertisements and notices;

**"soil"** includes gravel, stone, salt, guano, shell, sand, loam and brick earth;

**"term"** means the period of time set out in Item 6 of the Schedule, as and from the commencement date;

**"weeds"** include noxious weeds within the meaning of the *Catchment and Land Protection Act 1994*, and prescribed flora within the meaning of the *Flora and Fauna Guarantee Act 1988*;

**"writing"** includes typewriting, printing, photography, lithography and other modes of representing or reproducing words in a visible form and "written" has a corresponding meaning.

### **Licence Conditions Clause 6 - Interpretations**

- 6.1 A reference importing the singular includes the plural and vice versa.
- 6.2 The index and headings are included for ease of reference and do not alter the interpretation of this Licence.
- 6.3 If any day appointed or specified by this Licence falls on a Saturday, Sunday or a day appointed under the *Public Holidays Act 1993* as a holiday for the whole day the day so appointed or specified is deemed to be the first day succeeding the day appointed or specified which is not a Saturday, Sunday or day appointed as a holiday.
- 6.4 References to an Act of Parliament or a section or schedule of it shall be read as if the words "or any statutory modification or re-enactment thereof or substitution therefor" were added to the reference.
- 6.5 If the Licensee comprises more than one person, the covenants and agreements contained in this Licence shall be construed as having been entered into by, and are binding, both jointly and severally on all and each of the persons who constitute the Licensee.
- 6.6 References to clauses, sub-clauses and Items are references to clauses, sub-clauses and Items of this Licence respectively.

### **Licence Schedule - Statutory and other conditions (Item 13)**

- A) (The licensee) must erect and maintain a stile, gate or some other suitable means of pedestrian access in any fence or fences on or around the licensed land except any fence between the licensed land and the adjoining private land;
- B) (The licensee) must not erect or permit to remain on the licensed land or on any fence across the licensed land any signs that purport or convey that public pedestrian access to the licensed land is restricted in any way;
- C) (The licensee) pursuant to Section 401A of the Land Act 1958 acknowledges that any person may enter and remain on the licensed land for recreational purposes (except camping) and the licensee must not do anything to suggest or convey to any person that he or she may not enter the licensed land for this purpose.

## Appendix 2 – Sample licence schedule

### LICENCE SCHEDULE

1. **Licence No.** 2020298
2. **Licensor** MINISTER FOR ENVIRONMENT, CLIMATE CHANGE & WATER
3. **Licensee**
4. **Address**
5. **Commencement Date** 01 OCTOBER 2014
6. **Term** 5 YEARS
7. **Licence Fee** \$80.00 (Ex. GST)
8. **Paid** IN FULL
9. **Licensed Land** All that land being:  
MUNICIPALITY OF MURRINDINDI  
FRONTAGE TO STEAVENSON RIVER BEING PART OF CROWN ALLOTMENT 24B - NO SECTION  
ABUTTING CROWN ALLOTMENT 32 - NO SECTION.  
PARISH OF STEAVENSON.  
  
AS INDICATED ON ATTACHED PLAN/S.
10. **Area (Ha)** 2.0000
11. **Powers under which land is granted** SECTION 130 LAND ACT 1958
12. **Specified Purpose** RIPARIAN MANAGEMENT/GRAZING
13. **Statutory and other Conditions**  
THE LICENSEE  
  
(A) MUST ERECT AND MAINTAIN A STILE, GATE OR SOME OTHER SUITABLE MEANS OF PEDESTRIAN ACCESS IN ANY FENCE OR FENCES ON OR AROUND THE LICENSED LAND EXCEPT ANY FENCE BETWEEN THE LICENSED LAND AND ADJOINING PRIVATE LAND; AND  
  
(B) MUST NOT ERECT OR PERMIT TO REMAIN ERECTED ON THE LICENSED LAND OR ON ANY FENCE ACROSS THE LICENSED LAND ANY SIGNS THAT PURPORT OR CONVEY THAT PUBLIC PEDESTRIAN ACCESS TO THE LICENSED LAND IS RESTRICTED IN ANY WAY; AND  
  
(C) PURSUANT TO SECTION 401A OF THE LAND ACT 1958 ACKNOWLEDGES THAT ANY PERSON MAY ENTER AND REMAIN ON THE LICENSED LAND FOR RECREATIONAL PURPOSES (EXCEPT CAMPING) AND THE LICENSEE MUST NOT DO ANYTHING TO SUGGEST OR CONVEY TO ANY PERSON THAT HE OR SHE MAY NOT ENTER THE LICENSED LAND FOR THIS PURPOSE.
14. **Special Conditions**



