

Licensing of unused roads for agricultural uses

Introduction

A road is land that has been set aside for public access now or in the future. There are many pieces of legislation that deal with roads and the legal definition varies depending on the legislation being used. For the purposes of this type of licence, an unused road is defined as a government road that was officially set aside for public traffic but never constructed or used.

Local councils have the responsibility for managing government roads. However, a council has the power to declare to the Department of Environment, Land, Water and Planning (DELWP) that a government road is not required for public traffic. The road then becomes an unused road. Councils also have the power to require that an unused road be opened for public traffic.

Licensing of Unused Roads

Responsibility for the licensing of unused roads resides with DELWP. DELWP may issue a licence for agricultural use over the road to an owner/occupier of the adjoining private land on behalf of the Minister for Energy, Environment and Climate Change. When considering any application to use an unused road, DELWP must ensure that public land values are protected. Examples of public land values include environmental, historic, recreation, natural resource and cultural significance.

Historically, grazing is the main use for which unused roads are licensed. A licence over an unused road provides personal permission to enter and use the land for a specific purpose and does not offer exclusive use to the licensee.

Licences over unused roads for agricultural use can be issued for up to ninety-nine years. DELWP may decline applications or impose special conditions where appropriate. A licence may be cancelled if conditions are not met or a council requires the road to be reopened for traffic purposes.

Frequently Asked Questions

Can I obtain a licence for an unused road if I am not the owner/occupier of adjoining private land?

Unused road licences are issued only to the owner/occupier of the adjoining private land.

Are there circumstances where I must hold an unused road licence?

If you are using an unused road for agricultural purposes or private use, DELWP can require you to take out an appropriate licence.

How do I apply for an unused road licence?

You will need to apply in writing to DELWP. Please contact your local office as a first step. Ask for the 'Application to use Crown Land' form.

How is rental determined for an unused road licence being used for grazing?

The rental for an unused road for agricultural use is determined by the carrying capacity of the land, expressed in Dry Sheep Equivalents (a Dry Sheep is a two-year old wether weighing 45 kilograms and maintaining its present weight). The minimum annual rental is available on application. An option is available for a one-off payment for the full ninety-nine year term.

How is rental calculated for an unused road being used for growing crops?

The rental is determined on the type of the crop, the crop yield and crop rotation.

Are there any other fees involved in obtaining an unused road licence?

Yes. A licence application fee applies to all applications, and in some circumstances a licence preparation, transfer or replacement fee applies. Contact the DELWP Customer Service Centre for further details.

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What do I do if I don't agree with the proposed rental?

A licensee may only lodge an appeal against the productive rental on the basis of:

- the assessed carrying capacity
- the area considered to be productive
- both of the above.

Any appeals must be lodged in writing within 30 days of an account or offer being issued.

Am I liable for rates on the licensed unused road?

Yes. Under the conditions of the licence the licensee must pay all rates and charges applicable. Your local council will determine whether it charges rates on the licensed unused road.

What happens to the licence if I sell my property?

Only the owner/occupier of adjoining private land can hold a licence over an adjoining unused road. If you decide to sell all or part of your property and that section adjoins the unused road held under licence, you must transfer your licence to the new owner of the property.

You should also advise your Solicitors/selling agent that a Crown land licence/s exist for the property that may need to be transferred in part or full to the new owners. A form to transfer the licence needs to be completed by both parties, along with payment of a transfer fee to be sent into the Seymour (03 5735 4300) location of the DELWP Transaction Centre. You can call the transaction centre on the number listed above. It would be beneficial to have the licence number available to quote to the DELWP Officer.

Will my private details be kept private?

DELWP is committed to protecting information provided in accordance with the principles of the *Information Privacy Act 2000*.

Information contained in your licence, or any other correspondence related to your licence, may be stored and used by DELWP for the purpose of advising DELWP and/or relevant Minister on matters relating to the management of Crown lands in Victoria. This information may be disclosed to other relevant governments agencies or statutory authorities or local government authorities for these purposes or if required by law.

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