

Tour Operator and Activity Provider Licence Application

How to obtain a tour operator licence

Step 1

Contact the land manager to discuss the proposal. A preliminary discussion will assist both parties in understanding each other's position and may help save time.

Step 2

If the land manager supports the proposal in principle, fill in the application form and send it to the land manager. The land manager may want to discuss the application further with you before deciding whether to grant a licence, or work out additional site-specific or activity-specific conditions which would be inserted into the licence document. A plan which shows the area of Crown land being licensed also needs to be prepared.

Step 3

Your application will be considered on its merits by the land manager in their sole discretion. The land manager must also write to the Department of Environment, Land, Water and Planning (DELWP) to obtain the approval of the Minister for Energy, Environment and Climate Change to the granting of the licence. The approval function has been delegated to officers in regional DELWP offices.

If the application is accepted (and receives Ministerial approval under the *Crown Land (Reserves) Act 1978*), the land manager will prepare duplicate execution copies of the licence and send them to you for signing.

Step 4

Once you have signed both documents, they must be returned to the land manager for signature, together with the annual fee for the first year of the licence. Ultimately, the land manager will return a fully executed part of the licence to you for your records.

You can assist in speeding up the process to issue the licence by:

- ensuring that the application is completed correctly
- attaching all associated documentation.

New application

Licence duration

Duration of licence sought i.e. one year or multiple year licence for a fixed term of up to 10 years:

year licence

Note multiple year licences are conditional on holding appropriate accreditation or three year full compliance history (see page 4).

Contact details

Please insert the contact details of the individual completing this application form:

Surname:

Given name:

Position:


Company/Association:

Phone:

Email:

Date (DD/MM/YY):

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Part 1 – Information for applicants

Application

A licence is required by people or businesses who conduct organised tours or recreational activities for profit on public land in Victoria. Public land includes land and waters managed by and on behalf of the Crown under the following legislation:

- *National Parks Act 1975*
- *Forests Act 1958*
- *Crown Land (Reserves) Act 1978*
- *Land Act 1958*
- *Wildlife Act 1975*.

For further information about tour operating licensing on public land visit

www.forestsandreserves.vic.gov.au/tour-operators

Completed application forms can be sent to:

*Mount Baw Baw Alpine Resort
PO Box 117 Rawson VIC 3825
or permits@mtbawbaw.com.au*

Variation

Tour Operator Licences may be varied either by the Licensee applying to the Licensor requesting a variation or by the Licensor giving written notice to the Licensee, pursuant to the Licensor's statutory powers under the enabling legislation. A variation of licence cannot be used to extend the term of a Licence.

Multiple Sites

If a tour operator is seeking a licence to operate over more than one area of public land, a single application can be made over multiple areas of land, providing all these areas are managed by the same land manager. If the tour operator is seeking a licence to operate over more than one area of public land and these sites are managed by different land managers, the tour operator must make separate applications for each site to the relevant land managers. If you are going to apply to another land manager for a licence, please provide details of the land manager in Part 3A.

Public Liability Insurance

It is a condition of a tour operator licence that the Licensee keep and maintain a public liability insurance policy covering the activities of the Licensee for the duration of the licence. The level of insurance must be at least \$20 million for any one claim, but a requirement for a higher level of coverage may be necessary if the Licensor considers it appropriate because of the nature of the Licensee's activities.

Fees

Fees are set in accordance with the Tour Operator Licence Fee Regulations in force over the term of the licence, currently 2021 – The annual licence fees set in the Regulations are set by 'fee units', in accordance with the *Monetary Units Act 2004*. Fees will be indexed annually by adjusting the value of the fee units by an annual rate fixed by the Treasurer. The value of the fee unit is published in the Government Gazette.

The value of a fee unit for 2021-2022 has been set at \$15.03.

Table 1: Summary of standard tour operator licence fees

Category	Fee for 2021-2022
Annual fee – standard one year licence	\$312.30
Annual fee – standard licence greater than one year (per year)	\$245.00
Use fee – adult ^a	\$2.40
Use fee – child (16 years and under) and school student ^a	\$1.60
Use fee cap	\$15,311.70

a. Per person per day

GST is not payable on tour operator licence fees.

Part 1 – Information for applicants

Fees for competitively allocated tour operator licences

The regulations establishing tour operator licence fees provide that:

- public land managers may set the annual fee for a competitively allocated licence, but must advertise the fee in a public Expression of Interest document before licence applications are made
- as a minimum the annual fee must be equivalent to the annual fee for standard tour operator licences
- use fees for competitively allocated licences are the same as for standard tour operator licences
- no use fee cap applies to competitively allocated licences.

The use fees and minimum annual fees for competitively allocated licences are shown in Table 2.

Table 2: Summary of standard tour operator licence fees

Category	Fee for 2021-2022
Minimum annual fee	\$312.30
Use fee – adult ^a	\$2.40
Use fee – child (16 years and under) and school student ^a	\$1.60

a. Per person per day

Part 1 – Information for applicants

Privacy

Southern Alpine Resort Management Board (SARMB) as Committee of Management of the Mount Baw Baw Alpine Resort is committed to protecting personal information provided by you in accordance with the principles of the Victorian Privacy laws.

The information you provide will be used for the following:

- to manage the terms and conditions of your licence, provide you with information about any changes to licence terms and conditions or fees, and provided reminders for renewal;
- to process any fee relief application;
- listing on Mount Baw Baw Alpine Resort website.

The information you provide will be made available to the Department of Environment, Land, Water and Planning and (if requested) Parks Victoria.

This information is being collected in accordance with Crown Land (Reserves) Act 1978. If all requested information is not received, SARMB will be unable to process your application.

You may access the information you have provided to SARMB by contacting our Privacy Officer at invest@southernalpine.vic.gov.au

If you do not want your information published where publication is not otherwise required by law, please let us know.

Accreditation

The programs currently recognised as supportive of an application for a longer term licence are in Table 2:

Table 2: Recognised tourism accreditation providers and programs

Up to 5 year licence term	Up to 10 year maximum licence term
Nature Tourism – EcoCertification Ecotourism Australia	Ecotourism - EcoCertification Ecotourism Australia
Quality Tourism Accreditation Level 2 – Sustainable Tourism Victorian Tourism Industry Council (formerly Australian Tourism Accreditation Program)	Advanced Ecotourism - EcoCertification Ecotourism Australia
Respecting Our Culture Ecotourism Australia (transferred from Aboriginal Tourism Australia in 2008)	EarthCheck Benchmarking and Certification Earthcheck (formerly GreenGlobe Company Standard)

Accordingly, the licence terms and conditions require the Licensee to possess accreditation which is consistent with the nature of the Tour product being offered.

Maintaining accreditation throughout the Term is a condition of this licence.

Special conditions

Special conditions specific to the proposed activity or operator may be applicable to the licence and are inserted into the licence document.

Aboriginal Heritage

Please refer to the Victorian Aboriginal Heritage Council website <https://www.aboriginalheritagecouncil.vic.gov.au/victoria-s-registered-aboriginal-parties> for contact details for Victoria's Recognised Aboriginal Parties and a State-wide map of Registered Aboriginal parties located across Victoria.

For further enquiries regarding Victorian Traditional Owners contact Aboriginal Victoria on 1800 762 003 or email Aboriginalaffairs@dpc.gov.au

Part 4 – Licence Conditions

Tour Operator Licence to be issued to:

(please mark box)

- Individual – (go to 1a)
 Incorporated Company/ Incorporated Association – (go to 1b)

1a) Where the licence is to be issued to an INDIVIDUAL:

Surname:

Given name:

1b) Where licence is to be issued to an INCORPORATED COMPANY / INCORPORATED ASSOCIATION:

Company/Association name:

Australian Company Number (ACN):

OR

Incorporated Association Number:

Authorised Officer

Surname:

Given name:

Position Title:

Trading name/s:

Registered for GST: (please mark)

Yes

No

Australian Business Number (ABN) if applicable:

Address for correspondence or registered office address:

Street address:

Phone (Business hours):

Phone (After hours):

Mobile:

Email:

Website:

Part 2 – Applicant Details

Applicants must complete a separate Tour Schedule for each tour. A tour is any organised tour/recreation business activity undertaken on public land.

If you propose to conduct more than four tours, please copy, complete and attach additional Tour Schedules.

3a Tour schedule 1

Proposed location(s) including the name of the reserve. If you are making a separate application to another land manager(s), please provide the details of the land manager(s):

Details of activities/tours proposed (for example: bird watching, include details such as what, when, where and how. Attach maps)

Proposed frequency of tours (for example anticipated number of trips): weekly/monthly

Proposed duration of tours: hours

Proposed maximum group sizes:

Part 3 – Proposed tour details

Vehicles/equipment to be used to undertake activities/tours:

3b Tour schedule 2

Proposed location(s) including the name of the reserve. If you are making a separate application to another land manager(s), please provide the details of the land manager(s):

Details of activities/tours proposed (for example: bird watching, include details such as what, when, where and how. Attach maps)

Proposed frequency of tours (for example anticipated number of trips): weekly/monthly

Proposed duration of tours: hours

Proposed maximum group sizes:

Part 3 – Proposed tour details

Vehicles/equipment to be used to undertake activities/tours:

Licence conditions

1. Definitions

1.1 Unless inconsistent with the context or subject matter, each word or phrase defined in this clause 1 has the same meaning when used elsewhere in this Licence.

1.2 When used in this Licence, the following words and phrases denote the following:

Accreditation means a recognised tourism industry accreditation program, endorsed by the Department of Environment, Land, Water and Planning, that encourages improved environmental, cultural and business planning.

Act means:

- *Crown Land (Reserves) Act 1978*;
- *Forests Act 1958*;
- *Land Act 1958*;
- *National Parks Act 1975*; or
- *Wildlife Act 1975*.

Annexure means an annexure in this licence.

Annual Fee means the component of the standard Licence Fee fixed and reviewed under Regulation 7, or fixed under Regulation 14, or equivalent for competitively allocated licences, of each of the Fee regulations.

Association means the Australian Tourism Industry Council Limited ACN 095 626 976 (or equivalent body).

Code Red Days means days classified in this manner pursuant to a fire danger rating set by the Bureau of Meteorology, based on the forecast fire danger index.

Commencement Date means the date set out in Schedule 1, being the first day of this Licence.

Crown means the Crown in right of the State of Victoria, and includes the Licensor, the Licensor's Representative and each authorised employee, officer or agent of the Crown or the Secretary.

Default Event occurs when:

- (a) the Licensee does not pay any money as required under this Licence whether or not demand has been made;
- (b) the Licensee does not comply with any other obligation under this Licence;
- (c) a judgment or order for \$10,000.00 or more is enforced or becomes enforceable or can be rendered enforceable by the giving of notice, lapse of time or fulfilment of any condition, against the Licensee's interest in this Licence;
- (d) the Licensee is a corporation and:
 - a resolution is passed, or taken to have been passed under the provisions of part 5.3A of the Corporations Act 2001 (Cth), that the Licensee be wound up;

- proceedings are commenced for either the voluntary or compulsory winding up of the Licensee;
- a liquidator or provisional liquidator is appointed to the Licensee whether or not under an order;
- a controller within the meaning of section 9 of the Corporations Act 2001 (Cth) is appointed over any property of the Licensee;
- an administrator is appointed in respect of the Licensee under part 5.3A of the Corporations Act 2001 (Cth), or the directors of the Licensee pass a resolution or implement procedures to pass a resolution to appoint an administrator; or
- is deregistered with the Australian Securities and Investments Commission.

(e) the Licensee is an individual and:

- proceedings are commenced either for the voluntary or compulsory bankruptcy of the Licensee; or
- the Licensee commits an act of bankruptcy as specified in section 40 of the Bankruptcy Act 1966 (Cth).

(f) the Licensee enters into a formal scheme of arrangement or composition with, or assignment for the benefit of any of the Licensee's creditors.

Department means the Department of Environment, Land, Water and Planning, or its successor in law.

Fee Regulations means tour operator licence fee regulations in force over the term of the licence, currently:

- Crown Land (Reserves) (Tour Operator Licence Fee) Regulations 2021;
- Forests (Tour Operator Licence Fee) Regulations 2021;
- Land (Tour Operator Licence Fee) Regulations 2021;
- National Parks (Tour Operator Licence Fee) Regulations 2021; or
- Wildlife (Tour Operator Licence Fee) Regulations 2021.

Insured means the Licensee, including the Licensee's officers, employees, agents, contractors, subcontractors, invitees and their successors and permitted assigns.

Land means the land within which the licensed area is situated.

Licence means this Tour Operator and Activity Provider Licence, including all schedules and annexures.

Licensed Area means the land and improvements

Part 4 – Licence Conditions

(if any) described in Schedule 1 and identified as Annexure A.

Licence Fee means the amount described in Schedule 1, as reviewed or varied during the Term.

Licensee means the entity named in Schedule 1, and includes any permitted assigns or successors in law.

Licensor means the entity named in Schedule 1, and includes Committees of Management appointed by the Minister to manage the Licensed Area.

Licensor's Representative means an employee or officer of the Licensor nominated to the Licensee in writing from time to time, who is authorised to deal with day to day issues that arise in respect of Tours or the Licensed Area.

Minister means the Minister of the Crown for the time being administering the Act.

National Park means a National Park and/or State Park within the meaning of the *National Parks Act 1975*.

Other Relevant Parties means the Minister, the Secretary to the Department, Parks Victoria, the Director of National Parks and any other authorised delegate of the Licensor.

Park means the park or other recreational area within which the Licensed Area is situated.

Permitted Use means the purposes and activities that the Licensee is authorised to carry out on the Licensed Area, as described in Schedule 1, Annexure A and under conditions prescribed in Annexure B.

Person includes a body corporate or individual.

Schedule means a schedule in this Licence.

Secretary means the Secretary to the Department, being the body corporate established under the *Conservation, Forests and Lands Act 1987*.

Term means the period of days, weeks, months or years described in Schedule 1, beginning on the Commencement Date.

Tour means an activity, organised tour or recreation programme conducted or coordinated by an employee or officer of the Licensee on the Licensed Area that is consistent with the Permitted Use.

Use Fee means the component of the standard Licence Fee fixed and reviewed under Regulation 8, or for a competitively allocated licence under Regulation 15, or equivalent, featuring differential daily rates, depending on the number of adults and children that participate in Tours.

Vehicle has the meaning given to that term in the *Road Safety Act 1986* (Vic).

2. Grant of licence

2.1 The Licensor grants the Licensee permission to use the Licensed Area for the Term by virtue of the Act, subject to the conditions set out in this Licence, in common with the Licensor, and other persons authorised by the Licensor.

The licensee acknowledges that no rights or interests are created by this Licence over the Licensed Area.

3. Payment arrangements

- 3.1 The Licensee acknowledges that the total fees payable is made of the following components:
- the Annual Fee; and
 - the Use Fee
- 3.2 Subject to clause 3.3, the Licensee must pay Annual Fee to the Licensor:
- annually in advance;
 - to the address specified in Schedule I, or
 - pursuant to such alternative arrangements as are specified by the Licensor in writing from time to time, without the need for any demand, and without any rights of deduction, set-off or abatement.
- 3.3 If the Term of this Licence is more than 1 year, the Licensee may elect to pay the Annual Fee for the Term as an upfront lump sum, on or before the Commencement Date, calculated on the basis of the value of a fee unit under the Fee Regulations in the year that the lump sum is paid.
- 3.4 The Licensee must pay the Use Fee to the Licensor:
- quarterly or annually in arrears at the Licensee's election;
 - to the address specified in Schedule I, or
 - pursuant to such alternative arrangements as are specified by the Licensor in writing from time to time, without the need for any demand, and without any rights of deduction, set-off or abatement other than:
 - the Use Fee cap fixed under Regulation 9;
 - the Licensee's right to a refund of any excess paid over the Use Fee cap at the end of the financial year under Regulation 10(2); and
 - any other mechanism provided for in the balance of this Licence or the Fee Regulations.
- 3.5 In order to facilitate calculation and reconciliation of the Licensee's Use Fee obligation, the Licensee must:
- maintain a daily record of the number of persons who participate in Tours in the form required under Regulation 11 for standard tour operator licences or Regulation 16 for competitively allocated licences; and
 - provide a copy of this record to the Licensor or the Licensor's Representative, where he or she is authorised to receive this information on the Licensor's behalf, on:
 - a quarterly basis if the Use Fee is paid quarterly in arrears or;
 - an annual basis if the Use Fee is paid annually in arrears.
- 3.6 The Licensee must pay interest to the Licensor on any:
- part of the Licence Fee or other monies payable by the Licensee to the Licensor which are outstanding for more than 14 days; or

Part 4 – Licence Conditions

- (b) judgment for the Licensor in an action arising under this Licence, at the penalty interest rate for the time being payable under the *Penalty Interest Rates Act 1983*, calculated from the date the monies or judgment became payable until the date of actual payment (including interest) of all monies to the Licensor in full.
- 3.7 The Licensee must reimburse the Licensor on demand, for all the Licensor's legal costs and disbursements incurred in connection with:
- any cancellation or surrender of this Licence requested by the Licensee;
 - any application for the Licensor's consent arising under this Licence;
 - any failure by the Licensee to perform its obligations under this Licence; or
 - any other deed or other document required to be executed in connection with this Licence.
- 4. Licensee's Accreditation**
- 4.1 On or before the Commencement Date, the Licensee must provide satisfactory documentary evidence that the Licensee:
- has completed any required Accreditation; and
 - is currently licensed to conduct the Permitted Use by any relevant body, if this is required by law, to the Licensor if requested.
- 4.2 The Licensee must promptly provide documentary evidence confirming the currency of the Licensee's accreditation and any other licence or permit required by law on each successive anniversary of the Commencement Date, to the Licensor if requested.
- 4.3 The Licensor may issue supplementary requests for proof of accreditation to the Licensee during the Term, where this is reasonably required in the circumstances.
- 4.4 Without limiting any other provision of this Licence, the Licensee must ensure that:
- its Tour guides have a current first aid qualification, which is equal to or better than the standard required by law or equivalent; and
 - an additional member of staff supervising each Tour group also has a current first aid qualification and has in their possession a suitable first aid kit.
- 5. Compliance requirements**
- The Licensee acknowledges that:
- 5.1 the Licensee must comply with:
- all statutes, regulations, local laws and by-laws applicable to the Licensed Area or the Permitted Use; and
 - all lawful orders or directions made under these ordinances;
- 5.2 pets and firearms are not to be taken into Parks or National Parks, unless specifically permitted by the Licensor;
- 5.3 fires may only be lit in designated fireplaces if the Licensed Area is in a National Park.
- 5.4 the Licensee may only:
- use the Licensed Area for the Permitted Use, unless the Licensee obtains the Licensor's prior written consent to variation of the Permitted Use, which may be given or withheld in the absolute discretion of the Licensor, and if granted, may be given subject to such conditions as the Licensor sees fit to impose; and
 - conduct Tours and other activities in the Licensed Area that are consistent with the Permitted Use.
- 5.5 the Licensee must not:
- allow rubbish to accumulate in or about the Licensed Area; or
 - cause or permit to be done anything about, or in the vicinity, of the Licensed Area, which constitutes an actionable nuisance, annoyance or disturbance to other persons lawfully entitled to use the Licensed Area, or any land adjoining the Licensed Area.
- 5.6 the Licensee must not enter or remain in, or permit an employee, agent or Tour participant to enter or remain in, any parts of the Licensed Area or the Land that are permanently, temporarily or seasonally closed by gates, signs, electronic or written notification or public notice.
- 5.7 the Licensee must:
- obtain and comply with the terms of all licences, permits, or authorisations required by law to conduct its Tours;
 - ensure that such licences, permits and authorisations remain current at all times during the Term;
 - comply with any:
 - relevant Australian Adventure Activity Standard and Good Practice Guides, published by Outdoors Victoria Limited ACN 158 927 872 (or any equivalent body) from time to time; and
 - additional safety requirements reasonably imposed by the Department or the Licensor, provided that in the event of any inconsistency the higher standard or requirement will prevail;
 - ensure that all contact and business details remain current and that the email address provided is regularly monitored for emergency communications.
 - keep the Licensor informed of any ongoing investigations, Notice of Infraction and outcomes of investigations.
- 5.8 the Licensee must not keep any hazardous materials on the Licensed Area unless it obtains the Licensor's prior written consent, (which may be granted or withheld in the Licensor's absolute discretion), except for a reasonable quantity of any hazardous material which is:
- normally used in connection with the Permitted Use; and
 - kept in compliance with the requirements of any authority that regulates storage or keeping of the hazardous substance.

Part 4 – Licence Conditions

6. Licensor's directions and tour Interruptions

- 6.1 The Licensee and the Licensee's employees, agents and Tour participants must obey all reasonable directions given by the Licensor the Licensor's Representative or the Licensor's other authorised officer, employee, agent or delegate, in respect of the Licensed Area
- 6.2 Without limiting the generality of the foregoing, the Licensee acknowledges that it may be directed to cease or suspend Tours for a period specified by the Licensor that is reasonable and proportionate in the circumstances, as a result of any of the following causes:
- (a) fires, floods, severe storms and other natural disasters;
 - (b) fuel reduction burns;
 - (c) Code Red Days; and
 - (d) any other cause reasonably specified by the Licensor, which is directed at the preservation of human health and / or the environment.
- 6.3 Except in an emergency, when the Licensor will give the Licensee as much notice as is reasonably practicable in the circumstances, the Licensor will give the Licensee at least 7 days' notice of the need to cease or suspend Tours.
- 6.4 The Licensee is not entitled to any compensation from the Licensor whatsoever for loss or damage caused or contributed to by the need to suspend, cancel or cease Tours under the provisions of this clause 6, save that the Licensee may be granted a proportionate set-off against future Licence Fee payments, as determined in the Licensor's absolute discretion.

7. Dealing with emergencies

- The Licensee must:
- 7.1 develop and maintain an emergency response plan that:
- (a) complies with the law; and
 - (b) outlines procedures to be followed in the event of natural or other disaster, injury, illness or delay on the Licensed Area; for each Tour (collectively, the "Emergency Response Plan") and promptly provide a copy of the Emergency Response Plan to the Licensor if requested;
- 7.2 ensure the safe evacuation of Tour participants and vehicles from the Licensed Area in the event of any natural or other disaster adjacent or near to approved routes in accordance with the Emergency Response Plan;
- 7.3 notify the Licensor's Representative, as soon as is reasonably practicable, of any natural or other disaster, injury, illness, Vehicle accident or delay that may impact upon:
- (a) the Tour group; or
 - (b) other Tours or authorised activities being conducted on the Licensed Area or the Land; and
- 7.4 file a completed incident report in the form required by the Licensor with the Licensor (or the Licensor's Representative if he or she has been authorised to receive such a document) as soon as is reasonably

practicable, after the occurrence of the relevant event.

8. Precautions against damage and injury of wildlife

- 8.1 Except as expressly authorised by this Licence, the Licensee must not damage, destroy, disrupt or remove any native flora (live or dead) or any native fauna, or any built asset, natural feature or cultural heritage place (including creating new access trails without the Licensor's consent) from the Licensed Area or the Land.
- 8.2 Any instances of destruction or damage must be promptly reported to the Licensor's Representative.
- 8.3 In the event of such damage or destruction, at the Licensor's option, the Licensee must:
- (a) undertake and complete remediation action specified by the Licensor, at the Licensee's cost; or
 - (b) reimburse the Licensor for the cost of repairing such damage or destruction within 14 days of demand.
- 8.4 Feeding or handling of wildlife on the Licensed Area, whether during the course of a Tour or otherwise, is not permitted without the prior consent of the Licensor.
- 8.5 The Licensee must not drive or permit an employee, agent or Tour Participant to drive a Vehicle on the Licensed Area, except on roads and tracks constructed by, or with the authority of the Licensor, for the passage of Vehicles with four or more wheels
- 8.6 At no time may the Licensee drive, or permit an employee, agent or Tour participant to drive, a Vehicle on roads and tracks that are permanently, temporarily or seasonally closed by gates, signs, notification or public notice, unless another provision of this Licence expressly permits the Licensee to do so.

9. Campsites and vehicles

- 9.1 Campsites located on the Licensed Area must be:
- (a) maintained and left in a tidy condition; and
 - (b) sited at least 20 metres from any stream, dam or aqueduct.
- 9.2 If campsites are not furnished with toilets, night soil must be buried at least 100 metres from any stream, dam or aqueduct.
- 9.3 The Licensee and / or Tour participants may be required to pay additional fees for the right to use campsites.
- 9.4 The Licensee must not rely on huts or campsites on the Licensed Area to provide accommodation for Tour participants, unless the Licensee has been granted specific prior permission to do so.
- 9.5 All rubbish originating from Tour operations must be removed by the Licensee or placed into receptacles on the Licensed Area provided for this purpose by the Licensor.
- 9.6 All vehicles carrying passengers within, to or from the Licensed Area must be licensed by VicRoads or equivalent interstate road traffic authority as passenger vehicles and driven in a manner that

Part 4 – Licence Conditions

- accords with the licence terms.
- 9.7 All drivers of passenger vehicles must hold a current driver's licence appropriate for that vehicle, including any necessary endorsement for the Vehicle type, copies of which must be promptly provided to the Licensor for review upon request.
- 10. Conduct of tours**
- 10.1 The Licensee must:
- (a) plan, prepare and conduct Tours using all reasonable care and skill;
 - (b) make all Tour participants aware before the Tour commences, of:
 - (i) potential hazards and conditions that may be encountered during the Tour including, but not limited to, heights, exposure to weather, risk of fire, open water, tidal conditions, rapid flowing water, fauna and flora; and
 - (ii) the nature of the experiences that participants may encounter during the Tour;
 - (c) ensure procedures are in place to minimise the risk of potential hazards to Tour participants, including, but not limited to, pre-tour briefings, appropriate safety equipment and head counts.
 - (d) ensure that all Tour participants comply with all conditions of this Licence.
 - (e) ensure that all guides and employees have:
 - (i) obtained any necessary Accreditation; and
 - (ii) the relevant competencies and skills for leading and guiding a Tour;
 - (f) ensure that Tour supervision is appropriate to the differing clients' experiences and abilities; and
 - (g) submit trip return documentation to the Licensor's Representative within 21 days of the following date/s:
 - (i) 1 July annually
OR [if quarterly submission of information is preferred]:
 - (ii) Quarter 1 = 1 July – 30 September;
Quarter 2 = 1 October – 31 December;
Quarter 3 = 1 January – 31 March; and
Quarter 4 = 1 April – 30 June.
- 10.2 The Licensee acknowledges that the Licensor's evaluation of future Licence applications submitted by the Licensee will be influenced by the Licensee's prior compliance with this Licence.
- 11. Termination**
- 11.1 The Licensor may terminate this Licence if:
- (a) the Licensee is found guilty of any offence against the Act; or
 - (b) the Licensee has contravened a condition of this Licence.
 - (c) a Default Event occurs.
- 11.2 If the Licensor seeks to terminate this Licence, the Licensor must comply with the procedure, set out
- in:
- (a) section 21J of the *Crown Land Reserves Act 1978*
 - (b) section 21J of the *Wildlife Act 1975*;
 - (c) section 57N of the *Forests Act 1958*;
 - (d) section 140Q of the *Land Act 1958*; or
 - (e) section 27L of the *National Parks Act 1975*.
- 12. Variation or suspension of licence**
- 12.1 The terms of this Licence may be varied:
- (a) by agreement between the parties; or
 - (b) in the manner specified in:
 - (i) Section 21G of the *Crown Land Reserves Act 1978 Act*;
 - (ii) Section 21G of the *Wildlife Act 1975*;
 - (iii) Section 57K of the *Forests Act 1958*;
 - (iv) Section 140N of the *Land Act 1958*; or
 - (v) Section 27I of the *National Parks Act 1975*.
- 12.2 The variation of this Licence cannot be used to extend the Term.
- 12.3 The Licensor may temporarily suspend this Licence under:
- (a) section 21H of the *Crown Land Reserves Act 1978*;
 - (b) section 21H of the *Wildlife Act 1975*;
 - (c) Section 57L of the *Forests Act 1958*;
 - (d) Section 140O of the *Land Act 1958*; and
 - (e) Section 27J of the *National Parks Act 1975*.
- 13. No compensation**
- The Licensee is not entitled to any compensation from the Licensor for loss or damage sustained by the Licensee, caused or contributed to by variation, suspension or termination of this Licence pursuant to the Licensor's rights under clauses 11 and 12 of this Licence.
- 14. Limitations on improvements**
- The Licensee must not erect, or permit the erection, of any improvement on the Licensed Area.
- 15. Condition at termination**
- Upon the expiration or earlier determination of this Licence, the Licensee must return the Licensed Area to the Licensor in good order and condition, and otherwise in a condition consistent with compliance by the Licensee with its obligations under this Licence.
- 16. Dealing with licence**
- 16.1 The Licensee must not:
- (a) assign, sub-licence, mortgage or charge this Licence; or
 - (b) part with or share possession of the whole Licensed Area or any part of it.
- 16.2 If the Licensee is a corporation:

Part 4 – Licence Conditions

- (a) any change in the shareholding (other than shares listed on the Australian Stock Exchange) altering the:
 - (i) effective control of the composition of the board of directors of;
 - (ii) ability to cast more than one half of the maximum votes at a general meeting of; or
 - (iii) control of more than half of the issued capital in,
 - (iv) the Licensee or the ultimate holding company of the Licensee; or
 - (b) any change altering the effective control of or the ultimate beneficial entitlement under any trust of which the Licensee is a trustee (other than a trust listed on the Australian Stock Exchange) including without limitation a change in the:
 - (i) right to remove or appoint a new or additional trustee;
 - (ii) manner in which the trustee deals with the trust assets; or
 - (iii) right to alter the beneficiaries of the trust;will be deemed to be an assignment of this Licence and therefore not permitted under clause 16.1. part with or share possession of the whole Licensed Area or any part of it.
- 18.2 The Licensee must effect and maintain the Policy in the name of the Insured, noting the interests of the Other Relevant Parties, and include all activities authorised by the Permitted Use as insured activities for the entire Term.
 - 18.3 The Licensee must ensure that the Licensor is notified of any changes to the Policy.
 - 18.4 The Licensee must provide the Licensor with:
 - (a) a certificate of currency for the Policy which clearly confirms satisfaction of the requirements of the preceding clauses 18.1 and 18.2:
 - (i) prior to the Commencement Date;
 - (ii) within 14 days of each successive anniversary of the Commencement Date throughout the Term;
 - (iii) at any other time upon request by the Licensor; but not more than twice in any calendar year, unless extenuating circumstances apply; and
 - (b) a copy of the Policy upon request.
 - 18.5 The Licensee must promptly notify the Licensor if:
 - (a) an event occurs which may give rise to a claim under or prejudice the Policy; or
 - (b) the Policy is cancelled.
 - 18.6 The Licensee must not do anything or allow anything to be done which may:
 - (a) prejudice any insurance held in connection with the Licensed Area; or
 - (b) increase the premium payable for any insurance held in connection with the Licensed Area.
 - 18.7 The Licensee must effect and maintain all other insurances in a manner and to such extent as is reasonable and customary for an organisation engaging in the Permitted Use.
 - 18.8 The Licensee will deliver upon request to the Licensor, copies of any policies entered into by the Licensee pursuant to clause 18.7.
 - 18.9 If there is any damage or destruction to any building or improvement on the Licensed Area or the Land, caused by the Licensee or their Tour participants, the Licensee must pay on demand to the Licensor, on a full indemnity basis, the costs incurred by the Licensor in rectifying any such damage or destruction.

17. Notices

Any notice, consent or demand or other communication to be served upon or given to the Licensee by the Licensor under this Licence will be deemed to have been duly served or given, if it is:

- 17.1 in writing;
- 17.2 signed by the Licensor or a person authorised by the Licensor (including, without limiting the generality of the foregoing, the Licensor's Representative); and
- 17.3 delivered or sent by prepaid post to the Licensee's address set out in Schedule A, or any subsequent replacement address that the Licensee notifies to the Licensor in writing. The Licensee must give prompt Notice to the Licensor of any change in their business contact details or street address.

18. Insurance, release and indemnity provisions

18.1 Insurance

The Licensee must effect and maintain throughout the Term with an insurer approved by the Licensor, which approval will not be unreasonably withheld:

- (a) a public, and if relevant given the nature of the Permitted Use, a products liability insurance policy for not less than \$20 million (or any greater amount required by the Licensor) in respect of any single claim arising out of the activities of the Insured, covering all third party claims arising out of:
 - (i) loss, destruction or damage to real or personal property and ensuing loss of use of that property;
 - (ii) death, injury to, or disease of persons (collectively referred to in the balance of this Licence as the "Policy"); and

19. Release

19.1 The Licensee:

- (a) occupies and uses the Licensed Area at its own risk;
- (b) acknowledges that it has inspected the Licensed Area, and is of the opinion that the

Part 4 – Licence Conditions

- Licensed Area is safe and suitable for the Permitted Use, including the Licensee's Tours.
- 19.2 The Licensee releases the Licensor and the Other Relevant Parties from:
- (a) all claims and demands resulting from:
 - (i) any accident, damage, death or injury occurring at the Licensed Area, the Land or any other area used by the Licensee in connection with this Licence; or
 - (ii) the pollution or contamination of the Licensed Area, the Land and any bodies of water included therein, and any loss, cost, damage, liability or other detriment incurred in connection with these circumstances;
 - (b) all loss, cost, damage, liability or other detriment (whether direct or consequential) suffered or incurred by the Licensee, as a direct or indirect result of the Licensee's occupation and use of the Licensed Area, the Land, or other areas used in connection with this Licence, except to the extent caused or contributed to by the negligent or unlawful act of omission of the Licensor.
- 19.3 References in this clause 19 to the Licensee, the Licensor and the Other Relevant Parties, include their respective officers, employees, authorised agents, contractors, subcontractors, invitees and their successors and permitted assigns.
- 20. Indemnity**
- 20.1 The Licensee indemnifies the Licensor and the Other Relevant Parties against all actions, claims, demands, losses, damages, costs, expenses and liability (whether direct or consequential) for which any of the Licensor or the Other Relevant Parties is or may be or become liable concerning:
- (a) the default of the Licensee under this Licence;
 - (b) the Licensee's use of the Licensed Area, the Land or any other area used by the Licensee in connection with this Licence; and
 - (c) loss, damage, or injury to property or persons caused or contributed by the Licensee's fraudulent, negligent or unlawful act or omission or default under this Licence, except to the extent caused or contributed to by the negligent or unlawful act or omission of the Licensor.
- 20.2 References in this clause 20 to the Licensee, the Licensor and the Other Relevant Parties include their respective officers, employees, authorised agents, contractors, subcontractors and invitees.
- 20.3 The Licensee must ensure that the Licensor and
- the names of the 'Other Relevant Parties' are included in its Policies in accordance with clause 18.2 and documented in any certificate of currency for such insurance.
- 21. Special conditions**
- 21.1 Any special condition set out in Annexure B:
- (a) binds the parties; and
 - (b) if there is an inconsistency between a special condition in Annexure B and any other provision of this Licence, the special condition prevails.
- 22. Waiver**
- 22.1 The non exercise of or delay in exercising any power or right of a party does not operate as a waiver of that power or right, nor does any single exercise of a power or right operate to preclude any other or further exercise of it or the exercise of any other power or right. A power or right may only be waived in writing, signed by the party to be bound by the waiver.
- 23. Acknowledgement**
- 23.1 All representations, communications and prior discussions in relation to the subject matter are merged in and superseded by this Licence.
- 24. Counterparts**
- 24.1 This Licence may be executed in any number of counterparts and all of those counterparts taken together constitute one and the same instrument.
- 25. Governing law**
- 25.1 This Licence is governed by the law of the State of Victoria.
- 25.2 The Licensor and Licensee submit to the non exclusive jurisdiction of the courts of the law governing this Licence and any courts which may hear appeals from those courts in respect of any proceedings in connection with this Licence.

Part 4 – Licence Conditions

Details of public liability insurance

It is a condition of a tour operator licence that the licensee keep and maintain a public liability insurance policy covering the activities of the licensee for the term of the licence. The level of insurance must be at least \$20 million for any one claim, but a requirement for a higher level of coverage may be imposed if the licensor considers it appropriate. The Licensor may also request any other insurance policies that a reasonable person conducting the activities of the licensee would maintain.

The applicant must provide evidence of public liability insurance (Certificate of Currency) with this application which confirms the following:

- the name of the insured;
- the name of the insurer;
- the scope of the activities covered by the insurance;
- the period of insurance
- limits of indemnity; and
- any other policy condition, endorsement or exclusion relevant to the activities and operation of the licence.

If the licence is for a term of more than 12 months, production of the policy schedule is required on an annual basis throughout the licence term upon renewal of the insurance cover, within 14 days of renewal of the policy.

Amount of coverage (minimum \$20,000,000 for any one claim):

Expiry date (DD/MM/YY)

Checklist

An incomplete form could lead to delay in the processing of your application.

Have you:

- Discussed the Tour Operator Licence application with the relevant land manager?
- Read and understood the Information for Applicants contained in Part 1?
- Completed the Applicant Details in Part 2?
- Completed the Tour Details in Part 3?
- Attached all supporting documentation to this licence application (tour schedule maps, accreditation evidence)?
- Read and understood the standard terms and conditions of licence set out in Part 4?
- Provided a Schedule of Insurance in accordance with the requirements set out in Part 4?