

# Fact Sheet

## Use of unmade public road

### What is an unmade public road?

The Barossa Council is responsible for the upkeep and management of the majority of the roads within its boundaries. While most roads are used by the general public, there are a number of smaller roads that provide access to individual properties, as well as roads that have been planned but not built. These roads are referred to as Unmade Public Roads.

In addition to these there are road reserves which generally comprise the area between the actual road and the boundary of properties that adjoin the roadway.

Council is committed to maintaining and developing community assets and services which meet the needs of our community.

Council has the ability to issue permits to property owners allowing them to use the unmade public road for business purposes for activities such as grazing or cropping or for access to their property.

Permit holders are required to allow free and unrestricted access by others over the unmade public road.

Land can be fenced with Council approval but any gates must remain unlocked especially where fire access is required.

This fact sheet provides answers to some of the most frequently asked questions about unmade public roads.

### Why issue permits for the use of an unmade public road?

Section 222 (1) Local Government Act 1999

*A person must not use a public road for business purposes unless authorised to do so by a permit.*

*Maximum penalty \$2500, Expiation Fee \$210*

The main purpose of issuing permits for use of unmade public roads is to provide statutory authorisation to property owners allowing them to use Council property for private and business purposes.

Unmade public roads are set aside for potential needs of the community and general property access. While some roads may be appropriate for grazing under permits for use of unmade public road, others contain areas of significant native vegetation, potential wildlife corridors or walking trails where the issue of permits for use of unmade public road may not be appropriate.

Permits will be issued for a maximum of five (5) years. The permit holder may make application to renew the permit in accordance with the provisions of Section 222 of the Local Government Act 1999 and Regulations. Permits will not be renewed automatically.



## How do I apply for a permit?

Application forms are available from Customer Service at all of Council's branch offices and on Council's website [www.barossa.sa.gov.au](http://www.barossa.sa.gov.au). Any applications received are considered individually and decisions based on the merits of the particular circumstance.

## What conditions does Council place on permit holders?

Section 224 Local Government Act 1999

*A council may grant an authorisation or permit under this Division on conditions the council considers appropriate.*

1. A permit holder agrees to indemnify and to keep indemnified the Council, its servants and agents and each of them from and against all actions, costs, claims, damages, charges, and expenses whatsoever which may be brought, made or claimed against them, arising out of, or in relation to, the issuing of this Permit.
2. A permit holder shall take out and keep current, a Public Risk Insurance policy in the name of the permit holder, insuring the permit holder for the minimum sum of **ten million dollars (\$10,000,000)** against all actions, costs, claims, damages, charges, and expenses whatsoever, which may be brought, made, or claimed against the Permit Holder in relation to the activity. The permit holder must provide confirmation of insurance to the Council. Such insurance policy shall bear the endorsement of the insurer indicating the Insurer accepts the indemnity given by the permit holder. A permit will not come into operation until proof of the appropriate insurance has been provided to the Council, and a copy of the application form and map have been signed by Council and returned to the permit holder.
3. A permit holder must inform the Council immediately in writing if the insurance policy lapses or is cancelled. Please be advised that Council will undertake random audits to ensure policies are current.
4. A permit holder shall not take any action that will or is likely to damage or cause degradation of the defined area, infrastructure or native vegetation within the road reserve or on any nearby land.
5. Access for bushwalkers on recognised trails must be maintained free from animals likely to harm them.
6. No rubbish is allowed to accumulate on the land.
7. A permit holder shall not remove any fences or gates erected on or adjacent to the boundaries of the road reserve without the prior written consent of the Council.
8. This permit is not transferable.
9. The Council may cancel a permit at any time by giving the permit holder at least 30 days written notice of the cancellation. Council may determine that a shorter period should apply to protect the health or safety of the public, or otherwise to protect the public interest.
10. A permit holder shall comply with, and give all notices required by any Act of Parliament, ordinance, regulation, or by-law relating to the activity or use of the land.
11. The rights and entitlements conferred by the issuing of a permit shall not create any tenancy estate or interest in or over the defined area other than those of permit holder.
12. A permit holder must disclose to any intending purchaser of land abutting the defined area that the defined area is a public road and as such does not form any part of any abutting land parcel.
13. A permit shall be produced to any authorised officer of the Council on demand.
14. A permit holder shall pay to the Council an annual fee if one should be determined by the Council. The permit fee will be reviewed by the Council on an annual basis and listed in the Council fees and charges manual, available on Council's website [www.barossa.sa.gov.au](http://www.barossa.sa.gov.au).