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| Licensing and leasing cemetery land |
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Under s. 37(1) of the *Cemeteries and Crematoria Act 2003* (the Act) a cemetery trust may grant a **lease** of any land in a public cemetery for which it is responsible. The Minister for Health must approve the purpose of the lease and its terms and conditions. Under s. 36(1) of the Act a cemetery trust may grant a **licence to enter and use** any part of the land and buildings in a public cemetery for which it is responsible. This must also have the Minister’s approval.

The Minister must approve the purpose of a lease or licence to ensure cemetery land is not used in a manner that may be detrimental to the purposes for which the land is reserved (cemetery purposes).

The Act also specifies that a licence must be granted for a period not exceeding three years, and a lease must be for a specified term not exceeding 21 years.

Requests for ministerial approval should be submitted directly to the Cemetery Sector Governance Support Unit (the Unit) for processing. When submitting a request, please provide:

* a summary of the transaction, including rental rate, term and any special conditions
* a copy of the draft lease or licence agreed between the parties (prior to entering into an agreement)
* valuation advice
* any other relevant information.

Victorian Government policy requires that a grant of a lease must be at the current market value assessed by the Valuer-General Victoria. The Minister may approve the grant of a non-commercial lease. When considering whether to approve a rental rate below market value (non-commercial) the Minister will consider the estimated loss of revenue and the public or community benefits arising from the non-commercial lease.

Valuations can be arranged via the department. Please email the Unit to arrange a valuation.

A precedent lease and a precedent license have been developed for use by cemetery trusts and are available on the [health.vic website](https://www.health.vic.gov.au/cemeteries-and-crematoria/leasing-and-licencing-cemetery-land) <https://www.health.vic.gov.au/cemeteries-and-crematoria/leasing-and-licencing-cemetery-land>. It is expected that submissions to the department for ministerial approval of a lease or license will be in the correct format.

Trusts should seek independent legal advice when considering whether to enter into an agreement. Trusts should also check with their local council if a planning permit is required (for example, for a mobile base station).

Trusts should ensure they allow sufficient time for the approval process, which may take three months or longer.

# Contact

For further information please contact the Unit on 1800 034 280 or email <cemeteries@health.vic.gov.au>.

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| To receive this document in another format, phone 1800 034 280, using the National Relay Service 13 36 77 if required, or email the Cemetery Sector Governance Support Unit <cemeteries@health.vic.gov.au>.Authorised and published by the Victorian Government, 1 Treasury Place, Melbourne.© State of Victoria, Australia, Department of Health, November 2021.ISBN 978-1-76069-433-3 (pdf/online/MS word) Available at [health.vic](https://www.health.vic.gov.au/cemeteries-and-crematoria/leasing-and-licencing-cemetery-land) <https://www.health.vic.gov.au/cemeteries-and-crematoria/leasing-and-licencing-cemetery-land> |