

## Department of Transport and Planning – Transport Victoria Open Data Portal Terms of Use

These Terms of Use (**Terms**) govern your use of our Transport Victoria Open Data Portal located at <https://opendata.transport.vic.gov.au> (**Portal**) and form a binding contractual agreement between you, the user of the Portal and us, the Department of Transport and Planning (ABN 69 981 208 782) ("we", "us" or "DTP"). DTP is a government department that is responsible for planning, building, operating and maintaining transport within Victoria. This Portal is a consolidated portal that contains data relating to Victoria's public transport and road networks.

By using the Portal, you acknowledge and agree that you have had sufficient chance to read and understand these Terms and you agree to be bound by them. If you do not agree to the Terms, please do not use the Portal.

These Terms may be modified from time to time, and you should regularly review them. Your continued use of the Portal constitutes your agreement to any modified Terms.

### 1. LICENCE TO USE PORTAL

- 1.1 We grant you a limited, non-exclusive, non-transferable, non-sublicensable licence to use the Portal in accordance with these Terms.
- 1.2 You may access and use the Portal in the normal manner.
- 1.3 You agree that you will not use this Portal to:
  - (a) discriminate, threaten or intimidate any person or entity;
  - (b) engage in any defamatory acts that would bring us into disrepute;
  - (c) carry out pornographic or offensive activities;
  - (d) transmit or distribute a virus, trojan, worm, logic bomb or any other material which is malicious, technologically harmful, in breach of confidence or in any way offensive or obscene;
  - (e) hack into any aspect of the Portal or DTP's systems or corrupt data;
  - (f) infringe upon the rights of any other person, including intellectual property rights;
  - (g) interfere with, hinder the operation of or make unauthorised modifications to the Portal;
  - (h) send any unsolicited advertising or promotional material, commonly referred to as "spam".
  - (i) attempt to affect the performance or functionality of any computer facilities of or accessed through this Portal; or
  - (j) behave in any manner that may be contrary to law including criminal offences.

- 1.4 You acknowledge and agree that:
- (a) we retain complete editorial control over the Portal and may alter, amend or cease the operation of the Portal at any time in our sole discretion; and
  - (b) the Portal will not operate on a continuous basis and may be unavailable from time to time (including for maintenance purposes).
- 1.5 You may link to our home page or specific branch pages, provided you do so in a way that is fair and legal and does not damage our reputation or take advantage of it, but you must not establish a link in such a way as to suggest any form of association, approval or endorsement on our part where none exists. You must not establish a link from any website that is not owned by you. This Portal must not be framed on any other site, nor may you create a link to any part of this Portal other than the home page and branch pages. We reserve the right to withdraw linking permission without notice.

## **2. VIOLATIONS OF TERMS**

- 2.1 Without limiting any other remedies available to DTP in law or in equity, DTP reserves the right to, without notice temporarily or indefinitely:
- (a) suspend, or terminate, your access to this Portal or refuse to provide products or services to you if:
    - (i) you breach any provision of these Terms;
    - (ii) DTP is unable to verify or authenticate any information that you provide to us; or
    - (iii) DTP believes that your actions may cause damage and/or legal liability to DTP or any of its customers or suppliers or any other person; and/or
  - (b) remove or block access to any information and/or materials (in whole or in part) that DTP, at its sole and absolute discretion, regards in any way to be objectionable or in violation of any applicable law, any person's intellectual property rights or these Terms.

### **User acknowledgements**

- 2.2 This Portal's content is general in nature and does not constitute legal or professional advice.
- 2.3 No claim is made as to the accuracy or currency of the content on this Portal at any time and any use you make of it is entirely at your own risk.
- 2.4 You acknowledge that DTP does not:
- (a) check the truth or currency of any of the material or information that third parties provide or make available through this Portal;
  - (b) control, endorse, approve or warrant to you the merchantability or fitness for any particular purpose of any of the goods or services of any third parties referred to in this Portal or whose identities become known to you through this Portal, including suppliers of content that is published or made available in or through this Portal;

- (c) offer professional advice on the quality or suitability of any goods, services or information supplied by any such third parties; or
- (d) endorse or recommend any third-party supplier or any third-party goods or services, including where details of the relevant supplier are provided by DTP to you or otherwise become known to you through this Portal.

2.5 Every effort is made to ensure that the links on this Portal are up to date. If you come across a broken link, do get in touch with us.

### 3. INTELLECTUAL PROPERTY RIGHTS

#### Copyright

3.1 In these Terms, the term "Proprietary Content" means:

- (a) this Portal;
- (b) datasets available through the Portal (**Datasets**);
- (c) all of its content (including all of the text, graphics, designs, trade marks, logos, software, data, sound and video files and other information contained in this Portal, and the selection and arrangement thereof); and
- (d) all software, systems and other information owned or used by DTP in connection with the products and services offered through this Portal (whether hosted on the same server as this Portal or otherwise).

3.2 All Proprietary Content, including any logos or trade marks of DTP, is the property of DTP or its licensors (as applicable) and is protected by Australian and international copyright laws. You must not reproduce, transmit, republish or prepare derivative works from any of the Proprietary Content, except as expressly authorised by these Terms or with the prior written consent of DTP or other copyright owner (as applicable).

3.3 You may download and print out content from this Portal for your own personal and commercial use, provided that you do not remove or modify any copyright, trade mark or other proprietary notices.

3.4 You are authorised to copy, distribute and adapt the Datasets in accordance with the Creative Commons Attribution 4.0 International licence and agree to be bound by those terms of that licence. A full copy of this licence can be accessed via <https://creativecommons.org/licenses/by/4.0/>. A breach of the Creative Commons licence will be deemed a breach of these Terms.

3.5 You agree to be bound by the ArcGIS Online Terms of Use upon storing, sharing and using content relating to the spatial maps from the Portal. A copy of these terms and conditions of use can be accessed at <https://doc.arcgis.com/en/arcgis-online/reference/terms-of-use.htm>.

#### Copyright claims

3.6 If you believe that our Portal contains any material that infringes upon any copyright that you hold or control or believe the Portal is infringing upon any copyright that you hold or control, you may send a notification of such alleged infringement to us in writing. Such notification should identify the works that are allegedly being infringed upon and the allegedly infringing material and give particulars of the alleged infringement.

## **4. WARRANTIES AND LIABILITY**

4.1 The terms of this clause 4 apply in respect of access to or use of the Portal but not in respect of access to or use of the Datasets.

### **Warranties**

4.2 You acknowledge that:

- (a) to the maximum extent permitted by law, DTP and its officers, employees, agents, consultants, licensors, partners and affiliates expressly disclaim all conditions, representations and warranties (whether express or implied, statutory or otherwise) in relation to this Portal and any products and/or services purchased or obtained through this Portal, including any implied warranty/guarantee of merchantability, fitness for a particular purpose or non-infringement.
- (b) this Portal is provided strictly on an "as is" basis. To the maximum extent permitted by law, DTP and its officers, employees, agents, consultants, licensors, partners and affiliates make no representation, warranty or guarantee as to the reliability, timeliness, quality, suitability, truth, availability, accuracy or completeness of this Portal or any of its content, and in particular do not represent, warrant or guarantee that:
  - (i) the use of this Portal will be secure, timely, uninterrupted or error-free or operate in combination with any other hardware, software, system or data;
  - (ii) this Portal will meet your requirements or expectations;
  - (iii) anything on this Portal, or on any third-party website referred or linked to in this Portal, is reliable, accurate, complete or up-to-date;
  - (iv) the quality of any products, services, information or other material purchased or obtained through this Portal will meet any particular requirements or expectations;
  - (v) errors or defects will be corrected; or
  - (vi) this Portal or the servers that make it available are free of viruses or other harmful components.

### **Exclusion of liability**

4.3 To the maximum extent permitted by law, DTP and its officers, employees, agents, consultants, licensors, partners and affiliates exclude all liability to you or any other person for any loss, cost, expense, claim or damage (whether arising in contract, negligence, tort, equity, statute or otherwise, and for any loss, whether it be consequential, indirect, incidental, special, punitive, exemplary or otherwise, including any loss of profits, loss or corruption of data or loss of goodwill) arising directly or indirectly out of, or in connection with, these Terms or the use of this Portal by you or any other person.

## **Remedies limited**

- 4.4 To the maximum extent permitted by law, DTP and its officers, employees, agents, consultants, licensors, partners and affiliates expressly limit their liability for breach of any non-excludable condition or warranty/guarantee implied by virtue of any legislation to the following remedies (the choice of which is to be at DTP's sole discretion):
- (a) in the case of services - the supply of the services again or paying the cost of having the services supplied again; and
  - (b) in the case of goods – replacing or repairing the goods, or reimbursing you for repairing or replacing the goods.

## **Release**

- 4.5 You agree that your use of this Portal and reliance on the data is at your own discretion and risk. You agree to release DTP and its officers, employees, agents, consultants, licensors, partners and affiliates from any claim, demand or cause of action that you may have against any of them arising from these Terms or the use of this Portal by you or any other person. DTP may plead this release as a bar and complete defence to any claims or proceedings.

## **5. PRIVACY**

- 5.1 Our Privacy Statement at <https://opendata.transport.vic.gov.au> and Privacy Policy at <https://www.vic.gov.au/department-of-transport-and-planning-privacy> apply to any personal information collected by us from users of the Portal.
- 5.2 You must comply with all applicable privacy laws in connection with your use of the Portal and any Datasets available from the Portal.

## **6. SUSPENSION AND TERMINATION**

- 6.1 These Terms terminate automatically if, for any reason, we cease to operate the Portal.
- 6.2 We may otherwise suspend or terminate these Terms immediately, on notice to you, if you have breached these Terms in any way.
- 6.3 Any terms that by their nature extend beyond expiration or termination remain in effect.

## **7. ACCESSIBILITY**

- 7.1 DTP wishes for as many people as possible to have access to our information, including those who use accessibility tools or assistive technology.
- 7.2 To ensure that people with disabilities can use our Portal and material, please let us know if you encounter any obstacles or have suggestions for improvement. In the same

way, if there is anything you cannot access but that we might be able to supply in another format, please get in touch, and we'll be pleased to assist.

## **8. GENERAL**

- 8.1 If a provision of these Terms is invalid or unenforceable it is to be read down or severed to the extent necessary without affecting the validity or enforceability of the remaining provisions.
- 8.2 These Terms are governed by the laws of Victoria and each party submits to the jurisdiction of the courts of Victoria.