

G002 - Comparison of Activity and Appropriate Tenure – TLUA, Licence or Lease

Requirement	Temporary Land Use Agreement TLUA	Licence	Lease
Overview/ Assumptions	- Non-Exclusive use - On unimproved land (i.e. TLUA not to be located within a building) - Standalone – no associated Lease or within a lease area - No ground disturbance i.e. no permanent structures or construction - Any equipment to be removed at end of activity - Can't be assigned and no sub-licencing - A fee applies depending on if community or commercial activity - Can't be registered on a Crown Land title interest - Public Liability Insurance (PLI). If more insurance required, consider other tenure - State of WA (Minister for Transport), its servants and agents to be indemnified 28 days' notice required to process. - May be earlier if team has capacity - Interim measure until licence issued dependant on risk assessment	- Non-exclusive use - No permanent structures or construction unless approved (case by case) - Can't be assigned - No sub- licencing unless stipulated in conditions - A fee applies - Can't be registered on a Crown Land title interest - At least PLI - State of WA (Minister for Transport), its servants and agents to be indemnified - Up to 60 days' notice to process	- Exclusive use - Use in accordance with Lease conditions - Can be assigned and sub-leased and if permitted under the conditions of the lease - Rent payable and rent reviews in accordance with lease conditions - Can be registered on a Crown land title - At least PLI and in accordance with lease conditions (consider whether any other types of Insurance is required dependent on use) - State of WA (Minister for Transport), its servants and agents to be indemnified - Timeframe of notice required to process is dependent on nature of request

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Extension or renewal	✗	✓ Subject to approval and case by case	✓ If permitted under the conditions of the lease ✓ If no further renewal option, then further tenure will be subject to approval.
Term	✓ Up to three days • Longer term for special event, subject to approval	✓ Up to 12 months • Longer term, subject to approval	✓ Negotiated with DoT on a site -by site-basis and reflective of: • Nature, size and complexity of the development • Lessee's Investment and commercial return • Agreed initiatives to provide public benefits, services or facilities ✓ Subject to the minimal lease term provisions contained in the <i>Commercial Tenancy (Retail Shops) Agreements Act 1985</i>
Fee	✓ Refer to the TLUA fee schedule. Standard rate for commercial clients is \$50/day.	✓ Subject to negotiation by TPLPS and any advice from the Property Manager.	✓ Dependent on CPI or market value. Direct negotiation by TPLPS.
Does the Commercial Tenancy (Retail Shops) Agreements Act 1985 (CTA) apply?	✗	Refer to CTA matrix (here) If yes: ✓ Term cannot be more than 6 months and if longer, a lease should be considered If no: ✗ Can issue a TLUA if within other parameters	✓ Lease appropriate if CTA triggered and over six months ✓ And if application is for use under existing Lease, must be consistent with purpose and conditions of the lease

Examples of Use vs Tenure

Requirement	Temporary Land Use Agreement TLUA	Licence	Lease
Coffee/Food Van (community event)	✓ Must ensure area is vacated otherwise potential legal consequences	✓	✓
Storage/Laydown	✗	✓	✓
Helicopter Helipad	✗ Considered high risk	✓ Subject to approval and conditions	✓
Annual Competitions/ Triathlons – Use of car park bays/water space	✓	✗	✗
Festivals/ Events e.g. Little Italy by the Sea	✓	✗	✗
Market stalls for cruise ship welcome	✓	✗	✗
Training courses e.g. Scuba diving	✓	✓	✗
Recycling bins	✓	✓	✓
Smoking Ceremony	✓	✗	✗
Temporary storage during upgrades of Jetties for DoT works	Further work required to determine parameters	Further work required to determine parameters	Further work required to determine parameters
Increase in lease area to support maritime operations and storage	✗ It is associated to a lease so lease should be varied or licence	✓	✓
Wedding ceremony	✓	✗	✗
Filming	✗ Media team to approve within input from Maritime	✗ Media team to approve within input from Maritime	✗ Media team to approve within input from Maritime

Requirement	Temporary Land Use Agreement TLUA	Licence	Lease
Footpaths	✗	✓ Noted that licences have been issued historically	✗
Easements	✗	✓	✗ Not exclusive use and different proprietary interest
Community BBQ	✓ If permitted under conditions of TLUA	✗	✗
Shark barrier net on MHA land	✗	✓	✗
Saunas	✗	✓	✓
Temporary structures not elsewhere defined (e.g. play equipment, shade structure, motorised or trailable vehicle i.e. blood donation/breast screening)	✓	✓	✗
Water Agreements (e.g., Jack up Barge, scuba diving)	✗	✓ Likely to be licence agreement having regard to the extended time frame of such activity	✗
Public Liability Insurance (PLI)	✓ PLI required - low risk. Minimum amount \$20m ✗ If other insurance also required in addition to PLI, a licence or lease should be considered	✓ Required and minimum PLI should be \$20m dependent of type of use ✓ Other insurance may be required	✓ Required and minimum PLI should be \$20m dependent of type of use ✓ Other insurance is required