GOVERNMENT OF WESTERN AUSTRALIA

Department of **Planning, Lands and Heritage**

INFORMATION SHEET

JULY 2025

Leasing and Licensing of Crown Reserves under Management Orders to Local Governments

This information provides general guidance to assist Local Governments and the Department of Planning, Lands and Heritage (DPLH) to identify:

- the appropriateness of leasing and licensing proposals for commercial activities on Crown reserves;
- if early engagement with DPLH is required for the proposal; and / or
- if a different tenure (i.e. non-reserve), more appropriate to the proposal, is required.

Leasing and licensing proposals for other forms of Crown land are not covered by this information sheet. Local Governments should obtain advice from DPLH on these other proposals early in their planning phase.

Overview

DPLH will assess the appropriateness of Local Government proposals for commercial activities on Crown reserves under their care, control and management, **in line with the reserve's purpose** and in accordance with key considerations outlined in this information sheet and the *Land Administration Act 1997* (LAA).

Where DPLH determines that a proposed commercial activity is **not** appropriate on a Crown reserve, DPLH may, in consultation with the Local Government, recommend a different type of tenure that is more appropriate to the proposal.

Note: Commercial activity refers to an activity which has the primary aim of generating profits for the operator.

Tel: 08 6551 8002 I Email: proposals@dplh.wa.gov.au I Website: www.wa.gov.au/dplh

Disclaimer

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Key considerations

- Crown reserve land is land that is to be preserved and retained in the public interest for the benefit of present and future generations.
- Crown reserve land must be used in a manner consistent with the reserve's purpose.
- Commercial activities are best suited on leasehold or freehold tenure. Leasing reserve land may be considered as a last resort where:
  a) the facility or activity is unable to be accommodated elsewhere;
  b) excision from a reserve and conversion to a different tenure is not appropriate or practicable; and
  c) a community benefit can be demonstrated.
- Leasing and licensing Crown reserve land for commercial activities will be considered in situations where:
  a) the Local Government holds the management order with the power to lease or licence;
  b) the commercial activity is consistent with or ancillary to the reserve purpose; and
  c) the benefit to the community is demonstrated through the proposed leasing or licensing arrangement by activating the reserve as a whole while retaining its intended purpose (e.g. drawing people to use the wider reserve instead of using the specific commercial facility or activity only).
- Leasing and licensing Crown reserve land for commercial activities will **not** generally be appropriate in situations where:
  a) the activity becomes the primary use of the whole, or majority land area of the reserve;
  b) the activity is inconsistent with the reserve's purpose;
  c) the activity constrains or impacts the public's enjoyment of the reserve;
  d) the activity restricts public access to the majority of the reserve;
  e) the scale, intensity and term of the activity is designed primarily for profit making by a third party.

Note: Some revenue generation is permitted, provided that the Local Government will apply the proceeds to the maintenance of the reserve or other reserves managed by the Local Government within the district.

- Where a proposed commercial activity is determined to be not appropriate on a Crown reserve, DPLH may recommend a different type of tenure that is more suitable to the proposal, subject to the Minister for Lands' approval (refer to **section on Commercial Activity Lease / Licensing Proposals on a Crown Reserve where a different tenure is required via Negotiated Outcome at page 9**).

- Note that under the provisions of the LAA, only the Minister for Lands may grant a different type of tenure that is more appropriate to the proposal or enter into a direct leasing arrangement with a proponent under such circumstances.

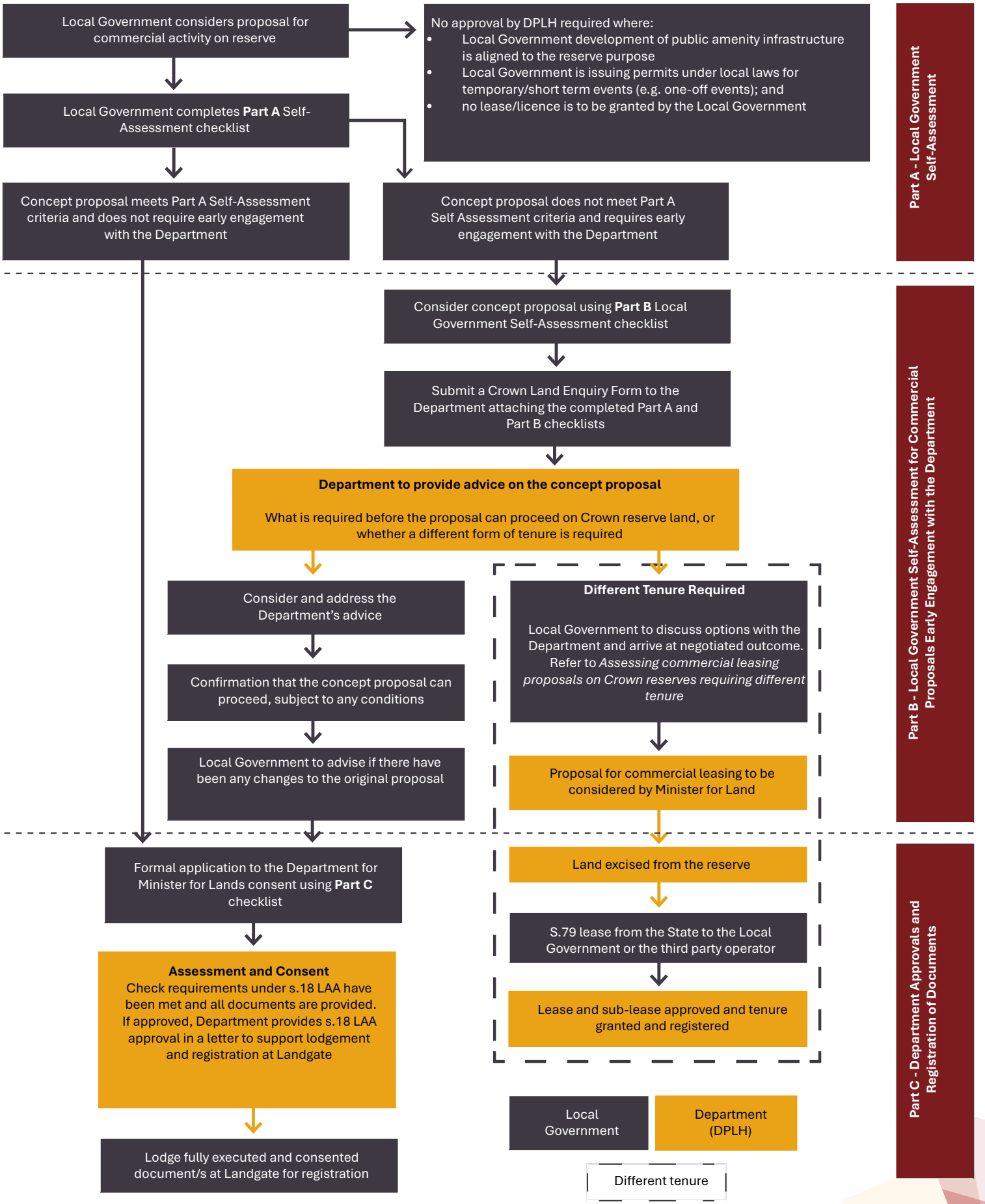
Note for Local Governments

In addition to *Land Administration Act 1997* and management order compliance, Local Governments are required to comply with the Local Government Act 1995 (LG Act) s.3.58 disposal of property requirements, when proposing to dispose of Crown land via lease or any other disposal methods.

Local Government (Functions and General) Regulation 30 prescribes a range of exemptions from compliance with s.3.58.

For further information on LG Act requirements contact the WALGA Governance advice team by emailing governance@WALGA.asn.au or call 08 9213 2514 for assistance.

Crown Reserves under Management Orders to Local Government



Assess and Initiate Lease / Licence Proposal on Crown Reserve Under Management Order to Local Government

Part A – Local Government self-assessment to determine if early DLPH engagement is required before Local Government initiates any action to lease or licence

- Local Government proposals for a third-party lease or licence to operate a commercial activity (for profit) must obtain DPLH advice **before** the Local Government initiates formal decisions to develop infrastructure or leasing/licensing terms.
- Proposals do **not** require approval from DPLH in situations where:
    a) Local Government development of public amenity infrastructure (e.g. parking, toilets, changerooms, lockers, roads, walking/bike trails, shelters, drainage, fencing, street lighting etc.) is consistent with the reserve purpose;
    b) Local Government is issuing permits under local laws for temporary/short term events (e.g. one-off events); and
    c) no lease/licence is to be granted by the Local Government for the abovementioned proposals.

If (a), (b) and (c) above apply, the Local Government does not need to proceed any further in this information sheet and may progress the development of the public amenity infrastructure without approval from DPLH.

However, where the Local Government intends to issue a lease or licence to a third party operator on a Crown reserve, the Local Government is required to complete the Part A Self Assessment checklist below.

*Part A – Local Government self-assessment checklist to determine if early DLPH engagement is required **before** Local Government initiates any action to lease or licence*

Complete this checklist to identify if a proposal is a commercial activity that requires early engagement with DPLH	Yes	No
Lease/Licence Proposal	☐	☐
Is the proposed lease/licence area located entirely within a single Crown reserve? Note: If the lease/licence area comprises more than one Crown reserve or other land tenures, then answer NO.	☐	☐
Is the proposal consistent with or ancillary to the current reserve purpose? (i.e. can the proposal stand alone as a viable entity if the reserve was to cease?)	☐	☐
The proposed lease/licence area will not be used for **commercial activity** that provides profit to a person or entity other than the Local Government, and the Local Government will reinvest any profits towards the maintenance of reserves under its management?	☐	☐
Management Order Authority to Lease/Licence	☐	☐
Does the management order specify that the Local Government is the sole management body of the reserve?	☐	☐
Does the reserve's management order provide the management body with the power to grant a lease, sublease, or licence?	☐	☐
Is this power granted over the entire proposal area located on the reserve?	☐	☐
Is the term of the proposed lease or licence within the maximum allowable under the management order?	☐	☐
If "**Yes**" was the answer to all the above, the proposal will not require early engagement with DPLH. The Local Government should proceed to complete the checklist at ***Part C – Formal application to DPLH for Minister for Lands's consent pursuant to section 18 of the LAA to lease, sub-lease or licence part or whole of a Crown reserve.*** However, if the Local Government is unsure about the proposal, please contact DPLH by emailing proposals@dplh.wa.gov.au or call 6551 8002 for assistance. If "**No**" was the answer to **any** of the above questions, the proposal will require early engagement with and advice from DPLH before the Local Government makes any decision to proceed with the proposal. Complete ***Part B – Local Government self-assessment for commercial activity proposals – early engagement with DPLH*** and contact DPLH by submitting a Crown Land Enquiry Form (CLEF), attaching a copy of the completed ***Part A*** and ***Part B*** self-assessment forms with any other relevant materials to proposals@dplh.wa.gov.au, or call 6551 8002 for assistance.	☐	☐

Part B – Local Government self-assessment for commercial activity proposals – early engagement with DPLH

- Leasing/licensing proposals that:
  a) are inconsistent with the reserve purpose or management order; or

  b) are intended to enable a more substantial commercial activity require the Local Government to obtain DPLH assessment and advice before the Local Government makes any formal decision on the proposal. DPLH assessment of these types of proposals may result in the department recommending that a different type of tenure is required before the proposal can be progressed.
- The checklist below provides guidance on more substantial commercial activity proposals that require early engagement with DPLH to review the proposal's suitability, before any Local Government decision to proceed with the proposal.

Part B – Local Government self-assessment checklist for commercial activity proposals – early engagement with DPLH

Complete this checklist to identify if a proposal is a commercial activity that requires early engagement with DPLH		
Proposed Commercial Activity Details	**Yes**	**No**
Will the commercial activity:	☐	☐
be conducted only within the proposed lease/licence area?	☐	☐
become the primary use of the reserve?	☐	☐
have a scale, intensity and term designed primarily for profit making by a third party?	☐	☐
lease/licence area over the whole or majority of the reserve?	☐	☐
Briefly describe the proposed commercial activity: *(Please include the following information in your email and submit it together with the completed checklist)*	**Provided via email**	
	Yes	**No**
How does the proposed commercial activity align with the reserve purpose?	☐	☐
How does the proposed commercial activity enable or enhance public access, use or enjoyment of the reserve?	☐	☐
How will revenue be used by the Local Government, (e.g. will lease/licence revenue be reinvested in the Local Government's management and maintenance of this Crown reserve, other Crown reserves within the Local Government District or for other purposes)?	☐	☐
What is the community benefit of the proposed commercial activity (social, economic, environmental etc.)? Where the proposed commercial activity is to be located in a remote or regional area, describe the community benefit and place activation despite the commerciality.	☐	☐
What land other than the Crown reserve has been considered to accommodate this commercial activity? Why was this other land deemed not suitable/viable?	☐	☐
Have the potential risks or negative impacts to the land (e.g. coastal erosion or inundation, heritage etc) been considered?	☐	☐

- Submit a completed Crown Land Enquiry Form, with completed Part A and Part B self assessment checklists and any other relevant materials attached to proposals@dplh.wa.gov.au, or call 6551 8002 for a further discussion on the proposal.
- DPLH will assess the information submitted and provide written advice to the Local Government in response.
- Note DPLH may request additional information or clarifications to enable reasonable assessment of the proposal.
- DPLH may also detail specific pre-requisite steps before the proposal can proceed on Crown reserve land (e.g. boundary amendment to create a new lot with power to lease, or amending the management order to provide power to lease/licence over the reserve etc).

    a) Following its assessment, DPLH may also indicate that the proposal is NOT suitable to proceed via a lease/licence of the Crown reserve specified, and that excision of the required area and replacement with a more appropriate form of tenure will be necessary – if this is DPLH's response, proceed to the section on **Commercial activity lease/licensing proposals on a Crown reserve where a different tenure is required required at page 9.**

- If DPLH provides written confirmation that the lease/licence can proceed on the Crown reserve as proposed, that confirmation will be made subject to conditions – the following are examples but others may also apply depending upon the individual circumstances:

    a) The proposal remains consistent with, or ancillary to the reserve's purpose;

    b) The Local Government's management order contains the power to grant a lease, sublease or licence;

    c) The Minister for Lands and agents are suitably indemnified from costs and liabilities that may arise;

    d) Allowance for **minor** amendments/changes upon receiving the final lease or licence. Any changes to the original proposal must be discussed with DPLH as soon as possible to assess ongoing suitability of the proposal.

- DPLH's confirmation can be used to inform the Local Government's decision to formally initiate the proposed lease/licence consistent with the advice.
- If the Local Government's lease/licence proposal materially changes subsequent to the DPLH confirmation advice, the Local Government **must** advise DPLH and obtain further DPLH advice. Failure to advise DPLH of any changes may lead to extensive delays, re-work or non-approval in the worst cases.

Part C – Formal application to DPLH for Minister for Lands consent pursuant to section 18 of the Land Administration Act 1997 to lease, sub-lease or licence part or whole of a Crown reserve.

- The Part C checklist below guides Local Governments to prepare and submit an application for Ministerial approval to lease, sub-lease or licence a Crown reserve under a management order with power to lease or licence.

Part C - Local Government self-assessment checklist for formal application to DPLH for Minister for Lands consent pursuant to section 18 of the LAA to lease, sub-lease or licence part or whole of a Crown reserve.

Complete this checklist of information required to be submitted to DPLH in support of a formal application for section 18 consent under the LAA to lease, sub-lease or licence part or whole of a Crown reserve	**Yes**	**No**
Copy of completed Part A assessment (where applicable)	☐	☐
DPLH case number that provides evidence of Part B assessment and confirmation to proceed with a Concept Proposal from DPLH (where applicable)	☐	☐
Copy of the final version of the proposed lease or licence, not in 'Draft', free of watermarks and not executed by Lessor and Lessee. The lease and/or licence must be in its final clean version.	☐	☐
The lease or licence contains a clause that indemnifies the Minister for Lands and its agents etc against claims for damages or injury.	☐	☐
If **"Yes"** was the answer to all the above, the Local Government may proceed to submit the documents to delivery@dplh.wa.gov.au. DPLH will assess the unsigned final lease/licence to ensure it meets the requirements based on the original proposal that was submitted. If DPLH approves the submission, a letter will be provided to the Local Government to support lodgement and registration at Landgate.	☐	☐

Commercial Activity Lease/Licensing proposals on a Crown reserve where a different tenure is required via negotiated outcome

- If a commercial activity is proposed by a Local Government on a site within a Crown reserve which:
  - (i) is incompatible with the Crown reserve's purpose;
  - (ii) in DPLH's opinion is likely to exclude other users, or otherwise prevent or compromise their enjoyment of the wider reserve; or
  - (iii) is substantially commercial in nature, DPLH will advise that the activity should not be conducted under Crown reserve tenure.

- In such cases, if the Local Government wishes for the commercial activity to proceed on the identified land, the desired area must be excised from the Crown reserve, given more appropriate tenure, and leased directly by the State:

  - ☐ to the Local Government under section 79 of the LAA at an agreed rent (with Minister for Lands approval), enabling the Local Government to negotiate a sub-lease to a third-party operator;

  or

  - ☐ to the third-party operator at full market value.

Excision of the subject land from the Crown reserve will ensure that an appropriate Crown land tenure is allocated to the specific commercial purpose for the excised area (e.g. restaurant on a lease under section 79 of the LAA).

- However, because Crown reserve land is land that is to be used and retained in the public interest for present and future generations, the need to excise from a Crown reserve must be clearly established before a decision is made to remove the land from existing reserve tenure. Once the land has been excised from the Crown reserve and allocated a different tenure (e.g. a lease under section 79 of the LAA), it is highly unlikely that the excised land will ever return to its original status as a Crown reserve.
- Where land may need to be excised from a Crown reserve to facilitate a substantially commercial proposal which the Local Government intends to remain involved in, the Local Government should discuss options with DPLH to arrive at a negotiated outcome. For example, the Local Government may lease the land directly from the State under section 79 of the LAA and sub-lease directly to a third-party operator. DPLH and the Local Government may negotiate specific conditions of the arrangement on a case-by-case basis.
- If the Local Government intends to enter into a head lease with the State under section 79 of the LAA and then sub-lease to a third-party, the Local Government must submit a written proposal to DPLH using the Assessing Commercial Leasing Proposals on Crown Reserve Requiring Different Tenure document (see page 11).
- All proposals will then be assessed on a case-by-case basis by DPLH to arrive at a negotiated outcome between the State and the Local Government. As part of the assessment and referral process, DPLH will be required to consider Native Title, mining, environmental and other relevant interests.
- The completed proposal will be submitted to the Minister for Lands for consideration and final approval. The Minister for Lands retains the statutory right to consider the proposal in the context of broader State Government objectives and in the public interest.

Legislative Framework

Land Administration Act 1997 Section 18, 41, 46, 79.

Assessing commercial leasing proposals on crown reserves requiring different tenure

For local government use only

Proposals should only be prepared in situations where the Local Government has either completed Part A and Part B assessments, or where the Local Government has determined that Part A and Part B are not applicable.

This guide is designed to assist Local Governments in preparing a proposal for commercial leasing of Crown land under the *Land Administration Act 1997* (LAA).

If the Local Government is unsure, please contact DPLH by emailing proposals@dplh.wa.gov.au or call 6551 8002 for assistance

This guide should not be used for any other purpose.

Note to Local Government Applicant:

The purpose of this document is to guide and support a Local Government in demonstrating how leasing of Crown land for a commercial activity will provide benefits to the local community, region and/or State.

The completed proposal will be considered by the Minister for Lands.

The Local Government need not necessarily provide responses in the same format as this template. Applications may be suitably formatted / customised to address the matters identified in this template and ensure sufficient information is provided to support the proposal. This will assist the Department of Planning, Lands and Heritage (Department) in providing a recommendation for the Minister for Lands' consideration.

The Department may request further information where necessary to assess the proposal.

Before submitting a proposal, the Local Government is encouraged to:

- ☐ contact the Department to discuss the Local Government's intentions regarding the use of the land
- ☐ read the Information Sheet on Crown Reserves under Management Orders to Local Governments
- ☐ complete the DPLH Part A and Part B assessments, where applicable to the proposal

For further information please contact:

Department of Planning, Lands and Heritage

Email: proposals@dplh.wa.gov.au

Phone: 6551 8002

Please ask to speak to someone in the Land Use Management Division's Acceptance team.

Where a Local Government may be unsatisfied with an outcome and wishes to escalate it with DPLH, ask to speak with the relevant regional Director within the Land Use Management Division

1. Executive Summary

This should provide a high-level overview / summary of:

1.1. What is the proposed use of the Crown land?

1.2. What role will the Local Government play in the development?

1.2.1. What is the rationale for the Local Government continuing in that role?

1.3. How will Crown land be used to deliver an outcome that benefits the local community, region and/or State?

Helpful Hint:

Local Governments are strongly encouraged to discuss the proposal with the Department at a pre-lodgement meeting to obtain in-principle support, before submitting the written final proposal.

In the event that in-principle support is not provided by DPLH, Local Governments should not complete this document or submit a final proposal.

2. Project Scope and Evaluation

These points act as a guide for what may be included. This section should provide sufficient background about the land and the proposal:

2. 1 Land description

2.1.1 Location and description of land/site

2.1.2 Reasons that the specific site has been identified for the proposed use(s)

2.1.3 Identification of existing land interests and other competing uses if any, including details of any discussions with those interest holders and the outcomes of those discussions

2.1.4 Local planning scheme and zoning (if applicable)
Provide supporting documents such as maps, sketches, surveys, etc

2.1.5 Details of legal access to site (e.g. existing road, easement etc).

2. 2 Project description

2.2.1 Provide a detailed description of the project and its intended outcomes, including any feasibility studies or concept plans if available

2.2.2 Explain how and why the project containing the commercial activity is important for the local community, region and/or State - how will the project, when it is delivered, provide benefits (social, economic, environmental etc) to the local community, region or State

2.2.3 Explain how the project aligns with other existing plans and strategies at the local, regional or State level (if relevant)

2.2.4 Provide evidence of community support for the proposal, including evidence of consultation, any objections raised and how those objections have been addressed and/or deemed not to be relevant

2.2.5 Provide evidence of support from other State Government agency if relevant, (e.g. the commercial activity is aligned with some other initiative being delivered by that agency)

2.2.6 Consideration of any potential risks or negative impacts to the local community, region or State (e.g. coastal hazards) if the activity is located on the land and evidence of risk mitigation measures

2.2.7 Provide information regarding the Local Government's contribution(s) towards the project's outcomes (e.g. capital investment, ongoing maintenance, management, service delivery etc)

2.2.8 Provide information detailing any third-party contributions toward the project outcomes (e.g. capital investment, ongoing maintenance, management, service delivery etc.)

2.3 Land tenure arrangements and conditions

2.3.1 Provide information and justification regarding the preferred land tenure arrangements:

☐ Land excised from the reserve and leased directly by the State to the Local Government under section 79 of the LAA at an agreed rent. Local Government may sub-lease to a third-party operator.

☐ Land excised from the reserve and leased directly by the State to the thirdparty operator at full market value.

3. Financials

This should outline the financial estimates to support the proposal:

3.1 Expenditure and funding

3.1.1 Outline the estimated costs incurred by the proponent in developing the project

3.1.2 Indicate any other sources of funding including external grants, investment or funding streams associated with this project that have been obtained or applied for, including any timeframes

3.1.3 Is the proposed lessee required to contribute a capital investment to enable the commercial activity to be reasonably undertaken?

3.1.3.1 If YES, what is the estimated cost of the capital investment $ ☐

3.1.4 Has, or will, the Local Government make a capital investment to enable the commercial activity?

3.1.4.1 If YES, what is the estimated / actual cost of the capital investment $ ☐

3.2 Rent and conditions

3.2.1 Indicate the commercial rent intended to be charged by the Local Government, evidenced by market valuation if required under s.3.58 of the LG Act or evidence of Council Resolution.

3.2.2 Indicate the proposed lease terms and conditions - is the Local Government proposing to enter into a lease with the State and the details around such an arrangement (e.g. revenue share, reduced rent, rent free periods etc). Provide full details of the intended commercial arrangements with other parties (e.g. third-party operator) where relevant

3.2.2.1 What is the proposed term of the lease/licence? ☐ years, plus extension option/s ☐ years

3.3 Revenue

3.3.1 If it is proposed that the commercial activity will generate revenue for the Local Government:

3.3.1.1 What is the estimated annual revenue to the Local Government? $ ☐

3.3.2 Indicate how the revenue received will be applied by the Local Government and the reasons for the allocation (e.g. will revenue be invested in maintenance, management or other service delivery or infrastructure located in the relevant Crown land / reserve or other Crown land / reserves within the LG District or for other purposes. How will this reinvestment of lease revenue be monitored and accounted for?)

4. Declaration and Sign-off

Please include the below declaration and signature blocks in your proposal, which should be co-signed by the author and Local Government CEO.

By signing and submitting this proposal, the signatories have understood and agreed that:

1. The proposal will be subject to the Minister for Lands' consideration.
2. It is the Local Government's responsibility to seek and obtain all necessary approvals as required.
3. The Department of Planning, Lands and Heritage may request further information to assist in assessing the proposal, or as requested by the Minister for Lands during consideration.
4. The Local Government must notify the Department of Planning, Lands and Heritage if any circumstances change between the time the proposal was submitted and the Department/Minister making a decision.
5. The Minister for Lands retains the statutory right to consider the proposal in the context of broader State Government objectives and decline the request at their discretion.

Signed		Signed	
Completed by		Approved by	
Position		Position	
Date		Date	