



Commercial Leasing Information and Guidelines

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Introduction

The Department of Transport Maritime (DoT) manages approximately 45 facilities throughout Western Australia. Marinas, boat harbours, maritime facilities and associated foreshore commercial land uses are important features of our waterways, both economically and socially.

A principal function of DoT is to manage property vested in the Minister for Transport (a body corporate) under the *Marine and Harbours Act 1981* (WA). This includes the acquisition, development, use and leasing of land for maritime commercial and recreational purposes. The management of DoT commercial leases is administered by DoT, supported by Transport Portfolio Land and Property Services, who in turn engage commercial property managers to undertake the day-to-day management of the commercial leases. These property managers are procured under Government procurement policies and may change from time to time.

All communication with existing and prospective lessees is coordinated via the commercial property managers.

The leasing of DoT facilities provides opportunities for activation that benefit the broader community whilst also generating revenue which is re-invested in the maintenance and asset replacement of maritime facilities throughout the State. The granting of leasehold interests enables DoT to consider the appropriateness of businesses that operate within its facilities and ensures waterfront access is maintained for the community where possible.

Leased land provides opportunities for marine and waterfront-based businesses, including retail and tourism developments and community-based clubs, to operate on or next to the water. DoT managed boat harbours and facilities also provide recreational and public spaces to enhance the overall experience for Western Australian, interstate and international visitors.

These guidelines are provided for existing and prospective commercial lessees of DoT land for commercial uses, including industrial and/or retail purposes. The guidelines also provide information on the evaluation process used to assess the suitability of development applications associated with commercial leases.

DoT's current property managers are available here: [Leasing opportunities \(transport.wa.gov.au\)](https://www.transport.wa.gov.au/leasing-opportunities)

These guidelines should be read in conjunction with DoT's Leasing Policy which can be found at DoT website: www.transport.wa.gov.au/imate/leasing-opportunities.asp.

The contents of these guidelines do not constitute legal advice and should not be relied upon as such. They are also only guidelines and do not fetter the Minister's discretion.

Executive Director – Maritime
Department of Transport

Section 1: Objectives

These guidelines have been developed to ensure fair and equitable access to land and seabed lease opportunities within DoT managed facilities, and provide an overview of the management of leases, including:

- the process of lease allocation (Expression of Interest and direct negotiation)
- the negotiation of lease terms and conditions.
- the ongoing management of lease rent reviews; and
- a summary of DoT general lease terms and conditions.

DoT works to optimise the public benefit to the State and ensures that the management of land and seabed (land) leases is in accordance with the *Marine and Harbours Act 1981* (WA) (MHA).

These guidelines are applicable to commercial leases only, that is, the grant of exclusive possession.

The guidelines do not apply to non-exclusive licences to occupy land, nor do they apply to:

- community based leases;
- licences or permits issued under the *Jetties Act 1926* (WA), such as jetty licences, pen or mooring licences within existing DoT managed facilities, or other statutory licences; or
- leases administered by port authorities or leases within privately managed marinas or port facilities.

The objectives of the leasing guidelines are:

- to ensure that the commercial leasing of DoT administered land is consistent, fair and impartial.
- to ensure long-term public access to the waterfront for the community and the fishing, boating, and maritime industries is maintained.
- to encourage the sound environmental management of Western Australian marinas, boat harbours, maritime facilities, waterways and foreshores.
- to generate income for the State which is reinvested through maintenance and asset replacement across all DoT managed facilities.
- to support appropriate commercial activities associated with marine operations such as the fishing, charter, resource, marine tourism and marine fuelling industries.
- to encourage the ongoing development and improvement of existing and new sites for the storage, maintenance, repair and use of commercial and recreational vessels, and to ensure availability of fit for purpose infrastructure.
- to provide certainty of tenure for the existing and prospective lessees of DoT administered land in a commercially secure environment; and
- to promote and encourage the operation of market forces in the development and operation of DoT administered land.

Important note: Only the Minister for Transport may enter into leases of DoT land. These guidelines do not, nor can they, restrict the Minister's discretion when entering into leases.

Section 2: Applicable legislation, policy and guidelines

2.1 Marine and Harbours Act 1981

DoT is responsible for the administration of all land vested in the Minister for Transport, under the MHA. The MHA contains provisions which establish the powers of the Minister for Transport to address, amongst other things, the following matters:

- the term of a lease;
- the terms and conditions of a lease;
- the transfer of, sub-leasing of or other dealings in relation to a lease;
- the termination of a lease if the lessee fails to comply with conditions of the lease;
- the early termination of a lease for a public purpose;
- the variation of lease terms and conditions; and
- the principles of rent determination and review.

Note: The MHA empowers the Minister for Transport to lease land vested in the Minister under that Act, but not to grant freehold title. Sale of land can only be effected under the provisions of the Land Administration Act 1997 (WA) (LAA), which is administered by the Department of Planning, Lands and Heritage and therefore land vested in the Minister under MHA is unable to be sold under the LAA.

2.2 Land Administration Act 1997

Prior to vesting of land and seabed in the Minister for Transport, the Department of Planning, Lands and Heritage arrange for the land to be set aside as a reserve under section 41 of the LAA, and for a management order to be issued in the name of the Minister for Transport pursuant to section 46 of the LAA. Land is then vested in the Minister for Transport by proclamation by the Governor under section 9 of the MHA.

Most leases covered by these guidelines will be located within the boundaries of land reserved in this manner, and the associated management order will usually prescribe “harbour purposes” as being the appropriate use for this reserved land.

2.3 How DoT determines preferred uses of DoT land

Structure plans and development guidelines

Boat harbours are strategic assets, and in many locations, land use planning has been undertaken by DoT in cooperation with the Western Australian Planning Commission (WAPC) and local government authorities to coordinate future planning and development of the harbour and its surrounds.

The zoning of land is determined by the local government authority’s Town Planning Scheme which may be supported by a structure plan or similar. Use of the land is also impacted by local government authority, WAPC policies and other guidelines. Planning by the local government authority under a local Town Planning Scheme establishes the use and development permissibility and any associated conditions for the land. Lessees can access additional information regarding land use and development provisions within a harbour reserve from the Town Planning Scheme applicable to that area.

These provisions cover amongst others, the layout of the site and buildings – “built form”, public access areas, signage guidelines and traffic management strategies. When considering lease applications, DoT will review and consider the implications of a Town Planning Scheme in relation to the zoning, permitted uses and development provisions for DoT land.

Note: Lessees must make their own independent enquiries regarding the suitability of proposed premises on DoT land and the planning approvals required for how they intend to use the premises.

Note: DoT generally does not support the development of caretaker dwellings on lease sites.

2.4 Types of business which are considered within DoT facilities.

The land within a harbour reserve may be used for “harbour purposes” which, given the social and economic value of a harbour to the local community, may include but not limited to the following, listed in priority order:

- boat launching ramps and boat lifters;
- fishing industry and related activities;
- marine support services including the resource industry;
- registered marine related clubs, including yachting and sailing clubs;
- marine tourism businesses;
- maritime based community groups;
- utility providers;
- retail outlets;
- hospitality and tourism developments; and
- leased residential accommodation.

Under current planning controls in Western Australia, where a new marina or boat harbour is proposed, the Minister for Transport is the Consenting Authority, with DoT the Responsible Agency. In the event that the development is considered a significant State development, the approval of Cabinet may also be required.

Where a proposal for a new privately developed marina or boat harbour is put forward to the Minister for approval, assuming the proposal is approved, the land will need to be reserved under the LAA with a management order for “harbour purposes” issued to the Minister. The land is required to be vested in the Minister under the MHA prior to leasing to the private developers under negotiated terms.

2.5 Compliance with relevant legislation

Prospective lessees are encouraged to make their own enquiries at the outset to satisfy themselves of any statutory approvals that they may require in connection with a proposed lease of DoT land.

2.5.1 Planning and building approvals

These guidelines do not affect any requirement to obtain planning, development or construction approvals under relevant legislation such as the *Building Act 2011 (WA)* and the *Planning and Development Act 2005 (WA)*. Construction will generally need to be carried out in accordance with applicable Australian standards.

Where the terms of a proposed lease require the prospective lessee to develop the premises, the lessee must obtain all necessary approvals, licences or permits required by State and local authorities in respect of any proposed development, prior to any development occurring.

DoT recognises that prospective lessees may not be prepared to enter into a lease until third party approvals in relation to the lessee's proposed use of the site are secured, but require certainty of future possession of premises subject to obtaining those approvals. Where DoT provides in principle or provisional support for a lease development, DoT may be willing to recommend that the Minister enter into an agreement for lease which sets out conditions applicable to the granting of the lease. Examples of such conditions include the lessee obtaining development and planning consent for the lessee securing a building contract for construction within a specified time and/or necessary finance.

2.5.2 Other statutory approvals

The holders of Crown tenure will continue to be subject to legislative controls exercised by DoT, other state government agencies and local government, for activities including the protection of the environment, the maintenance of a safe workplace, and orderly development. Lessees of DoT leases must also ensure that they comply with laws applicable to the business operating from the premises. DoT encourages lessees to develop and implement codes of best practice to ensure they remain compliant with relevant legislation.

Examples of legislation that a DoT lease may require the lessee to comply with are listed below:

- *Shipping and Pilotage Act 1967*
- *Jetties Act 1926*
- *Marine and Harbours Act 1981*
- *Environmental Protection Act 1986*
- *Pollution of Waters by Oil and Noxious Substances Act 1987*
- *Work Health and Safety Act 2020*
- *Dangerous Goods Safety Act 2004*
- *Contaminated Sites Act 2003*.
- *Aboriginal Heritage Act 1972*

Section 3: Processes for granting leases

3.1 Overview

The opportunity for DoT to lease a site may arise as the result of a new harbour development or where undeveloped land within an existing harbour reserve is deemed suitable for leasing. An opportunity may also arise in relation to a developed site where the lease has expired.

In each of these instances, DoT may grant a lease by either restricted or open competitive process or direct negotiation. DoT will assess on a case-by-case basis, the most appropriate mechanism to balance a fair and equitable process whilst ensuring the best return for the State in the circumstances.

Should DoT consider an expression of interest or request to lease DoT land, whether received through direct negotiation or a competitive process, regard will be given to the probity, operational and financial capacity of the proposed lessee, purposes of the MHA, and the public interest.

Nothing in this section obliges DoT to undertake a direct negotiation or competitive process or complete a negotiation or competitive process.

3.2 Competitive process

DoT generally seeks to use a competitive process where demand for sites is expected to exceed supply. A competitive process may be conducted as an:

- open market process which is available to everyone to apply; or
- restricted to a select group of proponents by invitation only.

When a competitive process is used there is generally preference to use an open market approach.

However, a restricted process may be more appropriate in certain circumstances including but not limited to where:

- the site is of material benefit to only adjoining owners or leaseholders;
- the site can be accessed only by adjoining owners or leaseholders; or
- there is a limited number of proponents who would be able to provide a submission due to the specialist nature of the site or due to the specialist experience required/ability to take on the lease.

Parties interested in participating in a competitive process will be provided details of the information that will be required, and the procedure will be outlined in the request for expression of interest or request for leasing proposal document. Where a prospective lessee is confirmed through a competitive process, the successful respondent will be given the opportunity to negotiate a lease with DoT.

3.3 Direct negotiation

DoT generally seeks to use direct negotiation where demand for sites is not expected to outweigh supply. It is also recognised that the granting of a lease through a competitive process is unlikely to achieve the best return for the State in some circumstances. Non-exhaustive examples of where it would be appropriate to negotiate a lease directly with a proponent, whether initiated by the proponent or by DoT, are:

- the proposal relates to an emergency situation to protect public health and safety, mitigate damage to the environment or a serious legal or financial risk to the Government;
- the proposal is for a lease of DoT land that commands an annual market rent that is less than the anticipated cost of conducting a competitive process;
- the proponent owns land abutting the relevant DoT land and is the only person who could feasibly use the DoT land for the intended purpose;

- a previous competitive process failed to identify a successful proponent and it is considered that repeating the process will produce the same result; or
- a competitive process is likely to fail on the basis that it would not receive any responses or that such responses would not be commercially viable to DoT.

3.4 Negotiation of further tenure

The following section applies to existing leases of DoT land that do not have further renewal options.

DoT does not guarantee lessees will be given further tenure upon the expiry of their lease.

Lessees may submit a request for further tenure, however, DoT will generally not consider such requests until approximately the last five years of the lease term.

Requests for a further lease should include a proposal for the development of improvements and future management of the leased premises, the requested indicative lease term and a business case that evidences the lessee's capability to carry out the proposal.

Any request received will be assessed on its merits having regard to the probity, operational and financial capacity of the lessee, the purposes of the MHA, and the public interest. Examples of factors that will be considered include but are not limited to:

- whether there is a community expectation to retain a key business which operates from the leased premises;
- where the key business operator is a third party, the business operator is supportive of the lessee's proposal;
- whether the lessee is proposing significant capital expenditure or significant investment in the development/redevelopment of the leased premise, and does not propose to materially change the use of the premises;
- whether there are any unremedied breaches of the lease or any persistent breaches of the lease by the lessee;
- whether the lessee sublets the premises with DoT's consent, the lessee has a track record of positive sublease management and activation of the harbours in or near where the premises are located; and
- the prevailing commercial leasing market conditions.

If DoT considers it appropriate to grant further tenure to the lessee, a new lease may be negotiated on such terms and conditions as are applicable to the standard DoT lease at that time. The new lease may differ from the lessee's previous lease to achieve community, environmental, statutory or commercial objectives. It is intended that renewed tenures will reflect commercial terms, such as prevailing market rent, and may consider turn over rent.

If DoT consider that granting of further tenure is not appropriate it will consider a competitive process. The competitive process would generally be undertaken approximately two years prior to lease expiry or later. If the process is open market, it will be open for the existing lessee to participate in that process.

3.5 Referral to Department of Planning, Lands and Heritage of market led proposals.

DoT may consider support for market led proposals within DoT facilities, however, this process is administered externally to DoT. It is important to understand this process has separate guidelines and criteria in assessment.

Proponents can review the Market-led Proposal Policy and Supplementary Guidelines at [Market-led Proposals \(www.wa.gov.au\)](http://www.wa.gov.au) maintained by the Department of Planning, Lands and Heritage before submitting their proposal to the Market-Led Proposals Secretariat for consideration.

In the event the proposal meets the requirements of those guidelines, the proposal will proceed through the process outlined in that policy.

Further information is available via
Market-led Proposals Secretariat

Telephone:

61 8 6552 4731

Email: marketledproposals@dplh.wa.gov.au

Section 4: Requests for development/ redevelopment or change of use during the term

All development/redevelopment of leases of DoT land involving a change of use or an intensification of use may involve a public interest test, which includes but is not limited to, consideration of the following matters:

- whether the proposal is consistent with the principles of the MHA;
- whether the proposal will provide improved public access to the foreshore and inland/coastal waterways, particularly for people with disabilities;
- whether the proposal will facilitate the introduction of new skills, technology or services;
- whether the proposal represents value for money – including improved risk management, whole-of-Government costing, innovation, costs to Government and improvements to whole-of-Government outcomes;
- whether the proposal will lead to an undesirable increase in market dominance;
- whether the proposal would unreasonably interfere with the other current or future uses of adjoining DoT land or DoT land within the immediate area;
- whether the proposal provides positive initiatives to improve environment protection and management;
- whether alternative uses or designs of the proposal should be contemplated before the proposal is accepted by DoT;
- whether the proponent has the required probity, financial and operational capacity;
- whether the proposal provides a regional benefit; and
- whether the proposal provides an improved community access and or benefit.

In consideration of the above DoT may also seek to advertise and seek public comment on the proposal. Applicants will be required to meet DoT's reasonable costs in assessing development/redevelopment proposals including any advertising costs.

DoT reserves the right to determine whether a development/redevelopment proposal constitutes a new development based on the scale and nature of the proposal. Such sites will be dealt with as a new development site under these guidelines. However, the requirement for a public interest test will not be applied where development is undertaken to meet new statutory requirements imposed on the lessee or to achieve industry wide reforms agreed to by Government.

DoT will consider consent for the lodgement of a development application where development consent is required. Approval condition(s) for a change of use(s) or to the term(s) of tenure may include a rent re-appraisal.

Section 5: Lease terms and conditions

The following section covers the general arrangements of DoT leases, although individual lease arrangements may differ. It is intended as an overview of DoT's preferred terms and conditions which are subject to revision from time to time. This information is not a substitute for legal advice and should not be relied upon as such. Lessees are encouraged to seek independent advice in relation to their leases.

The following section assumes that the provisions of the *Commercial Tenancy Act 1985* does not apply to the lease. Where this Act applies to a lease, certain lease terms and conditions will be regulated by the Act.

5.1 Term of tenure

The term of a lease will be negotiated by DoT on a site-by-site basis and provide for a term which is reflective of:

- the nature, size and complexity of the development.
- the need for the lessee to amortise any new investment and to receive a commercial return having regard to the value of the existing site; and
- any agreed initiatives to provide particular public benefits, services or facilities.

Where an area assessment indicates that a change of use or a significant intensification of use should occur in the foreseeable future, the new term may be limited to reflect the timing of the proposed planning horizon.

The lease term for a commercial retail tenancy will also be subject to the minimal lease term provisions contained in the *Commercial Tenancy Act*.

It should be noted that the MHA empowers the Minister to lease DoT land, but not to grant freehold title (see Section 2.1 Applicable legislation, policy and guidelines – sale of freehold land).

5.2 Rental determination

5.2.1. Market valuation assessment

All rents on new lease negotiations will be market-based and reflect and reference the value of the DoT's improvements (if any), the area of the premises and other relevant rental determination matters. Valuations will be coordinated by DoT. Turnover based rental may also be considered for larger leases.

5.2.2. Rent review

All rents that are based wholly or partly on market valuation will be subject to:

- a regular rent review at specified periods during the lease term, to ensure the lease provisions remain consistent with market rates;
- an adjustment to reflect market value or positive movements in Consumer Price Index (CPI), whichever is greater, applied either annually or every three years depending on lease terms and conditions; and,
- provisions that, despite the methodology for the rent review, a reviewed market rent may not be less than the rent payable prior to the review.

Reviews on market value may be supplied by the Valuer General or a private commercial land valuer, engaged by DoT at its own cost to determine an appropriate market rent for the lease.

Where a lessee disputes the market rate, as determined by DoT, the standard lease document contains provisions for the lessee to seek an independent valuation and a rental determination process.

5.3 Capital works

DoT encourages investment in new and renewed maritime infrastructure, to ensure the delivery of world-class commercial and recreational boating facilities.

It is a standard lease condition that any works may only be carried out on the premises provided:

- prior written approval has been obtained from DoT;
- the lessee has obtained and complied with all relevant planning approvals, consents and permits for the works;
- the works are carried out in accordance with any timetable, program or standards agreed in writing between the parties prior to commencement; and
- if the lessee is proposing works on DoT land outside their lease area, they are to comply with the CWP-GL10 – Works by Others Policy (copy can be obtained by commercial property managers).

If a lessee fails to meet these obligations, DoT may:

- cease providing any concessions or incentive contingent upon the works;
- seek repayment of the value of applicable concessions or incentives provided; and/or
- commence action to terminate the lease.

5.4 Power to sub-let, assign, mortgage and grant other interests

Approval from DoT is required to sublet, assign, mortgage or grant interest in a lessee's leasehold interest. Lessees will be responsible for the reasonable costs of DoT in providing an approval.

5.5 Bank guarantees and cash bonds

Where under its lease, a lessee is required to provide a security deposit or bank guarantee, the original of that cash bond/bank guarantee will be held by DoT in accordance with the terms of the lessee's lease.

A bank guarantee or cash bond, usually calculated on a proportion of rent (commonly 12 months plus GST) is required to guarantee the performance of the lessee's essential obligations under the lease.

Due to the nature of commercial operations on the lease site (such as a fuel site leases which offer a higher risk of contamination) or the level of capital works requiring higher site remediation costs, additional bond monies may be required to cover:

- the removal of all buildings and improvements from the site after termination of the lease; and
- making good any damage caused by the clean-up and or removal of any contamination on the site.

The bank guarantee or cash bond sum is generally reviewed every three years or as a result of a substantial increase in rental obligations.

5.6 Maintenance obligations

Lessees will be required at all times to maintain the structures on DoT administered land and the lease area in a safe and physically suitable condition for the commercial activities authorised by the lease.

5.7 Indemnities and insurance

Lessees will be required to indemnify DoT, the Minister, the Crown and the State against any action, liability or loss arising from their occupation of DoT land.

Lessees must at their expense maintain insurance against all foreseeable risks relating to their occupation of DoT administered land, including, but not limited to, public liability, workers compensation and premises insurance. Policies may be taken out in the joint names of DoT and the lessee.

5.8 Goodwill and residual value of improvements

No compensation will be payable to a lessee by DoT, the Minister, the Crown or the State for the residual value of improvements, or for business goodwill, at the expiry, termination or assignment of a lease.

5.9 Ownership and removal of improvements

The lessee must not remove any such structures either during the lease term or upon expiry or the earlier termination of the lease without the approval of DoT.

All improvements on DoT administered land, unless otherwise provided by a condition of lease, become the property of the Minister at the end of the lease, if it is not renewed.

DoT may require the removal of some or all structures or improvements, upon the expiration of the term or the earlier termination of the lease and at the lessee's cost.

In addition, the lessee may be required to carry out "make-good" and remediation works to restore the land to the reasonable satisfaction of DoT.

5.10 Holding over

If a lease expires and the lessee remains in occupation of the premises with the consent of the lessor, the lease holdover provisions of the lease will apply and the lease may be terminated by either party by giving one months' notice in writing.

The notice period under this clause does not apply where DoT has commenced action to terminate a lease following material breaches of essential lease conditions.

Leases held under this arrangement will be subject to a 10 per cent increase in rental for the holding over period.

Section 6 Other fees that may be payable by the lessee

The below provisions are subject to the *Commercial Tenancy Act 1985*. If the Act applies, then in accordance with the Act certain costs and charges will not be payable by the lessee.

6.1 Legal costs

The lessee will be required to provide for legal fees, including the legal costs associated with the preparation of the draft lease agreement. Additional legal costs may be incurred for non-standard leases or lengthy negotiations requiring lease amendments or the review of documents such as subleases, assignments and the alike.

6.2 Outgoings

The lessee will be responsible for payment of all outgoings assessed, charged or incurred in respect of the lease including, but not limited to, rates, utilities, costs including network charges from DoT as embedded network provider, tax duties, charges and assessments relating to the ongoing use of the leased DoT land, and repairs and maintenance for any improvements on the land.

6.3 Harbour area contribution

Most boat harbours and maritime facilities require the payment of a harbour area contribution, which is a contribution by the lessee toward costs associated with maintaining basic access and services/facilities provided by DoT within a maritime facility. A review of all harbour area contributions shall occur from time to time.

6.4 Property management costs

The lessee will be responsible for the payment of any fees and costs charged by a contracted property manager for managing the lease or providing management services in relation to the lease on behalf of the lessor.

Appendix A

Glossary

Area assessment is the evaluation of land vested in the Minister for Transport to determine the land's capability and includes the identification of suitable and preferred uses of DoT land.

Boat harbours, maritime facilities and marinas mean facilities that moor, berth or store vessels at fixed or floating berths, at freestanding moorings, alongside jetties, wharves or pontoons.

Commercial means non-residential and includes industrial and retail.

Commercial property manager means any person, firm or corporation appointed by the DoT to provide property management services for DoT land.

Commercial Tenancy Act means the *Commercial Tenancy (Retail Shops) Agreements Act 1985* which regulates retail shop tenancies.

Competitive process means a non-exclusive process such as an expression of interest or request for proposal process.

Crown Land refers to all land in Western Australia that is not alienated from the Crown (the State) and includes all public land or land that is not freehold (private).

Direct negotiation means negotiating directly with one proponent.

DoT land means land and seabed that is administered by the Minister for Transport (as a body corporate) under section 9 of the MHA and for which the Department of Transport acts as the responsible agency.

DoT means the Maritime division of the Department of Transport.

Freehold land means ownership of that land and right to deal with that land subject to applicable laws.

Improvements means buildings and other structures and facilities constructed on DoT land

LAA means the *Land Administration Act 1997*.

Lease means a commercial lease which grants the lessee exclusive possession of DoT Land issued under the MHA. In these guidelines, the term includes an agreement for lease.

Lessor being the Minister.

Management order means a management order issued under section 46 of the LAA.

Market valuation means the current rent at which land in a particular location can be leased agreed between two willing parties, namely the lessor and the lessee. Market valuation will be location specific and may be determined by the Valuer General, a licensed valuer or other means.

MHA means the *Marine and Harbours Act 1981 (WA)*.

Minister means the Minister for Transport, a body corporate constituted by section 8 of the MHA.

New development site refers to an area of undeveloped DoT land within a harbour reserve, which either:

- adjoins an existing maritime facility; or
- exists as part, or whole, of the leasable area within a maritime facility yet to be developed, and which DoT Maritime makes available to the public for lease or licence.

Port authority means a port authority established under the *Port Authorities Act 1999*.

Port facilities means those other than managed by a port authority.

Premises means the land specified in the lease or licence and all structures and improvements on that part of the land.

Private commercial marina refers to a marina, boat harbour or other maritime facility, and any associated leasable land, which has been built by private developers on DoT land leased from DoT and which is administered on a commercial basis by private interests.

Residual value of improvements means the value of improvements at the end of the tenancy, determined in accordance with established accounting and valuation practices, or otherwise agreed between the parties.

TPLPS means Transport Portfolio Land and Property Services

WAPC means the Western Australian Planning Commission which is a statutory authority for the planning of Western Australia.