TYP-02 Crown Land

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1 Crown Lease (Year Numbered Crown Leases)

Under the Land Act 1933, a Crown lease is the term applied to Crown land alienated for a leasehold term for conditional purchase, homestead, farm, pastoral or any other purpose as set out in that Act.

From 1909, leases for a five-year term or longer were issued in duplicate by Landgate and registered as Crown leases under s. 52 of the Transfer of Land Act 1893 (TLA). One copy was marked as the original and retained by Landgate and the other copy, the duplicate, was issued to the person entitled to receive it.

For administrative convenience, leases from the Crown for a term less than five years were also (from 1989) filed at Landgate in sequence with the longer term leases. These leases were still registered under the provisions of the Land Act 1933 as were any documents lodged against them. Leases of land on Christmas Island, granted under s. 5 of the Lands Ordinance, 1987 from 1992 were also registered at Landgate.

Leases were entered in a Register of Leases and numbered consecutively in years, e.g. 16/1976.

With the introduction of the Land Administration Act 1997 (LAA), Crown leases are no longer issued but those still current at that time are still valid and deemed to be issued under the LAA. Over the course of time, a Crown land title or qualified Crown land title was created and registered for these portions of Crown land and the lease registered against it.

Upon the creation and registration of a certificate of (freehold) title for any land for which a Crown lease has been registered in Landgate, and is still current, the lease is cancelled and any encumbrances noted on the lease are carried forward to the certificate of title.

Note: Even though Year Numbered Crown leases are no longer issued, search copies of all those previously issued are available from Landgate.
2 Crown Land Record

A Crown land record was an administrative device in the form of a title that was only created for defined portions of Crown land administered under the provisions of the Land Act 1933 as amended. It differed from a certificate of title in that the Crown was always shown as the registered proprietor.

Other interests in the (Crown) land were shown and these interests included leases (under the Land Act 1933), easements, reservations to a particular use, and if appropriate, the name of the Local Government or statutory body in which care and control of the land was vested.

A particular convenient use of the Crown land record was to show the leases to sporting and other bodies of areas of recreation reserves. Caveats and mortgages could also be registered under the provisions of the Land Act 1933 against the Crown land record.

With the introduction of the LAA, no more Crown land records will be issued and all existing Crown land records will become qualified certificates of Crown land titles.

Note: For historical purposes, search copies of all Crown land records ever issued are available from Landgate.

3 Certificate of Crown Land Title

A certificate of Crown land title (CLT) is a guaranteed title for a defined parcel of Crown land.

A CLT, like a freehold certificate of title is conclusive, evidence subject to s. 68 of the TLA, of the indefeasibility of title for the Crown interests and encumbrances registered against a defined parcel of Crown land.

The CLT is in a format similar to a current freehold certificate of title. The State of Western Australia remains the registered proprietor of all Crown land titles and this is stated in the preamble of each Crown title. A Crown title also displays the Status of the Land and the Primary Interest Holder.

The Registrar of Titles creates a CLT under s. 81L of the TLA, upon application from the Minister for Lands in the name of the State of Western Australia. The Registrar of Titles under s. 81O of the TLA will only issue an original CLT.

All actions affecting a Crown land parcel must be registered or lodged under the TLA against the CLT to be effectual.

A CLT validated by the Commissioner or Registrar of Titles that all actions have been registered or lodged against it is a guaranteed (indefeasible) title.

Interest holders may request the Minister for Lands to make application for a CLT.

Note: Qualified certificates of Crown land title are not guaranteed (indefeasible) titles.

4 Qualified Certificate of Crown Land Title
A qualified Crown land title (QCLT) is a Crown land title that has not had verification (by the Commissioner of Titles) that all the tenure, interests, rights and dedications have been lodged or registered in respect of the land.

A person having a registered interest on a QCLT does not by the certification of that interest obtain a guaranteed (indefeasible) title, and therefore has no claim for damages against the Registrar of Titles for any error or priority of any interest endorsed on a QCLT.

A QCLT provides a simple registration system. Unlike a CLT, a QCLT can be created and registered where all current approved interests may not have been registered or recorded at the time of its creation. When a QCLT has been created, any unidentified interests and / or new interests may be lodged for registration against the QCLT.

Landgate treats dealings and interests on QCLTs with the same duty of care as dealings and interests on guaranteed CLTs. Registration of dealings on QCLTs will also provide a basis for searching transactions affecting Crown land and will enable Crown land information to be maintained on Landgate’s computerized land register system.

When all interests for a parcel of Crown land have been identified, a QCLT may be unqualified and converted to a guaranteed CLT.

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5 Subsidiary Certificate of Crown Land Title

A Subsidiary Crown land title (SCLT) is a guaranteed title for an interest in a reserve or lease over a defined portion of a land parcel and will refer back to the head CLT. A Site number is allocated to each defined portion set out on an internal interest deposited plan to support the recording of multiple interests and each SCLT created displays the Site number allocated to it.

A SCLT will only contain information relating specifically to the individual interests contained within the site. Reference to the land tenure, primary interest in the land (i.e. the Management Order) and the primary lease in the land (i.e. the head lease) will be endorsed on the Head CLT.

When searching or examining documents registered on a SCLT, it is vital to obtain a search of the Head CLT. For example, easements are only shown on the Head CLT.

The Minister for Lands will apply to the Registrar of Titles under s. 81L of the TLA for the creation of a SCLT when the number of existing interests on the reserve or lease is such that it would be impracticable to lodge or register the additional interests on the head CLT.

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6 Qualified Subsidiary Certificate of Crown Land Title

A Qualified Subsidiary Crown land title (QSCLT) is a subsidiary Crown land title that has not had verification (by the Commissioner for Titles) that all the tenure, interests, rights and dedications as to the reserve or lease have been lodged or registered against the parcel of land that the title is over.

A person having a registered interest on a QSCLT does not by the certification of that interest, obtain a guaranteed (indefeasible) title and as such has no claim for damages, against the Registrar of Titles for any error or priority of any interest endorsed on a QSCLT.

When all interests for a Site on a Crown internal deposited plan have been identified, a QSCLT may be unqualified and converted to a guaranteed SCLT.
7 Permit to Occupy under the Land Act 1933

Where Crown land was alienated (sold) and the purchaser had fulfilled the conditions and desired to deal with the land before the creation of the Crown Grant, a permit to occupy could be issued by the Minister for Lands (s. 142 of the Land Act 1933).

When a permit to occupy was required, the documents to be registered at Landgate were produced at the Sales, Leasing and Securities Section of the Land Operations Division. Section 73 of the TLA provided the machinery for the Registrar to receive a permit and to receive and record upon the permit such instruments as were lodged for registration.

The consent of the Minister for Lands was not a pre-condition to be met before any dealings on the permit were registered. The following points should be noted:

- a permit did not bring the land under the TLA, only the instruments registered thereon were under the TLA

- a permit was only received and recorded on the production of one or more instruments, i.e.: a transfer, mortgage, lease or charge. A permit was not registered on the production of an application, for example for a transmission application, unless the application was accompanied by an instrument

- dealings were endorsed on the permit

- on receipt of the Crown Grant, all dealings on a permit were brought forward onto the Crown Grant and the permit was cancelled

- a permit lodged to replace a registered Crown lease, which was encumbered, was noted as to the number only of any encumbrance endorsed on the Crown lease

- normally, an instrument dealing with part of the land in a permit would not have been accepted for registration. In certain circumstances, a transfer of one whole lot out of two or more whole lots on a permit, would not have been refused

- instruments dealing with undivided shares could be registered

and

- a transfer by a mortgagee in exercise of the power of sale could be taken on a permit but when the Crown Grant was created and registered, it was cancelled and a new certificate of title was created showing the present proprietor.

Since 1989 very few permits have been issued and with the introduction of the LAA, a permit to occupy is no longer issued.

Note: Even though permits to occupy are no longer issued, search copies of all those previously issued are available from Landgate for historical purposes.

8 Licence to Occupy under the Land Act 1933

Where Crown land was alienated (sold) and the purchaser had paid a deposit but had not fulfilled the conditions and desired to deal with the land before the creation of a Crown Grant, a licence to
occupy may have been issued by the Minister for Lands. In most cases the desired dealing was a mortgage to fund the development required by the sale conditions.

Unlike a permit to occupy, a licence was not registrable under the TLA and all action on it took place under the provisions of the Land Act 1933. The licence was recorded as an encumbrance on a Crown land record in the same manner as a freehold lease is registered on a certificate of title.

Dealings such as caveats and mortgages could be registered against the licence by virtue of s. 143 to 160 of the Land Act 1933.

Licences were numbered in the series allocated to leases registered at Landgate (e.g. 17/1993) and dealings on the licences were numbered in the normal document system (e.g. F123456).

With the introduction of the LAA, licences under the Land Act 1933 are no longer issued. Licences have since been either converted to freehold or forfeited.

Note: Even though licences are no longer issued, search copies of all those previously issued are available from Landgate. A licence under the Land Act 1933 is completely different to a license under the LAA. A Licence under the LAA is a right to occupy and use Crown land for a specific purpose and term (generally) less than 12 months. The licence is not an interest in land and is therefore not registered on a Crown land title.

9 Also see

- TYP-01 Types of Title to Land