



Application Procedure

Concessions and Hardship Relief

SYNOPSIS:

This procedure is a guide to options for concessions and hardship relief for NSW Maritime products and services.

Version 5

1 February 2011

1. INTRODUCTION

- 1.1. This Procedure is a guide to options for concessions and hardship relief for NSW Maritime products and services.
- 1.2. NSW Maritime provides a range of services to the boating community, including recreational and commercial boating services and licences and the administration of domestic and commercial waterfront leases. Concessions and/or hardship relief options are presently available for:
 - the purchase of specific recreational boating products; and
 - rental payments associated with NSW Maritime domestic waterfront leases.
- 1.3. The provisions of this Procedure do not apply to NSW Maritime commercial leases, as defined in section 1.2 of the Commercial Lease Policy (NSW Maritime, 2007) and regardless of whether those leases were issued prior or subsequent to the release of that Policy.

2. CONTEXT

- 2.1. NSW Maritime acts within the framework of State and Commonwealth legislation and the policies, directives and guidelines of the Government of New South Wales. This Procedure should be read in conjunction with this framework.
- 2.2. Relevant legislation under which NSW Maritime acts includes (but is not limited to):
 - Ports and Maritime Administration Act 1995;
 - Marine Safety Act 1998;
 - Privacy and Personal Information Protection Act 1998;
 - Management of Waters and Waterside Lands Regulation 1972; and
 - Maritime Services Act 1935.
- 2.3. Relevant policies and procedures within which NSW Maritime operates include (but are not limited to):
 - the Domestic Leasing Arrangements (NSW Maritime, 2007), the Domestic Lease Policy (NSW Maritime, 2010) and the Domestic Leasing Procedures (NSW Maritime, 2010), all available at www.maritime.nsw.gov.au;
 - policies and procedures for NSW Maritime's Maritime Operations Division available at www.maritime.nsw.gov.au;
 - policies and guidelines of the NSW Government in relation to hardship relief and concessions; and
 - guidelines and information on applicable topics issued by the Independent Commission Against Corruption.

- 2.4. If NSW Maritime is obliged by law to act or omit to do something, NSW Maritime may determine to depart from this Procedure to the extent necessary to comply with its legal obligations.
- 2.5. This Procedure is effective from 1 February 2011 and replaces any previous Procedures, guidelines or similar on concessions or hardship relief, to the extent of any inconsistency.

3. CONCESSIONS

Who is eligible for a concession?

- 3.1. Concessions are available to holders of:
 - a current Pensioner Concession Card issued by Centrelink or the Department of Veterans' Affairs;
 - a current Repatriation Health Card issued by the Department of Veterans' Affairs (note that Repatriation Health Cards issued with the word 'Dependant' is not valid for NSW Maritime concessional rebates);
 - a valid Department of Veterans' Affairs Gold Card endorsed 'Totally and Permanently Incapacitated' or 'War Widow' or "Widower"; and
 - a letter or statement/determination from the Department of Veterans' Affairs stating that they receive a Disability Pension of 70% or higher, or an Intermediate or Extreme Disablement Adjustment Pension.
- 3.2. Concessions apply to individuals only. They do not apply to any business organisation or other similar legal entity.

What concessions apply?

Domestic lease concessions

- 3.3. For NSW Maritime's domestic waterfront leases the following rental concessions apply:
 - Where the domestic lease predates 1 December 2004 and the lessee has held an eligible concession card since that time – a cap on annual rental equal to the lesser of 50% of the calculated rent, or a maximum of \$1190 (in 2008).
 - Where the current domestic lease was entered into after 1 December 2004, and/or the lessee became an eligible concession card holder after that date, a cap on annual rental equal to 50% of the calculated rent.

NOTES:

- A minimum rental of \$416 (in 2008) applies to all NSW Maritime domestic leases.
- Rental figures in this section are inclusive of GST and will be indexed by CPI each year.
- Where a domestic lease is in 2 or more names and 1 lessee is an eligible concession card holder, the share of the rent for the eligible concession card

holder is reduced by 50%. For example, assume a lease is in 3 names, the calculated rent is \$900 per year and 1 of the lessees is an eligible concession card holder. In this case, one third of the rent (\$300) is rebated by 50% for the eligible concession card holder. The total rent payable is therefore \$750 (ie \$900 - \$150).

Recreational boating concessions

3.4. Eligible concession card holders may receive a 50% discount on fees for the following recreational boating products:

- recreational boat licences (both general and PWC);
- private mooring licences; and
- vessel registrations.

NOTE:

- To receive a concession for vessel registration, all registered owners of the vessel must be current holders of eligible concession cards.

How do I get a concession?

3.5. Eligible concession card holders should provide a certified copy of their current concession card (both sides) to NSW Maritime, as well as proof of identity.

Acceptable proof of identity documents are outlined in NSW Maritime's [proof of identity brochure](#).

3.6. Personal information collected by NSW Maritime is held and used in accordance with the information protection principles of the Privacy and Personal Information Protection Act 1998.

Important points to note about concessions

3.7. The concession card holder only is entitled to receive a concession. Any partner or dependants listed on the card are not entitled to a concession.

3.8. Health Benefits/Care Cards, Seniors' Cards are not concession cards within the meaning of this procedure and do not entitle the holder to a concession.

3.9. Regardless of the granting of any concession, NSW Maritime reserves the right to charge interest on any outstanding fees or rental payments.

3.10. It is an offence, under the *Crimes Act 1900* to provide false information to NSW Maritime or to fail to advise NSW Maritime of relevant circumstances which may have changed, including concession eligibility status.

4. QUARTERLY AND HALF YEARLY PAYMENTS

4.1. Quarterly or half yearly payment options are available to all NSW Maritime's domestic lessees. Requests to change to quarterly or half yearly payment options may be made by contacting the NSW Maritime Property, Planning and Infrastructure Division on (02) 95638511. These payment plans are not concessions and are available to all NSW Maritime domestic lessees.

- 4.2. Commercial mooring licensees who wish to make quarterly fee payments should advise the NSW Maritime Regional Manager for their region.

5. **HARDSHIP RELIEF**

What is hardship relief?

- 5.1. In addition to the concessions outlined above, NSW Maritime will consider hardship relief for domestic lessees suffering genuine, short term financial difficulties. Applications for hardship relief where the cause of hardship is long term or permanent will not normally be considered.

How do I apply for hardship relief?

- 5.2. Domestic lessees who wish to make an application for hardship relief must do so in writing using the appropriate form which is available from NSW Maritime's Internet site. A copy of the form is at Appendix A of this document.

Who assesses and determines my application?

- 5.3. Completed hardship applications will be assessed by a three person hardship relief panel. To enable the panel to assess the application, applicants may be asked to:
- provide certified copies of documents including tax returns and bank statements and other statements in relation to your liquid assets and any liabilities;
 - provide details of the manner in which the temporary hardship will be resolved; and/or
 - attend one or more meeting(s) with the panel to discuss the application.
- 5.4. While each case is assessed on its merits the following criteria will be considered:
- the applicant's ability to meet current and future rental payments based on the material provide to NSW Maritime;
 - any outstanding debt incurred from a previous year(s). In the case of lessees who incurred debts from the previous year as a result of suffering immediate, short term hardship, NSW Maritime may at its discretion recommend that debt be carried over as part of any hardship relief;
 - the applicants' history of previous payments and compliance with lease conditions; and
 - whether the rental is for a dwelling which has been constructed on NSW Maritime's land.
- 5.5. Any outstanding debt incurred from a previous year(s) is a consideration in determining the applicant's ability to abide by their payment plan. In the case of lessees who have incurred a debt from the previous year as a result of suffering immediate, short term hardship, NSW Maritime may, depending on the circumstances, consider allowing that debt to be carried over as part of any hardship relief.

- 5.6. Applications will be assessed on the material provided. The panel may request additional information from the applicant. Where an applicant declines to provide any additional requested material, the panel may elect to complete its assessment based on material already received.
- 5.7. Once assessment is complete, the panel will make a recommendation to the General Manager, Property, Planning and Infrastructure Division, who will determine the application.
- 5.8. Personal information collected by NSW Maritime through hardship relief applications is held and used in accordance with the information protection principles of the *Privacy and Personal Information Protection Act 1998*.
- 5.9. It is an offence, under the *Crimes Act 1900*, to provide false information to NSW Maritime or to fail to advise NSW Maritime of any relevant circumstances which may have changed.

What hardship relief options are available?

- 5.10. Any decision to offer hardship relief, and the form of relief which may be offered, is at the discretion of NSW Maritime.
- 5.11. If a recommendation to grant hardship relief is approved, the following relief options may be negotiated for a maximum 12 month period, however lessees may reapply upon expiry of a 12 month relief period:
 - extensions of time or tailored payment plans; or
 - other options which are mutually acceptable to both parties.
- 5.12. Offers of hardship relief for domestic leases must relate to rental payments only, and not to other aspects of a domestic lease (for example, maintenance requirements).
- 5.13. Following consideration of the application, NSW Maritime may decide not to offer hardship relief. NSW Maritime is not obligated to provide hardship relief, or to provide relief on the same or similar terms to that previously provided to the applicant or to any other person.
- 5.14. Irrespective of the outcome of any hardship relief application, an invoice for the full rental payment will be forwarded to the lessee(s) in the following year.
- 5.15. NSW Maritime reserves the right to charge interest on any outstanding rental payments.

Advice to applicants

- 5.16. Applications will normally be determined within 14 days of receipt unless further information is required by NSW Maritime. On determination of an application, a letter will be sent to the applicant providing details of:
 - the decision on the application;
 - reasons for reaching the decision;
 - any specific arrangements in relation to payments (if applicable); and

- advice that NSW Maritime's decision is final.

6. CAP ON DOMESTIC RENT INCREASES

What does Section 7 "Cap on Rent Increases" of NSW Maritime's Domestic Leasing Arrangements provide for?

- 6.1. Since 1 December 2004, NSW Maritime has been implementing rental phase-in and cap provisions based on recommendations by the NSW Independent Pricing and Regulatory Tribunal's (IPART) in its report entitled "Review into Rentals for Waterfront Tenancies on Crown Land".
- 6.2. However in 2007 NSW Maritime conducted a Review of Domestic Leasing Arrangements and adopted a range of amendments to its domestic leasing procedures.
- 6.3. Section 7 of these Arrangements provides for a new "cap" on annual rent increases in certain circumstances. This new cap is a transitional measure aimed at smoothing out rental changes arising from implementation of the rental formula from 2004.
- 6.4. The new cap concession has been available from 1 January 2008 to all holders of a NSW Maritime domestic lease as at that date. For these lessees any annual rent increase is capped at \$2,500, available each year until the first year where an annual rent increase is less than \$2,500. Rent increases in excess of \$2,500 are carried over to the following year's invoice as a rent debt. The cap will cease to apply to any NSW Maritime domestic lease from the first year in which an annual rent increase is less than \$2,500.
- 6.5. The hypothetical example in the table below clarifies the manner in which the cap operates. For simplicity, the following assumptions have been made:
 - CPI is 0% each year of the term of this example;
 - the calculated rent was \$4,000 in 2008;
 - the calculated rent for 2009 has increased to \$10,000;
 - the annual precinct rate does not change for the term of this example.
- 6.6. In this hypothetical example, and under the provisions of the Domestic Leasing Arrangements, from 2013 onwards the structure can never attract another cap concession.

Year	Rent payable in that year (ie 2009 rent + cap) (\$)	Excess rent as a debt (ie 2009 calculated rent – rent payable) (\$)	Cumulative total of excess rent debt (\$)
2009	6,500	3,500	3,500
2010	9,000	1,000	4,500
2011	11,500	-1,500	3,000
2012	13,000	-3,000	0
2013 and onwards	10,000	0	0

- 6.7. NSW Maritime will make a written offer to all lessees who are eligible for the new cap concession. Unless a lessee subsequently notifies NSW Maritime that they do not wish to accept the cap concession it will be automatically applied.
- 6.8. Upon transfer, expiry and/or termination of the lease NSW Maritime will require the outgoing lessee to settle any rent debt.

Arrangements for strata plans and tenancies in common

- 6.9. In the case of strata leases relating to multiple vessel berths (ie for private marinas), irrespective of whether or not there are other structures leased by that adjoining landowner, the cap is \$2,500 multiplied by the number of berths.

Note: To illustrate this point, if the owners of a strata scheme lease a structure with 10 multiple berths the annual cap for the lease is \$25,000.

- 6.10. In the case of strata leases with structures other than berths (ie the owners of the adjoining strata units lease a structure from NSW Maritime but it is not a private marina), the cap is \$2,500 multiplied by the number of households within the strata scheme.

Note: To illustrate this point, if a lease is for a jetty only and the strata scheme comprises 5 separate households, the annual cap is \$12,500.

- 6.11. In the case of leases for shared facilities (ie tenancies in common) the cap is \$2,500 multiplied by the number of sharing parties.

Note: To illustrate this point, if a jetty, ramp and pontoon is shared by 2 adjoining land owners the annual cap is \$5,000.

7. DEFINITIONS

The following terms are used in this document:

- *Adjoining land owner* means the owner of residential land which adjoins NSW Maritime's land (eg the owner of a waterfront residential property).
- *Calculated rent* means the annual rent which is normally payable to NSW Maritime based on the relevant precinct rate and the area of land subject to the lease.
- *Certified copy* means a copy of a document that has been compared with the original and endorsed as a true copy by a Justice of the Peace or a public officer authorised by the New South Wales or Commonwealth Governments to perform this function.
- *Domestic waterfront lease* means a lease over NSW Maritime's land for private domestic purposes including (but not limited to) boat sheds, boat repair facilities, jetties, marinas and reclaimed land associated with a private residence and used for a private non-commercial purpose.
- Liquid assets means any readily available funds the applicant or their partner can access within 28 days, including (but not limited to):
 - o cash on hand;
 - o shares and debentures;
 - o term deposits;
 - o other money available at short notice;
 - o payments made or due to be made (within 28 days) by the applicants' last employer;
 - o 10 year insurance bonds;
 - o amounts deposited or lent to banks or other financial institutions whether or not the amount can be withdrawn or repaid immediately;
 - o amounts borrowed from the bank for a specific purpose such as international travel that may not have been used for the said purpose;
 - o assets given to a son or daughter in some circumstances;
 - o loans to other people;
 - o unencumbered proceeds from sale of business;
 - o any money in trust funds, bank accounts including mortgage offset accounts, BUT NOT balances of mortgage redraw accounts;
 - o redundancies or eligible termination payments that are not rolled over or cannot be rolled over;
 - o compensation payments.

- *Mooring licence* means an occupation licence issued under Part 2, Division 3 of the Management of Waters and Waterside Lands Regulation - NSW, or any replacement legislation.

Appendix A

A.1 APPLICATION FORM FOR HARDSHIP RELIEF

Please see attached hardship relief application form at www.maritime.nsw.gov.au