

DOMESTIC WATERFRONT TENANCIES – CHANGES IN RENTS

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Who licences DWFs?

There are two main agencies licensing domestic waterfront facilities on our states waterways. NSW Maritime is responsible for licensing waterfront structures in Sydney Harbour and its tributaries, Botany Bay, Newcastle Harbour and Port Kembla Harbour. The Department of Lands (Lands) is responsible for licensing of domestic waterfront structures in the remaining waterways in NSW. Lands issues licences for approved structures on submerged Crown land below mean high water mark and up to three nautical miles off the NSW coast.

If you are an existing account holder with Lands and you are considering making additions to or replacing your domestic waterfront facility, you are required to obtain landowner's consent and the appropriate licence. For further information please visit our website at www.lands.nsw.gov.au or contact your local Lands office.

For further information regarding waterways managed by NSW Maritime contact their call centre on 13 12 36 or visit online at www.maritime.nsw.gov.au.

What is mean high water?

Mean high water is a term used to identify the boundary of land having frontage to tidal water, taken at the average of all high tides and is defined in both common law and legislation. Generally the mean high water mark is determined by a surveyor and any changes to mean high water adjoining Crown land requires the consent of the Minister.

Changes in DWF rents

How will the new precinct model affect rentals?

The new precincts improve the equity of rents across the state and will reduce sharp increases in rentals due to changes in land values. Our modelling indicates that overall these changes are revenue neutral. The majority of tenancies will not be disadvantaged as a result of the changes.

As with other leases and licences of the Crown, demonstrated hardship will be addressed on a case-by-case basis. Rebates also apply for eligible pensioners (see below).

What is a macro-precinct?

A macro-precinct is a grouping of former smaller precincts which have been combined together to provide geographically relevant and representative areas, for example a whole estuary may form one precinct.

How were the precincts determined?

The new macro precincts were determined as a result of analysis of former precincts, geographic features and the adjoining Statutory Land Values of account holders.

When does it start?

The adoption of the larger precinct model will commence for all rent redetermination notices issued from 1 February 2009. Account holders across the state will be progressively moved to the new macro precinct model as their rents fall due over the coming year.

Where can I view the precinct maps?

Maps have been prepared for the 54 new macro precincts and are available to view on our [website](#).

What changes are being made to the precinct areas?

The arrangements simplify the management of waterfront structures on Crown land for domestic use by reducing the number of waterfront precincts from 429 to 54 macro precincts.

How do you calculate the price of a precinct?

Each precinct has a Precinct Statutory Land Value (PSLV) which is a part of the formula for determining rents, as recommended by IPART. For a worked example on how to determine a PSLV please refer to the information on the [IPART formula](#).

When can I find out the Precinct Statutory Land Value for my precinct?

Precinct values will be made available on the Lands website from 1 February 2009. Lands will be able to release the Precinct Statutory Land Values for use at the commencement of the macro-precinct model. As the Valuer General generally releases the statutory land values for the preceding year in January, we are unable to provide the PSLV to clients any earlier.

How often are land values determined?

The Valuer General values all land on behalf of the State Government and maintains a Register of Land Values containing information in relation to land ownership, location, occupation, value and other information as required by the Valuation of Land Act 1916 see <http://www.legislation.nsw.gov.au/>. Land values are determined annually as at 1 July each year and reflect property market conditions at that time. The Valuer General generally releases the statutory land values for the preceding year in January. As a result we are unable to provide the PSLV to clients any earlier.

Rebates and Concessions

Am I eligible for a Pensioner Rebate?

Eligible pensioners with a domestic waterfront tenancy adjoining their sole place of residence are granted a 50% rebate on the market rent. Only DWF tenure holders who can produce an Eligible Pension Card and provide evidence that the tenure adjoins their sole place of residence are eligible to access the pensioner rebate.

If you would like to enquire if you have or are able to apply for an eligible pensioner rebate to be applied to your account please contact your [local Lands office](#). You will be required to present your current Eligible Pension Card and evidence or a statutory declaration that your sole place of residence adjoins the domestic waterfront tenure.

As a self-funded retiree you are not eligible to receive a Pensioner Rebate on your account unless you can produce an Eligible Pensioner Card and evidence or a statutory declaration that your sole place of residence adjoins the domestic waterfront tenure.

Where a domestic waterfront tenancy is in two or more names and one holder is an eligible pensioner, the share of the rent for eligible pensioner is reduced by 50%. *For example:* A domestic waterfront tenure is in three names with a gross rental of \$900 per year (excluding GST). One of the tenure holders is an eligible pensioner and qualifies for the pensioner rebate. The gross rental is divided by 3, and one third (\$300) is then rebated by 50% for the eligible pensioner. The new total rent payable would be \$750.00 plus GST.

Are payment concessions for financial hardship available?

The Department of Lands may consider granting hardship relief for domestic waterfront tenancy holders if they are suffering genuine, short term financial difficulties. If you are considering applying for short term relief the Department will require supporting documentation which clearly evidences genuine financial hardship. If you are seeking payment arrangements on hardship grounds you may discuss your particular circumstances by contacting Department's Debt Management Unit on 1300 052 637 (Option 4) or write to them at PO Box 2155, Dangar, NSW 2309.

For information on rent concessions please refer to the section regarding Phase-in Provisions.

Public Access

Can I have a reduction in my rent because the public uses the jetty?

The IPART formula provides a 50% discount in recognition that the structure is on public land. No additional concessions or reductions in rent apply because a jetty may be used or accessed by the public.

Can a tenure holder erect a Private Use Only sign on their domestic waterfront structure?

The community places high value on access and enjoyment of public foreshore lands. DWF tenure holders should not erect 'Private Use Only' signs or erect gates to keep the public out of public land.

Phase in Provisions

Who is eligible to receive a phase in provision?

The Department applies the recommended IPART phase-in provisions for DWF tenure holders.

Where the rental increase is between \$100 to \$1000 the increase will be phased in over two years in equal instalments. Where the rental increase is between \$1001 and \$5000 the increase will be phased in over four years in equal instalments capped to be an increase no greater than \$2500 in any year. When the phase in period is completed, the full rental will apply.

What happens when a property adjoining a domestic waterfront occupation is sold during the phase in period?

IPART recommends that once the tenure holder transfers the occupancy, the phase in provisions no longer apply and the full rental should apply. The phase-in provisions only apply to the current owner of the property when the changes are implemented in 2009. If the tenure holder sells the property during the phase-in period, the full rental will apply as soon as the occupancy is transferred. If the jetty structure is shared between adjoining land holders, the phase in provisions will no longer apply when the licence is transferred to a new tenure holder.

Will the phase in provisions only apply to increases in rents?

The phase-in provisions only apply to accounts with rent increases. Any decreases in rent will be passed directly to the tenure holder.

Will phase-in-provisions be automatically be calculated against my account?

Yes, the phase in provisions along with any current rebate or concession will be automatically calculated against eligible accounts.

Sub-licensing

Can I sublicense my berthing area now?

Not yet. If you have an approved berthing area you may apply to the Department to vary your DWF licence to authorise you to sublicense your approved berthing area to a third party. You will need to fill in an application form and template sublicense agreement signed by yourself and the third party sub-licensee. Once the application form and fee has been received by the local office, it will be reviewed and you will be advised in writing that an authority to sublicense will be added to vary the terms of your DWF licence.

Further information and application forms will be posted to existing tenure holders with an approved berthing area early in 2009. Information and application forms for sublicensing an approved berthing area will also be made available online.

Will I have to sub-licence my berthing area if I'm not using it?

No. This initiative is completely voluntary. However there will be great benefits for tenure holders who don't use their facility, who will be able to generate an income to maintain their structure.

How much will it cost me?

A fee of between \$750 and \$2000 a year (the greater of \$750 or 50% of their current rent up to a maximum of \$2000 adjusted annually in line with CPI) will apply to holders who accept the offer.

The initiative is entirely voluntary and tenure holders will be required to ensure they have the appropriate insurances in place.

How much should I expect to make?

Research by Lands has found projected returns from sub-licensing could range between \$2400 to \$8400, depending on the facility, location and market conditions. Individual tenure holders should undertake their own independent research and assessment prior to taking up the offer to sublicense, as the projected returns are indicative only.

Why is Lands introducing this?

In introducing this initiative Lands is addressing the need to rationalise waterfront structures and moorings, freeing up critical space in the state's waterways and directly benefiting the boating public. It also provides an opportunity for user's to generate an income to maintain their facility.

How do I apply to add a berthing area to my Licence / Permissive Occupancy?

If you are an existing account holder and you want to add a berthing area to your licence, you are required to obtain landowner's consent from Lands, Development Approval from your local Council and if successful, amend your DWF licence to include the approved berthing area. For further information please contact your local Lands office.

IPART rent

http://www.lands.nsw.gov.au/crown_land/leases/licences/waterfront_licences

What does IPART stand for and what is its role?

IPART is the acronym for the Independent Pricing and Regulatory Tribunal. IPART is the independent economic regulator for NSW. IPART oversees regulation in the electricity, gas, water and transport industries and undertakes other tasks referred to it by the NSW Government.

What report did IPART release?

In May 2004 IPART released a 'Review into Rentals for Waterfront Tenancies on Crown Land in NSW'.

IPART recommended a single formula for licence fees be applied across all state agencies for the 8000 private waterfront tenancies, including the 1400 in Sydney Harbour with the remaining waterfront tenancies are in Pittwater, Port Hacking and other NSW estuaries and coastal waterways.

The single formula licence fee covers public land below the high water mark which has been used to build structures such as jetties, swimming pools, boatsheds and boat slipways for private use, or reclaimed to extend privately-owned waterfront blocks.

What is the IPART formula?

The IPART formula aims to deliver a fair market return for the use of Crown land, by linking the domestic waterfront facility rent to the Statutory Land Value of the adjoining freehold land, which is determined by the State's Valuer General. The rent calculation is subject to the statutory minimum rent, which is currently \$400 per year plus quarterly Consumer Price Index (CPI) adjustments.

DWF Rent (\$)=	3 yr rolling average Precinct SLV (\$/m2) x Licensed area of occupancy (m2) x Rate of return (3.05%) x Discount Factor (50%).
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How is the PSLV used in the formula?

In the IPART formula, the precinct Statutory Land Value is used as a proxy for the market value of an occupancy. The precinct SLV is expressed as a dollar per square metre, the formula below is used:

$$\text{Precinct SLV (\$/m}^2\text{)} = \frac{\text{Total SLV of all tenured properties in precinct}}{\text{Total are of freehold properties in precinct} + \text{Total area of occupancies in precinct.}}$$

What is the 3.05% rate of return and how is it calculated?

The rate of return is a financial term used to describe the return, or profits, on an asset and is a key element of the IPART formula. The rate of return is a measure of the performance of the return or profit delivered to the government and community of NSW on the valuable asset of foreshore Crown land.

IPART adopted a rate of return of 3.05%, which is approximately half of the long term return on private residential tenancies. This rate of return was set much lower for DWFs than for private residential tenancies because of the public nature of the land and the value the tenure holder obtains from the use of that public land.

The IPART report recommends the rate of return is reviewed regularly.

What is the 50% discount factor? Does it apply to everyone?

The 50% discount factor applies to all DWF tenure holders and is a key feature of the IPART formula. The discount is in recognition that much of the land that is occupied for a DWF is totally or partially [submerged](#) and there are significant limitations to how it may be used.

The discount factor recognises public land is to be used for public purposes, and that where practical, access across the land must be available to the community.

IPART formula example:

Mrs Ford has a domestic waterfront facility licence for a jetty and berthing area adjoining her freehold property covering an area of 40m². The three-year rolling average PSLV is \$834.70 m².

Using the above IPART formula, the DWF Rent for Mrs Ford is:

DWF rent (\$)=	\$834.70 Three-year rolling average PSLV 40m ² licences area of occupancy Rate of return (3.05%) Discount Factor (50%).
DWF rent = \$509 per year (plus GST).	