

March 2011 changes to the Sydney Harbour REP and to NSW Maritime leasing arrangements

This information sheet provides information about recent amendments to the Sydney Regional Environmental Plan (Sydney Harbour Catchment) 2005 (the Sydney Harbour REP) and changes to NSW Maritime's leasing arrangements.

1 Introduction

NSW Maritime administers more than 2000 wetland leases covering foreshore structures in Sydney Harbour, Botany Bay, Newcastle Harbour and Port Kembla Harbour.

NSW Maritime has issued leases and other exclusive use occupancies in Sydney Harbour for more than 50 years.

In recent years NSW Maritime has undertaken restricted subdivision of the wetland immediately adjacent to the private freehold to allow the construction of boating facilities such as ramps, jetties and wharves.

There are three categories of leases:

- Domestic
- Commercial
- Community

Under the *Domestic Lease Policy* lessees have the option of a 3 year or a 20 year lease.

Commercial leases and Community licences are offered in accordance with the *Commercial Lease Policy, 2009*.

These policies are available at:

www.maritime.nsw.gov.au

2 State Environmental Planning Policy (Infrastructure) Amendment (Miscellaneous) 2010

On 17 December 2010, the State Environmental Planning Policy (Infrastructure) Amendment (Miscellaneous) 2010 (the amending SEPP) was published on the NSW legislation website.

The amending SEPP also amended the Sydney Harbour Catchment REP (by prohibiting subdivision of land in all waterway zones) and the SEPP (Exempt and Complying Development Codes) 2008 (through consequential amendments).

Under the *Conveyancing Act 1919*, a plan of subdivision is required for registered leases of more than 5 years duration and the amendment inadvertently prohibited all subdivision of NSW Maritime's land for the purpose of leasing.

3 State Environmental Planning Policy (Sydney Harbour Catchment) Amendment (Subdivision) 2011

On 3 March 2011, State Environmental Planning Policy (Sydney Harbour Catchment) Amendment (Subdivision) 2011 (the Subdivision SEPP) amended the Sydney Regional Environmental Plan (Sydney Harbour Catchment) 2005.

Land to which the Subdivision SEPP amendment applies may be subdivided if the purpose of the subdivision is to enable the creation of a lot that is, or is to be, used only for the following:

- (a) development the subject of an existing development consent or a project approval under Part 3A of the Act or an existing use,
- (b) exempt development or development or an activity that may be carried out without development consent,
- (c) any other development that is authorised under an Act of the Commonwealth.

4 Domestic leases – impact of reviews

To ensure the outcomes of two current reviews are taken into account, NSW Maritime has put a hold on the issuing of any new 20 year domestic leases. These reviews are the Independent Pricing and Regulatory Tribunal's (IPART) *review of method of rent determination for domestic waterfront tenancies*, and the review of the Sydney Harbour Regional Environmental Plan by the Department of Planning. Domestic lessees can still progress with a 3-year lease if they choose.

The terms of reference of the IPART review is available at www.ipart.nsw.gov.au.

Whilst these reviews are underway, this decision qualifies section 3 of the *Domestic Lease Policy* in relation to the offer of 20-year leases.

This decision does not affect lessees who are in the process of executing leases (e.g. those who returned lease documents to NSW Maritime prior to 4 March 2011, have made a demonstrable financial commitment to arranging plans of subdivisions, or who have executed an Agreement to Lease document).

Others who do not fall into one of these categories but can demonstrate a significant financial commitment can seek a review of their circumstances by the Chief Executive.

5 Commercial leases

There are no impacts on tenure arrangement under the *Commercial Lease Policy*.

6 Amateur Club and Community Group (Community) tenure arrangements

There are no impacts on tenure arrangements for Amateur Clubs and Community Groups who are issued tenure arrangements under the *Commercial Lease Policy*.