

# **Maritime Property Guide – Establishing Domestic Waterfront Leases and Licences**

## **IPE Infrastructure Management System**

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# 1 General

## 1.1 Context and purpose

This guide:

- will provide information to assist potential Lessees in establishing a Lease over a Domestic Waterfront Maritime Property or a Domestic Waterfront Property Fronting Public Land, over structures and uses that include, but are not limited to, boatsheds, private landing facilities, mooring pens, private marinas and reclaimed lands
- confirms the determination of leasing boundaries and other information associated with the issuing of Leases over Transport for NSW (TfNSW) property, specifically Domestic Waterfront Property and Domestic Waterfront Property Fronting Public Land
- is applicable to all new and renewed agreements (referred to generically as Leases) issued over TfNSW land for structures and uses associated with a private residence and used for a private, non-commercial purpose – these structures and uses include, but are not limited to, boatsheds, private landing facilities, mooring pens, private marinas and reclaimed lands
- will generally be applied to all new or renewed Leases or licences unless TfNSW determine that circumstances exist which justify a departure from this guide, including to the extent necessary to comply with its obligations at law.

**Note:** The generic terms ‘Lease’ and ‘Lessee’ have been used throughout this guide for all third-party arrangements relating to non-freehold tenure, including licensing arrangements.

## 1.2 Domestic Leases and licences

A fully executed agreement between yourself and TfNSW must be in place before you can occupy any Maritime Property. No Lease (or variation of an existing Lease or Agreement to Lease) will be legally binding unless it is in writing and is signed by you or your authorised representative and TfNSW.

If a formal Lease cannot be entered into until certain events have occurred (for example, planning approvals are obtained or capital works completed), TfNSW, as Lessor may offer you (as a potential Lessee) an Agreement for Lease (AFL), or Deed of Release and Indemnity.

In cases where you wish to share the Leased or licensed maritime facility with one or more other persons, all the conditions relating to the proportion of costs will be included in the Lease.

### **1.2.1 Lease terms**

Unregistered Leases are available for a term of 3 or 20 years. Registered leases are available for a term of 20 years.

All costs associated with a Lease are to be covered by the Lessee. Leases greater than 5 years require the lodgement of a development application for a long-term Lease to enable registration.

Prior to TfNSW providing consent to lodge a development application the Lessee will be required to:

- engage a registered land surveyor for registered Leases to prepare a draft plan for approval by Maritime Survey if there is no recent survey on file
- have TfNSW Maritime Survey conduct a survey on to verify the area of occupation of TfNSW land (with a fee to be paid by the Lessee).

### **1.2.2 Use of domestic waterfront facilities**

The use of domestic waterfront facilities for commercial purposes is prohibited.

Lessees may make their domestic berthing or storage facilities available for reasonable use by others (for example friends or neighbours) for the occasional berthing or storage of the other persons vessel provided no payment is received by the Lessee.

This will be subject to any restrictions on vessel size and any other conditions included in the Lease and with any applicable planning approval.

If any previously unrecorded reclaimed land or structure/s is identified, provided:

- the function and activity do not change as a consequence of the addition
- the addition or appearance and design appear to be of the same era as the approved leasehold
- the addition is an adjunct to the better and safe use and enjoyment of the approved leasehold.

then the onus of proof to show it is unlawful shifts to the party questioning its lawfulness, and if lawfulness is established, the area may be included in the leased and rent area.

### **1.2.3 Occupancy by owners corporation**

The use of domestic waterfront property for a residential owners corporation purpose may be permitted at the discretion of TfNSW and upon achieving the necessary approvals from the relevant authorities. Any Lease to an owners corporation must be registered.

### **1.2.4 Leased area**

The footprint of the Leased area includes the berthing area within which the whole Vessel fits.

### **1.2.5 Domestic berthing area**

The Lease and associated rent will apply to the area within which the approved vessel wholly fits. When a berthing area is not delineated by a berthing pen the approved berthing area for your vessel is based on the length and beam of the vessel. The vessel length is usually taken to be its length overall (LOA) which includes appendages such as bow sprits and outboard motors, rather than just the hull length, and the berthing area is determined subject to the following:

- The Leased land and rent are normally based on the maximum LOA as specified in the development consent with the beam derived from dimensions specified in Australian Standards.
- Some older development consents may not specify maximum vessel length as LOA (for example they may relate to hull length or vessel length not specified at all). TfNSW will determine the appropriate Lease area based on the terms of the original consent.
- If an older development consent specifies a maximum vessel length but does not clarify whether it refers to hull length or LOA, TfNSW will assume it to be hull length.
- If Lessees with older development consents require clarification on any of these matters, they should contact TfNSW Maritime Property.
- For current Leases where the berthing is not specified in the development consent, the berthing area is offered at existing vessel LOA with a 1.0 metre allowance added to the overall length and width of the vessel.
- If the beam of the vessel is unknown, TfNSW may derive a berth width based on LOA and dimensions specified in Australian Standards.
- Any increase to the berthing area will be subject to development approval.

The following examples illustrate how TfNSW determine boundaries of berthing areas, Leased areas, subdivisions, public and common law access, and deals with shared structures and stormwater facilities.

The area of occupation by structures and/or berthing arrangements not illustrated by the examples in this guide will be determined on a case-by-case basis.

## 1.3 Examples of Domestic Waterfront Leases

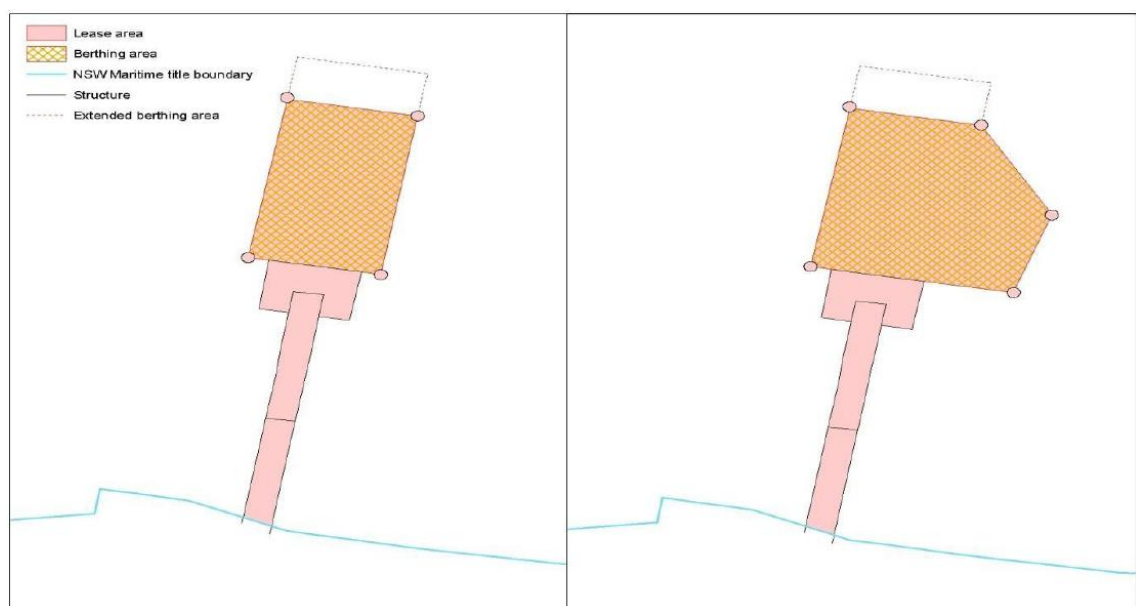
### 1.3.1 Example A

**How does TfNSW delineate the boundary of an approved berthing area denoted by 4 or more piles and/or mooring blocks?**

- The berthing area includes the area formed by connecting the centre of each mooring pile/block, as surveyed by TfNSW or a registered surveyor. The berthing area is added to the Leased land for rental purposes.
- If a larger vessel is approved for the mooring piles/blocks in their existing location, the berthing area is to be extended to accommodate the larger vessel.

Explanatory notes:

- Any lines tethering the vessel to the piles/blocks alienate waters from full public use.
- The centre of the piles/blocks provides the most accurate point from which to conduct a survey.



**Diagram 1 – Delineation of an approved berthing area boundary denoted by 4 or more piles and/or mooring blocks**

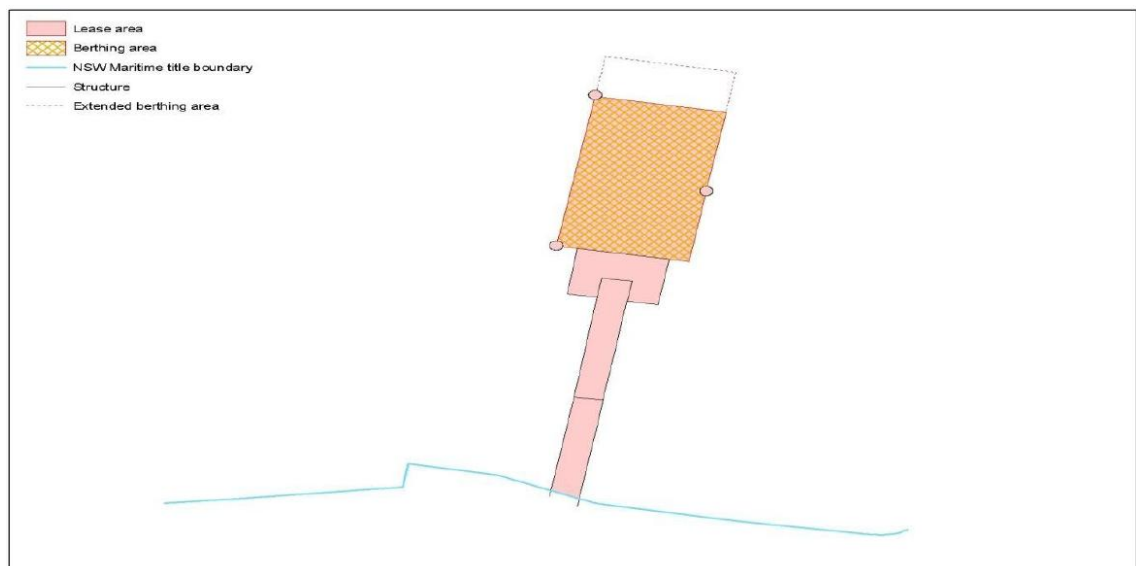
### 1.3.2 Example B

#### How does TfNSW delineate the boundary of an existing, approved berthing area denoted by less than 4 piles and/or mooring blocks?

- As per Example 'A' above, however the berthing area is a polygon formed by extrapolating from the centre of the existing piles/blocks.
- If TfNSW approves a larger vessel for the mooring piles/blocks in their existing location, the berthing area is to be extended as if the piles/blocks had been physically relocated to accommodate the larger vessel.

Explanatory notes:

- Any lines tethering the vessel to the piles/blocks alienate waters from full public use.
- The centre of the piles/blocks provides the most accurate point from which to conduct a survey.



**Diagram 2 – Delineation of an approved berthing area boundary denoted by less than 4 piles and/or mooring blocks**



### 1.3.3 Example C

How does TfNSW determine the berthing area where a berthing facility is not delineated by mooring piles/blocks or where there are 2 piles only which are alongside the edge of the pontoon or similar structure?

- Lessees will need to advise TfNSW of the dimensions of their vessel to allow the berthing area to be determined.
- Where a Lessee declines to provide specific vessel dimensions, TfNSW may impute a vessel length of up to the maximum vessel length outlined in the Sydney Harbour Foreshores and Waterways Area Development Control Plan 2005 or an estimated vessel length based on observation of vessels berthed at the facility. Any such imputed area is for rental purposes only and does not represent planning or Lease approval for that vessel length.
- Where a vessel length has either been determined or imputed the berthing area will be calculated based on the known vessel beam in metres, or derived from the Australian Standards, plus 1 metre allowance to the overall length and width of the vessel in metres.

Explanatory note:

- Berthing areas occupy TfNSW wet land and alienate waters from full public use.



**Figure 3 – Determination of the berthing area where a berthing facility is not delineated by mooring piles/blocks or where there are 2 piles only which are alongside the edge of the pontoon or similar structure**

### 1.3.4 Example D

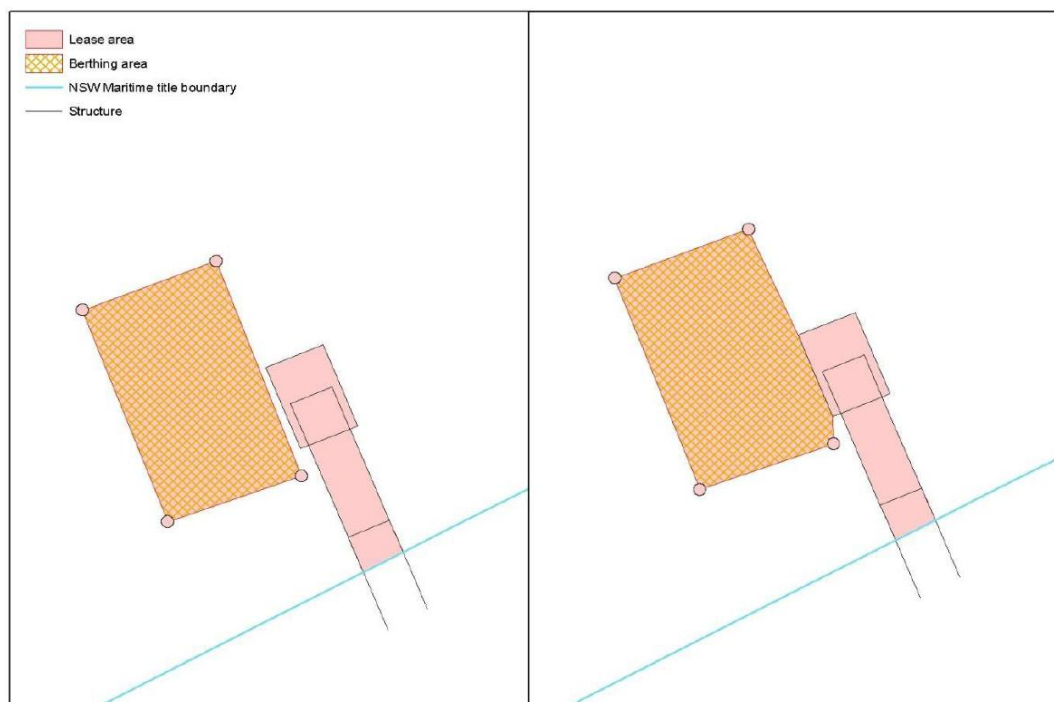
#### “Slivers” of Water Space between Structures.

Are “slivers” of water space between a pontoon and the mooring pen included in the Leased land?

- Slivers will be removed from future Lease and subdivision plans and therefore included in the Leased land.

Explanatory note:

- The area of water space between a pontoon and the mooring piles is alienated from full public use.



**Figure 4 – Determination for inclusion of “slivers” of water space between a pontoon and the mooring pen in the Leased land (existing plans on the left, future plans on the right)**

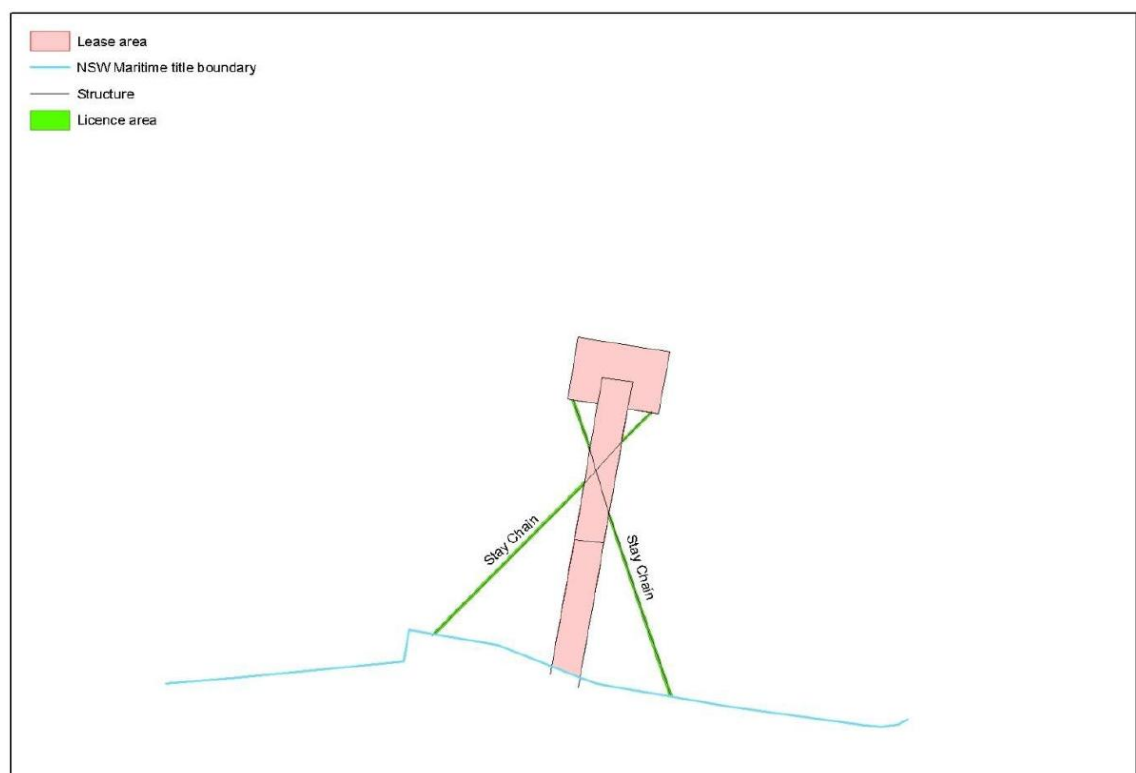
### 1.3.5 Example E

“Stay Chains” – What is the Leased land for structures tied to the shore by stay chains?

- Chains are the subject of a licence clause within the Lease.
- Neither the chains nor the voids between them are included in the Leased land.
- Rent and licence fees will not be applied to the area (air space) occupied by the chains or the voids.

Explanatory Note:

- Stay chains are covered by a licence agreement.



**Figure 5 – Determination of Leased land for structures tied to the shore by stay chains**

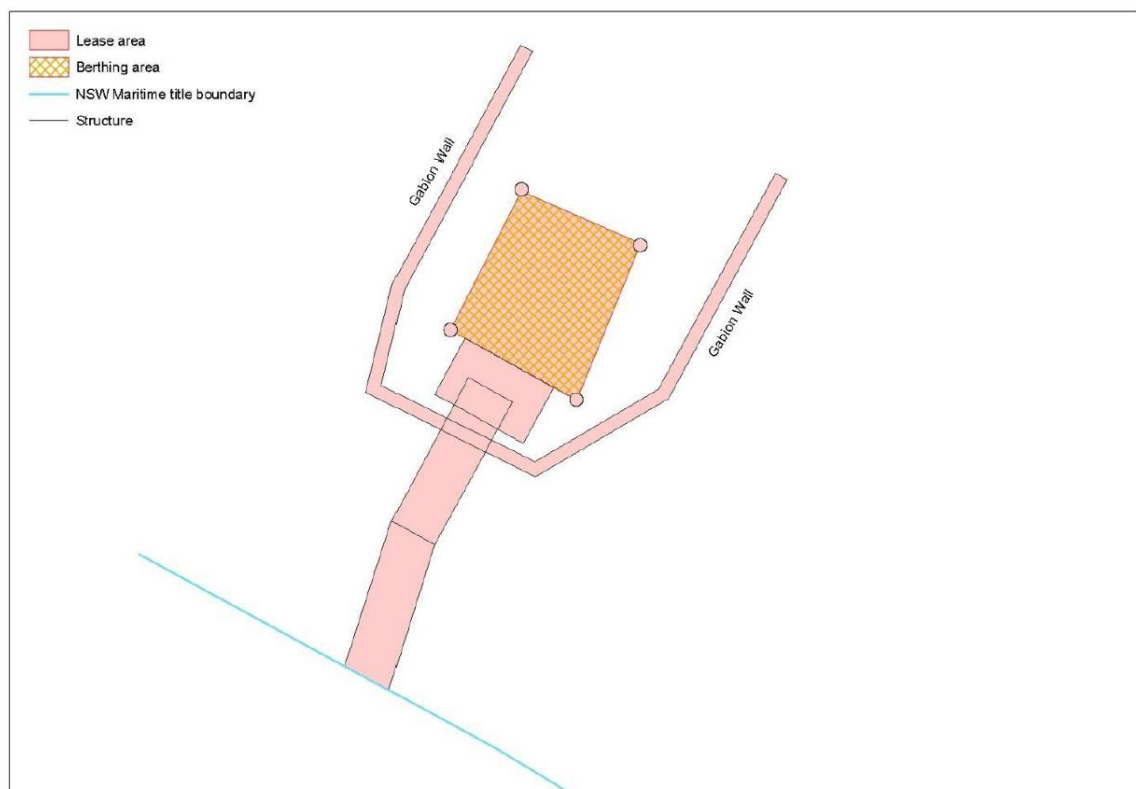
### 1.3.6 Example F

Underwater gabion retaining walls – What is the Leased land for underwater gabion retaining walls?

- The area occupied by the gabion retaining walls is incorporated within the Leased land.

Explanatory note:

- Gabion retaining walls are structures indefinitely affixed to TfNSW land, and subject to the same provisions as other affixed objects.



**Figure 6 – Determination of Leased land for underwater gabion retaining walls**

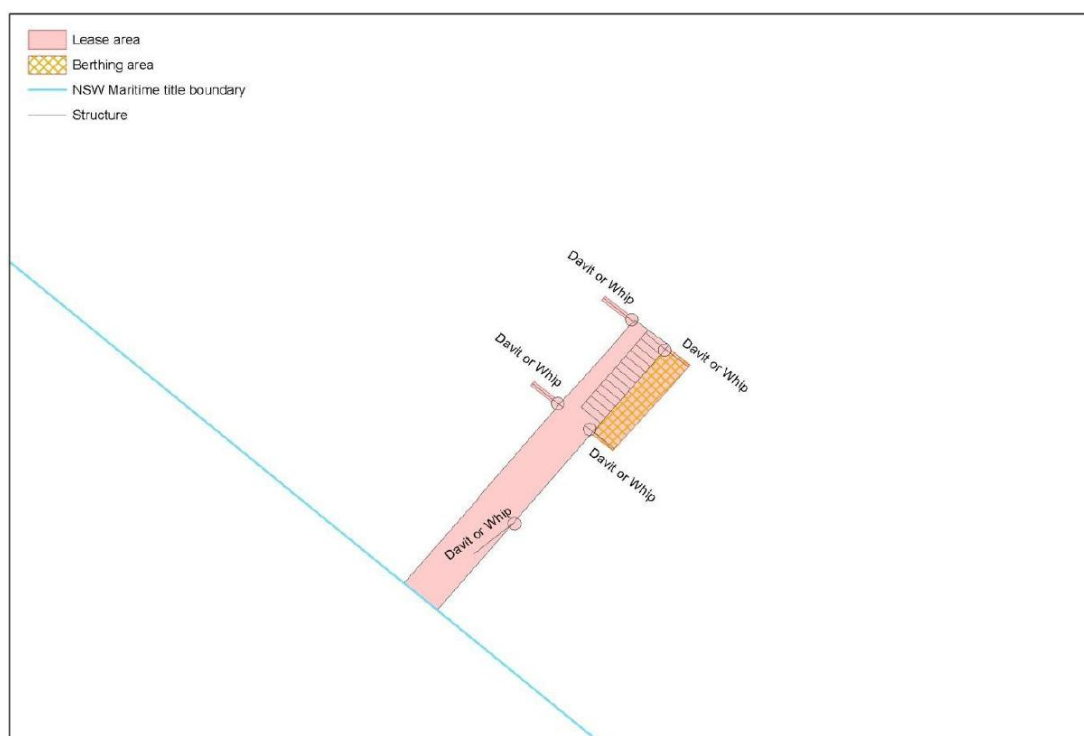
### 1.3.7 Example G

#### Davits and Whips – What is the Leased land for davits and whips?

- Davit structures approved to protrude over TfNSW wet land without a vessel permanently attached, are part of the Leased land.
- Davit and whip structures approved to protrude over TfNSW wet land with a vessel permanently attached are part of the Leased land and rent is also payable on the vessel footprint determined by the size of the approved vessel.
- Davit structures which retract over another structure, such as a jetty, or are located on private land but which swing out over TfNSW wet land, do not affect the Leased land.
- Where applicable the rent payable on the vessel is based on the approved vessel size. Lessees will be required to advise TfNSW of their vessel dimensions. Where vessel dimensions are not provided, TfNSW may impute dimensions based on a nominal vessel size of 2.5m x 1.5m.

#### Explanatory note:

- Davits occupy TfNSW wet land and any vessels attached to davits and whips alienate waters from full public use.



**Figure 7 – Determination of Leased land for davits and whips**

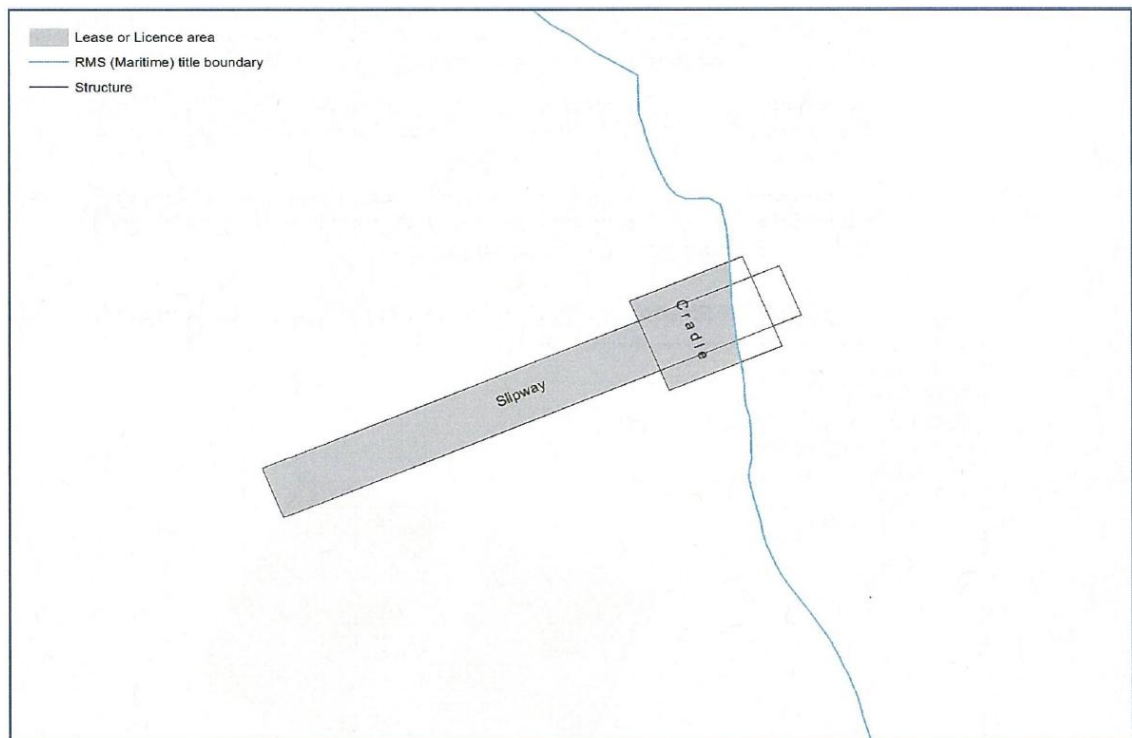
### 1.3.8 Example H

#### Slipways – How does TfNSW determine the Leased land occupied by slipways?

The area occupied by a slipway and the area occupied by a slipway cradle that is stored on TfNSW land are incorporated into the Lease.

Explanatory note:

- Slipway cradles that cannot be stored completely off TfNSW land alienate the area they occupy from full public use.



**Figure 8 – Determination of Leased land for slipways**

### 1.3.9 Example I

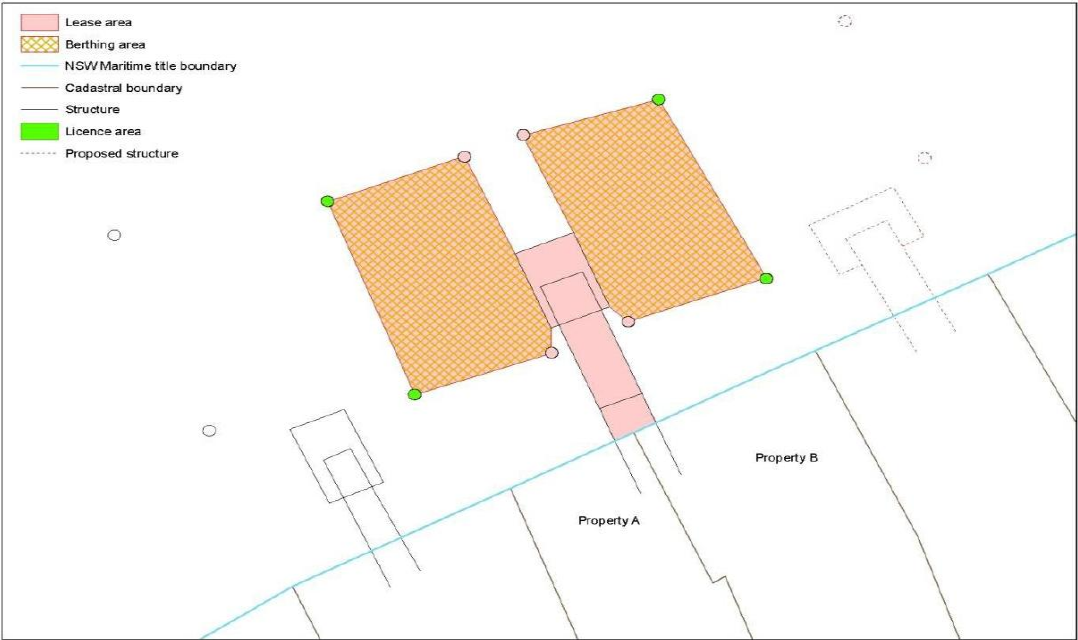
#### **Shared Structures – How does TfNSW deal with shared structures?**

Shared structures other than mooring piles:

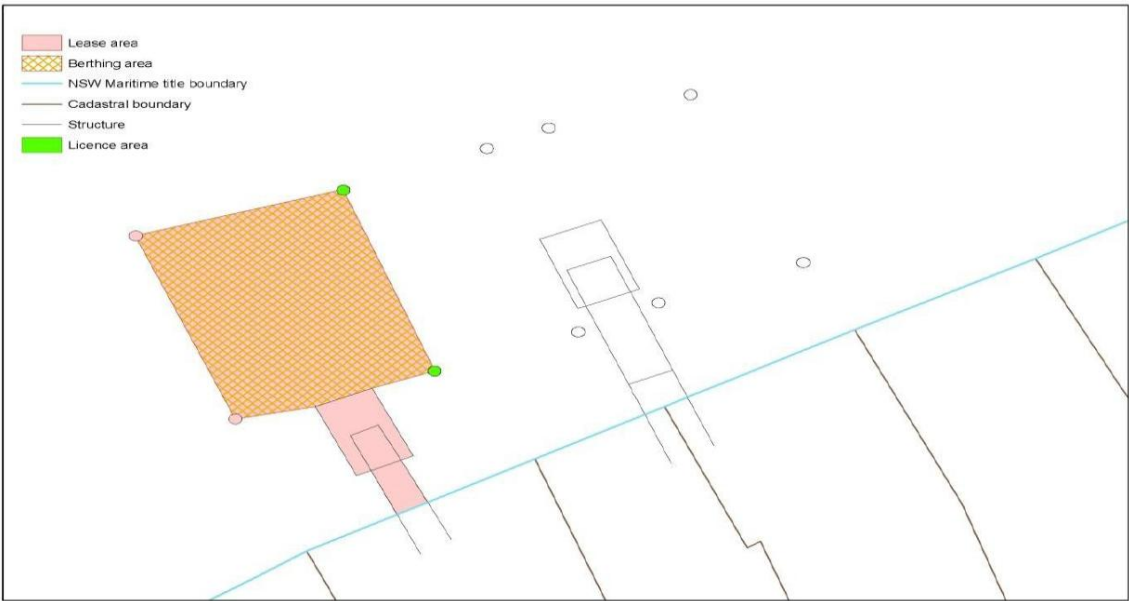
- In the case of existing shared facilities both sharing parties will be required to enter a shared Lease with TfNSW. The Lease sets out the respective rights and obligations of the sharing parties in relation to the shared structures and/or areas.
- In the case of structures identified in a development consent for future shared use the procedure depends on the extent and nature of the sharing arrangements, however the following is a possible scenario.
- If the entire Leased land is required to be shared in the future, the Lease may be terminated when the sharing condition is invoked and TfNSW will issue a new shared Lease to the parties.
- In the event where adjoining landowners (who would normally constitute the parties to a shared Lease) cannot agree on the Lease term, the default term is the lesser term.

One or more mooring piles are shared:

- Shared mooring piles will be the subject of a licence within a separate Lease issued to each of the sharing parties.
- The total occupation comprises the Leased and licensed areas.
- The Lease will incorporate a special condition requiring the sharing parties to be jointly and severally liable for all maintenance costs.



**Figure 9 – Shared Structures — Leased land and area subject to licence clause within Lease**



**Figure 10 – Shared Mooring Piles – Leased land and area subject to licence and special condition clauses within Lease**



### 1.3.10 Example J

#### **What is the Leased land in relation to casual berthing?**

- A casual berthing area as defined by the development consent is not part of the Leased land.
- The Lease document will specify the maximum vessel length permitted to berth casually at the facility, but the casual berthing area will not be indicated on the Lease plan.

Explanatory note:

- A vessel does not permanently occupy a casual berthing area as it is approved by TfNSW for short term berthing only.

### 1.3.11 Example K

#### **What is the Leased land for seawalls?**

- The Leased land extends to the toe of the seawall.

Explanatory note:

- The area to the toe of the seawall represents the full extent of the lessee's occupation of TfNSW land.

### 1.3.12 Example L

#### **What is the Lease for stormwater drainage facilities and other minor occupations of TfNSW land?**

- Where the adjoining landowner has other approved structures/occupations of TfNSW land, stormwater drains and pipes, small anti-scour aprons, small revetment mattresses and other minor occupations are part of the Leased land.
- Where the adjoining landowner does not have any other structures/occupations of TfNSW land, stormwater drains and pipes, anti-scour aprons, revetment mattresses and other minor occupations will be the subject of an occupation licence (which incorporates the insurance, indemnity and maintenance obligations of the adjoining landowner) with TfNSW. In such cases a Lease is not issued, and the occupation licence is issued for \$1, but payment will not be demanded by TfNSW.
- TfNSW (through its authorised delegate) will determine, at its absolute discretion, whether structures/occupations are sufficiently minor to warrant being dealt with through an occupation licence, as described above.

Explanatory note:

- This simplifies the administrative process for both the lessees and TfNSW.

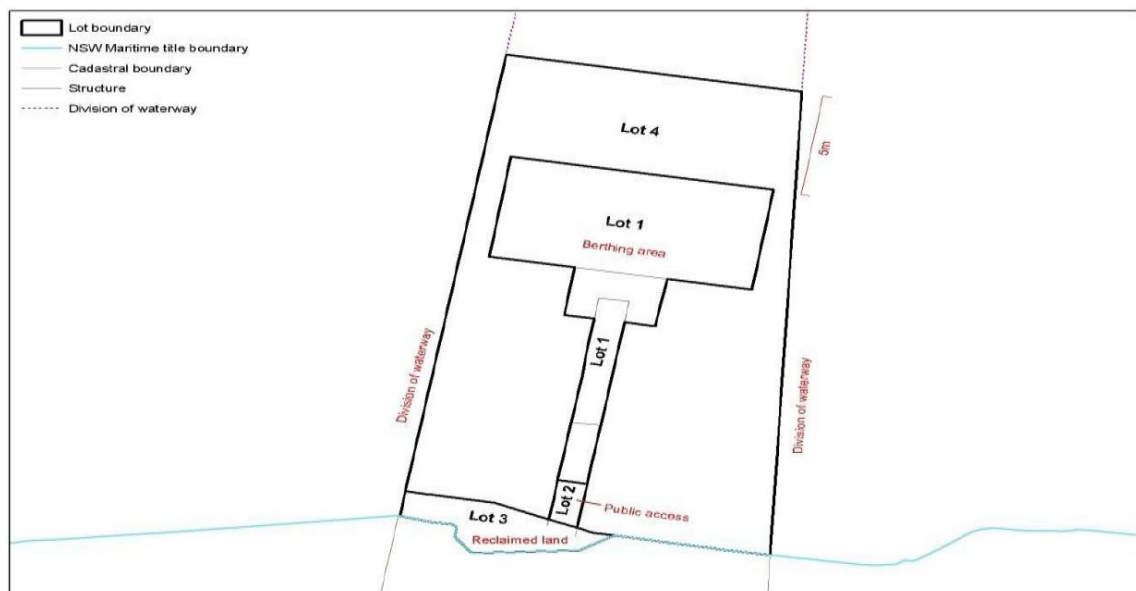
### 1.3.13 Example M

How does TfNSW avoid creating an intricate Lease boundary resulting from a structures/occupation with a complex footprint?

- Maritime Survey may generalise a Lease boundary to simplify an otherwise complex subdivision.
- Any voids created by the generalisation process which represent water are not alienated from full public use and are not part of the rental area.
- Separate allotments within the subdivision may be required for reclamations, public access areas and the like.

Explanatory note:

- This simplifies the potentially complex subdivision process for both the lessees and TfNSW.



**Figure 11 – Subdivision boundaries — indicates allotments within a subdivision plan.**

### 1.3.14 Example N

#### **Can adjustments to the DoW be made and, if so, who has the discretion to make such adjustments?**

- A lessee may request a variation to a division of waterway. Any such request must be in writing, addressed to TfNSW Maritime Property for approval by Maritime Survey.
- Requests will normally be dealt with within 60 days.

Explanatory note:

- This simplifies the administrative process for both the lessees and TfNSW.

The DoW is defined as follows:

“a line, defined by the Waterways Authority, which equitably delineates the waterway fronting respective properties” – Sydney Harbour Foreshores and Waterways Area Development Control Plan 2005; and “a line which has been determined by NSW Maritime and is plotted on plans to equitably apportion the areas of waterway relative to the frontages of foreshore land parcels. The DoW is entirely administrative in nature and used to avoid disputes”. It is not intended to confer any rights upon any adjoining landowner.

In a planning context, TfNSW considers a DoW when assessing the navigation safety impact of a proposed development. The DoW assists in determining whether a proposed development will unacceptably affect marine access to neighbouring facilities or properties.

In a leasing context, the DoW may be used to assess the potential boundaries of a subdivision surrounding a Leased structure, for the purposes of registering a long-term Lease.

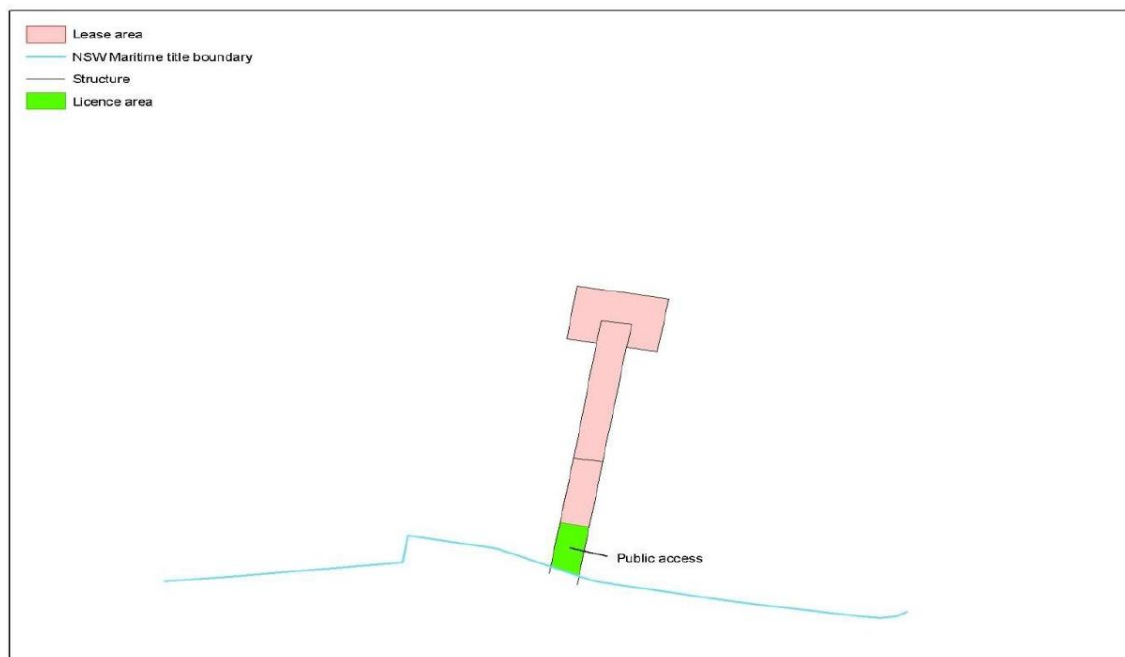
### 1.3.15 Example O

On Lease and subdivision plans how does TfNSW indicate a requirement to provide public access across domestic structures/reclamations?

- In the case of a 3-year Lease, where a condition of a development consent requires public access over a domestic structure/reclamation, the area identified for public access will be indicated on the Lease plan by a specific symbol which indicates this is a licensed area.
- In the case of a 20-year Lease, where a condition of a development consent requires public access over a domestic structure/reclamation, the area identified for public access will be the subject of a separate allotment indicated on the subdivision plan and will be the subject of a Licence incorporated into the Lease.
- Where public access is incorporated into the Lease, rent is still payable over the total Licensed area.

**Explanatory note:**

- This simplifies the administrative process for both the lessees and TfNSW.



**Figure 12 – Public access across structures indicates area subject to licence clause within Lease**

### 1.3.16 Example P

**What is the requirement for landowners to Lease adjoining reclaimed land?**

Landowners with property adjoining reclaimed land who wish to Lease structures on TfNSW wet land adjoining that reclaimed land and/or construct structures on that TfNSW land, are required to Lease or purchase the entire area of the reclaimed land adjoining their property.

Where an adjoining land owner does not wish to Lease any structures on TfNSW wet land adjoining the reclaimed land and does not wish to Lease at the rental appropriate for that precinct, purchase at a fair market price, as assessed by an independent property valuer, or remove the reclaimed land, the reclaimed land may after the landowner has been provided with at least 90 days' notice and has still declined to Lease or purchase the reclaimed land, be made available to other nearby property holders for Lease or used by TfNSW for any other appropriate purpose.

## 1.4 Domestic licences fronting public land

Waterfront structures on public land need to have a functional relationship with the use of the adjoining land. However, circumstances exist in which a domestic Lessee's freehold land does not adjoin the subject property. These circumstances may have arisen through, for example, subdivisions or historical anomalies resulting in a public reserve, a road or other freehold land now separating the Lessee's freehold from the Leased property.

To not unreasonably disadvantage existing Lessees in these circumstances, a non-assignable Lease to an incoming owner for the remaining term of the existing Lease may be granted.

In limited circumstances, a new assignable 3- or 20-year unregistered Lease to the existing Lessee may be issued or a Lease may be permitted to be assigned to an incoming owner for the remaining term of the existing Lease.

Where a Lessee has tenure over all or part of the adjoining public land, the Lease for structures fronting that public land can only be for a maximum term equal to the tenure associated with the adjoining public land.

## 1.5 Licence categories identified in this information guide

TfNSW domestic waterfront licences fronting public land can be divided into two categories:

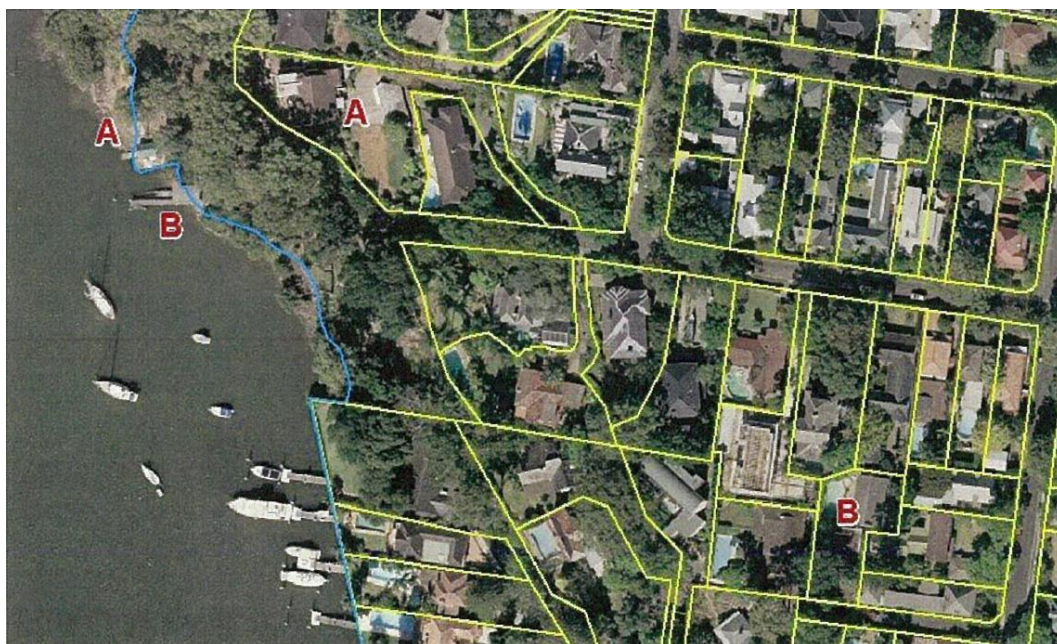
- Category A — Where the Licensee's freehold property adjoins public land adjacent to the Leased structure (refer Diagram 13 below).
- Category B — Where the Licensee's freehold property does not adjoin public land.

**Which category applies if there is a road and/or several land parcels between the existing lessee's property and the Leased waterfront structure?**

- Where an existing lessee's freehold property was historically part of a larger land parcel that extended to the Leased waterfront structure, Category A applies.
- For all other cases, Category B applies.

**What happens if the waterfront structure is located on land not wholly owned by TfNSW?**

- Where part of the waterfront structure is located on public land not owned by TfNSW, the relevant owner of the adjoining public land (for example a local council) must provide consent in the form of an occupancy instrument (for example a Lease, licence or some form of written agreement) covering the part of the structure not located on land owned by TfNSW. The duration of this consent can vary but it is required for TfNSW to agree to issue a Lease.
- adjacent to the Leased structure (Refer to Figure 13).



**Figure 13 – Category A: adjacent lessee and Category B: non-adjacent lessee**

## **1.6 Guide relating to Category ‘A’ Lease**

### **1.6.1 Scenario 1**

Category A wishes to obtain an assignable unregistered 3- or 20-year Lease.

Category A is entitled to an assignable unregistered 3- or 20-year Lease where a waterfront structure is located on land Leased wholly from TfNSW. However, where a waterfront structure is located on land not wholly owned by TfNSW an occupancy instrument from the owner of the adjoining public land (for example a Lease, licence or written agreement) covering the part of the structure located on the public land is required.

### **1.6.2 Scenario 2**

Category A wishes to sell the freehold property and have the existing Lease assigned to the new owners.

The assignment is permissible where the balance of the current Lease period is being assigned.

Where the new owners request a new Lease, a new occupancy instrument from the owner of the adjoining public land is required, if the waterfront structure is located on land not wholly owned by TfNSW.

### **1.6.3 Scenario 3**

Category A wishes to sell the freehold property but the new owners do not want the Lease.



Under the terms of the Lease, TfNSW may require the outgoing Lessee to remove any structures and make good the site, at the lessee's expense. If TfNSW does not require the structure to be removed, it may at its discretion reuse the structure for any permissible community, domestic or commercial activity.

- In the first instance TfNSW will offer the licence/facility to the local Council on an 'as is' basis.
- If the local Council does not want the licence/facility, TfNSW will check to see if a local community group wants the licence/facility.
- If no local community group wants the licence/facility, TfNSW will assess whether there is any commercial use for the facility. If there is no commercial use for the licence/facility then the structure will be removed.

#### **1.6.4 Scenario 4**

Category A wishes to assign the current Lease to a family member, friend or other third party.

Where the family member, friend or other third party is listed as an owner on the certificate of title relating to Category A's freehold property or is otherwise the legal occupier of the land, the assignment is permissible.

Where the above is not satisfied, the assignment will not be permitted.

#### **1.6.5 Scenario 5**

There is only one person named on Category A's Lease and this person passes away.

The existing Lease will continue until the lessee's estate is finalised. The balance of the existing Lease may be assigned to the new owners of the freehold property.

Where the new owners request a new licence rather than an assignment of the existing Lease, and the waterfront structure is located on land not wholly owned by TfNSW (for example, a boatshed that is partly over the seabed and partly on a council reserve), an occupancy instrument from the owner of the adjoining public land (for example a Lease, licence or written agreement) covering the part of the structure located on that land is required.

### **1.7 Guide applying to Category 'B' Leases**

#### **1.7.1 Scenario 6**

Category B wishes to obtain an assignable unregistered lease for 3 or 20 years.

Category B is not entitled to an assignable Lease. Category B is, however, able to obtain a renewable but non-assignable unregistered 3- or 20-year licence.

Where a waterfront structure is located on land not wholly owned by TfNSW an occupancy instrument from the owner of the adjoining public land (for example a

Lease, licence or written agreement) covering the part of the structure located on the public land is required.

### **1.7.2 Scenario 7**

Category B wishes to sell their freehold non-adjoining property and assign the Lease to the new owners.

Category B's Lease is not assignable regardless of the sale of any property in other words, the Lease must remain with its existing lessee, or the existing lessee can request a termination of the Lease.

### **1.7.3 Scenario 8**

Category B wishes to include a family member, friend or third party on the Lease.

Only the person(s) named on a current Lease (or Lease on holdover) that was fully executed as of 1 January 2009 are entitled to be a lessee in this category. No further parties can be added to the Lease.

If there is only one person named on the Lease and that person passes away, the Lease will be terminated and TfNSW will decide the future of any structures (as in Scenario 3).

## **1.8 Guide applying to both Category 'A' and Category 'B' Leases.**

### **1.8.1 Scenario 9**

Category A or Category B wishes to terminate a Lease.

Ordinarily, TfNSW is legally entitled to receive the determined rent for the life of the Lease. TfNSW will consider all written requests for termination of a Lease, including circumstances such as serious illness, financial hardship and/or where the owner of the adjoining public land has revoked occupancy consent.

If TfNSW agrees to terminate a Lease, TfNSW will decide the future of any structures (as in Scenario 3).

If TfNSW decides that the structure is to be removed then the last lessee will be required to meet all obligations of the Lease including removal of the structure.

## **1.9 Commencement of rental**

### **1.9.1 General**

#### **How does TfNSW determine the date on which the rental period commences?**

Prior to commencing any works on TfNSW land, the Lessee must obtain construction approval from TfNSW, as landowner, and enter a formal AFL with TfNSW.



The AFL will guarantee the Lessee a Lease of TfNSW land subject to the Lessee undertaking the approved construction works on TfNSW land in accordance with the development consent and any requirements of TfNSW as landowner.

During the construction phase the Lessee will be required to pay a fee to occupy TfNSW land. The occupation fee will be based on the approved area of occupation and will commence from the date on the construction certificate.

Upon completion of the construction works, and subject to them being completed to TfNSW satisfaction and provided that the Lessee has satisfied any other conditions precedent as set out in the AFL, the final Lease document will be issued and executed.

### **1.9.2 Rent is payable from the date of settlement**

Following a sale of the adjoining land, rent for the TfNSW property will commence the day of settlement of the adjoining property.

### **1.9.3 Fees and costs**

The Lessee is responsible for all reasonable costs associated with the establishment and administration of Domestic Waterfront Leases.

### **1.9.4 Recreational berthing**

The berthing or storage of other recreational vessels at a domestic waterfront facility is permitted, subject to any restrictions on vessel size, or other conditions contained in the applicable development consent or the Lease.

### **1.9.5 Domestic Lease rents**

Domestic rents are payable by private residential Lessees for the use and occupancy of TfNSW land, including reclaimed land, based on a formula as recommended by the NSW Independent Pricing and Regulatory Tribunal (IPART). The size of the occupied area subject to a licence and an annually updated precinct rate (on a per square metre basis) depending on the site location is used to determine the annual fee.

The annual rent is calculated using the formula:

$$\text{rent} = \text{leased area} \times \text{precinct rate}$$

The discount factor does not apply to residential houseboats.

More information about the review process and current annual precinct rates can be found on [TfNSW's website](#).

Rates associated with each of the precincts are updated annually and will be applied on the anniversary of each Domestic Waterfront Lease.

An administration fee is also applicable to all Domestic Leases and is indexed annually.

## **1.9.6 Maintenance and repairs**

Domestic Waterfront Lease holders are required to maintain the property in good repair and condition at their expense. This requirement extends to maintenance dredging as and when required by the Lessee to ensure an appropriate depth of water to provide access to structures on TfNSW land in accordance with the Lease.

Details of Lessees Maintenance and Repair obligations are found in the *Maritime Property Guide – Managing Domestic Waterfront Leases and Licences*.

## **1.9.7 Capital improvements**

Subject to development approval, Lessees may make enhancements or capital improvements to the structures on the property.

Any development proposals for water-based structures require certification from an accredited certifier.

Lessees are responsible for the maintenance and repair of all enhancements and improvements to the Leased property.

Lessees of water-based structures on TfNSW land seeking to carry out complying development will need to apply for permission to lodge (PTL) in accordance with the *Maritime Property Guide – Gaining TfNSW Permission to Lodge a Development Application*, prior to any complying development certificate being issued.

## **1.9.8 Removal of structures**

The standard Maritime Property Domestic Lease provides TfNSW with the option to require the Lessee to remove any structure in accordance with the terms of the Lease.

Further guidance on the removal of structures can be found in the *Maritime Property Guide – Removal of Structures*.

## **1.9.9 Assignment of current Leases**

TfNSW allows for the assignment of Leases over domestic property following the prior written approval of TfNSW, which will not be unreasonably withheld. Prior to any proposed assignment, the outgoing Lessee must rectify any breaches of their obligations under the Lease, including defaults in maintenance, rent payments or any other financial matter, unless the proposed transferee or assignee agrees in writing to meet the outgoing Lessee's obligations.

## 2 Further information

### 2.1 Disclaimer notes

This guide does not constitute legal advice and provides guidance only. Users are advised to seek professional advice and refer to the relevant legislation as necessary, before acting in relation to any matters covered by this document.

While every reasonable effort has been made to ensure that this document is correct at the time of publication, the State of New South Wales, its agencies and employees, disclaim all liability to any person in respect of anything, or the consequences of anything, done or omitted to be done in reliance upon the whole or any part of this document.

## 3 Document history

Version	Published date	Summary of changes
1.0	June 2025	First version of the document