



## SYDNEY HARBOUR FEDERATION TRUST RENTAL RELIEF PRINCIPLES FOR TENANTS OF HARBOUR TRUST PROPERTIES

### 1. PREAMBLE

Governance of the Sydney Harbour Federation Trust (Harbour Trust) is vested in the Members of the Harbour Trust acting collectively.

On 30 March 2020, the Members of the Harbour Trust approved the establishment of the COVID 19 – Leasing Member Sub-Committee (**the Sub-Committee**) to respond to the impact of the COVID - 19 pandemic on Harbour Trust tenants. The Members of the Harbour Trust have also delegated certain powers to the Executive Director of the Harbour Trust to grant rental relief to Harbour Trust tenants in accordance with the principles approved by the Sub-Committee.

The Minister for the Environment has authorised the Harbour Trust to use a portion of the monies held from the sale of property at Markham Close to respond to the impact of the COVID crisis. The response covers both rent relief for tenants of Trust lands, to maintain the Trust's solvency and also on projects identified by the Trust which will support the Trust's restoration of our sites.

As far as rental support is concerned, the Trust has been required to implement relief according to policies which are consistent with the Commonwealth's Rent Relief Policy issued by the Department of Finance, with any variations agreed by the Department. Rent relief support may also be made available to residential tenants in very limited circumstances.

### 2. PURPOSE

The Harbour Trust's Rental Relief Principles for Tenants of Harbour Trust Properties (the Principles) provide guidance on how the Harbour Trust will provide rent relief support to tenants due to the impact of COVID-19. It provides direction on the principles to be applied and the processes to be followed in assessing eligibility for, and administering, rent relief support to tenants.

### 3. SCOPE

The Principles apply to all tenants across Harbour Trust sites.

### 4. DEFINITIONS

#### ***Small and Medium Enterprise (SME)***

For the purposes of the Principles, an SME is defined as a firm with fewer than 200 full-time equivalent employees.

### **Leases**

A lease is a contractual arrangement requiring a tenant to pay the lessor (the Harbour Trust) for use of an asset owned by the Trust. For the purposes of the Principles, the term lease will be inclusive of real property licenses issued by the Harbour Trust.

### **Not-for-Profit (NFP)**

A not-for-profit is an organisation that provides services to the community and does not operate to make a profit for any of its members (or shareholders, if applicable).

## **5. GENERAL PRINCIPLES**

### **Application**

The Harbour Trust has been authorised by the Australian Government to provide rent relief support to:

- Commercial tenants in line with the Commonwealth's Rent Relief Policy and accompanying guidance issued by the Department of Finance; and
- Residential tenants where there is evidence of substantial COVID-19 related financial distress that cannot be addressed through other Commonwealth or State Government programs.

### **Rent Relief for Commercial Tenants**

#### Eligibility

Rent relief support for commercial tenants is available to Small and Medium Enterprise (SME) and Not-for-Profit (NFP) tenants across Harbour Trust sites. In addition to this requirement, to be deemed eligible for rent relief support a commercial tenant must be suffering demonstrated financial hardship, as defined by eligibility for, and receipt of, the Commonwealth's JobKeeper payment.

The Sub-Committee may also consider the individual circumstances of Harbour Trust tenants engaged in commercial enterprises other than SMEs and NFPs, as well as those not eligible for the JobKeeper payment. The Sub-Committee may determine to provide rent relief to these tenants on a case by case basis, and at its discretion.

#### Rent Relief

The Harbour Trust will waive rents for eligible commercial tenants (including outgoings where charged separately to the rent). The Harbour Trust will not seek to recover these rents in the future. The rental waiver does not extend to any amounts due and payable prior to the date from which the rent relief applies.

#### Period of Rent Relief

The rent relief will be backdated to apply from 24 March 2020, and will remain in place until the earlier of:

- 27 September 2020; and
- The date on which the Sub-Committee determines (acting reasonably) that the Australian Government has lifted restrictions on the operations of businesses announced by the Prime Minister on 24 March 2020 to slow the spread of COVID-19. This date will be determined based on information provided by the Australian Government.

If restrictions on the operations of businesses remain in place beyond 27 September 2020, the nature and duration of rent relief will be reassessed by the Sub-Committee.

#### Mutual Tenant Obligation

Whilst receiving rent relief from the Harbour Trust, commercial tenants have the mutual obligation to:

- continue to engage their employees through the Commonwealth's JobKeeper initiative, where eligible; and
- pass on in full the benefit of this rent relief to any subtenant or licensee.

#### Outstanding Debts

Unpaid debts that were outstanding prior to 24 March 2020 are still due and payable, and any payment plans that were in place as of that date will continue.

#### Existing commercial tenants – Hold over and exercise of options

Any existing commercial tenant who:

- holds over under an existing lease agreement; or
- exercises an option to extend an existing lease agreement on or after the 24 March 2020,

will continue to be eligible for rent relief support.

#### New Lease Agreements

Any commercial tenant who enters into a new lease agreement after the 24 March 2020 will not be eligible for rent relief support.

### **Rent Relief for Residential Tenants**

#### Eligibility

In certain limited circumstances, rent relief support may be available to residential tenants on a case-by-case basis. Eligibility is at the discretion of the Sub-Committee, and there must be evidence of substantial COVID-19 related financial distress that cannot be addressed through other Commonwealth or State Government programs.

#### Rent Relief

The extent of any rent relief provided to eligible residential tenants is to be made on a case-by-case basis, and at the discretion of the Sub-Committee.

#### Period of Rent Relief

The period for which eligible residential tenants will receive rent relief is to be made on a case-by-case basis, and is at the discretion of the Sub-Committee.

#### Outstanding Debts

Unpaid debts that were outstanding prior to 24 March 2020 are still due and payable, and any payment plans that were in place as of that date will continue.

#### New Lease Agreements

Any residential tenant who enters in to a new lease agreement after the 24 March 2020 will not be eligible for rent relief.

## **6. COMMUNITY SERVICE PROVIDERS**

The Harbour Trust may enter into a short term license agreement with community service providers for the use of residential accommodation during the period in which COVID-19 restrictions apply. The rent (and outgoings) for this accommodation will be waived as part of the Harbour Trust's contribution to supporting the community from the impact of COVID-19.

## 7. PROCESS

The following high-level processes will be used to administer and manage rent relief to eligible tenants.

### Commercial Tenants

#### **a. Harbour Trust Communication of Commercial Rent Relief**

The Harbour Trust will write to commercial tenants setting out details of the Principles, the availability of rent relief support, including the criteria required to be met to be deemed eligible.

#### **b. Tenant Confirmation of Eligibility**

Commercial tenants will be required to provide relevant and accurate information to the Harbour Trust to enable the tenant's eligibility for rent relief support to be determined.

#### **c. Assessment of Eligibility**

Harbour Trust staff will review the information received from commercial tenants to assess eligibility for rent relief support. Based on that assessment, Harbour Trust staff will make a recommendation to the Executive Director in relation to whether the tenant is deemed eligible for rent relief support on the basis the tenant is:

- a SME or a NFP; and
- eligible for, and in receipt of, the Commonwealth's JobKeeper payment.

#### **d. Approval**

Following a recommendation to the Executive Director by Harbour Trust staff:

- If a commercial tenant is deemed eligible for rent relief support, the Executive Director may approve the rent relief to be applied to that tenant.
- If a commercial tenant is not deemed eligible for rent relief support, the Executive Director may make a referral to the Sub-Committee for further consideration of the individual circumstances of that tenant. The Sub-Committee may determine to approve rent relief to such commercial tenants on a case by case basis, and at its discretion.

### **Documenting the Arrangements for Rent Relief Support**

If a commercial tenant is approved to receive rent relief, the Executive Director will send the tenant a letter confirming the Harbour Trust's offer of rent relief subject to the tenant's compliance with its mutual obligations. The tenant may accept the Harbour Trust's offer of rent relief and associated conditions by signing a copy of that letter and returning it to the Harbour Trust.

### Residential Tenants

#### **a. Harbour Trust Communication of Residential Rent Relief**

The Harbour Trust will advise managing agents of the availability of residential rent relief, as well as provide an application form outlining the details required in order for eligibility for rent relief support to be assessed.

#### **b. Residential Tenant Application for Rent Relief**

Residential tenants may apply for rent relief support through completing the application form and returning it to the Harbour Trust for eligibility assessment.

#### **c. Assessment of Eligibility**

Harbour Trust staff will review the information received from residential tenants via the application form to assess eligibility for rent relief support and make a recommendation, including the extent and duration of any rent relief support, to the Sub-Committee on a case-by-case basis.

#### **d. Approval**

The Sub-Committee will consider each recommendation and the supporting information on a case-by-case basis, and at their discretion, may approve for rent relief support to be applied to the residential tenant. At the discretion of the Sub-Committee, the terms of rent relief support may be altered from those recommended.

***e. Documenting the Arrangements for Rent Relief Support***

If the Sub-Committee approves rent relief for a residential tenant, the Executive Director will send the tenant a letter confirming the Harbour Trust's offer of rent relief. The tenant may accept the Harbour Trust's offer of rent relief and associated conditions by signing a copy of that letter and returning it to the Harbour Trust.

***Management of Rent Relief***

At a minimum, the ongoing management of rent relief will occur through:

***a. Regular Sub-Committee Meetings***

The Sub-Committee will meet on a regular basis to review the progress of the roll-out of the rent relief principles, as well as to consider any issues that arise through the course of its roll-out. In addition, the meeting will include reporting of any rent in arrears (prior to the rent relief taking effect) along with the progress of existing payment plans.

***b. Reporting to Government***

On a two monthly basis, a progress update will be provided to the Minister for the Environment's Office to report on the actual and prospective roll-out of the rent relief support.

**8. VERSION AND REVISION**

<b>Version</b>	1.0
<b>Author</b>	Strategy Officer; Legal & Risk Officer
<b>Reviewer</b>	Director – Strategy, Finance and Commercial
<b>Sub-Committee Approval</b>	8 May 2020
<b>Last amended</b>	-
<b>Next review</b>	23 July 2020 or earlier as required