I welcome the opportunity to submit observations and recommendations about waterfront tenancies. This is an area which has been fraught with problems through the Dept of Lands incomprehension of equity issues and its inefficiency and inconsistency. I will make general comments and contrast these with the particular requirements of properties which are only accessable by water.

General:

Currently the Dept of Lands and Waterways requires owners of land which is adjacent to the high tide mark, to pay rent on the adjoining crown land where any structure such as a wharf, shed, pool or seawall has been erected.

I understand that under the current legislation such structures are owned by the crown and not the owner of the adjoining property. When the property is sold a problem arises because the new lands owner may have no, interest legally or otherwise in the adjoining structures. I know of several people who have been brow beaten by Dept of Lands (Maitland) into entering licence ageements for ancient ramps etc under threat of prosecution for structures built by other people. In the past aquiesance to this unjust practice was common because fees were not generally high.

The licenced area generally coveres the property frontage and not the area of public land utilised.

The proposed new fee formula will force many licence holders to re assess their requirement for a a licence and seek legal advice about the validity of a contract entered into (commonly) under duress.

The Department will then threaten these people with prosecution for not removing the structures which in many instances were neither of their construction, nor to their advantage, or exclusive use.

As these structures are currently owned by the crown, and as use is non exclusive, the public liability aspect of the present administration is unsatisfactory. (I was told that I must licence a wharf adjoining my property or be prosecuted for using it, and I must allow public access to the same.)

The concept of market rent for use of adjoining crown land is nonsensical because it is only of value to the owner of the adjoining land. Therefore it represents a potential market of one. Clearly a usage fee is appropriate for recreational use.

Recommendation : Recognise major structures as appended to the adjoining land. This could be by usage fee or by long term lease, say 99 years, or offer the affected area for sale. Annual fees reviews etc are costly to adminiser and are bureaucratically self serving. Minor structures could be profitably disregarded. One does not have to lease the foot path outside ones house, even when it is traversed by a driveway, a ramp for a dinghy is no different

Currently licences / leases cannot be transferred, so on sale of the property or death of a spouse where the lease is in his / her name, a new application must be submitted. This involves a high fee and a new survey. Effective administration should involve regular reviews to ensure illegal structres are detected. Since wharves, seawalls etc rarely move the impost of re application with its attendant uncertainty for the purcaser of the adjoining property is unwarranted and serves only to create more clerical work and cost.

Occupiers and owners of properties that can only be accessed by water suffer discrimination in the following ways:

The properties are rated on the same basis as suburban properties but councils provide little if any services. As the current property market is high for waterfront properties this is highly profitable for the councils which could be levied by the Lands Dept instead of placing an additional impost upon the owners for access.

As mentioned above, access to suburban homes across a footpath , including a driveway over public land, is not subject to separate taxation.

Safe access and related structures are not for recreatioal purposes but are a right, given that the subdivisions were approved. No other members of our community have to put up with taxes and restrictions on access to their homes and nor should we. The Sydney office of Dept of Lands is attempting to charge a wet berthing fee for wharf and river frontage usage.This is not only unjust but ludicrous given suburban homes do not have to licence parking spaces on the road outside their homes. The water is analogous to the road.

Recommendations:

Remove administration of waterfront land from Dept Lands to Waterways because Lands has proven incompetent in this area through inconsistency, as well as self serving inefficiency.

Offer conversion of licences / leases to freehold where properties are water access dependent. This might also be appropriate where sea walls, swimming pools etc have already been approved and alienated public foreshore access. This would only recognise the actuality. Where owners are unably to pay, the fee should be attached to the title and CPI interest applied for government recovery on eventual sale. It is most unlikely that any would default if this claim against the title was given priority.

Alternatively, offer 99 year transferrable leases appended to the property, at a peppercorn rental, so that it could be paid out in full in advance. Water access only properties require special treatment as a matter of equity.

Offer a free permanent easement.

Regular charges are to be avoided because the involve unproductive administrative costs.

The authority responsible should lobby the Treasurer to remove GST from residential fees because access is not a luxury but an integral part of a domecile. It is a disgrace that Lands Dept has not already done so!

Philip and Patricia Collins