DATE: 26 NOVEMBER 2003

REVIEW OF RENTAL FOR DOMESTIC WATERFRONT TENANCIES IN NSW
Independent Pricing Regulatory Tribunal
PO BOX Q290
QVB Post Office
NSW 1230.

Dear Sir

RE: REVIEW OF RENTALS FOR DOMESTIC WATERFRONT TENANCIES.

I am 61 years of age and live with my wife at the above Northbridge address. In the mid 1990's, after several years of communication with the then Waterways Authority, I built a jetty, ramp and pontoon where my block adjoins Middle Harbour. I am a domestic Waterfront tenant.

I wish to make the following submissions against the use of the proposed formula for determining rents.

As I understand the formula, it is to apply a rental per square metre of land leased, calculated as 6% per annum of 50% of the Valuer General's Statutory Land Value per square metre of the adjoining block.

The formula is inappropriate for a number of reasons:

VG'S LAND VALUATION BASE.

1. The VG's land valuation is made with a view to imposing a "wealth tax" on the land. By using that valuation as a base the increased rental also takes on the character of a "wealth tax". It creates a self perpetuating situation in the future of the Government ever increasing the rents in conjunction with and based upon the Government's ever increasing valuations for land tax purposes. The rental of waterfront space should not be tied to a tax base.

2. Land valuations are based upon the capacity of the land for building a home and all that a home provides, living areas, indoor and outdoor entertaining areas, garages, storage

areas etc. The home provides for all the residential needs and comforts of a family. It is also based on ease of access to the land from the roadway etc. The land is owned in perpetuity.

In contrast, rented waterfront space has the capacity to provide very little. Access to the land leased is usually very difficult. It provides only for the building of a jetty access to the waterway (access to the waterway is free), and in some cases (not my own) for the building of a boat shed.

There is no valid comparison in value between waterfront tenancy areas and land that provides all of the residential requirements of a family. It is totally unreasonable to suggest that such space should be valued at 50% of the adjoining residential land.

3. The VG"s land valuation of a waterfront property already takes into account (as an increase to the valuation and corresponding increase to the land tax payable) the availability to the land of a waterfront lease. The waterfront lease, therefore, is already the subject of a tax by the Government as a component of land tax. **A** formula that would now tie the rental cost of the lease to that land valuation, effectively creates a situation of "double dipping" by the Government.

The use of and the enjoyment provided by a waterfront facility is of no greater benefit to a lessee at Northbridge than to a lessee in some other part of Sydney or of the State. The commercial value of the facility, in terms of its location in Northbridge vis-à-vis some other location, has already been taken into account by the Government in the VG's Land Valuation. Consequently the lessee at Northbridge is already paying the Government (in land tax) for the "particular location value" of the lease. The rental value of a waterfront lease should not therefore be based on the value of the adjoining property. It should be based upon the domestic use of and the enjoyment to be gained from the lease and that should be the same value per square metre across New South Wales. To date the Waterways Authority has applied a fixed "wet land" rate per square metre for that locality. That formula recognises the value of a lease as common to all of the properties in that area. Should an increase in rentals be considered appropriate then the fixed "wet land" rate should be increased fairly and appropriately.

6% RENTAL RETURN.

4. ***6%*** is not a commercially realistic rate of return from residential property leases. Residential properties generally and in Northbridge in particular, are returning **2-3%** when leased. In addition, the properties I refer to provide much more than mere space over water or waterfront land. The leased properties provide buildings, storage facilities, living facilities, entertaining facilities, parking facilities etc. The leased home provides for all the residential needs and comforts of a family. It provides a solid foundation for the raising of children.

In contrast a Waterways lease provides only space. The lessee has to build the facility over the space. The lessee is also severely constrained by numerous restrictions in the lease, in the use he can make of the facility he has built:

e.g.
1. It can be used only for private purposes connected with the land.
2. No boats or equipment can be stored on the facility.
3. No vessel can be permanently moored at the facility.
4. **Any** boatshed can only be used for storage and maintenance of boats and their equipment and for no other purpose.
5. The lessee cannot sublet the facility or even share the facility.

The lease can be terminated by the Waterways Authority with very little notice and a demand made for the removal of the facility constructed at the cost of the lessee. There is no real tenure.
6% return is excessive in the extreme and again lends to the impression of another "wealth tax".

5. The undeniable effect of an application of the proposed formula will be to initially increase rents by about 400% (my rent 403%) and then to provide a platform for ever increasing annual rents (in addition to land tax) to the point where lessees, in particular retirees, can no longer afford the waterfront facility. At that stage the lessee will be forced to sell the home or remove the facility at his cost (lease requirement). Not only would the cost of removal be substantial, but the wasted expense of the initial construction of the facility totally unjustified.

6. The proposal to increase rentals by such a percentage and thereafter provide a platform to continue to substantially increase rentals is extremely unfair to existing tenants. The construction of the waterfront facility in my case in the mid 1990's was very costly. The Waterways Authority at the time "encouraged" me (by withholding it's "owner's consent" to my "single" jetty development proposal) to build a joint facility for <u>future</u> sharing with my neighbour; as an environmental plus. **As** a consequence the facility was larger and most costly than I had initially proposed and now requires me to pay rent on an area larger than **I** required. My neighbour (the third since the facility was built) has yet to elect to join me in the facility and makes no contribution to the rent. Had I anticipated that the facility would provide an opportunity for the Government to impose a progressive and oppressive "rental" upon me, it is unlikely **I** would have built the jetty.

Surely the Government can provide a formula that is reasonable and fair in the circumstances and is not tainted with another "tax" character.

Yours faithfully

JOHN DAILLY **S.C.**