

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 into Rentals for Waterfront Tenancies on Crown Land in NSW**

I am the licensee of waterfront facilities ~~from~~ the Crown at the following address (ADDRESS DELETED)  
Clareville

I understand that a review of waterfront rentals was conducted by the Waterways Authority in 1992. This review is not referred to in the **PART** paper. The 1992 findings were not anticipated when the review was undertaken. I suggest the same findings might be identical, if not similar in 2003. The findings have been obtained ~~from~~ the ~~then~~ Managing Director of Waterways (Mr Chapman) who is prepared to verify the following by sworn statement or direct evidence to the Tribunal, if called upon:-

In 1992 Minister for Transport, Bruce Baird directed the Waterways Managing Director, Michael Chapman to implement a *rental pricing policy for Sydney Harbour wetland which recognized the increase in value that waterfront structures added to the appurtenant freehold*. This is similar to the terms of reference before IPART and the claimed linkage between freehold value and leasehold value. The 1992 review consisted of a mail-out to all customers, an invitation to comment and several public meetings. The review resulted in the proposal being dropped. The findings were

- (a) There is **no causal** linkage between freehold value and waterfront leasehold value. In many **cases** the reverse is true – eg. (the review found) some Rose Bay waterfront freeholds had very **high** values due to closeness to CBD and direct views to the Harbour Bridge and Opera House. However these freeholds had no deepwater at the harbour frontage and therefore required long jetties which were accessible only at high tide (typical **area of rented wetland** required for jetty 16m x 1.5m = 24sq m), **whereas** similar size **freehold allotments** at Vaucluse, **with** no such views and lower **freehold** value **per** square metre, **had** deepwater at all tides **and only** needed very short jetties (3m x 1.5m = 4.5sq m of wetland rented for jetty). In summary, a Rose Bay jetty typically needed 500% more rented wetland than a jetty at Vaucluse, but the freehold value per square metre at Rose Bay **was** more **valuable due to views and** closeness to CBD.
- (b) Wetland leases were limited to 1 or 3 years (maximum) which is insufficient to mortise the cost of a \$50,000 jetty with **an** average life of 50 years

- (c) There is no “market” rent because the tenant was prohibited from **sub-**letting the facility to third parties and from transferring the lease on **sale** of freehold; the lease provided that all improvements must be removed prior to lease-end without compensation
- (d) The proposal is “moving the goalposts” --- changing the rules without a phase-in, and changing the reasonable expectations of property purchasers

Minister Baird then directed the head of Waterways, Mr Chapman not to proceed with the proposed policy but to apply a rate per square metre of wetland based on the value of wetland, bay by bay (as opposed to the value of appurtenant freehold). The rate **was** to be adjusted annually by CPI and a factor was to be applied according to the type of activity or development. Those activities included reclamation, swimming pool, boatshed, slipway, jetty and wetberth. The highest rental factor was for reclamation.

In the same period, Waterways were negotiating and setting the wetland lease rates for the new Pulpit Point Marina residential complex at Hunters Hill involving around 100 berths and jetty facilities. There was no base value for the freehold **as** it was formerly an industrial site, an oil terminal. A valuer was briefed by Waterways to **assess** the wetland rate without regard to the adjoining freehold values. The valuer took into account issues such as the investment by the owner/developer, anticipated life of structures, length of lease, prohibition on use by non-residents and non-marketability of structures. This very detailed **and** comprehensive valuation **was** then used as the benchmark for residential wetland rates in Sydney **Harbour**, Middle **Harbour** and the Lane Cove and Parramatta rivers and Iron Cove.

**As** our jetty and slipway is only accessible at high tides I believe it is inequitable that we should be accessed in the same manner **as** one (of similar length) that has deep water even at low tides and therefore offers a greater facility.

What would be the reaction **of** other government regulatory bodies if public facilities or private concerns were to increase prices by 500%.

Because I have no tenure and no right to transfer and no opportunity to amortise **my** structure, I **can** only support the current rental arrangements being continued **based on** the formula arrived at for Sydney Harbour and adjusted bay by bay in my **area**.

Many of the properties are **owned** by self-funded retirees or by people who have **owned** the **property** for **many** years **and** cannot afford increases of 500% considering that we already pay **high** council rates based on the land valuation. They may be asset rich **but** do not have the funds or income to pay such increase in rental. In many cases including **my** own the only option would be to sell. As our property **has** been in the family for over 50 years and our 5 children (now adults) were raised here, to **sell** would be a traumatic experience.

Yours Faithfully



Colin J Flynn