3 December 2003

The Independent Pricing and Regulatory Tribunal

Review of Rental for domestic Waterfront Tenancies in NSW

I wish to make a submission for the Tribunal's consideration in relation to the above matter.

I am the long-term owner of a waterfront property at Berowra Waters. This property has water access only, that is the only way of accessing the property is by boat. In my submission I propose to primarily address the situation of Waterfront Tenancy as it affects the 'water access only' property owner.

In the Tribunal's 'Issues Paper' in relation to the subject there seems to be scant reference to the two types of Waterfront Tenancies.

Properties with normal road access. Such properties in most cases with access to the usual suburban infrastructure, roads, footpaths, driveways etc with such facilities being provided by the government and or local councils.

Properties with water access only. Government or local councils do not provide any facilities to enable the owners of these properties to access their properties. All access facilities, (eg wharves, pontoons etc) to these properties is provided by the property owner at his own cost.

I ask that the Tribunal in its considerations, give full weight to the two different types of Waterfront Tenancies as it would seem that the requirements of the two types of tenancies are quite different and may require separate solutions.

In this regard I refer you to the comment ' These leases are used by waterfront property owners for private recreation purposes…….'. (Para 2 of page 3 of the Issues Paper). This comment may refer to waterfront properties with road access. It certainly does not refer to waterfront properties with water access only. For the latter group of property owners the 'waterfront lease' is not a recreational facility but rather an essential facility to enable them to reach their properties and also to provide access for essential services, such as medical, fire brigade, Police and utilities.

Para 5 of the issues paper contains the comment, 'The Dept of Lands and the Waterways Authority wish to utilise a formula for rental returns to reflect market value'. It is my understanding that the only person to be offered a 'waterfront lease' is the owner of the property adjacent to the proposed lease. In this case there would not seem to be an open market (as in market value) as there is only **one** potential leasee. For this reason I do not believe that there is a sound basis for pursuing a formula using this criterion.

The government and local councils have and are continuing to permit the sale of 'water access only' properties in NSW. These property owners should have an unfettered access to their properties as do all other property owners in the state. If the government is proposing to restrict access, through financial imposts or legislation it should make this known to the 'water access only' property owners and potential owners.

In a normal suburban situation a person is not expected to lease the footpath, driveway and roadway in front of their homes. Why are the 'water access only' properties discriminated against? In the interests of equity should a 'lease' charge be levied against suburban property owners for the areas of public land that they utilise in gaining access to their homes and on the roadway in front of their homes where they park their vehicles?

It should be noted that the 'water access only' property owners are certainly not a burden on the taxpayer/ratepayer. They are providing and maintaining access facilities to their homes at their own cost.

It is realised that the areas of 'waterfront leases' remain the property of the Crown and that some administration of such leases is required. At present much of the administration seems to be on an ad hoc basis with little consistency, with considerable delay in transferring the 'leases' on the sale of a property.

I wish the Tribunal to consider the following in relation to 'waterfront leases' as related to 'water access only' properties:

> Leases for 'water access only' properties be considered as a separate matter to properties with conventional road access. For 'water access only' properties the lease is not a recreational area at the bottom of the garden but an essential feature to allow them to access their homes and to provide for the safety and well being of them and their families.
>
> It is understood that the leases of 'water access only' properties is only a very small proportion of the total number of waterfront leases. 'Water access only properties' are a special case and should be treated as such. In this regard I welcome and am encouraged by the comment in page 4 of the 'Issues Paper', 'Appropriate equity arrangements for special circumstances (such as, where owners only have water-based access to their properties….'
>
> Lease fees for 'water access only' properties should be of a nominal amount to cover administration costs, as all costs of maintaining the structures on the leases is borne by the property owner. In the interests of administrative efficiency It is suggested that the Tribunal consider a 99 year lease on a peppercorn rental (in this regard oyster leases, a commercial business, operate on a minimal lease cost), with the lease to automatically transfer with the property at the time of sale. At present there are considerable costs at the time of sale or if the property is handed on at the time of a death.

Owners of ‘water access only’ properties are generally not ‘silver tails’. They accept that their choice of living where they do imposes considerable extra costs. They meet these costs with no burden to the taxpayer. They should not be subjected to any money making scheme from the government which does not provide them with any additional benefit and which could force some of them from their homes.

****

Tony O’Rourke