

The Independent Pricing and Regulatory Tribunal of NSW **27/11/03**
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QVB post Office NSW 1230
(Sent by email to: ipart@ipart.nsw.gov.au)

Dear Sir

Re: Review of Rental for Domestic Waterfront Tenancies in NSW

I have recently become aware that the Tribunal is seeking stakeholder submissions on the above review.

I have read the discussion paper and believe that there are a number of issues that require the Tribunal's consideration. However, due to the time of year that submissions are sought, the lateness of becoming aware of the review and the extensive nature of the submission that I wish to present, I will not be able to meet the 5th December 03 deadline that the Tribunal has set.

Accordingly, I ask the Tribunal to extend its deadline for stakeholder submissions until 30th June '04.

Some of the issues that my submission will cover include:

- The terms of reference of the review are fundamentally flawed in that the Waterways Authority and the Department of Lands is proposing more regular rental reviews to ensure rents for wetlands more accurately reflect current market values of adjoining dry land. I propose to argue that these departments cannot value wetlands by simple association to dry land values, whether or not they are attached.
- The formula that these agencies wish to utilise is fundamentally flawed in that it suggests that a six percent rate of return is consistent with residential properties rented throughout NSW. Then it applies a 50% discount to reflect the sale of remnant land parcels. Neither of these assumptions is correct for barren wetlands where the only dry land access is over private property. Accordingly, the issues of a three percent return and that the value

of the barren wetland is the same as the adjoining serviced land require review. I propose to argue that both of these assumptions are incorrect.

- Since the governing agencies wish to adopt commercial values and criteria, the terms of reference do not cover the lessee's right to sublet. Under normal commercial leases, landlords usually do not unreasonably withhold permission to sublease. I propose to argue that where land is leased and the lessee constructs facilities upon that land at its own expense, that it is not unreasonable or uncommon for leases to contain a sublease clause that permission from landlords to sublet will not be unreasonably withheld.
- Additionally, the terms of reference do not cover how to treat the adjoining landowner's (lessee's) investment in facilities prior to this review. In particular, it does not cover the Lessee's legal rights and expectation that after having invested many tens of thousands of dollars in facilities, and hundreds of thousands of dollars on Marine Craft, that sufficient time should be allowed for amortisation and quiet enjoyment of the existing investment prior to substantial increases in rent.
- The review also does not look at the effect on demand for public mooring facilities should leases become so expensive and conditions so onerous that lessees choose not to renew their leases and instead use public facilities.

These are but a few issues that I would like the time to research and present a submission upon and accordingly, would appreciate additional time in order to do so.

Yours Sincerely

Joe Screnci