NORMAN K BRUNSDON AM

4 December 2003

Mr Thomas G Parry
Chairman
Independent Pricing and Regulatory Tribunal of NSW
PO Box (2290
QVB POST OFFICE NSW 1230

Dear Sir

Review of Rental for Domestic Waterfront Tenancies in NSW
(ref. ***03/358)***

I am the lessee under lease no. (number deleted) from the Waterfront Authority of a waterfront area adjoining property jointly owned with my wife at (address deleted).

In a communication dated 29 August I991 MSB Waterways advised an extensive review had been undertaken of the rental policy applying to private foreshore leases. The main features of the policy proposed were outlined in an attachment. The rental rate proposed was to be 2.5% of the square metre value of adjoining land.

Comparison with the formula proposed in the current Issues Paper produces the following results based on a land value of $1,000 per square metre:

Current proposal

$1,000 -:- 2 x 6% =$3O per square metre per annum

1991 proposal

$1,000 x 2.5% =$25 per square metre per annum

The annual rental of my 15 square metre waterfront lease is $300 before GST or $20 per square metre. The land area is 1,315 square metres and the 2003 tax year land valuation was $2,120,000 or $1,612 per square metre. The waterfront rental of $20 per square metre therefore represents 1.24% of the land value of $1,612 per square metre as against 3% under the current proposal, an increase of almost 250%.

The 1992/93 review of the 1991 proposal resulted in the proposal being dropped. Pertinently my enquiries disclose the proposal was rejected on the following grounds:

a) There is no causal linkage between freehold value and waterfront leasehold value .....

"(b)Wetland leases were limited to 1 or 3 years (maximum) .....

"(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 .....

(d) The absence of a phase-in upon changing the rules.

In the event a decision was made to apply a rate per square metre of wetland valued bay by bay *I(asopposed to the value of the appurtenant freehold)" and with regard to the type of activity or development. There was to be an annual CPI adjustment but this has not heretofore been applied.

It is submitted a Private Occupancy (PO) licence has limited intrinsic value in that the utility of facilities occupying the licence area is entirely dependent on access. Should a landowner grant access to a PO facility through his or her property he or she would reasonably expect to demand payment for the right so granted. But that would be a combined payment for **access** to the **PO** licence area and for **the use of the PO facilities** that the licensee has erected in the leasehold area. Since access to the PO area is dependent on the landowner's permission it follows that the commercial value of the PO without such right of access is at the most nominal. In other words a substantial proportion of any financial consideration the landowner is able to extract in these circumstances attaches to the land adjoining the PO area and not to the PO licence itself. Therefore any attempted justification for charging a "market rental" for a PO licence as though it were a marketable facility in its own right is based on an unsustainable premise.

I see no commercial justification or other rationale to depart from the present policy. The reasons for rejection of the more modest proposal in 1992193 to my mind remain valid and apply with even greater force to the more onerous formula proposed in the current Issues Paper. There can of course be no objection to a CPI adjustment **as** previously proposed.

Yours faithfully

Norman **K** Brunsdon