

# CRYSTAL BAY RESTORATION & BEAUTIFICATION ASSOCIATION

21 November, 2003

Review of Rental for Domestic Waterfront  
Tenancies in NSW Independent Pricing and  
Regulatory Tribunal  
PO Box Q 290  
QVB Post Office NSW 1230

Attention: Mr Bob Burford

Subject: Permissive Occupancies of Crown Lands in Crystal Bay,  
Newport (i.e. Land below Mean High Water Mark).

Dear Sir,

I refer to the recent discussion between you and myself, John Andersen, President of the above association.

Our association consists of waterfront property owners in Crystal Bay (22 properties in all). All of these properties have permissive occupancies (leases from Dept of Lands and Water Conservation).

Firstly, let us discuss the S wharf, jetty, pontoons at present constructed in the bay. Each of these is arranged and sited for dual use by 2 neighbouring property owners i.e. they are shared

facilities for accommodating 2 individual boats. Page 3 of your review document gives the proposed formulas for valuing and setting annual rental payments, referred to as 'Preston Rowe Paterson'.

Since these wharf, jetty, pontoons are shared facilities for 2 properties, we are uncertain how we are to make the calculations to determine the proposed rent and indeed, whether our situations will be subject to equity considerations as stated in clause 2 on page 5 of the review document. We should be pleased to have the opportunity of discussing this aspect of the review before your final decisions are taken.

It needs to be stressed, the wharf, jetty, pontoon structures are privately owned and are for the personal and exclusive use of the owners. They are not the property of the Dept of Lands and when you assess the proposed rent, you should not take into account the use nor the privately owned structure that sits upon that permissive occupancy.

Our calculations show the proposed method of rental valuation proposed by you will more than double the present rent paid due to the Valuer General's notification of adjoining land values. Moreover the present Valuer General's figures we are working on, are for the year 2000. Obviously, we would be in for a double whammy when the next round of Valuer General's capital valuations, are issued. This would add substantially to the amount of the proposed rent payable for the permissive occupancies of wharf, jetty, pontoon installations.

In any case, we cannot understand why you are using a formula based on land values for the sea water in front of the property. This does not appear to make sense. We would also like to know why you are not using the same proposed formula for commercial

installations. Surely, your proposed actions are glaringly discriminatory.

Secondly, in relation to land below mean high water mark leased to adjoining waterfront property owners in the bay, subjected to permissive occupancies by the Lands Dept, a map of the bay is enclosed. The areas within the 2 heavy lines I have marked on the plan are the permissive occupancy leases held by the individual owners.

All of these areas are flat, well grassed and kept in pristine condition by each owner. The idea is that each owner tends to his own patch. This is an important aspect of the bay as it provides an uninterrupted free walkway around the foreshore of the bay for the general public. As far as I am aware, this is unique in Pittwater and probably in Sydney. We, the owners of the adjoining properties take great pride in maintaining this much used area for everyone's enjoyment. The pathway around the bay provides easy and enjoyable walking for all as well as providing a safe access (free from cars etc) especially for commuters using public transport and people who frequent the local hotel, the Newport Arms Hotel. We estimate about 100 to 200 people would use the walkway around the bay per day.

It is interesting and informative how the leased land areas occurred. Prior to 1978, Crystal Bay was a muddy swamp with a very tidal situation. At this time, all waterfront owners enjoyed title to mean high water mark. The Royal Prince Alfred Yacht Club, the local Princes Street Marina and waterfront residents were granted approval by Dept of Lands and Warringah Shire Council to dredge the bay. The costs were borne by the applicants and at no cost to Council. The Marina and RPAYC each paid approximately \$23,800 and residents paid the lion's share of \$70,000.

The spoil dredged up from the bay was mainly taken by Council to construct Rowland Reserve at Bayview and the balance was deposited in front of the waterfront properties by way of reclamation and forms the foreshore walkway around the bay as it exists today. These are the permissive occupancy lands we are discussing.

We feel you must take into account the fact that this free access around the bay has been provided by the Crystal Bay waterfront residents at no cost to anyone else other than the local commercial marina and the RPAYC who were participating partners with us. You should also bear in mind the permissive occupancy land is wholly maintained by us at no cost to anyone else. This includes the sea walls around the bay, paid for by residents at no cost to anyone else. Also bear in mind, all residents wish to see a continuation of this situation.

In regard to free passage of permissive occupancy land, we, the residents, have no more privileges nor rights than anyone else in Australia, indeed the world.

Since the terms and conditions applicable to permissive occupancy land around Crystal Bay do not confer any personal and exclusive rights to us, it is ludicrous to propose a rental formula for the land that would be the same as for the sea water, where structures (wharf, jetty, pontoons) are permitted for the private and exclusive use of the lessee. Surely, you could not substantiate an argument to say this is fair and reasonable.

In assessing rents, we think you should apply a simple test of fairness. That test would determine different formulas establishing rental values for P.O. land having public access on the one hand, and land with no public access used exclusively by the lessee of the permissive occupancy.

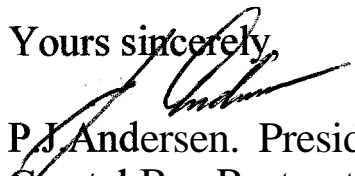
Crystal Bay foreshore owners, all members of this association, have made their own calculations using your proposed formula, based on Valuer General's 2000 figures. These calculation in all cases reveal a whopping 700% increase in proposed rents compared to (or should I say contrasted to) current rents paid by us. For example, the permissive occupancy area at  
i.e. 21.8m x 1.5m is currently \$121 including GST. Your proposed formula shown in the review would bring this rental to \$880.19 PA, an increase of 727.43%. Common sense tells you a strip of land 1.5 metres wide can only be used for a walkway, which, as stated previously, is free to everyone including the adjoining land owner but who has the obligation to keep this strip of land in a neat and tidy condition.

The calculations for proposed rents under your own review show the same sort of increases for all other Crystal Bay waterfront owners. This is grossly unfair and we request you, the Independent Pricing and Regulatory Tribunal to act independently and tell the NSW Government that this proposal is unfair and will be seen as nothing more than a gigantic rip off.

We believe you should recommend the future proposed rent to be paid for the permissive occupancy land around Crystal Bay should remain unchanged or at worst have small marginal increases applied.

As stakeholders, we expect to be given an opportunity to discuss these issues with you, prior to your making recommendations to Government. Please feel free to contact me at any time for meaningful discussions.

Yours sincerely,



P.J. Andersen. President.

Crystal Bay Restoration and Beautification Association.

FIGURE 4 - CRYSTAL BAY  
 NAVY HARBOR SOUTH ISLAND  
 ANTARCTICA

DATE	AUGUST 1951	DRAWN BY	...
SCALE	1:50,000	CHECKED BY	...
TITLE	CRYSTAL BAY	APPROVED BY	...
PROJECT	...	...	...

