

SUBMISSION REGARDING THE REVIEW INTO RENTALS FOR WATERFRONT TENANCIES ON CROWN LAND IN NSW

To: IPART
From: GB & LR Roberts

Introduction

This is a welcome review. For seven years we have been trying to get the DLAWC to look at the equity in relation to the rental of the space occupied by our jetties. They have done nothing to even consider the matter, except for commissioning an independent study which subsequently they would not make available to the public.

Review Time Line

We certainly look forward to the opportunity to participate in 'Stakeholder Consultation', at a time to be notified by the Tribunal.

Basis of Submission

We live on Scotland Island in Pittwater, where our access is by water only – we cannot drive our car into our property, as with mainland properties that have jetties, or indeed **any** mainland property.

Reference to 'Background'

It is important to recognise that we do not use our jetties for 'private recreational purposes'. They are used only for safe commuting – shopping, school, work and so on. A quick audit will reveal that only small commuter type boats are tied up to these jetties – no luxury vessels.

Actually, we call them safe access structures – not jetties.

Rental Return

As a comparative comment, the proposed formula would increase our rental from approximately \$1,120 per year to over \$2,500 per year. This would be twice as much as we pay for our Council Rates, including garbage removal (which is very expensive for offshore homes), plus all the other services that Council provides.

Market Value

In reference to 'Market Value', this is a term invented, presumably by someone in Govt., that bears no relation to the commercial world. No market value exists because there **is** no market. No one else, except the adjacent home owner, is in the market for the space below MHWM occupied by the jetties (Ref: Crown Land Foreshore Policy – 2.2). So the market **does not** set a price. The Government sets a price at a level it would like to get from the licencees/lessees. It is simply – a Tax.

The question is, what is a reasonable level for this Tax? Compare the amount paid by Oyster Farmers at, apparently, 0.004 cents per square metre (\$37 per hectare), with Waterways mooring rentals at around \$1.50 per square metre, current rental for

jetties at around \$5.50 per square metre (depending on location), and the foreshadowed rental of 2.5 to 3 times ie. \$13 to 16.50 per square metre.

How is it possible to justify such a huge amount of rent, around 390,000 times more than the oyster farmers pay (who in fact lease the land to make a financial return), and around 10 times more than the Waterways fees (based on the foreshadowed rental rates)?

It's different, of course, with commercial jetties, because there **is** a market value – ie. the amount someone is prepared to pay for the use of the space, in competition with others through Public Tender.

The example given in the Issues Paper of investment returns for the Department and the Authority is an example where there **is** a real market and where the market moves to determine the value of the land. It is not a comparable situation with the space we are talking about.

So, in general for all mainland waterfront jetties, our suggestion would be to establish a rate that is approximately what Waterways charges for its swing moorings. This is a well established rate which takes into consideration the length of the boat, and which does in fact relate to a market rental, in that there is competition for the limited spaces available.

This would give the Government an excellent Tax return on Commonwealth land which otherwise would have **no possible value for anyone else.**

Appropriate equity arrangements for water access only (WAO) homeowners.

The only fair approach for this category is to charge the same as is charged to any homeowner on the mainland to access their home – nothing.

No onshore homeowner pays for the privilege of walking or driving across crown land to get to their home. In fact they are encouraged to build driveways and pathways to do so. They can leave as many cars in the street as they like and pay not a cent.

WAO homeowners simply ask for the same deal – the right to free access to their homes, in this case via a safe pathway in the form of a jetty.

There is, however a general feeling, and we would support it, to pay a moderate amount as a fee to cover administration in the form of registrations, transfers etc, so that the Department is not out of pocket.

This would be our strong recommendation.

On the other hand, if the Government feels it needs to obtain significant increases to its revenue, then it may wish to impose a fee structure which is the same for every homeowner in NSW who has to cross Crown Land to access their home.

Mechanism to streamline the Administration

The information in the IPART Issues Paper demonstrates that there are 2 Govt. entities with varying criteria that preclude standard outcomes, leading inevitably to continuing inequitable results in the receiving, handling and follow up of all matters

relating to the rental of the space below MHWM. As a result, it can only, as it does, operate very inefficiently, spending inordinate amounts of time on applications etc.

Over three years ago DIAWC said to the Ombudsman, in response to a critical report by the Ombudsman, that it was conducting a review of all of its procedures.

Nothing has happened until this IPART review! DIAWC did not initiate it.

In essence, in order to streamline the administration and reduce the costs of operating the departments, we would recommend:

- o Waterways to administer everything below MHWM. It has the infield structure and resources to do so – the Department of Lands hasn't.
- o The Department of Lands to administrate everything above MHWM
- o Councils to handle DA's for which they have the skills and systems to do so

Once the structure is correctly set, then obtain a good management consulting organisation to help develop simple, effective and practical procedures. Include Community Stakeholder representatives, and make everything accountable and transparent, with the right of appeal to an independent body (as generally happens these days).

The result will be that the costs to administer the jetties, and therefore the resultant charges, will be minimised. And, in addition, both Staff and its Clients will be a whole lot happier.

Lease v Licence

In terms of simplicity, surety, minimum administration costs etc, it would make sense to adopt a long term Lease, rather than the present Licence. In the case of WAO Leases, this would involve an initial establishment fee, and minimum ongoing administration fees ie compliance.

Access

o Shared Access

This is an important point. We would recommend that the Dept. would encourage and facilitate the sharing of jetties where feasible and practical, so as to reduce the total number, and hence the visual impact.

o WAO Access

Safe access must be, as is the current situation, available to the Water Police, Rural Fire Service, Electricity Authority etc to facilitate emergency evacuations, firefighting and similar activities.

The jetties provide an invaluable service in these emergency situations.

This, in reality, establishes that WAO jetty structures are never truly exclusive to their owners.

G B Roberts

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