Submission
No 68

INQUIRY INTO LAND VALUATION SYSTEM

Organisation: Boating Industry Association of NSW

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Date Received: 8/03/2013

The Boating Industry Association's Response to the

ISSUES PAPER

Inquiry into the Land Valuation System

Released by the

Joint Standing Committee on the Office of the Valuer General

Boating Industry Association of NSW

March 2013

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This submission has been prepared by the Boating Industry Association in response to the Issues Paper – Inquiry into the Land Valuation System – February 2013, by the Joint Standing Committee on the Office of the Valuer General.

The Boating Industry Association of NSW Ltd (the BIA) is an association of employers formed in 1960 and incorporated in 1970.

Amounting to around 700 in total, the BIA's membership generates over 90% of commercial activity in the sector, which directly employs approximately 8000 people. Membership comprises boat manufacturers and importers, supply-chain goods manufacturers and importers, brokers and retailers (of vessels and equipment), boat storage and service facility operators (marinas, boat yards and slipways, dry-storage etc), providers of industrial services to the recreational and light commercial boating industry (shipwrights, surveyors, mechanics, engineers, technicians, detailers, riggers, sail-makers and upholsterers, painters etc), and providers of travel/ tourism, advisory, and incidental goods and services.

The BIA is head-quartered in Crows Nest, has sister organizations in other States, and is part of a federated structure - the Boating Industry Alliance Australia.

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Executive Summary

Marina facilities operated by private sector interest are generally sited on submerged lands owned by the Government. In most cases these are subject to Land Tax & Council Rates to be paid by the tenant – the marina operator.

Based on land valuations done periodically of the Office of the Valuer General (VG), these taxes and rates have steadily increased to a point where the cost to the marina operator may be comparable to rent, also paid to the Government.

It is the view of the BIA that valuation by the VG of submerged lands is not done in accordance with a robust methodology. Further, that the dispute process available to marina operators is onerous, costly, and inefficient, due mainly to complexity arising from the lack of a robust methodology.

The BIA proposes that a performance-based, percentage-of-turnover methodology be used to establish the value of submerged lands.

Background

Traditional valuation methodologies – which reference sale of comparable land, and apply discount rates where certain factors or characteristics are established – are seldom relevant to submerged land occupied by marinas, where the valued land:

- Is leased, not owned
- Cannot be sold – only re-assigned
- Is subject to planning constraints which limit its usage (i.e.: it cannot be used to its best & highest commercial potential)
- May host public infrastructure (e.g.: effluent pump-out facilities) & public access across the land/water interface.
- Has no commercial value without the infrastructure/ improvements developed, owned, and operated by the lessee, and the capital value of the land cannot be determined.

For marinas in NSW, the VG outsources the valuation task to a contractor – assumedly a professional value. We understand that the contractor is paid “per valuation”, and at a rate which would not support complex work properly taking into account the above.

We address the Terms of Reference as follows:

Volatility

In a commercial context, the “value” of land to the business undertaking or enterprise is perhaps best considered as what value the land imparts to the revenue generating capacity of the enterprise.

In the marina example, the revenue generating capacity of the enterprise is volatile (owing to the largely discretional nature of the activity it supports being highly susceptible to consumer sentiment), and the profit generating capacity is variable owing both to the capacity/ inclination of the market to pay for the service, and the fluctuating cost of providing the service.

Cost increases (e.g.: operating, compliance, development etc) may occur at any time, and a "flat" market may be unwilling to support price rises that would enable the operator to maintain margin, and therefore service overhead in a sustainable manner.

In the residential & commercial property markets, a measure of "responsiveness" (to volatility) is built into the valuation system – when referencing comparable sales & commercial leasing terms/ rates, the value is exposed to real market conditions.

In the marina sector – where no sale of property is referenced & advertised berthing rates are seldom achieved in hard times – the market value of submerged land cannot be ascertained without detailed analysis, if at all. This depth of analysis is unlikely under the contract let by the VG for the valuation of marinas.

The current system fails to respond to volatility in the market.

Complexity, inefficiency, and inequity within the present system.

Owing to the lack of an established methodology for valuing submerged lands, contesting the VG's valuation is complex, costly, and protracted in duration (due to the scope of the following).

Complex - because the VG's valuation is not based on an established or acknowledged process, the entity which disputes the VG's valuation is unable to focus on aspects (singular or otherwise) of the valuation which it thinks are questionable (e.g.: comparable sales), and must instead develop fully a case for an alternate valuation which references all known aspects of traditional methodology.

Costly – the above process is not cheap. In addition to the raw cost of disputing the VG's valuation, the entity needs to evaluate the commerciality of the exercise. The entity must weigh up the likelihood of successfully reducing the valuation, establish the benefit (usually in the form of reduced cost) that the alternate valuation would bring about, and reconcile both with the cost & effort-burden of undertaking this process upon the business.

In a typical marina scenario, the development of this alternate valuation & engagement in the dispute process will require legal skills, valuation or land economics skills, accounting &

financial management skills, as well as administrative capacity & specific knowledge of the land in question, & marina business generally.

Whilst the entity – most commonly an SME – may possess some of these skills and capacities, it is likely that professional services and support will be engaged.

Whether resourced internally or utilizing professional support, the dispute of the VG's valuation represents a serious undertaking for the entity, from which a commercially justifiable outcome is far from certain.

It must be noted that this dispute process imposes significant costs and effort burden on government also, in that it must evaluate the dispute, and potentially undertake further work to verify its original valuation, or contribute to the resourcing of a determining valuation.

Market distortions within the system

Planning & operational constraints:

The VG's valuation generally assesses land against highest & best use, which in the case of waterfront land in coastal urban or populated regional locations, tends to be prime residential. With regard to submerged lands, we understand that a discount rate is applied against the assessed value of adjoining lands, though it is unclear how this discount rate is determined, and whether it is applied consistently.

Marina lands are subject to complex planning and operational constraints, and as such the reference to highest & best use is irrelevant. These lands **cannot** be utilized to their highest and best use. The full impact of planning & operation constraints on these lands is difficult for even the most battle-hardened marina operator or developer – or indeed their professional advisors - to fully ascertain.

It is therefore highly unlikely that the valuer contracted by the VG will fully assess this impact, and apply an appropriate discount rate to compensate the impact on land value of the following:

- Zoning
- Development Control Plans
- Impact on navigation
- Impacts on bank stability, drainage & hydrological processes
- Compliance with environmental & Workplace Health & Safety legislation & regulation
- Heritage considerations
- Perceived impacts on visual amenity
- Perceived potential for disturbance of legacy contaminants in seabed sediments by construction processes or vessel movements
- Public (& potentially political) sentiment relating to the lands & waterway

“Comparable Sales”

Whilst there is no established specific methodology for the valuation of marinas, general valuation methodology will reference, amongst other data, comparable sales.

Throughout the 1990’s & 2000’s, a small number of marina businesses in Sydney were “sold” (including re-assignment of relevant leases). The effective “sale price” of these generally being well in excess of commercial value of the business as supported by the balance sheet, & cash-flow projections.

The perceived value of these businesses may have been inflated by a number of factors, not least amongst which was the lack of quality in marina berths commensurate with contemporary expectations, resulting from government policy – most notably the moratorium placed on marina development in Sydney Harbour by former Premier Bob Carr.

These “sales” quickly impacted the VG’s valuations of marinas, some seeing growth in assessed value over 100% from one statutory valuation period to the next.

The relationship between the VG’s valuation & significant costs levied by government against the marina business – namely rent (charged by government lessors on both dry & submerged public land), land tax, and council rates – meant that marina businesses experienced an immediate, drastic, and unforeseen hike in statutory costs.

These drastic cost increases had serious implications for the sustainability of marina businesses. Whilst individual operators dealt with the situation as best they could, the BIA on behalf of its members engaged in sustained and detailed advocacy with government lessors (at that time NSW Maritime & Dept Lands/ LPMA) aimed to reform the rental determination methodology.

Over a 10-year period, the BIA has surveyed members repeatedly, examined international comparisons & consulted with government agencies in the UK, US, and Canada, and engaged Pitcher Partners to undertake detailed research & financial modeling in development of an alternate rental determination methodology based not on land valuation, but the economic performance of the business operating on the leased land.

This performance-based solution has relieved the impact of irrelevant and volatile land valuation on commercial enterprise, and may serve as a model for reform of the land valuation system as it relates to submerged lands.

<u>The Commercial Marina Rental Procedure (CMRP).</u>

The CMRP calculates rent based on the marina business turnover derived on the leased land, and has been adopted by Roads & Maritime Services (RMS – the landowner & lessor of submerged land in Sydney Harbour).

The rental determination process is a simple “percentage of turnover” calculation, and is performed against the financial statements registered by the marina business with the Australian Taxation Office

The CMRP ensures that rent levied against the marina business is responsive to actual market conditions, and builds into the leasing dynamic a solid measure of sustainability & transparency/ certainty.

In turn, it is expected that the CMRP will improve private-sector investment scope, resulting in improved public boating and waterfront infrastructure, enhanced environmental & WHS performance, and ultimately, increased turnover in the business – a positive “triple bottom line” outcome for both the marina business, and the state.

Recommendations

In order to reduce the burden on both business and government resulting from the abovementioned complexity, volatility, and inefficiency of the valuation system as it relates to marinas, the BIA proposes that a percentage of revenue model be applied to determine land value.

The BIA will be happy to engage with Government in order to determine appropriate capitalization rates for submerged lands in NSW

END