

29/84

No. 15 of 1984

IN THE JUDICIAL COMMITTEE OF THE PRIVY COUNCIL

ON APPEAL
FROM THE SUPREME COURT OF NEW SOUTH WALES
COURT OF APPEAL
IN PROCEEDINGS CA 113 OF 1982

BETWEEN:

TATMAR PASTORAL CO. PTY. LIMITED
and
PENRITH PASTORAL CO. PTY. LIMITED
Appellants (Plaintiffs)

AND:

HOUSING COMMISSION OF NEW SOUTH WALES
Respondent (Defendant)

TRANSCRIPT RECORD OF PROCEEDINGS

PART I
Volume I

SOLICITORS FOR THE APPELLANTS

Dare Raed,
Barclays House,
25 Bligh Street,
SYDNEY, N.S.W. 2000

Telephone: 232 1111
DX 190 Sydney

By their Agents:

Nabarro Nathanson,
76 Jermy Street,
LONDON, SW1Y 6NR U.K.

Telephone: 01-930 8444
Telex: 8813144 NABARD

SOLICITORS FOR THE RESPONDENT

H.K. Roberts,
State Crown Solicitor,
8-12 Chifley Square,
SYDNEY, N.S.W. 2000

Telephone: 238 7363
DX 19 Sydney

By their Agents:

Lovell, White & King,
21 Holborn Viaduct,
LONDON, EC1A 2DY U.K.

Telephone: 01-236 6011
Telex: 887 1222

IN THE JUDICIAL COMMITTEE OF THE PRIVY COUNCIL

ON APPEAL
FROM THE SUPREME COURT OF NEW SOUTH WALES
COURT OF APPEAL

IN PROCEEDINGS CA 113 OF 1982

BETWEEN:

TATMAR PASTORAL CO. PTY. LIMITED
and
PENRITH PASTORAL CO. PTY. LIMITED
Appellants (Plaintiffs)

AND:

HOUSING COMMISSION OF NEW SOUTH WALES
Respondent (Defendant)

TRANSCRIPT RECORD OF PROCEEDINGS

PART I

Volume I

SOLICITORS FOR THE APPELLANTS

Dare Reed,
Barclays House,
25 Bligh Street,
SYDNEY, N.S.W. 2000

Telephone: 232 1111
DX 190 Sydney

By their Agents:

Nabarro Nathanson,
76 Jermyn Street,
LONDON. SW1Y 6NR U.K.

Telephone: 01-930 8444
Telex: 8813144 NABARD

SOLICITORS FOR THE RESPONDENT

H.K. Roberts,
State Crown Solicitor,
8-12 Chifley Square,
SYDNEY, N.S.W. 2000

Telephone: 238 7363
DX 19 Sydney

By their Agents:

Lovell, White & King,
21 Holborn Viaduct,
LONDON. EC1A 2DY U.K.

Telephone: 01-236 6011
Telex: 887 1222

IN THE JUDICIAL COMMITTEE OF THE PRIVY COUNCIL

ON APPEAL
FROM THE SUPREME COURT OF NEW SOUTH WALES
COURT OF APPEAL

IN PROCEEDINGS CA 113 OF 1982

BETWEEN:

TATMAR PASTORAL CO. PTY. LIMITED
and
PENRITH PASTORAL CO. PTY. LIMITED
Appellants (Plaintiffs)

AND:

HOUSING COMMISSION OF NEW SOUTH WALES
Respondent (Defendant)

TRANSCRIPT RECORD OF PROCEEDINGS

INDEX OF REFERENCE

PART I

Documents included in the Record

No.	Description of Document	Date	Page
-----	-------------------------	------	------

VOLUME I

IN THE LAND AND ENVIRONMENT COURT

Tatmar Pastoral Co. Pty. Limited and Penrith Pastoral Co. Pty. Limited
v. Housing Commission of New South Wales. L. & E. 30115 of 1980

- | | | | |
|----|---|-------------|---|
| 1. | Summons - filed | 3 May, 1979 | 1 |
| 2. | Transcript of Evidence taken before
Mr. Justice Cripps | | |

MOORE - George Edward (Evidence in its entirety objected
to by H.K. Roberts, the Respondent's Solicitor)

- | | | | |
|-------|---|-------------------------------|----|
| (i) | Examined (Mr. Hemmings) | 27 October, 1981 | 2 |
| (ii) | Cross-Examined (Mr. Officer) | 27 October, 1981 | 63 |
| (iii) | Re-Examined (Mr. Hemmings) | 28 October, 1981 | 77 |
| (iv) | Further Cross-Examined
(Mr. Officer) | 28 October, 1981
Index "A" | 80 |

No.	Description of Document	Date	Page
-----	-------------------------	------	------

2. Transcript of Evidence continued:

ALCORN - Lawrence Lloyd

(v)	Examined (Mr. Hemmings)	29 October, 1981	102
(vi)	Cross-Examined (Mr. Officer)	29 October, 1981	164
(vii)	Cross-Examined (Mr. Officer)	30 October, 1981	171
(viii)	Cross-Examined (Mr. Officer)	2 November, 1981	200
(ix)	Re-Examined (Mr. Hemmings)	2 November, 1981	215
(x)	Further Cross-Examined (Mr. Officer)	2 November, 1981	218
(xi)	Further Re-Examined (Mr. Hemmings)	2 November, 1981	231
(xii)	Further Re-Examined (Mr. Gyles)	2 December, 1981	234
(xiii)	Further Re-Examined (Mr. Hemmings)	2 December, 1981	237
(xiv)	Further Re-Examined (Mr. Gyles)	2 December, 1981	244
(xv)	Further Re-Examined (Mr. Hemmings)	2 December, 1981	257
(xvi)	Further Cross-Examined (Mr. Officer)	2 December, 1981	284
(xvii)	Further Cross-Examined (Mr. Officer)	3 December, 1981	311
(xviii)	Further Re-Examined (Mr. Hemmings)	3 December, 1981	317

VOLUME II

PARKINSON - Kenneth John

(xix)	Examined (Mr. Hemmings)	2 November, 1981	320
(xx)	Cross-Examined (Mr. Officer)	2 November, 1981	351
(xxi)	Cross-Examined (Mr. Officer)	3 November, 1981	359
(xxii)	Cross-Examined (Mr. Officer)	4 November, 1981	380
(xxiii)	Cross-Examined (Mr. Officer)	4 November, 1981	417
(xxiv)	Re-Examined (Mr. Hemmings)	4 November, 1981	419
(xxv)	Further Cross-Examined (Mr. Officer)	19 November, 1981	424
(xxvi)	Further Re-Examined (Mr. Gyles)	3 December, 1981	435
(xxvii)	Further Cross-Examined (Mr. Officer)	3 December, 1981	436
(xxviii)	Further Re-Examined (Mr. Gyles)	3 December, 1981	440

No.	Description of Document	Date	Page
2. Transcript of Evidence continued:			
<u>CONTENCIN</u> - John Alistair (Evidence in its entirety objected to by H.K. Roberts, the Respondent's Solicitor.)			
(xxix)	Examined (Mr. Gyles)	3 November, 1981	442
(xxx)	Cross-Examined (Mr. Smart)	3 November, 1981	463
(xxxix)	Cross-Examined (Mr. Smart)	4 November, 1981	479
(xxxix)	Re-Examined (Mr. Gyles)	4 November, 1981	480
<u>HILTON</u> - Francis James			
(xxxix)	Examined (Mr. Officer)	10 November, 1981	481
(xxxix)	Examined (Mr. Officer)	11 November, 1981	486
(xxxix)	Cross-Examined (Mr. Gyles)	12 November, 1981	493
(xxxix)	Re-Examined (Mr. Officer)	16 November, 1981	499
(xxxix)	Further Cross-Examined (Mr. Hemmings)	17 November, 1981	504
(xxxix)	Further Re-Examined (Mr. Officer)	17 November, 1981	508
<u>HYAM</u> - Alan Ainsley			
(xxxix)	Cross-Examined (Mr. Gyles)	20 November, 1981	513
<u>SHEARMAN</u> - Mervyn Parry Butler (Evidence in its entirety objected to by H.K. Roberts, the Respondent's Solicitor.)			
(xxxix)	Examined (Mr. Smart)	23 November, 1981	519
(xxxix)	Cross-Examined (Mr. Gyles)	23 November, 1981	537
(xxxix)	Further Cross-Examined (Mr. Gyles)	24 November, 1981	545
<u>ASHTON</u> - Nigel Andrew Winter (Evidence in its entirety objected to by H.K. Roberts, the Respondent's Solicitor.)			
(xxxix)	Examined (Mr. Smart)	24 November, 1981	557
(xxxix)	Cross-Examined (Mr. Gyles)	24 November, 1981	561
<u>BOURKE</u> - John Mountford (Evidence in its entirety objected to by H.K. Roberts, the Respondent's Solicitor.)			
(xxxix)	Examined (Mr. Smart)	25 November, 1981	568
(xxxix)	Cross-Examined (Mr. Gyles)	25 November, 1981	577
<u>VOLUME III</u>			
<u>WEIR</u> - Colin Raymond			
(xxxix)	Cross-Examined (Mr. Hemmings)	1 December, 1981	592

No.	Description of Document	Date	Page
3.	<u>Production of Documents on Subpoena</u> (Paragraphs 3(i) to 3(v) inclusive objected to by H.K. Roberts, the Respondent's Solicitor.)		
	(i) Argument	3 November, 1981	623
	(ii) Argument	5 November, 1981	644 and 653
	(iii) Argument	13 November, 1981	658
	<u>PINCINI</u> - Raymond Louis Examined (Mr. Davison) Cross-Examined (Mr. Hemmings)		659 661
	(iv) Argument	19 November, 1981	665
	(v) <u>PINCINI</u> - Raymond Louis Examined (Mr. Russell) Cross-Examined (Mr. Gyles)	5 November, 1981 5 November, 1981	670 672
4.	Reasons for Judgment of his Honour, Mr. Justice Cripps	17 March, 1982	678
5.	Minutes of Order of Land and Environment Court	17 March, 1982	754

IN THE SUPREME COURT OF NEW SOUTH WALES, COURT OF APPEAL

Housing Commission of New South Wales v. Tatmar Pastoral Co. Pty.
Limited and Penrith Pastoral Co. Pty. Limited. No. CA 113 of 1982

6.	Amended Notice of Cross Appeal	4 July, 1983	755
7.	Reasons for Judgment of his Honour, Mr. Justice Hutley	29 August, 1983	758
8.	Reasons for Judgment of his Honour, Mr. Justice Samuels	29 August, 1983	769
9.	Reasons for Judgment of his Honour, Mr. Justice Mahoney	29 August, 1983	770
10.	Minutes of Order of Court of Appeal	29 August, 1983	781
11.	Conditional Order granting leave to Appeal to Her Majesty in Counsel	19 September, 1983	782
12.	Order granting final leave to Appeal to Her Majesty in Counsel	12 December, 1983	786
13.	Certificate of Registrar of the Court of Appeal of the Supreme Court of New South Wales verifying the Transcript Record of Proceedings	22 March, 1984 Index "D"	787

PART II

Exhibits included in the Record
(Exhibits "Y2" and "AAY" objected to by
H.K. Roberts, the Respondent's Solicitor.)

Exhibit Mark	Description of Document	Date	Page
<u>VOLUME IV</u>			
"J"	- Valuation by Kenneth J. Parkinson & Associates	26 October, 1981	788
"K"	- Alcorn Report and Supplementary Statement	26 October, 1981	813
"K2"	- Schedule rates per acre mid-1973	29 October, 1981	842
"Y2"	- Urban Development Potential	27 October, 1981	843
"AAY"	- Statement by Peter Kacirek	2 December, 1981	848
"AAZ"	- Mr. Alcorn's response to Exhibit 2(E)	2 December, 1981	852
"2(E)"	- Valuation exercise by Hilton, November '81 (handwritten)	16 November, 1981	855
"12"	- Mr. Weir's Report, June 1981	26 November, 1981	859
Exhibits transmitted to the Privy Council but not reproduced in Record			
"C"	- Two aerial photographs	26 October, 1981	
"D"	- Locality Map	26 October, 1981	
"F"	-	26 November, 1981	
"F2"	- S.R.O.P. Phasing plan map	26 November, 1981	
"G1"	- Locality plan showing sales	26 October, 1981	
"G2"	- Locality map showing sales	29 October, 1981	
"H"	- Locality map of land resumptions	26 October, 1981	
"T"	- Community Development Report	26 October, 1981	

SUPREME COURT OF NEW SOUTH WALES
NO. 1
SUMMONS
3 MAY 1979

IN THE SUPREME COURT OF NEW SOUTH WALES

COMMON LAW DIVISION

No. 11760 of 1979

L & V 8071/79

TATMAR PASTORAL
CO. PTY. LIMITED
and
PENRITH PASTORAL
CO. PTY. LIMITED

Plaintiffs

THE HOUSING
COMMISSION OF
NEW SOUTH WALES

Defendant

SUMMONS

The Plaintiffs claim the sum of
\$11,758,000 compensation for the
resumption of part of their land 10
at Lot 5, Deposited Plan 222785 at
Kingswood, City of Penrith,
Parish of Mulgoa, County of Cumber-
land Volume 9801, Folio 201 com-
prising 700 acres and Lot 6 in 20
Deposited Plan 222785 at Kingswood,
City of Penrith, Parish of Mulgoa,
County of Cumberland Volume 9801,
Folio 292 comprising 184 acres.

TO THE DEFENDANT: The Housing
Commission of New South Wales,
302 Castlereagh Street,
Sydney, N.S.W. 2000

You are liable to suffer judgment 30
or an order against you unless
the prescribed form of notice of
your appearance is received in the
Registry within fourteen (14) days
after service of the summons upon
you.

Plaintiffs: Tatmar Pastoral Co.
Pty. Limited, and Penrith
Pastoral Co. Pty. Limited 40
of C/- Mr. E.B. McPherson,
113 Oxford Street,
Darlinghurst, N.S.W.

Solicitor: Russell Victor Miller,
C/- Messrs. Dare Reed,
Solicitors, 6th Floor,
City Mutual Building,
9 Hobart Place, Canberra
DX 5603 Canberra Tel: 49-7666

SUPREME COURT OF NEW SOUTH WALES
NO. 1
SUMMONS
3 MAY 1979

Solicitor's Agent: Dare Reed, Solicitors,
Barclays House,
25 Bligh Street,
Sydney, N.S.W. 2000

Plaintiffs' Address
for Service: C/- Dare Reed, Solicitors, 10
Barclays House,
25 Bligh Street,
Sydney, N.S.W. 2000

Address of Registry: Supreme Court, Queens Square,
Sydney

Solicitor for the Plaintiffs.

FILED: - 3 MAY 1979

REGISTRAR

THE LAND AND ENVIRONMENT COURT
PLAINTIFF'S EVIDENCE
NO. 2
HEARING OF

LAND AND ENVIRONMENT COURT

HELD AT

COURT 25, QUEEN'S SQUARE, MACQUARIE STREET, SYDNEY

ON TUESDAY 27TH OCTOBER, 1981

AT 10 A.M.

MATTER:

10

TATMAR PASTORAL COY PTY LIMITED AND ANOR

-v-

THE HOUSING COMMISSION OF NSW

BEFORE: His Honour Mr. Justice Cripps

APPEARANCES:

For the First Applicant:

Mr. N. Hemmings Q.C., Barrister, with Mr. J. Webster, Barrister, instructed by Dare Reed and Company, Solicitors.

For the Second Applicant:

20

Mr. J. Webster, Barrister, instructed by Dare Reed and Company, Solicitors.

For the Respondent:

Mr. F. Officer, Q.C., Barrister, with Mr. R. Smart, Barrister and Mr. G. Ellis, Barrister, instructed by the Crown Solicitor (State) of NSW.

Witness:

Mr. G.E. Moore

27th October, 1981

TATMAR PASTORAL COMPANY PTY LIMITED AND ANOR.

-v-

THE HOUSING COMMISSION OF NEW SOUTH WALES

OFFICER: Your Honour with my learned friend's consent 10
may I hand to your Honour two photostat sheets. The
first sheet is the relevant portion of the Housing Act
as it was prior to 1973. If your Honour recalls there
was reference to this resumption having been made for
housing purposes.

HIS HONOUR: Mm.

OFFICER: And the second sheet is the relevant portion,
in fact I think the whole of the 1973 amendment which
widened the powers of the Housing Commission as to
resumptions. 20

HIS HONOUR: And when did that Act - I see it's May
1973. So the dispute, if there was a dispute before
was whether this amendment gave the Housing Commission
the relevant powers to ---

OFFICER: I imagine that's what the - I'm sorry it's so
long ago I can't remember the details.

HIS HONOUR: And in any event you thought there was
nothing in it, so ---

OFFICER: Well there might have been, ultimately it was
withdrawn. I should say your Honour observes in the 30
1973 amendment in particular at the foot of the left-
hand page that the Governor - authorise the Governor to
acquire by resumption any lands which in the opinion of
the Commission may be required for the purpose of any
other Act under which lands may be resumed, etc. And
subsection (4) on the right-hand page is: Any acquisi-
tion of land pursuant to the powers shall be deemed to
be an acquisition of land for the purposes of this Act.

HIS HONOUR: Yes I see. Thank you.

HEMMINGS: Call George Edward Moore. 40

GEORGE EDWARD MOORE
(Sworn, examined as under)

HEMMINGS: Q. Your name is George Edward Moore?

MOORE: A. That's correct.

Q. You reside at 43 Mary Street, Longueville?

A. That's correct.

THE LAND AND ENVIRONMENT COURT
PLAINTIFF'S EVIDENCE
NO. 2(i)
MOORE George Edward
EXAMINATION

Q. You have prepared a report in connection with the property the subject of these proceedings? A. Yes I have that.

HEMMINGS: That report has been filed your Honour.

HIS HONOUR: Yes thank you.

10

HEMMINGS: I'll go through his qualifications.

OFFICER: No contest about his qualifications.

HEMMINGS: Your Honour in addition to just outlining his qualifications I intend to qualify Mr. Moore as having personal professional experience in large-scale land development in the metropolitan area of the Sydney region, and in particular your Honour Mr. Moore was advising land developers in the acquisition and development of land as at the relevant time.

HIS HONOUR: Yes.

20

HEMMINGS: Q. Mr. Moore you have a Diploma in Local Government Engineering from Sydney Technical College?

MOORE: A. That's correct.

Q. You are a registered surveyor? A. Yes.

Q. You are a Fellow of the Institute of Surveyors of Australia? A. Yes.

Q. A member of the Institution of Engineers of Australia? A. Yes.

Q. You're a councillor of the Australian Institute of Urban Studies? A. Yes.

30

Q. I'm reading from the - I think it's the third page of that report.

HIS HONOUR: Well this report then will become Y.

TENDERED, ADMITTED AND MARKED EXHIBIT Y -
MR. MOORE'S REPORT

HEMMINGS: Q. What is the Council of the Institute of Urban Studies Mr. Moore?

MOORE: A. The Council is the administrative body of it, but the Institute of Urban Studies is a body of people engaged in or interested in the urban development and urban studies in relation to social welfare - it covers the broad aspects of development of communities and the maintenance of those communities.

40

THE LAND AND ENVIRONMENT COURT
PLAINTIFF'S EVIDENCE
NO. 2(i)
MOORE George Edward
EXAMINATION

Q. And what interested bodies make up that institute?

A. The development companies are in it, representatives of them, the consultant field of engineering, architecture, surveying, planning; the people engaged in social welfare work representatives, there are a number of the legal profession, and a couple of the judges.

10

Q. Now you're also councillor of the Urban Development Institute of Australia. A. Yes, that's an association or institute that is representative of the development industry itself. They mainly comprise the - the corporate members are the developers and there are the allied professional people engaged in the development industry.

Q. And what do you mean when you say the development industry? A. The people engaged in the development of land, the manufacture of raw land for urban development, whether it be for low-density, medium-density or high density final use.

20

Q. And is it made up of companies interested in acquiring inter alia large areas of land for subdivision for urban purposes? A. Small and large yes.

Q. And also the erection of dwelling houses and developing the land generally? A. Yes that's right.

Q. And what is now known as the Urban Development Institute was formed - it had a different name when it first formed? A. Yes it was the Institute of Real Estate Developers. It was in this State, and then it became the Urban Development Institute of Australia around about the 1970's - round about that period.

30

Q. Do both of those institutes, the Institute of Urban Studies and the Urban Development Institute over the years have had a particular interest in the availability of land in the Sydney region for development for urban purposes? A. Well they've been very active, the local divisions have been very active in their lack of land available for development as has been the case Australia-wide. And the availability of land and the cost of land has occupied a great deal of time in the - both the AIUS and the Urban Development Institute dating back from about 1968.

40

Q. From both the period before and after the Sydney Region Outline Plan in 1968, has each of those institutes been vitally interested in the availability of areas of land for development for urban purposes in the Sydney region? A. Very actively interested, many seminars were held.

50

Q. And were those seminars attended from time to time by representatives of the State Planning Authority and

THE LAND AND ENVIRONMENT COURT
PLAINTIFF'S EVIDENCE
NO. 2(i)
MOORE George Edward
EXAMINATION

the Planning and Environment Commission in relation to the Sydney Region Outline Plan and released areas under that scheme? A. Well whatever the Department was called, the SPA or the PEC, it changed its name in due course, the name changed but the personnel seems to have remained the same. And they have always attended, they have been ready to discuss the matters with us at all times, not always to our success though. 10

Q. And as a councillor on each of those institutes have you taken a particular interest in the development of the Sydney Region Outline Plan and its effect upon the availability of land capable of being used for urban purposes? A. Yes and I've been a guest speaker at some of the seminars.

Q. Have you also attended seminars at the universities in connection with potential of land for urban development in the Sydney region? A. Yes I have and I've also attended as a guest lecturer. 20

Q. And have you attended seminars in conjunction with Mr. Kacirek from the State Planning Authority? A. Well he was always present, he delivered a paper in 1969 on the Sydney Region Outline Plan and then he has also attended the various seminars and made valuable comment during the discussions.

Q. Now you've been asked to act as a consultant to Tatmar Pastoral and Penrith Pastoral Companies with regard to this land and this suit? A. Yes I have. 30

Q. When did you first approach the problems in regard to the development of this land, roughly? A. It would be early June this year.

Q. Prior to that time had you had any contact whatsoever with the two companies or the Satara family?
A. No never.

Q. And you've had no professional relationship with any of the companies involved, in advising the companies?
A. No none whatsoever. 40

Q. However, have you had experience in the western sector in relation to the development of land and advising developers in the development of land for urban purposes? A. Yes I have.

Q. And would you give an outline to his Honour, some of the major projects that you've acted as a consultant for the development of land for urban purposes? A. Well I've acted as a consultant to Port Stephens Shire Council in the proposal for the new town of Salamander, I did a complete strategy study of the Tomaree Peninsula and I 50

THE LAND AND ENVIRONMENT COURT
PLAINTIFF'S EVIDENCE
NO. 2(i)
MOORE George Edward
EXAMINATION

did a concept and a development plan for that township. That was in the order of 5,000 allotment, a population of 20,000 was involved, this was going to be and will be the first largest town development in Australia. And I've acted for Parkes Development in a very large development at Mount Druitt. That was a parcel of land that actually had been resumed and the resumption was relinquished and Parkes were allowed to proceed to develop it.

10

Q. Was that a resumption by the Housing Commission?
A. Yes.

Q. And the land was relinquished? A. Yes. That was following the Minister's announcement to allow private developers to develop their large parcels of land.

Q. So notwithstanding the resumption for public purposes the private developer was permitted to develop the land? A. Yes.

20

Q. And what was the scale of that development?
A. That was over 1,000 allotments.

Q. And did you act as a consultant on engineering and --- A. The total planning, engineering and surveying out the firm ---

HIS HONOUR: Q. When was this? A. That was started in 1970.

OFFICER: I thought he said following the Commission's announcement.

30

HIS HONOUR: Yes so did I.

MOORE: No, but prior to the Minister's announcement, it had been made known to the development industry in the 1970's that if we came forward with a known development, we would be given favourable consideration.

HEMMINGS: Q. I think you referred to a seminar earlier at which Mr. Kacirek attended, did you not? A. Yes in November, 1970 Mr. Kacirek made public the confirmation that we had been negotiating with the S.P.A. and the Minister, and the Department of Decentralisation Development, to be permitted to develop large tracts of land, within and without the Sydney Region Outline Plan.

40

Q. And were major companies represented at that seminar? A. Yes.

Q. What companies were represented? A. Stocks and Holdings, Parkes Development, Lend Lease ---

THE LAND AND ENVIRONMENT COURT
PLAINTIFF'S EVIDENCE
NO. 2(i)
MOORE George Edward
EXAMINATION

Q. And were they represented at a high level or --
A. Yes, Mr. Graff(?) was one of the speakers and made a very pointed attack on the Government's lack of foresight in allowing development of land, because we were all so short of land for development.

10

Q. And were there other senior --- A. Yes, Mr. Julius Charody(?) also spoke at that.

Q. He's from Parkes Development, is he not? A. No, he was at that time from Silverton. And there were quite a number of speakers that stressed this point, that we were hamstrung for land for development.

HIS HONOUR: Q. When was this in 1970? A. Yes, in 1970.

HEMMINGS: Q. In 1972 there was an announcement in the press in relation to the release of lands? A. Yes.

Q. And were you aware of that at the time? A. Yes, this was brought about through continual pressures from the Urban Development Institute.

20

Q. Prior to that time had there been some success in obtaining lands to be released, but no general application of any promises? A. Yes there'd been some - and I say that we were successful in this one at Mount Druitt. We were able to get an early release of some land at Menai. My firm, under me, is responsible for just about the whole development of Menai; we have been since 1964 - land was acquired out there in 1964 of the majority of the large developers, of which we were acting for just about every developer that owned land in Menai. But it wasn't till 1971 that it was gazetted for release - in March, 1971.

30

Q. Then did the announcement by the Deputy Premier in December, 1972 have an important effect upon the land development industry and the availability of land for development? A. What it did was give everybody an impetus - some lip service had been given to this fact that if we acquired a large tract of land, that we would get release of it. But following the Minister's - Mr. Cutler I think it was - following his announcement, we looked on the fact that we had been given Government blessing, and that we would have a speed up of acceptance of any proposals.

40

Q. And what was the criteria that -- A. I attended several meetings at the SPA at that time, over a number of projects, trying to get releases, and we had every indication that we would be given speedy release.

Q. And what type of land were you looking for then to meet the requirements for the rezoning or availability

50

THE LAND AND ENVIRONMENT COURT
PLAINTIFF'S EVIDENCE
NO. 2(i)
MOORE George Edward
EXAMINATION

of the land for development purposes? A. Any type of residential land; there was a need for the provision of low cost allotments, and medium priced allotments, and high priced quality allotments. The market was there and this indication was still available, and so everybody went madly looking around, chasing land from one end of Sydney to the other. I remember looking at some land right out the back of - beyond Campbelltown, towards Picton so far out, even to acquire land out there. 10

Q. Mr. Moore you used the words "looking madly", was there a sense of urgency amongst developers in 1973 to acquire large tracts of land? A. Yes, very much, they were running out of stock, and there was a need to purchase more stock. 20

Q. Now did that apply only to land that was shown as proposed release areas under the Sydney Region Outline Plan, or did it show areas of non urban land adjacent to such areas? A. More often than not, it was urban land outside the region, because the land within the zoning of the Sydney Region Outline Plan was by and large fragmented parcels of 5, 10, 15 acre parcels of land, which provided a great deal of problem in consolidation. You make an offer to somebody to buy the 5 acre parcel, and 5 minutes later everybody in the area knows about it, and the price just keeps going up, and up, and up, and up. So it's better if you can go and find a large parcel. Now most of the large parcels were therefore on the fringe of the Sydney Region Outline Plan, or beyond it - tracts out at North Richmond were looked at; areas beyond Kenthurst, places like that were looked at, with an idea that you could put in your own treatment plant, providing water was available; that was the key to most of the development, because without water you couldn't develop it. If you had water, then you could put a sewerage treatment plant in. 30 40

Q. In 1973 in your dealings with clients advising them on land development potential, how did you regard the Sydney Region Outline Plan? A. It had been stated in many seminars that it was a broad brush attempt to control development to those essential services of water and sewerage primarily. In fact statements were made by the SPA that it was based upon the advice of the Metropolitan Water, Sewerage and Drainage Board, of their ability to provide water and sewerage to the areas; and that seemed to be the major constraint. And it was a broad brush line - in fact it became quite a problem at times, when discussing things with councils - any of the councils, to really be able to mark the boundary with any degree of accuracy. 50

Q. And why was that? A. Because somebody had drawn it, as rightly so - it was just a principles' plan.

THE LAND AND ENVIRONMENT COURT
PLAINTIFF'S EVIDENCE
NO. 2(i)
MOORE George Edward
EXAMINATION

Q. Within that - what you called "broad brush outline", when you were called in to look at particular areas, did you find large tracts of the area designed for urban purposes, in fact unavailable for urban purposes?

A. Yes, there were parcels that were included in - were as residential land, because of that broad brush there were areas of swamp land in large creek areas that couldn't be developed; in some areas --- 10

Q. When the engineer looked at the land, even though an area had been marked for urban development, the features of the land were such that an engineer recommended against developing the land? A. Yes, and this dropped whatever the yield was going to be in the area.

Q. And in some areas did you find that the estimates put out by the State Planning Authority for the yield of areas was well below what could actually be achieved? 20

A. Very much so.

Q. Could you give one example? A. I looked at an area - we were developing a large area at Woy Woy/Umina, a big ocean park estate there, that's a thousand allotments, and I did an investigation of the vacant land in the area; and I came up - the Department said that there were 2,000 vacant allotments and I came up, and I could find only about 110 vacant allotments in the existing area. And the council said I was a bit crazy and they then did a reconnaissance of their own, and told me I was wrong, that there was only about 95. And this was an example of the figures that were being supplied to us by the SPA at the time. 30

Q. Then coming back to the Sydney Region Outline Plan, you've told us that your understanding from the concept was that it was tied basically to the provision of services, rather than any other delineation of boundaries?

A. Yes.

Q. Most of the Sydney Region Outline Plan areas shown for urban development would have been within the scope of the Metropolitan Water, Sewerage and Drainage Board, would it not? A. Yes, they were the people that the SPA had conferred with; they made it public time and time again, that they were relying on the advice of the Metropolitan Water, Sewerage and Drainage Board, in the provision of the water and sewerage. 40

Q. And areas that the Water Board said that they could not or did not desire to service, were not generally included in the ambit of future urban areas in the Sydney Region Outline Plan? A. That's correct. 50

Q. Now what about out in the Penrith area? A. The Penrith area is outside the control of the Metropolitan

THE LAND AND ENVIRONMENT COURT
PLAINTIFF'S EVIDENCE
NO. 2(i)
MOORE George Edward
EXAMINATION

Water, Sewerage and Drainage Board. Although the Water Board's area does extend beyond Penrith, because of the original - the fact that Penrith Municipality had a separate Local Government area for the provision of its water and sewerage, it originally pumped water from the Nepean and had its own treatment plant - a sewerage treatment plant. It has operated under its municipality constitution as a separate entity, and the Water Board's Act allows that in Penrith. 10

Q. The areas shown in the Sydney Region Outline Plan in the Penrith area, were also generally those areas that could be immediately serviced or serviced in the future by reticulating to the existing sewerage system?

A. Yes. The Water Board had put in the new - it had put in Bringelly water treatment plant for the water supply. There had also been a new reservoir water treatment back at Walgrove Road, also constructed by the Water Board; and then the sewerage for the area between Bringelly and Walgrove drained to the St. Marys treatment plant, which was under the control of the Water Board. 20

Q. Was the requirement that the developer be prepared to provide all essential services in the policy statement in 1972 very relevant in your assessment as to the potential of the South Penrith area? A. Yes, very much.

Q. When asked to look at the subject land in the preparation of this report, did you regard the subject land and the land surrounding it as being the type of area which would have met the criteria that you understood was laid down by the Deputy Premier in the announcement in December of 1971? A. Yes very much so, it was probably one of the few ideal sites that did. 30

Q. Is that limited only to the Penrith area or is it one of the few ideal sites available to meet that criteria generally in the Sydney region? A. No there were other areas in the Sydney region, it was certainly one of the ideal ones in the Penrith area. It is to a catchment area of sewerage, it is within the catchment area drain into the Penrith treatment. 40

Q. Is there any magic about the figure of 350 acres that was suggested by the State Planning Authority in the announcement as being a minimum area, or about the area required? A. Yes, the magic of that was that during the discussions in order to try and get land released in this manner the Development Institute had put to the SPA and the Minister that they needed a sufficient viable parcel and that's why this area of 350 acres, this would produce a yield of approximately 1,000 allotments. It's in a manageable unit so far as purchase cost is concerned, a manageable unit in regards to having a unit of development in a marketable area, and the cost of - so far as economy of scale is concerned, if you have a --- 50

THE LAND AND ENVIRONMENT COURT
PLAINTIFF'S EVIDENCE
NO. 2(i)
MOORE George Edward
EXAMINATION

Q. You need at least 350 acres do you? A. You need 350.

Q. And what if you had something in the order of 800 acres? A. That would be quite a good size for people to buy, it's again by scale of economy you reduce your development costs in that way. 10

Q. Are there initial costs that you have to incur whether it's 350 or 800 acres but you can spread it out more over the larger area? A. Oh yes there is an initial cost of your investigations and if it's a larger area well you can share that.

Q. I'm going to come back and deal with the subject land in some detail as to its characteristics. I want to now take you to an assessment that you've made of the urban development potential of this land, taking into account all - what you regard as being the relevant factors, and can I hand up a statement headed Urban Development Potential and my friend has got a copy of this. 20

DISCUSSION

HIS HONOUR: Do you want me to make it Z or part of Y?

TENDERED, ADMITTED AND MARKED EXHIBIT Y2 -
SUPPLEMENTARY STATEMENT

HEMMINGS: Q. The first item you referred to in that statement Mr. Moore is the - is prior to gazettal of IDO No. 28 in the September of 1971 it was known to the development industry that that large area of IDO 28 was to be released and extensive purchases had been made and development plans prepared. A. Yes that's true. 30

Q. I show you Mr. Alcorn's copy of IDO 28 which he demands he gets back because it's his only copy.

DISCUSSION

HEMMINGS: Q. Mr. Moore that's Interim Development Order No. 28, would you indicate to his Honour the freeway and then the general direction of the subject land. A. The freeway is a white strip of land between two black lines on the southern boundary of the pink coloured area running east-west, and the eastern boundary is Bringelly Road, the western boundary was an area west of Mulgoa Road generally along the creek which was Surveyor's Creek and the Schoolhouse Creek that came down. 40

Q. And if his Honour looked at the aerial photographs that were tendered one can see this area in the background? A. Yes it's north. 50

THE LAND AND ENVIRONMENT COURT
PLAINTIFF'S EVIDENCE
NO. 2(i)
MOORE George Edward
EXAMINATION

Q. The South Penrith IDO 28 area can be seen in that photograph? A. Yes that's correct.

Q. Up on the top of the photograph? A. Yes that's correct.

Q. That plan shows a large area of pink coloured land, that of course is urban release area? A. Yes that's right. 10

Q. And for what purposes? A. For low-density residential land, detached cottages.

Q. And that land goes right down to the freeway?
A. Yes that goes right to the freeway.

Q. There are some yellow areas which are drainage areas are they not? A. Yes they're drainage reserves.

Q. Those drainage areas don't appear to follow absolutely the path of other creek systems in the area? A. Well it doesn't - it's a straightening of first of all the Surveyor's Creek, it's an attempt to straighten them to take out all the meanders and to provide a sufficient width to contain the designed drainage structures, either open drains or other means of drainage. 20

Q. Is that the same creek system that in part passes through the subject land? A. Yes it does, it's a branch - a branch of that system crosses the freeway at a road called York Road and continues southerly to Garswood Road where it then passes through land into the subject - main area of the subject Tatmar Property. It's not the main branch, the main branch of Surveyor's Creek flows - or rises towards the south-east, through the golf links. 30

Q. You spoke about the straightening-out and the construction of a drainage system within those yellow areas edged in a red line. A. Yes.

Q. Are the other creek areas and flood-prone areas areas that have been proposed to be filled and developed for urban purposes? A. Yes that's so. 40

Q. And does that correspond in quality of land to many of the areas in the subject land which are shown in Mr. Contencin's plan as proposed for urban purposes?
A. Yes the various creek watercourses that are shown on that plan are very similar to the watercourses at the lower reaches of Tatmar's land.

Q. Before we leave the plan, water coming down Surveyor's Creek to enter this drainage system has to

THE LAND AND ENVIRONMENT COURT
PLAINTIFF'S EVIDENCE
NO. 2(i)
MOORE George Edward
EXAMINATION

pass under the freeway? A. Yes it does, in both Surveyor's Creek and the branch at York Road.

HIS HONOUR: Q. Which is Surveyor's Creek? A. Surveyor's Creek is - what's called the main branch of Surveyor's Creek is that timbered line that runs up through the golf links. That's the main Surveyor's Creek, and the branch that I'm talking about, York Road, is this branch that comes up York Road in the middle of the photograph into the subject land.

10

HEMMINGS: Q. Most of the land south of the freeway, which is part of the catchment leading to this part of Surveyor's Creek is merely cleared land and hasn't been substantially developed for buildings or any form of development? A. No that's so, that's true.

Q. However, is the drainage system under the freeway discharging into that drainage system of a capacity to take the urbanisation of the catchment including the subject land? A. Well the culvert in York Road is of sufficient capacity to take the urban development.

20

HIS HONOUR: We're talking now as at 1972 are we, 1973?

HEMMINGS: Yes your Honour.

MOORE: Yes it is of sufficient capacity to take the urban development.

HEMMINGS: I tender that your Honour.

TENDERED, ADMITTED AND MARKED EXHIBIT Z - IDO
NO. 28

30

HEMMINGS: Q. There was activity in the development of the area within IDO No. 28? A. Oh yes, everybody's been patiently waiting for it, plans have been prepared in everybody's office for years waiting on IDO No. 28 to come out, so soon as it came out they were at it hammer and tongs.

Q. And in paragraph 2 you've referred to the statement that that was an indication to the industry that there was no objection to development along and adjacent to the freeway? A. Yes that's so, there was no - the freeway - the noise of the freeway or anything like that was not a hindrance to it.

40

Q. And paragraph 3 you've just told his Honour that the drainage under the freeway and into IDO 28 had been upgraded to such a level that it took - it was of a capacity to take the urban development of the subject land and the catchment. A. Yes that's true.

THE LAND AND ENVIRONMENT COURT
PLAINTIFF'S EVIDENCE
NO. 2(i)
MOORE George Edward
EXAMINATION

OFFICER: I don't think he said that it had been -
under the freeway had been upgraded. The construction
for it was ---

HEMMINGS: Q. Well when the freeway was constructed a
drain was constructed of sufficient capacity not merely
to take non-urban uses but urban uses of the subject
land? A. Yes it was. In fact the DMR provided in
their plans the extension of the head wall to a height
greater than normal, in order that it would give great-
er afflux and head on the culvert so that it would have
that capacity. 10

Q. And (4): you say it was also known that land on
the southern side of the freeway was indicated in the
Sydney Region Outline Plan in a broad sense. A. Yes.

Q. And was to be released at a future date for resi-
dential development. Now what land are you talking
about there? A. I'm talking the land - the indications
shown on the plan extended from Walgrove Road through
to Bringelly Road, south of the freeway, in a broad
sense, and then cut across, as if there was land being
released on the southern side of the freeway. 20

Q. And you say it was assumed with confidence by the
development industry that the services' infrastructure
on the north side of the freeway, would be designed to
provide for the area south of the F4 Freeway, included
in the Sydney Region Outline Plan? A. That's correct. 30

Q. You then say: thus the stage was set in 1971 to
indicate that if a developer acquired land south of the
freeway, within the catchment area of Surveyor's Creek,
that developer would have an outlet to which he would
be able to connect his sewer and the stormwater drainage.
Now why did you underline the catchment area? A. The
catchment area is a topographical feature that is used
for the design of any servicing of a development area.
If you go outside a catchment area, you are draining
into another catchment and other areas, so you create
problems of servicing that; whereas if you stay within
a catchment, draining to an already serviced area, you
have the facilities by which you can, if there are any
deficiencies in sections of it, it is not difficult to
upsized them or bypass them, by normal engineering means. 40

HEMMINGS: We can assume your Honour is familiar with
the scope of the catchment area.

HIS HONOUR: I imagine in a general sense, yes, but ---

HEMMINGS: Q. In very general terms, what do you mean
by the catchment area? A. The catchment area is the
area contained within the ridge lines, where the slope 50

THE LAND AND ENVIRONMENT COURT
PLAINTIFF'S EVIDENCE
NO. 2(i)
MOORE George Edward
EXAMINATION

grades down towards the main water course, could be the broad description of it.

Q. So if we have a bowl --- A. We have a bowl with a ridge around, and that's the catchment, and anything in there can be served by the services coming up through the low points of it. 10

Q. If the major criteria for release of land for urban purposes is the provision of sewerage and drainage, would you expect the limits of a catchment to be the normal boundary of such a release area? A. Yes, definitely.

Q. Now the next paragraph, at (6) you say that the industry would have looked hesitantly at areas outside the catchment, is that for the reason that I've just put to you? A. Yes, that's right. 20

Q. Now you say the catchment area of the Schoolhouse Creek would have been the second choice, and you underline second, why do you say that, and why do you emphasise that Schoolhouse Creek is the second choice?

HIS HONOUR: Is Schoolhouse Creek the one to the west?

HEMMINGS: That's the one right out on the western side, your Honour.

HIS HONOUR: Does it mean the subject land is part in the catchment area of the Schoolhouse obviously, and part in the catchment area of the Surveyor's Creek? 30

HEMMINGS: Yes ---

MOORE: A. The major part of the area drains to the Schoolhouse Creek, and a small area to the west drains to - to Surveyor's Creek, and an area to the west drains to Schoolhouse Creek, and a small section drains to the south to Mulgoa Creek.

HEMMINGS: Would your Honour look at Exhibit D?

Q. Would you have a look at Exhibit D? Now that shows the Schoolhouse Creek, does it not, and indicates the catchment? A. It shows the three catchments; the one that eventually drains into Surveyor's Creek, and the one to the north-west that drains to Schoolhouse Creek, and the small catchment to the rear - to the south that drains eventually to Mulgoa Creek --- 40

HIS HONOUR: Q. It's the south-western? A. Yes, south-west.

HEMMINGS: Q. Does that suggest that the southern

THE LAND AND ENVIRONMENT COURT
PLAINTIFF'S EVIDENCE
NO. 2(i)
MOORE George Edward
EXAMINATION

boundary of the subject land is towards the highest part of the - of a catchment? A. Yes.

Q. And is that very relevant in determining the possibility of obtaining the rezoning of an area of land?

A. Yes it is, because you're getting to the limit of the boundary of the catchment --

10

HIS HONOUR: Q. Is that the water shed line there, is it? Where would that be? A. The water shed line is the line that's shown by a long stroke and a dot - they're the limits of the water shed's drain.

HEMMINGS: Q. And the water would go in opposite directions from that point, is that so? A. Yes, that's correct.

Q. And so that no one, in your approach, will be looking for land on the other side of such a boundary?

A. That's right.

20

Q. There would be a separate catchment and separate problems for sewerage and drainage in those areas?

A. Yes, absolutely.

HIS HONOUR: You mean south from that ---

HEMMINGS: South, yes, or south or east, your Honour, or west.

HIS HONOUR: Q. And what about south of the boundary line, would there be problems with that little bit there?

30

HEMMINGS: You mean on the other side of Bradley Street, your Honour?

HIS HONOUR: I mean in the subject block --

HEMMINGS: That's the wooded area.

MOORE: A. No there wouldn't be any problems with that, because I draw your attention your Honour to the contour lines, because it's very close to the top of the catchment, it's not a very steep area ---

HIS HONOUR: Q. Not much of a steep slope back?

A. Yes, and you would be able to drain your sewerage lines back round and into the other catchments. It's not a large area, it could be treated by either a small pumping station for the very limit - you mightn't be able to drain somewhere down near the contour 50 mark, but you would certainly be able to drain the contour 60 mark back into it without any difficulty.

40

HEMMINGS: Q. And I think also Mr. Moore, because of the

THE LAND AND ENVIRONMENT COURT
PLAINTIFF'S EVIDENCE
NO. 2(i)
MOORE George Edward
EXAMINATION

undulating contours along the northern boundary of the land, you could have drained back from the Schoolhouse Creek area back towards the Surveyor's Creek area, could you not? A. Yes, it's very flat in that northern section, and you've only got about a 10 feet - that you've got to go through the ridge line in order to drain it back, and you would if circumstances arose, you could drain it back into the Schoolhouse Creek area - the Surveyor's Creek area, so far as sewerage is concerned; you wouldn't drain stormwater there. 10

Q. Going back to your statement at paragraph (6): there were indications that in respect of sewer outlet, this will be forthcoming with extensions of that service to Regentville? A. Yes.

HEMMINGS: Q. And similarly stormwater outlet was available to the steep side of graded Schoolhouse Creek, and water would also be available. A. Yes. 20

Q. Now so far as the availability of sewer to the Tatmar land, do similar - does a similar potential for the provision of sewer apply to the other areas west of the subject land, that have been resumed by the Housing Commission? A. As I've said there that the extensions of the service to Regentville would allow development of Kulnamock and Emu Plains land, but the problems - there are some problems with Burnley, in that some of Burnley's land falls towards Mulgoa Creek, and there would need to be quite a long carrier line brought back round through the western side of the hill. And most of the western half of Burnley's land is not good for development anyway. 30

Q. As at 1973 would you have expected, if the land was to be released for urban purposes, that sewer would have been made available by the Penrith City Council? A. Yes, I would assume that would occur. 40

Q. And did you make enquiries to that effect? A. Yes I did. I went to the council and made enquiries, and the council's attitude was that if the land was released, they would provide service to it.

Q. And over what sort of period, would you have expected those services to have been made available - looking at a 5 year, 10 year, 15 year period? A. 5 year programme; the release of any land in here would have been such that you wouldn't have needed sewerage for 2 years anyway. 50

Q. Paragraph (7): areas south of the above catchment were not of interest, because there would not be any sewer outlet available. The area was well outside the vague boundaries of the Sydney Region Outline Plan? A. Yes.

THE LAND AND ENVIRONMENT COURT
PLAINTIFF'S EVIDENCE
NO. 2(i)
MOORE George Edward
EXAMINATION

Q. And you regarded them as being vague boundaries, did you not? A. Yes, proved that in a number of occasions in disputes and discussions with the various councils and the SPA, as to what were the boundaries of the S.R.O.P.. 10

Q. The plan that was released was of a very small scale, was it not? A. The plan that was in the booklet was a very small plan. There were larger plans available to us - to the industry, which we all purchased. Again it's a scale that is very indefinite.

Q. And in any event areas south of the catchment, you say, were being used for extractive industries? A. Yes, there's an extractive industry right adjacent to the southern boundary of Tatmar's land, and there were further extractive industries with access off Mulgoa Road, south - to the south-west of Tatmar, and there was every indication that some of those were going to be expanded, as well as some of them being used for waste fill. 20

Q. And these are over the ridge and to the south, are they not? A. Yes, and in very - it's much more rugged country. It's broken by a lot of branch water-courses in that area.

Q. Did there appear to you to be, apart from the boundary of the catchment, other restrictions as to the likely release area in this locality, such as the extractive industries? A. Yes. 30

Q. Now going to (8): the development industry would not consider the Surveyor's Creek catchment area east of Bringelly Road, and to the south of Wentworth Road, as this area was occupied as special use area by the Commonwealth of Australia for storage of munitions. The main storage area is mainly to the south of the southern boundary of the subject land, is it not? A. Yes, that's correct. 40

Q. And in Exhibit D you can in fact see the road system which is involved in the Commonwealth --- A. Yes, it extends right down to the Sydney Water Board's line.

Q. It's a vast area? A. It's a very large area.

Q. But the main road system and storage area is south of the subject land? A. Yes.

Q. In the period late 1950's and prior to the making of the Sydney Region Outline Plan, did the Commonwealth acquire further land, north of the Munitions area, but generally in the area of the eastern boundary of the subject land? A. Yes, I recall it quite vividly. I 50

THE LAND AND ENVIRONMENT COURT
PLAINTIFF'S EVIDENCE
NO. 2 (i)
MOORE George Edward
EXAMINATION

was carrying out investigations for The King's School; and that was one area that had been offered - a property there owned by people by the name of Livingstone(?). That large area north between the boundary where the munitions are stored presently and Marsden Road was an area owned by the Livingstone family. And that was a site that I carried out contour surveys, investigation and report on behalf of The King's School as a site for The King's School. And during the negotiations about whether it would be a suitable site or not, the Commonwealth took steps to acquire the property, because they wanted a buffer from the explosives area. 10

Q. It's quite a large area of land, isn't it? A. Yes.

HIS HONOUR: Q. Which area is this? A. It's east of Bringelly Road, south of Wentworth Road, and north of - 20

HEMMINGS: It's the area of the words "special use". The Commonwealth boundary came to approximately the line I'm now indicating.

HIS HONOUR: South of the transmission line.

MOORE: Well south.

HEMMINGS: Mr. Moore is going to - later on in his statement is going to give evidence. If the transmission line had kept to the northern boundary of the Commonwealth land before this acquisition, it would have followed the line generally where that broken line is and followed the broken street through. But there was an acquisition of land here, and when the Sydney Region Outline Plan came, the transmission line took a jump around that area - around what has been called a buffer area. 30

HIS HONOUR: Q. What did The King's School want land out there for? A. It was at the time when - I looked at about four sites; one was here, one was down at Wollongong, and the other one was out at Campbelltown.

Q. This is in 1970? A. No, this was around the late 1950's. O'Gowan Bray(?) was the other site that we looked at, and eventually the school acquired that. But the original boundary of the Commonwealth land is shown on that Exhibit D; and it's a bluish-grey line, which passes through just the fringe of the Commonwealth storage areas. 40

HEMMINGS: Q. Going back to the statement, paragraph (9): by comparison in inspection of the sites and examination of the topographical maps, together with assessment of all factors and development industry 50

THE LAND AND ENVIRONMENT COURT
PLAINTIFF'S EVIDENCE
NO. 2(i)
MOORE George Edward
EXAMINATION

would be most anxious to acquire Tatmar in preference to any other site. A. Yes, they would.

Q. And you set out some reasons. You're not saying it's right at the top are you? A. No. There is a lot of the area that is at the top of the catchment area. The western boundary and the eastern boundary are right at the top of the catchment area. So all of the development adjacent to those ridge lines will have minimum drainage. 10

Q. B: elevation will provide attractive home sites with views of the mountains. There are views across the river and towards Lapstone and the Blue Mountains? A. Yes, it's a very, very attractive aspect.

Q. And how does that compare with the release area of IDO 28 in the South Penrith area, on the northern side of the freeway? A. That's a considerable area lower than this. It's down virtually on the flats of the plain - of the flood plain of the Nepean River. The eastern half of it starts to rise gradually towards Bringelly Road. 20

Q. Taking the subject land itself, and comparing the Garswood Road area to the southern area, is the southern area the more desirable area for urban purposes? A. It is; it's the pick of the area.

Q. So lot 6 in the southern area you say is the pick of the area for urban purposes? A. Yes. 30

Q. C: easy topography will ensure maximum yield of the site. How do you rate this particular land so far as easy topography and yield? A. It has no major steep slopes - those slopes that are in the order of 1 in 5, or 20 per cent, that can create problems; getting towards the back of the southern boundary to the south-west, there are some slopes that approach the 20 per cent, but there is a very small section of that. It's nice, easy, undulating, elevated country, which will give you maximum yield to your allotment, because you're not having any waste. Your road construction is in good cross-fall, which doesn't require you to put high batters of cut on one side, and high batters of fill on the other side. 40

Q. Now if you wouldn't mind standing up Mr. Moore, does the model truly depict the undulating and easy topography of the land? A. Yes, it does.

Q. And D: ready access to the main road. Now Bringelly Road is a main road, is it not? A. Yes, it's road that has been raised in standard. If you look at the maps at that time it had been re-aligned, bearing 50

in mind at the time of the freeway there was work carried out in that area; and it was re-aligned right back into Cecil Park, as distinct from Mulgoa Road, which still hasn't been upgraded and it looks to be a long way off yet.

10

Q. Would it be a major distributor which would service the urbanisation of a large area of land such as the subject land? A. Yes, it allows ready access through Penrith to the north; it allows ready access to the south to Liverpool, Campbelltown; and it allows ready access onto the freeway; as distinct from Mulgoa Road, which hasn't any access onto the freeway.

Q. In finding a large area of land to meet the criteria that you are looking to, is easy access to a major distributor an important factor? A. Very much an important factor.

20

Q. Now off Bringelly Road there are a number of public road systems giving access to this land from all corners, is there not? A. Yes there is Bradley Street to the south, and Wentworth Road at the north-east on the southern boundary of the golf links; Garswood Road, which is north of the subject land, would need to - access through adjoining property would need to be connected there.

Q. And in both Bringelly Road and Garswood Road, were you informed that members of the family also held parcels of land linking Garswood Road and the land and Bringelly Road to the subject site? A. Yes, I was informed of that.

30

HEMMINGS: Your Honour I'm now about to move to a separate point, is this a convenient time?

HIS HONOUR: Yes.

SHORT ADJOURNMENT

ON RESUMPTION

HEMMINGS: Q. Going to paragraph (10), you deal now with the limit of the permitted zone boundary. A. Yes.

40

Q. You told his Honour you would approach it on the basis of the zoned boundary being the upper limit of the catchment itself. A. That's so, yes.

Q. And taking into account the best part of the land that is suitable for urban development within that catchment. A. Yes, that's correct.

Q. Now you've been informed that the respondent in

THE LAND AND ENVIRONMENT COURT
PLAINTIFF'S EVIDENCE
NO. 2(i)
MOORE George Edward
EXAMINATION

this case is suggesting that if land was released there would be a boundary, which is the boundary of the electricity easement through the land; you've been informed about that? A. Yes.

Q. As at 1973, and if you had been advising the owners or any purchaser of this land, would it have occurred to you to draw a line of possible rezoning along the transmission easement? A. No, it would not. 10

Q. And why is that? A. Because to take the full advantage of the services and to comply generally with the concept of the Sydney Region Outline Plan, one would go to the catchments that could be served by those services.

Q. Would the transmission line in all the circumstances be a logical boundary for the division of urban development and non-urban development? A. No, it hasn't been so in the past. It's not a hindrance to development. 20

Q. And would it deprive the development of the best land in the immediate locality for urban purposes? A. Yes.

Q. You say that the transmission line itself wouldn't be a detriment to development; are you personally familiar with the development of urban areas through which a transmission line easement, similar to the one on this land, exists? A. I have experience in transmission lines similar to this, and to ones where there are twin towers - double the service that's in this. 30

Q. And do you produce a survey plan of the Rutherglen Estate at Mount Druitt, showing the location of a transmission line through an area wholly developed for urban purposes? A. Yes.

Q. Do you have copies of that --- A. Yes I did have a number of copies of that.

OFFICER: I don't understand any of our witnesses to be saying it's impossible. 40

HEMMINGS: No, we say it's completely illogical.

TENDERED, ADMITTED AND MARKED EXHIBIT AA - PLAN OF RUTHERGLEN ESTATE

MOORE: That has twin 330KV lines going through it, instead of the one 330K.

HEMMINGS: Q. And does the urban development come right up to the boundaries of the easement? A. No, they go beyond the boundaries of the easement, some of the backyards are in the easement.

THE LAND AND ENVIRONMENT COURT
PLAINTIFF'S EVIDENCE
NO. 2(i)
MOORE George Edward
EXAMINATION

Q. The backyards of the residences themselves go within the easement area? A. Yes.

Q. When was this done? A. That was done for the period of about - end of 1971 to 1974. That is the one I referred to previously at Mount Druitt. 10

Q. Are there many examples throughout the metropolitan area where substantial electricity transmission easements adjoin or are part of urban development of land? A. There are many, multitude I think would be the correct expression.

Q. I show you two photographs marked A and B and are those two photographs of land at West Pennant Hills? A. Yes.

Q. Is that electricity easement adjacent to and part of urban development for residential purposes? A. Yes it goes right through urban development near Oakes Road. It is west of Pennant Hills Road. It is the 330 kv line that runs from Carlingford up through North Pennant Hills to Hornsby. 20

Q. Under - within the area of the easement, are there playing fields and also the rear of residential properties? A. Yes.

Q. And are there public roads passing underneath the transmission line across the easement? A. Yes, the easement is used fully most of the way. 30

HEMMINGS: I tender those two photographs.

OFFICER: No objection.

TENDERED, ADMITTED AND MARKED EXHIBIT AB - TWO PHOTOGRAPHS A & B

HEMMINGS: Q. I show you two photographs marked C and D and does that show a transmission easement immediately adjacent to dwelling houses showing public roads passing across the easement and underneath the transmission lines themselves? A. Yes that's part of the transmission line, part of the Francis Greenway Estate, that's Hooker's estate in West Pennant Hills. 40

HEMMINGS: I tender those two photographs.

TENDERED, ADMITTED AND MARKED EXHIBIT AC - TWO PHOTOGRAPHS C & D

HIS HONOUR: Yes.

OFFICER: No objection.

THE LAND AND ENVIRONMENT COURT
PLAINTIFF'S EVIDENCE
NO. 2(i)
MOORE George Edward
EXAMINATION

HEMMINGS: Q. In all the circumstances that you have described that would have influenced you as a consultant as at September 1973, you would not have regarded - or would you have regarded the transmission line as being any division of the area within the subject land likely to be rezoned or available for urban development?

10

A. No, I wouldn't have regarded the transmission line anything other than a constraint so far as the development of part of the land.

HEMMINGS: If we can approach the model, if your Honour pleases?

HIS HONOUR: Yes.

HEMMINGS: Q. This model and this layout is not a layout that has been prepared by yourself? A. No it was not.

20

Q. This was presented to you as work by someone else that was advising the companies prior to the resumption? A. Yes, that's correct.

Q. However does the use of the transmission easement in this model demonstrate the constraint on the land and how it is used as part and parcel of the urban development? A. Yes it does adequately show the constraint and it then adequately shows the uses made of that area for both recreation and for parking uses that would be permitted, under it.

30

Q. Would you briefly outline those? A. There are some areas of playing fields in the south of the transmission line in about a quarter point to the west and in the centre of the area adjacent to the hotel and commercial area.

Q. Does that model demonstrate the likely way that consultants would have recommended the development of this land for urban purposes? A. Yes. It is a method. Other people might change views in respect of some siting of the community or commercial areas but it is a workable concept. The differences that I have stated are just personal consultant's views about things.

40

Q. I show you a photograph lettered E. Is that an aerial photograph of the Mount Druitt Rutherglen Estate which shows the urban area and the transmission easement indeed passing through that estate? A. Yes, that's correct.

Q. Does it show the easement being available and used for open space purposes? A. Yes.

Q. Playing fields and the like? A. Yes, all activities of recreation is being carried on.

50

THE LAND AND ENVIRONMENT COURT
PLAINTIFF'S EVIDENCE
NO. 2(i)
MOORE George Edward
EXAMINATION

HEMMINGS: I tender the photograph.

OFFICER: No objection.

TENDERED, ADMITTED AND MARKED EXHIBIT AD - AERIAL
PHOTOGRAPH

HEMMINGS: Q. Now in fact to the east of Bringelly Road, 10
the urban development does in fact coincide with the
location of the transmission easement, does it not?

A. Yes.

Q. And you set out at paragraph 10 some observations
that the transmission line in that locality does coincide
with the boundary? A. That's correct, yes.

Q. The area to the east includes St. Clair, does it
not? A. Yes.

HEMMINGS: Your Honour, for the purposes of this explana- 20
tion, might we approach the easel?

HIS HONOUR: Yes.

HEMMINGS: Q. Mr. Moore, would you indicate the
Erskine Park and St. Clair area? A. This is this area
in here. That's the St. Clair ---

HIS HONOUR: Q. This is on exhibit G I take it?
A. Yes, that's the area coloured pink and that is
that area in both sizes.

Q. What, the area coloured pink? A. It is coloured
pink and the land either side - the area is called - 30
that's the St. Clair and Erskine Park area.

HEMMINGS: Q. In paragraph 10(a)(1) you say in that
area there were topographical features to extend to the
transmission line? A. Yes.

Q. Will you explain that? A. Generally the ridge
line again the catchment that drains north-westerly to-
wards South Creek and the freeway, the limit of that
catchment is very close to the transmission line.

Q. As you proceed to the west, you come to the Special
Use area in the Wentworth Road area, do you not? 40
A. Yes that's correct.

Q. What do you say about that? A. That's a restrict-
ed area so while it is now zoned as Special Uses and
is a Commonwealth property, by dictate the transmission
line would be located outside an area because you can't
resume an easement through Commonwealth property.

THE LAND AND ENVIRONMENT COURT
PLAINTIFF'S EVIDENCE
NO. 2(i)
MOORE George Edward
EXAMINATION

Q. You say: The area south of Wentworth Road and slightly east of Bringelly Road was within a drainage catchment of extensive dimensions? A. Yes.

Q. Flow into Blaxland Creek and thence to South Creek?
A. Yes that's the area, including the Commonwealth land and the land to the east of the Commonwealth land --

10

Q. Would you please indicate that? A. Yes. It is indicated here as the Special Use land, as the land drains back down into - in a north-easterly direction and then east of the Commonwealth land and beyond Stockdale Street, you are coming into another catchment that also drains - that's reedy, I think it is, if memory serves me correctly, and these are very long drains that come well ---

HIS HONOUR: Q. Drains which way? A. They drain right back to almost Cecil Park.

20

Q. South-west? A. Yes. And their western limit of catchment is Bringelly Road and they drain - the southern limit of their catchment is down near Elizabeth Drive near Cecil Park, a very large catchment and an area broken by a lot of flat and low lying area in the area near the transmission line.

HEMMINGS: Q. Then at page 4: (b), you say: West of Bringelly Road, that's when you come into the area of the subject land? A. Yes.

30

Q. You say that presents a different and more attractive proposition to suggest that the southern limit of urban development should extend to the limits of the catchments of Surveyor's Creek? A. That's correct, yes.

Q. Firstly you draw attention to the ridge line. Would you indicate that? A. The ridge line is generally on the southern boundary of Tatmar and extends slightly south of that; as you come south of Penrith Pastoral Company's land, the ridge goes out from the boundary of Tatmar but comes back in again and follows northerly along the boundaries and boundary of Penrith Pastoral Company and Tatmar towards the golf links.

40

Q. Does the southern alignment of that ridge line approximate the distance south of the freeway, that's the St. Clair Estate approximates from the - distance from the freeway? A. Yes it does. It is approximately the same distance south of the freeway.

Q. And in (2) you say: The area south of the transmission line was the most attractive and sought after part of the site? A. Yes.

50

Q. And I think you dealt with that because of its

THE LAND AND ENVIRONMENT COURT
PLAINTIFF'S EVIDENCE
NO. 2(i)
MOORE George Edward
EXAMINATION

elevated nature and its advantages for costs of drainage and sewerage? A. That's correct, yes.

Q. Third, you say: The downstream services infrastructure would be available? A. Yes.

Q. What's that? Is that the drainage under the freeway? A. The drainage under the freeway and the drainage north-easterly towards - eventually towards the Nepean River. 10

Q. (4) you say: If the development was to be restricted to the transmission line in the first instance of release, and the very many merits of the development basin to the limit of the catchment would be used to persuade the planning authority for extension of the zone? A. Yes, and would use that.

Q. Yes. And the parcel, lots 5 and 6, have access to Bringelly Road? You've dealt with that? A. Yes. 20

Q. Thank you. Would you return to your seat? Now at the bottom of page 4, you say: the development of Tatmar was independent of others. Now what is the significance of that? A. If we take the land to the west of Tatmar, that is the lands owned by Burnley and Emu Plains, and Kulnamock; these were all interdependent upon each other for many reasons. Emu Plains land had a very restricted access to the east - to Luttrell Road, requiring a problem of purchase or a problem of construction of a difficult access to it. It had almost an impossible access to Mulgoa Road. There was a parcel of land with only 20 feet of frontage to Mulgoa Road, with adjoining lands either side. Burnley, which was to the west, did have about 50 feet frontage to Mulgoa Road but the very nature required - because it was a narrow strip also required co-operation with Emu Plains -- 30

Q. Mr. Moore I'm going to take you to each of these properties in some detail later. A. They were necessary that they would be combined. Any of the small allotments north of Tatmar would need each other, in order to develop an adequate and satisfactory pattern of residential development. They couldn't be developed independently. 40

Q. But the subject site - the Tatmar, together with the Penrith Pastoral land, presented itself as an independent site capable of redevelopment? A. Absolutely.

Q. And over the page at page 5, paragraph (6), you then deal with the very size of the parcel. In the period of 1973, you've told us developers were most anxious to acquire large parcels of land. A. Yes, very much. 50

THE LAND AND ENVIRONMENT COURT
PLAINTIFF'S EVIDENCE
NO. 2(i)
MOORE George Edward
EXAMINATION

Q. And was there a real problem in finding large parcels in the one ownership? A. Very difficult.

Q. And why was that a problem? A. Most of the land had been fragmented, within close proximity to the developed areas of Sydney. There had been a continual fragmentation of 5 acres, 20 acres, 25 acre parcels over the pre-Sydney Region Outline Plan. So you had to acquire each of these small parcels to put something together. About the only areas that seemed to be available were large areas out round the back of Schofields, some large areas out there owned by the Peel(?) family. Some of the land out there had been acquired; even small parcels put together with great difficulty, but you could never get them joined up, because the chap in the middle would stick out. The few other areas were owned by institutions.

Q. To a developer seeking to acquire land, would such a large parcel as this, being effectively in the one ownership, would that have given it special attraction to a developer in your view? A. A great attraction.

Q. Now (7), you talk about a final incentive was the fact that in 1972/1973 the development industry was in a desperate situation. Now do you want to add anything to what you've said already, as to the position that developers found themselves in, in an attempt to acquire land for their development purposes? A. No, I think I've adequately covered that.

Q. And finally in (8), you say that there are a large number of examples of release of land designated for urban development, outside the Sydney Region Outline Plan. A. Yes, there are areas on the other side of the Nepean River, in the areas of Leonay, the Emu Plains area ---

Q. That's just across the bridge on the exhibit that we can see on the east, is it not? A. Yes, that's on the east where the freeway finishes, and some of the land is split by the - where the freeway finishes, to the south and the north were areas that were not designated under the Sydney Region Outline Plan.

HIS HONOUR: Q. Just a bit to the north of - you mean this area here? A. On the other side of the river, there.

HEMMINGS: Q. His Honour did indicate Regentville, did he not? A. Yes.

Q. And has there been areas of land released at Regentville for urban development, which also were not shown in the Sydney Region Outline Plan? A. Yes, there were.

THE LAND AND ENVIRONMENT COURT
PLAINTIFF'S EVIDENCE
NO. 2(i)
MOORE George Edward
EXAMINATION

Q. And that land is contiguous with the sales in this area? A. That's correct.

Q. Are there other areas - I'm not asking you to go through a long list of them? A. Yes, there was quite a large area in the northern sector of Menai. Menai had a broad brush designation on it; but there was an area north - in the northern part of Menai, adjacent to Alford's Point, which was designated for open space, and was out classified for that, it has been released for residential development. 10

Q. Is there a large residential area at McGraths Hill? A. Yes, McGraths Hill was another area that was outside the Sydney Region Outline Plan.

Q. And to bring you a bit closer to home at St. Clair, has there been land released for urban purposes, which was indicated for purposes which would have prohibited dwelling houses? A. Yes, the area south of St. Clair was zoned, or shown on the Sydney Region Outline Plan as industrial. There was a strip of industrial land from Erskine Road across to Mamre - that's what it appeared on the plan; a section of industrial land. Now that was changed and released for residential purposes. And at the time they changed an area that wasn't in the release, which was adjacent to Mamre Road, they changed that to industrial; and now it is being changed to residential. 20 30

Q. In summary, in your opinion, as at 1973, what was the urban potential of the subject land for development at some time in the future for urban purposes? A. It had a high potential for development in the future.

Q. And do you regard the subject land as being inconsistent in urban development with any of the broad principles of the Sydney Region Outline Plan? A. No, I don't see any inconsistency in the development.

Q. Can I go to your original statement, which deals primarily with the subject land, Exhibit Y1? Now you probably don't need to go into a lot of the detail that you have, because you touched on a number of these matters already, have you not, when dealing with Y2? A. Yes. 40

Q. Now going to factors on page 3, you do regard it significant that the catchment basin is almost totally within the subject land, do you not? A. Yes.

Q. That's a very important factor as far as you're concerned, in the eyes of someone wanting to develop for urban purposes? A. Yes, very important. 50

THE LAND AND ENVIRONMENT COURT
PLAINTIFF'S EVIDENCE
NO. 2(i)
MOORE George Edward
EXAMINATION

Q. And you say hydraulic problems are minimal.
A. Yes.

Q. Are you suggesting there that there are no hydraulic problems at all, or are you directing your attention as to whether there are problems that one would not expect to find in country as the kind that you're dealing with? A. Yes - when I talk about problems are minimal, they would only become major problems of hydraulic problems, if they were something outside the general circumstances that one would find in an urban residential development - something special; and there are not any problems that are outside that. 10

Q. It's just the normal subdivision exercise?
A. Absolutely.

Q. And you set out the ridge lines of the subject land, and that is shown in the map attached. A. Yes. 20

Q. Now if you can go to that? The ridge lines, of course, are the arrowheads, are they not? A. Yes, that's correct.

Q. And the intermediate ridge lines can be followed if one looks at the model, and the model follows those ridge lines, does it not? A. Yes.

Q. But the major ridge line which forms the catchment, is around basically the perimeter of the land itself? A. Yes. It's partly inside, and then partly outside the property. 30

Q. Now the area of land which has been hatched near Surveyor's Creek, and the word "flat" written thereon, is that the area that is presently, because of the non-urban nature of the land, is subject to creek erosion and flooding? A. Yes, that's right.

Q. Is there anything special about that area of land?
A. No, it's not heavily disturbed and it is a normal feature that one would expect in the lower parts of a catchment. 40

Q. You've referred to IDO No. 28, it has been tendered. Is that area of land that you've indicated and called flat, similar to those areas in IDO 28, that have been drained and graded and used for urban purposes?
A. It's a better quality area of land than the lands either to the north of the subject land, or to the - that's within IDO 28. There are some very marked scoured areas of IDO 28, which have been converted for residential use; and they're heavily scoured from the aerial photographs that were available before development occurred. 50

THE LAND AND ENVIRONMENT COURT
PLAINTIFF'S EVIDENCE
NO. 2(i)
MOORE George Edward
EXAMINATION

Q. You're not criticizing the development of the IDO 28? A. No, I'm not. But I'm just saying that the advantage - the subject land of Tatmar is one with less problems and is a far better in a far better state than what the land was in IDO 28.

10

Q. Going back to your statement, you talk about the ridges are flat and the slopes, and you describe it as easy, ideal form for residential development. A. Yes.

Q. You then deal with the watercourses, do you want to add anything further to what you've said about the watercourses already? A. No.

Q. Page 4: no difficulty would be anticipated in desilting of the dams and the restoration of the scours, you've dealt with that already? A. Yes.

Q. And road crossings would be without difficulty. A. Yes.

20

Q. The area within the major watercourse is ideally suited for development as active recreation space. A. Yes, ideal.

Q. On the last page of the A.A. Heath and Partners report, which is Exhibit T, it does show how those areas can be incorporated for recreation purposes? A. Yes, it's also shown on the model.

Q. The model indicates it, and you've referred to it, and this plan also indicates that? A. That's correct.

30

Q. And is that the normal way one would go about designating such areas in subdivisions? A. Yes. One would treat those areas as recreation. The degree or width of them will depend upon final determinations.

Q. That's provided that they are relatively level or undulating areas as distinct from steep sided drainage courses? A. Yes. In those flat areas the cost of moving the soils is a reasonable cost and the grades or the slope of the land is such that it is easy to develop detention basins to provide recreation facilities.

40

Q. The areas affected represent about 7 per cent of the total area? A. Yes.

Q. It is normal to provide about 10 per cent of land for active and passive recreation? A. Yes, that's a basic measure.

Q. In the Heath plan as indicated by the model, have you looked at the areas designated by that consultant

THE LAND AND ENVIRONMENT COURT
PLAINTIFF'S EVIDENCE
NO. 2(i)
MOORE George Edward
EXAMINATION

for recreation areas in relation to the likely yield for urban purposes? A. Yes.

Q. It is normal to provide about 10 per cent of land to meet Council's requirements for open space purposes, is it not? A. Yes.

10

Q. Has the consultant, as indicated by that model, allocated 50 per cent more than would normally be required? A. Yes, there is about 15 per cent of the site provided for open space purposes.

HIS HONOUR: Under the Heath plan?

HEMMINGS: Yes.

HIS HONOUR: Instead of the usual 10 per cent?

HEMMINGS: The usual is 10 per cent. He has actually provided 15 per cent.

Q. You talk about the slopes, the road construction will be easy with the minimum of cost? A. Yes.

20

Q. And you believe that the costs of roads because of the easy country would be similar to the St. Clair costs? A. It is a very similar type of catchment, of terrain, nice easy gentle slopes right at the head of a catchment which St. Clair was, or is, and it is very much a comparable example.

Q. Is a factor such as that important to a developer when looking to assess the desirability of acquiring land for urban development? A. Yes.

30

Q. Downstream drainage represents a problem of disposal in respect of the main discharge through land to Garswood Road. A contribution to Council for this work is envisaged at a rate similar to that for St. Clair.

A. Yes, similar sort of circumstances applied at St. Clair.

Q. That's normal procedure, is it not? A. Yes, normal procedure.

Q. As to that draining to Schoolhouse Creek at Luttrell Street, by the very nature and steep sides of that creek, it is considered it should be left in its natural state. Schoolhouse Creek, as it goes off to the north-west, is of a greatly different character, is it not, to the creek system through the subject land?

40

A. Yes. As it leaves the subject land, it is in a very steep and - very steep sides and it is deep, it has scoured over the years, and it is quite steep falling into it, and it should be left in its natural state with

THE LAND AND ENVIRONMENT COURT
PLAINTIFF'S EVIDENCE
NO. 2(i)
MOORE George Edward
EXAMINATION

some - one wouldn't pipe it or carry out any works in any way except to do some remedial works to stop any further scour.

Q. The land generally is open and grassed with very scattered isolated shade trees. In the south-western corner stands a reasonable area of medium timber? 10

A. Yes.

Q. This stand of timber does not restrict the development but will give an alternative relief in the development pattern being elevated on the ridge line? A. Yes, an ideal relief.

Q. And Heath and Partners have taken note of this?

A. Yes.

Q. You agree with what they have done in that regard?

A. Yes I do. 20

Q. Access, I think you've already dealt with access, have you not, in your ---

HIS HONOUR: Is Bradley Street - is that on the south-eastern end?

HEMMINGS: Yes your Honour.

HIS HONOUR: It goes to Bringelly Road?

HEMMINGS: Yes your Honour. If your Honour would look at the map accompanying Mr. Moore's report, it does show Bradley Street.

HIS HONOUR: Which map? 30

HEMMINGS: Sheet 1, that's the subject land and it shows Bradley Street in its correct position, coming off ---

HIS HONOUR: I see, it runs ---

HEMMINGS: It is the south - it goes along the southern boundary of the subject property, your Honour.

OFFICER: I think on the aerial photographs the track is shown as wandering off the side of the road.

HEMMINGS: Once you get towards the west, it merely leads into urban land but - non urban lands, I should say. 40

Q. Then item 3 - you deal with the power line. Do you need to say any more about that? A. No, I don't.

Q. And services, do you need to say any more about

THE LAND AND ENVIRONMENT COURT
PLAINTIFF'S EVIDENCE
NO. 2(i)
MOORE George Edward
EXAMINATION

that? A. No, I don't believe that I need to amplify my remarks on it.

Q. The type of enquiries --

HIS HONOUR: Q. Can you tell me this? You say on page 6: The reticulated - perhaps you have passed that, have you? You are still on 4. Reticulation of this site would again be a costly development. At the time of the resumption - \$1 developer - what's that? 10

A. A \$1 developer contract was a thing that the development industry succeeded in 1965 obtaining out of the Water Board the right to - instead of paying their contribution in money to the Board and letting the Board do the work because we found the Board was so far behind in getting the work done and so costly, the Board gave the developers the right to carry out the work under their own design subject to the Board's approval of the design and by means of their own contractors. By that method, we shaved the costs by - from - well in one instance at Menai, the Board's quote to us was \$800,000 and we got the work done for \$160,000. 20

Q. And that's called the \$1 developer --

A. The \$1 developer contra. You paid the Board \$1 to do the work as a - to further the consideration of the contract. 30

HEMMINGS: Q. You have told his Honour already that you had made enquiries as to the likely supply of water and sewerage when development was likely to take place? A. Yes.

Q. And you satisfied yourself that there was no real problem in that regard? A. I made enquiries at the Water Board and at the Council in respect of those matters.

Q. Have you seen a memorandum dated 5th December, 1972, from an engineer employed by the respondent as to the nature of enquiries he made and assessment of the facility for the provision of water and sewerage to the subject land? A. I have seen that document, yes. 40

Q. Does that document set out the nature of the enquiries that one would make or the extent of the enquiries that one would make? A. I think this is a notes - it would appear that this is notes from somebody in the Water Board. I don't think these are Housing Commission - engineer. If I remember, it is an old friend of mine's signature, I think, he was an inspecting engineer of the Water Board. 50

Q. I see. These are documents supplied to us by the

THE LAND AND ENVIRONMENT COURT
PLAINTIFF'S EVIDENCE
NO. 2(i)
MOORE George Edward
EXAMINATION

respondent. Maybe they can be identified. It came out of file LA7770, whatever that is. I am told it is a file on our property, it's - we believe it may be a report from the Water Board to the Housing Commission as to the availability of water and sewerage to this land. It is from the Water Board to the Housing Commission.

10

HIS HONOUR: Yes.

HEMMINGS: Q. On the assumption that is advice from the investigating engineer of the Water Board to the Housing Commission as to the nature of the enquiry and the likely results of enquiry as to sewer, does that accord with what you would expect and what you found from your enquiries? A. Yes.

HEMMINGS: I tender that document.

OFFICER: No objection your Honour.

20

TENDERED, ADMITTED AND MARKED EXHIBIT AE -
MEMO OF 5/12/72 FROM WATER BOARD TO HOUSING
COMMISSION.

HIS HONOUR: Yes.

HEMMINGS: Q. You have a view which appears to be confirmed by this report that there is no real problem with the provision of sewer and water to the subject land? A. Yes. There are no problems.

Q. Going back to page 6 of your report, you refer now to the development plan prepared by A.A. Heath and Partners? A. Yes.

30

Q. And you say that the plan has been prepared sympathetic to the site factors? A. Yes.

Q. That proposal, as you indicated when you were looking to the model, reflects the opinion of the particular consultant that prepared that plan? A. Yes.

Q. And you are asked by developers to offer your views regularly on the adequacy of a layout of an urban subdivision such as this? A. Yes I am.

Q. If you were asked to look to the appropriateness of development, you would make a few minor changes to the plan as prepared by A.A. Heath and Partners, would you not? A. Yes I would.

40

Q. And are they minor alterations? A. Yes they are, they are only minor alterations in respect of the width of the drainage area, that and the siting of the school. I think the school is too far south of the main body of --

THE LAND AND ENVIRONMENT COURT
PLAINTIFF'S EVIDENCE
NO. 2(i)
MOORE George Edward
EXAMINATION

Q. You generally approve of his layout or the layout but you would have made certain minor adjustments?

A. Yes.

Q. Have you got a plan that indicates the minor adjustments that you would have recommended? A. Yes.

10

Q. You have it there? A. Yes.

HEMMINGS: I tender that plan and Mr. Moore will talk to it, if your Honour pleases.

Q. Mr. Moore, one can see that generally there is an identical road pattern as recommended by A.A. Heath and Partners? A. Yes, generally that pattern is satisfactory.

Q. And also in the vicinity of the transmission line, you include uses such as roads, car parking and open space purposes? A. And some residential intrusion into it.

20

Q. Similar to that which occurred at --

A. Similar to that that I did at Mount Druitt.

Q. At Mount Druitt and also as has happened at Pennant Hills and other places? A. Yes that's correct.

Q. Is the main difference, if I can call it that, first of all the open space area in the vicinity of Surveyor's Creek north of the transmission line? A. Yes.

Q. And you have a wider area there? A. Yes I have widened that there. I think that is necessary.

30

Q. South of the transmission line, you have relocated the shopping centre and -- A. Slightly, yes.

Q. Slightly and some of the playing fields? A. Yes I have brought them close to - they need to be adjacent to the school and I have brought them also close to the transmission line to give further additional facilities for recreation.

Q. Have you located the school, the shopping centre and the playing fields generally in the one precinct?

A. Yes that's correct.

40

Q. And is that a desirable concept as far as you're concerned? A. Yes it is.

Q. And then upstream you have some town houses?

A. Yes.

Q. And other than that is the plan basically similar

THE LAND AND ENVIRONMENT COURT
PLAINTIFF'S EVIDENCE
NO. 2(i)
MOORE George Edward
EXAMINATION

to the plan prepared by A.A. Heath and Partners?

A. Yes the general reason for the town houses and that drainage up there is that the drainage of the upper reaches of the catchment will be collected within the road patterns; that's the road that's running from the southern boundary in a north westerly direction would intercept that watercourse and would be converted into drainage within the pipes within the road and then converted to a point where it would join the branch catchment that flows from the south west and then we would join and dissipate that out into the open area between the swimming pool and the shopping centre. That would be a pattern because your pipes are underground to those points anyway. 10

Q. If someone is buying land for urban purposes are they very concerned about the likely yield of the land? 20

A. Yes they are.

Q. And how does the yield from your recommendations compare to the yield under Heath's recommendations?

Q. I would look to about a 10 per cent - my feeling is that there is a - taking on my areas that I've done an assessment of this there's approximately 3,000 residential allotments in this plus about 170 of the 2,000 - or half acre blocks in the south west corner compared with Heath's plan shows about 2,500 - 2,600 I think it's somewhere in that order and at about 180 half acre sites. 30

HIS HONOUR: Q. You were going to say, in the south --

A. South west corner is where the larger blocks are. By and large there's at least a 10 per cent yield over and above Heath's plan. I think Heath was generous in the first appraisal of the development.

HEMMINGS: Q. In the plan that you now have before you --

HIS HONOUR: Incidentally which is exhibit AF. 40

TENDERED, ADMITTED AND MARKED EXHIBIT AF -
MODIFIED PLAN OF HEATH'S MODEL

HEMMINGS: Q. And the final plan showing allotment boundaries and street layouts which is the final document in exhibit T which is the Heath and Partners recommendation, is that the last document in a long and detailed and refined process? A. No it's not.

HEMMINGS: Q. How long would it take? A. Once you would get the approval in principle for the re-zoning of the land all that the authority would designate on the plan would be the open space areas and the rest would be shown as residential, possibly the internal 50

THE LAND AND ENVIRONMENT COURT
PLAINTIFF'S EVIDENCE
NO. 2(i)
MOORE George Edward
EXAMINATION

open space areas wouldn't be shown on the re-zoning plan. Now you would be then coming to further detail, you would enlarge the plans and do a more - enlarge details of each one of these precincts.

Q. And would the developers be likely to proceed in stages? A. Definitely. 10

Q. Now it's been suggested that because of the transmission easement that a staged development would be the - if I could call the northern sector north of the said transmission easement, from an experienced land developers point of view would you relate stage development to a transmission easement or would you relate it to the physical characteristics such as the catchment - or the catchments on the land and the drainage restraints?

A. Well you'd relate it first of all to the means of access because it's the first thing, if you can't get on to your property you don't think about the development so the first thought is that you've got available to you on the east Wentworth Road and Bradley's Road, so your development would either proceed from Bradley's or from Wentworth would be the commencement of your accesses; bearing in mind that each of those areas are limited drainage problems, they're up on the ridge line, you would start on the eastern side either from Bradley's or from Wentworth. Wentworth has an added attraction in that land backing onto the - above the golf links has the advantage of the views to the golf links. This is also ideal land down where Penrith - the Penrith Pastoral Company's area is and so that's where you would develop and would start and move westward. 20 30

Q. Well you'd develop the eastern side of the Surveyor's Creek catchment as a stage and then you'd proceed in a westerly direction? A. That's correct yes.

Q. Is it inconsistent with what you accept as being proper practice to develop as one section what appears to be that long, narrow, section of the northern part of the land? A. No, no you wouldn't attempt to do that because it has access problems for a start, it only has the one access and it also will involve you in a far greater drainage circumstance at the start than what these others because if you develop - if we develop say 300 allotments in the south eastern corner we can dissipate and control drainage such that it would be exactly the same circumstance of drainage reaching the northern corner without their going to a lot greater expense of construction. And so you can manage it within your own land and that's why you would tend to develop on that side. 40 50

SHORT ADJOURNMENT

THE LAND AND ENVIRONMENT COURT
PLAINTIFF'S EVIDENCE
NO. 2(i)
MOORE George Edward
EXAMINATION

ON RESUMPTION

HEMMINGS: Q. Mr. Moore in the development of a final plan showing a lot layout and position of roads etc. as is indicated by the model, are there various steps that are taken in the completion of such a proposal? 10

A. Well you start off with a very broad principles plan which would be a principles plan related to associated and adjoining land in order that one may look at the through road patterns the provision of community facilities, in order to relate it to existing areas and then you would start from that by negotiation, discussions with council, service authorities, and you may blend and mend that and then you'd do another plan and then when you got the general outline started you'd then come back and deal with your own area. You might have several plans for that. 20

Q. And when preparing such a concept plan in the initial stages if one was looking to the re-zoning of say the subject land, would you look to the effect that that development, that is the subject land, would have upon adjoining land? A. Yes you would.

Q. And would you seek to show that the development of the subject land would be compatible with the likely development of adjoining land? A. Yes that's the basis of it. 30

Q. And in the early stages would you look to that compatibility of a wider area before you ended up with the development proposal for the subject land itself?

A. Yes, you'd still have your concept of what you were trying to do on your own land but you would relate that to the others so that you could weld it and bend it to suit your own purposes.

Q. I show you a plan prepared by A.A. Heath and Company of July 1973 for the lot layout of the subject land? A. Yes. 40

Q. And that shows the development of the subject land itself in lot 4? A. Yes it does.

HEMMINGS: I tender that.

OFFICER: No objection your Honour. My friend tells me it is identical with the one at the back of ---

HEMMINGS: I haven't checked that personally. I believe it's either identical or very similar. I haven't checked it.

TENDERED, ADMITTED AND MARKED EXHIBIT AG -
HEATH'S LOT LAYOUT PLAN

50

THE LAND AND ENVIRONMENT COURT
PLAINTIFF'S EVIDENCE
NO. 2(i)
MOORE George Edward
EXAMINATION

HEMMINGS: Q. Now before you reach the stage as shown in that plan exhibit AF, you said a principles plan would be prepared showing how development of the subject land could be linked in with adjoining land to show that one is not incompatible with the other? A. Yes.

10

Q. I want to show you three plans. I show you this plan as - No. 1650 marked on it and it's plan - dated 3rd May, 1973 and it's called: Proposed Land Use and Road Network Plan Blue Hills Area. Is that right?
A. Yes that's right.

Q. And this plan shows the - in principle form urban development beyond the subject land? A. Yes it's an area extending to the Nepean River and to the freeway.

Q. And is that what you were describing as being a first step to show the compatibility of the development of the subject land with its environments? A. Yes that's the first --

20

Q. And I put it to you it was a principles plan, is that how you describe it? A. Yes it's a very basic principles plan.

HEMMINGS: I tender that.

DISCUSSION

HEMMINGS: They follow a certain order your Honour.

Q. Now the next plan I show you has an identification in the top left hand corner of 1646. It's dated the same date but it's called: A Structure Plan South Penrith, but it shows contours does it not? A. Yes they're very rough form lines they are, contour - it differs from the other plan in that it only goes to Mulgoa Creek or stays back into the usable area.

30

Q. But it shows the road patterns within the subject land but it indicates how it could link up with a road pattern of major roads in adjoining land? A. Yes. That's correct yes.

HEMMINGS: I tender that.

40

Q. And then a further plan - this has a number - identification number 1645 in the top left hand corner, and this is a structure plan, but there are some amendments in this plan are there not? A. Yes. It is a refinement on the last plan.

Q. Well what is the process that brings about refinements to a plan such as this? A. Well it is following the very first plan that has been prepared,

THE LAND AND ENVIRONMENT COURT
PLAINTIFF'S EVIDENCE
NO. 2(i)
MOORE George Edward
EXAMINATION

that was the first part of this bundle, was a very rough preparation, it had been prepared by the look of it by somebody who didn't really know a great deal about contours or physical features, then it would appear that what you do, if you do a rough layout first of all, of your structure plan, you have discussions with local authorities, with the planning authority, with the service authorities, and from that you then amend your plan, following discussions with them, or with other consultants that may be employed to assist you in your plan, and so after all of that exchange of ideas, you then firm up a plan, and then you would have another look at it and then you might firm up a third or fourth plan, but it is a step process of getting down to a workable structure. 10 20

Q. Now this structure plan that you have in front of you now, it bears the same date as being originally drawn, but there has been a refinement at some stage after the initial preparations? A. Well I think that what it is, what you generally do, although there should be normally people would show amendments to it, but it is a base plan has been prepared, and that refers to the actual base plans without all of the colouring or heavy lines on it, and then all you do is print a number of those transparencies on that base plan, and you do all your work on the series of those. 30

Q. And this plan has obviously been refined from the original concept? A. Yes it has.

Q. And does this plan also show a road pattern for the subject land that indicates how a public road system could be introduced in adjoining land? A. Yes, I think so.

HEMMINGS: I tender that.

OFFICER: When your Honour is finished with them may I have the last three back please? 40

HIS HONOUR: Yes, certainly. All these documents will form part of the one exhibit and become AH.

TENDERED, ADMITTED AND MARKED EXHIBIT AH -
BUNDLE OF DOCUMENTS.

HEMMINGS: Q. And are each of these plans a step in the process of developing a final plan for the subject land itself as indicated in exhibit AF? A. Yes, that is part of the process onto that, AF, or the plan there may not be your final plan.

Q. And one of the important concepts, it shows 50

THE LAND AND ENVIRONMENT COURT
PLAINTIFF'S EVIDENCE
NO. 2(i)
MOORE George Edward
EXAMINATION

compatibility with the adjoining land if it was thought to - by the planning authorities to extend the urban area beyond the boundaries of the subject land? A. Yes, it does that.

Q. Now the process of refining, from an engineering point of view, what a town planner might recommend as the urban area, is one of the major functions that you exercise in the development field, is it not? A. Yes, well we do the whole lot in our office, but I also do an overriding brief quite often on plans prepared by others. 10

Q. Yes, well a town planner might regard an area as being suitable for urban development. From your point of view as an engineer you look to see whether the area is in fact suitable or desirable for development? 20
A. That is correct, yes.

Q. And have you acted for quite large developers in that regard? A. Yes I have.

Q. And in fact you have acted independently for the Housing Commission have you not? A. Yes.

Q. In precisely that field? A. In that field, of the plan prepared by a planner, we've had to redraw the overall plan and fit it into the site. Most planners have no regard to scale, and you know, you get circumstances where you just cannot get the allotments into an area, in fact we did have one circumstance of surveyors setting out medium density sites out in the Campbelltown area on a Housing Commission Estate, where they finished up by the houses finished up beyond the street. 30

Q. And in your capacity as a consultant, do you recommend the appropriate stages of development to fit in with the physical characteristics of the land?
A. Yes.

Q. Now your next item on page 6 of exhibit Y1; you say in the comment: In fact the Housing Commission engaged you in 1974 to tender for the survey on this very land, did it not? A. Well they sent an instruction seeking our advice, and tender for this very land, and all the lands adjoining. 40

Q. For what purpose? A. To prepare detailed topographical maps over the whole of the subject land and the adjoining land.

Q. And that wasn't for a part of the land, but for the whole of the land? A. Yes, it extended south of the subject land, across to the Mulgoa Road, up into Regentville School, and right up to the freeway. 50

THE LAND AND ENVIRONMENT COURT
PLAINTIFF'S EVIDENCE
NO. 2(i)
MOORE George Edward
EXAMINATION

Q. But as far as the subject land was concerned, it was for the whole of the land and not merely the land north of the transmission line? A. No.

Q. Well now at page 7 you set out some development costs, and these are the actual costs incurred in the St. Clair development are they not? A. Yes, in stages 1, 2 and 3.

10

Q. And you were one of the consultants on the St. Clair development? A. Yes, that's correct.

Q. You say the costs incurred in the St. Clair development were normal costs that one would expect? A. Yes they were.

HIS HONOUR: St. Clair is just that ---

HEMMINGS: Yes, your Honour.

HIS HONOUR: Q. When was that development? A. That was at about the same time, 1973 period. 1973, 1974. But it is still going, though it is nearing completion now.

20

HEMMINGS: Q. And you say there were no abnormal costs above what you'd expect in that type of development, and you'd expect the same sort of costs in this development? A. Yes I would.

Q. Page 8 of your statement, well I think you told us your views as to - so far as sewer and drainage, there are not likely to be any problems? A. No.

30

Q. Or abnormal problems in that regard? A. That's right.

Q. Now you were also asked to have a look at the Burnley property? A. Yes.

Q. And also the Emu Plains Industrial Estate, and you've sketched the physical characteristics of those lands on the second plan, have you not? A. Yes.

Q. And in addition to that you show the Kulnamock property? A. Yes.

Q. Now looking at that plan, if your Honour would do so, the Kulnamock is the - is lot 1, with the dam in the middle of it, Emu Plains is No. 2, and the Burnley is 3 and 6, is that right, Mr. Moore? A. With the further qualification that lot 3 is also part of Emu Plains, and 4 and 5 were also part of land owned by Burnley ---

40

THE LAND AND ENVIRONMENT COURT
PLAINTIFF'S EVIDENCE
NO. 2(i)
MOORE George Edward
EXAMINATION

Q. When you say 3, you mean that little lot 3?

A. Yes.

Q. Adjacent to 4? A. That's right, and also so far as Kulnamock's land is concerned, there were the parcels fronting Regentsville and Jeanette Streets that are also shown with a circle and a cross across it.

10

Q. Yes, now so far as Kulnamock is concerned, you're aware that some of that property is being used presently by a number of valuers to try and deduce a value for the subject land? A. I understand that, yes.

Q. And so a detailed examination of that site as compared to the subject property was one of your tasks?

A. Yes, it was.

HIS HONOUR: Where does that appear in this report?

HEMMINGS: I'm sorry your Honour?

20

HIS HONOUR: Where does that appear in this report?

OFFICER: It doesn't appear in this report, your Honour, but in the valuation reports. A number at the back ---

MOORE: Page 12.

HIS HONOUR: Q. Yes, I'm just wondering, I thought you said Mr. Moore dealt with it? That's not the land that's called --- A. Page 12, the Federal Valuation and A.S. yes, they were the early owners.

Q. That's Kulnamock? A. Kulnamock.

Q. Thank you.

30

HEMMINGS: Q. We might go to that one directly then, Mr. Moore. A. It sometimes might have been in mine as Kilmarnock, because certain writing in the certificates of title are not easy to read.

Q. Therefore title position of this property is so what difficult to ascertain is it not? A. Yes it is.

Q. Now it is affected by a right-of-way, and would you indicate to his Honour where the right-of-way is?

A. Well the right-of-way is shown as B on my plan, up on the northern boundary, adjacent to Mulgoa Road.

40

HEMMINGS: Did your Honour see that? Right at the top.

HIS HONOUR: Yes.

HEMMINGS: Q. And it has the benefit of a right-of-way?

THE LAND AND ENVIRONMENT COURT
PLAINTIFF'S EVIDENCE
NO. 2(i)
MOORE George Edward
EXAMINATION

A. Yes. It has the benefit of a right-of-way over an area marked A, which is part of lot 3 in DP214871, and that is that 50 foot strip widening out in the northern tongue of that lot 3.

Q. That is the narrow strip that comes up towards the small lot 3 that one can see? A. Yes, that's right. 10

HIS HONOUR: Just a minute, I'm sorry, I haven't got that.

HEMMINGS: Your Honour, at the road frontage there's an access corridor leading to the large lot 3 in Burnley, does your Honour see that?

HIS HONOUR: Yes I can.

HEMMINGS: On the western side of - well up to the small lot 3, Kulnamock has a right-of-way over that access corridor, that narrow strip. 20

HIS HONOUR: Is that is what is called Regentsville Road? No, I see that.

HEMMINGS: Mulgoa Road.

HIS HONOUR: Q. Mulgoa Road? A. It is written there, your Honour, right-of-way variable width on the plan.

Q. I'm sorry, yes, and where does it go from where to where then? A. It goes from Mulgoa Road, down to the - that angle where there's a short dotted line across it.

Q. I see, so it has the benefit of that, this -- 30
A. Yes, it has the benefit of that.

Q. And where does it get - does it go between - I see.

HEMMINGS: It goes between lot 5 --

HIS HONOUR: Lots 4 and 5.

HEMMINGS: And lot 1, and 2, fronting Mulgoa Road.

HIS HONOUR: Yes, I've got it.

HEMMINGS: Q. However, there's a hiatus strip is there not? A. Yes.

Q. Adjacent to that right-of-way? A. Yes, there's a strip of land 20 feet wide which is lot 3 in DP221152 -- 40

HEMMINGS: Pausing there, your Honour can see the small lot 3?

THE LAND AND ENVIRONMENT COURT
PLAINTIFF'S EVIDENCE
NO. 2(i)
MOORE George Edward
EXAMINATION

MOORE: It is between the right-of-way A and lot 5.

HIS HONOUR: Yes, I've got it. That's with the dam.

HEMMINGS: Q. And that lot 3 with the dam on it has a frontage to Mulgoa Road, which is a long 20 foot wide strip going all the way down beside that right-of-way to Mulgoa Road? A. Yes, it separates lot 1 from lot 3 in DP214871. 10

Q. So whilst lot 1 has a right-of-way over the land lot 3, part of the Burnley Estate, it does not have legal access across the small lot 3 that is a hiatus between the two parts? A. That is correct, yes.

Q. And that is the relevance of your comment in 1.3? A. That is correct, yes.

Q. Now topographical, this land is at the lower end of a main catchment, and for the main part of the watercourse the banks are steep, with a major dam constructed at the confluence of Schoolhouse Creek, now would you compare for his Honour, the characteristics of this creek system and the characteristics of the level creek system that you describe within the subject property? A. Well the creek system in this land is that the main watercourse of Schoolhouse Creek is very deep, and very steeply sloping sides, in fact the eastern bank of the creek is very steep, and the branch watercourse flowing towards the south-west also is reasonably steep in that area. It is --- 20 30

HIS HONOUR: Q. Sorry, the branch watercourse flowing to the south --- A. Flowing from the south-west towards the ---

Q. From the south-west, yes. A. Has also a steeply sided bank. The dam is a very major dam, it's a very large dam, very deep, it - the scours that occur are such that there is a need of protection to be done along the banks of the creek but it is of such a nature that it should be left in its present position because it is a major watercourse in its own right. It's a type of waterway that one would not supplant by another physical means. 40

HEMMINGS: Q. Is it a type of restraint on development that one would leave as compared to a restraint of development that can be altered on the subject land? A. The subject land is far better advantaged because the flat area can be changed, it can be amended in direction quite readily, it can be used for recreation purposes. This area cannot be used for anything other than a drainage system, and you cannot change its course without an excessive amount of work which is not a 50

THE LAND AND ENVIRONMENT COURT
PLAINTIFF'S EVIDENCE
NO. 2(i)
MOORE George Edward
EXAMINATION

reasonable thing in the circumstances of it. It also have problems in that it's a steeply sided bank - watercourse, quite wide, which would require a major culvert crossing in order to cross it.

Q. To get from one side of the land to the other, you say that there would have to be some sort of a bridging of the watercourse? A. Yes. 10

Q. And that would be an abnormal cost that you wouldn't expect to find in other developments? A. Yes that's correct.

Q. You certainly wouldn't find it in the subject land of Tatmar Pastoral? A. No you wouldn't.

Q. And you - at page 13 under Problems, have you tried to - I withdraw that. In comparing the 2 properties from a development point of --- 20

HIS HONOUR: Q. Just before you go on there, when you say this reconciliation of the area, I can see Lot 1 in that DP that you're referring to, Lot 1 in DP 207607 is that --- A. Yes, Lot 1 in that is a 5-acre parcel and then Lot 2 in that ---

HEMMINGS: Top right-hand corner your Honour there's an irregular shaped portion off Jeanette(?) Street made up of a number of parcels.

MOORE: Lot 1 has 5 acres in it, Lot 2 of the same DP has 5.5781 acres. What happened there was there was a widening of the --- 30

HIS HONOUR: It's all right I'm just trying to locate it. Yes, and then there's Lot ---

MOORE: Well then the other parcel comprises part of Lot 152, 153 and 5 small parcels of old system land that fronts Jeanette Street, less the widening of Lot 1 DP552760 which is the widening of or straightening of Jeanette Street which was excised out of those areas.

HIS HONOUR: Yes I follow.

HEMMINGS: Q. Then you deal with problems. Is it an approach by yourself in advising on the yield --- 40

HIS HONOUR: No before we go, are we going to deal in hectares or acres?

HEMMINGS: Acres your Honour. Mr. Moore has amended those to give areas in acres. A fresh report has been prepared in acres but it doesn't have the annexed plans to it.

DISCUSSION

HEMMINGS: Q. What I was going to put to you Mr. Moore is that in assessing the yield and therefore the price one was likely to pay for land to be developed, do you look to compare the loss from each parcel of areas incapable of being developed for urban purposes? A. Yes that's correct. 10

Q. And is the approach that you've taken here the type of approach that you take when advising clients in relation to the yield that you could expect from land?

A. Yes this is exactly the form of report that I would advise somebody.

Q. And do you advise the client as to whether the land affected by drainage is land that can be altered by way of construction of conduits and realignment or whether it must be left in its natural state? 20

A. Yes I do advise them on that.

Q. And is that the approach you've taken in this regard? A. Yes that's the approach I've taken.

Q. Well looking at the Kulnamock loss of area of the creek, so there's 24 acres that would be lost, is that right? A. Yes. Drainage etc.

Q. And as you've told his Honour a few moments ago because of its character it could only be regarded as drainage reserve or passive area? A. That's correct yes. 30

Q. And so that from the 106 acres you're left with 82.5 acres outside those drainage areas? A. Yes that's so.

Q. And there must be provided 5.9 acres of - for actual recreation? A. Yes.

Q. The area available for residential development is then 76.6 acres? A. Yes that's correct.

Q. Now if you'd look to the Jeanette Street area and there is a depression in that area and that's hatched is it not? A. Yes it is. 40

Q. And that effectively is most of the frontage of Jeanette Street is it not? A. Yes the largest part of the frontage to Jeanette Street is affected by that watercourse.

Q. And restricts development? A. Yes.

Q. And it's necessary to divert stormwater by piping away from the building area of lots? A. Yes.

THE LAND AND ENVIRONMENT COURT
PLAINTIFF'S EVIDENCE
NO. 2(i)
MOORE George Edward
EXAMINATION

Q. Removing topsoil, filling and compaction of lot and replacing topsoil? A. Yes, if you're going to use it for residential development and that is the - would be the thing that's needed in that area, you would have to make it serviceable as residential land. 10

Q. And the crossing of Schoolhouse Creek, in your opinion the developer must look to connect the site?
A. Yes.

Q. And he would be up for what you regard as this abnormal cost? A. Yes.

Q. And that's \$80,000 to link the two portions of land capable of being developed for urban purposes?
A. Yes.

Q. The creek's suitable to maintain in the present style but if it is going to be left in its present style there would still be works required on that land before council is likely to accept? A. Yes absolutely. It would be similar to - instead of having to pipe it they're the sort of things you'd have to do. 20

Q. You don't pipe it but you have to do work to it before the council will take it off your hands?
A. That's correct yes.

Q. And you say that that would be a cost of \$50,000?
A. Yes that's right.

Q. And if you compare it, this parcel of land with Tatmar, these costs would have to be added in order to bring the properties into line? A. Yes they would. 30

Q. Now can I direct your attention to the area of land within the Kulnamock, it's a large area along the Mulgoa frontage where the right-of-way is located.
A. Yes.

Q. What is that area? A. There's a very low-lying area there when you view it and you walk on to it the greater part of it is soft. It's at a level almost the level of the bottom of the culvert going across Mulgoa Road it's an area which flooding backs up on to, it's an area where you'd have a great deal of difficulty in making any part of it usable for residential purposes. 40

Q. Is that an area that you'd expect would always be undeveloped? A. Yes you'd use it as a means of - as a part retention or detention basin.

Q. Now is that an aerial photograph of the Kulnamock property? A. Yes.

THE LAND AND ENVIRONMENT COURT
PLAINTIFF'S EVIDENCE
NO. 2(i)
MOORE George Edward
EXAMINATION

TENDERED, ADMITTED AND MARKED EXHIBIT AJ - AERIAL
PHOTOGRAPH

- HEMMINGS: Q. The property is outlined in red and would you just run your finger along the red line. 10
- A. Starting from Mulgoa Road in the north-western corner, it runs along the straight section of Mulgoa Road in an easterly direction, southerly to a rear line behind the Regentville School, easterly around the school, northerly on the eastern boundary of the school, back on to Regentville Road, northerly to Jeanette Street and then south-easterly along Jeanette Street to the southern boundary of Lot - I think it's 152 and then westerly along that boundary to the rear of the allotments facing Luttrell Street and then southerly towards almost the junction - or where the Schoolhouse Creek crosses the eastern boundary and then westerly to its eastern extremity of where Lot 5 is and then northerly along the eastern boundaries of Lot 4 and 5 with a short tongue into Lot 3 DP221152 I think it is which is shown near the existing track, there's a track runs which you drive up, a gravel track. 20
- Q. And would you show the low-lying area adjacent to Mulgoa Road? A. Low-lying area, you can see a ring there which is a swampy area and it extends back into an area such as that. 30
- Q. That's the area you say is likely to remain as it is now? A. Yes you can see it by the colouring of the - against the aerial photograph indicates it's a low-lying and grassy - the dense grass there gives you a difference of texture between the open grass and the hills.
- Q. And the magnitude of the drainage system and scouring, would you indicate that? A. Well that's indicated if one looks at the gravel sides of Schoolhouse Creek draining into the dam which is a very large dam structure and there is also a great deal of scour and earthworks down on the downhill - downstream side of the dam wall. The steepness of the slope can also be shown by the various scour accesses that are on the right hand side of the creek, and the shadow indicates the steepness there. 40
- Q. And the steepness of these banks, and the scouring can be compared with the other aerial photographs that you produced of the subject land? A. Yes, that's correct. 50

HEMMINGS: I'll tender that.

OFFICER: No objection.

THE LAND AND ENVIRONMENT COURT
PLAINTIFF'S EVIDENCE
NO. 2(i)
MOORE George Edward
EXAMINATION

HEMMINGS: Q. Apart from what you'd call the abnormal costs you've outlined would be incurred in developing this property, do you regard the Kulnamock property as inferior or superior to the subject properties? A. I would regard it as inferior, it is not up to the standard of Tatmar. The many factors outweigh that of this difficulty of the crossing, the works that have got to be done, it is in the area adjoining has been partly developed around Regentville there's some - I wouldn't call them good standard dwellings in that area at the moment, there's some new ones there admittedly round the Housing Commission area in Regentville, but it is not the same quality as the subject land. 10

Q. What do you say about access, how would one get access to this land to develop it for urban purposes? A. Well looking at it as a developer to develop it, or as a consultant advising it, the way that they would develop that would be from Jeanette Street, that's the better area, it is elevated, and the development would have to proceed from that way, because on its own it has got very limited access to Mulgoa Road. 20

Q. And does that in itself present problems in getting access through the land if one is building an access route for which an --- A. Well you've got a restriction in the western boundary of what is lot 152, you've got a very narrow width in which to bring a road through in that system if you're developing it on your own, without regard to any acquisition of any adjoining property. Then when you get to the creek you've got to cross that major creek to develop the western side to develop the western side. And so these are restrictions on development there. 30

Q. Now can we go to - is there anything further you wanted to say about the Kulnamock property in comparison to the subject land? A. No, I don't think so. 40

Q. Thank you. Would you go to the - I think the one right next door to it is the Emu Plains, that is on page 10, site 3, and it is mainly grass scattered timber, and its slopes are not as severe? A. No, it is getting up onto the top of the catchment.

Q. Yes, it is on the catchment subsidiary to Schoolhouse Creek? A. Yes.

Q. And the intermittent watercourses at the head of the catchment are flat open and of reasonable grades? A. Yes. 50

Q. It doesn't have near the drainage problems that Kulnamock property has? A. No.

THE LAND AND ENVIRONMENT COURT
PLAINTIFF'S EVIDENCE
NO. 2(i)
MOORE George Edward
EXAMINATION

Q. There are some swamp areas, and they require special provision? A. Dams?

Q. Yes. A. Yes.

Q. And there are unusable areas along the watercourse?
A. Yes, there are some ---

10

Q. But they're only about 4 or 5 per cent of the area? A. Yes, that's right.

Q. And because of their grades they could be used as part of the open space provision? A. Yes.

Q. So that property has an advantage over Kulnamock, and is more closely aligned with the subject property?
A. Yes, that's right.

Q. However, this suffers very badly from access does it not? A. Yes it does.

Q. What is its access?

20

Q. Well it has a frontage to Luttrell Road, an unmade - or it's a gravel track, the only crossing at the moment available is across Schoolhouse Creek, where there's a culvert constructed within lot 141 of DP2576, and there is semblance of a ---

HIS HONOUR: Q. Where's lot 141? A. It's near the zig-zag in Luttrell Street. If we go down the southern - at the bottom of Luttrell Street there's a dotted line, and to the left of that is shown 141.

Q. I've got it, yes. A. And it is that parcel within there.

30

HEMMINGS: Q. The actual road doesn't follow the alignment of that zig-zag does it? A. No it doesn't. Well you couldn't have a road today following that location anyway.

Q. You'd have to take that very sharp bend out of the road? A. That's correct, yes.

Q. And to get access to this land you say you'd be up for \$90,000 to improve the access? A. Yes, that's right.

40

Q. And that's an abnormal cost, as compared to --
A. Yes, if you wanted to get across and develop this land you would have to look to that - expending that amount of money to acquire the right to get across Schoolhouse Creek.

THE LAND AND ENVIRONMENT COURT
PLAINTIFF'S EVIDENCE
NO. 2(i)
MOORE George Edward
EXAMINATION

HIS HONOUR: Is it shown at the bottom of this photograph?

HEMMINGS: It would be your Honour, yes.

MOORE: Yes, it is right at the bottom at Luttrell Street is that long white line.

HEMMINGS: Q. But it doesn't follow the road reservation, your Honour. A. After it hits the bend. 10

Q. And also you say there would be an abnormal cost of about \$80,000 for scour protection and landscaping of watercourses? A. Yes, this is another watercourse in the lower areas of it which need to be retained as the drainage system, and you would need those scour protections.

Q. Yes, now going over to page 9, site 2, which is the Burnley site, it is in two parcels, and its access is that narrow corridor that you referred to earlier, which was stopping for the right-of-way, in favour of the Kulnamock property? A. Yes, that's correct. 20

Q. That access corridor would be totally unsuitable for any urban redevelopment of land would it not, Mr. Moore? A. It is in its present form it would be, providing the main thoroughfare from Mulgoa Road was treated as only a partial road, you've only got 50 feet there, in some circumstances the council might permit that as a temporary means of access, but it is not desirable, it is a very long length of construction of a road before you get into the body of the subdivision. 30

Q. So far as it compares to Tatmar or Penrith Pastoral Land, how would you describe the access?
A. It is inferior.

Q. This land is severely affected by very steep country is it not? A. Yes, at least part of it.

Q. Some of the land could even be described can I suggest, as precipitous? A. Yes, it is precipitous.

Q. And there are escarpments leading down to low-level land which drains into the river itself? A. Yes. 40

Q. In fact some of the land - there's an area on the western side described as flood-prone area, that is virtually cut off completely from the balance of the land, because it is at a much lower level than the rest of the property itself? A. Yes it is, it is completely isolated.

Q. Because of the difference in levels there'd be no access at all from that land to the balance of the land?
A. That's right.

THE LAND AND ENVIRONMENT COURT
PLAINTIFF'S EVIDENCE
NO. 2(i)
MOORE George Edward
EXAMINATION

Q. And in addition to that it is flood prone is it?

A. Yes, it is very much flood prone.

Q. And those other areas, it's made up of a number of spurs, with steep land going down to creeks in the hatched areas? A. Yes, and they're very narrow ridges.

10

Q. At page 10, I put to you earlier that one would work out the yields from these properties by taking out from the property the area of land over which there is some physical restraint which would prohibit development? A. Yes, that's correct.

Q. And it's this steep area that you're talking about, areas upon which you could not calculate any yield?

A. That's correct, yes.

Q. And at page 10 you set that out? A. Yes.

Q. And what is the effect of that? A. Well in the northern parcel there's 38.9 per cent of the area of the land is not available for yield. In the southern parcel there's approximately 35 per cent of the site is not available for yield and the power transmission line which - easement which passes through the southern half still further inhibits the residential lot yield, because it occupies 14.4 acres of the site, so a limited development could be made to that.

20

Q. How does the yield from these properties that you've just analysed compare with the yield from the Tatmar property, and the Penrith Pastoral land? A. Well Penrith Pastoral and Tatmar, you can get - well 85 per cent of the area is available for yield after providing for 15 per cent of the area for open space, which is adequate open space. In this area you finish up with on an average only about 60 per cent of the area would be available for development.

30

Q. Well as percentages, we could go through them, Burnley would be about what per cent? A. Burnley was about 60 per cent of it would be available for development.

40

Q. And Emu Plains? A. You'd get about the 90 per cent of the site, it would be comparable to Tatmar.

Q. And the Kulnamock?

HIS HONOUR: Q. Yes, well 90 or 85 per cent. A. Well it depends upon how much public reserve you provide within your subdivision additional to what is restricted.

HIS HONOUR: Yes.

THE LAND AND ENVIRONMENT COURT
PLAINTIFF'S EVIDENCE
No. 2(i)
MOORE George Edward
EXAMINATION

HEMMINGS: Q. And Kulnamock? A. Kulnamock, there is only 76 acres out of 106 acres, so there are about 75 per cent is available for development.

Q. And when you compare the properties then you have to compare the abnormal development costs? A. Yes. 10

Q. And you also have to compare the access? A. Yes, that's right.

Q. And is access a major factor? A. Well it is very much a major factor because good access, and a first access, good access steps off the development. It is a prime - one of the prime things as to you can have the most beautiful piece of land stuck nowhere, and have no access, or difficulty to it, and it's no good.

HIS HONOUR: Q. And what's this, do you say there's a problem with access in the Kulnamock land? A. Only that you can't - you've got restricted area because of the narrowing of boundary, and then you've got --- 20

Q. Narrowing of what boundary? A. The boundary between the rear - you see a figure part 152, it is up in the north-eastern corner there's a narrow gap between the two firm lines.

HEMMINGS: Q. 152? A. And it has got part 152.

HIS HONOUR: I'm sorry, I can't ---

HEMMINGS: Could I just ask some questions on it?

HIS HONOUR: Yes. 30

HEMMINGS: Q. Would an access road have to sweep down from here where the word Jeanette is written in the road --- A. Yes.

Q. --- through Lot 2 --- A. Yes.

Q. --- then sweep around past Lot 152 between those two parcels that are not part of the Kulnamock property. A. Yes. There is a restricted area that makes it difficult for subdivision land.

HEMMINGS: Does that make it clear your Honour?

HIS HONOUR: Yes it does but what about on its northern boundary with Mulgoa Road? 40

HEMMINGS: Mr. Moore said earlier that that would not be suitable for access your Honour.

HIS HONOUR: Q. That's because of the --- A. Well for

THE LAND AND ENVIRONMENT COURT
PLAINTIFF'S EVIDENCE
NO. 2(i)
MOORE George Edward
EXAMINATION

two reasons, you've got the low-lying flood area which is B, there is a cottage there at the present time.

Q. Well would that be a real problem though if you were going to --- A. No I think you'd knock it over eventually but I don't think you would do that in the very first instance, your Honour. Again Mulgoa Road is of a very restricted width at that point. I believe plans have been prepared for the redesign of Mulgoa Road.

10

HEMMINGS: Q. I think probably Mr. Moore the right-of-way over the subject land - over that land, the Kulnamock, is because of the problems in Mulgoa Road for access. A. Yes the people to the east of where that point B is have a difficulty of access across that creek.

20

Q. And the better access therefore for a number of reasons would be the Jeanette Street access? A. Well it's doubtful whether the Department of Main Roads would allow you to come off Mulgoa Road within Lot 1 because of its proximity to a curve to be constructed in that area.

HIS HONOUR: This is all as it was in 1973?

HEMMINGS: Yes your Honour.

MOORE: It's still that way now.

HEMMINGS: Your Honour will be able to see that on the view.

30

HIS HONOUR: Yes.

HEMMINGS: Q. Do you regard the Tatmar parcel, centre parcel of land as being superior in all those respects to each of those parcels? A. Yes very much so.

Q. Now you've also looked at a number of parcels of land referred to by Mr. Parkinson in his report have you not? A. Yes I have.

HEMMINGS: And your Honour there is a document which is called a supplementary statement, it's in the documents file with the court.

40

TENDERED, ADMITTED AND MARKED EXHIBIT Y3 -
SUPPLEMENTARY STATEMENT

HEMMINGS: Q. You refer to a schedule and that schedule is a schedule in Mr. Parkinson's report is it not?

A. Yes that's correct.

THE LAND AND ENVIRONMENT COURT
PLAINTIFF'S EVIDENCE
NO. 2(i)
MOORE George Edward
EXAMINATION

Q. And in the schedule which is schedule A to Mr. Parkinson's report there's a break-up of what's called usable and unusable areas? A. Yes that's right. That's a break-up by me of the usable and unusable.

Q. Well first of all in the analysis column of his report there is a break-up of land into land only suitable for open space and other land. A. Yes. 10

Q. And that was your assessment was it not that there are 30 acres only suitable for open space within that property? A. Yes.

Q. And that was your estimate and your advice to Mr. Parkinson, is that right Mr. Moore? A. Yes.

Q. And does that correspond with the comments that you've made in exhibit Y1 when analysing the Kulnamock property? A. To a degree that 31 acres was the area - 31 hectares was the area that was available in the Kulnamock area for residential development, but in my assessment of the active recreation that was the very least. 20

Q. Now sale 4, Lot 137, 72 Kulnamock, that land is high elevated land at the crest of a hill and 100 per cent of that is usable for residential development? A. Yes that's true.

HIS HONOUR: Does that 30 acres represent - that doesn't represent the 35 per cent - it's the difference between, is it, the parts that can be developed as suitable for development and --- 30

MOORE: No. 30 acres was open space and 76.4 was the development - 76.5 was the good residential land in Kulnamock.

HIS HONOUR: Q. What's the total? A. 106½ acres.

Q. Yes I follow. So all the area that's not suitable for - or rather none of the area that's not suitable for residential development is not suitable for open space, so it could be all used for open space? A. In Kulnamock? 40

HIS HONOUR: Q. Mm. A. There's 30 acres that is open space and 76 acres for residential purposes.

Q. Yes, and there's no land that doesn't come into either category? A. No.

HEMMINGS: Q. There was a difference between passive open space area and active open space? A. Yes but council may still require active recreation space out of it.

THE LAND AND ENVIRONMENT COURT
PLAINTIFF'S EVIDENCE
NO. 2(i)
MOORE George Edward
EXAMINATION

Q. Out of the 76 acres of residential --- A. That's how you get back to the 65 figure, 65 per cent.

Q. Now sale 4 and 5, and that's 137 and 135, there's a sketch attached to this statement which indicates the contours on those lands ---

10

HIS HONOUR: Where are they?

HEMMINGS: They're in Garswood Road your Honour.

HIS HONOUR: Yes.

HEMMINGS: Your Honour just to explain, Mr. Parkinson does look to the prices paid for good land where little or none of it is affected by creeks etc. in order to analyse other sales. And Lot 132 that's part affected by a dam, there's some scoured watercourse, and it falls to the north-east, and is affected by - that's in hectares, do you have an area figure for that? This is going down the hill.

20

HIS HONOUR: Yes. Which one?

HEMMINGS: 132, Lot 132 sale No. 6.

MOORE: The area affected is 1.66 acres. On sale 6 paragraph 2 the area affected is .67 hectares, that's 1.66 acres.

HEMMINGS: Q. I think that's stated in the analysis column of --- A. Yes.

Q. And you set out the works required and the cost of bringing up to a usable standard. A. Yes.

30

Q. And your estimate is \$7,500. A. Yes.

Q. And sale 7, this is Lot 131 --- A. That's bringing it up to a standard similar to sales 4 and 5 which have depressions in them but no dams. They could have had dams in them. This is to bring them back to that standard.

Q. And what do you say about sale 7, Lot 131?
A. Well that's again .5 hectare which is ---

Q. Is 1.235 acres. A. Yes. Is affected by the watercourse and scours that have occurred there, the scours have been caused by the adjoining dam. They're man-made more than anything else there.

40

Q. And remedial work is required? A. Yes.

Q. And there's a cost of \$7,500? A. Yes.

THE LAND AND ENVIRONMENT COURT
PLAINTIFF'S EVIDENCE
NO. 2(i)
MOORE George Edward
EXAMINATION

Q. And the alternative is to treat the area as similar value as open space passive, drainage? A. Yes that's correct.

Q. And you can relate that back to the subject land?
A. Yes.

10

Q. Sale 8, Lot 130, this was affected by scoured lengths of the watercourse falling to the north-east?
A. Yes.

Q. The area is very flat. A. Yes.

Q. In the south full of drainage inhibited by the very flat open stormwater drain? A. Yes.

Q. And in that property is that 2.2 acres affected?
A. Yes that's correct.

HIS HONOUR: Where's this land?

HEMMINGS: This is at the bottom down towards Surveyor's Creek where it cuts out through the subject land and goes through Garswood Road. A branch of Surveyor's Creek.

20

HIS HONOUR: What's the name of the property?

HEMMINGS: Martin Services to Bell.

HIS HONOUR: Got it.

HEMMINGS: Q. You make similar comments about this land and the estimated costs of work is about \$10,000.
A. Yes that's correct.

Q. And you deal with sale 9 separately, we'll come back to that. Lot 129. This is badly affected by an open channel, that right? A. Yes.

30

Q. What do you say about that land? A. There's hardly any of it of any use to anybody. It's been heavily scoured ---

Q. Where is it? A. It's the one adjoining that one of Martin; it's not coloured on that map. It's the one adjoining to the east. It has been seriously affected by man-made drainage channels. Somebody has been in there and constructed a cut-off drain across the back of the property and then carried out a channel construction all the way down and within the western boundary to Garswood Road.

40

Q. And then you set out, in addition to those criticisms, the cost of improving that land. A. Yes.

THE LAND AND ENVIRONMENT COURT
PLAINTIFF'S EVIDENCE
NO. 2(i)
MOORE George Edward
EXAMINATION

Q. You come back to lots 86 and 87, and 18, 19 and 20. Why have you dealt separately with this particular area? A. They are parcels on the other side of the road ---

Q. Would you please go up and indicate where that land is? A. That's land that is north of Garswood Road and east of York Road and is that area in there. It's the area uncoloured on that plan there. 10

Q. What is that described here as, lot - this is the last one your Honour, 86, 87 and 18, 19 and 20, area of 41.8 ---

HIS HONOUR: Where does it appear in your analysis sheet? It's all part of sale 9.

HEMMINGS: This is 9, your Honour. It's part of 9.

Q. These lots are almost wholly drainage, are they not? A. Yes, they are low-lying, in fact in the topo maps - what the photos show them as marked with the usual mapping identification as sub-level land. In other words they are swamp or that the contours are minus quantities. 20

Q. And presence and future potential of that land be for drainage purpose? A. Yes, that's solely - there's part of it, as in the south east corner, is available for residential development ---

Q. And the highest one could put as a use for that land would be for some open space or a drainage retention base. A. For the major part of it, yes. That's about 29½ acres. There would be about 12.39 acres available for residential development. 30

Q. The final one, sale 10, and again, apart from part 3, most of that would be suitable for open space purposes and drainage? A. Yes, that's correct.

Q. And you set out the various areas? A. Yes, that's right.

Q. You were asked by Mr. Parkinson to give an analysis of each of those parcels, to enable him to examine the prices paid for each of those parcels and the use to which they could be put? A. Yes, that's correct. 40

Q. The last matter I want to deal with, Mr. Moore, you've outlined the nature of the inquiries that you have made and the inquiries made of you by the valuers advising the applicants in these proceedings. A. Yes.

Q. Are the nature of the inquiries that you've made

THE LAND AND ENVIRONMENT COURT
PLAINTIFF'S EVIDENCE
NO. 2(i)
MOORE George Edward
EXAMINATION

and have been made of you, the sort of inquiries and the level of inquiries that would be made by a developer interested in acquiring land for urban purposes, of the type of land involved in this case? A. Yes, they are the general inquiries that would be made.

10

Q. Have you ever known anyone to go to the extent of engaging the services of a soil engineer? A. Not specifically, unless there is a very known major problem of slip or something like that. We carry out in our own office our own testing and we would have not, in this sort of case, brought in any external testing for this, other than when we start on road works. Except when we start specifically on roadworks, we might use an external laboratory or something like that.

Q. Would the type of evidence that you've given in this case, be the extent of the inquiries that one would normally expect to be made in the acquisition of land parcels such as this? A. Yes, that's so.

20

CROSS-EXAMINATION:

OFFICER: Q. Mr. Moore, you mentioned to the court this morning that there were certain areas which, to use the phrase in your statement Y2, were examples of release of lands designated for urban development outside the Sydney Region Outline Plan - at the foot of page 5 in Y2 - and by that, did you mean to indicate that the examples or some of them, were outside the 1968 boundaries of the SROP? A. Yes, that's so.

30

Q. Some of the examples I think you gave, were within the boundaries of one of the SROP corridors?
A. That may have been so.

Q. Would you please mark for me - Mr. Moore, would you come to the drawing board - I think the first of the areas you mentioned were on the other side of the Nepean River and you mentioned Leonay, and perhaps would you put a red circle in the area --- A. There's some development in that area.

40

HIS HONOUR: What is he circling with red?

OFFICER: Q. This is the Leonay property, being the first of the areas you mentioned as examples of what is stated at the foot of page 5 of Y2.

HIS HONOUR: And this land is on the western side of the Nepean.

OFFICER: Q. And south, you have indicated, of the freeway. A. No, the freeway is not built there. The freeway stops over on this side and then comes back around in there. There is no freeway in these ---

50

THE LAND AND ENVIRONMENT COURT
PLAINTIFF'S EVIDENCE
NO. 2(ii)
MOORE George Edward
CROSS-EXAMINATION

HIS HONOUR: Q. Is it proposed? A. Yes, it's proposed. I don't know whether that will actually be constructed in that form, though. It's in this area south of the line of the ---

OFFICER: Q. Freeway. An extension of the freeway over the river? A. Yes. 10

Q. When was that zoned for urban use? A. Quite some time ago. Those areas were released progressively, some of them about the period that we are talking about, 1970 to 1972 ---

Q. Take this one we're talking about - Leonay, on the western side of the river, when was that? A. I wouldn't have the exact date of that.

Q. After some date - after 1971, or before it? A. It would be around that period. 20

Q. Before the resumption of the subject land? A. Yes.

Q. And was that land - the site of Leonay - included in the 1960 Penrith Planning Scheme? A. 1960 Penrith Planning Scheme - I can't answer that.

Q. But you are definite that - whenever it occurred, early in the 1970's - the zoning of it was changed under --- A. There were areas - when I refer to Leonay, I'm talking about the area of that area. There are other lands zoned in that area.

Q. You mean other lands, the zoning of which was changed? A. No. I'm not saying changed, but there is other land adjoining in that area, that's also been released and residential development occurred in it. 30

Q. When you say released, was this an acceleration of some phased release of it for urban use, or was it a change from non-urban to urban. A. It's changed from non-urban to urban from the phasing plan, it's not shown ---

Q. What phasing plan? A. The Sydney Region Outline Phasing Plan. 40

Q. It's not phased on the Sydney Region Outline Plan, is it? A. No, this is the region plan at the moment, the phasing plan ---

HIS HONOUR: What's this plan?

OFFICER: This is merely a blow-up of the Sydney Region Phasing Plan which appears at the back of the SROP.

THE LAND AND ENVIRONMENT COURT
PLAINTIFF'S EVIDENCE
NO. 2(ii)
MOORE George Edward
CROSS-EXAMINATION

Q. On the phasing plan of SROP, you have marked with a red circle, the general area --- A. Yes.

Q. --- and it wasn't phased at all. A. It wasn't proposed for residential development at all on the Sydney Region Outline ---

10

Q. You say it was released for urban development, was it developed for urban purposes? A. Yes.

Q. It would be within the area of the City of Penrith, would it? A. Originally it wasn't, it was in the Blue Mountains and the area over there, part of it was annexed to Penrith.

Q. At the time of its release some time in the early 1970's, would it have been --- A. No, it was in Penrith.

Q. Do you know when it became subject to Penrith rather than Blue Mountains? A. In 1968 it was in Penrith then.

20

Q. But it may not have been in the Penrith area in 1960, when the Penrith Planning Scheme was prescribed?
A. That may be so.

Q. The next area you mentioned was at Regentville. What was the change that was made at Regentville?

A. There has been residential development approved in the area that's zoned as non urban on the Sydney Region Outline Plan and on the Sydney Region Phasing Plan south of the freeway in the area shown by my cross which is shown as non urban land and is shown as non urban land in each of the plans. Now that land has been released, subdivisions have been approved and the Housing Commission are just nearing completion at this very moment in that area.

30

HIS HONOUR: Q. What's that called the ---

A. Regentville.

OFFICER: Q. Well let's take it step by step Mr. Moore. You say that was released for urban development, when?

40

A. Some time after 1968.

Q. I would imagine so, but can't you be more precise than that, and that gives us a span of 13 years?

A. Well it would be somewhere - some of it has occurred in the - it would be in the last 6 years I would say.

Q. So the best of your belief would be that none of it before 1975? A. No I wouldn't qualify that, I'd like to look at the dates of the deposited plans that occurred on the other side of the Mulgoa Road.

50

THE LAND AND ENVIRONMENT COURT
PLAINTIFF'S EVIDENCE
NO. 2(ii)
MOORE George Edward
CROSS-EXAMINATION

Q. Well perhaps we could leave that.

HIS HONOUR: Q. You'll be able to find that out won't you --- A. Yes I could check that.

Q. You've got special on re-zoning is it? A. Yes.

OFFICER: Q. And were they broad acres and if so how broad? A. No there was some evidence of some road patterns of the larger lots within that area. 10

Q. We may be speaking about the same thing. I'm talking about areas that were re-zoned in Regentville for urban development were they broad acres or smaller allotments? A. They were large allotments.

Q. Roughly in the order of what? A. They were areas much the same as the pattern of the subdivision of Garswood Road.

HIS HONOUR: Q. About 10 or 11 acres? A. 5 acres yes something in that order. 20

OFFICER: Q. And were they individual releases from time to time of lots of that order or was it a blanket series of a number of lots of that order? A. A blanket release of a number of allotments.

Q. And they were all lots that had been within the - what was known as the Regentville Village? A. Yes that's so.

Q. Which was itself a very old settlement? A. Yes.

Q. Going back to early years of this century? A. Yes they would be subdivisions of DP2576 would be a DP round about 1905 or something like that. 30

Q. And how were they zoned, do you know, in the 1960 Penrith Planning Scheme? A. As a village area I would say.

Q. I see. And so - within which urban subdivision was permissible according to the Penrith scheme? A. In village areas, yes.

Q. So that no change had to be made to the Penrith scheme in order to permit the urban development of these Regentville lots that you've mentioned? A. Well I would say that the Sydney Region Outline Plan -- 40

Q. I'm sorry, could you answer my question. No change would have been needed to the Penrith Planning Scheme to permit Penrith to approve of the urban development

THE LAND AND ENVIRONMENT COURT
PLAINTIFF'S EVIDENCE
No. 2(ii)
MOORE George Edward
CROSS-EXAMINATION

of the lots you've mentioned at Regentville? A. They were still governed by the Sydney Region Outline ---

HEMMINGS: Mr. Conway is here.

HIS HONOUR: Well I suppose he is but what Mr. Officer says is right.

10

HEMMINGS: I put that your Honour ---

HIS HONOUR: Well what is the answer?

HEMMINGS: Under the Penrith Planning Scheme the council still had to abide by the Sydney Region Outline Plan. That's what Mr. Moore was trying to tell the court.

HIS HONOUR: I see.

HEMMINGS: He had to read both of them together.

OFFICER: Q. Some amendment was made was it to the Penrith Planning Scheme to require it to comply with the Sydney Region Outline Plan? A. The Sydney Region Outline Plan governed all of the municipalities and shires within that area and they were obliged to submit their application or any application to the SPA because they were asked to abide by this plan.

20

HIS HONOUR: The schemes made provision for this did they, they had to submit ----

HEMMINGS: No your Honour there were instructions given by the State Planning Authority that in the application of their Scheme councils should take into account the Sydney Region Outline Plan and should not depart from it and that's what councils did on and from ---

30

HIS HONOUR: Did they have to?

HEMMINGS: Only in areas where it was specifically required the consultation was required.

HIS HONOUR: In the scheme?

HEMMINGS: Yes your Honour.

HIS HONOUR: Is this one such ---

HEMMINGS: It wouldn't be in a village area.

HIS HONOUR: No.

HEMMINGS: Not Regentville but ---

HIS HONOUR: But although they did make - they might

40

THE LAND AND ENVIRONMENT COURT
PLAINTIFF'S EVIDENCE
NO. 2(ii)
MOORE George Edward
CROSS-EXAMINATION

have made application to council, but the council didn't have to.

HEMMINGS: Not in all cases.

HIS HONOUR: Look just here though, in Regentville.

HEMMINGS: Well I don't know but if it is village area I'd be surprised if there was any requirement to consult with the State Planning Authority. 10

MOORE: They are still required to consult if there was a question of services, there was no sewerage at this place.

HIS HONOUR: So they were asked to but not obliged to unless there was a question of service and then they were advised to?

HEMMINGS: Yes your Honour.

HIS HONOUR: You might find that out then Mr. --- 20

OFFICER: Q. So far as the Regentville alteration that you mentioned there would be files in the SPA of applications, or should be, of applications to them and their approval of the developments? A. I would feel that there should be a file there and a file in the council.

Q. You in fact however don't know one way or the other whether --- A. No I don't have access to those files.

Q. Well then you haven't enquired from Penrith Council? A. No well it was not a matter that I should - 30

Q. Well I'm not criticising you for it. A. No I haven't.

Q. You haven't fine. Now the third area you mentioned was in the northern sector of Menai adjacent to - and I misspelt the word - something Alford's Point?

A. Alford's Point. That is the area shown in that area there.

Q. Perhaps you could - we've got a lot of red there?

A. I'll put a circle with a dash through it.

HIS HONOUR: Where is it? 40

OFFICER: Circle and a dash south of Georges River - if one drops the line from Hu of Hurstville and goes south of the river one comes to the mark he's made.

HIS HONOUR: Q. And what's it called --- A. It extends

THE LAND AND ENVIRONMENT COURT
PLAINTIFF'S EVIDENCE
NO. 2(ii)
MOORE George Edward
CROSS-EXAMINATION

up into this area. It goes from there or it's in that area there.

Q. And what's it called? A. Alford's Point.

HIS HONOUR: Alford's Point yes. And what was that zoned or how does that part ---

10

OFFICER: That was on the outline plan.

MOORE: A. Open Space Proposed.

OFFICER: Q. Open Space Proposed. A. Well actually they made two errors in this they called it open space existing and it didn't exist actually.

Q. On this plan --- A. It's shown open space existing and that wasn't quite true. That's just one of the - that is the style there of open space existing and that wasn't quite true.

Q. Yes it was a darker shade than that? A. Yes.

20

Q. So shown as open space existing it was strictly open space proposed? A. I think that's what was the intention. That wasn't what's eventuated.

Q. No. When did this change take place? A. The subdivisions are complete in there, it would be ---

Q. When do you think the re-zoning --- A. It would have been about 3 or 4 years ago I suppose would be the time that that occurred. It might have been a year or two earlier than that.

Q. Somewhere between 1976 - 1978? A. Well there was a hassle about it. I wrote a report in 1971 when Menai was released I was in London and Parkes sent plans over to me in order that I might write an objection to it. So the process has been occurring since about 1971, somewhere about that, we were handling it for a number of people.

30

Q. And the particular release you mention however, the release was effected? A. About 4 years ago, something like that.

Q. And that was - and let me correct the error which you say has occurred in the colouring - that was as to land within - shown as within the boundaries of the SROP to change the designation from open space proposed to urban?

40

HEMMINGS: Your Honour before Mr. Moore answers that question ---

THE LAND AND ENVIRONMENT COURT
PLAINTIFF'S EVIDENCE
NO. 2(ii)
MOORE George Edward
CROSS-EXAMINATION

OFFICER: We'll be reading this later on.

HEMMINGS: --- the whole of that map is land within the Sydney Region Outline Plan.

OFFICER: Well I'm sorry ---

HEMMINGS: The non urban land is within the Sydney Region Outline Plan your Honour. The land is broken up into land where urban development is permitted is coloured red and where it's prohibited where it's coloured green or buff. 10

OFFICER: Well let me alter the description then.

Q. So what occurred was that land designated for a particular proposed use under the plan had a change made in its permissible use? A. Yes that's correct.

Q. And approximately what was the area the zoning of which was so changed? A. I think we've - there's already 60 - 70 allotments already in there and there's still probably the same number still to be developed. It's an area divided by gullies of which we're not developing the gullies in those areas in there. It's a reasonable size, the parcel would have - probably be in the order of a total areas of 100 acres all told. 20

Q. That's including the unusable gullies? A. Difficult parts, yes.

Q. The release was of --- A. Several parcels.

Q. --- several parcels separated by unusable gullies. A. No several parcels of land which in total would be about 100 acres. 30

Q. Right. And McGraths Hill you mentioned also? A. Well that's the area just near - in the area where the word Windsor is. It's ----

Q. Where, written in small print? A. Yes. Windsor in there. That's Eastern Creek which divides McGraths Hill from Windsor proper and there's that area there.

Q. And when did that change place - change take place? A. That would be 5 or 6 years ago, that would be round about the start - it would have been towards 1974 - around about 1974 I'd say. 40

Q. And roughly what area? A. I don't know the particular area, but it's fairly extensive; there's a very large residential sub-division been completed there by Stocks and Holdings.

THE LAND AND ENVIRONMENT COURT
PLAINTIFF'S EVIDENCE
NO. 2(ii)
MOORE George Edward
CROSS-EXAMINATION

Q. Do you mean some several hundreds of acres ---

A. Yes, it would be that ---

Q. --- or more? A. No, it would be very large. It would be in the order of 300 acres.

Q. Would that have been under the Penrith Planning Scheme, within the area of the Penrith Planning Scheme? 10

A. No, it's outside - it was in Windsor.

Q. Did Windsor have a planning scheme or draft planning scheme? A. Not at that time.

Q. And the zoning was made urban, I think you suggested? A. Yes, it is.

Q. And was it, so far as you know - Stocks and Holdings, you mentioned or Stocks and --- A. No, Stocks and Holdings.

Q. Stocks and Holdings who are doing the development? 20

A. Yes.

Q. Do you know whether they were the owners when the application for re-zoning was made? A. I don't know.

Q. And finally, you mentioned the St. Clair area.

A. The St. Clair is this area that is shown proposed industrial and that was changed to urban and at one stage they changed that industrial zoning round to the side here near Mamre Road.

HIS HONOUR: Q. When did it get changed to urban?

OFFICER: Q. Was the change of the purple striped area -- 30

A. Yes, that was changed to urban, residential, yes.

Q. Was it a change extending to the whole of that bit which is striped purple? Or part only? A. I would say the major part of it, or if not, the whole of it. The plan is inaccurate in regard to its size and shape. There is another road comes around here and joins into Mamre Road, called Erskine Park Road and I would say all of it, and then they changed the industrial land to around this other side.

Q. When you say the industrial land to around the other side, was this virtually at the same time? 40

A. It would be some time round about 1974 when that was done.

Q. When the land we now know as St. Clair --- A. No, St. Clair was always residential, but the land south of the lane ----

Q. About 1974 that the purple striped proposed

THE LAND AND ENVIRONMENT COURT
PLAINTIFF'S EVIDENCE
NO. 2(ii)
MOORE George Edward
CROSS-EXAMINATION

industrial was - or the bulk of it - changed to urban?

A. Yes.

Q. And at somewhere about the same time there was a different zone created as industrial --- A. A change round to this other side - as industrial, yes.

10

Q. --- and you think it was part of the land which is shown as special use corridor? A. Yes.

Q. I think you said this morning that then part of that new industrial, the zoning was changed again.

A. It is proposed at the moment. They have spent several years trying to sell it to people - they even rang me in Perth, one of purchasers and they eventually now - they are going to allow them to be residential.

Q. Mr. Moore, you mentioned several times this morning, the generality of the SROP and the imprecise nature of the plans? A. Yes.

20

Q. However, at least so far as the subject land is concerned, there is no uncertainty about the boundaries of the phased release land; we have but two unambiguous boundaries of Bringelly Road to the east, and the free-way to the north. A. Yes, that's true.

OFFICER: I don't know whether your Honour would like that marked or tendered?

HIS HONOUR: Why not give it the same exhibit number - what's the plan under it? No, that's already got an exhibit number, hasn't it?

30

OFFICER: No, not that one.

HEMMINGS: I've tendered the SROP and there is a small copy of that attached to the SROP ---

HIS HONOUR: But that one hasn't been tendered, yet.

HEMMINGS: No, it's just a larger copy.

HIS HONOUR: But I'll give it the same marking, I think. That's Exhibit F - that's the same mark as the Sydney Region Outline Plan is contained in.

TENDERED, ADMITTED AND MARKED EXHIBIT F (PART) -
ENLARGEMENT PLAN, SROP

40

OFFICER: Q. Mr. Moore, you ---

HIS HONOUR: Q. Could I just ask you a question. Is this meant to be anything more than a very general list? Was it meant to be anything more than very general?

A. The plan?

THE LAND AND ENVIRONMENT COURT
PLAINTIFF'S EVIDENCE
NO. 2(ii)
MOORE George Edward
CROSS-EXAMINATION

HIS HONOUR: Or is that a matter that Mr. Moore will speak about. This Sydney Region Outline Plan. I haven't read this book yet, but ---

HEMMINGS: Your Honour I read a number of matters; Chapter 1, Plan of Broad Proposals - and I read this in my opening: generally the proposals in the outline plan are drawn in a semi-diagrammatic way. The translation of the broad proposals for any area into detailed plans with the delineation of precise boundaries is primarily a matter for local Councils. 10

HIS HONOUR: Yes but I've just noticed as you run up the Blue Mountains for example they don't have anything for places like Blackheath, Mount Victoria --

HEMMINGS: I'll be referring Mr. Moore to Lapstone which is the first large residential area up from Leonay, that's not shown on the --- 20

HIS HONOUR: Well I just asked the question ---. Yes.

OFFICER: Q. Mr. Moore you referred to the subject land as having in your opinion in 1973, high potential for urban development in the future. I think that in the future were your very words this morning, I'm subject to correction. Standing as at 1973 August, how long would you have thought it would have taken for the land to be rezoned? A. If you started immediately in 1974 or the end of 1973 you would have - you could have probably achieved it in 2 to 3 years. 30

Q. To get the rezoning? A. Yes.

HEMMINGS: Is this assuming you go out there ---

MOORE: That's if you wanted to go out there ---

HEMMINGS: As at the date of resumption?

OFFICER: Q. The witness said this morning in answer to you that as at 1973 he regarded the subject land as having high potential for urban development in the future. And I am asking him to treat me as a person consulting you in August 1973 and you say, yes I think it's got high potential for urban development in the future Mr. Officer and I say, well Mr. Moore what do you mean by in the future? If I engage you to make the approaches, and a lot of the work has already been done by Heath and Company, how long do you think it will be before you can present me with an SPA rezoning? A. Well my advice to you would have been that if you wished to proceed immediately with it we could achieve that within 1 to somewhere - 1 to 3 years depending about the endeavour that we would put to it, but my 40 50

THE LAND AND ENVIRONMENT COURT
PLAINTIFF'S EVIDENCE
NO. 2(ii)
MOORE George Edward
CROSS-EXAMINATION

advice to you that if you wanted it then you would be looking at paying similar prices to the land that's on the northern side of the expressway.

HIS HONOUR: No he's not asking you at this stage how much you're going to pay for it, just asking you how long - and what do you say in fact if you were the owner of the land as he was in that position with the plans advanced like Mr. Heath's were? 10

OFFICER: No I'm thinking of buying it, I haven't discussed price with Mr. Moore at all.

HIS HONOUR: But do you have - do you tell Mr. Moore that you have Mr. Heath's ---

OFFICER: Q. Yes I have Mr. Heath's plans and I say to Mr. Moore, now what do you think about it, do you think it has urban potential in the future? He says yes, I say, now here are the plans, I want you to press the matter with the necessary authorities, how long do you think before we can - how long would you say before we can have it rezoned? A. Well in the climate that was there at that time that with presentation of that to the SPA and the Minister in view of the Minister's desire for development to occur, I would say that we would have got an approval within 12 to 18 months but that would have meant then if you did do it land would come on the market in about another 18 months after that. 20 30

Q. You would expect rezoning within about 18 months, going full steam ahead? A. Yes.

Q. The first lots on the market about 18 months after the rezoning? A. Yes.

Q. And you would expect the whole of the land to be sold over a period of about, I suggest what, 7, 7½ years from the rezoning? A. No ---

Q. I'm sorry 7½ years from the time the first lot was on the market? A. It's a 10-year project.

Q. What, about 10 years for rezoning, development and sale of the lot? A. If you wanted to proceed at that time. 40

Q. What were interest rates in August 1973, the sort of rates that developers were paying for borrowed money? A. 16, 17 per cent.

Q. High as that in 1973 was it? A. Mm. That was the highest.

Q. Well they'd range from what, 12 to 16? A. Yes.

THE LAND AND ENVIRONMENT COURT
PLAINTIFF'S EVIDENCE
NO. 2(ii)
MOORE George Edward
CROSS-EXAMINATION

Q. This would be a very big development compared with anything that would have been taking place in the Penrith area? Any development that was ---

A. In one single ownership I would say yes.

Q. And - I'm not asking you your opinion as a valuer, but on any of the valuations that have been prepared on Tatmar's side, a massive sum of money to pay for land? Or a massive sum of money?

10

HIS HONOUR: You mean \$7 million is a lot of money?

MOORE: A. It's a lot of money when you say it but it's not the dearest land that was bought in the area. There were other lands that would have been ---

OFFICER: Q. But large and attractive though it was, a very large sum of money if it had to be borrowed at 12 to 16 per cent or any substantial portion of it.

20

A. Yes. If it was borrowed.

HIS HONOUR: Mr. Officer tell me just so I understand, in this case is that taken into account, the fact that it was hard - if that is the case, it would have been difficult to get this \$7 million? Because they owned the land.

OFFICER: The land has to be sold for the purpose of fixing the value. Turner's case says you can't treat the owner - you can't say how profitable it would be for him to develop. It has to be sold, and it in fact for the purpose of the value - you see there is a hypothetical vendor, and you assume that it is sold. It has to be sold.

30

HIS HONOUR: So is the difficulty of raising finance one of the factors ---

OFFICER: Well your Honour it's a question of, not the difficulty of raising it your Honour because the rule involves that you assume the hypothetical purchaser can raise the money. But of course it's a question of nevertheless for consideration as to whether he will pay \$X which he will have to raise at Y per cent if it is going to take him 8 to 10 years before he has sold off all of it. As some of the witnesses say, well if you're dealing with a 100-acre allotment that's very easy because your selling period is so much shorter than you can gauge with much better accuracy what the market is going to do, and you can get rid of them all and recover your - you're finished the whole exercise.

40

HIS HONOUR: But if you're dealing with comparable sales isn't this all taken into account?

50

THE LAND AND ENVIRONMENT COURT
PLAINTIFF'S EVIDENCE
NO. 2(ii)
MOORE George Edward

OFFICER: Well we have no comparable sales of 800 acres,
880 acres or anything like it.

HIS HONOUR: Yes very well.

ADJOURNED TO 28TH OCTOBER, 1981.

THE LAND AND ENVIRONMENT COURT
PLAINTIFF'S EVIDENCE
NO. 2(iii)
MOORE George Edward
RE-EXAMINATION

28th October, 1981

TATMAR PASTORAL COMPANY PTY. LIMITED & ANOR

-v-

THE HOUSING COMMISSION OF NEW SOUTH WALES

HIS HONOUR: Yes.

10

HEMMINGS: Your Honour I have had a discussion with my learned friend. There was one matter I neglected to raise with Mr. Moore yesterday and we think it would be better if I led it now so that my friend can cross-examine on it. With your Honour's leave, I will call that evidence.

HIS HONOUR: Yes.

GEORGE EDWARD MOORE

RE-EXAMINATION:

HEMMINGS: Q. Mr. Moore, you were also asked to look at sales described as being in the Jamison Road area, that is, the sales to Calpac, ASL and the Leagues Club?
A. Yes.

20

Q. Would you go to exhibit G? Mr. Moore, would you indicate those three sales and their locality?

A. Calpac is a parcel of land just north of the free-way off Blaikie Road and the ASL land is another parcel of land north of Calpac's fronting Jamison Road and then the Leagues Club area is a large area of land fronting Jamison Road and Mulgoa Road. I also investigated that property, the Leagues Club area, in 1970 for a developer called Batchelor and Company.

30

Q. So that was some years ago, completely independent examination of this property? A. Yes, independent of this, yes.

Q. I don't want you to go into detail of that land, but what are the main constraints on development with those lands? A. A very large parcel of each of them is subject to flooding, back-up flooding, caused (a) from Schoolhouse and Surveyor's Creek and back-up flooding of the Nepean River, and the major part of the land is subject to flooding.

40

Q. What would be required with respect to those lands before they could be made available for development for urban purposes? A. A great deal of earth-works, of removals of topsoils, importing of filling, consolidation. The cost of doing any of the work would vary from about \$3,000 to \$3,500 an acre.

Q. As at 1973? A. 1973 costs.

THE LAND AND ENVIRONMENT COURT
PLAINTIFF'S EVIDENCE
No. 2(iii)
MOORE George Edward
RE-EXAMINATION

HIS HONOUR: Mr. Hemmings, on those - A equals what and D - which is ---

HEMMINGS: A is an analysis purely on a mathematical basis.

HIS HONOUR: That is just dividing the price into the acreage? 10

HEMMINGS: Yes your Honour. And B is deduced to try and make it comparable to the subject land.

HIS HONOUR: I keep getting - I would have thought that would be the analysis but it is not. That's the deduction is it? Anyway, that's probably --

HEMMINGS: They are the terms that the valuers use your Honour.

OFFICER: A equals Actual.

HIS HONOUR: Actual, that's right. That doesn't confuse me so much. It was the use of the word A equals Analysis that worried me --- 20

HEMMINGS: Can I approach the witness again your Honour and might we both approach the Bench?

HIS HONOUR: Yes.

HEMMINGS: Q. I show you a map called Penrith Flood Inundation Map, Nepean River and that map is of the Penrith area in the proximity of the Nepean River near the freeway, is it not? A. Yes, the freeway northerly.

Q. Would you identify Mulgoa Road? A. Mulgoa Road is a wide road running from Penrith railway station in a south-westerly direction crossing underneath the freeway, if I might indicate, at Warrimoo Street. 30

Q. And that is the same freeway that is north of the subject land? A. Yes that's the freeway.

Q. Can you identify Schoolhouse Creek? A. Schoolhouse Creek starts from a point near the transmission line, well it cuts underneath the transmission line back up and follows underneath Mulgoa Road and the flooding occurs back up into - just short of where that big dam is on Kulnamock. I don't know the exhibit number. 40

HIS HONOUR: Q. Does it appear on AJ? A. Yes. That dam.

HEMMINGS: Yes.

THE LAND AND ENVIRONMENT COURT
PLAINTIFF'S EVIDENCE
NO. 2(iii)
MOORE George Edward
RE-EXAMINATION

Q. You can identify Mulgoa Road, can you not?

A. Yes, there's Mulgoa Road.

Q. You show the bend in the road. A. The bend in the road, yes.

Q. And I think you have described on Kulnamock an area of land that is swampy, I think you described it?

10

A. Yes.

HIS HONOUR: Q. Which is Mulgoa Road? A. That's the curved road there.

HEMMINGS: The swampy area is just below that circle on Kulnamock your Honour which is a dog track or something, I think.

MOORE: A. If you turn that photograph around, it would be the same as this. Right, that's it, and the flooding comes up to just short of the dam. There's the wall of the dam there, with that contour flat falling around it. The dam is in that position there, your Honour, I'll mark it underneath.

20

HEMMINGS: The flooded area your Honour is below that circle, near Mulgoa Road. That's coming down that way your Honour.

MOORE: Then that's - the area to our boundary is at that angle or Kulnamock's boundary is there and that is that area of land that's flood prone, a low lying area, over towards the cottage.

30

HIS HONOUR: Q. That's the 100 year flood level?

A. Yes that's right.

HEMMINGS: Q. On the northern side of the freeway, you then come to Calpac, ASL and the Leagues Club lands, do you not? A. Yes, Calpac is that land in there, with a flood plain running through it?

Q. ASL Land? A. And ASL land is the land here, the Leagues Club is this area in here.

Q. This plan indicates the 100 year flood? A. And the 50 year flood.

40

Q. The 50 and 100 year flood? A. Yes.

Q. And they are the major and most significant floods that one would expect to have? A. Yes, you are required to comply with the 100 year flood to keep any buildings out of it.

Q. Apart from those major floods which would prohibit

THE LAND AND ENVIRONMENT COURT
PLAINTIFF'S EVIDENCE
NO. 2(iv)
MOORE George Edward
FURTHER CROSS-EXAMINATION

the erection of buildings, to make the land generally suitable for development purposes, would you have filling at a - to overcome local flooding from lesser floods within the area? A. Yes.

HEMMINGS: I tender that your Honour. 10

HIS HONOUR: Do you object to that?

OFFICER: No your Honour.

TENDERED, ADMITTED AND MARKED EXHIBIT AK - MAP
OF PENRITH SHOWING FLOOD AREAS

HEMMINGS: That is the evidence your Honour.

HIS HONOUR: Yes.

OFFICER: Perhaps it may be convenient if I deal with this aspect before I go back to it - general cross-examination.

FURTHER CROSS-EXAMINATION: 20

OFFICER: Q. Mr. Moore, the Leagues Club bought the land you have indicated on the exhibit with the sales?

A. Yes.

Q. About 1973 or 1974? A. Yes.

Q. Did they by that time already have a Club house?

A. They had a club house, I understand that that was later than that, I would think.

Q. I'm sorry, I was suggesting to you that at the date of the purchase of the land west of Mulgoa Road they already had a club house up near - in Mulgoa Road, or near Mulgoa Road? A. I don't know. 30

Q. If they had - I'm sorry, I withdraw that. Has the Leagues Club by now developed the land which you have indicated they bought? A. No.

Q. That's Penrith Leagues Club? A. Yes.

Q. You would agree of course that if they already had a club house a short distance east of the land they bought, that would be - it would be a factor in a decision by them to buy the land we have been talking about? A. I wouldn't know what they would have in mind. 40

Q. But you would assume, would you not, that if they had an established club house a short distance to the east of Mulgoa Road that proximity of the land they bought to their existing club house would be an attraction to them? A. Yes.

THE LAND AND ENVIRONMENT COURT
PLAINTIFF'S EVIDENCE
NO. 2(iv)
MOORE George Edward
FURTHER CROSS-EXAMINATION

Q. In fact they attempted, did they not, to buy the Kulnamock land? A. I have no idea.

Q. Have Calpac developed their land? A. No, there is no development on Calpac at the moment. ASL is the only one on which there is any development.

10

Q. What was the nature of the development? A. At the present time, there's large scale earthworks proceeding for detention basins and filling of the land.

Q. Is it to be developed for industrial or residential purposes? A. I don't know.

HIS HONOUR: Q. You say some filling on ASL land, is it?
A. Yes.

OFFICER: Q. Do you know when ASL commenced the filling?
A. Just the appearance of the site over the last 6 months would suggest that it was commenced only within, say, 6 months ago.

20

Q. ASL got into difficulties, didn't they, went into either receivership or liquidation? A. Receivership.

Q. And is this land, do you know, still owned by ASL or was it sold off by the receiver? A. I don't know, I can't vouch for that.

Q. May I go back to some topics of yesterday? You would agree, would you not, that developers take a very keen interest in any pronouncement from a Government source as to changes in zoning or release of land?
A. Yes they do.

30

Q. And they would, for example, obtain copies of the Premier's press statement which was part of exhibit R?
A. Yes they would.

Q. And they would file it for future reference?
A. Yes they would.

Q. They also would have been most interested in what the Minister, Sir Charles Cutler, said in the - I'm sorry, yes, interested in what Sir Charles Cutler said in the letter to Mr. Vogan, which is part of exhibit R?
A. Yes they would be.

40

Q. You would expect Mr. Vogan to have made the contents of that letter known to developers, would you not? A. Yes in some form or another.

Q. And that too would be a matter which - I'm sorry, I'll withdraw that. Developers if they got a copy of that letter would also file that or would file whatever

THE LAND AND ENVIRONMENT COURT
PLAINTIFF'S EVIDENCE
NO. 2(iv)
MOORE George Edward
FURTHER CROSS-EXAMINATION

Mr. Vogan made known to them as to the contents of the letter? A. Yes, that's those members that were members of the Development Institute.

Q. They were the majority of the big developers, were they not? A. Yes that's so. 10

Q. Mr. Moore, I don't want to debate the detail or put questions to you of detail with regard to what you said yesterday were "examples". You remember those, Leonay, Menai, McGrath's Hill and so on? A. Yes.

Q. But you will agree, will you not, that if they are examples of what the SPA might do, none of them were available for the guidance of developers in August, 1973? Do you follow the question or would you like it put again? A. Yes I follow what your question is. They are only examples of other areas that developers were getting released. There were areas up at Galston --- 20

Q. I'm sorry, but if we just deal if we may with the five or however many it were that you mentioned in chief yesterday and about which I asked you yesterday afternoon. None of those examples had occurred by August 1973?

HIS HONOUR: I think what he might be - you mean none of the releases had in fact - hadn't been gazetted?

OFFICER: Yes.

HIS HONOUR: I had the feeling he thought there was a bit more to it than that though. 30

OFFICER: I didn't want to put "gazetted" because there may not have been gazetals and because SROP was not an ordinance and as to - I'm sorry, I beg your Honour's pardon - I'd prefer to withdraw the word "release" your Honour because there will be evidence which we will be tendering that, for example, the Leonay land in 1963 was transferred from Penrith from the Blue Mountains City and as I understand it, the evidence will be that in 1964 it was under the Penrith scheme of 1960, zoned for urban use. It came into Penrith, so I understand, some time in 1963 from Blue Mountains. 40

HEMMINGS: But Penrith didn't have a scheme.

OFFICER: Maybe it didn't but it came into the municipality I take it of Penrith by transfer from the City of Blue Mountains in 1963. And in 1964, as I understand it, it was then by an IDO, I think it was No. 2, of Penrith, zoned for residential.

HIS HONOUR: Zoned non urban - zoned for residential now.

THE LAND AND ENVIRONMENT COURT
PLAINTIFF'S EVIDENCE
NO. 2(iv)
MOORE George Edward
FURTHER CROSS-EXAMINATION

OFFICER: There may, in respect of that, when it came to be developed, never have been a release - a gazettal of any variation, so I don't want to build the word "release" into my question.

HIS HONOUR: So I understand it, what are you saying? Free from what? Free from the restriction of the Sydney Outline Plan, if there be such ---

10

OFFICER: Your Honour, the fact that it had been so zoned may be - maybe we will be ascertaining this and calling evidence on it one way or the other - the fact that it had, since 1964, been so zoned may have been a reason why SPA whenever it started to be developed for urban purposes, gave whatever concurrence they needed.

HEMMINGS: We don't challenge that.

HIS HONOUR: I suppose they must have been responsible for the interim development order so I suppose they must be taken to have known what they did after the land was transferred because --

20

OFFICER: Except your Honour that they would have given their consent or approval imprimatur or whatever necessary to the interim development of 1964 before SROP was drawn up.

HIS HONOUR: I see. They have done it the other way round, they've still done it though.

OFFICER: Yes.

30

Q. May I put to you, Mr. Moore - so much has happened I am not sure whether this is the same question or a slightly different one.

HIS HONOUR: Yes could you ask it again?

OFFICER: Q. You referred to Leonay yesterday as an example, am I right? A. The area of Leonay?

Q. The general area of it, yes. A. The general area. There are other lands that were not so ---

Q. You referred to the Leonay neighbourhood? A. As an area - yes, that's correct.

40

Q. By way of saying that it had been developed for urban purposes although not phased on the SROP map?
A. The SROP map set out in the very parts of it to define the areas that were existing uses in the existing zonings and then developed from the phasings.

Q. Existing zonings? A. Yes. That's if you look

THE LAND AND ENVIRONMENT COURT
PLAINTIFF'S EVIDENCE
NO. 2(iv)
MOORE George Edward
FURTHER CROSS-EXAMINATION

carefully at the outline plan and the phasing plan, they differentiate between the areas that were existing zoned as residential and the areas that were future and the far distant future.

HIS HONOUR: The difference between the outline plan and the phasing plan. 10

OFFICER: Q. I see. So, for example, is it, what you are saying, if one looks at not the phasing plan but the outline plan, it shows urban existing? A. Yes.

Q. And you say that is urban existing zoning? A. Yes.

HIS HONOUR: Wait a minute. You say urban existing - that means urban existing zoning, yes.

OFFICER: Q. Not urban existing development? A. No. Land that was - that had been zoned for development. I don't mean land that was zoned as restricted development. Menai is one in which - Menai had a restrictive zone over it in that it couldn't be developed for residential purposes until services were available. 20

Q. May I ask you, when you referred to the Leonay neighbourhood yesterday in chief and to me, and when you said that was an example, were you meaning that was an example of SPA agreeing to urban development of an area which was not shown on the SROP as either existing urban development or existing urban zoning? A. Quite so.

HIS HONOUR: Yes, that's what I understood it --- 30

HEMMINGS: Or proposed.

OFFICER: Q. Or proposed. I think this be apparent when we get the transcript. I think you indicated yesterday that what you believe to have been SPA's concurrence took place after 1973? A. No I don't know when. It would be somewhere in that period.

Q. What period? A. Well it would be sometime after the Sydney Region Outline Plan.

Q. Obviously, yes. A. Yes, and you see sometimes these processes - agreements could be reached and it would take you 2 to 3 years to eventually get the documentation that allows you to proceed. I wouldn't know when the first process of agreement was reached. 40

Q. Would this be right, that - I put it to you that as to some of your examples, the concurrence of SROP was after August 1973, as to some of them? A. Some of them may have occurred after 1973, yes.

THE LAND AND ENVIRONMENT COURT
PLAINTIFF'S EVIDENCE
NO. 2(iv)
MOORE George Edward
FURTHER CROSS-EXAMINATION

Q. And as to others, you don't know whether the concurrence of SPA was before or after August 1973?

A. No.

HIS HONOUR: Can I just ask a question?

Q. Mr. Moore when you refer to this Sydney Region Outline Plan as referring to an area as, for example, being non urban, you are talking - that's it zoning, its present zoning? A. Yes, that's all the brown or the light brown colour. 10

Q. And does that include areas that are zoned residential but require the concurrence of the - why wasn't the Leonay land marked red? A. It wasn't marked red on the plan.

Q. But why wasn't it? Didn't you say under interim development order No. 2 of 1964 it was zoned residential? 20

OFFICER: As I understand it your Honour under the Penrith scheme.

HIS HONOUR: Well it should have been residential there, shouldn't it? Unless they take the view that where their concurrence was required, there was going to be --

HEMMINGS: Unless the view was taken - for example, a lot of areas that are shown green which is open space, unless the Sydney Region Outline Plan indicated there would be a change in the zoning and whether the land was to go from one zoning to another, that would have to be resolved. 30

HIS HONOUR: I understand that but I thought Mr. Moore said, or I was told, that they were talking about existing zonings not what it might become.

HEMMINGS: As my learned friend said, this is not a - the Sydney Region Outline Plan is not a prescribed scheme, it is not a scheme at all.

HIS HONOUR: I know that.

HEMMINGS: It is an outline of the attitude of the State Planning Authority. 40

HIS HONOUR: Yes, but I thought the outline plan was to indicate what it was now, that is, 1968.

HEMMINGS: No, it is what is their intention and it was intended to show existing zonings as well.

HIS HONOUR: Q. Is that right? A. It was a plan that

THE LAND AND ENVIRONMENT COURT
PLAINTIFF'S EVIDENCE
NO. 2(iv)
MOORE George Edward
FURTHER CROSS-EXAMINATION

showed the existing uses and zonings and what was to be the future expansion of Sydney.

Q. But where it had an area coloured urban existing, one was really meant to think that is what it was, urban --- A. Yes it was.

10

Q. And when you had an area non urban, although "existing" is not after it, I suppose one was meant to infer that it was non urban? Now. A. Yes that was so. The reason why some of the village areas ---

Q. Why wasn't Leonay red, that's what I am asking?
A. This is just so many of the anomalies that were there.

Q. It is an anomaly. A. It is an anomaly but it was an area that, although it was in the - it was proposed for release, from my memory of that at the time because we did some development adjoining that and it was - had restrictions over it subject to the provision of services, and you couldn't develop some of the land until services were available and you had a problem of water supply, it had a problem of sewerage. And it also - there were areas came about in 1968 that might be affected by the freeway on the other side and when the freeway changed its direction, development was permitted in that non urban area that was previously a large swathe of reserve for the freeway.

20

30

HIS HONOUR: Q. Yes, thank you. Sorry Mr. Officer.

OFFICER: Q. Mr. Moore, you said yesterday - and I'm sorry again I can't put your precise words to you; but in speaking of the attitude of the industry, and what they believed would happen - and I'm speaking pre the press release of December, 1972; I think you said that either - and I say either because there is some difference in our notes; either in November, 1969 or November, 1970, Mr. Kacirek made known that there were to be some releases. A. It had been known to the development industry before, but he made an announcement in November, 1970 at a seminar, and referred to prior negotiations that had been going on between the development industry and the SPA about the release of large parcels of land.

40

Q. Was his announcement to the effect that land which had never under any planning scheme been zoned urban, would if in sufficient parcel and services available be zoned urban? A. Yes, that was the impression gained by the development industry from the remarks made by Mr. Kacirek, and from discussions that had been held with the various departments, providing services could be made available, and it was not outrageously departing

50

THE LAND AND ENVIRONMENT COURT
PLAINTIFF'S EVIDENCE
NO. 2(iv)
MOORE George Edward
FURTHER CROSS-EXAMINATION

from the principles of the plan, very favourable consideration would be given to the application.

Q. Can you recall where that seminar was held?

A. Yes, it was held at the university - the Sydney University.

10

Q. Did anyone else, and if so would you please identify as best you can the time and place - did anyone else from the SPA make a similar public intimation?

A. Not at that time. I can't specifically recall, but there had been ongoing conferences and seminars in respect of the availability and the cost of land. The industry was so desperately short of land, and they are today too, it hasn't changed in all that time; and there were other officers of the SPA at the time - Nigel Ashton who was the ---

20

Q. My question was: make a public intimation. Did Mr. Ashton? A. No, there had been at talks and at seminars.

Q. Mr. Ashton at a seminar? A. I can't swear that that was at a seminar, but at conferences or that, that has been said.

Q. By Mr. Ashton? A. Yes, that they would ---

Q. In what year? A. It would be around about that period, when discussions were being held.

Q. And conferences that you attended? A. Some that I attended; the development industry as a whole changed personnel in representation ----

30

OFFICER: Q. But at some conferences that you attended, Mr. Ashton made intimation in terms similar to those which I've put to you --- A. Yes, everyone we talked to supported that idea.

HIS HONOUR: Q. No, I think you were asked specifically did you --- A. No, I can't swear that it was Mr. Ashton - what he actually said; that's so long ago.

OFFICER: Q. You told us what Mr. Kacirek said.
A. Yes, I know that because that was recorded.

40

Q. You say was recorded? A. Yes.

Q. Where, in what form? A. In the results of the seminar that was held.

HIS HONOUR: Q. Where is that now? A. The documents would be at the university I would believe.

THE LAND AND ENVIRONMENT COURT
PLAINTIFF'S EVIDENCE
NO. 2(iv)
MOORE George Edward
FURTHER CROSS-EXAMINATION

OFFICER: Q. What inquiries should be made to the university to get that? A. It would be in the university research centre - I believe were the people that organised it. It would probably emanate from the faculty of town planning.

10

Q. And November, 1970? A. Yes, it would be about the end of November, 1970.

Q. May I go back to my question, to your personal knowledge did any other officer of SPA ever publicly make intimation in the same terms as Mr. Kacirek?

HIS HONOUR: What do you mean by publicly, at a seminar or of like event?

OFFICER: At a seminar, or an industry conference even; I'm not talking about some developer going along for a private chat with someone, I'll come to that later.

20

HEMMINGS: Does that include the Minister as well?

OFFICER: To this witness's personal knowledge, because he was present, had any other officer of SPA ---

HIS HONOUR: Said the same thing.

OFFICER: Q. And if so, who and when - made public intimation in the same terms as Mr. Kacirek? A. I couldn't be clear on that, but it was at a number of these seminars, that on the availability and costs of land, officers of the department - primarily it would have been either Mr. Kacirek or Mr. Ashton, the principal officers, gave this impression. I wouldn't know the words that they expressed, but I do recall on a number of occasions going away from the meetings with the impression of exactly the same words that Mr. Kacirek repeated. It was purely a demonstration of the goodwill that was being attempted to engender in the industry; but as for the actual words and the officer I couldn't.

30

Q. And the intimations, expressly as you recall by Mr. Kacirek in November, 1970, and your general recollection, were intimations in terms broadly similar to those of the Premier's press release, were they not?

40

A. Yes.

Q. 350 acres or more, and able to be serviced?

A. Yes, and the development industry was talking to each other about what they were trying to do, and so that each one was being informed and assisted.

Q. So is it your view that as from November, 1970 on, the industry knew that the guidelines were about 350

THE LAND AND ENVIRONMENT COURT
PLAINTIFF'S EVIDENCE
NO. 2(iv)
MOORE George Edward
FURTHER CROSS-EXAMINATION

acres or more, land capable of being serviced, and if so there would be favourable regard to authorising urban development, even if it had never under any planning scheme been zoned for urban use before? A. Yes.

Q. Why did the Premier bother to make a press announcement in December, 1972 if this had been known for two years - well known in the development industry? A. I don't know why the Premier would seek - it was probably politically time for him to say that I suppose. 10

Q. So your explanation is, is it, that it was purely for some political purpose? It added nothing to the knowledge which the development industry already had, and had had for two years, is that what you're saying? A. Except that it added to the fact that it would accelerate, because politically assistance would be granted by the government; that they would do everything to assist us. 20

Q. When you say assistance you mean financial assistance? A. No, far from that.

Q. Do you mean assistance by way of getting the SPA to -- A. Getting the thing moving. Up till then - if I might clarify the fact of the 70 period, is that although approaches were being made early to get release of land, the process of negotiations, through the State Planning Authority is long and tortuous. You suffer the problems of officers being moved from one department to another, and so therefore you start all over again. They go on long service leave, you start all over again with another officer, and your general interchange of process of negotiations takes so long. So what the industry looked at when the announcement was made in 1972, was that we would be given a push through that tiresome that was then and is now the bug-bear of the development industry. 30

Q. Have you a copy of the Premier's press statement? A. No, I haven't. 40

OFFICER: May the witness be shown Exhibit R?

Q. Now if you look at the press statement, Mr. Moore, you observed that in the third paragraph, Sir Robert said: action has already been taken and is still under-way to release further land, will ensure the availability of ample home sites with essential services. A. Yes.

Q. He's not there referring to the release - rezoning and release of broad acres? A. Yes, he's referring to the fact that what they did - they did a very broad statement, much as they do today, that 20,000 home sites are released; but that doesn't mean that they're 50

THE LAND AND ENVIRONMENT COURT
PLAINTIFF'S EVIDENCE
NO. 2(iv)
MOORE George Edward
FURTHER CROSS-EXAMINATION

released and available; it means that the area is subject to a great deal of investigation in preparation of control plans before it can be released for actual development. It's just a political statement I would suggest.

10

Q. If you'd look at page 2, the principal portion of this press release dealing with the topic that concerns us, is I suggest the paragraph in the middle of that page 2. A. That's the third paragraph down, is that the one?

Q. The Government will also; now his use of the word "also" would suggest, would it not, that he was now passing to a different subject matter? A. The word "also" suggests that.

HEMMINGS: Your Honour Mr. Moore is not a lawyer. I'll just make my objection. And he has not attempted to construe the press statement to say what the Premier intended to say. His evidence is to what people that put their hand in their pocket believe ---

20

HIS HONOUR: I understand that, but this is a shorthand way of getting to that, isn't it? It's a shorthand way of asking what he understood the Premier to say.

HEMMINGS: I think he is being asked that. He is being asked ---

30

HIS HONOUR: Is that what you're doing Mr. Officer? Because I suppose strictly - I had understood you to be asking the question in the context of really asking his views of what he thought the Premier was saying.

OFFICER: No, I'm ---

HIS HONOUR: Mr. Officer how can I accept into - how can Mr. Moore tell me anything other than what he thinks Sir Robert Askin meant? How can he tell me what he did mean?

OFFICER: He can't your Honour. Perhaps except for the last question as to which there may be some debate, I'm seeking to test the witness's assertion, which in effect was this: the paragraph in the middle of page 2 wasn't news to anyone in the developing industry.

40

HIS HONOUR: That's why I didn't stop it. Yes? How do you ask the question as to what - you're asking this witness what Sir Robert Askin meant?

OFFICER: That question was I think - I think I'm correct, without objection, answered, but be that as it may ---

THE LAND AND ENVIRONMENT COURT
PLAINTIFF'S EVIDENCE
NO. 2(iv)
MOORE George Edward
FURTHER CROSS-EXAMINATION

HIS HONOUR: Yes it was.

OFFICER: --- if your Honour treats it as having been objected to, rules it out, I'll ---

HIS HONOUR: No. I must say I understood it in the context of what he understood Sir Robert Askin to say. I would simply reject, unless he tells me that he was privy to Sir Robert Askin's every move - his capacity to tell me what Sir Robert Askin meant. 10

OFFICER: I don't mind if your Honour rules the question out. May I proceed to a different question which I think is not objectionable?

HIS HONOUR: Yes.

OFFICER: Q. Mr. Moore you have said that the press release didn't convey anything to the industry, other than that the government would co-operate in SPA following the policy, and following it rapidly, which had been announced by Mr. Kacirek in November, 1970. 20

HEMMINGS: Before Mr. Moore answers that, it is a proper question providing it's made clear, Mr. Moore gave evidence in chief yesterday as to the situation, before and after, and then in cross-examination this morning he said something. Is the question only relating to what he said this morning, or does it relate to what he said both yesterday and today about the position before and then after that announcement? 30

HIS HONOUR: I don't know.

HEMMINGS: The question is misleading your Honour.

HIS HONOUR: You say he's giving two different versions?

HEMMINGS: No, your Honour. He has said this morning that there was a political decision. Yesterday, he said that there were ad hoc decisions being made about releases; but from that day on it was ---

HIS HONOUR: Yes?

OFFICER: Q. You said this morning, Mr. Moore, to me that the Premier's press release, and particularly I draw attention to the middle paragraph on page 2, tell the development industry nothing, other than that the government would co-operate in ensuring that SPA carried out the policy, which Mr. Kacirek had made public in November, 1970; is that correct? A. That is correct. The government in primatur was placed upon the negotiations, if I might put it that way; that it gave us further impetus to believe that any of our submissions would be speeded up. 40

THE LAND AND ENVIRONMENT COURT
PLAINTIFF'S EVIDENCE
NO. 2(iv)
MOORE George Edward
FURTHER CROSS-EXAMINATION

Q. And by using the words "speeding up", you draw those from the Premier's words "government prepared to consider favourably", is that right? A. Yes.

Q. I want to put a final question to you, and it's this, I suggest to you that all the terms of the press statement have the hallmark of the topics having been lobbied to the government, and the government finally, and for the first time, announcing its concurrence? 10

A. No, I think frankly my reading of the statement and the feeling of the industry at the time, is that the announcement was a political statement, centred around the Housing Commission more so than anything else.

HIS HONOUR: Q. Was there an election then? A. I think a Federal election, and it was at the time that Mr. Whitlam made - funds were going to be made available in unlimited quantities to the States for housing purposes. 20

OFFICER: I'm told your Honour that State elections haven't departed from their three year course, and that there was one in 1972, 1975, 1978 - but let's not take up time your Honour. We can find out at the adjournment if necessary.

HIS HONOUR: It is 1972. That's why it was made just before the election I suspect, was it?

OFFICER: This would not have been your Honour. 30

HIS HONOUR: What was the date of it?

OFFICER: The press release was 20th December, so it wasn't a pre-election.

HIS HONOUR: Q. Do I understand you Mr. Moore to say that you understood, and you say other people understood, that provided that the land was sufficiently big, and services were available - could be made available, steps would be taken to allow land to be developed for residential areas that what were previously zoned non-residential? A. That's correct. 40

Q. You may not remember, but when you saw the Premier's statement saying that the land would be released - he would advance the release of land under the Sydney Region Outline Plan, what did you understand by that? A. The Sydney Region Outline Plan covers the whole of the metropolitan area ---

Q. What did you understand by the word "release" of the land under the Sydney Region Outline Plan? A. We understood that was that that land would be set aside or made available for residential purposes. 50

THE LAND AND ENVIRONMENT COURT
PLAINTIFF'S EVIDENCE
NO. 2(iv)
MOORE George Edward
FURTHER CROSS-EXAMINATION

Q. It wasn't even proposed to be residential under the Sydney Region -- A. That's correct.

Q. I asked that you see because I suppose developers would have looked at this book of the Sydney Outline Plan, and when I looked at the phasing plan, it refers to the context in which decisions will be made about the release of land for development. And I thought that meant lands moving from existing say residential to proposed residential under this scheme. A. The industry was hampered in that they couldn't acquire land in any of that zoned or early proposed zoned areas, because the amount of land wasn't available to them. And that's why ---

10

Q. I don't know that that's an answer to the question, unless it's meant to mean that because the industry desperately wanted land, they were prepared to read anything into anything. And that may be the fact. A. I think it would be true too for some of them, but by virtue of the lands that were, and did eventually become available for development, some of them were successful. If I might finish your Honour with that, what is termed by the Sydney Region Outline Plan is not necessarily the plan, and it must be read in the context of the objectives within the document.

20

Q. That's what I was reading from you see, under the phasing plan, it provides for the context in which decisions will be made about the release of land for development. A. Yes, that was in accordance with their policy.

30

Q. But as I understood it - you tell me if this was not the right understanding, that was to take land from an existing non-urban and put it into a proposed urban?

A. Yes, within the context of where the planners of the SPA considered was an appropriate area to do that. But the development industry has for long disagreed with the approaches of the SPA.

40

Q. But what I'm asking then is, when you looked at that - I suppose that's only asking you subjectively, wouldn't you have thought: ah, I had better ring up and find out whether he really means the release of land within the Outline Plan, or whether he means that land that is zoned non-urban - designated non-urban under the Region Outline Plan, can become urban? A. This is what had happened. Discussions had been held.

Q. You say that the previous discussions had made that aspect of the matter fairly --- A. Yes, right from the day of the announcement of the Sydney Region Outline Plan, the industry had continuously fought with

50

THE LAND AND ENVIRONMENT COURT
PLAINTIFF'S EVIDENCE
NO. 2(iv)
MOORE George Edward
FURTHER CROSS-EXAMINATION

the State Planning Authority on the basis that they were not releasing the land in the correct procedures ----

Q. I only asked the question, because I suppose in one view it might be - I don't know, that people might regard release of lands under Sydney Region Outline Plan as taking it - just ignoring that plan? A. No, the principles of the plan are for releasing land adjacent or near to ---

10

Q. All I am saying is, and I may be wrong, and perhaps Mr. Hemming can tell me this, when I read the Sydney Region Outline Plan, and you see the words "release of land", it is there in the context referring to taking it from existing to proposed.

HEMMINGS: There are two concepts, your Honour ---

HIS HONOUR: From proposed to existing, I'm sorry. No, it's from existing to proposed, from existing non-urban to proposed urban.

20

HEMMINGS: There are two concepts your Honour, there is zoning and release. And that's why there are two plans - or there are three plans, but two main plans at the back of the report.

HIS HONOUR: Yes.

HEMMINGS: So that whilst one might be able to get a rezoning of the land in accordance with the - contrary to what might have been an indication in the Sydney Region Outline Plan, when that land would be brought on the market, or "released", you mightn't get your release in the phase-in, under the Sydney Region Outline Plan immediately, it might accord with one of the other areas. So that two things have to happen, a rezoning and a release or phase-in, so that if land was rezoned for urban purposes in this area it might have been said by the SPA, yes, we approve the rezoning, but the release under the Sydney Region Outline Plan will be in accordance with North Orchard Hills, and that will be in 5 years' time.

30

40

HIS HONOUR: Yes.

HEMMINGS: And that would be "a release under the Sydney Region Outline Plan".

HIS HONOUR: Yes, well I'll have to - and in any event I suppose I can't ignore that finally the question I must determine is not what it says but what it is understood to say.

OFFICER: Q. Well I hope it will be the last question

THE LAND AND ENVIRONMENT COURT
PLAINTIFF'S EVIDENCE
NO. 2(iv)
MOORE George Edward
FURTHER CROSS-EXAMINATION

on this topic, would you look at - you have a copy of exhibit R, haven't you? A. Is that the ---

HIS HONOUR: That is the press statement.

MOORE: A. Yes I have.

OFFICER: Q. Would you look at the letter to Mr. Vogan, would you look at page 2 of it. A. Yes. 10

Q. And would you read the middle paragraph commencing - read it to yourself, "in the first case".

HIS HONOUR: Which page?

OFFICER: Q. Page 2, the third paragraph, and particularly the second and third sentences. A. Yes, I've read that.

Q. And am I right in thinking that you would consider that, and in particular the second sentence of that paragraph, the one starting: The second proposition, as indicating the rezoning of non-urban land for urban purposes? A. I think what that sentence there - or it follows from the second sentence in that paragraph, which says: The second proposition for parcel acquisition by the government to assist the developer in the aggregation of a suitable sized development area would of course need to be considered very carefully in any circumstances. What we're saying there was that there was - because of the problem that the industry had been getting in obtaining a large enough parcel, because land was in 5 acres or 10 acres or 20 acre parcels, they couldn't aggregate them successfully, and so the proposition had been put to the government, and this letter is generally in reply to a letter that Mr. Vogan sent to the - asking certain questions, and the government is saying there, they've not adopted any policy in this regard of acquiring and aggregating land. That's all I can see that that refers to. 20 30

Q. Well I was - may I finally put this to the witness, Mr. Moore, you see the Minister in the second sentence of that paragraph, starting: The second proposition. A. Yes. 40

Q. Talks about aggregations, and says that parcel acquisition by the government to assist aggregation would need to be considered very carefully in any circumstances, you see that? A. Yes.

Q. And he proceeds: And particularly so for a project requiring an advancement in timing for release of land under the phasing of the Outline Plan? A. Yes.

THE LAND AND ENVIRONMENT COURT
PLAINTIFF'S EVIDENCE
NO. 2(iv)
MOORE George Edward
FURTHER CROSS-EXAMINATION

Q. Now what I wish to put to you is that - tell me do you or do you not agree that when you read that, you would understand the Minister to be referring to an acceleration of phased release? A. For that type of proposition of the government spending money in aggregating land, and they wouldn't be in that for the purpose of advancing the phasing. 10

Q. They wouldn't? A. No.

Q. But he says they would have to consider it carefully? A. Well yes, but ---

Q. They would have to consider it carefully because it would involve an acceleration in phasing? A. No, they didn't adopt the policy on it.

Q. I know but they say: If we do adopt the policy on it, we'd have to consider it very carefully because it would be an acceleration of the phased release under the Outline Plan? A. Yes, that's correct. 20

Q. But your belief would nevertheless be, and was, that quite apart from acceleration of phasing, land shown on the SROP as non-urban, and which under no plan had been urban, could be if suitable in size and servicing of it, released for urban purposes? A. Yes.

OFFICER: Now may I go to a different topic, have you a copy, and this would assist Mr. Moore, of the document which was one of your documents which was marked Y2, that is headed "Tatmar and Another Having Urban Development Potential". 30

HIS HONOUR: Y2?

OFFICER: Q. Y2, it has 5 numbered paragraphs on the first page. A. Yes, I have a copy of it.

Q. I direct your attention to paragraph 2. Now you have referred in paragraph 1 to the gazettal of IDO 28? A. Yes.

Q. Of course the area covered by IDO 28 was shown on the SROP as urban but for phased release 1970 to 1980? A. Yes, that's correct. 40

HIS HONOUR: And what is IDO 28 with a map has been tendered, what was it? I just want to mark above it.

HEMMINGS: Exhibit Z. And what is the question, I'm sorry, you said - and he answered yes to, what was that?

OFFICER: Q. The area covered by IDO 28 was land which

THE LAND AND ENVIRONMENT COURT
PLAINTIFF'S EVIDENCE
NO. 2(iv)
MOORE George Edward
FURTHER CROSS-EXAMINATION

on the SROP was shown for urban but release 1970 to 1980. A. I think some of it was shown as industrial.

Q. Some of the land in IDO 28? A. Yes, in the original phasing plan, if my memory serves me correctly.

HIS HONOUR: Q. In the phasing plan? A. Not in the phasing plan, in the Outline Plan. 10

Q. You say it was shown - yes, there is a bit of industrial there.

OFFICER: Yes.

HIS HONOUR: Q. Right at the boundary of the expressway? A. That's correct.

OFFICER: I beg your pardon. So may I alter it, the land dealt with in IDO - I'm sorry, I withdraw that, may I have a look at IDO 28, your Honour.

HIS HONOUR: Q. Yes. Well it was proposed industrial? A. Yes. 20

Q. Well not industrial, proposed industrial.

OFFICER: What the SROP showed the land the subject of IDO 28 as partly industrial - proposed industrial, and partly proposed urban. A. IDO 28 showed it zoned - some of it the Sydney Region Zone.

Q. The SROP? A. Yes.

HIS HONOUR: Q. It looks to me as though some of it on this plan might also be proposed urban? A. Yes, just some of it. 30

Q. So it is urban, proposed urban, proposed industrial it was dealing with was it?

OFFICER: Well I'm sorry, it's ---

HIS HONOUR: Not so?

OFFICER: It may be hard to tell because of the scale.

HEMMINGS: Well have a look on the larger map.

MOORE: The proposed industrial went up to the southern boundary of the ---

HIS HONOUR: Q. I thought it was this little area here, oh, perhaps that wouldn't have included --- A. IDO 28 from Mulgoa Road down along the southern 40

THE LAND AND ENVIRONMENT COURT
PLAINTIFF'S EVIDENCE
NO. 2(iv)
MOORE George Edward
FURTHER CROSS-EXAMINATION

boundary of the existing residential urban zone, and then back along the western boundary of it ---

Q. So that took in the proposed both urban and industrial? A. Yes, and industrial.

Q. No existing? A. No.

10

OFFICER: Q. So part of the land in IDO 28, namely that to the right hand side towards Bringelly Road, had under the SROP been proposed urban? A. Yes.

HIS HONOUR: That's to the east.

OFFICER: Q. The east, yes. A. Part of that - the residential or urban zone on IDO 28 that is shown that way on the SROP part of it was urban and part of it was industrial.

Q. Yes.

HIS HONOUR: Proposed?

20

MOORE: Proposed.

OFFICER: Proposed development.

Q. And the proposed industrial on the SROP being also land within IDO 28, on the SROP came down to the northern boundary of the freeway? A. Yes, that's right.

Q. So if you would look at paragraph 2 of exhibit Y2, it would be correct to say wouldn't it, that as from the date of SROP, with its proposed urban over to the Bringelly Road end of IDO 28, as from SROP, everyone had always known that the planning authorities saw no objection to residential development immediately adjacent to the freeway?

30

HIS HONOUR: Sorry, would you repeat that question?

OFFICER: It became a little long and tortuous.

HIS HONOUR: It was my fault.

OFFICER: Q. I put it to you that as from 1968, one could see from the SROP that the planning authorities saw nothing wrong with residential development adjoining the freeway? A. Yes that's right. That's what I've said.

40

HIS HONOUR: I think it is rather suggested that paragraph 2, as I read it and it probably wasn't intended that way, I don't know, rather that as from September 1971 people then thought ---

THE LAND AND ENVIRONMENT COURT
PLAINTIFF'S EVIDENCE
NO. 2(iv)
MOORE George Edward
FURTHER CROSS-EXAMINATION

HEMMINGS: It brings it up to date, that's all.

HIS HONOUR: That's the way I read it. Mr. Officer is saying, well, it was known - you only had to look at the plan to ---

OFFICER: You didn't need the IDO, you knew it all the time.

10

HIS HONOUR: No, and three years earlier. Well, he agrees with that. It was just probably the way it was written.

Q. I suppose if you put the word - am I right - have you got the statement in front of you? A. Yes.

Q. If you put the word "still" after "day" is that what you meant in that? Still had no objection to the residential development? A. That's what was intended, yes. The reason for that is that there has at times been representations when discussing development adjoining freeways because of the noise factor, and we are still striking that problem of them asking us for decibel counts, that development shouldn't go adjacent to a freeway. That's one of the reasons why that statement was made.

20

OFFICER: Q. Of course, if you look at the SROP to the east of Bringelly Road, you see proposed residential on both sides of the freeway? A. Yes. Then further east it is - the barrier has been protected by an open space zone.

HIS HONOUR: Yes, or a proposed zone.

30

OFFICER: Q. What, a barrier between the - not between - A. Yes, about Prospect ---

Q. I'm sorry. May I look at the large map your Honour?

HIS HONOUR: Yes.

MOORE: A. North of Prospect ---

HIS HONOUR: But while you are doing it though - but as you travel east, you see that under the proposed - the Sydney Region Outline Plan proposal was for residential development to run up to the freeway. There were times when it didn't but there are also large swathes of land where it did. A. No, I'm not - I haven't tried to imply anything there other than to say I could see no reason why development on the south couldn't come up to the freeway.

40

OFFICER: Q. And in the Y2, paragraph 3, am I correct? All you are saying in paragraph 3 is that IDO 28 shows that there are facilities to carry whatever drainage comes under the freeway and drainage which by reason of the urbanisation of the area of IDO 28, to carry it away down the street? A. Yes, that's correct.

50

THE LAND AND ENVIRONMENT COURT
PLAINTIFF'S EVIDENCE
NO. 2(iv)
MOORE George Edward
FURTHER CROSS-EXAMINATION

Q. Is it on IDO 28 or is it merely by inference from the zonings that are attached to the land in IDO 28 that you say there were facilities for sewer to the freeway boundary? A. The main drainage reserves are the areas also set aside for where generally the main carriers, the sewer carriers, are constructed because that is the lowest points of the land and the main carriers go up those drainage reserves. 10

Q. Your paragraph 4 was a reference, was it not, to the areas on SROP, certain areas on SROP, east of Bringelly Road? A. That's correct.

Q. Would you turn to page 3 of Y2? You are now talking about the permitted zone boundary. The transmission line which runs north of Commonwealth land was, and you told us this, pushed a bit north because the land to the south of its actual constructed site was Commonwealth? A. Yes. 20

Q. When was the transmission easement reserved? In 1970 wasn't it? A. Surveys would have been done about 1968 and construction around about 1970, and ---

Q. When was it - construction or resumption of the easement? A. Resumptions take place after construction so far as the easement line is concerned. They go about it in a different manner, mainly because of the Act under which they operate. 30

Q. Mr. Moore, when did the Commonwealth acquire the extra bit between the southern boundary of the freeway and the land --- A. It would be early 1960.

Q. I'm sorry, the southern boundary of the easement and the land that was always zoned to the south?
A. They bought the land that was within that area back in about 1960 - 1963.

HIS HONOUR: Q. I'm sorry, this is the area that's zoned - it's coloured yellow in that --- A. You mean the main bulk of the area? 40

OFFICER: Q. Yes, I'm sorry.

HEMMINGS: The Kings School area.

MOORE: A. That was in about 1962, somewhere round about ---

HIS HONOUR: This area that is zoned special uses ---

MOORE: A. But they owned the land south of that before 1939 I would say.

THE LAND AND ENVIRONMENT COURT
PLAINTIFF'S EVIDENCE
NO. 2(iv)
MOORE George Edward
FURTHER CROSS-EXAMINATION

HIS HONOUR: Yes. I can remember driving past there in the fifties and there were Commonwealth works there.

OFFICER: Q. Would you turn to the foot of page 4, right at the foot, and you gave certain reasons for this in evidence? You said: The development of Tatmar was independent of the others, meaning independent in particular of Emu Plains, Burnley and Kulnamock? 10

A. No, what I meant independent of anybody adjoining as well as the people to the west. It could be developed without relying on other people for access or facilities.

Q. But as an experienced planner and I am not talking about what physically could be done, but you would not imagine, would you, that there would be a rezoning of the subject land independently of the lands north of the subject lands to the freeway? A. It is possible but not likely. 20

Q. Unlikely that an island, even of 880 acres of urbanised would be created? A. Yes. I wasn't meaning that in that context when I said that.

Q. No. A. That was mainly the process of actually developing.

Q. And of course, as I think you've agreed, to make any plan such as the Heath plan or your plan fit in, the road pattern on a number of points shown on those plans would need to --- 30

HIS HONOUR: Would need a rezoning.

OFFICER: Q. Would need to - and to dovetail with development planned or approved in relation to any adjoining owners? A. Yes but that development could incur independently of Tatmar's land.

HIS HONOUR: Q. And did you take - was that based on just the existing situation - existing road access or would you take into consideration, as Mr. Hemmings said, the Satara family owned this other land through which -- A. Irrespective of that, the - you could develop Tatmar by virtue of the existing accesses that it has and abut your road system against the adjoining properties and they can take that on independently of you to the other street, and you still have two ways - Tatmar still has available to it three physical accesses of Luttrell Street, Wentworth and Bradley. 40

HEMMINGS: When Mr. Moore is saying Tatmar, he means Tatmar and Penrith Pastoral.

MOORE: Yes I mean both.

HIS HONOUR: I mean both too. 50

THE LAND AND ENVIRONMENT COURT
PLAINTIFF'S EVIDENCE
NO. 2(v)
ALCORN Lawrence Lloyd
EXAMINATION

LAWRENCE LLOYD ALCORN
(Sworn, examined as under)

HEMMINGS: Q. Your name is Lawrence Lloyd Alcorn, you reside at 31 Coronet Court, North Rocks? A. Correct.

Q. You are a partner in a firm practising as Alcorn Lupton and Nicholson? A. Correct. 10

Q. And that practice is carried on at 562 High Street, Penrith and 83 York Street Sydney? A. Yes.

Q. You are qualified by examination as a valuer, you are a member of the Commonwealth Institute of Valuers and you've been an Associate of that Institute since the 7th of June 1962? A. Correct.

Q. And that is now known as the Australian Institute of Valuers? A. Yes.

Q. And you have an unlimited certificate to practise as a valuer in all areas of real estate? A. Yes. 20

Q. You originally joined the Department of the Valuer-General in 1957? A. Yes.

Q. And until you resigned in 1971 from the Valuer-General's Department you were mainly located in the western areas of Sydney? A. Yes.

Q. And in particular the areas of Penrith, Springwood and Parramatta? A. Yes.

Q. At the time you left the Valuer-General's Department you were the District Valuer in charge of the areas of Penrith, Windsor, Colo and the Blue Mountains? A. Yes. 30

Q. And as the District Valuer what were your main functions? A. The supervision of all valuations carried out in those districts.

Q. And the supervision of valuers under your control? A. And the supervision of valuers and clerical staff etc. under my control.

Q. And when you were with the Department did you carry out statutory valuations, resumption valuations and negotiations for both Local Government and government bodies? A. Yes. 40

Q. And including the Housing Commission? A. Yes.

Q. In 1971 did you leave the Valuer General and did you join Parkes Development Pty. Limited? A. Yes.

THE LAND AND ENVIRONMENT COURT
PLAINTIFF'S EVIDENCE
NO. 2(v)
ALCORN Lawrence Lloyd
EXAMINATION

Q. And what was that company at that time? A. A property development company.

Q. And were you engaged by that company to be responsible for the purchase and development of land?

A. Correct.

10

Q. And were you on behalf of that company mainly concerned with the acquisition and development of land in the western area and in particular Penrith? A. Yes.

Q. And did you purchase and develop - or advise on the development of urban land in the period under which you were employed by Parkes Development? A. Yes.

Q. What was your actual position with that company?

A. I was Development Manager.

Q. And as Development Manager did you have the right of veto of the acquisition proposals of land in the western area by other persons engaged in that activity?

A. Yes.

20

Q. Did you resign that position in 1972 to take up private practice? A. Yes.

Q. And did you set up private practice and were you a founding member of the firm that you are now with?

A. Yes.

Q. And did you set up practice in the Penrith area?

A. Yes.

Q. It was, when you took up practice privately in 1973 at Penrith was one of your major clients Parkes Development? A. It was.

30

Q. And did they continue to use you in a similar capacity that they did when you were an employee of that company? A. A similar capacity.

Q. And was your firm also engaged at that time by a number of other large land developing companies?

A. We were approached by a number of other large land development companies but we didn't do a great deal of work for them because we had a responsibility to Parkes Developments.

40

Q. But then in later years you did expand to act for other development companies as well? A. We did some work for them yes.

Q. Would you name some of the companies, large companies that you have advised in the acquisition of large areas of land in the western sector?

THE LAND AND ENVIRONMENT COURT
PLAINTIFF'S EVIDENCE
NO. 2(v)
ALCORN Lawrence Lloyd
EXAMINATION

HIS HONOUR: Are you talking about 1973? I thought you said he definitely didn't have anyone except Parkes then?

HEMMINGS: No not only Parkes, that was his major client in 1973. 10

HIS HONOUR: I thought you said the other major ---

ALCORN: 1972, 1973 yes, 1972, 1973, 1974, 1975 we were still acting for Parkes.

HEMMINGS: Q. And then beyond that period? A. Well we'd built up - I'd concentrated on building up a substantial government and Local Government practice as well as a corporate practice and we advised - at that stage we were sole consultants to Penrith Council, Windsor Council, Blue Mountains Council, Prospect County Council, Fairfield Council, Bankstown Council and we used to advise and still do advise these councils etc. and we act as --- 20

HIS HONOUR: Q. This is after 1975? A. No sorry this is building up from 1972 through to the present day. At 1972, 1973 we had Penrith Council, Blue Mountains Council, Windsor Council, Colo Council and I think in the latter part of 1973 we commenced to act for Prospect County Council.

HEMMINGS: Q. So far as Penrith is concerned, since that time and to the present date you are the sole consultants to that council on land acquisition and development are you not? A. About two years ago they expanded their panel to include another two parties I think, but in the main we still do most of the work, for instance we --- 30

Q. From the position of exclusively doing the work you now do most of the work? A. Yes. Do most of the work yes.

Q. For Penrith? A. Correct.

Q. Plus the other councils that you referred to? A. Yes. 40

Q. Now would you go to your report which is exhibit K, and I want to take you directly to page 9 paragraph 14. Paragraph 14 subparagraph (1) deals with the announcement in 1972 by the Premier. A. Yes.

Q. However before we come to that I would like you to tell his Honour what the situation was so far as the market was concerned in the acquisition of large areas

THE LAND AND ENVIRONMENT COURT
PLAINTIFF'S EVIDENCE
NO. 2(v)
ALCORN Lawrence Lloyd
EXAMINATION

of land in the western areas, in particular those lands that were presently zoned for non-urban purposes?

HIS HONOUR: What do you want to ask him? What's the question?

HEMMINGS: The state of the market prior to 1968, before the Sydney Region Outline Plan. He's going to tell your Honour what the effect of the Sydney Region Outline Plan was on the marketplace. 10

HIS HONOUR: First of all what was the state of the market before the Sydney Region Outline Plan you're asking?

HEMMINGS: Yes.

ALCORN: Prior to the Sydney Region Outline Plan I think it's safe to say that all releases took place - releases and rezoning of land took place in secret and developers were - being professionals at their business were able to go around and look for areas of land which adjoined or were adjacent to existing urban areas, were able to acquire those lands at relatively low prices, that is higher than non-urban but not as high as fully zoned urban land. 20

HEMMINGS: Q. Non-urban prices plus something for ---
A. Non-urban prices plus something for the potential of their proximity and the potential of urban zoning, that may or may not have been there, but they being experts were able to determine that there was some urban potential. In 1968 the Sydney Region Outline Plan was introduced and what happened there was that the man in the street suddenly saw a document which purported to rezone his land and the man in the street is not the professional, and we saw a sky-rocketing take place in prices in - over a very short period of time. 30

HIS HONOUR: Q. In respect of what land though?

A. In respect of land which was proposed for urban development at some stage in the future.

HEMMINGS: Q. Pausing there, looking at the Sydney Region Plan which is on the easel, lands which were in fact zoned non-urban in draft schemes or prescribed schemes but which were indicated as red or possible urban areas in that Sydney Region Outline Plan, to the owners had a particular effect? A. Yes that's right, and it became very difficult. The owners acted upon the assumption that their land was going to be released for urban purposes in a very short space of time and it was very difficult for developers to buy parcels, or private developers to buy parcels of land. And there was a natural reticence on the part of the developers as near as I can understand it, and bear in mind that I 40 50

THE LAND AND ENVIRONMENT COURT
PLAINTIFF'S EVIDENCE
NO. 2(v)
ALCORN Lawrence Lloyd
EXAMINATION

wasn't active in the development industry at 1968, that I was a valuer at that stage. I was a Departmental valuer at that stage and I used to see transactions come in and there was an increase in the price going through at the time. And when I joined Parkes Developments and immediately prior to that I got to know the development industry relatively well, and in fact the Sydney Region Outline Plan at that stage in those early years the first 3 or 4 years of its introduction was referred to colloquially by the development industry or parts of the development industry as the Punters' Guide to Real Estate Investment, and that was purely a colloquial term. Developers laid off the marketplace, they just couldn't acquire land. Then suddenly there was a - the government started to take an interest in the cost of land and they set up a number of seminars ---

HIS HONOUR: Q. When are you talking about now, what year now are you talking about? A. Oh, 1970, '71 the government took an interest in the rising cost of land and the Institute of Urban Studies set a couple of seminars up, I attended a couple myself, spoke at one and ---

HEMMINGS: Q. You've delivered papers at such seminars yourself? A. I spoke at one at Canberra yes. And it became an increasing problem. Vendor resistance was extremely high, when I say vendor resistance, resistance as to the price they were asking. They were asking, attempting to get almost zoned urban value. And it then evolved that a number of developers had been to see the State Planning Authority and various bureaucratic chains including councils of course to attempt to have lands which were not shown on the Sydney Region Outline Plan rezoned, and these are some of the areas that Mr. Moore refers to. And some of them were successful and some of them weren't, but it was pretty much a game of Monopoly I suppose and if you were lucky enough to be able to convince the authorities of the day that you could have a parcel of land included in the Sydney Region Outline Plan then you were pretty fortunate. This pressure had built up over the period 1970 to 1972 or thereabouts and prices escalating very rapidly, prices of raw land. 1973 saw a dramatic increase in the price of land but in 1972, December of 1972 the Premier made this statement, and that seemed to give the development industry the opportunity. The guidelines had finally been set by the government, the bureaucracy no longer had the opportunity, that is the Public Service, no longer had the opportunity of saying, well we'll put that one aside and leave it there for some future time to look at, that is the application to perhaps rezone a parcel of land. They were in fact instructed by the Premier in essence that they were to effectively look

THE LAND AND ENVIRONMENT COURT
PLAINTIFF'S EVIDENCE
NO. 2(v)
ALCORN Lawrence Lloyd
EXAMINATION

at parcels of land, large parcels of land and in fact the working committee that had been acting under the direction of the Under Secretary for the Department of Local Government had recommended 350 acres as being a minimum area. And so the development industry suddenly could see some light, that they could revert back to that period of time which prior to 1968 when they could look at areas of land outside the Sydney Region Outline Plan in close proximity to urban lands. All right, they had to pay the cost of development but that was no different to the situation that had prevailed before because they were asked to pay the cost of road construction, originally in the early fifties they put in dirt roads, then of course the requirements increased and increased and increased and developers have always been responsible in latter years anyway for the total cost of servicing anyway. 10 20

Q. Well then going back to page 9 of exhibit K 14.1, are those the reasons why you say for the first time that government will be prepared to consider both to be suitable propositions? A. The government announced.

Q. Was that distinguished from the position where you were - the industry was dealing only with the officers of the State Planning Authority? A. And the local councils. 30

Q. And the local councils prior to that time?
A. Yes.

HIS HONOUR: Q. Well what do you say that after 1968 the vendors took the view that they probably were sitting on a goldmine, that's people in proposed areas and they wouldn't sell at the price it was very high at all events? A. Yes.

Q. You say then there was the seminars and a government announcement --- A. The government announcement took place in 1972, the seminars commenced in I think around about 1970. 40

Q. Yes. Then after the seminars and about the time the government announced it what happened to the prices then did they --- A. The prices increased quite dramatically in the year 1973.

Q. I thought the whole purpose of this was to stop that? A. Yes well it didn't unfortunately. Money became freely available finance was available at very cheap rates of interest, very reasonable rates of interest and a number of - rather than the professional development companies being the only persons involved every person who had \$5 to spare on low deposit would 50

THE LAND AND ENVIRONMENT COURT
PLAINTIFF'S EVIDENCE
NO. 2(v)
ALCORN Lawrence Lloyd
EXAMINATION

go out and buy a block of land and some of the prices that they paid were quite astronomical compared with the potential it had. I recall looking at properties at Gosford that were absolute swamps and figures of \$10,000 and \$15,000 an acre had been paid for them by uninformed purchasers, and I use that word quite advisedly. 10

HEMMINGS: Q. Before we go into further detail on these general considerations, so far as you were concerned in your understanding of the attitude of the development industry - land development industry, how did the Sydney Region Outline Plan fit into the pattern of land controls?

HIS HONOUR: And this is what date?

HEMMINGS: From 1968 onwards. 20

ALCORN: A. Within the development industry it wasn't treated with a - in the first couple of years it wasn't treated as a very serious document. There were many errors on the plan, for instance you know I think his Honour mentioned that certain towns up the mountains aren't shown and there are - you know the townships of Riverstone, some 1,000 acres or thereabouts isn't shown, the township of Quakers Hill isn't shown, the village of Regentville as we're currently discussing isn't shown, there are many, many, areas that are not shown on the Sydney Region Outline Plan. And the developers looked at this and said well if they've missed out a 1,000 acres there - and I'm speaking about the developers that I knew and in terms of Parkes Development, Silverton, Stocks and Holdings to a degree, if they've made mistakes there well they've made mistakes elsewhere. 30

HEMMINGS: Q. Was the industry also aware that the scheme overlooked proposals under consideration by the councils themselves for re-zoning from non urban purpose to urban purposes? A. Yes there were --- 40

HIS HONOUR: What's that again?

HEMMINGS: Q. Did the industry overlook the proposals that the councils themselves had, for re-zoning from non urban to urban purposes. A. One prime example of that is we were consultant to Windsor Council and they had an application in to the State Planning Authority to re-zone and release the area of McGraths Hill and they were amazed when the Sydney Region Outline Plan came out and McGraths Hill was just a big blank space coloured fawn. The council thought there were good reasons for the re-zoning of McGraths Hill from non urban notwithstanding the provisions of the Sydney Region Outline Plan. 50

THE LAND AND ENVIRONMENT COURT
PLAINTIFF'S EVIDENCE
NO. 2 (v)
ALCORN Lawrence Lloyd
EXAMINATION

Q. They did, yes.

HIS HONOUR: Q. You said for the first couple of years it wasn't treated very seriously? A. Yes right, if I could carry on from that, then of course the applications to develop land buy on the part of developers were refused and given little consideration and in fact - 10
by the State Planning Authority and by the local councils in turn because the Sydney Region Outline Plan was being invoked.

HEMMINGS: Q. If I can interrupt you there. Up until - till about prior to the 1972 announcement even though the Sydney Region Outline Plan was not in itself a prescribed scheme, it did so far as the State Planning Authority and some officers of council were concerned adopt the character of a planning scheme which was quickly developed? A. Yes well you know the council officers would use their best endeavours to convince the State Planning Authority that land should be released but it was like hitting your head against a brick wall, the industry felt it was like hitting your head against a brick wall. And this refers not only to lands that were outside the proposals of the Sydney Region Outline Plan, but also to lands that were within the proposals. I think Mr. Moore has spoken about the Menai area, that's a classic example where it was - 20
the announcement would come in the press that the land has been re-zoned and the price would go zot. Then it just wasn't available for development. The same thing happened in South Penrith the same thing happened in South St. Marys. 30

HIS HONOUR: Q. You mean it was re-zoned but not released? A. It was just not available for development your Honour. There were no services, there was no development control plan there was nothing.

HEMMINGS: Q. Up until 1972, was there a lot of complaint and discussion from the development industry directly to the government itself? A. Developers had, after around about 1970 the first couple of years started to treat the SROP with a great deal of seriousness and so they therefore bought in the areas that were designated. And then they found that they'd bought in these areas which were designated for early release and they just weren't being released, they weren't able to use them. I'm sorry I've forgotten the last part of your question. 40 50

Q. And then leading up to the 1972 announcement by the Premier were representations made by the development industry to the government itself? A. Yes. What had happened was the development industry had formulated this body of men, senior members in the development

THE LAND AND ENVIRONMENT COURT
PLAINTIFF'S EVIDENCE
NO. 2(v)
ALCORN Lawrence Lloyd
EXAMINATION

industry Mr. Julius Charody, Mr. Irwin Graff(?), and Mr. John Zeleny I think - forgive me I might be wrong with a couple of these names but they formulated the working party that worked in conjunction with members of the State Planning Authority to help formulate a policy that might perhaps assist in the working of the Sydney Region Outline Plan or at least assist in getting services and getting land on the market. Land just wasn't being produced. Then of course the Minister's announcement and the Premier's announcement in December 1972 followed by the Minister Sir Charles Cutler and the Deputy Premier. It was his letter to Mr. Alan Vogan who was the President of the Institute at that stage, his letter reinforced the industry's thinking and the parameters that had been discussed by this working committee. Developers were prepared to pay for the cost of servicing, they just wanted to get land - if they couldn't get land onto the market they went broke.

HEMMINGS: Q. You've mentioned the word services many times in your evidence in relation to the Sydney Region Outline Plan, what was the relevance in your view as to the principle behind the Sydney Region Outline Plan with relation to services and the provision of services?

A. I don't find that I follow that completely?

Q. Is the phasing of development and the areas designated for release for urban purposes related to the provision of services? A. Yes well the land which is closest to the existing urban area was the land which was phased for urban development firstly because it was the easiest to service and it was also easier, developers liked going into areas where the council maintained their own sewerage scheme or water reticulation etc. as Penrith and Windsor did rather than be confronted with the quite serious delays that were being perpetrated by the Water Board at that stage and I think still are.

Q. Well then prior to 1972 were representations made that the industry itself would provide services to the land if it could be re-zoned and released? A. Yes.

Q. Go over to page 10 of exhibit K. You say: The two controlling limitations on the submission - and you mean submissions for re-zoning and release do you not?

A. Yes.

Q. The minimum area would be considered was 350 acres? A. Yes.

Q. That's a minimum area is it not? A. Minimum.

Q. And if the area was larger would that have any relevance than 350? A. One would imagine that - well

THE LAND AND ENVIRONMENT COURT
PLAINTIFF'S EVIDENCE
NO. 2(v)
ALCORN Lawrence Lloyd
EXAMINATION

sorry not one would it was the fact that the larger the area the better the chance of gaining an urban re-zoning.

Q. 2. It must be shown that the land could be fully serviced and the full cost of development would be borne by the developer? A. Yes.

10

Q. And the development industry was volunteering to do that was it not? A. They had volunteered since 1968 or 1970 or thereabouts to do that.

Q. The second point you make is that the subject land was the largest, single holding in the locality?
A. Yes.

Q. Apart from the fact that it was first to be resumed. The fact that it was the largest single holding in this area, was that of important significance so far as you are concerned in its prospects for fitting into the pattern? A. Yes. You must start off with a nucleus and I believe that this property was the nucleus to forming a new urban development in the South Penrith area.

20

Q. I think in another place you use the word key have you not? A. A key property that's right.

Q. And why is that? A. Well we can go back to some of the earlier developments, for instance Campbelltown, there were a number of large properties which formed the key that were to be resumed or acquired in the early period which formed the key to Campbelltown. If you look at the Mt. Druitt urban area, that is the Housing Commission urban area and the key property there was I think the Tregear property which is some hundreds or a little over a thousand acres, I'm not sure. If you look at Werrington House at Werrington, it formed the key, it was some 600 or 700 acres, it formed the key. The point being that you start off with a large property you can then build on it by the - by adding to it with fragmented properties around it. The art of development is to get a large parcel of land, a parcel of land that has got good access, good servicing availability, good design parameters, that is it hasn't got very faulty land upon it, it's easy to develop and build from there. If you try and amalgamate as is pretty common in the western area small parcels of 5 acre and even 25 acre allotments, you're confronted with difficulties of adjoining owners, of refusal on the part of vendors to sell, of all sorts of difficulties and problems.

30

40

Q. Well then so far as the development industry is concerned, the subject property with a view to re-zoning and release would have a special potential? A. I believe so, yes.

50

THE LAND AND ENVIRONMENT COURT
PLAINTIFF'S EVIDENCE
NO. 2(v)
ALCORN Lawrence Lloyd
EXAMINATION

Q. And would it be that first that the development industry would try to acquire if it had mind of seeking a re-zoning of a locality? A. Well I had been approached as to my advice by A.V. Jennings, by Parkes Development, by Silverton also I think as to the viability or my opinion as to the viability of that parcel of land and they had attempted to buy it. 10

HIS HONOUR: Q. By Parkes do you say. Parkes Development who else? A. Parkes had asked me about that large parcel of land ---

Q. Who are the other ones you mentioned?
A. Silverton and A.V. Jennings. A bloke called Bill Pilbeen(?) was the man involved there. I can't really remember who else but it was target force investigation, it was a serious investigation. 20

HEMMINGS: Q. Was this at a time years before you met or had any connection with the Satara's or the company that owned this land? A. The only connection I'd had with the Satara's was in respect of reading about them in the newspaper, in respect of being high tension easement, they had some difficulty with the people who had tried to build the high tension easement.

Q. And the Satara's frightened off the Electricity Commission people coming onto their land? A. That's right. And it made me rather trepidatious(sic) about approaching them also. 30

Q. But so far as the interests of the industry in this land is concerned, were you aware of the interest but you didn't know the Satara people yourself? A. I didn't, no.

Q. Or the two companies that owned the land?
A. No.

Q. You say in 2. The subject land was the largest single holding in the locality, and you note it was the first to be resumed? A. Yes it was. 40

Q. What is the relevance of that? A. Well it was the key property I believe that they needed. Any developer wishing to put together a plan of the extension of South Penrith would need that property before it could really get going.

Q. Was it logical then for the Housing Commission as a land developer to acquire this land first? A. Yes, I believe that is the case, the Housing Commission had recently had its role expanded into the land development field, that is, the pure land development field. 50

THE LAND AND ENVIRONMENT COURT
PLAINTIFF'S EVIDENCE
NO. 2(v)
ALCORN Lawrence Lloyd
EXAMINATION

Q. The balance of the area close to existing development, was not resumed until some 10 months later?

A. There were two additional properties to the west, namely, the Emu Plains and Burnley land, which were resumed 1 month later, and I suppose to an extent they also because they were large properties assisted in the formulation of a large development in that area, but the smaller surrounding parcels, the 5-acre blocks and the 10-acre blocks and the 11-acre blocks, were not resumed until July of 1974.

10

Q. Were any of those properties on their own, capable of being regarded as a key or significant area of acquisition for development? A. No, in my opinion.

Q. Not in their own right? A. Not in their own right.

Q. Then you say the owners had spent some 18 months prior to resumption in the preparation of an urban rezoning submission in respect of the subject land, had maintained close liaison with both the State Planning Authority and the Penrith Council during these preparations, you'd been told that by your clients? A. I have been informed that, and I've seen some documentary proof to support that, yes.

20

Q. Had both these authorities offered suggestions and advice which were incorporated in the final plan?

A. Yes.

30

Q. You've seen a number of plans as to how they've been refined and changed, following discussions with various officers? A. Yes, I've seen correspondence, some - sorry - correspondence from their consultants and diary notes, etcetera.

Q. And at no stage during the preparations were the owners or the consultants, advised by any authority that the proposals were not viable or feasible? A. Correct.

Q. Do you know of any advice given as to any suggestion as to why any or all of the land did not have a rezoning potential? A. Well I've spoken to Penrith Council town planner, Chris Davies, and ---

40

Q. Was he the town planner at the time? A. Chris was the town planner.

HIS HONOUR: Who?

HEMMINGS: Q. Chris Davies. A. Yes, at 1972 to 1973, and had been for some years only recently resigned. Chris saw no objections to the rezoning of this property, in fact my discussions with Chris led me to the conclusion that Chris was in favour of it. Chris was

50

THE LAND AND ENVIRONMENT COURT
PLAINTIFF'S EVIDENCE
NO. 2(v)
ALCORN Lawrence Lloyd
EXAMINATION

definitely against the release of Orchard Hills, that is North Orchard Hills and South Orchard Hills as well.

Q. That is the area of land to the east of Bringelly Road? A. That's right, yes, and to the north of the expressway in particular, and south of the expressway as well. A number of objections had been raised by individuals as well, and it was my view from discussing the matter with Mr. Davies that he saw this as being a likely replacement, and the means of being able to cancel the release of Orchard Hills. 10

Q. But it was out of his hands was it not, it was a matter for the State Planning Authority? A. Yes, but he offered some assistance in the matter, and as he told me, offered some assistance to the Satara family and they've also said this as well, in the design of roads, the location of allotments over the whole of the land and the utilisation I think of some of the easement areas. 20

Q. Now until you saw the reports on valuation, prepared and exchanged by the other side, had you ever contemplated a rezoning of this land being limited to part only of the land? A. Never.

HIS HONOUR: When you're talking about rezoning you're talking about rezoning and release aren't you?

HEMMINGS: Q. Yes, and release? A. Yes, no never, I've never contemplated - I always contemplated the whole of the land. 30

Q. Now you say in paragraph 4: As early as 1970 developers had shown interest in the property. You've given us the list have you not of the public companies that have shown interest, I think it includes A.V. Jennings? A. Yes, A.V. Jennings, yes, were interested in the property, Parkes were interested in the property --

Q. I don't want you to talk about prices, just the fact that they had made enquiries as to acquisition. A. I was approached by these various companies to discuss this large area of land at South Penrith. 40

Q. I think the Bond Corporation at some stage made enquiries? A. I think the clients did have quite a deal of discussion with them.

Q. Hooker's? A. Hooker's, I didn't act for Hooker's, Hooker's had their own ---

Q. Right, and then --- A. I understand Lend Lease were also interested in it at one stage too.

THE LAND AND ENVIRONMENT COURT
PLAINTIFF'S EVIDENCE
NO. 2(v)
ALCORN Lawrence Lloyd
EXAMINATION

Q. And numerous real estate agents on a regular basis called to the land seeking to acquire the property?

A. In fact I had had the matter put to me by two well known real estate agents in the Penrith area as a property that they had listed for sale, and would I like to put it to Parkes or one of my clients, and I knew the property wasn't for sale, because I'd sent one of my men out to do a little bit of scouting around at one stage, and I was quite amazed to have this property - I was quite amazed to have this property put to me by ---

10

Q. Well the position was your representatives had been to the land to enquire if it was for sale, but agents in the area were - had come to you and - saying that they had the authority of the owners to sell it?

A. Yes, that was the situation, the property had been put to me to offer to Parkes and to other clients, and I said - I can't remember my exact words, but I knew that they had no - well I didn't know, I assumed that they had no authority.

20

Q. No authority. Page 11: On the 16th of February 1973 the owners were visited by a senior officer of the Housing Commission, in company with real estate agents who purported to have the property listed for sale?

A. Yes.

Q. And on the 31st of May 1973 the owners were visited by two senior officers of the Housing Commission - I'm asked to ask you this, Mr. Alcorn, so far as 5 is concerned, you've been told that by one of the Sataras have you? A. Well I wasn't told it, I read it in their diaries, their diary notes, yes. And I also read it in affidavits I previously submitted in respect - yes, Mr. McDermott's(?) affidavit I think records this date in respect of the Equity proceedings.

30

Q. And on the 31st of May 1973 the owners were visited by two senior officers of the Housing Commission, that was Mr. Hyam was it, and Mr. McDermott? A. Yes, Mr. McDermott and Mr. Hyam I understand, yes.

40

OFFICER: My only objection, your Honour, or my only request to my friend ---

HIS HONOUR: Is the source ---

OFFICER: I'm not disputing it, I just want to know whether ---

HEMMINGS: He wasn't there.

ALCORN: I wasn't there no.

OFFICER: --- whether Mr. Alcorn was present in first hand?

50

THE LAND AND ENVIRONMENT COURT
PLAINTIFF'S EVIDENCE
NO. 2(v)
ALCORN Lawrence Lloyd
EXAMINATION

HEMMINGS: No, he admitted -

Q. You were not present either on the 16th of February 1973, or the 31st of May 1973? A. No.

Q. At that time you had not been engaged by the clients had you? A. I didn't know the clients.

10

Q. When did you first meet the clients? A. Probably I think the first meeting might have been in 1974, at I think it was they came along as guests to a Rotary meeting and also to Penrith Chamber of Commerce, where Mr. Bourke delivered an address in October of 1974 ---

Q. Mr. Bourke is the Chairman of the Housing Commission? A. Yes, the Chairman of the Housing Commission.

Q. And it was about this land that he delivered this address? A. Yes.

20

Q. And again, you've only been told this, but the owners told you that the 31st of May was the first time that they were informed by the Housing Commission that they were - that they intended to acquire the land?
A. Yes.

Q. Then you move to 7, the sale of Kulnamock, to the Federal Valuation and Agency Company Pty. Limited.

SHORT ADJOURNMENT

ON RESUMPTION

HEMMINGS: Q. On page 11 of exhibit K, Mr. Alcorn, paragraph 7, and you then refer to the sale of Kulnamock to the Federal Valuation and Agency Company on the 25th of May 1973? A. Yes.

30

Q. And that was the last major sale recorded prior to the resumption in this locality? A. Yes.

Q. And then you say it is considered that the knowledge of the Housing Commission's earnest activities in the area in May 1973 cause the cessation of further private sales? A. Yes.

Q. Why do you say that?

40

HIS HONOUR: Because no one was going to buy into a compensation fight, is that what ---

HEMMINGS: Well that's the result, but certain things happened, your Honour that ---

THE LAND AND ENVIRONMENT COURT
PLAINTIFF'S EVIDENCE
NO. 2(v)
ALCORN Lawrence Lloyd
EXAMINATION

HIS HONOUR: I see, yes, all right.

ALCORN: A. Well I am personally aware that I was a fellow director in a company with a man called Mr. Martin, who was one of the partners in L.J. Hooker Penrith, and he and Mr. Ross owned adjoining blocks in Gaza Road, and both of the parties had contracts signed, and in Mr. Martin's case a contract was physically exchanged, and Mr. Martin's purchaser was unable to obtain finance, and I was informed that it was as a result of the Housing Commission that the land was under threat of resumption.

10

HEMMINGS: Finance was unavailable because the land was under --- A. It is very difficult to get finance on land that is about to be resumed, in fact it is almost impossible I think. Unless you've got other security, substantial security.

20

Q. Well if I can put it in shorthand form, if my friend doesn't object, there are a number of sales for land that went off about that time, because the parties became aware that the land was under threat of resumption? A. Yes.

Q. And sales activities came to an end, and stopped at that time? A. Mm.

Q. So that the Kulnamock is more than just the last major sale it is probably the only - it is the most recent sale is it in that area? A. Yes, apart from the resumption settlements that occurred later on by the Housing Commission.

30

Q. Yes, and if that sale is to be used --- A. I'm sorry, delete that, there were a couple of small parcels of land which sold in June.

Q. If that sale is to be used, apart from the analysis of the comparability of the land, one would have to make an adjustment for any escalation in the value of land between the 25th of May 1973 and the end of August 1973?

40

HIS HONOUR: And what, assuming the Housing Commission was not trying to ---

HEMMINGS: Q. Assuming the Housing Commission was not affecting land values during that period, is that so?

A. Yes, that's true.

Q. And that is what you've done in this exercise?

A. Yes.

Q. Then I go to your approach to valuation, you say the best evidence in value is the sale of Kulnamock to

THE LAND AND ENVIRONMENT COURT
PLAINTIFF'S EVIDENCE
NO. 2(v)
ALCORN Lawrence Lloyd
EXAMINATION

Federal Valuation and Agency Company on the 25th of May 1973, and the last sale of major significance in the locality prior to the date of resumption, and you say it is necessary to make adjustments to the sale property to compensate for the differences, in order to arrive at a rate per acre applicable to the subject land at May 1973? A. Yes. 10

HIS HONOUR: The first exercise is to see what its value was in May 1973?

HEMMINGS: Yes your Honour.

Q. Now what do you say as to the comparability - just before we go to any adjustments which you seek to make, of the Kulnamock property, and the subject property?

A. Well the first thing I did was to look at the price achieved with Kulnamock property, bearing in mind that the property had sold twice in that 12 months --- 20

HIS HONOUR: Q. When did it sell, Kulnamock? A. It first sold on the 1st of March - 15th of March or thereabouts, 1972, and it sold secondly on the 25th of May 1973. The second sale was at a substantial rate per acre. Had it been - if one does an exercise as to its value as a 25 acre subdivision in its in globo value is it is a 25 acre subdivision ---

HEMMINGS: Q. That is purely as an urban property? Non-urban? A. As a non-urban property, the sums just don't work, it shows a minus quantity. 30

HIS HONOUR: Well I don't know what they are, do I ---

HEMMINGS: Your Honour, I am talking generally at the moment but he is not trying to do a mathematical calculation at all. What he is leading to, your Honour, is his analysis of the sale prices without looking to the amount indicated that the land has been purchased not for its ---

HIS HONOUR: How can you do that unless you look at the - how can you analyse a sale's price, without looking at the amount? 40

HEMMINGS: You do look at the amount, your Honour, but we're not trying to prove a non-urban value.

HIS HONOUR: No, I know that, but you're trying to say why it was different between 1972 and 1973.

HEMMINGS: Yes, your Honour.

HIS HONOUR: But if the value difference was \$1 it may be one thing, if it was \$100,000 it might be another.

THE LAND AND ENVIRONMENT COURT
PLAINTIFF'S EVIDENCE
NO. 2(v)
ALCORN Lawrence Lloyd
EXAMINATION

HEMMINGS: Certainly your Honour.

HIS HONOUR: Well as I say, don't I have to know those figures?

HEMMINGS: We're going to give you the amounts, certainly, your Honour, but we don't want to embark unless my friend thinks it is relevant, but we regard it as being unnecessary to try and arrive at a non-urban value for the Kulnamock property. 10

Q. Well what was the rate per acre paid in March 1972? A. \$2,000 ---

Q. Well do you have records that you can turn to?
A. Yes, \$2,635. I'm sorry, yes, \$2,675 per acre.

Q. And then in May 1973? A. \$6,049.

HIS HONOUR: Q. You're talking about the land with the crossing values --- 20

HEMMINGS: The same land.

ALCORN: A. The same land, the Kulnamock property sold in March 1972 for \$300,000, and in May of 1973 it sold for \$649,087.

Q. Yes, I see, you've taken the buildings off on your page 13? A. Yes.

HEMMINGS: That is an analysis, this is the straight ---

HIS HONOUR: Q. Well what is the May 1973 figure again?
A. \$300,000.

Q. No, the price per acre? A. \$649,087, which is divided directly into the overall area, \$6050 or thereabouts. 30

Q. Yes. A. Now if one looks at the end product of a 25 acre block in the area, or a 5 acre block, 5 acre blocks were selling, and bear in mind the land wasn't zoned 5 acre, it was as to its bulk zoned 25 acres, the end product was selling in the order of \$7,500, or in May it was selling at around about \$7,000.

HEMMINGS: Q. Per acre? A. Per acre. A 25 acre block of land was worth in the order of \$70 to \$80,000, as a subdivided parcel of land, so obviously it wasn't purchased for its non-urban utilisation, it was purchased as a potential urban site in my view, and a conversation I had with the purchaser in recent years, confirmed that they did purchase it for an investment. 40

THE LAND AND ENVIRONMENT COURT
PLAINTIFF'S EVIDENCE
NO. 2(v)
ALCORN Lawrence Lloyd
EXAMINATION

Q. Who is or what is Kulnamock? A. Kulnamock Pastoral Company is a subsidiary company owned by - one of the directors is Mr. John Zeleny, who is a director or one might say the owner of Sterling Homes.

Q. What is Sterling Homes? A. Sterling Homes are home builders. 10

Q. Are they a major builder of - building houses?
A. Correct.

Q. Yes, now did the purchase price in May 1973 confirm or vary the view that you had as to the potential of land generally in this area for future urban purposes?

A. Yes, I was aware that this area south of the expressway did have an urban potential, at least that the market had recognised a degree of urban potential in the prices that they were paying. And that potential is certainly not one of subdivision into 5 acre allotments, or at least a rezoning to permit subdivision into 5 acre allotments, the price just wasn't there, the end product price wasn't there. People didn't buy land at \$6,000 an acre in those days to subdivide it up into 5 acre blocks, and very faulty land at that, so I first of all established in my mind that the prices being paid did reflect an element of added value, because of - the market had recognised a degree of urban potential in the area south of the expressway. It then became a matter of comparing that parcel of land to the Federal Valuation and Agency or Kulnamock parcel with the subject property and ascertaining the degree of comparability, and looking at the Federal Valuation and Agency or Kulnamock property, it was 106½ acres, it was not sufficiently large to permit of a rezoning application in its own right, that is it was less than 350 acres. And whilst it adjoined the village of Regentville, such adjoining did not augur well for an individual extension to the village of Regentville, because firstly it was on the other side of Mulgoa Road, and secondly, the land on the - some land between it and the village of Regentville would have had to be rezoned. Thirdly, there was a parcel of some 12 - 13 acres on the south-eastern side of - opposite the school. 20
30
40

HIS HONOUR: Q. South-eastern side of? A. Of Mulgoa Road, opposite the school, which had for many, many years been zoned for an urban purpose, it in fact was originally zoned as an industrial site 4(b), but council had - were seeking to get persons interested in it as a residential allotment, and the PEC or SPA at the time, were prepared - if they didn't council were prepared to support a rezoning to urban. Now this land had remained vacant for years and years, and never been - no application had ever been made over it for development. Finally, in 1975 an interim development order was 50

THE LAND AND ENVIRONMENT COURT
PLAINTIFF'S EVIDENCE
NO. 2(v)
ALCORN Lawrence Lloyd
EXAMINATION

published which permitted of it being used as residential land.

HEMMINGS: Q. Well that has happened subsequent to the resumption and that would explain why one sees houses on it now? A. That is correct. The houses were completed in 1980, it was vacant. 10

HEMMINGS: But if we go back to the situation in 1973 -

HIS HONOUR: Which area is this you're talking about?

HEMMINGS: Your Honour can I tender a further plan ---

HIS HONOUR: Yes you can, I just wondered if it was shown on the aerial map.

HEMMINGS: This plan is a similar one to the plan that is on the easel but it by different colouring shows the various sales etcetera, and it makes it we believe a little bit easier to identify the various parcels. 20

HIS HONOUR: Yes, very well.

TENDERED, ADMITTED AND MARKED EXHIBIT G2 - PLAN
SHOWING SALES

HIS HONOUR: I just want to describe it differently the one under there, exhibit F I think, is the locality map, showing sales, and you said this one is a plan showing sales.

HEMMINGS: It shows all sales, it shows the VG sales as well, and also differentiates between localities. It doesn't have amounts it merely identifies the properties. 30

ALCORN: A. The area of land about which I'm speaking is that area there, the south-eastern side of precisely that area there.

HIS HONOUR: Yes, and Mr. Officer it is this area here on the north-east ---

ALCORN: Kulnamock.

HIS HONOUR: Q. What are the streets that bound it there's Jeanette Street I suppose? A. Jeanette Street, Regentville Road, Mulgoa Road. And Schoolhouse Road.

Q. Is this Regentville - which is Schoolhouse Road? 40
A. That's Schoolhouse Road, that's Regentville Road.

Q. Thank you. Yes, now you say that land was industrial and vacant in 1973? A. Yes.

THE LAND AND ENVIRONMENT COURT
PLAINTIFF'S EVIDENCE
NO. 2(v)
ALCORN Lawrence Lloyd
EXAMINATION

Q. It hadn't been built in fact you say until some time after 1975? A. Yes.

HEMMINGS: Q. Would you return to your ---

DISCUSSION

HEMMINGS: Q. For a number of reasons, Mr. Alcorn, was the Regentville not in itself at that stage of development, not a very attractive locality for urban development? A. Well urban development had been taking place at - developers had been very active in the area north of the expressway, but they just didn't seem to take much interest in Regentville itself. This was an elevated parcel of land, it had --- 10

HEMMINGS: Q. Well don't worry about Tatmar for the time being --- A. I'm sorry, I'm talking about the 13 acres of Regentville, or 11 or 13. 20

HIS HONOUR: Q. You mean the area - when you talk about Regentville you're talking about the area on the northern side of Mulgoa Road, are you? A. I'm talking about the village which is immediately south-west of the expressway, on the southern side of the expressway.

Q. The area that is shown built-up on this map? A. Yes, that is the village of Regentville, and the particular parcel of land is that area ringed by ---

Q. When you say the developer didn't show an interest in it you are referring to this Schoolhouse site? A. Correct, yes. It had remained vacant, there were less development charges on it, there were - all in all it did not augur well, the indications were that any extension of the village of Regentville to incorporate the Federal Valuation and Agency land as an extension of the village of Regentville was not in my opinion, and after discussion with Penrith Council's planning officers, was not a viable proposition, so therefore, weighing all those factors, I considered the Federal Kulnamock property was purchased as a site which could be incorporated into an overall urban extension south of the expressway, and if that was the case then it became somewhat comparable to the subject land, although the subject land in such an extension south of the expressway in my view, forms the absolute key to any such extension, and therefore other land surrounding it would be little more than leach-type purchasers, or leach-type developments. 30 40

HEMMINGS: Q. And that is a common - a leach type, other adjoining lands take the benefit of a re-zoning of a large parcel? A. Yes. 50

THE LAND AND ENVIRONMENT COURT
PLAINTIFF'S EVIDENCE
NO. 2(v)
ALCORN Lawrence Lloyd
EXAMINATION

Q. These comments are not in regard to the physical characteristics of the land, it's the comparison with the locality is it not? A. It's the comparison of size and location.

Q. At that time also the Kulnamock land didn't have connection to the sewer? A. No. 10

Q. And similar to the subject land it would be required to have an extension of the services of the sewer to that land? A. Yes. There's a water main passing along Mulgoa Road but it's just I think a 4 inch supply drain. It's certainly not of sufficient size to serve a subdivision so its services would have had to been augmented and then in fact provided.

Q. Mr. Alcorn I take you to page 13 of your report. Now the purchase price you have told us is just on \$650,000 which is \$6,049 or \$6,050 an acre and it had a house on it? A. Yes. 20

OFFICER: If you want it to be calculated ...
(inaudible) ...

HEMMINGS: I think ---

OFFICER: It had sunk to 106 by the time - 106 something, it had been taken off up in Jeanette Street.

ALCORN: A. \$6,094 I'm sorry, it wasn't 49.

HEMMINGS: Q. \$6,094. A. Yes.

Q. \$6,094. A. As a call up. 30

Q. Is that because a part of the land is taken for road purposes was it not? A. Yes. The actual area of the property is - the contract notes the exclusion of certain road widening lands and the interest depends with Penrith Council as to the remainder of the land but the actual area of purchase was 106 acres, 2 roods, 1 perch.

Q. You give various reasons why you regard the subject property as being superior to the south property and you end up at the bottom of the page by saying the property is 25 per cent better? A. Yes. 40

Q. Now is that an arbitrary adjustment of 25 per cent or is that related to an analysis of a sale on the various items that you've got in attempt to relate the differences with regard to those matters? A. It's an analysis of the sale of Kulnamock to Federal Valuation and Agency and the relationship of the analysis of that sale to the subject land. The 25 per centum was not

THE LAND AND ENVIRONMENT COURT
PLAINTIFF'S EVIDENCE
NO. 2(v)
ALCORN Lawrence Lloyd
EXAMINATION

calculated as an arbitrary figure, it was calculated on the usable - difference in usable land between the sale property and the subject land, that is the percentage of usable land; it was calculated to include the costs - the difference in the costs of repair on a percentage basis between the sale property and the subject land and it was also calculated to take into account some other factors such as creeks -- 10

Q. I'll take you to each of those matters in some small detail but when you made your report and your analysis and a judgment of sale, did you rely at that time upon your own professional judgment? A. I did.

Q. Have you had the benefit since making these various assessments as to the difference in yield from the two parcels and probably by looking at some material that Mr. Moore has provided you? A. Yes I have. 20

Q. And have you compared your original estimates based upon your own judgment with the different areas as calculated by Mr. Moore? A. Yes I have.

Q. And seen the difference effect upon the adjustments that you've made? A. Yes.

Q. Now firstly I want you to deal with your own adjustments and your own assessments based upon your own judgment as it appears. Now you say the first item is the sale property is severely affected by creeks and watercourses etc. in relation to its overall size. Now how does the subject land, in your judgment, compare with the sale property taking into account the affectation by creeks, watercourses in relation to its overall size? A. My original view of the sale property was that it contained approximately 20 acres of land which could not be utilised - bought I'm sorry - that would have to be dedicated as drainage reserve land. It did have a secondary use perhaps as passive - as an allowance for passive recreation space. However the Penrith Council's policy has been such and has been upheld in a number of tribunal decisions, that they will not accept drainage reserve as part of recreation space - a part of the recreation space component. However because I considered there was so much of faulty land on the Kulnamock property I thought there was a good case to put to council that at least the passive recreation space component which the subdivision would generate - or a development would generate, could be allowed from the drainage reserve area and I calculated the passive recreation space component to be 4½ acres, leaving a dedicated area of 15½ acres for drainage reserve. So we then had 106½ acres less 15½ as dedicated land, leaving a usable land component of 91 acres, out of the total 106. Compared with the subject land, which is 884 30 40 50

THE LAND AND ENVIRONMENT COURT
PLAINTIFF'S EVIDENCE
NO. 2(v)
ALCORN Lawrence Lloyd
EXAMINATION

acres, and for the moment excluding the high tension easement which I deal with in another way, I estimated that there was an area of 50 to 60 acres affected by creeks, watercourses, etc., but that most of these depressions were flat in contour and usable not only as a drainage line, but also as active as well as passive recreation space. But I also estimated that there would be a requirement to dedicate approximately 15 acres of drainage reserve out of the total holding. So that on the subject - on the sale property we had an area of 91 acres out of 106½ acres remaining as usable land, which gives us a percentage of 85.4 per cent of the property as usable; whereas on the subject property land which is usable amounts to 869 acres, that is 884 less 15 acres; 869 or 98.3 per cent of the total property. So that if you apply 98.3 per cent of usable land component to the sale property you end up with a usable land component of 104.7 acres. And the difference between 104.7 acres and 91 acres, as it actually has, is 13.7 acres or a 15 per cent increase in usable land compared with the subject property.

10

20

Q. To someone in the market buying land, having an urban potential, is it a critical factor to have an understanding as to the comparison of the usable land within the land being purchased? A. My word; you buy land to develop it, you don't buy it for its creeks. The other factor then to consider ---

30

HIS HONOUR: Q. What did you do then, did you make an adjustment for that to the value per acre of the Kulnamock land? A. That eventually ends up as being part of my 25 per cent adjustment.

HEMMINGS: Q. Mr. Alcorn I think what you did, rather than allocate an amount for each item, did you weigh them all up in your mind as to the different percentage likely and then finally arrive at a percentage figure? A. What I did was I looked at two major components; the major component being the faulty land difference, or the usable land difference - percentage of usable land difference between the two properties, and the cost of repairing that faulty land. With respect to the repair of drainage reserves, one expends a substantial amount of money on its repair, only to have to give it away to little or no benefit to the subdivision.

40

Q. Please don't go over the details just yet, his Honour is asking you whether you assigned a separate figure at this stage, or whether you took them all into account and then arrived at a figure? A. I took them all into account and then arrived at the figure at the end.

50

Q. But you could quantify each one almost if you were pressed? A. I can quantify them, yes.

THE LAND AND ENVIRONMENT COURT
PLAINTIFF'S EVIDENCE
NO. 2(v)
ALCORN Lawrence Lloyd
EXAMINATION

Q. Before you leave the first item, you've said to his Honour that taking the subject land, because of the nature of the creek areas and the ability to use the area adjacent to the creeks for reserve purposes, you thought that was a relevant factor to take into account. A. Yes. 10

Q. Now in the Penrith area, was it an established policy or consistency in the council's dealing with subdivisions to allow active recreation areas within the area of creeks and the like, if the land was of a proper grade? A. Yes.

Q. And what about retention basins? A. Yes.

Q. In your dealings on behalf of Penrith Council, have you been involved in the acquisition of land and the development of land where retention basins were used in conjunction with drainage systems? A. Yes. 20

Q. And you contract that with the nature of the creeks in Kulnamock? A. I do.

Q. Now is there anything further you want to say about your assessment of the first item? A. No, I think that about covers it.

Q. But that is a very important item in your ---
A. It's a very important item, the amount of land available for development.

Q. The second item is the land is a most unusable shape. A. Mm. 30

HEMMINGS: Your Honour over night, having listened to the difficulties that everyone had in relating the various parcels of land adjoining the western boundary of Kulnamock, in various colours, which Mr. Alcorn will have to explain because I don't understand it ---

HIS HONOUR: Probably made it even more complicated.

HEMMINGS: I don't think it does, your Honour, I think it really helps. And he has produced a deposited plan, coloured the various lots differently, but then given an explanation of the rights over each of those parcels, and I tender that document. 40

TENDERED, ADMITTED AND MARKED EXHIBIT K1 - RIGHT OF WAY MAP

HEMMINGS: Q. Mr. Alcorn, the small lot 3 which has ... (inaudible)... access to Mulgoa Road is coloured blue? A. Correct.

THE LAND AND ENVIRONMENT COURT
PLAINTIFF'S EVIDENCE
NO. 2(v)
ALCORN Lawrence Lloyd
EXAMINATION

Q. And blue has a right of way over the green area?
A. It does.

Q. But none of the other properties have a right of way over the blue area? A. That's right, except for the property coloured orange at the bottom of the plan, the southern end of lot 3. 10

Q. That's the Emu Plains land? A. Emu Plains Industrial Estates originally owned lot 3, an area coloured blue, and lot 2, the area edged orange.

Q. So far as Kulnamock is concerned ---

HIS HONOUR: Where is lot 2, the area coloured orange?

HEMMINGS: On the right hand side your Honour.

HIS HONOUR: Emu Plains?

HEMMINGS: Emu Plains, yes.

Q. So far as Kulnamock is concerned, he has no - it has no rights over the blue lot 3? 20

HIS HONOUR: Q. But it does over the green, doesn't it?
A. That's right, yes. Lot 1 Kulnamock land has a right of way over the green area but no right of way over the blue area.

HEMMINGS: Q. Over the blue lot 3, that's right.

HIS HONOUR: Q. It can't get through there? A. Cannot get through there, no.

Q. When I say "there" you know what I mean, between those two little access rights of way? A. Yes, the little access piece. 30

Q. How wide would it be between 4 and 5? A. A chain and a half perhaps.

HEMMINGS: Q. How wide is that? A. Sorry, in the order of 66 feet, 70 feet perhaps.

HIS HONOUR: And lots 4 and 5 on this are ---

HEMMINGS: 5 has a right of way over the green area but it can't get across the blue and the red has a right of way.

HIS HONOUR: Lots 4 and 5 belong to, don't they - to --- 40

OFFICER: Burnley Penrith.

HEMMINGS: The pink striped, they can't get across.

THE LAND AND ENVIRONMENT COURT
PLAINTIFF'S EVIDENCE
NO. 2(v)
ALCORN Lawrence Lloyd
EXAMINATION

HIS HONOUR: Q. Don't Burnley have a right of way over lot 3? A. Which lot 3 your Honour?

Q. Well the blue, to 4 and 5? A. No.

Q. They don't? Or it doesn't, I mean? A. No. Blue has no rights of way over it but it has a right of way - blue is not subject to any rights of way but it has a right of way over the area green. 10

Q. So the Burnley land has its own land running up to Mulgoa Road shaded blue. It also has a right of way over the land green? A. No. Burnley has its own land which is the pink candy stripe and the green land, which is all part of lot 3 which is running up to Mulgoa Road. Emu Plains has the area edged orange or yellow as it might appear on your plan as well as lot 3 coloured blue running up to Mulgoa Road. 20

HIS HONOUR: Q. I'm sorry, I missed it. Yes. A. And lots 4 and 5 coloured pink and yellow respectively are in the ownership of lot 3 Burnley. They have no right of way across lot 3 coloured blue.

Q. So lot 3 effectively stops Burnley, if it were used - stops Burnley to getting to lots 4 and 5 and stop Kulnamock from using and 1A access? A. Using the A access, yes.

Q. The green access, if I use that, stop that too? A. That's correct. 30

Q. Yes, this must have been a very - yes.

HEMMINGS: Can I show Y1, Mr. Moore's report?

HIS HONOUR: You are still on 1 are you?

HEMMINGS: Yes your Honour. No, I am on 2, little 2, shape. Well if it is more convenient, I'll ----

HIS HONOUR: No it's all right. It is convenient.

HEMMINGS: That has a map attached to it.

HIS HONOUR: You want to go to Mr. Moore's report now?

HEMMINGS: Yes. It sets out the shape of the parcels.

HIS HONOUR: Yes. 40

HEMMINGS: Q. Would you describe what you call the unusual shape and then tell his Honour why it is relevant? A. Shape is not only a matter of aesthetics, it also contributes to development yield, but as well as

THE LAND AND ENVIRONMENT COURT
PLAINTIFF'S EVIDENCE
NO. 2(v)
ALCORN Lawrence Lloyd
EXAMINATION

that we have the intrusion of lots 4 and 5 which creates a hazard in respect of the construction of an access road from Mulgoa Road for the reason that a large proportion of the access to Mulgoa Road is first of all subject to flooding.

10

Q. The road itself is? A. Sorry, the property, the Kulnamock property is subject to flooding which then necessitates an access road being placed on its western boundary but in placing an access road on its western boundary, in order for this property to be developed in its own right, it would have to traverse round lot 5 which is a pretty difficult exercise.

HIS HONOUR: Q. Say that again, I'm sorry? What did you say? A. The access road to serve Kulnamock property from the Mulgoa Road frontage if such a road were allowed would have to travel up the western boundary of the Kulnamock ---

20

Q. Is that because of this area that is shaded B which is ---

OFFICER: No B has got a right of way.

HEMMINGS: Yes but the area in which there is a B ---

HIS HONOUR: Q. Is because it couldn't be built there so it has to go along the western boundary? A. It has to go along the western boundary.

Q. Yes and then it instantly runs into lot 5?
A. And instantly runs into lot 5 causing a problem. If we look at the other point of access, shape, this is all part of shape, access and shape, the other access point is on Luttrell Street or Jeanette Street, the extension of Jeanette Street, and in this instance we are asked to construct a road through a narrow opening and at right angles across the contours, and the contours get quite steep as one gets down to the creek area. So that, in essence, shape and access are somewhat tied in together which created some difficulty when one looks at it as a development proposition, compared with the subject land which is of regular dimensions, a regular rectangular shape with good access points.

30

40

HEMMINGS: Q. Now take the Mulgoa entrance, Mulgoa Road entrance, assuming one was allowed to have an access off that point and to put a road to sweep around the flood prone area and past lot 5, would there be a loss of land because of the location of a road in that area? A. I haven't designed a subdivision plan but looking at it, I would say yes, there would be a loss.

50

Q. If a road on the other hand was brought down from

THE LAND AND ENVIRONMENT COURT
PLAINTIFF'S EVIDENCE
NO. 2(v)
ALCORN Lawrence Lloyd
EXAMINATION

Jeanette Street to come in via part - lot part 152, but to be north-westerly of the low-lying area along Jeanette Street, would the road constructed in that location be likely to result in a loss of land in that area? A. I believe it would, yes. 10

Q. If the low-lying area along Jeanette Street was left in its natural state and there had to be a road coming in off Jeanette Street through this area, together with the unformed or untreated portion of low lying land, would that have an effect upon the attractiveness of the parcel for redevelopment? A. Without some repair work on that Jeanette Street frontage, I find it difficult to understand how you could drive a vehicle over that scarred area. Secondly, I believe that as that is the highest land on the development and it has good views, it is attractive country, I believe that it is more than likely that one would repair and pipe that area, that scarred area, so that one would take advantage of the best land on the - ultimately - which would become ultimately the best land on the development. 20

Q. The next point is the restricted road frontage and you've touched on that. A. The road frontage is also restricted via a right of way over its Mulgoa Road frontage which, in Mr. Moore's plan, is noted as B in the middle of that flood prone area on the Mulgoa Road frontage. 30

HIS HONOUR: I thought you had referred to that earlier.

HEMMINGS: Sorry your Honour?

HIS HONOUR: I thought he had referred to that earlier, that ---

ALCORN: I may have your Honour, I can't ---

HEMMINGS: I don't think Mr. Alcorn did. Mr. Moore certainly did.

HIS HONOUR: The area that's got a B in the middle of it.

OFFICER: Your Honour sees that B above it has a tiny little arrow which is pointing up to a dotted line which is just south of the present boundary of Mulgoa Road. The little tiny sliver of land between the dotted line and Mulgoa Road is B. The shaded area is not B although the B indicating the sliver is within the bounds of the shaded area. 40

HIS HONOUR: I follow, I see what the B is, yes.

HEMMINGS: Q. Whilst it is a relatively large parcel of land, is its actual road frontage small? A. Very small

THE LAND AND ENVIRONMENT COURT
PLAINTIFF'S EVIDENCE
NO. 2(v)
ALCORN Lawrence Lloyd
EXAMINATION

compared to its - probably that is not exactly right. Let's explain that a little better. It has a large road frontage around the Regentville Road area and Jeanette Street and Luttrell Street but ---

Q. Theoretically. A. Theoretically, but that serves little purpose. It almost isolates - it makes that an island parcel of land, almost. Its road frontage to the bulk of the property can be really expressed as the rear boundary of part Lot 152 and the flood free area of the Mulgoa Road frontage, and the Mulgoa Road frontage is also subject to road widening in addition to that right of way. 10

Q. Across the subject - across the southern land?
A. Across the Kulnamock land, yes.

Q. Do you know how much, you were asked? A. Attached to the original contract between Levy and Woolridge to Kulnamock Pastoral Company --- 20

Q. That's the 1972 sale of March, 1972? A. Yes. There was a road widening plan produced - sketch produced by the Department of Main Roads which is dimensioned but it does not contain any area. I have worked out the area to be 21,283 square feet or 1 rood 38 perches.

HEMMINGS: Can the witness be shown exhibit AK, if your Honour pleases? Your Honour might put it on top of the model and we might approach your Honour. 30

Q. With respect to the three items, first three items in your adjustments, affectation by creeks, shape and also access, is the flooding of the subject land relevant and would you indicate --- A. Yes.

Q. If it is, would you indicate the subject land?
A. The subject sale?

Q. The sale, the Kulnamock property? A. It is in this location here running up on to Jeanette Street just - well it is that land there but it has that flood prone area designated in the front. 40

Q. You can indicate Mulgoa Road, can you not? A. I can show Mulgoa Road, yes.

Q. You can show it where it has a frontage to the subject land? A. Yes, approximately in between that right of way access - approximately that access to the Burnley property and that bend in the road.

Q. What relevance does the flood plan as indicated here have upon the considerations that you have referred to? A. It becomes drainage land, land for drainage,

THE LAND AND ENVIRONMENT COURT
PLAINTIFF'S EVIDENCE
NO. 2(v)
ALCORN Lawrence Lloyd
EXAMINATION

and is dedicated as such to Council. It, in my opinion, serves no other purpose other than whatever proportion might be allowed as a passive recreation space.

Q. Now item 4, I think you've dealt with that already, have you not? That you don't regard the Kulnamock property as having a real potential for expansion of Regentville? A. That's correct. I dealt with that a little while ago. 10

Q. And 5, you deal with the services? A. Yes. Whilst the subject property did not, in effect, that is the subject property, not the subject sale, did not have town water connected to it, town water was available by the extension of a main down Wentworth Road or up Bradley Street from Bringelly Road, but that would not necessarily have been of sufficient size to accommodate an urban development. But because the subject property is located in very close proximity, some 2 kilometres closer to the Penrith water supply, I adopted the view that this gave it an advantage over the sale property because it could - to get water to the sale property would require water to pass by the subject property, so it gave them an advantage in that respect. The owners' consultants, A.A. Heath and Partners, had carried out certain investigations as to sewer and they believed that it was available. I personally made enquiries of Penrith Council, and whilst I could not get a firm reply, there did not - because it was a matter in retrospect, that is, I could not get a firm indication as to when it might have been constructed, when the sewer might have been actually placed on the subject land or the sale property, the indications were that that sewer could have been provided to a proportion of the subject land sooner than it could have been provided to the Kulnamock property. 20 30

Q. Some of these items that you referred to on page 13 have greater significance in the adjustment of the sale price comparing the sale to the subject land, do they not? A. Yes. 40

Q. How then do you reconcile each of those matters to finally arrive at your view that the subject land, as at May 1973, would be 25 per cent better in price than the sale property? A. The two major items in my considerations were the amount of available land. I have already briefly gone through the exercise of how I calculated the amount of available land and in that calculation, I estimated that there was a 15 per cent increase in available land on the subject property as compared with the Kulnamock property. It then became a matter of considering what was the difference in the cost of repairing the very faulty land on both properties and my calculations were that I estimated 50

THE LAND AND ENVIRONMENT COURT
PLAINTIFF'S EVIDENCE
NO. 2(v)
ALCORN Lawrence Lloyd
EXAMINATION

\$100,000 to repair the Kulnamock property which is in the order of \$900 odd per acre. Looking at the subject land, I thought, well, it couldn't take anything like \$900 per acre or thereabouts to repair it but it might consume one-third of that, that is, \$300 odd per acre, \$300 or thereabouts. So working on that difference, I did the calculation and said that the \$100,000 in fact works out at \$940 per acre and I adopted a - that is in respect of the Kulnamock property; the subject land I adopted \$330 per acre. That gave a difference of - as \$600 per acre in repair costs and that worked out at --

HIS HONOUR: Q. Yes, at \$7,300. A. Correct.

Q. That is if you add about what, about \$870 or \$900 for your first item? A. Yes, \$940 I added.

Q. Yes being 15 per cent. That's how you got it, was it? A. Yes. They were the major considerations.

HEMMINGS: Q. Then you --- A. Then I looked at the other factors as I've - I would entitle them, of shape, access, servicing availability, road widening and overall contour, bearing in mind that the subject land has some of the highest land in the district upon it and commands fine views. Looking to all of those considerations, I did place an arbitrary figure of around about 5 per cent. I said 5 per cent for these factors. All of this added up to around about 30 per cent. Weighing that all up, I said: 30 per cent? I don't know whether I am right or wrong because I really haven't had it checked by an engineer and I could be out in my estimates. So weighing all that up, I said: It is certainly not worth less than a 25 per cent adjustment so I adopted 25 per cent.

Q. That indicated X-buildings, a figure of \$7,304 per acre for the subject property, but that would be as at May 1973? A. May of 1973, yes.

OFFICER: That means an adjustment to an amount of \$6094 - he's altered his figure I would say.

HEMMINGS: But no, that's with buildings, that \$6094, that's with buildings. There is probably some adjustment.

HIS HONOUR: Yes, his figure - I thought that Mr. Officer, I think I heard what you said. That figure of ---

HEMMINGS: 5843 is for ---

HIS HONOUR: An acre without the buildings?

OFFICER: Yes but divided - price less building divided by - it has to be 100 divided by 106.

THE LAND AND ENVIRONMENT COURT
PLAINTIFF'S EVIDENCE
NO. 2(v)
ALCORN Lawrence Lloyd
EXAMINATION

ALCORN: It is $106\frac{1}{2}$ acres, yes.

HIS HONOUR: So what is it then?

HEMMINGS: Q. What would the figure be then Mr. Alcorn?

A. All calculations were based on $106\frac{1}{2}$ acres.

Q. Even though you have said 108 at the top of the page? A. The reason I said 108 was because that was the summated area appearing on the face of the contract before one - after the exclusions and the - but it is in fact $106\frac{1}{2}$ acres.

10

HIS HONOUR: Q. 631087 divided by what - you say 106 point --- A. 106.5 so that ---

Q. That equals 5,925. A. 631087 divided by 106.5 equals 5925 per acre, that's correct.

OFFICER: I'm sorry, I think something is wrong.

HIS HONOUR: You say it is correct but you've got 5843. I don't know whether anything is going to turn on it.

20

OFFICER: Your Honour the calculation on the top of page - the second calculation on the page 13, that was based on 108 acres because if you divide \$631,000 by 5843 you get 108 acres.

ALCORN: That's correct.

HIS HONOUR: That's what I thought but he told me he didn't do it. He said he had done it by 106 so I can't understand it.

ALCORN: I'm sorry, your Honour.

30

OFFICER: I suggested that that would have to be - his figure at the top would have to be altered because I thought he had altered his --

HIS HONOUR: To 5,900 or something, 5,925 wasn't it?

HEMMINGS: Maybe we can sort it out at lunch.

HIS HONOUR: Q. Do you follow what I mean? If you divide 631000 by 106.5 you get 5,925? A. Correct.

Q. So should that figure be 5,925? A. The ultimate figure at the bottom of the page is the one that I am mainly concerned with, basically.

40

Q. The ultimate, 7,304, you say? A. In the vicinity of \$7,000, yes.

THE LAND AND ENVIRONMENT COURT
PLANNITIFF'S EVIDENCE
NO. 2(v)
ALCORN Lawrence Lloyd
EXAMINATION

Q. Yes I appreciate that. When you talk about the ultimate figure, you must get - if the ultimate figure depends, doesn't it, on the other figure --- A. The calculation, yes.

SHORT ADJOURNMENT

10

ON RESUMPTION

HIS HONOUR: Yes.

HEMMINGS: Q. Mr. Alcorn, the figure at the bottom of page 13, will it be 5925 plus 25 per cent, and that would give a figure of \$7,406 as at May 1973? A. Yes.

Q. At page 14 of your report, exhibit K, in your opinion there needs to be an adjustment for that sale to take into account increase in land values between May 1973 and the end of August 1973? A. Yes.

Q. Before you go into some detail on that, would you describe, in general terms, the comparison of 1972 with 1973 so far as the market and land acquisition activity? A. The year 1972 was a year of buoyancy. It was the build-up of a boom which commenced in 1973 and lasted throughout the whole of - most of 1973. In fact, the year 1973 as a whole has been described in a number of publications, including the Valuer-General's reports and Housing Commission reports, as a boom year.

20

Q. Is that your own experience? A. My word, yes, very much so. 1972 saw what we thought in the industry were quite dramatic increases in the value of land but they were exceeded by the 1973 year. Money was freely available and a number of people became involved in the purchase of real estate.

30

Q. In 1973, was there in land transactions, that is, the acquisition of land, a need to act fairly quickly if one wanted to maintain a particular price? A. Yes. It was the order of the day that if you didn't secure the thing by option or sign a contract almost immediately, then you would lose the purchase. This happened in my experiences in acquiring land on Parkes' behalf that we had to - it was necessary to get an option, even if it was only for 2 weeks, one week, one day. In fact we did exercise - one property, I recall, purely on the option - that is, we used the option as the contract, because the vendor Mr. Carter had been offered two significant - had received two significant offers above the price at which we had secured it under option.

40

Q. Did this need to act quickly apply only to the Penrith area or was it symptomatic throughout the metropolitan area? In 1973? A. In my experience it was

50

THE LAND AND ENVIRONMENT COURT
PLAINTIFF'S EVIDENCE
NO. 2(v)
ALCORN Lawrence Lloyd
EXAMINATION

symptomatic throughout the whole of the metropolitan area and indeed it might even be said that it extended into other States as well.

Q. Was the need to act quickly related to an escalation in land values over relatively short periods of time in 1973? A. That's exactly what the situation was. You'd start to negotiate with a vendor on one day and agree to a price and, metaphorically speaking, the next day he was asking a higher price. Or had been offered a higher price. 10

Q. In the first paragraph of page 14, you say: The market indications were that values were rising at a rate in the order of 10 per cent per month. The sales which indicate this were, in the main, smaller than the subject property. You do however have some sales to which you are going to refer of larger properties? 20
A. I do.

Q. In fact, in some very large properties, there were quite dramatic increases per month over a period, was there not? A. There were, yes.

Q. What sales do you rely on in particular to indicate in this locality the rate of increase per month for land? A. Firstly, let's look at the long term transactions which - and I will start off with the Kulnamock purchase on 29th March, 1972, for \$300,000, and the Kulnamock sale on 25th May, 1973, for \$649,087, a period of 14 months which disclosed an 8.31 per cent increase, simple per cent that is, increase per month. 30

HIS HONOUR: Q. What is that again? What increase?
A. Simple interest 8.31 per cent per month. The property known as the Emu Plains property was purchased on 1st March, 1972, for \$1,875 per acre. And the whole of it was - sorry, most of it was resumed. The part that wasn't resumed was the ---

OFFICER: The figure(?) earlier made I take it goes all throughout the hearing with reference to the resumptions, does it? 40

HIS HONOUR: Yes. In all events Emu Plains land, 1st March, 1972?

HEMMINGS: Yes. There was a sale in March 1972 and then ---

HIS HONOUR: Then that was followed by a resumption?

HEMMINGS: By a resumption effective in September 1973.

HIS HONOUR: Yes, well now, Mr. Hemmings, that's objected

THE LAND AND ENVIRONMENT COURT
PLAINTIFF'S EVIDENCE
NO. 2(v)
ALCORN Lawrence Lloyd
EXAMINATION

to on the basis that the information is virtually of no use to me unless I know what the sale figure was in 1972 and what the resumed figure was in 1973.

HEMMINGS: Yes, we are going to give it to you.

HIS HONOUR: Right. Mr. Officer objects to that. 10

HEMMINGS: Yes, and I press it your Honour and I ask your Honour to admit it. It is a dealing between two parties with respect to land. It is the agreement of a price for the acquisition of land. We have been provided with the factors taken into account by the Valuer-General in arriving at that figure, the sales upon which he relied, we have been given the material to indicate whether or not there were any extraneous matters such as ---

HIS HONOUR: You don't have to tell me why it could be relevant. I indicated to Mr. Officer I can see reason for it, but he has assured - put to me by way of submission that at law, I can't take it into account. 20

HEMMINGS: Your Honour, as a matter of law, your Honour is entitled to look at any evidence your Honour ---

HIS HONOUR: I don't know about that. Mr. Officer, you might - this may be a problem here and if not, I will resolve the matter here and now. Are you prejudiced by me admitting this evidence subject to your objection?

OFFICER: No your Honour. 30

HIS HONOUR: Do you mind if I do it that way and leave this matter to be dealt with in address?

OFFICER: No your Honour. I think it would be really more appropriate than having 2 or 3 hours debate on the law.

HIS HONOUR: Yes. Thank you.

OFFICER: Because I think if your Honour was going to determine it, I gave your Honour references to the cases, we would need to go through them all in detail.

HIS HONOUR: That's right, we would. Thank you. I mention that because sometimes it is said to me, well, it prejudiced me in some way, but if it doesn't prejudice you, I'll do it, thank you. I think it should be noted on the transcript that the witness is about to furnish the Court with material - with the purchase price of land at Emu Plains - what's it called? Which land was it? 40

OFFICER: Emu Plains.

THE LAND AND ENVIRONMENT COURT
PLAINTIFF'S EVIDENCE
NO. 2(v)
ALCORN Lawrence Lloyd
EXAMINATION

HIS HONOUR: Emu Plains land in March 1972 about which there is no objection but he is about to give the Court information as to the price paid after resumption or the amount of compensation paid after resumption in - when?

HEMMINGS: It was calculated as at September 1973. 10

HIS HONOUR: As at September 1973. Mr. Officer objects to this evidence. It is agreed between the parties that the evidence may be admitted subject to objection, Mr. Officer's side not being prejudiced by that approach. Accordingly the evidence will be admitted subject to argument that it may later be excluded.

HEMMINGS: As the Court pleases.

HIS HONOUR: Q. So Emu Plains on 1/3/72, what ---
A. Was purchased for a price - contract price of \$400,000. There were some terms attaching to that and I would analyse the cash purchase price or the cash equivalent purchase price at \$376,000 giving - I'm sorry, the area was 200 acres 2 roods 21½ perches which gives a rate per acre, cash basis, of \$1,875 per acre. On 28th September, 1973, the Housing Commission paid for a slightly reduced area, they did not resume the lot 3 in DP 221 --- 20

HIS HONOUR: Just a minute, I will just have a look at this while ---

ALCORN: That's the blue --- 30

OFFICER: I think the witness is referring to the little coloured plan that he - it was tendered this morning.

HEMMINGS: Emu Plains is the one directly behind Kulnamock your Honour.

HIS HONOUR: Q. Yes right. And the small area where it was not resumed, where was it? A. The access to Mulgoa Road your Honour.

HEMMINGS: Yes, that blue lot 3 with the blue 20 feet wide ---

HIS HONOUR: That's also got the figures on it too of \$6,000 per acre. 40

HEMMINGS: That's it your Honour.

HIS HONOUR: So therefore it is already in evidence anyway, subject to your objection.

Q. Yes. A. The resumption was in the sum of the price paid excluding a \$10,000 severance for that strip

THE LAND AND ENVIRONMENT COURT
PLAINTIFF'S EVIDENCE
NO. 2(v)
ALCORN Lawrence Lloyd
EXAMINATION

of lot 3. The resumption price was \$1,190,000, or overall, \$6,000 per acre.

HIS HONOUR: Can I ask this? Is there a dispute about this Mr. Officer, about the way this matter is analysed or is your objection really confined to being used at all? I know that is your objection but do you -- 10

OFFICER: My objection is to it being used at all.

HIS HONOUR: Yes but is there a dispute - if it can be used, that this is the proper way of using it?

OFFICER: I wouldn't like to answer your Honour. At the moment, I don't recall that there will be a dispute as to the analysis of the resumption.

HEMMINGS: What I was going to say, your Honour, to save any argument, I will just ask Mr. Alcorn to state his analysis of the figure. If my learned friend wants to challenge that, he can do so in cross-examination in finer detail. 20

Q. So would you just give your analysed figures in each of these matters please, Mr. Alcorn, rather than the exercise that you carried out? A. You mean just the rates per acre not the ---

Q. Rates per acre, yes.

HIS HONOUR: Q. It is \$6,000, is that your analysis?
A. Correct.

HEMMINGS: Q. And the difference between those? 30
A. March 1972 \$1,875 per acre; 28th September, 1973, \$6,000 per acre. Over a period of 18 months discloses a simple interest per month increase of 12.22 per cent per month. The next one I quote is a very very high increase and I tend to discard it but I'll mention it.

HIS HONOUR: Q. When you say simple interest, do you mean just simple interest on the base figure? A. Yes, well, if you take \$1,875 away from \$6,000, and the difference is \$4,125 ---

OFFICER: 12.22 per cent per month of the \$1,875 equals \$6,000. 40

HIS HONOUR: Say that again so I can follow it.

OFFICER: 12.22 per cent per month of \$1,875, non-cumulative, for 18 months, equals \$6,000.

ALCORN: The property increase over a period of 18 months, 220 per cent, that's so.

THE LAND AND ENVIRONMENT COURT
PLAINTIFF'S EVIDENCE
NO. 2(v)
ALCORN Lawrence Lloyd
EXAMINATION

HEMMINGS: Q. There is another one which is the Burnley Chambee(?) property. That shows a massive ---

HIS HONOUR: Is the Burnley that one there? To the west of - you mean?

OFFICER: Emu Plains.

10

HIS HONOUR: Q. Is that the property you are referring to? A. Yes. It is the property directly west of Emu Plains with access through to Mulgoa Road.

HEMMINGS: Q. That shows a massive 41 per cent per month? A. Correct.

Q. You regard that as being out of line and therefore unreliable? A. Completely out of line, I suggest, yes, with the rest of the market and that was between the period July 1972 to September 1973. The next one that I look at over a longish period of time is from August 1972 to February 1973 and these are lots in Garswood Road purchased by ---

20

Q. Would you go to the exhibit and indicate to his Honour the location? A. Yes, the Martin and the Ross and Titter purchase which are side by side. Martin purchased on 14th August, 1972, for \$3,044 per acre and Ross and Titter purchased on 6th February, 1973, for \$5,624 per acre. Over a period of 6 months indicates a simple interest increase of 14.12 per cent per month.

Q. Were those properties identical? A. I consider them to be identical, except for area. One is 4 acres larger than the other.

30

Q. And there's a 14.12 per cent? A. 14.12 per cent per month.

HIS HONOUR: Q. That's the property - wait a minute - you say Martin's property was first sold in August 1972, is that right? A. Yes, August 1972 your Honour.

Q. At \$3,044 per acre? A. Correct.

Q. What's the next date you are comparing it with? A. The property next door on the western side, Ross and Titter.

40

HEMMINGS: Q. So when you compare the prices paid for those properties, there - it shows a 14.12 per cent per month. A. If we look at the Kulnamock purchase - getting into a shorter time frame now, we look at the Kulnamock purchase which is next door to the Caroline Chisholm School near the western end of Garswood Road, the Kulnamock purchase, that property which is on the

THE LAND AND ENVIRONMENT COURT
PLAINTIFF'S EVIDENCE
NO. 2(v)
ALCORN Lawrence Lloyd
EXAMINATION

crest of a hill, on 17th January, 1973, for \$4,800 per acre and if you compare that with the Ross and Titter block, 6th February, 1973, which is down at the bottom of the hill, that was \$5,624 per acre, in one month the price escalated 17.1 per cent for an inferior property, inferior by virtue of its contour. Again looking at a shorter term period, if we compare property purchased by Fred Coe --- 10

Q. Have you missed Martin's property, comparing Martin to Kulnamock? A. I'm sorry, yes. If we compare Martin's purchase, also at the bottom of a hill, in August 1972 with Kulnamock at the top of the hill next to the school, in January 1973, a period of 5 months from 1972-1973, we have 11.5 per cent per month. The next series that I would compare is the Fred Coe property which is a triangular shaped allotment adjoining the expressway purchased August 1972 for \$3,768. Comparing that with the Go property, just marked GO on the northern side of Garswood Road and purchased in April 1973 for \$5,600, I consider those properties to be basically comparable, that shows an increase between August 1972 and April 1973 of 6.1 per cent per month. But then when we compare the Go property, that is, the property marked GO, in April 1973 with the property adjoining the expressway towards the eastern end, marked Tomjen, which sold in June, 1973, for \$7,500 per acre -- 20 30

OFFICER: Your Honour, it's very difficult to follow this, because it's been given from a document which none at our table ---

ALCORN: A. Go to Tomjen - there's a period from April, 1973, to June, 1973, of 16.96% per month, and that about concludes it in the subject locality.

HEMMINGS: Q. Have you looked outside the subject locality? A. Yes, I have.

Q. In which areas? A. The first area that I looked at - or one of the areas that I looked at - was in North St. Marys - I call it North St. Marys, it's actually Berkshire Park --- 40

Q. I think it's indicated at the top of the exhibit. A. Right at the top of the map, on the right hand side, an area of 1,496 acres - that sold 3 times over a period of 7 months and ---

HIS HONOUR: Yes, they're 13,83 to 22802, 620. Yes, I've got it.

ALCORN: A. Correct, that indicates a simple percentage increase per month of 12.48% per month, and that's a very large property. 50

THE LAND AND ENVIRONMENT COURT
PLAINTIFF'S EVIDENCE
NO. 2(v)
ALCORN Lawrence Lloyd
EXAMINATION

HEMMINGS: Q. That's a grossly inferior parcel of land compared to the subject land, is it not? A. That property is, from my planimeter calculations, has an area of 32%. 32% of its area is subject to part flood inundation and an area upon which you cannot build, because it is beneath the 50 foot contour limit imposed by Blacktown Council. 10

Q. It's also adjacent to --- A. It's adjacent to the garbage dump and nightsoil depot for Blacktown City Council on the right hand side of the map and it is adjacent to a tannery which has been in existence for many years, which appears ---

Q. You don't intend to compare the land, land for land, it's only for the purpose of escalation? A. For the purpose of escalation. Looking further afield, out in the Londonderry area, we have a sale --- 20

HEMMINGS: Q. Is that on the map. A. Yes, it's indicated ---

HIS HONOUR: Is that ... (inaudible) ...

HEMMINGS: Q. Yes, your Honour. Rosilion(?) Bond to - A. Yes, that's it.

HIS HONOUR: What does that show? That is \$1,300 in 87 and 88 ---

HEMMINGS: Q. 7.25% over 7 months, per month, and Charles David, Stuart Chapman -- A. Are not of the same property - but they are similarly affected by - they are on South Creek and they are similarly affected. 30

HEMMINGS: Q. You mean you compare the Rosilion properties with --- A. No, I'd compare the Charles David property - Charles David Hides and Skins - with Stuart Chapman - the purchase by Stuart Chapman. They're both on South Creek and they're both similarly affected by creek plans. \$1020 in 4/72 for the Charles David property, and \$1875 per acre in February, 1973, for the Stuart Chapman property, showing an increase of 8.38% per month. 40

Q. Overall, taking into account the state of the market and in particular, the sales evidence you had available to you, that you form a view as to the likely escalation in land values on and from May, 1973. A. Looking at the subject locality, the increases could have been - one could say that the increases were as high as 17% per month, towards the middle of 1973. But after the middle of 1973, the issue became somewhat clouded because the Housing Commission had stepped in and sales were non-existent in this locality. I formed 50

THE LAND AND ENVIRONMENT COURT
PLAINTIFF'S EVIDENCE
NO. 2(v)
ALCORN Lawrence Lloyd
EXAMINATION

the view that the escalation, had it been allowed to continue, would not have been less than 10%. The next consideration I had to apply myself to was whether a 10% per month escalation between May, 1973 and August, 1973, would necessarily apply to a parcel of 884 acres, and I have found some substantial guidance in the sale of 1,496 acres at Berkshire Park, which over a 7 month period, showed a 12.24% increase per month - 12.48% increase per month. So that gave me some substantial guidance; I also looked at the situation of whether the property - the sheer size of the property - would enhance its value and again, the purchase of 1,496 acres at Berkshire Park indicated to me that a large parcel was (a) in great demand - it sold 3 times in a period of 7 months (b) it achieved a rate per acre higher than any of the other small sales around the locality. However, that may be difficult to substantiate as to a percentage value increase, applicable to a large parcel or a large site premium; so I therefore elected to adopt a conservative view and say that, bearing in mind the size of the property and the escalation that was evident during 1973, that a 10% increase per month covered both factors, thereby I came up with 30% added to the main 1973 price.

Q. And the figure that you are adding, or the adjustment you are making, is an adjustment to a figure derived from the Kulnamock sale, is it not? A. Correct.

Q. And you've said to his Honour that you did not regard the Kulnamock property as having the same potential for re-zoning because of its smaller size.

A. Correct, yes. But I did not make any additional allowance for that, it was all encompassed in the 30%. In fact, if one made an allowance for that - I suppose I would have definitely come out with a higher figure.

Q. To give the benefit of a bigger parcel and potential. A. Yes, but the added potential that the location and size of the subject property gave it, over the Kulnamock property.

Q. Then to adjust for time and taking into account the size of the parcel, you then derived a figure of \$9,500 per acre? A. Yes.

Q. If it was a pure mathematical calculation up from the adjusted figure that you spoke of just after lunch, it would show \$9,627? A. It would, but I don't seek to alter that arrangement.

Q. The adjustments that you've made on page 13, you told us were based upon your own assessment as to the difference in the quality of the parcel? A. Yes.

THE LAND AND ENVIRONMENT COURT
PLAINTIFF'S EVIDENCE
NO. 2(v)
ALCORN Lawrence Lloyd
EXAMINATION

Q. Subsequent to you carrying out this exercise, did you then have the benefit of some advice from Mr. Moore as to the likely yield from the Kulnamock property as compared to the subject land, and abnormal costs likely to be incurred if one property is compared to the other? 10
A. I did.

Q. And did you check your assessment based upon the information that he gave you? A. I did.

Q. What is your conclusion? A. The results were that where I'd allowed a 20 acre faulty land component or a useless land component on the Kulnamock property, Mr. Moore had allowed 24 acres as drainage reserve and passive recreation, unsuited for any purpose other than that. He had allowed a repair cost factor of \$200,000 where I had allowed a \$100,000 repair cost factor. 20
Looking at the subject property, he allowed 62 acres ---

HIS HONOUR: Q. You allowed \$100,000 for repairs?

A. yes.

Q. And he allowed \$200,000? A. Yes. Looking at the subject property, I had allowed a creek affected area of between 50 and 60 acres, of which 15 acres would be required as drainage reserves. Mr. Moore allowed 62 acres as affected by creeks, but allowed a 15 acre drainage reserve - the same as myself - but whereas I had allowed \$330 per acre in repair costs, as 30
to the subject land, Mr. Moore had allowed ----

HIS HONOUR: Q. I'm sorry, would you give me those figures again? You allowed --- A. I had allowed \$330 per acre as repair costs to the subject property - repair of faulty land - Mr. Moore had allowed the sum of \$100,000 which equates to \$113 per acre.

HIS HONOUR: Where's his \$113 Mr. Hemmings? Mr. Moore's \$113.

HEMMINGS: He says, \$100,000 in abnormal repair costs, de-silting of dams and scour repairs --- 40

HIS HONOUR: Q. You allowed how much? A. I allowed \$330 per acre.

Q. That's your \$200,000? A. No, that \$330 per acre is applicable to the subject land.

Q. I just want to get this clear. First of all, you say you allowed \$100,000 for repair costs? A. On the sale property, your Honour, Kulnamock.

OFFICER: I'm still puzzled by one thing your Honour. The witness said he allowed - to the subject land he has

THE LAND AND ENVIRONMENT COURT
PLAINTIFF'S EVIDENCE
NO. 2(v)
ALCORN Lawrence Lloyd
EXAMINATION

assumed, or for the purpose of his evidence - a repair bill of \$330 per acre, for the subject land, but then he has just said, but Mr. Moore allows \$100,000 repair bill ---

HEMMINGS: Mr. Moore allows a total repair bill, in respect of the subject property, as \$100,000. 10

HIS HONOUR: Where does he say that?

HEMMINGS: They were the figures he gave me. Abnormal repair costs, de-silting of dams, scour repairs.

HIS HONOUR: What page?

HEMMINGS: Your Honour, I'm instructed that we must have overlooked asking Mr. Moore that particular question. That's information that was given to Mr. Alcorn, that Mr. Moore should have given in evidence.

HIS HONOUR: Is this to be divined from the information we've got, from that material on page 7 of Mr. Moore's report? 20

HEMMINGS: No, from page 12 onwards, your Honour.

DISCUSSION

HIS HONOUR: I have no recollection of Mr. Moore raising this particular ---

OFFICER: Your Honour, it's not only a question that it's not in Mr. Moore's report - written report - but in his evidence, he denied to me that he would regard de-silting and filling of a dam, as being remedial work. 30

HIS HONOUR: Yes, I may have got a note of that. Does that mean that Mr. Moore, on that basis, allows nothing, whereas Mr. Alcorn allows \$330? That's the effect of it, is it?

HEMMINGS: As I understand it, Mr. Moore balanced out some costs, property to property, and distinguished abnormal costs.

Q. Is that so, Mr. Alcorn? A. When I requested these figures from Mr. Moore I said, you allowed \$200,000 on the Kulnamock property, one cannot say that there are no repair costs applicable to the subject property, what might be a reasonable repair cost factor, or what might the repair cost be, and he said, well the only repair cost that I could see that might even approach the repair cost necessary on the Kulnamock property would be the desilting of dams, and he 40

THE LAND AND ENVIRONMENT COURT
PLAINTIFF'S EVIDENCE
NO. 2(v)
ALCORN Lawrence Lloyd
EXAMINATION

said there is nothing like the expenditure required on the subject land, as there would be on the Kulnamock property, and I said, I have allowed the sum of \$330 per acre which equates to a figure in the order of \$300,000 in repair costs to the subject property, and he said it would be nothing like that, and I said, well then can you tell me how much the repair cost - how much it would cost to repair the desilting of dams, because I believe that I should apply some repair costs, and he said it would be no more than \$100,000, and that would be overstating the case. So I adopted that figure. Now I believe that Mr. Moore is correct in what he says, as a valuer that is I believe that he is correct, that the \$100,000 for the desilting of dams is nothing more than would be expected in a property of this magnitude.

HIS HONOUR: And - can I just ask the question, this \$200,000 on Kulnamock comes from page 14, adding the figures up, I take it.

OFFICER: Yes.

HIS HONOUR: But Mr. Officer, when you mentioned this to Mr. Moore, he referred to a figure of \$20,000, that was for desilting that odd dam - is that the dam in Kulnamock?

OFFICER: The \$20,000 was the - if your Honour turns to Mr. Moore's Y1 on page 11.

HIS HONOUR: Yes.

OFFICER: He said he had volunteered in-chief I think to my learned friend, that included in his scour protection and landscaped watercourses, he either volunteered to my learned friend or he volunteered to me, without being asked about it, that there was desilting of dams and the compacting of dams in his \$80,000, and I asked him ----

HIS HONOUR: And that is in the \$80,000 - and Emu Plains, of course, yes.

OFFICER: --- how much of the \$80,000 was desilting of the three small dams and he said \$20,000.

HIS HONOUR: Yes, that's right.

OFFICER: Then this morning, because I should have asked in cross-examination, I asked him with regard to his figure of \$50,000 on page 14, relating to Kulnamock, what about the small dam over to the north-west of the main one - north-east of the main one, was that part of the \$50,000, and he said no, it would be desilted and filled, but he hadn't included it in the \$50,000, and

THE LAND AND ENVIRONMENT COURT
PLAINTIFF'S EVIDENCE
NO. 2(v)
ALCORN Lawrence Lloyd
EXAMINATION

he said there would be - I think he said there would be about \$3,000 would be the cost of doing that.

HIS HONOUR: That's right.

OFFICER: But yesterday I was asking him about desilting of dams, and my recollection clearly was he said, no, the situation where you're desilting and filling a dam is different, because there you're gaining land, usable land, you're not just making the waterway more stable, and now apparently, and I'm not being insulting to Mr. Alcorn, I hope I'm not, through the back door we get Mr. Moore's evidence that there would be a repair bill in respect of the subject land.

10

HIS HONOUR: I was going to say the next - I appreciate that, the next question is this however though isn't it, that Mr. Alcorn has said he has allowed \$300 for this, now I suppose on the ---

20

HEMMINGS: Well your Honour, the next few questions are going to solve all problems.

HIS HONOUR: All right, well let's wait and see, there are still a few problems in my mind about it, I'll work it out.

HEMMINGS: Q. Mr. Alcorn, using the information supplied to you by Mr. Moore ---

HIS HONOUR: And what does that include the \$100,000?

HEMMINGS: Yes, all those figures.

30

Q. Does that indicate to you, just using that mathematical approach, a particular rate per acre as compared to the rate per acre that you have in fact adopted?
A. Yes it does.

Q. And is it higher or lower? A. It is substantially higher.

Q. However, as a valuer, taking all factors into account, do you adopt the higher figure that is derived from Mr. Moore's approach, or his figures, or do you still adhere to your own assessment? A. I still adhere to my own assessment.

40

Q. Now in the course of your practice, are you required from time to time to give advice as to the upper and lower limits likely to be expected for land generally in particular localities? A. I am.

Q. In what context? A. Well I'm quite often asked how much is land selling for in - how much is land worth

THE LAND AND ENVIRONMENT COURT
PLAINTIFF'S EVIDENCE
NO. 2(v)
ALCORN Lawrence Lloyd
EXAMINATION

in North Penrith these days, or how much is land worth in South St. Marys, or Bosley Park, or whatever it might be, and I offer a range ---

Q. For what purposes? A. Generally speaking the people who are enquiring of agents have a property which they have been offered for sale and want to check out whether it is in the parameters of acceptable value. 10

HEMMINGS: Q. And within those localities can you offer an opinion as to the likely range of prices for the properties in that locality would vary one to another? A. I think I misunderstood you, would you mind saying that again?

Q. Do you offer advice as to the range of values in a locality that the particular value of the parcel would vary depending upon its qualities? A. Generally speaking, average rate per acre or an average rate per cubic metre, of square foot or which is the way you want to look at it, applies to a particular locality, so that one gives a range, one says that Fairfield --- 20

Q. Well don't say it, but you have a range? A. Yes.

Q. Thank you. I tender a schedule.

HIS HONOUR: What is that document?

HEMMINGS: It is a schedule of rates per acre mid 1973.

HIS HONOUR: For the various areas?

HEMMINGS: Yes. 30

HIS HONOUR: Yes, very well, that can become part of - that will become K2.

TENDERED, ADMITTED AND MARKED EXHIBIT K2 -
SCHEDULE OF RATES PER ACRE

HEMMINGS: Q. Now item 1 is zoned urban, South Penrith?

A. Yes.

Q. \$21,000 to \$24,000? A. Correct, yes.

Q. Now what do those figures represent? A. They represent the general range of values applicable to land north of the expressway, and south of the township of - at Penrith, and they discount very faulty parcels of land, they discount - they don't take in the absolute lowest - worst property, but --- 40

Q. They are average quality? A. They are average quality, fair average quality.

THE LAND AND ENVIRONMENT COURT
PLAINTIFF'S EVIDENCE
NO. 2(v)
ALCORN Lawrence Lloyd
EXAMINATION

Q. Now your Honour, if we could turn over the exhibit to show the top sheet, I think it is G2. Now in the South Penrith area, that is the area which is outlined in red ---

HIS HONOUR: North of the freeway?

10

HEMMINGS: Q. Just north of the freeway? A. Correct.

Q. And land zoned urban has a range of \$21,000 to \$24,000 per acre? A. Yes.

Q. Now the second item is proposed earlier release, the Terrace Drive area, now where is the Terrace Drive area? Would you go to the map and indicate it to his Honour? It is this area round here? A. Yes, down beside the railway line.

Q. On the northern side of the railway line? A. Yes.

Q. And that area you say earlier release, mid 1970s, what do you mean by that? A. Well it was proposed for release by the Sydney Region Outline Plan as being available for urban development between the periods 1978 to 1980, at 1973 it still had not become available. However, it was being purchased by developers as potential urban land, to become available within a short period of time, in fact it did not become available until 1978, that is, available for development. It was IDO-ed in 1978, but in 1973 the price range was between \$19,500 to \$20,000 per acre.

20

30

Q. Thank you. Now the third area is the North Orchard Hills area, I think your Honour would be familiar with that area by now, that is the area of land north of the freeway, east of Bringelly Road, is that right? A. Yes.

Q. And the release indicated for that land was 17 years was it not? A. That was 12 years.

Q. I'm sorry, 12 years. A. Well I adopt 12 years.

Q. Under the Sydney Region --- A. Under the Sydney Region Outline Plan it was designated for release between the period 1980 to 1990, thus at a mid-term release date at 1985, and bearing in mind that all releases in the Penrith area had a history of being some 3, 4, 5, 6, 7, or 8 years late, or have a history. I adopt a mid-term release date there in the order of 1985, which at 1973 made it 12 years away from release, and at the very earliest it was 7 years away from release, and the range of values at mid-1973, in that particular locality was between \$13,500 and \$14,500 per acre.

40

50

THE LAND AND ENVIRONMENT COURT
PLAINTIFF'S EVIDENCE
NO. 2(v)
ALCORN Lawrence Lloyd
EXAMINATION

Q. Now 4, suggested release is 17 years away, would you indicate the area on the map of which you're speaking? A. That is the orange area of land on the south-eastern corner of the map, which is labelled Colony Town Estates.

10

Q. That is the bottom right hand side? A. Bottom right hand side.

Q. East of what has been called the St. Clair area?
A. East of the St. Clair land, yes.

Q. Yes. A. Now that property - it is very difficult to look at that property really, because it has got a somewhat suspect sales history, but as at March 1973 it did sell to Colony Town Estates, and at the time of sale half the property was within an open space - a designated open space corridor. Since that time Professor Winston has - since the time of the sale, Professor Winston has revised the corridor and made it much smaller, but at the date of the sale the corridor consumed approximately half the property, and I have interviewed the owners who are Stocks and Holdings, and they informed me that they paid nothing for the open space corridor land. On that assumption the sale as at March of 1973 analyses at the urban proposed land, \$8,850 per acre. Now in terms of the Sydney Region Outline Plan, it was proposed for release during the period of 1990 to 2000, am I right, sorry, 1985 to 1995. Again, adopting a mid-term release date of 1990, then as at 1973 it was 17 years away from release, and I would escalate that at a minimum rate from March 1973 to August 1973, and say that it was worth as at August, 1973, \$11,500 to \$12,000 per acre.

20

30

HIS HONOUR: How do I describe that property - what is it?

HEMMINGS: Colony Estates' land.

Q. The last one, you say well located but very faulty land ---

40

HIS HONOUR: Where is the Jamison Road again?

HEMMINGS: That's the ASL and Leagues Club and Calpac land west of Mulgoa Road - between Mulgoa Road and the river.

Q. Is that right, Mr. Alcorn? A. Correct.

Q. You in fact were a consultant to the Leagues Club on land acquisitions, were you not? A. I was.

Q. And were consulted with respect to this land?
A. I was.

50

THE LAND AND ENVIRONMENT COURT
PLAINTIFF'S EVIDENCE
NO. 2(v)
ALCORN Lawrence Lloyd
EXAMINATION

Q. That land had a non-urban zoning at the time of acquisition? A. As to the majority of it.

Q. A small portion of it had a residential zoning?
A. The area along the frontage to Mulgoa Road.

Q. So far as the non-urban land was concerned, did the purchasers have something in mind? A. Yes, they did. 10

Q. What was that? A. They were attempting to extend the urban zoning over the land which was flood free.

Q. Now all of that land in that vicinity to some extent is affected by flooding, is it not? A. A substantial part of it is, yes.

Q. And you say: fully adjusted for flood, drainage and repairs, as fair average quality land; you say that land indicates a range - a figure of about \$18,000 an acre as at July, 1973? A. Yes. The Leagues Club land sold on 28th July, 1973. 20

Q. But even not adjusting that land, the rates per acre --- A. If one merely deducts the land which is flood prone and doesn't allow anything for repair costs, filling, drainage, etc., but merely deducts the flood prone land and the urban land of course, I analysed that sale to disclose \$11,200 per acre for the non urban land - the usable non-urban land as at July, 1973. And I say that the usable non-urban land is 125 acres. 30

HIS HONOUR: Q. Usable non-urban land, and that's where you get the \$11,000, is that right? A. After the deduction of the - I've allowed an urban land component which comprises to 25.32 acres plus an allotment in Ladbury Avenue, giving a total of 25.59 acres of urban land, and I've allowed that at \$543,000.

Q. You say that that is the value you put on the land, if you exclude from it the areas it's flood prone? A. And the land which is zoned urban. 40

Q. And the land zoned urban; for the non-urban part of the land which is not flood prone. A. Yes.

HEMMINGS: Q. Looking at the material available to you, what does it indicate to you as to the value that you've assigned to the subject land, on an analysis and adjustment of Kulnamock's purchase? A. Looking at the overall rates per acre that applied to the various areas and around Penrith, and then looking at the location of the subject land, and attempting to make some 50

THE LAND AND ENVIRONMENT COURT
PLAINTIFF'S EVIDENCE
NO. 2(v)
ALCORN Lawrence Lloyd
EXAMINATION

sort of an estimate as to its potential as to release; and then looking at the flood affected land in Jamison Road, which at February, 1973 was fetching \$9,000 an acre; I came to the conclusion that my value at \$9,500 in respect of the subject land was at least somewhat conservative in the light of those figures.

10

Q. Had the subject land, the day before the resumption, been indicated as being available almost immediately for urban release, what would you have said would have been its value based upon this evidence?

A. Almost immediately, that is the next day or 12 months' time?

Q. Within the next few months. A. In the order of \$20,000 an acre, maybe more.

Q. I want to ask you to carry out a separate test, if you can, with the same information as before you. You've told us that you've formed the opinion that there is a range of values for urban land, for each of these localities? A. Correct.

20

Q. Can we assume that, if you compared each locality, there would be a difference in those rates per acre which relate to their location? A. Yes, I believe that's the case.

Q. Putting location adjustments aside, in your opinion when you examine those figures, is there a factor in those values which relates to the likely time when the land is to be released for urban development?

30

A. Yes, I would look at the periods of release, and relate them to the rates per acre, and one sees that the further away from release the land becomes, the lower the value. And if one then looks at what the land would have been worth at 1973, if it were then zoned urban land, one can calculate a discount factor, and these general average sales generally show a discount factor in the order of 4½ per cent per annum compound, based on what the land would have been worth if it were then zoned urban.

40

Q. Is there then in these figures, some consistent factor that you can deduce, which relates to a discount factor for the time of release? A. Yes, by comparing the prices paid applicable then, with the prices that would have applied had the land been zoned for instance \$24,000 to \$20,000 shows a difference of \$4,000 ----

HIS HONOUR: Q. What is the discount factor which is common? A. In the order of 4 per cent - 4½ per cent per annum compound.

50

HEMMINGS: Q. And that's a comparison between what? A. Between the value of the land, let's say the

THE LAND AND ENVIRONMENT COURT
PLAINTIFF'S EVIDENCE
NO. 2(v)
ALCORN Lawrence Lloyd
EXAMINATION

Terrace Drive area, had that land been zoned for urban development - released and available for urban development, as well as being zoned, as at 1973, it in my opinion, because of its locality, would have fetched an average figure in the order of \$22,000 per acre. If one looks at the \$19,500, or the \$20,000, which applied as at mid 1970, then in that case in fact the compound interest rate is in the order of 3 per cent per annum. 10

HIS HONOUR: Is this for the purpose Mr. Hemmings of showing how much the market reflects the possibility that the land is going to be rezoned? Is that the purpose of it?

HEMMINGS: No. The purpose of this is your Honour that (a) it's a check on the reliability of the valuation approach, a valuer should check as many ways as he can; secondly, your Honour, in the material that's been given to us by the opposition, they've indicated that this land could have been expected to have been released in say 10 years' time, and available for houses as at 1973. On that basis I was about to ask Mr. Alcorn if there is a common factor in this material, indicated from mid 1973, I want him to assume the correctness of 10 years, what sort of figure would that indicate. 20

HIS HONOUR: It's not to pull himself up by his own bootstrap? 30

HEMMINGS: No, your Honour, he's pulling himself by the bootstraps of the material that's been put to us by the opposition. I was trying to use their material to see what the market indicates.

HIS HONOUR: It's not clear to me at the moment, and undoubted it will become clear, yes.

HEMMINGS: Q. I want you to assume that the market would have said in 1973 that the land would have been rezoned and released within a 10 year period? 40

HIS HONOUR: You're talking about Terrace Drive now, are you?

HEMMINGS: I'm talking about the subject land.

Q. Do you understand what I'm putting to you? A. I assume that the public is aware that the land is going to be released for urban development within 10 years, or at a 10 year ---

Q. Zoned and released within a 10 year period.
A. Yes.

THE LAND AND ENVIRONMENT COURT
PLAINTIFF'S EVIDENCE
NO. 2(v)
ALCORN Lawrence Lloyd
EXAMINATION

Q. On this constant factor that you said you can deduce from the sales, what rate per acre would that indicate on that information? A. I would suggest that it would indicate a figure in the order of \$15,500 per acre, on a 10 year release date.

10

Q. For the land to have that rate per acre, one would have to have some real confidence that the land would be released within that period, would one not, on the sales' evidence? A. Yes.

Q. If your figure was adopted of \$9,500, would that accommodate any risk of achieving resumption within the foreseeable future, in your view? A. Of achieving the rezoning?

Q. Rezoning. A. Yes. If one assumed that a 10 year release date was applicable, but that it had not been published, or was not absolutely certain, I as a valuer could not instruct, or at least advise a purchaser to pay a value applicable to a 10 year release date. I would have to discount it for the risks involved. And I believe that the \$9,500 per acre which I have applied to the subject land accommodates those risks.

20

HIS HONOUR: Q. When you say it accommodates those, you're assuming someone comes into you and gives you information which could lead to the view that it would be released within 10 years, but there is nothing certain about this, is that right? A. Correct.

30

Q. What is the information that you would assume that you were getting as to its 10 year release?

HEMMINGS: On the \$15,000 approach your Honour?

HIS HONOUR: It doesn't matter, does it?

HEMMINGS: Yes, your Honour. The first one, as I understand it, there is some certainty that it's going to be released in that time.

HIS HONOUR: Q. On the \$15,000, which is the no certainty, what information do you take into account?

40

A. As to the certainty of release of ---

Q. Or lack of certainty, whatever --- A. The certainty factor would be an indication from the State Planning Authority that they would approve of the release of the land within 10 years.

Q. And you would say then: if I had it in writing - or if it was rezoned now, but to be released within 10 years - at the end of 10 years, it would be worth \$15,000. A. Yes.

THE LAND AND ENVIRONMENT COURT
PLAINTIFF'S EVIDENCE
NO. 2(v)
ALCORN Lawrence Lloyd
EXAMINATION

Q. But because I've been told by the State Planning Authority that it will be released at that time, I've discounted. A. The very smallest discount, your Honour.

Q. Is that what you did though? A. Yes, I did discount it, but what the clients in this matter had obtained from the State Planning Authority and the Penrith Council, etc., and from all their enquiries, was not so much a positive "yes" but it was not a negative "no". So in the light of that I said: Yes I do believe that this land is potential urban land within a period of 10, 12, 8 years, something in that order; but I couldn't in all conscience say precisely that that was going to be the time release per annum. So I reduced it.

10

HEMMINGS: Q. So when you're valuing land, which would have been \$15,000 if you knew with absolute certainty that it was going to appear in 10 years, you say it's reasonable to reduce it to 9½ for the uncertainty?

20

A. Yes, based on the Kulnamock sale and the other evidence which I put forward as well.

HIS HONOUR: Yes I follow.

HEMMINGS: Q. I don't think you've done an exercise in reducing it to \$9,500 --- A. No.

Q. You've said that that satisfies you as the reasonable --- A. It's another way of coming to the conclusion that \$9,000 is all right.

30

HEMMINGS: He hasn't worked out a percentage ---

HIS HONOUR: I understand.

HEMMINGS: Q. Is that so? A. Correct, I have not.

Q. Well then at page 15 of your valuation you then do a summation ---

HIS HONOUR: Is there a fight about the buildings as a matter of interest?

HEMMINGS: I'm not sure your Honour. Yes there is your Honour.

40

HIS HONOUR: And is there a fight about the expenditure?

HEMMINGS: Your Honour so far as the expenditure is concerned providing we can satisfy my learned friend that expenditures have been made he probably will not ---

HIS HONOUR: It's like one of those Common Law actions where you write a list of out-of-pockets is it?

THE LAND AND ENVIRONMENT COURT
PLAINTIFF'S EVIDENCE
NO. 2(v)
ALCORN Lawrence Lloyd
EXAMINATION

OFFICER: If I could qualify what my friend says, there are two questions with regard to the expenditure. One is was it spent, and secondly even if it's spent, is it allowable?

HIS HONOUR: Is this in terms of what you were hinting at in cross-examination yesterday about the reason why it came into existence? 10

OFFICER: What, the plan?

HIS HONOUR: No the Heath report.

OFFICER: There are all sorts of reasons but I prefer for the moment not to debate the allowance of it, but that's a question that will arise again at some time. It is not conceded that it's allowable even if it has been spent.

HIS HONOUR: Yes. 20

OFFICER: As to whether it's been spent, a lot of vouchers and things were given to us I think some time ago and we were asked to check it ---

HIS HONOUR: Well maybe you can check it, you've got time to do that. So at least the quantum as it were can be sorted out?

OFFICER: Oh yes quite. Certainly that will be done.

HIS HONOUR: But you say it's not - yes.

OFFICER: It's more than the overall.

HIS HONOUR: And the buildings? 30

OFFICER: If there's any dispute about the buildings it's so small that - I mean one may say \$30,000, well \$5,000 in an exercise of this size is neither here or there but I don't think there's more than \$5,000.

HIS HONOUR: People always say that, but everyone expects the other side to give it away.

DISCUSSION

HEMMINGS: Q. Well then you assign the \$9,500 to the 830.13 acres, you discount the land under the high-tension easement? A. I do. 40

Q. Why do you discount that? A. Well it's not available for full urban use, it is encumbered by an easement. It has some forms of urban use but not all forms of urban use. In my experience I would allow 25 per cent discount.

THE LAND AND ENVIRONMENT COURT
PLAINTIFF'S EVIDENCE
NO. 2(v)
ALCORN Lawrence Lloyd
EXAMINATION

HIS HONOUR: Q. Is it agreed that 53.8 acres is the area of the high-tension? A. Yes.

Q. Why did you discount it by - why did you reduce \$9,500 to three-quarters, what was the reason for that?

A. Because it does not have full urban use available to it. 10

Q. I understand that, but why didn't you do it by 60 per cent or 80 per cent? A. Well I have a reasonable amount of experience in the valuation of claims of easements, having worked for Prospect County Council over a number of years, and this is my opinion as to this type of easement.

HEMMINGS: Q. And the buildings, how did you arrive at your value for your buildings? A. First I measured them up to ascertain their size and looked at them on the basis of the utility value in the event of an urban development taking place over the land. And one has got to realise that this development would not take place tomorrow, it would take place over a period of perhaps 8 years, a time frame of 8 years, that is absolute development - development time period. So that we need sheds for the accommodation of machinery, we need on-site management offices, we need some form of accommodation for caretakers, management etc. I looked at the improvements upon that basis and then after them being used for that purpose, the buildings I'm saying, after them being used for that purpose, whether they had any value in situ as a restored or remodelled house. And I believe that the large homestead does have such a value. I believe that one would be hard-pressed to justify the demolition of that at this point of time. I'm sorry, at 1973 point of time. 20

Q. Well then you add the items of expenditure that your clients informed you that they had incurred; it has been rendered abortive by the resumption? A. Yes. 40

Q. Now Mr. Alcorn have you had compiled the contracts and particulars of sale and/or settlement upon which you've relied in your evidence? A. Yes.

HEMMINGS: I tender a document which is called an exhibit book, contracts and other documents. It collects together all of the contracts and sales material that we have relied upon, which is in one document. Your Honour I can tender it, I can make it available, if there's any issue as to the details of the sales upon which we've relied or the information, it is contained in these documents and is available. 50

HIS HONOUR: All right, show it to Mr. Officer.

THE LAND AND ENVIRONMENT COURT
PLAINTIFF'S EVIDENCE
NO. 2(v)
ALCORN Lawrence Lloyd
EXAMINATION

HEMMINGS: I've showed it to my learned friend, I understand he doesn't take objection except for those parts of it that refer to settlements.

HIS HONOUR: When you say settlements that is sales we've spoken about?

10

OFFICER: Settlement of compensated moneys.

HIS HONOUR: The ones we've already spoken of, so they'll be the subject of the same objection I suppose. I won't even go to them at the moment though. Can I ask this - the buildings, this \$35,000 for buildings, what's the Housing Commission put on it, almost the same figure?

HEMMINGS: No it's less your Honour.

HIS HONOUR: But if the compensation is to the value of the land - I'm just wondering, if someone wants 1,000 acres to turn into housing lots, are they going to pay any more for it because 1,000 acres has got a house on it, are they going to pay a bit less to demolish the house?

20

HEMMINGS: Only if your Honour the - if it could be shown that land was being bought for subdivision purposes and that all buildings were going to be razed and --

HIS HONOUR: Because this is 10 years, 15 years in the future --

HEMMINGS: Apart from that your Honour if however on subdivision, as for example in the Googong's case(?) this was decided by Mr. Justice Waddell, that was valued on a subdivision basis but the homestead and other buildings could be accommodated by the subdivision and would have been incorporated in one of the future lots in the subdivision itself. So it added value to the land even on the basis of the acquisition. So that if there was no compensation to be put on the buildings the respondent would have to satisfy the court that the buildings added no value to the land and had no future use.

30

40

HIS HONOUR: Yes. So this value of \$35,000 is on that basis of remaining on the land?

HEMMINGS: Is their added value to the land itself.

HIS HONOUR: Thank you, I follow.

HEMMINGS: And I don't think it's ever been contended that they had no value.

THE LAND AND ENVIRONMENT COURT
PLAINTIFF'S EVIDENCE
NO. 2(v)
ALCORN Lawrence Lloyd
EXAMINATION

HIS HONOUR: Oh no I'm not suggesting they don't. Yes, very well.

HEMMINGS: One value by the respondent puts a higher value than we have, which is \$40,000 and another valuer puts \$7,000.

10

HIS HONOUR: And what's your other value?

HEMMINGS: Our value is \$35,000.

HIS HONOUR: And what about Mr. Parkinson?

HEMMINGS: \$32,000.

HIS HONOUR: Yes all right.

TENDERED, ADMITTED AND MARKED EXHIBIT AL -
CONTRACTS ETC.

OFFICER: There is material in that which does not consist of contracts, namely the resumption.

HIS HONOUR: Perhaps I will note that. Included in that tender are documents relating to the settlement of compensation claims following upon resumption. The admissibility that - those documents are subject to Mr. Officer's objection. Yes.

20

HEMMINGS: Q. Mr. Alcorn you heard Mr. Moore give examples of areas of land developed for urban purposes but designated in the Sydney Region Outline Plan as being non-urban. A. Yes.

Q. Are you familiar with any or all of the properties to which he referred? A. There was one at Hornsby that he referred to which I am not fully familiar with and I just can't remember that but I think I'm familiar with the rest of them.

30

Q. Can you give any other examples apart from the examples given by Mr. Moore? A. There appears to be one very obvious one to me in the subject area and that was that the phasing plan of the Sydney Region Outline Plan, and the phasing plan must be read in conjunction with the SROP seems to disclose by scale that the boundary of the proposed urban area finished on the eastern side of Mulgoa Road.

40

Q. Yes. A. Yet IDO 28 incorporated land on the western side of Mulgoa Road.

HIS HONOUR: Well we'll just have a look.

DISCUSSION

THE LAND AND ENVIRONMENT COURT
PLAINTIFF'S EVIDENCE
NO. 2(v)
ALCORN Lawrence Lloyd
EXAMINATION

HIS HONOUR: Q. You say it shows what Mr. Alcorn?

A. If one looks at the blue land extending west of the word P in Penrith and running down this way, I believe that by scale that that line, the western boundary of that blue area, follow the line of Mulgoa Road, it follows it both topographically and by scale, I believe.

10

Q. Yes. A. And so did everybody else in Penrith at 1970, including the council. Yet in 1971 wasn't it when the IDO came - IDO 28 came out it incorporated ---

HIS HONOUR: Q. That included --- A. Land on the western side of Mulgoa Road, north of the expressway.

Q. Yes undoubtedly I think it did. I don't think there is any doubt about that, is there?

OFFICER: I'm sorry, may we see the IDO for a moment?

ALCORN: A. Both industrial and urban land your Honour and ---

20

HIS HONOUR: Q. In the outline plan - I see, it is still ---- A. It is shown green I think your Honour, as to the most part of it.

Q. Where do you say - in IDO 28 is it it takes over the green and the --- A. No. It takes over the non urban stuff. The green is still, I believe, unzoned - sorry, still remains non urban.

Q. I see what you mean. You mean that area - yes, that's right. A. That's it.

30

Q. You say under the phasing plan - what was it under this other plan, what is it under the outline plan, that area of land? It is nothing - there's no ---

HEMMINGS: Q. Would you approach his Honour and indicate the area Mr. Alcorn?

HIS HONOUR: Q. It is in here, isn't it? A. Yes it is your Honour, it is that area of land there, it is green and non urban. It is certainly not urban.

Q. No it is not urban. It's this area here. Whatever it is, it is not urban. It is either nothing which we would be a bit --- A. It is the same - non urban is this off-buff colour.

40

Q. It is not that though. It is either the green or it is the proposed residential or proposed ---

OFFICER: Or, I'm sorry, it is just a white outline separating the two different types of stripes, just as we have it ---

THE LAND AND ENVIRONMENT COURT
PLAINTIFF'S EVIDENCE
NO. 2(v)
ALCORN Lawrence Lloyd
EXAMINATION

HIS HONOUR: True but if that be right then, it means - I see, yes. Except the phasing plan - it seems to be an area of land which is bigger than that. I gather it is an area of land on the phasing plan - if anything, that would suggest that the land to the west of that area was not going to be - that just shows it is never going to be released, well, not proposed to be under the phasing plan --- A. That's it there. According to the outline plan part of that is proposed residential and part is proposed industrial of that white.

10

HIS HONOUR: What conclusions do I draw from that, Mr. Hemmings?

HEMMINGS: That there have been changes to that plan.

HIS HONOUR: To what plan?

HEMMINGS: To the phasing plan. That land without any designation and/or non urban has been made available for urban purposes.

20

HIS HONOUR: Or alternatively, and the only other one I can think of is, two others - alternatively that they have just put in to limbo ever rezoning that proposed area, which would be unlikely. They wouldn't propose it if they weren't going to rezone it. More likely than not though perhaps what - maybe what Mr. Alcorn says, everyone thought Mulgoa Road was the boundary. There is another possibility, that that may be what they thought, but other people on closer investigation would have discovered it wasn't the boundary. The boundary was that area that's reserved.

30

HEMMINGS: What we are going to say at the end of the day or at the end of the case is that the outline plan is what it is called. It is a broad outline and if good reason could be shown by the council or by land-owners then the land could be incorporated in urban development. That's as high as we put it.

Q. Mr. Alcorn, a last matter, just a matter of comment I think you wish to make, there was a reference to the St. Clair property and that's the Goodacre Cambridge Credit Corporation Limited land is it not? A. Yes it is.

40

Q. It is shown in your sales list annexed to exhibit K headed Sales List South St. Marys, and it shows a price of \$7½ million as at February 1973.

HIS HONOUR: Would you please tell me where this is?

HEMMINGS: Exhibit K annexure headed Sales List South St. Marys.

50

THE LAND AND ENVIRONMENT COURT
PLAINTIFF'S EVIDENCE
NO. 2(v)
ALCORN Lawrence Lloyd
EXAMINATION

OFFICER: It's the third page from the back.

HEMMINGS: Q. Sale 2. This was the sale for the property about which Mr. Moore gave some evidence and that was a sale on 8th February 1973 for \$7½ million?

A. Yes.

10

Q. An area of about 623 acres. In addition to the \$7½ million, was the purchaser required to pay betterment tax? A. The purchaser was.

Q. Is that an additional third?

HIS HONOUR: The purchaser was required to pay what?

HEMMINGS: Q. Betterment tax. A. Yes, the payments are pretty competent and amount to about \$1.4 million in addition. It is 30 per cent of the difference between the base date valuation -

HIS HONOUR: Q. It was on then, wasn't it? A. About 1969, yes.

20

HEMMINGS: Thank you Mr. Alcorn.

HIS HONOUR: Yes Mr. Officer. That was over and above that \$7.4 million?

HEMMINGS: Yes your Honour.

ALCORN: A. That's right.

HIS HONOUR: Q. \$1.4 million betterment tax was paid? A. Yes your Honour.

Q. When did that come in? A. It was due your Honour, it turned out it wasn't paid in the end.

30

Q. That when the - the legislation was stopped about - what happened? Wasn't it - I had a case recently on this -

HEMMINGS: If the purchase took place prior to the cut off time, it had to be paid, and this contract I am instructed actually provided for the purchaser to pay that sum so that when he was paying it, he was paying \$7½ million, his overall price included \$1½ million odd for betterment tax. Even though the legislation came in later, that didn't take away your obligation to pay that sum. In fact, because of certain circumstances, the \$1.4 million was not paid.

40

HIS HONOUR: What because the contract was cancelled? That's what was happening all the time, wasn't it?

HEMMINGS: I am not certain your Honour. I have had no

THE LAND AND ENVIRONMENT COURT
PLAINTIFF'S EVIDENCE
NO. 2(v)
ALCORN Lawrence Lloyd
EXAMINATION

instructions on it. I just know that - Mr. Alcorn might be able to enlighten us.

HIS HONOUR: Q. Do you know why, as a matter of interest?

A. Yes I do. I was acting with Mr. Tobias in an appeal against the quantum of betterment tax or at least the base date valuations and we had appeared in - we'd been in January of 1973 and had the matter postponed at that stage, well we hadn't, the opposition had. We then appeared later in March and for other reasons the matter was stood over and we lastly appeared in June and July of that year, 1973, and the matter was again stood over and later on in that year we discovered that the legislation had changed on 8th February, 1972, and that by dint of some legal argument, the tax was waived.

10

20

HIS HONOUR: I think that he might be right because I think I - they've published a decision in respect of this and I think I concluded that for circumstances not unlike this, the tax was not payable.

HEMMINGS: The only real fact is the contract provided it.

HIS HONOUR: But the point is the contract at the time it was entered into provided for it, yes.

HEMMINGS: Before I sit down your Honour, there was one matter.

30

Q. Mr. Alcorn, Mr. Bourke in some material point - provided by the respondent, referred to his attending a meeting at the Chamber of Commerce at Penrith. Do you recall that? A. Yes I do.

Q. Did you attend a Chamber of Commerce meeting at which Mr. Bourke gave an address? A. I did.

Q. What year was that? A. 1974.

Q. Have you checked the records of the Chamber of Commerce to see whether Mr. Bourke attended at any other time prior to that? A. I have.

40

Q. Is there any record of him attending at any time prior to that? A. No.

HIS HONOUR: This doesn't mean anything to me but I suppose it will eventually.

HEMMINGS: It will.

HIS HONOUR: At the Chamber of Commerce where?

HEMMINGS: Penrith.

THE LAND AND ENVIRONMENT COURT
PLAINTIFF'S EVIDENCE
NO. 2(vi)
ALCORN Lawrence Lloyd
CROSS-EXAMINATION

HIS HONOUR: Yes, very well, I shall note that mysterious piece of information down here.

CROSS-EXAMINATION:

OFFICER: Q. I ask Mr. Alcorn, what was the date in 1974 when you say this meeting took place? A. Which meeting is that, Mr. Officer? 10

Q. The meeting you have just been talking about, Chamber of Commerce? A. Sorry, 15th October, 1974.

Q. Of course from your schedule of rates per acre document, which is the sheet of annexed supporting evidence to - K2 I'm sorry, the two critical factors in reaching a value are: Has the land a potential and how certain of achievement is the potential? And the third aspect: How close to the achievement of the potential is the land? Has it a potential? I mean if you are talking about a bit of land 500 miles from Sydney out in the Western Lands District you wouldn't say it had any potential for urban development at all. The first enquiry is: Has the land a potential by reason of its location and its nature and so on? 20

HIS HONOUR: And the second one is: How certain of realisation?

OFFICER: Q. The second one is: How certain is it that that potential will at some time be realised? A. Yes.

Q. And the third one is: How close to realisation is one standing when making one's valuation? A. Yes. 30

Q. How close did you think the subject land was to being rezoned? A. Having spent some 9 months in investigation ---

Q. I'm sorry, just answer the question. A. Somewhere between 5 and 10 years.

HIS HONOUR: Just so I get this clear because it has been a distinction that I wasn't aware of, are you talking about rezoning or release available for ---

OFFICER: I will make it perfectly clear. 40

Q. I had intended to ask the question in a form - at what time, what number of years, or months, as from August 1973, would you expect the land to be available for urban development?

HIS HONOUR: And by that you mean, starting to do the work - starting the work?

THE LAND AND ENVIRONMENT COURT
PLAINTIFF'S EVIDENCE
NO. 2(vi)
ALCORN Lawrence Lloyd
CROSS-EXAMINATION

OFFICER: Yes. No, I'm sorry, your Honour, no. One can - if necessary have to lodge plans for your development application before you do it.

HIS HONOUR: Yes.

OFFICER: But at what time would land from a zoning point of view become available for immediate development consent? A. 5 to 10 years. 10

HIS HONOUR: Same thing - so you had that - yes.

OFFICER: Q. You spoke this morning about the subject land being as you styled it the key to any urbanisation south of the freeway? A. I did.

Q. Do you agree with Mr. Moore when he said that he would not imagine that the subject land would be rezoned, except at a time when the land north of the subject land to the freeway was also rezoned? 20

HIS HONOUR: Do you understand the question - leaving aside whether you agree with it, do you understand the question? A. Are you speaking of the land between the northern boundary of the property?

OFFICER: Q. Yes, the northern boundary of the freeway. A. No, I don't entirely agree with that.

Q. Well do you contemplate that the subject land might have been rezoned in isolation from land to the immediate north of it? A. I believe that is possible.

Q. All sorts of things are possible, do you think it was a likely solution to zoning? 30

HIS HONOUR: Q. In 1973? A. Yes.

OFFICER: Q. And you give the same answer if I substitute the three properties to the west, Kulnamock, Burnley, and Emu Plains, for the land north of the subject land? Or do you think the subject land might be - I withdraw that. Do you think it likely that the subject land would have been rezoned without a rezoning at the same time of the three large properties, and without a rezoning of the land north of the freeway? In other words, that there might be a rezoned island consisting only of the subject land? A. Not entirely. 40

Q. Well my question was, did you think it likely, and your answer is not entirely, I can't quite understand the ---

HIS HONOUR: Does that mean - I'm just not quite sure of what the question is?

THE LAND AND ENVIRONMENT COURT
PLAINTIFF'S EVIDENCE
NO. 2(vi)
ALCORN Lawrence Lloyd
CROSS-EXAMINATION

OFFICER: The question is, would he contemplate as a likely course to be taken that the subject land alone of all the other land in the district, south of the freeway, might be rezoned.

HIS HONOUR: Is it more probably than not, do you mean? 10

ALCORN: A. In the light of that question I say no.

OFFICER: Q. And may I go back to the ---

HIS HONOUR: Q. Was it a matter that you would entirely exclude though, as a possibility, or not? A. It was possible I believe that the subject land could have been the commencement of rezoning, and that the peripheries would have been attached to it at a later stage.

HIS HONOUR: What I'm asking - the question - did you intend to include in that question an assumption that the land to the north and to Burnley and Emu Plains and Kulnamock land was never within the reasonable future to also be rezoned? 20

OFFICER: No, your Honour, I was seeking whether the witness was contemplating as a likelihood or a probability, that there might be a time when Kulnamock - sorry, when the subject land alone was rezoned, and none of the other lands to the north or to the west were simultaneously rezoned.

HIS HONOUR: Yes, I follow you.

OFFICER: Q. Now this morning as you were coming onto the question of the comparability of the Kulnamock land and the subject land, correct me if I'm wrong, you first looked at the first Kulnamock sale in March 1972, looked at the price of that, price paid on that sale, and you looked at the 25th of May 1973 price paid for Kulnamock? A. Yes. 30

Q. And you then after an intervening step, and it is that that I wish to ask you about, you inferred from your examination that the - certainly the second Kulnamock sale, May 1973, had been - or the price paid showed that the land had been purchased as a site with urban potential? Do you remember --- A. Yes. 40

Q. And I thought how you reached that conclusion, from looking at the two sale prices of Kulnamock, was by testing it to see whether the price fitted a 5 acre disposal of it, disposal of it in 5 acre lots, or a disposal of it - value of it as on a 25 acre potential, is that --- A. Yes.

Q. And you took the 25 acre lot - I'm sorry, you said

THE LAND AND ENVIRONMENT COURT
PLAINTIFF'S EVIDENCE
NO. 2(vi)
ALCORN Lawrence Lloyd
CROSS-EXAMINATION

25 acre blocks were at that time selling for in the order of \$75 to \$80,000 per block? A. Yes.

Q. And that 5 acre blocks were selling at approximately \$7,000 per acre? A. Yes.

Q. Now I want to put to you that if you test the 1973 sale of Kulnamock by reference to its - to the market price for 5 acre lots, you would not reach a figure which necessarily indicated an urban potential? A. Sorry I don't understand.

10

HIS HONOUR: Not reach a figure which necessarily ---

OFFICER: Indicated an urban potential in the second price of Kulnamock, second sale price of Kulnamock.

HIS HONOUR: In other words, just so I understand it, because it is important that I understand the question too, are you saying in effect that if you look at the 1973 figure that is consistent with - and you compare it with the 5 acre lots, that is consistent with it not being ---

20

OFFICER: Not having urban potential.

HIS HONOUR: Q. Not having urban potential, do you follow? A. Yes I do.

Q. What is the answer? A. I don't believe that is true, the difference of \$1,000 an acre is not sufficient.

OFFICER: Q. Well now I'm sorry, there were virtually 91 usable acres in Kulnamock, do you agree? A. Yes.

30

Q. And the process you used was just to say well if Kulnamock of its size, were sold for - in 25 acre lots, or were bought for its 25 acre lot potential, then the price paid for it is in fact far more than would have been paid for its 25 acre potential? A. Yes I agree with that.

Q. But on the other hand we look at the - its 5 acre potential, let's look at it this way, there are 91 acres of usable land, and 5 acre lots were selling for \$7,000 per acre, well now if we multiply 91 by \$7,000, we get \$637,000 odd don't we? A. Say 91 by ---

40

Q. \$7,000. A. Yes, it would be in that order anyway, yes.

Q. All right, and you say, do you, that because - measuring it by its 5 acre potential shows a figure of \$637,000, and because it was in fact bought for \$649,000, \$12,000 more, therefore it was not bought for

THE LAND AND ENVIRONMENT COURT
PLAINTIFF'S EVIDENCE
NO. 2(vi)
ALCORN Lawrence Lloyd
CROSS-EXAMINATION

its 5 acre potential, but necessarily, or I'm sufficiently certain that it was bought for an urban potential, is that what you're saying? A. Yes.

HIS HONOUR: Could I ask a question, this land is zoned non-urban, it was 25 acre minimum, how does it get the 5 acres, what is the zoning for that? 10

OFFICER: The witness used it.

HIS HONOUR: I appreciate what you're saying, I know he did.

OFFICER: He measured the price against what 5 acre lots were selling for.

HIS HONOUR: Yes, I do.

OFFICER: And measured it against what 25 acre lots were selling for.

HIS HONOUR: You mean 5 acre lots that were sold - were you referring Mr. Alcorn to 5 acre lots that were being sold - I didn't think you could sell 5 acre lots out at --- 20

ALCORN: I'm referring, your Honour ---

HIS HONOUR: Could you be allowed to sell ---

HEMMINGS: Part of the land was in the 5 acre, and part of it was in that 25 acre ---

HIS HONOUR: Of Kulnamock was it, what part of it was in 5 acre - how much of it was in the 5 acre?

OFFICER: Q. A bit up near Jeanette Street, up near the top was 5 acres? A. That's not quite true. The Mulgoa Road frontage was zoned 5 acres, and the Jeanette Street area was partly zoned 5 acres. 30

Q. But Mr. Alcorn, this morning when you referred to measuring the price paid for Kulnamock against the possibility of it having been bought for 5 acre allotments, you weren't looking at the actual zoning of it, were you, you weren't looking to see how much of it was zoned for 25 acres, and how much of it was zoned for 5? A. No. 40

Q. You were just saying, if the whole of it were available for 5 - or 25 acres, and 25 acres was selling for \$75 to \$80,000, therefore \$649,000 paid for it was clearly not paid for it as having a 25 acre potential? A. Correct.

THE LAND AND ENVIRONMENT COURT
PLAINTIFF'S EVIDENCE
NO. 2(vi)
ALCORN Lawrence Lloyd
CROSS-EXAMINATION

Q. But you say as having an urban potential?

A. Correct.

Q. And when I refer you to the measuring price, if the 91 acres usable were bought for 5 acre sales, you still say the difference between a purchase price on the basis of a 5 acre potential, \$637,000, quite clearly indicates that the \$649,000, the buyer was buying it for urban? A. Correct. 10

HIS HONOUR: Q. Could I ask, when you were talking about the 5 acre lots, were you assuming separate already subdivided properties? A. Subdivided, developed, walk in tomorrow and build on it.

Q. Why would someone pay more than the sum paid for the subdivided lots in anticipation that they may get a rezoning to reduce 25 acre lots to 5 acre lots? 20

OFFICER: I don't know, your Honour, with great respect, I don't care why anyone would do it, I was just following out the witness' process this morning.

HIS HONOUR: I see.

OFFICER: He said, I know it - I know the purchaser paid a price which reflected urban potential.

HIS HONOUR: You were testing his method rather than advancing a ---

OFFICER: Yes.

HIS HONOUR: And I suppose you'll tell me I've probably suggested an answer to him, do you? 30

OFFICER: No, I've got all the answers I need your Honour.

Q. And so because the purchaser paid a little over \$120 per acre more than the land's 5 acre block potential, do you follow me so far? A. No.

Q. The purchaser pays \$649,000 for the 5 acre lot potential, because we're both forgetting the zoning. You did this morning, and I am now.

HEMMINGS: This is gross realisation. 40

OFFICER: Q. It is because the purchaser paid \$12,000 more than the gross realisation on a 5 acre potential, that you say he bought it for urban purposes?

HIS HONOUR: Q. Is that the only reason you mean? Or is it a reason? A. It is a reason.

THE LAND AND ENVIRONMENT COURT
PLAINTIFF'S EVIDENCE
NO. 2(vi)
ALCORN Lawrence Lloyd
CROSS-EXAMINATION

OFFICER: Q. And I take it from what my friend said at the bar table, that your other reason would be because the \$637,000 is gross realisation? A. Correct.

Q. Could you give us the details of your process? What led you to say: I'll look at it at a 5 acre price; I'll look at the price per acre of a 5 acre block, and I'll look at the price being paid for 25 acre blocks; and from each of those, I assume, you say: I know that this buyer - deposit investment, paid more than a non-urban potential. 10

HIS HONOUR: Q. Do you understand the question? A. I think I do.

Q. You're asked to give your reasons why you excluded, in the mind of the purchaser, that it was being bought for 25 acres or 5 acres. A. Because it was not possible to make a profit out of 25 acre or 5 acre, bearing in mind that one had to wait for a 5 acre zoning to be obtained; it was not possible to make a profit from that purchase price. 20

Q. When you talk about having to wait for the rezoning, is the gross realisation factor part of that? Or is that another factor too? A. When I say gross realisation, 5 acre blocks at the time, zoned you could build on them tomorrow, were selling in the order of \$7,000 per acre, subdivided ready to go, with roads in front of them; with water connected - they were \$7,500 with water. And this was July thereabouts of 1973. It is just not economically possible to pay \$649,000 for 91 usable acres, and divide it up into a 5 acre, or 25 acre, or even a 1 acre subdivision I would venture to say; bearing in mind that you have to road it; you have to provide the services; and by services I'm talking about water and electricity; one does not have to provide sewer. 30

HIS HONOUR: Q. And how many of these 80 acres were in the non-urban zone - were in the 25 acre zone? 40

A. Approximately 15 acres - 12 to 15 acres were in the 5 acre zone.

Q. And the balance were in the 25 acre zone?

A. Correct.

Q. And part of the 5 acre zoned area was subdivided into two 5 acre allotments, the remainder was not.

ADJOURNED TO FRIDAY, 30th OCTOBER, 1981.

THE LAND AND ENVIRONMENT COURT
PLAINTIFF'S EVIDENCE
NO. 2(vii)
ALCORN Lawrence Lloyd
CROSS-EXAMINATION

LAWRENCE LLOYD ALCORN

(Under former oath)

CROSS-EXAMINATION (CONTINUED)

OFFICER: Q. I think Mr. Alcorn for purposes of measuring your escalation to escalate the Kulnamock sale of May 1973 up to resumption date you looked at, did you not, an escalation between the Emu Plains sale - I'm sorry, between the Emu Plains sale and the Kulnamock sale at the difference between those two? A. That was one method. 10

Q. And at the difference between the Kulnamock sale of May 1973 and the Housing Commission's resumption of Emu Plains? A. Yes.

Q. And looking at the May 1972 sale of Kulnamock and the Emu Plains sale of May 1972 you derived a difference between those two of \$800 per acre? A. Both sales were in March not in May. 20

Q. I beg your pardon. One 29th of March and one 1st of March. A. Correct.

Q. 1972? A. 1972.

Q. And by comparing those prices you found a difference between Emu Plains sale and the Kulnamock sale, each of March 1972, of \$800? A. Correct.

Q. And you thought that reflected a - the Emu Plains was 30 per cent reduction as compared with the Kulnamock sale of March 1972? A. Yes. 30

Q. Now in a later stage of that exercise you treated the resumed land, or you looked at the fact that the resumed land was resumed 28 days earlier than the resumption of Emu Plains? A. Yes that's correct.

Q. And you treated that 28 days as one month? A. In essence yes.

Q. When we go back to the commencement of the exercise you made when you were looking at the March 1972 sales of Kulnamock and Emu Plains you derived your Emu Plains 30 per cent worse than Kulnamock by taking the rates per acre of those two sales and just looking at them without adjustment? A. I did. 40

Q. They in fact were 28 days apart weren't they?
A. Correct.

Q. Wouldn't it have been somewhat more accurate for this exercise to have brought them to the same date?
A. No.

THE LAND AND ENVIRONMENT COURT
PLAINTIFF'S EVIDENCE
NO. 2(vii)
ALCORN Lawrence Lloyd
CROSS-EXAMINATION

Q. You say it's all right to ignore a difference of 28 days in one case but to treat 28 days as one month and make an appropriate adjustment for escalation in the other case? A. I don't believe that the escalation was anywhere near as rapid in March 1972, if in fact there was an escalation over a period of 28 days in March of 1972. 10

Q. Of course, if there were an escalation and if the escalation happened to be at the same rate as you have deduced of about 10 per cent a month, was there an escalation in March 1972? A. There was an escalation in March 1972, yes.

Q. Have you investigated at what rate it was? A. Not thoroughly because there are insufficient records available. There were insufficient sales to analyse it correctly. 20

Q. You did search for sales in order to be able to measure it, did you? A. I did.

Q. You concluded that you couldn't find any sales that would show an escalation? A. Mm.

Q. And is that the reason why you didn't apply the escalation so as to bring your two March 1972 sales to the same date? A. There were sales but they showed a very very minor escalation, in my opinion a minor escalation over a longish period over 1972. For instance, the Martin property was purchased in August of 1972, the Kulnamock property was purchased in March of 1972, and bearing in mind the differences between the two properties, the Kulnamock property was purchased in March of 1972 for \$2,675 per acre, the Martin property was purchased in August of 1972 for \$3,044 per acre which shows a relatively low increase. 30

Q. That is Martin to --- A. That was Hunter to Martin.

Q. What was the size of that one? That property? A. It's about 13 acres, 13 - I can tell you precisely, 13 acres 3 roods 20½ perches, purchased on 14th August, 1972. 40

Q. If you were going to look to creep, wouldn't you primarily, at least, look at sales of land sufficiently comparable in both a situation and zoning and acreage? A. If they were available, yes.

Q. It would be a last resort, would it not, from the size point of view, to look at the Martin property and at the Kulnamock property in order to gauge an escalation? A. It is not a good comparison. 50

THE LAND AND ENVIRONMENT COURT
PLAINTIFF'S EVIDENCE
NO. 2(vii)
ALCORN Lawrence Lloyd
CROSS-EXAMINATION

Q. Did you have no smaller sales of about the Martin size that would permit you to do it? A. No. There was a Fredco sale I think that occurred in ---

Q. Fredco was 32 acres in February 1972. A. Fredco was 7.43 acres in June of 1972. 10

Q. Fredco? A. Fredco yes.

Q. I'm sorry, I've got a different Fredco. You are talking about Fredco to --- A. I am talking about Gartus(?) and Saab to Fredco.

Q. I'm sorry, it is on which of your lists? What is your list headed? A. Supplementary sales.

Q. Is that supplementary sale 6? A. Supplementary sale 5.

Q. Was it land similarly zoned to the Martin property? A. Zoned non urban. 20

Q. Both? A. Both of them are zoned non urban, yes.

Q. Anyway it was because you - the only evidence you could find showed a small escalation, is that ---

A. I believe that the escalation applicable to 1972 was very very small.

Q. As at the resumption date, what were the ruling rates of interest? We have been told by Mr. Moore, he said 16 per cent up. Initially he said about 16 and then I put to him, well, certainly 12 to 16, and he said yes. Would you agree with that? A. Yes and no. I believe that they came down as low as 10 per cent around about the date of resumption and I believe that money was available at 10 per cent and perhaps some good deals a little bit under. 30

Q. I'm sorry, a good deal --- A. Good deals meaning a greater equity, if you were able to put up a reasonable equity deposit then you could probably get it at 9, 9½ per cent.

HIS HONOUR: Q. This is at 31st August, you say, interest was about 9 or 10? A. I believe that 10 per cent was a good ruling rate, yes, a good average ruling rate. It went up as high as 16 per cent for development expenses. 40

OFFICER: Q. Assume a purchaser bought this land at the value you suggest, you have told us that you thought he would have to wait certainly 5 years, in your belief, before it was rezoned and released? A. Mm.

Q. What would he do with it meanwhile? Let it out

THE AND AND ENVIRONMENT COURT
PLAINTIFF'S EVIDENCE
NO. 2(vii)
ALCORN Lawrence Lloyd
CROSS-EXAMINATION

for the running of cattle? A. I've got no idea really.

Q. Is there any other use to which you think the hypothetical purchaser might put it? A. He might make it into a horse riding academy or he might make it into some sort of recreation facility. There are a number of alternate uses that it probably could be put to during the interim period. 10

Q. Have you turned your mind at all to which would be the most profitable? A. No I haven't.

Q. Of course, by the middle of 1973 you would agree, would you not, that the inflation rate was increasing?
A. By the middle of 1973?

Q. Yes. A. Yes I think that is a reasonable statement.

Q. In fact, in the first half of 1973 it had increased from approximately 6 per cent to about 8 per cent, hadn't it? A. I am not sure. 20

Q. You will agree, will you not, that over the first 4 or 5 months of 1973 there had been an unusually high capital outflow from Australia? A. I am not sure.

Q. When you say you are not sure, you can't recall whether that had been said in financial journals and --
A. I recall that - I read something somewhere about the capital inflow/outflow and that we were suffering some form of financial deficit around about that period but I couldn't lay my hands precisely on the figures. 30

Q. You will agree, will you not, that a large - unusually large capital outflow normally precedes some tightening in the money market? A. I don't really think that I am qualified to say that.

Q. Is not an unusually large capital outflow regarded by developers as an indication of some probable tightening in the money market? A. Not in my experience.

Q. But big developers pay close attention, do they not, to publications such as the Financial Review, read it carefully, file it? A. In my experience, no, they don't file it. 40

Q. Do they read it? A. I suggest they read it.

Q. They pay close attention to any pronouncements be they of facts or of policies by, for example, the Federal Treasurer? A. I would imagine so, yes.

Q. You would agree, would you not, that during the

THE LAND AND ENVIRONMENT COURT
PLAINTIFF'S EVIDENCE
NO. 2(vii)
ALCORN Lawrence Lloyd
CROSS-EXAMINATION

first half of 1973 interest rates, whatever they reached by resumption date, had risen? A. Yes, they had risen.

Q. You would agree, would you not, that in July some announcements had been made by the Federal Treasurer, Mr. Crean, of steps to damp down the economy? 10
A. I recall some pronouncements at about that stage, yes.

Q. You recall that in the budget, which I think was brought down on 20th August, that the Treasurer detailed further steps to dampen down the economy? A. I can't recall that precisely, no.

Q. You would agree, wouldn't you, that if there were indications of some tightening in the money market, that the first - in the real estate sphere, the first area to be affected are dealings in land which have unrealised potential? May I simplify it? Dealings in lands which need a rezoning before they can be put to any - to their most profitable use? A. No I wouldn't agree with that. 20

Q. You think it makes no differences, even if money - the money market is tightening, makes no difference either to sales of land that need rezoning as compared with sales of land already zoned? A. It depends on their location.

Q. By location, what, do you mean that - assuming you had lands in the same locality some of which were zoned for residential use, and some needed rezoning, in order to become available for residential use. I suggest to you that the market will more rapidly reflect a tightening in money conditions, in relation to the unzoned land than the zoned land; do you agree with that? A. I couldn't agree with that because I have not seen the evidence that suggests that over a very short period. 30

Q. By a very short period, do you mean a matter of a month or so? A. Months. 40

Q. How many? A. I really don't know. The evidence doesn't seem to become clear until transactions cease, and this is what happened in the 1974 credit squeeze - I'm sorry in the real estate squeeze, the evidence did not become available until late 1974; that prices were in fact dropping and that people were not buying, because the transactions just weren't taking place.

Q. Now you mentioned in your evidence that various people, the Valuer-General, Housing Commission I think and others, said that 1973 was a boom year in your real estate. Were you referring to the calendar year 1973, or the financial year ending 1973? A. I was referring to the calendar year 1973. 50

THE LAND AND ENVIRONMENT COURT
PLAINTIFF'S EVIDENCE
NO. 2(vii)
ALCORN Lawrence Lloyd
CROSS-EXAMINATION

Q. And was it the Valuer-General who said that of the calendar year 1973? A. He said it in two of his reports, that he was referring to two fiscal periods, one at the expiration of June, 1973 and one at the expiration of June, 1974. And in his 1975 report he places the date in retrospect of the end of the boom conditions at mid 1974. 10

Q. Of course you would agree with this, would you not, that one can have boom conditions in the real estate market, speaking generally, while things may be relatively quiet in unzoned broad acres?

HIS HONOUR: Do you mean that's possible?

OFFICER: I'm asking him if he'll agree that that's possible.

HEMMINGS: The land is zoned. I object. We're not looking at unzoned land, your Honour. 20

OFFICER: That's my friend's objection and that can readily be clarified.

Q. You would agree, would you not, that one can have boom conditions in the real estate market, speaking generally, while having a relatively quiet time in non-urban broad acres? A. No.

Q. You mentioned that the activities interest of the Housing Commission in the localities south of the freeway - the subject of the case - let me say from the river east to Bringelly Road, and south of the freeway; you said the interest of the Housing Commission was the explanation for the fact that after the Kulnamock sale of May, 1973, there were no other dealings in broad acres? A. Yes, in the subject locality. 30

Q. Now I suggest to you, but I think you have already denied this, that in fact after the Kulnamock sale, there were indications of a financial tightening, which meant that people were not buyers for non-urban broad acres - by broad acres I mean a couple of hundred acres or more? A. Sorry, I can't quite follow the question. 40

HIS HONOUR: When you say after the Kulnamock sale, you're talking about the May, 1973 sale, you're saying the tightening financial situation led to a decrease in demand for ---

OFFICER: Q. In the sale of broad acres, non-urban.

HIS HONOUR: Q. Do you understand? A. Yes I understand.

THE LAND AND ENVIRONMENT COURT
PLAINTIFF'S EVIDENCE
NO. 2(vii)
ALCORN Lawrence Lloyd
CROSS-EXAMINATION

Q. That's what's been put to you? What do you think --- A. No, I don't agree.

OFFICER: Q. Can you point to any sales of a couple of hundred acres or thereabouts, wholly non-urban, which took place after May, 1973, in the area of the western sector? A. Yes. Forgetting the Housing Commission resumptions --- 10

Q. Yes, private sales. A. Vicinage(?) Pty. Limited to Milan Investments on the 29th January, 1974.

HIS HONOUR: Q. Is that in your report? A. Yes, it is. It's in the supplementary sales' list.

HIS HONOUR: Mr. Hemmings while we're on this, is it possible to put in a documentary form the evidence that Mr. Alcorn gave concerning these percentage increases?

HEMMINGS: Yes, your Honour. 20

HIS HONOUR: Q. Which one - number? A. Supplementary sale no. 9, Vicinage Pty. Limited to Milan Investments Pty. Limited, that was January, 1974.

OFFICER: Q. I notice that's 100 acres. I put to you broad acres, and I explained by which I meant 200 or thereabouts. A. There just are not sites available of 200 odd acres. They just weren't around. There were very, very few sites in excess of 200 acres in that western sector.

Q. When did ASL get into financial difficulties or receivership? That was early 1973, wasn't it? A. No. Late 1974 or late 1975, no - the first people to go down were Cambridge Credit, and they went down in September, 1974; ASL was some 12 months' later, so it was late 1975 that ASL got into financial difficulty. 30

Q. And when you say that there were no areas of 200 acres wholly non-urban in the western area --- A. Are you talking of the whole of the western region?

Q. Let me say from Camden north to Windsor for a start. A. There would have been a number of -- 40

Q. Number of them? A. Mm.

Q. Whereabouts is the Vicinage to Milan Investments in Erskine Park? Could you show it to me on a map? A. I can't, it doesn't appear on the map. It's just off the map.

OFFICER: May I approach ---

HIS HONOUR: Yes.

THE LAND AND ENVIRONMENT COURT
PLAINTIFF'S EVIDENCE
NO. 2(vii)
ALCORN Lawrence Lloyd
CROSS-EXAMINATION

OFFICER: Q. Perhaps Mr. Alcorn you could --- A. It's approximately there.

Q. Is it south of St. Clair? A. It is the main called vacant land.

Q. At an equal distance from the delineation of the SROP, were there no other areas of a hundred acres or more, that were available for purchase, non-urban? 10

A. I really couldn't say. When you say available for purchase, I'm not sure what was available - all I know is what's sold, not what was available.

Q. The sale that you point to of Vicinage and Milan Investments is the only sale of a hundred acres or more which you can point to after the Kulnamock sale of May, 1973, zoned non-urban? A. I have no doubt that there were many others. In fact I seem to recall that the opposition have presented - Mr. Hyam I think presented a sale at Rossmore of 620 odd acres; whether that was in October, 1973 or early 1974 I can't quite remember the date of that; but I've got it in his notes of course. And that was a million dollars purchase - 620 odd acres. 20

Q. With the Vicinage to Milan Investments, and the possible addition of Rossmore, can you recall any other sales that meet the qualifications I've attached; non-urban, in the vicinity of a hundred acres or more?

A. I can't remember them, no. 30

Q. In relation to the subject land, you have told us you would expect zoning 5 to 10 years - the zoning change to take place? A. Yes.

Q. Change and release? A. Yes.

Q. When I say rezoned, unless I make it clear to the contrary, I'm meaning rezoning for immediate release.

A. Yes.

Q. As from the - what you would expect as the time of rezoning, how long would you expect the selling period to be for this land? A. It would be done in a number of stages, and I would suggest somewhere between 6 and 8 - that depends I suppose; but 8 years would be a selling period, because you'd be getting a return to each stage. It's quite a substantial exercise to prepare. 40

HIS HONOUR: Q. About 8 years' selling period? A. I would suggest that your Honour, yes.

OFFICER: Q. Substantial exercise because of the area of the subject land in relation to the demand which one would expect to be generated in the Penrith district? 50

THE LAND AND ENVIRONMENT COURT
PLAINTIFF'S EVIDENCE
NO. 2(vii)
ALCORN Lawrence Lloyd
CROSS-EXAMINATION

A. No I wouldn't say that. What I mean by substantial exercise, any development is a substantial exercise of a large number of allotments, whether it be 50 allotments or 5,000 allotments it's a substantial exercise. But once having designed your staging programme it becomes then a matter of disposing of a certain number of allotments in each stage, so you're virtually only dealing with maybe 50 lots at a time, 100 lots, however large, and that's where the exercise comes into play. 10

Q. But that has to be geared to the anticipated volume of sales that you'll make? A. Yes.

Q. And of course if there had been rezoning, I think you told me yesterday, it is more likely that other land south of the freeway would have been rezoned at the same time? A. Yes. 20

Q. So there would have been some competition between the --- A. A similar time I said yesterday actually, I said the subject land firstly and then the peripheral edge type development would come at a later date.

Q. You think this land would get a flying start as it were do you? The subject land. A. I believe so.

Q. Because you think for a time this would be the only land rezoned for urban use? A. I would imagine that in the initial stages, this is the way I foresee it, the rezoning of the subject land might take place, but then a structure plan of the whole area would be phased so as to start at the eastern end, that is the area closest to Bringelly Road and work in a westerly direction. Now if one starts at the - one starts in phasing the plan to work east to west, and I believe that's the correct way of doing it, then the subject land would have a flying start because it would have a development control plan placed over it firstly. 30

Q. And the development going from east to west would of course incorporate the subject land and the land between it and Garswood Road? A. Yes. 40

Q. And north of Garswood Road? A. I believe that's correct yes.

Q. And would gradually move across all those lands in a westerly direction? A. Yes.

HIS HONOUR: Q. And I suppose if this were to be regarded the way you would regard it as a key block, in effect everyone would know I suppose since their land would also be --- A. Ultimately yes it would be available for urban development. 50

THE LAND AND ENVIRONMENT COURT
PLAINTIFF'S EVIDENCE
NO. 2(vii)
ALCORN Lawrence Lloyd
CROSS-EXAMINATION

OFFICER: Q. Certainly however you would contemplate that over a selling period of 8 years or thereabouts, whatever you mentioned a moment ago, you picked that period of sales contemplating that during at least some part of that period there would be other land south of the freeway also on the market? A. Yes. 10

Q. Now you gave some evidence yesterday with regard to the industry and the difficulties that they were experiencing around 1970, and I think you suggested - these were not your words and I'm sorry I can't put your precise words to you, but you in effect said that the Press statement from the Premier and Sir Charles Cutler's letter to Mr. Vogan, indicated that the industry had been successful in the endeavours, or the pressures it had been putting upon the government? A. Yes. 20

Q. I just want to ask you - I'm sorry, you of course at the time read the Press statement carefully?
A. I've read the announcement in the Press yes.

Q. And you had access at least shortly after it was received by Mr. Vogan to copies of Sir Charles Cutler's letter? A. Yes.

Q. I just want to ask you, did you interpret those documents as meaning that the government was sponsoring in suitable areas, by which I mean 350 acres or more and services, was sponsoring a change to make land zoned non-urban available for urban use, or did you interpret it as merely meaning that the government was sponsoring an acceleration of the time for release of lands which in some way were zoned urban in the SROP basic zone? A. Both. 30

Q. You referred to the Lanham's Laundry Yekkim(?) ASL series of sales, they're the sales at North - I think they're labelled North St. Mary's - yes it's part of - it's an annexure to his original report exhibit K about the fifth page from the back. Sales 2, 3 and 4. A. Yes. 40

Q. The first two of those contracts were signed on the same day. A. Yes.

Q. The first sale, sale 2, had in fact been preceded by an option. A. Yes.

Q. Which was granted some time in April 1972?
A. Correct.

Q. Now when one is - as I think you did - looked at these for the purpose of measuring creep if you look at the creep from the date of the option which preceded the first contract to the date of the second contract, 50

THE LAND AND ENVIRONMENT COURT
PLAINTIFF'S EVIDENCE
NO. 2(vii)
ALCORN Lawrence Lloyd
CROSS-EXAMINATION

that's from the option date to the 28th of July, that shows a creep of - I'm sorry have you got the figure before you, I've lost it in my notes? A. I have a creep over the whole period from April 1972 to October 1972 of 12.4 per cent per month on a cash equivalent basis. 10

Q. And if one took from the date of the second sale, 28th of July to the third sale, then the creep is of what order? \$400,000 is the increase. A. About 5 per cent per month. 4.9 per cent per month on a cash equivalent basis.

HIS HONOUR: Q. The 12 per cent starts in April does it?
A. Correct. Starts at the option preceding the first contract your Honour.

SHORT ADJOURNMENT

20

ON RESUMPTION

HEMMINGS: Your Honour the part of the document to which your Honour was referring setting out the escalations are on a document called appendix S and I might ---

HIS HONOUR: I'm assuming that merely is a documentary version of what evidence was in ----

HEMMINGS: It was part of it and we'll give you the rest later.

HIS HONOUR: I won't mark it as an exhibit then but I'll just have it so for my references. Yes thank you. 30

OFFICER: Q. Mr. Alcorn when I was asking you could you point to any other large sales of non-urban after the May 1973 sale of Kulnamock's, you referred to the sales of Milan Investments and you said that possibly the sale that you thought Mr. Hyam referred at Rossmore might also fall into that category. A. Yes.

Q. Am I right in thinking that those are the only two sales of broadacre non-urban that you can recall either now --- A. I didn't investigate thoroughly large --- 40

Q. No I was wondering if anything had occurred to you over the adjournment. A. No. Oh just a moment, there was another one Mr. Hyam had mentioned also I think in Allen Street Luddenham. Adams Road Luddenham, an area of 97.8 acres, 39.6 hectares, August, 1974 for \$2,004 per acre.

OFFICER: Q. You're not suggesting, are you, that it was - I withdraw that. The price of that would indicate

THE LAND AND ENVIRONMENT COURT
PLAINTIFF'S EVIDENCE
NO. 2(vii)
ALCORN Lawrence Lloyd
CROSS-EXAMINATION

that it was not bought as having any urban potential, of course you'll agree? A. Of course not. I do recall of course another, and I'm sorry that I haven't mentioned it before, but it's the Leagues Club purchase on 28th July, 1973.

10

Q. I want to come to that one very shortly. I want to take you to the Rossmore one. That was some 600 odd acres.

HIS HONOUR: Q. Where was Rossmore? A. Rossmore is about 8 miles - 10 miles - 12 miles south of the subject land in the municipality of Liverpool.

OFFICER: Q. It was some 650 acres sold on 24th October, 1973 for a million dollars. A. Yes, 657 acres, 3 roods, 14 perches, according to the description.

Q. And it was at the time of sale under the Liverpool Planning Scheme - prescribed scheme, non-urban 1(a), but 25 acre subdivisions were permissible. A. Correct.

20

Q. And after the sale that was changed to 5 acre blocks. A. Correct.

Q. And it has in fact been developed and sold as 5 acre blocks, are you aware of that? A. Correct.

Q. And the price was in the order of \$1500 or thereabouts, \$1520 per acre. A. Correct.

Q. So you will agree that it wasn't bought as having potential for urban residential blocks? A. Correct.

30

Q. Now may I go to the only other one you have mentioned, the Milan Investments purchase.

HIS HONOUR: Q. Is it Vicinage, is it? A. Yes, your Honour.

OFFICER: Q. That purchase showed about \$2,594 or thereabouts per acre. A. Correct.

Q. And Milan Investments is a brick making company - or the holding company of a brick or tile makers?
A. I couldn't say.

Q. Are you aware that before the purchase the land had been extensively drilled for clay deposits? A. I am aware that the whole of that area had been extensively drilled, that locality I should say.

40

Q. The mere price itself, apart from any other consideration, would suggest, would it not, that it was not bought as having a residential potential? A. I agree.

THE LAND AND ENVIRONMENT COURT
PLAINTIFF'S EVIDENCE
NO. 2(vii)
ALCORN Lawrence Lloyd
CROSS-EXAMINATION

Q. If Milan Investments is associated with the brick or tile industry, you would imagine that the purchase was probably made for the clay deposits or whatever - shale deposits on it? A. I couldn't say actually.

Q. You agree it was not - the price indicates it was not bought for residential potential? A. I agree. 10

Q. So none of the sales of broad acres, after Kulnamock, can be seen to have an element in them of urban potential? A. Apart from the Leagues Club.

Q. Yes, sorry, thank you for reminding me. I want to come to that. The Leagues Club land, that's in your original report, I think, is it? A. Correct.

Q. Sale 4 on the sheet, headed Sales List Jamison Road area.

HIS HONOUR: On which one? 20

OFFICER: Sales list ----

HEMMINGS: Exhibit K your Honour.

OFFICER: Part of exhibit K, the original exhibit K.

HIS HONOUR: The Leagues Club land, is it?

OFFICER: Yes, six pages from the back. Sale 4 on the list headed Jamison Road area.

Q. You are aware, aren't you, that the Leagues Club, bid for or made an offer for Kulnamock? A. I have read that but I haven't been able to verify it. I've read that in reports that have been presented to me. 30

Q. You have looked at the mortgage, have you, which Deposit and Investment had over Kulnamock before the sale, the May sale? Or some subsidiary of theirs had? A. I can't recall that I have looked at the mortgage, no. Of the 1972 sale you are speaking?

Q. No. I am suggesting Deposit and Investment had a mortgage from Kulnamock prior to the May 1973 purchase by Deposit and Investment? A. I understand that to be the case.

Q. Yes. A. Kulnamock had mortgaged the property to Deposit and Investment after they'd purchased it in 1972 or thereabouts. I understand that to be the case. 40

Q. This is the situation, is it not? I'm sorry. Correct me if I am wrong, you said yesterday you were to some extent an adviser to the Leagues Club with

THE LAND AND ENVIRONMENT COURT
PLAINTIFF'S EVIDENCE
NO. 2(vii)
ALCORN Lawrence Lloyd
CROSS-EXAMINATION

regard to their purchase in Jamison Road area? A. After they'd purchased it.

Q. Are you aware that in relation to the Kulnamock sale in May, 1973, what happened was that under the mortgage, Deposit and Investment had a right of - let me summarise it - of first refusal if Kulnamock wished to sell? A. I have read that, yes. 10

Q. Isn't this what happened, that the Leagues Club approached Kulnamock to purchase the property and Kulnamock was then bound to offer the land to Deposit and Investment at the price that the Leagues Club were prepared to pay? A. I don't know.

HIS HONOUR: You mean they had to sell? Once an offer was made they had to sell?

OFFICER: It was a first right of refusal your Honour. Once Kulnamock wanted to sell or received an offer which they would otherwise accept, they were bound to notify Deposit and Investment and Deposit and Investment had the first right to acquire it at that price. 20

Q. The Leagues Club therefore failed in an attempt on the assumptions I am putting to you, failed in their attempt to buy Kulnamock because Deposit and Investment took it under their right under the mortgage. Are you aware that the Leagues Club in May already had under consideration another area as a fall back if they failed in getting Kulnamock? A. Only that they were investigating the property that they bought in July of 1973. 30

Q. Did they have an option over the Jamison Road property before they bought it? A. Not to my knowledge.

Q. The Jamison Road property of the Leagues Club of course had a frontage to two roads? A. Three actually.

Q. Three? That's Mulgoa and two side streets, whatever they are called? A. Yes that's correct.

Q. They were all made roads, sealed roads?
A. Constructed roads, yes. 40

Q. Sealed roads? A. Yes.

Q. Mulgoa Road is a County road, is it? In its classification? A. It is a main road.

Q. And the Jamison - the Leagues Club land in the Jamison Road area would be about, as the crow flies, half a mile from the business and commercial centre of Penrith? A. Perhaps a little more. It would be half a mile or so from their newly erected club house.

THE LAND AND ENVIRONMENT COURT
PLAINTIFF'S EVIDENCE
NO. 2(vii)
ALCORN Lawrence Lloyd
CROSS-EXAMINATION

Q. That is, from the club house which they had newly erected at the time they bought this land? A. It had been erected for some 2 years I suppose, or reasonably modernised it.

Q. They already had their club house? A. Quite some distance away from the subject land, yes, from this property. 10

Q. From the Jamison Road one? A. Yes.

Q. You can see the Leagues Club if you are driving along, slow up a bit, driving along Mulgoa Road, can't you, looking down the side street? A. I have never taken the trouble to look across.

Q. Anyway, it is a short distance down a side street to the east of Mulgoa Road? A. To the east, yes.

Q. The frontage of the Leagues Club land to Mulgoa Road is some hundreds of feet? A. Yes. 20

Q. Would it get as far as 1,000? A. I don't think so.

OFFICER: May we approach the map, your Honour?

HIS HONOUR: Yes. Does the Leagues Club appear on this photograph? Is the Leagues Club in Mulgoa Road, off Mulgoa Road?

OFFICER: The Leagues Club is approximately here your Honour. It is not on Mulgoa Road, it is approximately here. It encompasses that block there. 30

DISCUSSION

OFFICER: I think on this map you can just see the - approximately the corner of the Leagues' Club; you can see Mulgoa Road makes one bend and it's just making a second bend.

HIS HONOUR: Mm.

OFFICER: Q. The frontage to Mulgoa Road though irregular is quite extensive? A. Yes it is.

Q. And they have a very long frontage to Jamison Road? A. Yes they do. 40

Q. Of some hundreds of yards? A. Yes. I could probably get it ---

Q. It is a lot of property? A. Yes.

Q. And where is the furthest street to which it has

THE LAND AND ENVIRONMENT COURT
PLAINTIFF'S EVIDENCE
NO. 2(vii)
ALCORN Lawrence Lloyd
CROSS-EXAMINATION

frontage? A. See that little pink section there in Ladbury Avenue; they also have a ... (inaudible) ... allotment to that there.

Q. A sort of back door? A. Yes, a rear entrance I suppose.

10

Q. Now the Leagues' Club land, and I know you told us the allotment was affected by - it was flood-prone - now part of that was already zoned under the Penrith Scheme, urban? A. Correct.

HIS HONOUR: Q. What part was zoned urban? How much of it? A. 25.32 acres fronting Mulgoa Road and an allotment in Ladbury Avenue amounting to 1 rood 3½ perches, or .27 of an acre. So in total there was a figure of 25.59 acres.

OFFICER: Q. Apart from urban land, there was other land which you have reflected in some of your calculations which was usable but you said non-urban? A. Correct.

20

Q. So out of 196 acres, a little over 25 were urban? A. Yes.

Q. And the balance comprised flood-prone and other portions of the balance, usable? A. Yes. There's a break-up of these areas at the bottom of that sales list, Jamison Road area.

HIS HONOUR: Q. I see, total area non-urban 168, urban 25, road-widening 2 acres. And just while I'm on it and I'll write it in - and what area is subject to the 100-year flood? A. Approximately 42 acres.

30

Q. Is subject to flood? A. Yes.

Q. And that is of, I've no doubt, the land currently zoned non-urban? A. Correct.

OFFICER: Q. I think part of the Leagues' Club land is subject to an easement for flooding or drainage, is it not? A. There are two creeks that pass through the Leagues' Club land, one is Peach Tree Creek and the other one is a subsidiary of Peach Tree Creek, and Peach Tree Creek is the main vehicle by which the whole of the South Penrith release area is drained.

40

Q. In fact Surveyor's Creek ultimately runs into Peach Tree Creek? A. Ultimately yes.

Q. And it's via that that it gets into the river? A. Correct.

THE LAND AND ENVIRONMENT COURT
PLAINTIFF'S EVIDENCE
NO. 2(vii)
ALCORN Lawrence Lloyd
CROSS-EXAMINATION

Q. So we have approximately 126 acres non-urban but usable? A. Correct.

Q. And the whole of that in fact the whole of the 168 acres is under the Penrith Scheme, and all was at the relevant date zoned for 5-acre allotments? A. Yes. 10

Q. Now would you tell me whether you agree with this or not. If one is talking about potential for rezoning wouldn't you agree that the Leagues' Club's non-urban but usable by reason of its proximity to Penrith and the fact that it was already under the Penrith Scheme in 5-acre allotments - capable of 5-acre subdivision, had a greater potential than land which was wholly non-urban and south of the freeway? A. I would agree that because of its proximity one would - it would have a greater potential, would be imagined to have a greater potential. 20

Q. So the Leagues' Club purchase by reason of part of it being urban, already zoned urban, and the balance of the usable in it having a, by reason of proximity, greater potential for rezoning to urban, it doesn't I suggest to you demonstrate what I was seeking to find this morning, namely sales of broad acres - 100 acres or 200 acres - non-urban after May 1973.

HEMMINGS: Your Honour the question presupposes or puts the proposition that the witness just said that the Leagues' Club land has potential for rezoning. 30

HIS HONOUR: Yes.

HEMMINGS: My friend was careful in his question and I believe the witness was just as careful in his answer, that is so far as location is concerned the Leagues' Club land would have a better potential. And then he moves to the next stage to put a proposition that this is a property that has a potential for rezoning.

HIS HONOUR: Well can't he ask a question?

HEMMINGS: Well the point is that the question involves a proposition allegedly restating what the witness just said, and it's incorrect your Honour. It's a misleading question. 40

HIS HONOUR: What do you say to that Mr. Officer?

OFFICER: I didn't think it was misleading but if so I'll try and straighten it out.

HIS HONOUR: Yes.

OFFICER: Q. Mr. Alcorn was I right in understanding

THE LAND AND ENVIRONMENT COURT
PLAINTIFF'S EVIDENCE
NO. 2(vii)
ALCORN Lawrence Lloyd
CROSS-EXAMINATION

you that you agreed that the usable non-urban in the Leagues' Club land had more potential than land non-urban and south of the freeway? A. No.

Q. I see.

HIS HONOUR: When you say land south of the freeway are you talking about the subject land or are you talking about the land on the river or --- 10

OFFICER: Well I just wanted to leave it at south of the freeway, but if that's thought to be misleading I'll narrow it down.

HEMMINGS: No. You were saying it was a better location, that's what you're saying.

OFFICER: Undoubtedly a better location.

Q. And you would agree would you not that as a - another feature, small though it may be in favour of rezoning of the non-urban part of the Leagues' land is the fact that it had, and for some years had been re- 20

garded by Penrith as suitable for 5-acre subdivision?
A. As - I'm sorry Mr. Officer, are you asking me is that a reason that it had more potential, because it was zoned for 5-acre development?

Q. It was - it's weight is another matter, so that if it's already zoned for 5 acres it's some distance towards a rezoning is it not? A. No I don't agree.

Q. Now would you turn please to your report, exhibit K page 13 where you list the factors which are plusses for the subject land as compared with Kulnamock. 30

A. Yes I have that.

Q. And am I right in thinking that your - I withdraw that for a moment. I think in evidence you said did you not that the result of those plusses you thought was really - showed that the subject land was 30 per cent better but you took 25 to be on the conservative side? A. Yes that's correct.

Q. I take it that looking at the two parcels, Kulnamock on the one hand and the subject land on the other, every feature that you could detect was in favour of the subject land except for Mr. Moore telling you that there would be \$100,000 repair work on the subject land? A. I had already established in my mind that there was some repair work necessary for the subject property and that was the valuation that I prepared. 40

Q. Well may I alter that question slightly. Was it your view, looking at and comparing the two parcels, was

it your view that except for such repair work as needed to be done on the subject land, every other feature you could see was a plus for the subject land? A plus in the comparison? A. I believe that overall the subject land was superior to this sale property, yes.

10

Q. Well I'm sorry, that wasn't my question. Can you answer this or not, I put it to you that you looked carefully at the two parcels you were comparing and except for the fact that there was some repair to be done on the subject land, every other feature you could see was favourable to the subject land? A. Yes.

Q. Now may we take those point by point. Incidentally you regarded the subject land did you, as having access to Bringelly Road? A. I did.

Q. And to Garswood Road? A. I did.

20

Q. And that is because Sataras, or some members of the family, or companies they control, owned a block which ran eastward from the subject lands to Bringelly, and a block that ran northwards from the subject land to Garswood? A. Not totally.

Q. I'm sorry? A. Well that wasn't the sole reason that I say the property had access to Bringelly Road, it also had access to Bringelly Road via Wentworth Road.

Q. Yes, I'm sorry.

HIS HONOUR: Q. And Bradley Street? A. And Bradley Street.

30

OFFICER: Q. Yes, I'm sorry, you have said at page 5 of K you referred to the Wentworth Road, Bradley Street and Luttrell Street. A. Yes.

Q. And then you say in the second last paragraph: Apart from the major access points, property also enjoys two additional access points by a family owned property on Garswood and Bringelly Road? A. Correct.

Q. And over on page 6, at the end of the first complete paragraph, you say access is available to all four sides of the property via the five separate access points, a feature somewhat unique to this holding?
A. Yes.

40

Q. Are you there saying you regard it as having five access points? A. I do.

HIS HONOUR: Q. And they are so I know, Wentworth ---

OFFICER: Without question, Wentworth, Bradley and

THE LAND AND ENVIRONMENT COURT
PLAINTIFF'S EVIDENCE
NO. 2(vii)
ALCORN Lawrence Lloyd
CROSS-EXAMINATION

Luttrell. This witness adds two other access points, straight to Bringelly, and straight to Garswood, because the family own blocks that run in those directions.

Q. Now are you assuming in the hypothetical sale, the hypothetical vendor owns these - the two - I'll call them connecting blocks? A. I'm assuming that they would be available to the hypothetical purchaser. 10

HIS HONOUR: Q. In the same way they are available you believe to Mr. - to the Sataras? A. Correct, your Honour.

OFFICER: Q. You mean that they are offered to the hypothetical purchaser? A. Yes.

Q. And that for eight million dollars or whatever the - your value is, the purchaser will acquire those two blocks? A. No. 20

Q. You mean if the purchaser pays eight million for the subject land, he can then go out and bargain and perhaps be able to buy, or perhaps not, these two connecting blocks, is that what you mean? A. I don't think I'm talking about the whole of the connecting blocks, I'm talking about an access strip through to those streets. A roadway.

Q. Well a roadway, well you are assuming that X is the hypothetical owner of the subject land, the Sataras own the two connecting blocks? A. Yes. 30

Q. You are assuming, are you, that though X doesn't own the hypothetical block - the connecting block, that the purchaser from X of the subject land, will beyond question, be able to buy some - sufficient access route through the two connecting properties?

HEMMINGS: I object, your Honour, and I object because it is contrary to law.

HIS HONOUR: Well whether it is contrary to law, I think he is asked whether he assumed it I think. It has been put to him he must have made that assumption, I don't know whether he did or didn't. 40

HEMMINGS: Well your Honour, we're not dealing with X, we're dealing with - the assumption is that a hypothetical purchaser, then an actual vendor, and the actual vendor whether he owns his land or not is a question of fact, and one of the tests is to find the value to the owner of the land, and what he says to a buyer, I own these parcels of land, I'm not going to sell it for less than that, and your Honour, to put a question that X owns it is just contrary to law. 50

THE LAND AND ENVIRONMENT COURT
PLAINTIFF'S EVIDENCE
NO. 2(vii)
ALCORN Lawrence Lloyd
CROSS-EXAMINATION

HIS HONOUR: Yes, however, I don't know, I'll have to wait until this gets all sorted out in addresses, but I think Mr. Officer is entitled if he wishes to lay down the groundwork of some submission that I am entitled to look at X, who is not the Sataras, who is selling the land. I know what you are saying but I'll allow the question. 10

OFFICER: Well having forgotten the precise frame of the question, I'll restate it.

HIS HONOUR: Would you ask the question again.

OFFICER: Q. You emphasise on page 6 that the subject land is unique in that access to it is available by five separate access points? A. Yes.

Q. And it is on that basis that you've reached your final view of eight point whatever it is million? 20
A. The availability of access, yes.

Q. Not the availability of access, the availability of access via five points is a factor, small factor maybe, which ultimately leads to your eight million?
A. Yes.

HIS HONOUR: Can I ask him this question then, in the event that it has to be - it will be split up.

Q. If you assume this block of land not to have available to it access, of the two that you've mentioned to Garswood Road and Bringelly Road, how would that affect --- A. It wouldn't affect my valuation, because it has sufficient access. The consultants when they ---- 30

Q. I appreciate that. Why do you then make a point of five -- A. Because the consultants, when they have prepared their overall structure plan, said that one of the advantages was the availability of access to Bringelly Road, and Garswood Roads to produce the through roads.

Q. Yes. A. In their final plan it didn't come out that way, but I believe that to be a case - that it is not unreasonable that in the final structure plan, when the development control plan comes out, as your Honour is no doubt aware, that not all land is released for urban purposes, some of it goes to roadways, etcetera, and I believe that the advantage of having the availability of access would have contributed to the viability of the subject land as a development proposition. 40

Q. So it did add something to it then? A. Had it not had it, I can't say that I would have changed my 50

THE LAND AND ENVIRONMENT COURT
PLAINTIFF'S EVIDENCE
NO. 2(vii)
ALCORN Lawrence Lloyd
CROSS-EXAMINATION

valuation. It made it more attractive shall we say.

Q. Yes. Very well. Mr. Officer before we depart from this, Mr. Hemmings will be saying won't he, well the fact is, it is the value to the Sataras as they in fact did have this available to them. Do you say that this should be valued on an assumption that they didn't?

10

OFFICER: Yes. That the question is, what would a purchaser pay for the subject lands, at what point would a vendor, and I submit, a hypothetical vendor, we're not now in the question of severance and special damage and so on, we're purely now on the value of a thing taken.

HIS HONOUR: Yes, I thought I had to look at this vendor, not hypothetical vendor, I thought it was a hypothetical purchaser.

20

OFFICER: Well it is a hypothetical vendor.

HIS HONOUR: Vendor too is it?

OFFICER: I mean because they are both - well I mean we can't look at this purchaser, because the formula is where does a willing but not anxious buyer and seller meet?

HIS HONOUR: He didn't want to be a ---

OFFICER: The actual owner never fits - in a resumption case, never fits into that or very rarely.

HIS HONOUR: Particularly the Sataras as I would think.

30

HEMMINGS: It is a hypothetical sale, a hypothetical purchaser more than an actual vendor.

HIS HONOUR: Well we'll sort this out, anyway. I know - I find it difficult often to understand when this overlaps between special value to the owner and ---

OFFICER: That is something you add, he's entitled to value of the land, and you fix that on the hypothetical basis, over and above that one can have special value, such for example, if a proper case is made out for it, his expenditure on the plans and so on.

40

HIS HONOUR: Yes.

OFFICER: And if there is severance, if his land ---

HIS HONOUR: Not that this had a special value to him because had land that could give it better access?

OFFICER: No, no way.

THE LAND AND ENVIRONMENT COURT
PLAINTIFF'S EVIDENCE
NO. 2(vii)
ALCORN Lawrence Lloyd
CROSS-EXAMINATION

HIS HONOUR: You are saying no, no way, it doesn't shock me, but you may be right about the law.

OFFICER: I'll just say no.

HIS HONOUR: All right, yes, well we'll have to sort this out.

10

OFFICER: Q. So we could just go back, before we started talking about roads. A. Yes.

Q. The only minus in your balance sheet of Kulnamock versus the subject land, the only minus which you can see, and this is not a question of balancing at all, the only minus you could see that you would list would be that the subject land had some repair costs? A. Yes.

Q. Every other feature that you could see was in favour of the subject land? A. Yes.

Q. Be it a small feature or a large one? A. Well of course, bearing in mind that the subject land does have a high tension easement running through it and that is a minus quantity in respect to the ---

20

Q. Well the question is simple; do you want to withdraw the answer you gave a moment ago? A. But I've allowed for the high tension easement in my estimation. I will withdraw my answer.

Q. I asked you a moment ago, in drawing up your balance sheet, before you came to look at where the balance fell, listing the features, I asked you, and I understood you to say - agree with me, that the only debit which you could see against the subject land was that it had some repair costs, or remedial costs ---

30

HEMMINGS: Might I remind my friend that he directed the witness' attention to page 13, by number?

OFFICER: Yes.

HIS HONOUR: Yes.

HEMMINGS: Well I object to this information.

OFFICER: I am now asking him about his process, how he went ---

40

HIS HONOUR: Q. In any event, I think what he is saying is that whatever he might have said, he did take into account the high tension easement, is this right? A. Yes.

HIS HONOUR: I must say, Mr. Officer, so that you'll

THE LAND AND ENVIRONMENT COURT
PLAINTIFF'S EVIDENCE
NO. 2(vii)
ALCORN Lawrence Lloyd
CROSS-EXAMINATION

know what is in my mind, I didn't think when he answered that question, he was directing his attention to matters other than the matters of creeks, watercourses, and that was the impression I had, but ---

OFFICER: Well I'm sorry, I thought I had earlier asked him that his figure of 25 was as a result of listing the plusses and the minuses for each property, and then seeing how the balance fell. 10

HIS HONOUR: Yes, in my mind when - for better or worse, that evidence that he gave where he set out these things, and high tension wasn't mentioned in them.

OFFICER: Wasn't mentioned yesterday?

HIS HONOUR: No.

OFFICER: And Moore's expenses - or I'm sorry, some expenses, corroborated by Moore, was mentioned yesterday. 20

HIS HONOUR: I see.

OFFICER: Though not on this list, but I was just trying to check, was there any other minus other than that one. And the witness had said ---

HIS HONOUR: Yes, I didn't know whether that was in fact going to credit, that is why I thought I would raise it - in my understanding.

OFFICER: I just want to explore - no, not going to credit. 30

HIS HONOUR: Yes, thank you.

OFFICER: Q. Well now I gather you now say, if you were listing in your - I'm sorry, your 25 per cent was reached was it by reason of the advantages of the subject land over Kulnamock, which are set out on page 13, but you have, I gather a debit against the subject land, that it, as Kulnamock, needs some repair work?
A. Yes.

Q. And there is a debit against the subject land in that it has the easement and Kulnamock doesn't? 40
A. Yes.

Q. Are there any other features in the - in drawing up your balance sheet, that you bore in mind? I'm not saying that you put down here, that you bore in mind?
A. Not that I can recall.

Q. You regarded the debit against the subject land of

THE LAND AND ENVIRONMENT COURT
PLAINTIFF'S EVIDENCE
NO. 2(vii)
ALCORN Lawrence Lloyd
CROSS-EXAMINATION

having the easement, as having this effect only, that one couldn't erect houses under the - on the line of the easement? A. Structures within the easement - constructions above a certain height within the easement are prohibited, yes.

10

Q. How is it prohibited? Detached from the houses, elevated television aerials are forbidden, are they not?
A. Sorry I don't follow what you mean. Do you mean a television aerial put on the ground underneath the high tension easement?

Q. Well no, I'm sorry, one sometimes sees in a backyard a tall pole stay ---- A. Where reception is bad?

Q. Yes. A. Yes, I would imagine they would be prohibited. Yes, I have never struck the case.

HIS HONOUR: Any other than road, does any building - are buildings allowed on the easement? Under the ---

20

OFFICER: I think they are. I think very small such as very small - well toilets in association with a playing field or very very small dressing rooms and so on, I think.

HEMMINGS: Backyards of the properties in Balcombe Heights.

HIS HONOUR: Some backyards, do they?

HEMMINGS: Backyards and ---

OFFICER: You can have a swimming pool, just not an elevated structure. The suggestion is made from my right that though you can build a swimming pool on the easement, you can't have it under the wires and it is also suggested from my right that though you can have dressing sheds and small structures of the like, but on the easement, not under the wires.

30

HIS HONOUR: Yes that was my understanding too.

OFFICER: I don't know whether it is right or wrong.

HIS HONOUR: No, I don't know where that came from but -

OFFICER: Mr. Webster can speak for the gentlemen along here.

40

Q. You regarded the only significance of the easement as a debit, the fact that one can't erect houses on the line of the easement? A. No that's not the only debit against the easement. You've just discussed some of them. There are - certain structures are

THE LAND AND ENVIRONMENT COURT
PLAINTIFF'S EVIDENCE
NO. 2(vii)
ALCORN Lawrence Lloyd
CROSS-EXAMINATION

prohibited within the easement area. For instance, you can't put Skinner pipes underneath the easement.

HIS HONOUR: Q. What are they?

OFFICER: Q. What is a Skinner pipe? A. They are irrigation spray pipes. They are 3/4 inch galvanised pipe with little hole nipples right through the length of them that spray out. And generally speaking steel structures are prohibited because they are conductors and so there are a few things. As to a swimming pool beneath the wires and in fact there is one being constructed behind my house right now where a swimming pool is being located and has been - firstly it was an above ground swimming pool of quite substantial dimensions and they are now constructing a below ground swimming pool precisely beneath the wires. 10
20

Q. Let me simplify it, you regarded the easement as a debit only insofar as it involved certain restrictions on what could be done on the line of the easement?

A. Yes.

Q. You agree, do you not, that Jeanette Street is a sealed road, or I'm sorry, was in 1973? A. I don't think it was in 1973.

Q. What, you are uncertain about it, are you?

A. In fact, I'm - I can visualise it right now and I'd almost guarantee that it was a red gravel - bush gravel road running up past the school, bending around, turning around. It was a gravel - I am not precisely sure when it became tar sealed. I think it became tar sealed after Council re-aligned the road. 30

HIS HONOUR: Q. When was that? A. Approximately 1974.

OFFICER: Q. Re-aligned the road? Re-aligned ---

A. Jeanette Street and that swing-around. It used to come up in a right angled bend more or less and they put in a sweeping curve.

Q. But that sweeping curve had gone by the time of - certainly the boundary had changed by May 1973. I am not saying the road had been sealed by then but certainly the boundary had changed by May 1973, hadn't it? 40

A. Yes.

Q. That's how there was a 2 acre reduction? A. That was the 2 acre reduction.

Q. Yes. A. 1½ acres.

Q. But you think so far as the subject land at resumption bordered Jeanette Street, Jeanette Street

THE LAND AND ENVIRONMENT COURT
PLAINTIFF'S EVIDENCE
NO. 2(vii)
ALCORN Lawrence Lloyd
CROSS-EXAMINATION

was still unsealed? A. Sorry, the subject land doesn't border Jeanette Street.

Q. I'm sorry, so far as Kulnamock is concerned?

A. Kulnamock, yes.

Q. You think it was unsealed? A. I think it was but I can't swear that it wasn't. 10

Q. Certainly at date of resumption Mulgoa Road where passing the Kulnamock land, was sealed? A. Yes.

Q. Bradley Street is not sealed - was not sealed at the date of resumption? A. No.

Q. Wentworth Road was in fact not constructed at all, was it? A. No.

Q. And Luttrell Road was not sealed? A. No.

Q. And at date of resumption, the only access from the subject land to Luttrell Street still would face a user with the problem where Luttrell Street makes the zigzag? A. Yes. 20

Q. In fact, although that is shown as the course of a road and at some time may have been the actual course of the road, whatever bridge there was that carried you, moving west, to the actual apex of the sharp angle, that bridge had gone, been washed away or something had happened to it? A. Yes, there was no way of crossing the creek.

Q. By the authorised route? A. By the authorised - yes. 30

Q. Lest there be any uncertainty and we can't have anything read back here, when I asked you about Wentworth Road, I thought my question to you was, it was not at the date of resumption constructed?

A. It is not a constructed road. That's the way I understood it.

HIS HONOUR: That's what I thought it said.

OFFICER: Q. It was open for use? A. It was available for use, yes I know, you could physically drive over it. 40

HIS HONOUR: Q. You could physically drive over it? A. Yes. You mightn't be able to drive over it when there was very heavy rain but nevertheless you could --

HIS HONOUR: Q. It was unsealed and - so by constructed, you mean tar sealed, do you, and stabilised?

THE LAND AND ENVIRONMENT COURT
PLAINTIFF'S EVIDENCE
NO. 2(vii)
ALCORN Lawrence Lloyd
CROSS-EXAMINATION

A. It had no road base on it and it hadn't been stabilised, yes.

OFFICER: Q. You would agree, would you not, that a plus for Kulnamock is that it is closer to the Penrith central business district? A. No I don't.

10

Q. What, do you mean that it is closer but that is immaterial? A. If it is closer, and I don't necessarily believe it is closer to the Penrith post office, shall we say, as the central point of Penrith, it is certainly not quicker via Mulgoa Road as Mulgoa Road existed in 1973. So I say that doesn't add anything to the Kulnamock property.

Q. How in 1973 from the subject land would you have got to the post office? Out to Bringelly Road? A. Mm.

HIS HONOUR: Q. Straight across, right up to the St. Marys turnoff, would you, and then to the Kingswood turnoff? A. No, you'd have gone along Jamison Road, turned straight down Jamison Road and then turned right into Castlereagh Street which are slightly blotted out by those ---

20

Q. I can see Jamison Road though.

OFFICER: Q. Apart from Mulgoa Road, is there at Regentville village any other means of passage under the freeway, under or over? A. Vehicular passage?

Q. Yes. A. No.

30

Q. Pedestrian? A. No.

HIS HONOUR: Q. Mulgoa Road goes under the freeway at that point? A. It does. I don't think it is really the freeway at that point, is it? It doesn't start ---

OFFICER: Yes.

HIS HONOUR: Does it start there? I thought it didn't start ---

OFFICER: Q. It is still a freeway right to the river, I think, isn't it? A. No.

HIS HONOUR: No it is not.

40

OFFICER: No, I'm sorry.

HIS HONOUR: No you come down to the river from - on the freeway - I don't know. Anyway it doesn't matter.

OFFICER: It is certainly, I think, a freeway as far as

THE LAND AND ENVIRONMENT COURT
PLAINTIFF'S EVIDENCE
NO. 2(vii)
ALCORN Lawrence Lloyd
CROSS-EXAMINATION

Regentville because - where did we have lunch? We were standing outside the - we were within sight of the river and looking south you could see the freeway.

HIS HONOUR: Mr. Officer, will you need Mr. Alcorn to come back on Monday?

10

OFFICER: Undoubtedly your Honour.

HIS HONOUR: Has any arrangements been made or proposals made for the view?

HEMMINGS: Not as yet your Honour.

HIS HONOUR: I would think that any time hereon in might be - we know enough about it now to appreciate the points made on the view. You might give some thought though as to where you want me to go on the view.

OFFICER: I was speaking to my learned friend this morning your Honour and we thought that probably at this stage your Honour would want to see the subject land and the three - I'll call them adjoining, Kulnamock, Emu Plains and Burnley, and probably that will take the best part of a day. Undoubtedly it will take a day if there is no helicopter.

20

DISCUSSION

OFFICER: Certainly, no helicopter, your Honour could look at the four major properties and perhaps the Jamison Road area but I think that would probably take, without a helicopter, a day. Now ...

30

THE LAND AND ENVIRONMENT COURT
PLAINTIFF'S EVIDENCE
NO. 2(viii)
ALCORN Lawrence Lloyd
CROSS-EXAMINATION

2nd November, 1981

TATMAR PASTORAL COMPANY PTY. LIMITED & ANOR

-v-

THE HOUSING COMMISSION OF NEW SOUTH WALES

HIS HONOUR: Yes Mr. Officer.

10

LAWRENCE LLOYD ALCORN

CROSS-EXAMINATION (CONTINUED)

OFFICER: Q. Mr. Alcorn, your valuation has proceeded on the basis, has it not, that the land both north and south of the TLE has the same potential for rezoning?

A. Yes.

Q. You have proceeded on the basis, have you, that the Kulnamock sale in May 1973 was of land regarded as having some potential for rezoning? A. Yes.

Q. Have you given any consideration to what the situation, from a value point of view, would be if the TLE were to be the southern boundary of any rezoning?

20

A. Yes.

Q. If the northern edge of the TLE were the new boundary of any rezoning, then you couldn't of course use the land under the TLE for a car park? A. Are you asking me the question, Mr. Officer?

Q. Yes. A. I believe you could.

Q. You would agree that, on the assumption I have just put to you of the northern boundary of the TLE being the southern boundary of the rezoning, that you would be very unlikely to be able to use any of the land subject to the easement for back yards? A. Given that the northern boundary is - yes, that you wouldn't be able to use it for urban purposes.

30

Q. Again on the same assumption as to the new boundary, the land south of the TLE could be used only for 25 acre allotments unless its zoning were changed?

A. Yes.

Q. Did you consider what the value of the land south of the TLE would be on the assumption I am putting to you as to the boundary of the new zoning? A. Not on that precise assumption, no.

40

Q. I was asking you some questions on Friday with regard to the land in the Jamison Road area and I think my questions were mainly directed to the Leagues Club land in Jamison Road. The ASL purchase in the Jamison

THE LAND AND ENVIRONMENT COURT
PLAINTIFF'S EVIDENCE
NO. 2(viii)
ALCORN Lawrence Lloyd
CROSS-EXAMINATION

Road area was of land, part of which was urban?

A. None of which was urban.

Q. It was however in a 5 acre subdivision area?

A. Yes.

Q. In fact it had already been subdivided into 5 acre allotments, has it not? A. Yes, partly. 10

Q. It wasn't a size that would be precisely divisible by 5, was it? A. No it is not.

Q. Could I put it to you that so far as it could be subdivided into 5 acres, it had been - I'm sorry. So far as in area it was subdivisible into 5 acres, that had occurred? I'm sorry, I withdraw that question, it may be misleading. The whole of it had been subdivided into 5 acre allotments or a little more? A. Are we speaking of the ASL land? 20

Q. ASL. A. No.

Q. How much of it had been subdivided into 5 acre allotments? A. Something less than half I believe. The western side of the allotment.

HIS HONOUR: Q. Has that been marked on this map?

A. Yes your Honour.

OFFICER: Q. The eastern portion of it not subdivided into 5 acre allotments was the portion fronting Mulgoa Road? A. No.

OFFICER: May I, your Honour, approach the map? 30

HIS HONOUR: Yes. It doesn't front Mulgoa Road, I don't think, does it?

OFFICER: Q. The portion that had not been subdivided, was that usable land or was it flood prone? A. Partly flood prone.

Q. What proportion of it was flood prone do you think?

A. I allowed for the total property, and this was all on the western side, 5.19 acres drainage reserve to the channel.

Q. 5.19 being part of the western, did you say, portion of ASL? A. I think all the flooding is on the western sections but I can't, from memory, recall - I just took out a flood area, you see, I didn't look at it --- 40

Q. I beg your pardon? A. I just took out a flood

THE LAND AND ENVIRONMENT COURT
PLAINTIFF'S EVIDENCE
NO. 2(viii)
ALCORN Lawrence Lloyd
CROSS-EXAMINATION

area. I didn't necessarily - I think it is all on the western side - I think it is. I'm sorry, the eastern side, as you were.

OFFICER: Q. You mentioned the other day Mr. Zeleny, I think his name was, who was associated with Kulnamock? A. Yes. 10

Q. Was he - may I put it the way the - the boss of Kulnamock? A. I couldn't say.

Q. Was he the person with the largest shareholding, do you know? A. I have not searched the company but his signature appears on the contracts so one imagines he has - yes.

Q. And he was also, was he, the principal shareholder in Silverton? A. No.

Q. I'm sorry, Sterling Homes. A. I couldn't say whether he was the principal shareholder. 20

Q. He was, you understand, a director of that company? A. I understand that to be the case.

Q. Sterling Homes was a fairly large developer? A. Yes.

Q. Do you know whether Kulnamock has done any developing? A. I couldn't say.

Q. We do know from the subject sale or from the sales, rather, that have been referred to that they own certain other land in the South Penrith area? A. Yes. 30

Q. Kulnamock had bought this land some time in 1972. I forget the precise date. The Kulnamock land for about \$300,000? A. Correct.

Q. We have been told by Mr. Moore that developers were almost desperate to get broad acres in this area. Would you agree with that as a general view? A. Desperate is a very strong word. I would say that they were extremely keen.

Q. On the assumption that Mr. Zeleny was very influential as a shareholder or director in Kulnamock and that he was a very considerable shareholder and/or director in Sterling Homes, and if developers were very keen to buy broad acres in this area, can you think of any - do you know of or can you think of any reason why Kulnamock would have sold the land? A. The Federal Valuation and Agency Company, is that the parcel to which you refer - the parcel? 40

THE LAND AND ENVIRONMENT COURT
PLAINTIFF'S EVIDENCE
NO. 2(viii)
ALCORN Lawrence Lloyd
CROSS-EXAMINATION

Q. They wanted to - they were agreeable to sell to the Leagues Club but by reason of that, Deposit and Investments first right of refusal arose? A. Yes.

HEMMINGS: Apparently that was an assumption about that. Mr. Alcorn suggests that he doesn't know anything about that. That could only be a present assumption. 10

HIS HONOUR: Are you asking him to assume that or to ---

OFFICER: Your Honour may I show him the -

Q. You do know that the Leagues Club made an offer to Kulnamock, don't you? A. No. Only from what I have read in Mr. Hyam's report on what you put to me on Friday.

Q. On the assumption that Kulnamock received an offer from someone which they were prepared to accept, whereupon and this is still part of the assumption, Deposit and Investment had the right to purchase, do you know of or can you think of any reason why Kulnamock would have been willing to sell the land which it had acquired the year before for \$300,000? A. I don't know of any reason but I could think of a few. 20

Q. Would you give them to me? A. Firstly, I don't know of any parcel of land that Kulnamock have actually developed. They usually sell before - all the parcels I have seen have been sold before development. Secondly, they have made what appeared to be a \$349,000 profit in 12 months. And thirdly it is a very very difficult parcel of land to develop. 30

Q. You mentioned that Kulnamock was near to the area in Regentsville village which for some time had been zoned under the Penrith plan as industrial and had not been developed? A. Correct.

Q. You said that that fact did not auger well for Kulnamock being added in any change of zoning to the Regentsville village? A. Correct.

Q. You would agree would you not that the village of Regentsville so far as it was zoned urban under the Penrith scheme had been very considerably developed? A. Yes. 40

Q. A lot of that development had taken place after 1960, when the Penrith Scheme was prescribed? A. I wouldn't say that a lot of it, there are - a lot of development out there is - some of it is pre-1960, some of it is post 1960.

Q. About half and half you would think? A. I

THE LAND AND ENVIRONMENT COURT
PLAINTIFF'S EVIDENCE
NO. 2(viii)
ALCORN Lawrence Lloyd
CROSS-EXAMINATION

really couldn't hazard a guess, I could hazard a guess but that would be all it would be, just a vague guess.

Q. Now have you in front of you, or available to you, a copy of the map which is an annexure to Mr. Moore's report, that is the map that shows Kulnamock, that is part of exhibit Y1. A. I have.

10

Q. You observe up in the north-west corner, the shaded area which Mr. Moore described as a depression?
A. Yes.

Q. Would you agree that as shown on this map it is larger than the area which floods under the 100 year flood map? A. Yes.

OFFICER: May I have that exhibit your Honour, which is AK?

HIS HONOUR: Is it the flood map?

20

OFFICER: Yes. May I approach the witness.

Q. It would appear from the flood map that the area - or the portion up in that corner of Kulnamock, which floods, is not contiguous with Mulgoa Road? A. Yes, I see what you mean, that's correct, I agree with that.

Q. And looking at the shaded area on Mr. Moore's map, and looking as well at AK, would you agree that the shaded area on Mr. Moore's map is approximately a third larger than the area that floods? A. Yes, I would agree with that.

30

Q. And you will agree also will you not that the area that floods up in that corner, up in that portion of Kulnamock, does not in fact extend nearly as far to the western boundary of Kulnamock as is shown on Mr. Moore's map?

HEMMINGS: Your Honour, the question was - the question presumes that the area marked on Mr. Moore's plan shows only area that floods, these questions weren't put ---

HIS HONOUR: No, he's not saying that, he's ---

HEMMINGS: That's what the question was, your Honour.

40

HIS HONOUR: No, he's talking about how it compares with the shaded area.

HEMMINGS: As an area that floods, which ----

HIS HONOUR: Well what he is saying - asking the witness is this question as I understand it, here Mr. Moore has

THE LAND AND ENVIRONMENT COURT
PLAINTIFF'S EVIDENCE
NO. 2(viii)
ALCORN Lawrence Lloyd
CROSS-EXAMINATION

a shaded area, for whatever purpose, it floods or whatever, but he is saying now doesn't the flood area - the flood-prone area occupy some portion of that shaded area, isn't that what is being asked?

OFFICER: The witness has answered that and said only about one third - I'm sorry, only about two thirds of Mr. Moore's shaded area --- 10

HIS HONOUR: Is the flood-prone part. Now what was the next question then?

OFFICER: The next question was would he agree that Mr. Moore's shaded area extends very much closer to the western boundary than the western extremity of the area shown as flood prone.

HEMMINGS: I don't object to that, your Honour.

HIS HONOUR: Well you can answer that one first of all. No objection. 20

HEMMINGS: Unless my recollection is wrong, the question was framed that Mr. Moore's plan shows a flooded area. Mr. Moore said this is a swampy area.

HIS HONOUR: Well I didn't understand, I'm sorry, anyway let him answer that question first, and wait until the next one comes.

OFFICER: Q. Yes, thank you. Now in your listing of advantages of the subject land over Kulnamock, you referred to the subject land being adjacent to the main reticulated water source for Penrith? A. Yes. 30

Q. Are you referring there to the mains which run down Bringelly Road? A. No.

Q. You are referring to the distance of the water treatment works from the subject land, are you?
A. Correct.

Q. You would agree of course that taking the subject land as being closer to the water treatment works, conversely, Kulnamock is considerably closer to the sewer treatment works? A. I don't think I could agree with that. 40

Q. The sewer treatment works are north of the Penrith business district? A. Yes.

Q. Have you given any consideration to whether Kulnamock is closer to the treatment works? A. I have given consideration of it is closer, but not considerably closer.

THE LAND AND ENVIRONMENT COURT
PLAINTIFF'S EVIDENCE
NO. 2(viii)
ALCORN Lawrence Lloyd
CROSS-EXAMINATION

OFFICER: Q. I see. What, a matter of a kilometre and a half? A. I wouldn't have thought that much?

Q. How much would you have thought? A. Perhaps half a kilometre.

Q. And of course in considering the potential for sewerage of the subject land on the one hand, or Kulnamock on the other, you have assumed that in each case the sewerage would be taken to the treatment works? 10
A. Yes.

Q. Of course if the sewerage from Kulnamock were to be treated on site, and the effluent taken to the river, south-west of the freeway, the distances would become very much more favourable for Kulnamock would they not?
A. Yes.

Q. Now you referred in your evidence-in-chief, to Mr. Moore being of the view that there would be some \$100,000 to be spent on the subject land, in what I think you described as repairs? A. Yes. 20

Q. Did you enquire from Mr. Moore what was the nature of - in a broad sense, of the work to be done?
A. Yes.

Q. It included did it not the desilting of a number of the dams? A. Yes.

Q. How many? A. I don't know.

Q. You've seen the Heath outline of the subdivision? 30
A. Yes.

Q. And you've observed on that have you that there appear to be no dams left as dams, open dams? A. From memory, yes.

Q. So would I be right so far as you know, in assuming that the \$100,000 is to be the desilting of all the dams? A. I couldn't say.

Q. What else if anything, did Mr. Moore tell you was to be covered by the \$100,000? A. He said desilting of dams and some repair work around the scour areas adjacent to the dams. 40

Q. Now one observes that for the purpose of measuring creep, you had regard to the Emu Plains resumption, as compared with the Emu Plains sale? A. Yes.

Q. Is that because you regarded the resumption figure as being a realistic assessment of value? A. I thought it had some place in the market place, not necessarily realistic.

THE LAND AND ENVIRONMENT COURT
PLAINTIFF'S EVIDENCE
NO. 2(viii)
ALCORN Lawrence Lloyd
CROSS-EXAMINATION

HIS HONOUR: Q. You thought it ---

A. Had some place in the market.

OFFICER: Q. If it were not a realistic figure, you couldn't very satisfactorily use it to measure creep, could you? A. Only that I consider the resumption to have been low, so it was a low increase factor. 10

Q. I think you mentioned to my learned friend that there was an allowance in the resumption figure of some \$10,000 for lack of access, is that right? A. No.

Q. The \$10,000 was an allowance made because some of the land used for access purposes by Emu Plains was not taken? A. Correct.

Q. Which was the portion of Emu Plains for which the \$10,000 allowance was made? A. May I see the maps?

Q. Yes, please. Your Honour may I have the exhibit that was that one, I think, Mr. Alcorn prepared with all the different colours on it of this access between Burnley and Emu? It is exhibit --- 20

HIS HONOUR: I think it formed part of Mr. Alcorn's - or was it a separate exhibit? I've got it here anyway. I think it formed part of exhibit K. This one here, isn't it?

OFFICER: I think that is the one we're looking for.

HIS HONOUR: This is the Emu Plains land you are looking at now? 30

OFFICER: It is Emu Plains and Kulnamock. The strip.
A. The part that was not resumed was the strip shown blue, lot 3.

HIS HONOUR: Q. Is that what you say the \$10,000 allowance was made for? A. The Valuer-General analyses that. I can't - the Valuer-General says that in his report.

Q. So you haven't - you've assumed that? A. I have deducted that on the basis that the Valuer-General has said this is the way you calculate it - the value. 40

OFFICER: Q. You told me a moment ago that you regard the resumption figure for Emu Plains as low? A. Yes.

Q. What do you say about the \$10,000 allowed for the non-resumption of lot 3? Of the blue? A. I couldn't say.

Q. But you haven't given any thought to it?

A. I haven't given any thought to it, no.

THE LAND AND ENVIRONMENT COURT
PLAINTIFF'S EVIDENCE
NO. 2(viii)
ALCORN Lawrence Lloyd
CROSS-EXAMINATION

OFFICER: Q. Would you turn to page 16 of your report, exhibit K? Your sale 3 to Dewdale was of land which Dewdale then subdivided into 5 acre allotments?

A. Mm.

Q. I beg your pardon, yes, well it is the 16th page. 10

A. It was already subdivided into five separate parcels. Dewdale then subdivided two of those parcels into three thus making six parcels in total.

Q. Part of the 37 acres, what, was already subdivided into 5 acres but not the whole of it? A. The whole of it was subdivided into five allotments which were slightly in excess of 5 acres per allotment, around about 7 acres, or thereabouts, 7½ acres.

Q. So this was a resubdivision was it that Dewdale did? A. Yes. Of part of it. 20

Q. There is, is there not - I withdraw that. So Dewdale at least when they bought in late 1972 didn't apparently think the land had potential for urban subdivision? A. I couldn't say.

Q. The fact that they proceeded fairly rapidly to resubdivide and sell it off, 5 acre allotments, would suggest that wouldn't it? A. That would indicate that they didn't wish to retain the land, yes.

Q. Mr. Alcorn, if they thought it had potential for urban, you would have expected them, would you not, to have - at least to have abstained for some period longer than they did from resubdividing and selling off in 5 acres? A. I couldn't say. 30

HIS HONOUR: How could he say? I mean they might have had all sorts of reasons for doing that.

OFFICER: Q. I'm sorry, let me perhaps put it a different way. Do you say that the price paid by Dewdale suggests that they thought it had potential or doesn't the price indicate one way or the other, potential for urban? A. I don't think the price indicates one way or the other at that point of time. 40

HIS HONOUR: This is the one in September 1972?

OFFICER: Yes.

Q. If they had thought it had potential for urban development, wouldn't you have expected them to have abstained from making a 5 acre subdivision and selling off? A. Again I - wait a minute. Can I ask you to repeat that please Mr. Officer?

THE LAND AND ENVIRONMENT COURT
PLAINTIFF'S EVIDENCE
NO. 2(viii)
ALCORN Lawrence Lloyd
CROSS-EXAMINATION

Q. If they had purchased it, Dewdale, thinking that it had an urban potential, would you not have expected them to have abstained? A. Given that that was the only reason, even if that was the only reason for them subdividing it, but I can't say whether there were any other reasons. 10

Q. Did they, do you know, sell off the whole of it fairly rapidly after the resubdivision? You've got one sale here. A. One sale was consummated and actually transferred, another allotment was sold and resumed by the Commission. As to the rest of it, Dewdale retained the rest of the land.

Q. It was ultimately resumed by the Housing Commission, was it? A. Yes.

Q. In 1973? A. In 1974. 20

Q. Would you turn to your sales list for South St. Marys?

HIS HONOUR: Where's this? It's on the same ---

OFFICER: No your Honour, it is over, a few pages over, three pages from the back.

HIS HONOUR: Cambridge Credit?

OFFICER: It has three sales on it.

Q. Are you aware of a sale of land adjoining your sale 3, Middle Harbour to Peter Kent? A. Yes.

Q. The land adjoining is roughly comparable in character with the land the subject of sale 3? A. Yes. 30

Q. The adjoining land was sold by FAC Finance, was it, to Silverton Pty. Limited? A. I couldn't say.

Q. It was an area of 32 acres approximately, 32 acres 1 rood 27 perches? A. I suppose.

Q. The contract I suggest was about 16th July, 1973?
A. I don't know.

Q. Do you know the price?

HEMMINGS: Well your Honour ---

HIS HONOUR: This is the land - which land are you referring to now? 40

HEMMINGS: It is not any land that has been given - of which we have been given notice.

THE LAND AND ENVIRONMENT COURT
PLAINTIFF'S EVIDENCE
NO. 2(viii)
ALCORN Lawrence Lloyd
CROSS-EXAMINATION

HIS HONOUR: No, I just wondered where it was located.

OFFICER: It is land adjoining the Middle Harbour to Peter Kent.

HEMMINGS: There was an exchange of reports, in fact, there was an avalanche of reports at one stage and we've never been given notice that this is a sale that anyone is going to rely upon. 10

HIS HONOUR: Is this a sale you are relying on?

OFFICER: No your Honour. This is a sale to which we wish to make reference, not as part of our case, but as part of the criticism of the deduction of creep. Your Honour sees the witness has referred to these sales and others as showing what he says was the applicable amount of creep and we want to put to him this adjoining sale of what he says was land comparable in quality, and say, well you would agree that it doesn't show it being as we will - can prove, a July sale? It doesn't prove creep of anything like the figures that you finally deduce? 20

HIS HONOUR: And therefore?

OFFICER: Would he agree to vary his assessment of the amount of creep.

HIS HONOUR: Well I suppose, if you're not relying on this sale to show that there is no creep yourself, your case is not relying on this sale? 30

OFFICER: Well your Honour, I don't exclude that our witness may use it ---

HEMMINGS: But he doesn't.

OFFICER: To say, a right conclusion from all the sales evidence would not support creep which Mr. Alcorn has sworn to.

HIS HONOUR: Yes, I appreciate that, but are you then going to say, and I want to refer to this land south of the Kent land, your case to support that view?

OFFICER: Yes we would. 40

HIS HONOUR: Well how do you do that when you haven't given notification of your intention to use it, I thought you were saying earlier that you were only going to use it for the purpose in some way of criticising the evidence given by Mr. Alcorn, but you weren't using it as part of your case. I have the feeling what will happen is that you will use it for - to criticise

THE LAND AND ENVIRONMENT COURT
PLAINTIFF'S EVIDENCE
NO. 2(viii)
ALCORN Lawrence Lloyd
CROSS-EXAMINATION

Mr. Alcorn, and then it will creep into your case, and then I'll be caught again later on, so I suppose we ought to sort this matter out now.

OFFICER: Yes, your Honour.

HIS HONOUR: It could creep into your case, can I just ask this question, if it is not to be used in your case as part of your assertion that this creep can't be accepted, or at least not the rate led to by Mr. Alcorn, what benefit do I get out of Mr. Alcorn - I suppose he might you think break down and admit his other estimates of creep are wrong, well that is possible I suppose, but I think we ought to clear up whether you are proposing to use this sale now. 10

OFFICER: Well your Honour, I'm sorry, if I am not allowed to put the question to this witness, then I won't be allowed to give it in-chief. 20

HIS HONOUR: No, but it doesn't follow that because you can put it to this witness you can then put it in-chief.

OFFICER: But if this witness accepts the - my analysis of the sale, then your Honour, we would put questions to him, does that not indicate a creep of considerably less than he has put. If he says yes or no, if he says yes, well so much the better. If he says no, then the figures would still be before your Honour, and we would say, by way of evidence, here is a sale that shows a lesser creep than Mr. Alcorn's. 30

HIS HONOUR: I suppose - I'm not saying it might not be relevant, but isn't the problem that if one applied that sort of reasoning to the admissibility of this sort of material, there's almost no point in swapping reports. You could always cross-examine Mr. Alcorn on 20 different sales for this purpose to show this, and then introduce them into your own case never having given the applicants or appellants any notification that they were sales that you intended to rely upon? 40

OFFICER: Yes.

HIS HONOUR: That's the problem I would see.

OFFICER: Yes, with respect, to a limited extent I see what your Honour is saying. We of course were not bound by any order of your Honour, nor even in spirit expected to file reports in answer to reports as it were.

HIS HONOUR: No.

OFFICER: But if the witness - I mean if the witness were unaware of this sale, that would be a different

THE LAND AND ENVIRONMENT COURT
PLAINTIFF'S EVIDENCE
NO. 2(viii)
ALCORN Lawrence Lloyd
CROSS-EXAMINATION

matter, but he at least does know the land, I gathered - I think it was at that moment that my friend objected, when I asked the witness did he know the price.

HIS HONOUR: Yes, I know. Well Mr. Hemmings, I appreciate what you are saying but --- 10

HEMMINGS: Your Honour, it is the unfairness of the question Mr. Alcorn has said he knows of that property, he hasn't analysed the sale, he hasn't made enquiries as to the circumstances, to put himself into the position ---

HIS HONOUR: Well he may or may not say that ---

HEMMINGS: Well he said it, your Honour, he hasn't examined the site.

OFFICER: No, he hasn't said that. 20

HIS HONOUR: Well I didn't know he had said that, you see if he had said that it is one thing, but I think Mr. Alcorn can look after himself.

HEMMINGS: He certainly can, your Honour, but at the beginning he said he hadn't ---

HIS HONOUR: Yes, I think I'll allow this question at this stage, I understand what you are saying, and I don't wish it to be taken, Mr. Officer, that if I do allow this question it follows that I'm going to allow you to introduce evidence about this sale later on, but I will allow this - what was the question? Was he aware of the price? 30

OFFICER: Q. Were you aware of the price, or are you aware of the price? A. I was aware that it was sold on the 23rd of February 1972 for \$299,010.

Q. I'm sorry, is the land beside your sale 3 the land in your sale 1? A. Yes.

HIS HONOUR: Yes, I think Mr. Officer is referring to another sale which is not referred to in 1, 2 or 3, but which also adjoins Kent's land, I think that is what he was asking. That is what I thought you were referring to myself. Which would have to be land I suppose to the south. 40

OFFICER: I'm sorry, I was putting to you ---

HEMMINGS: I think your Honour, the next sheet on the easel, just turned back, does show two parcels south --

DISCUSSION

THE LAND AND ENVIRONMENT COURT
PLAINTIFF'S EVIDENCE
NO. 2(viii)
ALCORN Lawrence Lloyd
CROSS-EXAMINATION

HIS HONOUR: On this one?

HEMMINGS: Yes, your Honour, those two parcels there, if my learned friend could turn your eye to those.

HIS HONOUR: Where, where are they?

HEMMINGS: Just below Cambridge Credits, your Honour. 10

HIS HONOUR: Yes, but they are the ones.

HEMMINGS: Yes, your Honour.

HIS HONOUR: That is Kent's land, Kent and Fredco, they're 1 and 3. I had the impression Mr. Alcorn was being asked questions that didn't refer to those two.

OFFICER: Q. Mr. Alcorn, looking at your sale 1 ---

HIS HONOUR: That's Fredco to ---

OFFICER: Q. Fredco to Ralbar(?) A. Yes.

Q. February 1972, was that land resold in July 1973 --
A. I beg your pardon? 20

Q. Was that land resold in July 1973? A. I don't know.

Q. Have you made any measurements from any street directory or other maps of the distances of the subject land as compared with Kulnamock, from the business centre of Penrith? A. No.

Q. In 1973 Mulgoa Road was a 2-lane tar-sealed road?
A. One lane going one way and one going the other way, is that ---

Q. Yes. A. Yes, correct. 30

Q. Jamison Road was a 2-laned tar-sealed road?
A. No, I believe that Jamison Road was a ---

Q. I'm sorry, I'm speaking - certainly east of Mulgoa Road? A. East of Mulgoa Road, it was in 1973 I believe that it could even have been a 4-lane road if not in parts 6-lane road.

Q. Well certainly 2 or more lanes, and tar-sealed?
A. Yes.

Q. Station Street was a tar-sealed 2-lane road in 1973? A. Yes. 40

Q. And I think Station Street, apart from its 2 lanes

THE LAND AND ENVIRONMENT COURT
PLAINTIFF'S EVIDENCE
NO. 2(viii)
ALCORN Lawrence Lloyd
CROSS-EXAMINATION

also had kerbside parking? A. I'm sorry, I don't follow that question? Kerbside parking, able to park against the gutter you mean?

Q. Yes. A. Yes.

Q. And there were still 2 lanes for traffic? A. In Station Street? 10

Q. In Station Street? A. Yes.

HIS HONOUR: Where's Station Street?

OFFICER: Q. Runs north and south I think, does it not, Mr. Alcorn? A. Yes it does.

Q. If you were going to the business ---

ALCORN: Partly obliterated on that map your Honour, if you turn it over to the next map.

HIS HONOUR: Q. Is this Jamison? A. Yes, that's Jamison. 20

Q. Where's Station, this way? A. That is Station Street.

OFFICER: It runs north from Jamison Street.

ALCORN: A. That's either Station Street or Mulgoa Road, I can't really tell from here, it runs parallel with Mulgoa Road. It is the next one over from Mulgoa Road.

HIS HONOUR: Q. Yes, well that was the one I pointed out. To the east. A. To the east, yes.

OFFICER: Q. It runs from Jamison Street, straight into the business centre of Penrith. A. Station Street? 30

Q. Yes? A. No, I wouldn't - it runs to the western periphery of the business centre.

Q. The western periphery of? A. The business centre. It all depends what you call the business centre.

Q. Certainly we have the description of the condition of Station Street in 1973, and Bringelly Road of course was 2-lane tar-sealed road, somewhat wider at the freeway to allow for the interchange, is that right? A. Yes, at Bringelly Road, it changes its name to Parker Street, so it varied from a 4-lane highway to a 2½ lane road, back to a 4-lane highway. 40

HIS HONOUR: Q. In 1973? A. Yes.

Q. And whereabouts was Evans Street? A. Evans Street is at the eastern extremity of Penrith, it has the fire station on the corner, it runs north-south.

Q. Joins? A. Joins with High Street, intersects High Street.

10

HIS HONOUR: When you say the eastern extremity, what are you talking about?

DISCUSSION

OFFICER: Q. Evans was a 2-lane tar-sealed road?

A. Yes I do believe it is wider than two lanes but it ---

Q. Two or more. A. Not less than two lanes.

RE-EXAMINATION:

HEMMINGS: Q. Mr. Alcorn you were asked on Friday questions concerning cash flow in and out of the nation, do you recall that? A. Yes.

20

Q. What connection if any is there between the inflow and outflow of cash from the country and the effect upon the marketplace for land? A. Well in the macro-economic sense I suppose it allows the finance companies to draw upon overseas capital and thereby to buy easier finance.

Q. In 1973 in fact did it have any effect in your observation? A. On the finance market no.

Q. Had it had any effect in the marketplace for land in 1973? A. Not that I saw.

30

Q. And you were reminded and you agreed that there was an increase in some interest rates in the middle, towards the latter part of 1973? A. Yes.

Q. From your observation when did that first have any evident effect upon the land market, was it 1973 or 1974? A. 1974.

Q. You were directed to the Leagues' Club acquisition in the Jamison Road area. A. Yes.

Q. And you were asked to compare it in a number of respects with the subject land. A. Yes.

40

Q. You agreed that so far as proximity to Penrith, it was in a better located area. A. Yes.

Q. However what is your view as to whether or not it

THE LAND AND ENVIRONMENT COURT
PLAINTIFF'S EVIDENCE
NO. 2(ix)
ALCORN Lawrence Lloyd
RE-EXAMINATION

has or had a better potential for rezoning for urban purposes? A. Well there are a few things that augur against it's potential for urban purposes, one is its overall contour and being flood-prone and low, and the other thing is that it is shown on the Sydney Region Outline Plan as possibly open space area. And the other thing is the Penrith Council had for a number of years up to that time suggested that this area should remain free of any obstructions, that is building obstructions, development obstructions, until council in conjunction with Gutteridge, Haskins and Davey, had prepared a complete drainage scheme for the Peach Tree Creek area into which the South Penrith Drainage Scheme discharges. There are a number of factors which augured against it. 10

Q. Well what's the answer to my question? A. It had less potential I believe than areas to the south of the freeway. 20

Q. And when you talk about area subject to flooding are you dealing only with the major flooding, the 100-year flooding, or flooding that would have some effect upon the development of land for urban purposes generally? A. I'm dealing with those areas of land which are subject to water inundation from time to time, not necessarily that which is disclosed on the Nepean River flood map. There is local flooding which occurs in the creek systems. That map there discloses the back-up from the waters of the Nepean River, but there is other flooding which occurs in the network of creeks right throughout the area. 30

Q. And does that have an effect upon the urban development of the land different to that which is merely shown by the 100-year flooding? A. Yes it does.

Q. Your attention was drawn to the map accompanying Mr. Moore's report Y1 which shows the physical features on the Kulnamock property. A. Yes. 40

Q. And you were asked to compare the map showing the 100-year flood on the Kulnamock property and the area that has been hatched on that plan by Mr. Moore. A. Yes.

Q. Is that an area that's merely subject to flooding or is there some other factor about that area? A. It's partly subject to flooding and partly low and becomes very very boggy underfoot, in fact I have personally seen, and I couldn't really say whether that whole shaded area is the precise area affected although there is a dish. In fact it is quite a flat depressed dish that approximates to the area of that shading. What happens is that it floods yes, but it becomes very very boggy in that dish area and waterlogged and not good road material, not good anything material. 50

THE LAND AND ENVIRONMENT COURT
PLAINTIFF'S EVIDENCE
NO. 2(ix)
ALCORN Lawrence Lloyd
RE-EXAMINATION

Q. How would you describe it as its capacity for development for urban purposes? A. I would suggest that that would become a retardation basin or some such thing.

Q. You were asked questions about the proximity of the two properties, the Kulnamock and the subject land to water and sewerage. Firstly the water supply is somewhere east of the properties. And you indicate the source of water. A. Yes. The area marked Water Board and then the dam. 10

Q. In relation to the subject land, now would you indicate, I think it's marked on the plan, the sewerage treatment works? A. There.

Q. And the distance then to Kulnamock property can be observed also the relative distance to the subject land? A. Yes. 20

Q. You were asked if you'd carried out a valuation exercise on the assumption that the land had an urban potential as described in the reports that have been submitted by the respondent in these proceedings, were you not? A. Yes.

Q. What assumptions did you make applying your mind in a similar way to that carried out by the valuers engaged by the respondents?

OFFICER: Your Honour, if this is directed to the valuation of the land south of the TLE, if it is then I object to the question because the witness said he had not given attention to the valuation of the land --- 30

HEMMINGS: No he didn't ---

HIS HONOUR: No I thought he said he hadn't south but he had north.

OFFICER: Oh yes, north undoubtedly.

HIS HONOUR: He hasn't done a 25-acre, my clear recollection is my learned friend asked him, have you carried out an exercise on the basis of the urban developments up to the transmission line, and he said, yes I have. 40

HIS HONOUR: Yes he did say that.

HEMMINGS: And then my learned friend said, have you done one on the basis of only a 25-acre subdivision south of the transmission line; he said no I haven't done it on that basis.

HIS HONOUR: Yes that's what he said. That's my

THE LAND AND ENVIRONMENT COURT
PLAINTIFF'S EVIDENCE
NO. 2(x)
ALCORN Lawrence Lloyd
FURTHER CROSS-EXAMINATION

recollection Mr. Officer. Maybe you want to ask further questions. I was wondering why you just left that at that stage actually. Would you like to ask some more questions about that?

OFFICER: I would like to ask on what basis.

10

HIS HONOUR: Yes certainly.

FURTHER CROSS-EXAMINATION:

OFFICER: Q. On the assumption that any rezoning would stop at the northern boundary of the TLE on what basis did you value the land south of the TLE? A. As land that adjoined urban land. That is it was going to be hard up against land which was - if we're assuming that the area north of the high-tension easement is the only land available for urban development, then the land, that is at this point of time, then the land south of the high-tension ---

20

Q. No, don't say at this point of time. We are assuming that - making this qualified assumption. If one assumes, standing as at 1973, that if in the foreseeable future any part of the land is rezoned it will only be rezoned for urban use north of the TLE, then that being so on what basis would you, in 1973, value the land south? A. I valued it on the basis that it adjoined land which was proposed for urban development?

Q. But with no potential in the foreseeable future itself to be rezoned? A. I believed that it did have potential in the foreseeable future but that that potential was somewhat delayed, if we are acting on the assumption that the high tension easement forms the barrier to urban development at 1973, but at a later stage - and this is the way I approached it - at a later stage there would be two stages of development, one north of the easement, one south of the easement. So I would defer the area south of the easement as to its urban potential.

30

40

Q. Might I put this question to you? You have said you didn't contemplate there would be any - I withdraw that. Your assessment of the time lag as from August 1973 was that there was unlikely to be any rezoning of the subject land for 5 years but you thought it would occur before 10 years? A. I did, yes.

HIS HONOUR: This is on the basis of the whole lot though?

OFFICER: Yes, that is the question.

Q. Now assuming that there is to be - the only

50

THE LAND AND ENVIRONMENT COURT
PLAINTIFF'S EVIDENCE
NO. 2(x)
ALCORN Lawrence Lloyd
FURTHER CROSS-EXAMINATION

rezoning or the first rezoning of the subject land takes place within that time span ---

HIS HONOUR: Assuming it does.

OFFICER: Q. Assuming it does, and when it takes place, the TLE is the southern boundary of the rezoning, what would be a time span for any rezoning of the land south of the TLE? 10

HIS HONOUR: Q. Did you apply your mind to that, or ---
A. No I didn't really, no I didn't.

Q. You looked at the land as though the land north of the easement was going to be rezoned some time in the future for urban, and that the land south of it would then have the potential of being up against land that had then been zoned urban, what extra period of time did you attach to the southern land that it also might become urban? A. What I did was apply - I didn't attach any period of time. I applied an arbitrary factor. I looked at the difference in value of land zoned for release in the not too distant future, that is the Orchard Hills area, and I looked at lands that were zoned for further release, say, 15 years or so away, looked at those and took an arbitrary division between the two and said, well, it was - the area south of the high tension easement attracted some potential from the area north. I didn't place a time period on it. 20 30

OFFICER: Q. What value did you put on the land on these assumptions, the land south of the TLE? Could you tell me what page you are at if you are going to refer to it? A. No, these are - this is nothing that I have exchanged. I placed the sum of \$7,900 per acre south of the easement.

HIS HONOUR: Q. And what about north, while we are on it? A. \$9,500. Beneath the high tension easement \$7,125. 40

OFFICER: Q. \$7,900 south of the easement? A. Correct.

Q. Have you some workings there from which you deduce your \$7,900? A. Yes I have.

Q. Have you any sales from which you deduce it?
A. Yes.

Q. Could you tell me what they are? A. I basically look at the property at North St. Marys, the Berkshire Park property at 1,496 acres. An analysis of that projected forward to August 1973, bearing in mind that that property sold for a cash equivalent of \$3 million - 50

THE LAND AND ENVIRONMENT COURT
PLAINTIFF'S EVIDENCE
NO. 2(x)
ALCORN Lawrence Lloyd
FURTHER CROSS-EXAMINATION

in my opinion a cash equivalent of \$3,118,000; 32 per cent of it is subject to flood, adjoining a garbage dump, night soil depot and tannery, not very well located at all, I was of the view that that - that the subject land was at least worth that much in October of 1972 and I projected it forward to August 1973 but only as it applied to the area south of the easement.

10

Q. You started off with the 1,496 acres, for Lanham's Laundry land? A. Yes.

HIS HONOUR: For what?

OFFICER: Lanham's Laundry, they were the vendors in the first of these sales. A. This is the ASL one.

OFFICER: Q. What price did you deduce for the non flood land being part of the 1,496 acres, per acre?

A. I analysed the rate per acre at \$2,650.

20

Q. That's after excluding so much of that land as is subject to flooding or is that just a straight division of acres into price? A. No that's after allowing for the flood area.

Q. So that's usable land \$2,650? A. Yes what I was, I said that of the 32 per cent area, of the floodable area, 32 per cent of the area which is subject to flooding would attract a rate per acre less than the overall. It would attract a rate per acre of one third of the balance of the area. So there were 478 acres, 32 per cent represents 478 acres of the 1,496, I allowed one third of that area at full value. So that we have an equivalent area at full value of 1,177 acres divided into my cash equivalent, \$3,118,000, gives \$2,650 per acre.

30

OFFICER: Q. That is deduced from which of the three sales of this land? A. The latter.

Q. The last of the three? A. The last, yes.

Q. Then you adjust that \$2,650 for creep or escalation, do you? A. I firstly adjusted upwards because it is - at October because the subject property is more valuable than it.

40

Q. More desirable? A. And more valuable.

Q. Well you only know that when you have finished your exercise, don't you? However let's not get into that debate. What percentage did you - what percentage of the subject land better did you apply? A. I first projected the - my analysis \$2,650 per acre forward to October to August at 10 per cent per month, 10 months,

THE LAND AND ENVIRONMENT COURT
PLAINTIFF'S EVIDENCE
NO. 2(x)
ALCORN Lawrence Lloyd
FURTHER CROSS-EXAMINATION

that's 100 per cent. I then said that was \$5,300 per acre, and I said that the subject land south of the easement was worth \$6,300 per acre.

HIS HONOUR: Q. That's on the subject land? A. On the subject land, yes your Honour.

10

Q. How much of that is on the subject land? How much is south here, what's the area?

OFFICER: I think 555 your Honour, or ---

ALCORN: A. 555 acres, yes your Honour.

HIS HONOUR: 555.

OFFICER: Q. That escalation of \$1,000 on the \$5,300 to \$6,300 is for the higher quality, you say, of the subject land south of the easement? A. Yes it is all built in, yes, the difference between the subject land and the sale property at St. Marys. Firstly I don't believe the sale property at St. Marys would have escalated at 10 per cent per month but I believe that the subject area escalated at 10 per cent per month.

20

Q. Throughout per month or as from the date of the last of the St. Marys' sale - the last sale of the St. Marys' land? A. Yes. So first of all let's - we'll look - I did it in a reverse way. I started off with \$2,650 being the starting point for the subject locality south of the easement - the subject area south of the easement. I then escalated it at the rate that applied to the subject locality which was 10 per cent per month. I added \$1,000 to it and I got that figure, because I started from such a low figure.

30

Q. I see and that gave you \$6,300 per acre for the land south of the TLE? A. Yes.

Q. If you were valuing on the hypothesis I've been giving you of - that if and when any rezoning took place, the TLE would be the southern boundary of the first rezoning to occur? A. Yes.

Q. And that that rezoning would be somewhere between 5 and 10 years off standing as at 1973, then you would say on that assumption, land south of the TLE \$6,300 per acre? A. No, that's a starting point. \$6,300 per acre ---

40

Q. That's what you would - did you - so far as you deduced a value from the sale of the 1,496 acres, would you make any adjustment to the \$6,300 per acre? A. Yes because it would adjoin - it would then adjoin land with a - in a further potential, if I might call it that.

THE LAND AND ENVIRONMENT COURT
PLAINTIFF'S EVIDENCE
NO. 2(x)
ALCORN Lawrence Lloyd
FURTHER CROSS-EXAMINATION

Q. It would then adjoin land with imminent urban potential? It would then adjoin land north of the TLE?
A. Yes.

HIS HONOUR: Q. But why would that be land with imminent urban potential? A. Your Honour, we are discussing the matter that, in terms of urban development, 5 years is imminent, in land being available for urban development 5 years is imminent. I consider that a 5 year period ---

10

Q. Is what you meant by imminent? A. Yes.

OFFICER: Q. But the land north of the TLE you thought would be rezoned somewhere between 5 and 10. Might be 5, it might be 10, if you were right in your assessment that it would be rezoned. A. Yes.

Q. Then you wouldn't call land that might be rezoned in 10 years, you wouldn't call the rezoning imminent would you? A. I looked at it from the point of view - no.

20

Q. And you didn't pick a period between the 5 and 10 when you thought it would occur did you? You just said it will be somewhere between 5 and 10. A. Correct.

Q. So on this assumption the land south of the TLE might be adjoining land with imminence of rezoning if the rezoning happened in 5 years, and if the rezoning didn't happen for 10 years then the land south of the TLE would not be beside land with imminence of rezoning would it? A. No.

30

Q. Well why should you expect a person who was buying the land south of the TLE to pay a price which reflected that the land north would be rezoned in 5 years?
A. I didn't say that I ---

Q. I thought you said you had valued the land south of the TLE on the basis that it was land which would adjoin or which did adjoin land the rezoning of which was imminent? A. I said one could call it imminent. One could use that expression I think was what I said.

40

Q. Well but your definition of imminent is, 5 is imminent, 10 is not? A. Yes.

Q. Then did you put a value, this is all on the assumption that the TLE being the southern boundary, did you put a value on the land south of the TLE which reflected that it was beside land the urban rezoning of which was imminent? A. If I can rephrase the definition of imminent then under these circumstances, I would say ---

THE LAND AND ENVIRONMENT COURT
PLAINTIFF'S EVIDENCE
NO. 2(x)
ALCORN Lawrence Lloyd
FURTHER CROSS-EXAMINATION

Q. All that I put --- A. No, then, if you want me to say that. No.

Q. I see. Now I gather you want to change your definition of imminent, do you? A. I believe the land north of the high-tension easement was going to achieve a rezoning and redevelopment within 10 years. Rezoning and development. That is rezoning and development, and in terms of our definition that we started off with, rezoned and available. 10

Q. Yes, I'm sorry, rezoning and available for approval of a development application? A. Correct.

Q. You're not suggesting that in 10 years it would be rezoned and would be built on? A. No.

Q. Well now how - well you've explained that and we're not at issue on that, we've always understood each other by reason of what we defined at the beginning, that rezoning meant rezoning and release. Now do you want to - you do not want to alter your statement that for a rezoning release within 5 years that's imminent? 20
A. Rezoning ---

Q. And release. You still regard that as imminent would you? A. Rezoning, release, ready to go is absolutely imminent yes.

Q. Do you want to alter what you told me a few minutes ago that rezoning in 10 years' time was not imminent? A. Yes. 30

Q. Do you want to make 10 years imminent now? A. No.

Q. You don't want to alter - 10 years is not imminent? A. 10 years is not imminent in my opinion.

Q. Well we may have got our wires crossed at some point or other. I thought you wanted to alter your definition of imminence. A. The rezoning process, can I explain it please?

Q. Yes. A. The rezoning process is one of rezoning and then a series of development applications or at least a development control plan to be produced and it would then - development applications would be lodged and this wouldn't happen in one year. That is, in the fifth year it would not happen. It would take a number of years for that to build up. If we adopt a rezoning, that is the land is physically zoned via an interim development order, that interim development order as it has been in every other instance, would be subject to a development control plan. Now assuming that the development control plan was prepared for part 40 50

THE LAND AND ENVIRONMENT COURT
PLAINTIFF'S EVIDENCE
NO. 2(x)
ALCORN Lawrence Lloyd
FURTHER CROSS-EXAMINATION

of the area south of the freeway and that was what I said the other day, that I believed it would take place in an east to westerly direction, east-west direction. Then the area that was available for 5-year development, that is zoned and available for development within 5 years, is imminent, but the rest of the area would be part of the additional planning process, so I'm saying at 5 to 10 years, would be part of the overall process. So that to say that if land is available in 10 years' time to put houses on it, or put roads on it, is not imminent but as part of the planning process where it is coloured pink, it then does become - if it is coloured pink in 5 years' time, its rezoning to pink is imminent. 10

HIS HONOUR: Q. Could I ask some questions just before I adjourn, when you are attempting to put a value on this land on an assumption that when it is rezoned urban it will only be rezoned north of the transmission line, am I right in thinking that for the purpose of putting a value on the land south of the transmission line, you use the land north of the transmission line and then lower the price depending on the time which you think it will take for it to be incorporated into the urban zoning, is that --- A. What I did your Honour was I said the land north of the easement was \$9,500 a acre, land south of the easement \$6,300 a acre, difference \$3,200, take 50 per cent of that. And that was \$1,600. 20 30

Q. And the difference between \$6,300 and \$9,500, that must depend on how long you estimate, or someone would estimate it would take for the land south of the easement to become urban land after the land north of the easement became urban land, wouldn't it? A. I think it had a greater attraction because it was hard up against urban area, I don't think the market would necessarily have looked at how long they had 250 acres - sorry, they had the area north of the easement, 275 acres --- 40

Q. Yes I follow, and at the time they were looking at it none of it was --- A. In the time - that's right, none of it was zoned.

SHORT ADJOURNMENT

ON RESUMPTION

OFFICER: Q. Mr. Alcorn I'm a little confused about what is involved in your: not before 5, not later than 10 year. Am I right you do not expect that there would be any change in the status of the land at all for 5 years, zoning status? A. That was my assessment of the time, yes. 50

THE LAND AND ENVIRONMENT COURT
PLAINTIFF'S EVIDENCE
NO. 2(x)
ALCORN Lawrence Lloyd
FURTHER CROSS-EXAMINATION

Q. And you don't want to alter that at all? A. No.

Q. Then let us separate a rezoning from any other steps necessary before buildings are put up on it or it's subdivided. Let's take a rezoning alone. You anticipate that somewhere between 5 and 10 years SPA would approve of the Penrith Local Planning Scheme being extended to include lands at South Penrith including the subject land, and to their being zoned for urban use at some time? 10

HEMMINGS: He said an interim development order.

OFFICER: Q. I'm sorry, by interim development order, I beg your pardon. You assume that somewhere between 5 and 10 years there will be an interim development order showing this land as urban. Is that correct? A. Yes. 20

Q. That that would be the first step in the process of freeing it for urban development? A. Yes.

Q. And that would take place somewhere between 5 and 10 in your estimation?

HIS HONOUR: You're talking now about Mr. Alcorn looking at your view of the matter, or are you looking at the whole of the land back to where you ---

OFFICER: No, I'm asking him, he's standing on the subject land in 1973 --

HIS HONOUR: Yes but I understood, I just want it clear in my mind, I understood Mr. Alcorn's evidence in this instance to be that in his view a purchaser in 1973 would not look at this land as being half under the - or a third of it down to the easement and the rest later on. He took the whole land. And that that as I understood him, to take the 5 to 10 year period. Now you were asking about --- 30

OFFICER: I was asking him now because I said it became somewhat uncertain as to the evidence he has given in the last day or so as to what was going to occur within the 5 to 10 years. And I just wanted to settle that so that our, as it were, definitions are agreed. 40

HIS HONOUR: Yes, right. Well can I just ask this question before you do so I follow.

Q. Mr. Alcorn, when you applied your mind to an exercise with which I know you didn't agree, that is the north and the south bit, did you make the same assumptions about the release of the northern part of land as you had made about the release of the entire land in your original exercise? A. Yes.

THE LAND AND ENVIRONMENT COURT
PLAINTIFF'S EVIDENCE

NO. 2(x)

ALCORN Lawrence Lloyd
FURTHER CROSS-EXAMINATION

HIS HONOUR: All right, yes.

OFFICER: Q. So whatever be in relation to the subject land the extent of any rezoning, the first and critical steps, the IDO, would issue somewhere between 5 and 10 years? A. Yes.

10

Q. Now you said in relation, and on the hypothesis that the TLE may be the southern boundary of any such rezoning, that the land south of the easement would be adjoining land imminent for rezoning. A. I used the word imminent, yes.

Q. Yes but do you want to withdraw it or change ---

HIS HONOUR: Well imminent doesn't mean anything. He says imminent's 5 years, 10 years isn't imminent so, between 5 and 10 is something between imminent and not imminent, so a rose by any other name ---

20

OFFICER: Well provided the witness adheres to what your Honour just said he said this morning, that simplifies it.

ALCORN: That's it.

OFFICER: Q. I see. And you thought - was this your process - that having looked at other land such as the usable part of the 1,496 acres and deduced a value for them and escalated the time and escalated it for the quality of the land south of the easement, you then reached a figure and said: That is what would be paid for the land south of the easement in 1973. And in part you said: that's what would be paid for it, because it was land which in 1973 was adjoining, is this correct, land which - the release of which or rezoning of which you regarded as imminent? A. Would take place in the not too distant future, yes.

30

Q. That is to say it was adjoining the land which would be rezoned somewhere between 5 and 10 years hence? A. Yes.

Q. The subject land I am talking about. You said: I value the land south of the TLE at X-dollars because it is land which adjoins land - the adjoining land will be rezoned somewhere between 5 and 10 years hence? A. Yes.

40

Q. And the figure you - I withdraw that. You deduced from Lanham's Laundry land up to a certain stage in your process \$6,300 per acre for the land south of the TLE? A. Yes.

Q. Then you made some other adjustments to that figure? A. Yes.

50

THE LAND AND ENVIRONMENT COURT
PLAINTIFF'S EVIDENCE
NO. 2(x)
ALCORN Lawrence Lloyd
FURTHER CROSS-EXAMINATION

Q. You adjusted it up to \$7,900, I think, did you?
A. Yes.

Q. That adjustment was for what? A. The fact that it adjoined the land with potential, the land with urban potential. It was hard up against it. 10

Q. The land north of the TLE you thought had the potential for rezoning which you've described? And you then added \$1,600 per acre to the land south of the TLE for the fact that it was adjoining land with an urban potential? A. Yes.

Q. Land adjoining that with an urban potential only derives added value from that situation if the land you are looking at, namely, south of the easement, itself has some potential in part arising from its proximity to the land north that has the potential? A. I don't think I follow Mr. Officer. 20

Q. Sorry. Certainly if the land north of the TLE has potential for urbanisation, if Parliament passed an Act of Parliament - if Parliament passed an Act saying: The land south of the TLE at South Penrith is never to be rezoned. Under those circumstances you would not add the \$1,600 per acre which you do, would you?
A. Correct.

Q. It is only because you regard the land south of the TLE as itself, by reason of its proximity to the land north having some potential for rezoning that you add the \$1,600? A. Yes. 30

Q. What was the potential, how distant was the potential, for the rezoning in your view of the land south of the TLE, assuming that the transmission line had been selected as the southern boundary in the rezoning of the north to take place between 5 and 10 years? How far more distant was what you thought would be the rezoning of the southern land? A. I didn't really exercise my mind to that question. 40

Q. So is this a fair description? You said to yourself: The land north would in my view be rezoned within 5 to 10 years. The land to the south may not be rezoned for some indeterminate period after that but I would still advise a buyer to give this extra \$1,600 per acre for the chance that 11 or 20 years it might be - itself might be rezoned? A. Yes.

Q. That is purely an exercise in judgment unsupported by sales, is it? A. No.

Q. What are the sales to which you would refer?
A. The Jamison Road area which has not been 50

THE LAND AND ENVIRONMENT COURT
PLAINTIFF'S EVIDENCE
NO. 2(x)
ALCORN Lawrence Lloyd
FURTHER CROSS-EXAMINATION

designated for any form of urban potential, the general sales in Orchard Hills, the general sales in Terrace Drive.

Q. And you thought all of those lands so far as not zoned urban had no greater potential than perhaps 11 years, perhaps 20 years? A. Not all of them, no. 10

Q. Not all of them? A. No.

Q. Some had an earlier time of realisation of potential? A. Yes.

Q. Which had the earlier? A. Terrace Drive.

Q. How distant in your estimation would the rezoning of that be? A. It was designated within the Sydney Region Outline Plan for release between the years 1970 to 1980. As at 1973, no steps had been taken to allow its release and it was not in fact released until 1978, but in 1973, there were no services available to it, it just could not be developed. 20

Q. And Orchard Hills, what did you think was the period for rezoning of that? A. Orchard Hills was designated for release in the phasing plan between the period 1980 to 1990.

Q. Yes and the Jamison Road, there was no phasing at all, for the - I'm sorry, there was no phasing at all for either the urban or the non urban in Jamison Road? A. Correct. 30

Q. The Terrace Drive and Orchard Hills, I suggest, wouldn't be of much value, would they, in this particular exercise because they were already labelled as to be rezoned or to be released within a finite period?

A. They are of assistance in establishing - the Terrace Drive certainly is of assistance in establishing something towards the upper level of value that urban or proposed urban lands were bringing.

Q. Yes but they had already been labelled. It wasn't a matter of sometime in the future with regard to them, was it? A. It was a fairly indefinite period. 40

Q. What's indefinite about 1970 to 1980 or 1980 to 1990? A. With respect, 10 years.

Q. Yes but the limits at either end are indicated for release somewhere between 1970 and 1980 with regard to Terrace Drive?

HEMMINGS: Do you agree with this, or you don't.

OFFICER: Q. Well, both.

THE LAND AND ENVIRONMENT COURT
PLAINTIFF'S EVIDENCE
NO. 2(x)
ALCORN Lawrence Lloyd
FURTHER CROSS-EXAMINATION

HIS HONOUR: Q. Even if it was just rezoning, at least there was a definite period there, wasn't there, whereas under the subject land there is not even ---
A. Yes.

OFFICER: Q. In relation to your \$6,300 which you then escalated to \$7,900, for your base figure the \$6,300 or thereabouts, did you rely on any sales other than your deduction from the sale of the 1,496 acres? A. Yes. 10

Q. The ASL sale? A. Yes.

Q. The ASL in Jamison Road, is it, or which ASL?
A. The ASL at Berkshire Park, 1,496 acres.

Q. Yes, that's the sale which you dealt with and which suggested to you \$6,300 for the land south of the TLE on the subject land?

HIS HONOUR: Q. That's the land up here? A. Correct. 20

Q. Was that land vacant? Was that next to land that was to be rezoned in 10 to 20 years? A. No. Completely outside the - north of the Castlereagh Expressway, completely outside the Sydney Region Outline Plan - proposals. In fact, the Sydney Region Outline Plan makes comment about the whole Llandilo-Londonderry area as being unsuited to residential development.

OFFICER: Q. But in the exercise of - on the assumption of the southern boundary of any rezoning of the subject land being the TLE, in fixing a value for the land south of the TLE, did you rely upon any sale other than the sale to ASL of the 1,496 acres? A. Yes. 30

Q. Which? A. The sale noted - it is Valuer-General's sale No. 3, Vancer to Warrendi Pty. Limited.

Q. Just a moment. Which page is that? Is it in your report? A. Yes I think it is in - I think I've included it in my supplementary list of sales.

HIS HONOUR: Q. In your supplementary list? Which number? A. I am not quite certain yet.

Q. What are the names? A. Vancer to Warrendi Pty. Limited. I'm sorry, it is not included in my supplementary list, I'm sorry. 40

Q. No, it is not.

OFFICER: Q. Could you tell me again which ---
A. Vancer.

Q. In what way did you use that sale or first, what was that zoning? A. Non-urban.

THE LAND AND ENVIRONMENT COURT
PLAINTIFF'S EVIDENCE
NO. 2(x)
ALCORN Lawrence Lloyd
FURTHER CROSS-EXAMINATION

Q. And whereabouts on the map is it? A. Well it is - can I move the map?

HIS HONOUR: Yes, a new sale additional to the ASL sale for the purpose of getting this \$6,300.

OFFICER: Q. Is it north of the Castlereagh Expressway? A. No. 10

Q. So it is within the two expressways, within which land is phased by the SRDP? And this land was phased for release when? A. That particular sale?

Q. No, the land in this sale? A. It wasn't phased for release.

Q. I'm sorry. A. But it adjoined land which was.

Q. And adjoined land which was phased for release over - within which period? A. 1990 to 2000.

Q. And what use did you make of that sale? A. I compared it contour wise, and services, the availability with the subject land, and that is the subject land south of the easement, and the fact that it adjoined lands which had been allocated an urban potential in the future. 20

Q. And did you make any adjustment to the price per acre? A. It was a term sale, so I had to make adjustments to the - I did make some adjustments to the price - the analysis of that particular sale, yes.

Q. And what were they for? A. I analysed a sale which disclosed \$4,650 per acre. On a cash basis. 30

Q. And what use did you then make of that figure? A. I used it as a check against the figure which I'd applied on the subject land as at first the \$6,300 per acre, and then the \$7,900 per acre.

Q. You treated the - there was no question of escalating in relation to this sale, Vancer sale, was escalating time and place --- A. It really took place on the 10th of July 1973, so there was perhaps some escalation applicable, but I - in my overall adjustments I took the whole lot into account, yes, in my overall view. 40

Q. And what did you say to yourself, was this land of better quality - I'm sorry, was the land south of the transmission line of better quality than the Vancer land? A. Absolutely.

Q. And what adjustment did you make for that?

THE LAND AND ENVIRONMENT COURT
PLAINTIFF'S EVIDENCE
NO. 2(xi)
ALCORN Lawrence Lloyd
FURTHER RE-EXAMINATION

A. Well none really, it was after I'd arrived at my \$6,300, and then \$7,900 ultimately, I looked round to see what else might give me support. Firstly the Jamison Road area gave me support, and then the other areas which I spoke of such as Orchard Hills and Terrace Drive, established certain limits anyway, and I looked at this sale, and it analysed at \$4,650 per acre, it is in an area which the SROP does not consider a good living area, I think they used those words. It had no water available to it, or near it, at the date of sale. It is dead flat rock apple country, with pretty much bush gravel as its main topsoil, no views, no anything. It is 1.9 to 2 miles from the - north of the - it was at least, 1.9 to 2 miles north of the nearest urban development, as at 1973, so weighing all of those factors up, if they paid \$4,650 for that then \$7,900 was not unreasonable for the land south of the easement. 10 20

Q. Of course though the Vancer land was in land which - was land which the - is this correct, SROP had said was unsuitable for building? A. Yes. Well the general - they didn't describe the Vancer land precisely, but the general locality.

Q. Right, were there any other sales you looked at?
A. No.

Q. Thank you Mr. Alcorn. 30

HIS HONOUR: Yes.

FURTHER RE-EXAMINATION:

HEMMINGS: Q. So we can get it clear, Mr. Alcorn, carrying out the exercise that has been carried out by the valuers for the respondent, you valued 275 acres at \$9,500 an acre? A. Yes.

Q. Giving you \$2,612,500? A. Yes.

Q. 555 acres at \$7,900, giving you \$4,384,500. And 54 acres under the transmission easement at \$7,125?
A. Correct. 40

Q. That is \$384,750, giving \$7,381,500. \$384,750, and then to that you add your improvements of \$35,000?
A. Yes.

Q. And the abortive expenditure of \$42,431? A. Yes.

Q. Giving \$7,459,181? A. Yes.

Q. Now so far as potential for development is concerned, as a value are you looking to see whether the land has potential for urban development or whether the

THE LAND AND ENVIRONMENT COURT
PLAINTIFF'S EVIDENCE
NO. 2(xi)
ALCORN Lawrence Lloyd
FURTHER RE-EXAMINATION

marketplace reflects a potential for urban development?

A. Initially the marketplace, and secondly, whether the land, physically has the potential.

Q. And in your analysis of sales evidence can you find any trend in the marketplace, where land abuts or is very close to land with an urban potential? Do you understand the question? A. No, I don't think I do.

10

Q. If you have an urban area with non-urban land on the fringe, do you find any trend in relation to prices paid for land at the fringe of the urban development?

A. Yes it is, and the value paid for those areas is higher than one would expect it to achieve, just purely by its zoning.

Q. And is there any difference from your analysis of land the further you get away from the urban development?

20

A. Yes.

Q. In the two major sales that you've used, you've referred to the ASL land and the Vancer land? A. Yes.

Q. How far away would the ASL land be from urban development? A. Two thirds of a kilometre, perhaps more.

Q. That is close contact. And the Vancer land, how far did you say that would be from proposed urban development? A. It adjoined the proposed urban development.

30

Q. And how far from the nearest existing urban development? A. 1.9 to 2 miles.

Q. In your opinion if the subject land had an identifiable - on this assumption, an identifiable potential for release on and from the 5-year period, north of the transmission easement, would the marketplace reflect that in the value of the land south of the easement?

A. Yes.

Q. And you told his Honour that you checked your valuation of land south of the easement, that is \$7,900, with values deduced for other localities? A. Yes.

40

Q. And you mentioned the Jamison Road locality?

A. Yes.

Q. And what is the range of values in the Jamison Road locality, as at 1973? A. Without any adjustment for flood zoning - sorry, repair costs, filling, etcetera, \$9,000 at February 1973, and \$11,000 at July 1973.

Q. And you expressed the view earlier today that that

THE LAND AND ENVIRONMENT COURT
PLAINTIFF'S EVIDENCE
NO. 2(xi)
ALCORN Lawrence Lloyd
FURTHER RE-EXAMINATION

land had a good location with respect to urban development? A. I did.

Q. But poor prospects in your view as to its potential for rezoning? A. Yes.

Q. What sort of guidance then did you get so far as location was concerned, and rezoning potential, from the Jamison Road sales, as compared to the land south of the transmission easement? A. Well I believe that this is just purely the location of this property that gave it this value. The subject land is further removed, so again I suspect that my - at least I deduce that my value of \$7,900 per acre for the land south of the easement, which would be close by or adjoining potential urban land, was somewhat conservative when we looked at this flood-prone, very difficult to develop land, but nevertheless well located right next door to the main Penrith district centre.

10

20

Q. Thank you. The Orchard Hills and Terrace Drive areas of course show much higher values? A. They do.

Q. And they of course have an identifiable and much greater potential for urban rezoning? A. They have.

HEMMINGS: Yes thank you Mr. Alcorn.

DISCUSSION

SHORT ADJOURNMENT

THE LAND AND ENVIRONMENT COURT
PLAINTIFF'S EVIDENCE
NO. 2(xii)
ALCORN Lawrence Lloyd
FURTHER RE-EXAMINATION

LAWRENCE LLOYD ALCORN

(Under former oath)

FURTHER RE-EXAMINATION (CONTINUED)

GILES: Q. Mr. Alcorn may I first of all ask you about the Penrith Pastoral Company land. You yourself have not valued it as a separate parcel as it were in the course of your valuations, is that correct? A. That's correct. 10

Q. You've observed that the same thing has been done on the other side? A. Yes.

Q. However the other side give a discount for magnitude whereas you do not? A. Correct.

Q. Could you indicate to his Honour what in your view is the correct method of dealing with separate parcels of land where there is no discount for magnitude? 20

OFFICER: I object your Honour. I submit that the exchange statements make us aware that discount for magnitude would be claimed.

HIS HONOUR: Mm.

OFFICER: And therefore if there was to be a valuation put to meet that suggestion then I submit it should have been put in chief.

GILES: Your Honour can I stop my friend, I'm not leading up to that, I can understand an objection if I were.

HIS HONOUR: You're not putting to him - you're not trying to get a valuation --- 30

GILES: I'm not going to ask him to do a magnitude valuation or anything of that sort.

Q. Mr. Alcorn, if the best, or highest and best use of a parcel of land is to be developed or sold on its own, what in your view is the proper valuation practice as to valuing that land? A. Well the first principle of valuation is one of ascertaining the value based upon the land's highest and best use. I believe that the highest and best use of the Penrith Pastoral Company and the Tatmar Pastoral Company holdings is as a combined holding. I believe that they attract - that the Penrith Pastoral Company attracts higher value as a result of its combination with Tatmar. The Housing Commission has added the two properties together, then claimed that because it added them together it creates a larger parcel which results in a discount factor for size, therefore I don't really believe that that's the highest and best use approach to the valuation of the land. 40 50

THE LAND AND ENVIRONMENT COURT
PLAINTIFF'S EVIDENCE
NO. 2(xii)
ALCORN Lawrence Lloyd
FURTHER RE-EXAMINATION

Q. Yes, thank you. Now may I just tidy up one matter arising from Mr. Weir's evidence yesterday. Page 3.

HIS HONOUR: Q. Can I just get that last bit. You say Mr. Alcorn that the highest and best use of this land in your view is that it be sold as one -- A. One combined parcel, yes your Honour. 10

Q. And the criticism you offered then of the Housing Commission approach is that if in fact you have to keep discounting for size, well you're not - well you should take them as separate then, is that it? A. Yes, if one allows that a magnitude factor exists. Magnitude discount perhaps I should say.

GILES: Q. Now if you took - if you assumed that the value of land immediately available was \$5,200,000 and you assume that - or and you take a purchase price of \$3,304,600, if you are given various interest rates, can you calculate the period of years which that discount represents? A. Yes. 20

Q. Now could I suggest that you take 4 per cent.
A. 11.56 years.

Q. If you take 5 per cent?

HIS HONOUR: Wasn't this done? This wasn't done yesterday?

ELLIS: I think the 5 per cent was. 9.29. 30

GILES: I'm not sure it was on the transcript. It is --

OFFICER: The 5 per cent, not the 4.

GILES: No.

ALCORN: 9.29.

GILES: Q. And was 10 per cent given? A. No. 4.76.

Q. Could I then turn to - your Honour will recollect that Mr. Hilton prepared a handwritten document exhibit 2(e). Now Mr. Alcorn you've been asked to give some consideration to that.

HIS HONOUR: Just remind me again what it was. 40

GILES: This your Honour was an exercise based upon a release --

HIS HONOUR: Was this as a result of me asking?

THE LAND AND ENVIRONMENT COURT
PLAINTIFF'S EVIDENCE
NO. 2(xii)
ALCORN Lawrence Lloyd
FURTHER RE-EXAMINATION

GILES: Yes it was. Based upon an assumption that the land will be rezoned, and certain periods of time and certain interest rates.

HIS HONOUR: Yes I remember now.

GILES: Your Honour recollects that you're looking at urban potential, and you can do it either by looking at comparable sales of land phased for release at the relevant time or you can take presently available released land and discount it for the future, by a percentage. And Mr. Alcorn had given some evidence your Honour in chief about it, but may I first of all take him to his analysis of Mr. Hilton's discount factors.

10

Q. I think you've reduced some of your notes to writing Mr. Alcorn although they're not meant to be a complete report? A. Yes.

20

Q. And they in fact don't - what you've set out to do in these notes is to look at Mr. Hilton's basis rather than put your own basis, is that correct? A. Yes.

GILES: I tender that if your Honour pleases.

TENDERED, ADMITTED AND MARKED EXHIBIT AAZ -
MR. ALCORN'S SUMMARY

HIS HONOUR: This is really going to be in convenient written form the evidence you're proposing to lead?

GILES: Yes. It's just a summary your Honour of what I'm proposing.

30

HIS HONOUR: Mr. Alcorn's - is it response to exhibit 2(e), would that be right Mr. Alcorn?

ALCORN: That's it your Honour yes.

DISCUSSION

HIS HONOUR: Well is there any objection to this being tendered, Mr. Officer?

OFFICER: I'd prefer that - I don't mind it being - there are difficulties. I haven't been able to see the document, I therefore - I don't - until I have a copy I won't be able to follow what is being said.

40

HIS HONOUR: No, that's what I thought too, me either.

GILES: Well your Honour, I can do it in a fairly simple form I think, it is not a very complex task. I'm sure your Honour will understand.

THE LAND AND ENVIRONMENT COURT
PLAINTIFF'S EVIDENCE
NO. 2(xiii)
ALCORN Lawrence Lloyd
FURTHER RE-EXAMINATION

HIS HONOUR: You want to get away do you, I mean there's nothing else you can take Mr. Alcorn through and then come back to this when the photostat copy - I know that there's going to be a gap of 6 weeks or 8 weeks between now and then the address, but I'm really trying to keep up with it, it will be much easier for me to come back to this if I follow it as it goes. 10

GILES: Yes, your Honour, I think that all the things that I propose to ask Mr. Alcorn are related in one way or another to this document, but my learned friend, Mr. Hemmings, has a number of matters he wants to ask.

HIS HONOUR: Well could you do that, and when the document comes we can come back onto that.

HEMMINGS: Yes. I'll take Mr. Alcorn's evidence.

Q. Mr. Alcorn, during the evidence of the respondent council - the respondent Housing Commission, there was evidence as to the building records of the Penrith City Council? A. Yes, there was. 20

Q. And I think it was put to Mr. Hilton that his figures were wrong? A. That is correct.

Q. And do you have the figures which are the - you say are the correct figures for those years? A. I do.

Q. And what are those figures? A. The new buildings - and that was the figure I think that Mr. Hilton spoke about, rather than new cottage construction, I'm not quite sure of that. 30

HIS HONOUR: Q. But anyway the record will reveal that. A. Yes, the total new buildings, including Housing Commission constructions, etcetera, and other buildings, was 1971, 3,322, 1972 was 3,700, 1973 was, 3,719 and 1974 was 2,713.

Q. And they are total new buildings in the municipality? A. They are described, your Honour, in the Merrill Reports, for each of those calendar years, as being new dwellings, Housing Commission dwellings, and other buildings. 40

Q. Wait a minute, equals new dwellings, Housing Commission dwellings, and? A. Other buildings.

Q. And what is meant by other buildings? A. Flat structures, shop structures, factories, that sort of - perhaps garages.

Q. Yes, thank you. Just remind me, what were Mr. Hilton's figures there, Mr. Alcorn do you remember

THE LAND AND ENVIRONMENT COURT
PLAINTIFF'S EVIDENCE
NO. 2(xiii)
ALCORN Lawrence Lloyd
FURTHER RE-EXAMINATION

what Mr. Hilton said --- A. Yes I do, Mr. Hilton relied upon the new dwellings which are separately identified in the Merrill reports, the figures for new dwellings, which he said in 1971 were 1,775, and the Merrill reports agree with that, he said in 1972 they were 2,022, and the Merrill reports agree with that. He said in 1973 there were 1,057, and that where the Merrill reports disagree, in 1973 the new dwellings were 1,442, he had in fact given the 1974 figure as the 1973 figure. 10

Q. Yes, I see, and also he was only referring to new dwellings, not flats or Housing Commission or other buildings? A. That was the break-up in the Merrill reports, yes, your Honour.

HEMMINGS: Q. Now the second point to do with the interest rates do you have the Bank of New South Wales report for 1973 and 1974? A. I have in front of me copies of those, the relevant parts of those. 20

Q. Do they show the maximum borrowing rates during those years? A. They do.

Q. And from March 1972 to September 1973, was the maximum borrowing rate from 7 3/4 per cent? A. It was.

OFFICER: Q. The bank's maximum, or whose maximum? A. Yes, Bank of New South Wales, Trading Bank overdrafts, maximum. 30

HIS HONOUR: 7½ per cent?

HEMMINGS: 7 3/4 per cent. And now it is 1972 to September 1973.

HIS HONOUR: Q. And this is overdraft, is it? A. Yes, your Honour.

HEMMINGS: Q. And from September 1973, was there an increase? A. There was.

Q. And did that increase from September 1973 to August 1974 - was the maximum borrowing rate raised to 9½ per cent? A. It was. 40

HIS HONOUR: Still only 9½ per cent was it, in August 1974?

HEMMINGS: At that time.

ALCORN: A. In 1976 it rose dramatically to well over 11 per cent.

HEMMINGS: Q. Was there a debenture rate referred to

THE LAND AND ENVIRONMENT COURT
PLAINTIFF'S EVIDENCE
NO. 2(xiii)
ALCORN Lawrence Lloyd
FURTHER RE-EXAMINATION

in the report for 1973? A. Yes, the report states the debenture stock issues by the Wales Properties Limited during the year, and it quotes the interest rate, the debenture stocks secured by 1st floating charge over the assets of a company as being 5-year term, 6¼ per cent, 10 6-year term 7 per cent ---

HIS HONOUR: Q. 6¼ per cent, 5 years. A. 5 years, 6.25 per cent. 6 years, 7 per cent, 10 years, 7¼ per cent.

HEMMINGS: Q. Now Mr. Hyam referred to pronouncements or announcements in connection with the budget policies, from your examination of those figures, was there any obvious or noticeable effect upon interest rates at that time? A. No, in fact the bank's report indicates that the budgetary policies didn't grip until some time in September and late 1973, and it really started, and in the 1974 report they indicate that the policy has really gripped in about the early part of 1974. 20

OFFICER: When he is finished with those reports could we ---

HEMMINGS: Yes, we'll certainly make them available, we'll tender them if required, I'll make them available to my learned friend, and we will tender them if he would like us to do so.

Q. Now if there are what might be called borrowers of substance in the marketplace, that is large institutions, in 1973, what type of money could they obtain in the marketplace? A. Well the indications are that they could obtain the most attractive interest rates at the time, and there are two examples of that I believe, in the contracts which are before this court, namely the Leagues Club contract, a multi-million dollar - or in excess of a million dollars. 30

Q. Is that the Jamison Road Leagues Club purchase?
A. Yes that is. 40

Q. And the documents are in court relating to the finance arrangements.

HIS HONOUR: You just might tell me what that is, that is ---

HEMMINGS: Q. What was the rate of interest?

HIS HONOUR: Q. It was a million dollars was it, borrowed? A. \$1,960,000 - sorry, the purchase price, it was in excess of a million dollars.

Q. And interest rate? A. The interest rate quoted

THE LAND AND ENVIRONMENT COURT
PLAINTIFF'S EVIDENCE
NO. 2(xiii)
ALCORN Lawrence Lloyd
FURTHER RE-EXAMINATION

in the contract, in fact the sale was contingent upon the purchaser being able to obtain finance, and it is a special condition in the contract, at the rate of 9½ per cent, and ---

Q. What is the date of that? A. July 1973, and in fact my firm was involved in the assistance in the securing of that mortgage, by the Commonwealth Bank, and I understand that it was certainly not greater than 9½ per cent. 10

HEMMINGS: Q. And was that obtained in the marketplace?
A. Yes it was obtained in the marketplace.

HIS HONOUR: Q. And what was the other one, I think you mentioned ---

HEMMINGS: Q. And Cambridge Credit? A. Yes, Cambridge Credit's contract. 20

Q. Is that the St. Clair --- A. The St. Clair property. It lists the interest rate - I wonder was it 9 or 9½ per cent in the contract.

HIS HONOUR: Q. Anyway, that contract is in evidence.
A. In the evidence, but the point being that both the vendor and purchaser were finance companies, and that if ---

Q. What is the date of that, just roughly, the Cambridge Credit one?

HEMMINGS: The contracts were signed in February 1973. 30

HIS HONOUR: Q. At about 9 per cent you think? A. It was 9 or 9½ your Honour, I'll just have to refresh my memory by looking at the contract.

Q. I'll put a note here, see exhibit. A. I'm almost certain it was 9½. Yes, it was 9½, the 10 per cent being the penalty rate upon late payment. Both vendor and purchaser being finance companies, and I originally prepared the report to assist the Gas Company in selling the property by tender, and I used in those calculations 9 per cent, which - that valuation was prepared early in - sorry, late in 1972. 40

HEMMINGS: Q. Well I'll take you through the details, I'll do that right now. The Goodacre purchase of the St. Clair property was in fact a contract signed in February of 1973, after the calling of tenders?
A. It was.

Q. That is the February 1973 sale? It was in fact for the calling of tenders? A. The formalisation of the tender that had been accepted.

THE LAND AND ENVIRONMENT COURT
PLAINTIFF'S EVIDENCE
NO. 2(xiii)
ALCORN Lawrence Lloyd
FURTHER RE-EXAMINATION

Q. And did you in fact advise and prepare the tender on behalf of the successful tenderer? A. No.

Q. Who did? A. I don't know, I assume the purchaser.

Q. Yes, what part did you play in that particular transaction? A. I prepared a market value of the property on behalf of Goodacre or the Australian Gas Light Company, Goodacre Developments Pty. Limited, as at December of 1972, and my instructions were to prepare purely a market valuation of the property. And on the understanding that they were going to put the property up for sale, when I was originally instructed I didn't know it was for tender, I later found out that it was in fact for tender and they had invited a number of parties to tender for it. 10

HEMMINGS: Q. Can you give the names of some of the tenderers for that particular acquisition? A. Yes, well I don't know them all, but I do know that Parkes Developments were a tenderer, I know that ASL were a tenderer, I'm almost certain - perhaps I had better be certain, but it is my belief that Silverton were a tenderer, and it is also my belief that Home Units were a tenderer. 20

Q. Was the tender formally accepted in writing, namely, the offer was actually accepted in writing in 1972, late 1972? A. It was. 30

Q. And was the contract which is dated February 1973, the execution of the agreement that had been entered into in 1972 - at the end of 1972? A. The 1972 acceptance - the offer and acceptance spelt out the terms and they were formalised in February.

Q. Now in your assessment of the market value, did you take into account betterment tax? A. I did.

Q. And what was your valuation of the property which - on behalf of your clients, in that particular sale?

OFFICER: I object. 40

HIS HONOUR: Yes, why, Mr. Officer?

OFFICER: We are now going back to a valuation made by this witness for the purpose of advising a party. Then it was put out to tender, and we don't for example know whether the tender which was accepted was higher or lower. We don't know when the valuation was made. We know that - it said the tender was accepted late in 1973. If your Honour is offered a - what is said to be a comparable sale, what does it matter than X prior to that sale made a valuation? That mere fact. 50

THE LAND AND ENVIRONMENT COURT
PLAINTIFF'S EVIDENCE
NO. 2(xiii)
ALCORN Lawrence Lloyd
FURTHER RE-EXAMINATION

HIS HONOUR: Yes, how does that help me?

WEIR: Mr. Weir said, in his opinion, the parties - the purchaser was imprudent in purchasing the Goodacre property. Mr. Alcorn ---

HIS HONOUR: He might say the same thing --- 10

HEMMINGS: He was acting on behalf of the vendor, fixed the reserve, and he fixed the reserve if he is allowed to say so, which was a market valuation plus betterment tax.

HIS HONOUR: I think I will allow it but he's not really - it doesn't go really to the value of Cambridge Credit, Mr. Officer, but that's what Mr. Weir did say yesterday. Why therefore - I wondered really whether he's allowed to express the view as to whether the - someone was prudent or imprudent but he has done it, so why shouldn't I receive information that will bear on that matter, if it does? I will allow the question, unless you want to say anything further? 20

OFFICER: No.

HIS HONOUR: Yes.

HEMMINGS: Q. The tender letter did state that the purchaser was required to pay betterment tax, did it not? A. It did.

Q. Did you prepare a market value for Goodacre?
A. I did. 30

Q. Was that in the sum of \$7,475,000 plus betterment tax? A. It was.

HIS HONOUR: And what date?

HEMMINGS: I was just coming to that your Honour.

Q. Your instructions were received ---

HIS HONOUR: \$7 million?

HEMMINGS: \$7,475,000 plus betterment tax.

Q. Was your value issued on 18th December, 1972?
A. It was.

Q. Was that figure to be the reserve price for the tenders that were invited? A. As I understand it, yes. 40

Q. Was there an acceptance of the tender that became the contract in February of 1973 accepted in December

THE LAND AND ENVIRONMENT COURT
PLAINTIFF'S EVIDENCE
NO. 2(xiii)
ALCORN Lawrence Lloyd
FURTHER RE-EXAMINATION

of 1972? A. It was accepted on 22nd December, 1972.

HIS HONOUR: And what was that, as a matter of interest?

HEMMINGS: The price, your Honour?

HIS HONOUR: Yes. I mean, I know it is in the document
but ---

10

ALCORN: A. Yes, \$7,485,720 - sorry 845,000. No,
that's not sorry, there has been a misprint on mine.

HIS HONOUR: Q. In December, after - is that right?
A. Yes. \$7,485,720 plus betterment tax. A special
condition in the contract notes that - as well, notes
that the purchaser - acknowledges that betterment tax
is payable, not maybe or ---

HEMMINGS: Q. Well there was a formal acceptance in
writing of that tender? A. Yes there was.

Q. And it was subject to a written contract, or
formal contract? A. Yes.

20

Q. Then after the Christmas period, was the contract
then entered into in February of 1973? A. It was.

HIS HONOUR: That's when betterment tax came off,
didn't it?

HEMMINGS: In February, yes, I think ---

HIS HONOUR: Were the contracts exchanged before
betterment tax ---

HEMMINGS: On the day, was it not?

HIS HONOUR: On the day, well, what happened to that then?

30

HEMMINGS: There was then litigation between the
parties as to whether or not it should be payable. Mr.
Alcorn's evidence is, your Honour, that as far as the
parties were concerned when they entered into the
contract ---

HIS HONOUR: I understand that, I am just wondering
just for my own interest what happened.

ALCORN: Could I explain?

HEMMINGS: Q. I don't know. What did happen, Mr.
Alcorn? A. Goodacre Development had undertaken to
object to the base date valuation in October of 1972.

40

Q. That would go to the quantum of the betterment

THE LAND AND ENVIRONMENT COURT
PLAINTIFF'S EVIDENCE
NO. 2(xiv)
ALCORN Lawrence Lloyd
FURTHER RE-EXAMINATION

tax? A. That's - that would assist in establishing the quantum of betterment tax, then Goodacre Developments agreed to continue with that action and I was involved in that action before Mr. Justice Else-Mitchell. We went to Court in January, we went to Court in February, we went to Court in March and we finally finished in June and it was decided that we didn't have to pay the betterment tax. 10

HIS HONOUR: Q. Because? A. Because of the relief of the obligation on the precise date of contract, as I understand it.

HEMMINGS: Q. But when you went to Court in January, that was for the purpose of establishing the actual value of the ---

HIS HONOUR: Well they haven't taken it --- 20

Q. It wasn't announced was it? A. No.

Q. No, it came off quite suddenly.

HEMMINGS: This might be a convenient time for Mr. Giles to resume that ---

HIS HONOUR: You have finished that topic then, have you?

HEMMINGS: That finishes this part, yes.

HIS HONOUR: Yes Mr. Giles.

GILES: Thank you your Honour, we have copies available now, of the document. 30

HIS HONOUR: I will mark that exhibit - I think I have given it a marking actually, AAZ it will have to be. Yes, I've given it a ---

GILES: Your Honour might like to have at hand K2 which is a schedule of rates. It is a schedule of rates per acre.

HIS HONOUR: This one?

GILES: That's the one your Honour, yes. Does your Honour have AAZ there?

HIS HONOUR: Yes. I had better use exhibit 2(e). Yes. 40

GILES: Q. What you have done Mr. Alcorn is to adopt Mr. Hilton's approach in essence? A. Yes.

Q. Just for the purpose of commenting on his approach, is that correct? A. Yes.

THE LAND AND ENVIRONMENT COURT
PLAINTIFF'S EVIDENCE
NO. 2(xiv)
ALCORN Lawrence Lloyd
FURTHER RE-EXAMINATION

Q. First of all, he took the Goodacre sale of which - which you have just been discussing as the basis of his analysis in the handwritten document? A. Yes, correct.

Q. You make adjustments to that figure which you set out in paragraph (c), (d) and (e), is that right? 10

A. I make adjustments in paragraphs (d) and (e) and I apply Hilton's exact - Mr. Hilton's exact figures in (c).

Q. May I first of all draw your attention to the discount factor of 10 per cent per annum compound which you have taken for the purpose of analysis in this exercise? A. Yes.

Q. I think that your earlier evidence in the case is that 4 to 4½ per cent is the compound interest figure which you derived as being appropriate for the sales? A. The market indicator for the sales. 20

Q. The market indicator, yes. Just to help his Honour on that point, that of course is below the then current interest rates? A. Yes.

Q. And is the explanation for that that land ---

A. Excuse me, could I just rephrase that? I said yes. I automatically turned my mind to overdraft interest rates etc. but if one looks at debenture rates for example, it is substantially lower. If one looks at the Savings Bank to illustrate, that might have been applicable at that time, it would have been higher. 30

Q. Yes right. I'm sorry, I probably misled you by asking you a general question. But do you draw attention to the fact that land appreciates just as inflation rises? A. Yes it does.

Q. At times it may be ahead of inflation, at times it may be below inflation, but it certainly does rise with inflation? A. There are times it increases very rapidly, there are times it slows down and there are times it might remain stable, relatively stable, for a period of time. Land seldom reduces in value over any given decade. 40

Q. And if you take a graph, it will be rising at a --- A. That is so.

Q. Thus you can't simply adopt current interest rates on commercial borrowings? A. No.

Q. And discount by that factor? A. I wouldn't do it that way, no.

Q. Indeed your evidence is that the market doesn't

THE LAND AND ENVIRONMENT COURT
PLAINTIFF'S EVIDENCE
NO. 2(xiv)
ALCORN Lawrence Lloyd
FURTHER RE-EXAMINATION

do it that way? A. Correct.

Q. Perhaps your Honour I may get Mr. Alcorn in due course just to prepare a sheet showing the 4 per cent discount ---

HIS HONOUR: Yes it might be - but anyway, at the moment he has picked 10. 10

GILES: As long as your Honour understand - he's gone along ---

HIS HONOUR: He's taken Mr. Hilton's figure, yes.

GILES: Q. Then you have adjusted for betterment tax and you've explained that a few moments ago? A. I have.

Q. You've taken the real sale date which you have also explained? A. Yes.

Q. And you then applied Mr. Hilton's escalation of 8 per cent per month? A. Yes. 20

Q. And that arrives at \$26,500 per acre? A. Yes. Well, I have actually adopted two ---

Q. Sorry, and the superiority factors. A. The superiority factors.

Q. Yes.

HIS HONOUR: Wait a minute.

Q. Would you say it comes to \$26,000 ---
A. \$26,500 per acre.

GILES: At the end of (c) your Honour. When it is made comparable with the subject land. 30

HIS HONOUR: I'm sorry, I have missed this. You say it comes at the end of (c)?

GILES: Did I say (c)? I meant (e).

HIS HONOUR: I've got it now.

GILES: And the factor I haven't drawn your Honour's attention to so far is the superiority factor which is in (c). Mr. Hilton himself allows 10 per cent, not higher than 15 per cent.

HIS HONOUR: Yes.

GILES: I haven't got the reference to Mr. Hilton's evidence at that point your Honour, but --- 40

THE LAND AND ENVIRONMENT COURT
PLAINTIFF'S EVIDENCE
NO. 2(xiv)
ALCORN Lawrence Lloyd
FURTHER RE-EXAMINATION

ALCORN: It is on the last page of this statement.

HIS HONOUR: Yes I am just turning it up.

GILES: It's 10 per cent but not higher than 15 per cent.

HIS HONOUR: Re quality, is this it? Percentages re
quality are agreed 10 per cent better but no higher
than 15 per cent. 10

Q. And you've picked 15 per cent.

GILES: 15.

HIS HONOUR: Okay.

ALCORN: A. No I haven't. I have picked 15 and 10 per
cent. You see that ---

GILES: Q. And then you take the median of the two?

HIS HONOUR: That's why - I was wondering why you got
26½ - 26 and 27.

GILES: So your Honour sees the process. Add better-
ment tax, add superiority at the two rates, escalate
the time and then you average the two. 20

Q. Then you test that by looking at the market,
Mr. Alcorn? A. Yes.

Q. And you draw attention to the fact that at least
the residential portion of the Leagues Club land was
valued by Mr. Hilton at \$25,000 per acre and Mr. Hardy
at \$30,000 per acre? A. Yes.

Q. Your analysis of sales did not support a figure
of quite as high as that, I think? A. It didn't no,
not quite as high as \$30,000. 30

Q. Then you come on page 3 to the discount factors
and for the reasons explained - well perhaps I -

HIS HONOUR: These are the rezoning in various periods,
I believe?

GILES: Yes.

Q. What you have done is to take your present value
of \$26,500 in 3 years at his 10 per cent figure?

A. Yes.

Q. And that arrives at \$19,900? A. Correct. 40

HIS HONOUR: Q. You take 4 per cent. Is this the one

THE LAND AND ENVIRONMENT COURT
PLAINTIFF'S EVIDENCE
NO. 2(xiv)
ALCORN Lawrence Lloyd
FURTHER RE-EXAMINATION

that you put 4 per cent on? A. Yes your Honour, but I would ---

Q. But you are picking Mr. Hilton's figure? A. Yes.

GILES: Q. And your starting point is 4 per cent?
The starting point is a little different too I think.

10

A. The starting point is different.

Q. However you are taking that as an assumption?

HIS HONOUR: Yes I appreciate that.

GILES: Q. The Terrace Drive - then you have arrived at a figure, then you have sought to have some check against that by looking at what the market was paying?

A. Yes.

Q. So far as 3 year release land is concerned and indeed 5 year release land, your check is Terrace Drive?

A. Yes.

20

Q. You are not suggesting that it - which is K2(ii) - \$19,500 to \$20,000 phased for release during 1970 to 1980? A. Yes.

Q. It had not been released in 1973 although it was declared for early release? A. Yes.

Q. And in truth it wasn't released until 1978?

A. Correct.

Q. So that you put that as some check against the figures that are thrown up by this calculation? A. Yes.

Q. Now if that were looked at as a 5-year release which is in fact the way it turned out, using Mr. Hilton's calculations you'd arrive at a figure below what the market is paying? A. Yes.

30

Q. And that would be an indicator that his discount rate was too high? A. Percentage factor is too high.

Q. Yes. So far as 7-year release is concerned, the mathematics again is simple enough, you arrive at \$13,600. You've then got the problem of finding something to check it against. A. Yes.

Q. And Orchard Hills, North Orchard Hills was phased for release 1980 to 1990 and that was (iii) in your exhibit K2. A. Yes.

40

Q. Therefore it was 7 to 17 years away from release in 1973. A. Correct.

Q. And it would thus indicate again that Mr. Hilton's -

THE LAND AND ENVIRONMENT COURT
PLAINTIFF'S EVIDENCE
NO. 2(xiv)
ALCORN Lawrence Lloyd
FURTHER RE-EXAMINATION

the figure arrived at in Mr. Hilton's calculations is too low, because Orchard Hills would be - you'd have to take a median of that --- A. Yes.

Q. The figure arrived at in this calculation under (iii) here is assuming that the land would be released precisely on the 1st of January 1980, which is not - the market wouldn't make that assumption. A. Yes. 10

Q. And then a 9-year release period, we have a mathematical result of \$11,250 per acre, and again the Orchard Hills figures would show that to be on the low side. A. Yes.

Q. 12-year release we have \$8,450 and of course in a sense you've been fairly favourable to the other side here because one could say that Orchard Hills, North Orchard Hills was again the best comparable for 12 years. A. Well I believe that 12 years was the expected release date, at that time, if it was going to be released. 20

Q. Yes. But in truth the best check for No. 5 really is North Orchard Hills. A. Yes.

Q. And that would show up the mathematical calculation from Mr. Hilton as being --- A. The 10 per cent factor as being too high.

Q. Yes. And the Colony Town purchase was phased for release 1985 to 1995, that's hardly something you can check before you release 5 really but you do point to that --- A. It's an indication. 30

Q. It's some indication. You have some reservations about using the Colony Town purchase for that purpose I think have you? A. I do because of its sales history, it originally was sold to Stocks and Holdings who purchased it back, who then - I'm sorry, let me start again. Stocks and Holdings purchased in 1968, they sold to Galotta in 1971 and then Stocks and Holdings bought back from Galotta in 1973. I've checked with Stocks and Holdings and I've checked with the vendor Galotta, and then Mr. Galotta as I understand it from my enquiry was in some sort of financial difficulty at the time. Yes. 40

Q. You've taken the 4 per cent figures, is that something you can do? A. Actually I think - I did agree to 4 per cent, I thought you were going to say 4 to 4½, in fact I think ---

Q. No 4½ I think was your figure? A. It'd be 4½ yes.

Q. Is that a straight line figure Mr. Alcorn 50

THE LAND AND ENVIRONMENT COURT
PLAINTIFF'S EVIDENCE
NO. 2(xiv)
ALCORN Lawrence Lloyd
FURTHER RE-EXAMINATION

necessarily or --- A. Well it's the present value discount figure which I calculate here this day, given those factors there.

Q. Well can we just write them in, or would you prefer just to have some time to do it? A. I would prefer a little time to do it but just let me check briefly if I may. 10

Q. Yes. For instance looking at a 12-year release date. A. Yes, a 12-year release date using 4½ per cent and assuming a future value factor of \$26,500 per acre, the answer deferred 12 years is \$15,600 per acre.

Q. Yes. And what's the 9 years? In fact Mr. Alcorn just to stop you there, that's - yes I see.

HIS HONOUR: Well perhaps he could do this in the morning tea when we - if you want to run back up the line. What was Mr. - can you just tell me what was Mr. Hilton's figure equivalent of \$26,500 or he didn't have that? 20

GILES: Yes \$12,174 your Honour.

HIS HONOUR: And that appears at page?

GILES: One.

HIS HONOUR: Yes, but I thought that was already ---

GILES: Sorry, he doesn't give the \$26,000 ---

HIS HONOUR: No he doesn't, you see he gives the \$12,174 and indeed Mr. ---

GILES: And then he adjusts for quality. 30

HIS HONOUR: Yes.

OFFICER: But his \$12,174 is not comparable with Mr. Alcorn's \$26,500.

HIS HONOUR: No Mr. Alcorn takes that. No, that's before Betterment Tax if you're going to use it, it's before superiority. I'm just wondering ---

GILES: But mathematically ---

HIS HONOUR: Where does he do it?

GILES: Your Honour sees adjustment for quality?

HIS HONOUR: Yes. 40

GILES: And the various extensions of interest rates.

THE LAND AND ENVIRONMENT COURT
PLAINTIFF'S EVIDENCE
NO. 2(xiv)
ALCORN Lawrence Lloyd
FURTHER RE-EXAMINATION

HIS HONOUR: Yes.

GILES: He's got to have a starting point your Honour to have a realistic exercise.

HIS HONOUR: I'm just wondering where he came to this figure of \$26,500 though. Is it \$16,380? 10

GILES: Mr. Alcorn knows that. He's got some combination there your Honour has he not?

HIS HONOUR: Yes, 10, 12.

GILES: Yes.

HIS HONOUR: That's the escalated figure isn't it, the \$16,380?

GILES: The ones in brackets your Honour are escalated for creep and for superiority, only for 7 months and not for Betterment Tax.

Q. Am I right Mr. Alcorn? A. You're right. 20

HIS HONOUR: I see.

GILES: Does your Honour see that, the bracketed figures?

HIS HONOUR: Yes.

GILES: The highest they reach is ---

HIS HONOUR: Well why doesn't he give 20 per cent for better quality, I thought he said he wouldn't - couldn't get it higher than ---

GILES: The resolvable debt's in favour of us your Honour. 30

OFFICER: No your Honour, he said well I've been asked to do an exercise, well I'll do it and I'll put in various qualities because witnesses may have different views.

HIS HONOUR: Thank you.

OFFICER: My view is, as he said, and that's why he put in the percentages - interest percentages of 10, 12 and 15.

HIS HONOUR: And is Betterment Tax taken into this ---

OFFICER: No your Honour. 40

THE LAND AND ENVIRONMENT COURT
PLAINTIFF'S EVIDENCE
NO. 2(xiv)
ALCORN Lawrence Lloyd
FURTHER RE-EXAMINATION

GILES: And your Honour creep is from the actual contract date not from the tender date. Tender acceptance.

HIS HONOUR: Well so it is a comparable figure to yours - the - the 26 in so far as our - is \$16,000 is it?

GILES: Well that's the closest one. Plus Betterment Tax plus some extra time. 10

HIS HONOUR: Yes.

OFFICER: The closest you would get to Mr. Alcorn's \$26,000 would be ---

GILES. Well it's - sorry, you go on.

OFFICER: I'll relevelate it to his Honour in February.

HIS HONOUR: Well I'd like to know now so I can follow this, that's all, what you're saying.

GILES: It's a 3-year period.

HIS HONOUR: I know it's a 3-year period. 20

GILES: So you've got to take - adjust \$16,380 upwards to a present value figure. Am I right? Page 1.

HIS HONOUR: You start don't you at ---

GILES: At nil.

HIS HONOUR: Nil?

GILES: Yes. Now you would need to adjust \$16,380 assuming that that is a figure 3 years on, and you've got a 10 per cent figure ---

HIS HONOUR: Well you get \$19,900. So that's your ---

GILES: Do you? 30

HIS HONOUR: Well because he's done that on page 3 hasn't he?

GILES: Oh it's on the \$26,000, sorry.

HIS HONOUR: No ---

GILES: Anyway can we do that your Honour?

HIS HONOUR: Yes.

GILES: Q. Can you assume Mr. Alcorn that the figure of \$16,380 is a 3-year discount figure at 10 per cent?

THE LAND AND ENVIRONMENT COURT
PLAINTIFF'S EVIDENCE
NO. 2(xiv)
ALCORN Lawrence Lloyd
FURTHER RE-EXAMINATION

3-year deferment at 10 per cent? Could you tell me what the nil value is? A. Yes. \$21,801. \$21,800.

Q. Thank you. And that doesn't take into account Betterment Tax? A. Betterment Tax or creep beyond December to February.

10

Q. Yes.

HIS HONOUR: Thank you, I follow that yes.

GILES: Q. All right. Now - well 9 years, this is going back up the page Mr. Alcorn ---

HIS HONOUR: Oh this is going through the - you mean taking him back on this 4 per cent?

GILES: Well he's going to do that in the adjournment.

HIS HONOUR: Is that what you ---

GILES: Yes your Honour that's the point I'm ----

HIS HONOUR: All right, well it might be a convenient time to adjourn now.

20

SHORT ADJOURNMENT

ON RESUMPTION

GILES: Q. Mr. Alcorn if I could ask you to perhaps go down from No. 1 of Mr. Hilton's report, applying a 4½ per cent figure it's \$23,200, is that correct?
A. Yes.

Q. On the starting point of \$26,500. A. Yes.

Q. A starting point of \$24,000 would give a figure of \$21,000, is that correct? A. Yes.

30

HIS HONOUR: I'm sorry, start again.

GILES: 4½ per cent will give \$23,200.

OFFICER: In lieu of what?

GILES: In lieu of \$19,900.

HIS HONOUR: So you're going that way?

GILES: Yes your Honour, I'm going down.

HIS HONOUR: 4½ per cent you say?

GILES: 4½ per cent would give \$23,200.

THE LAND AND ENVIRONMENT COURT
PLAINTIFF'S EVIDENCE
NO. 2(xiv)
ALCORN Lawrence Lloyd
FURTHER RE-EXAMINATION

HIS HONOUR: Yes.

GILES: Would your Honour in brackets put - or perhaps at the left-hand margin if I could suggest, starting point \$24,000 instead of \$26,500.

HIS HONOUR: Why do you pick \$24,000?

10

GILES: Because Mr. Alcorn in his schedule of rates per acre zoned urban, put the figure of \$21,000 on \$24,000.

HIS HONOUR: Right.

GILES: Q. \$24,000 starting point gives you \$21,000, is that right Mr. Alcorn? A. Yes.

Q. And then paragraph 2, in lieu of \$16,450, \$21,200. At the left hand margin or in brackets \$19,200. No.

3 ---

HIS HONOUR: Look I am sorry. What's the \$19,200?

GILES: That's on the starting from \$24,000 your Honour. In lieu of \$26,500.

20

HIS HONOUR: Yes.

GILES: Your Honour in paragraph No. 1, \$23,200 is the starting point from - has a starting point of \$26,500.

HIS HONOUR: Yes.

GILES: An alternative starting point of \$24,000 gives you \$21,000. I am suggesting, your Honour, that your Honour put in the left hand margin ---

HIS HONOUR: \$24,000 ----

30

GILES: Just a heading.

HIS HONOUR: --- just under that \$21,000. Under there is \$19,200?

GILES: Under that.

HIS HONOUR: Then under that is what? 4 per cent of that?

GILES: No, the heading No. 2, 5 year release. You start from \$26,500, you arrive at \$21,200. If you start at \$24,000 you arrive at \$19,200.

HIS HONOUR: That's why - I'm sorry. I thought that you had changed to \$24,000.

40

THE LAND AND ENVIRONMENT COURT
PLAINTIFF'S EVIDENCE
NO. 2(xiv)
ALCORN Lawrence Lloyd
FURTHER RE-EXAMINATION

GILES: No, once the system is established, we just run on down the page.

HIS HONOUR: Yes go on, and what is it at 7 years?

GILES: 7 years \$19,400 on the right hand side and \$17,600 is the alternate figure. No. 4 is \$17,800 with the alternate figure \$16,100. And No. 5, it is \$15,600 and \$14,100. 10

Q. Just to perhaps get some of your comments on those figures, Mr. Alcorn, if I may, you have already explained that Terrace Drive is taken as a rough comparable for 3 and 5 year release periods?

HIS HONOUR: Just before you go, I'm sorry, what does the \$24,000 represent, the constant down all these ---

GILES: That is the constant your Honour ---

HIS HONOUR: In lieu of \$26,500, why \$24,000? 20

GILES: Because Mr. Alcorn himself had said that his analysis of - or his view of rates per acre for urban released land was \$21,000 to \$24,000.

HIS HONOUR: Where does he say that?

GILES: In K2.

HIS HONOUR: I follow.

GILES: And your Honour will appreciate, as appears from this document AAZ, the \$26,500 figure is not out of line with it, the assessment of the value of the Leagues Club residential land by both Mr. Hilton and Mr. Hardy, as being one \$25,000 per acre and the other \$30,000 per acre. It is out of line with Mr. Alcorn's view. 30

Q. But may I ask you this Mr. Alcorn? If your estimate of the value of presently released urban land in the Penrith area was unduly low, would that indicate that the discount rate in the early years, that is, for a very early release, might be somewhat more than the 4 per cent, 4½ per cent, that you introduced? A. Yes. That would be the end result, yes.

HIS HONOUR: You might have to increase the --- 40

GILES: Q. In the very early years? A. In the very early years.

Q. The 3-4 year periods you would increase it above 4½ per cent? A. Yes.

THE LAND AND ENVIRONMENT COURT
PLAINTIFF'S EVIDENCE
NO. 2(xiv)
ALCORN Lawrence Lloyd
FURTHER RE-EXAMINATION

Q. But do you have any doubt in your mind that 4½ per cent is a correct figure for 5 year release and onwards? A. As an average figure, yes, I believe that is the case. That is without taking into account the quality of the land, particular parcels of land. 10

Q. I think you have made clear that your schedule of rates per acre takes areas, not particular parcels of land? A. Yes.

Q. So that that is why I have said these are roughly comparables, just as a check against the figures that are thrown up? A. Quite so.

Q. And you point out not only do they not involve comparing parcel of land with parcel of land, but there is also a question as to what release date is to be assumed where this is a band of - a phase extending over 10 years? A. Yes. 20

Q. Having done the exercise that you have done, taking into account your own evidence given in chief, do you take the view that the land due for release in, say, 7 years time, that \$17,000 odd is not an unreasonable estimate of value?

HIS HONOUR: Due for release in what period?

GILES: Q. 7 years time. A. I believe that that is within the parameters, yes.

Q. And you have already expressed the view in your evidence in chief that, for 10 year release land, it is in the order of \$15,000 per acre? A. In order of that, yes. 30

Q. The figures that you have just done give confirmation for that general approach, is that correct? A. Yes.

Q. Your 4½ per cent is a figure averaged over the period, I think, over the whole period, is that right? A. Yes.

Q. Individual periods may vary slightly one way or the other? A. It is based on an analysis of sales, that's an analysis of value in certain localities, present value, what they were paying then, and what I believe it would have been worth had it been zoned at that date how long it is going to take to zone it, in terms of the --- 40

Q. Does that accord with your general understanding as to discount rates which would be applicable? As a valuer? A. Yes, I don't know of any other way to calculate it. 50

THE LAND AND ENVIRONMENT COURT
PLAINTIFF'S EVIDENCE
NO. 2(xv)
ALCORN Lawrence Lloyd
FURTHER RE-EXAMINATION

GILES: Thank you your Honour.

HEMMINGS: Q. You have a copy of Mr. Hyam's report which is exhibit 5? You didn't have exhibit 5(f).

HIS HONOUR: That's Mr. Hyam's, is it?

HEMMINGS: Yes, which is a comparison of the Goodacre Development and the Peter Kent property? Exhibit (f), that's the further analysis that Mr. Hyam carried out. 10

HIS HONOUR: Yes.

HEMMINGS: Q. Firstly, as far as this analysis is concerned, Mr. Alcorn, you say that the date before the actual starting point for the analysis of the Cambridge Credit land should have been December 1972? A. Yes.

Q. Secondly ---

HIS HONOUR: Where does the date appear here?

HEMMINGS: The date doesn't appear on that sheet. It appears in his earlier examination at page - annexure A13, contract date 8th February, which is exhibit 5. 20

HIS HONOUR: I see, date should be December not 8/2/73, see exhibit 5.

OFFICER: That is the acceptance of tender date.

HIS HONOUR: What is the date of acceptance? A formal --

HEMMINGS: Acceptance of the offer.

OFFICER: Subject to contracts.

HIS HONOUR: What date is that? December?

HEMMINGS: Q. What date in December was that, Mr. Alcorn? 30
A. 22nd I think. The offer was made on - the tender at least was submitted on 15th December, 1972, outlining the terms, and the offer - the tender was accepted on 22nd December, 1972.

HIS HONOUR: Subject to contract, presumably, or not - or was that the contract?

OFFICER: May we see the document?

HEMMINGS: Certainly.

HIS HONOUR: Yes, it is probably the best way to solve this. 40

THE LAND AND ENVIRONMENT COURT
PLAINTIFF'S EVIDENCE
NO. 2(xv)
ALCORN Lawrence Lloyd
FURTHER RE-EXAMINATION

HEMMINGS: By having it tendered.

Q. Do you have a copy of the tender and the acceptance? A. I have one spare copy.

HIS HONOUR: In all events - yes, you say it should be 22nd December. Yes, well that is the first thing. 10

HEMMINGS: Q. Secondly, what is your figure for betterment tax? A. I have adopted for the purpose of this exercise \$2,200 per acre, but originally, when I prepared the valuation in 1972, I estimated - bearing in mind that it was subject to litigation the quantum of tax was going to be - was, in fact, subject to litigation. I estimated that the minimum tax payable to be \$2,045 and the maximum was likely to be in the order of \$2,345, so I adopted for the purpose of this exercise \$2,200. 20

OFFICER: That is, per acre?

HIS HONOUR: Per acre?

HEMMINGS: Per acre.

HIS HONOUR: You are tendering that, are you?

HEMMINGS: I do your Honour.

OFFICER: No objection.

TENDERED, ADMITTED AND MARKED EXHIBIT ABA - TENDER
AND ACCEPTANCE OF CAMBRIDGE CREDIT LAND

OFFICER: Your Honour will see the terms of the acceptance. 30

HIS HONOUR: Yes, so it is subject to contract, in short, what you said.

OFFICER: No one was bound, subject to the exchange of contracts.

HIS HONOUR: But Mr. Officer, if you get a document subject to contract and then a month later a contract is entered into, do you still ignore ---

OFFICER: No one is bound, neither party is bound until the contract is exchanged. They can say: I have changed my mind. 40

HIS HONOUR: They can, but if one knows that the next day they haven't ---

OFFICER: One knows it 2 months later, but that doesn't

THE LAND AND ENVIRONMENT COURT
PLAINTIFF'S EVIDENCE
NO. 2(xv)
ALCORN Lawrence Lloyd
FURTHER RE-EXAMINATION

matter. The question is, had the parties bound themselves? Or ---

HIS HONOUR: Is that the question or is the question what they think the property is worth?

OFFICER: Any more than if I say to a vendor: I will give you \$10,000 an acre and he said: Yes thank you very much, but of course we'll - it is all the subject of contract and 2 months later a contract is executed and no one would suggest that one looks to when they - their first discussions, their first oral agreement. One looks to when the parties were bound. 10

HIS HONOUR: But if you were trying to determine what the market said of a value of the property in December, say, and you knew in December, as here, the people had agreed to enter into a contract for \$100,000 and in fact did it in January, wouldn't that - it must be some evidence of what its value was in the market in December, mustn't it? 20

OFFICER: Your Honour, we would submit, not otherwise. Every time one sees a contract, one is going to say, well now, forget about the date on the contract, we have to explore when the parties reached even an oral agreement and we will date it all back to that.

HIS HONOUR: And you say the Courts don't allow that approach? Everyone knows people put all sorts of dates in contracts, sometimes to avoid stamp duty - but you don't investigate that? Well perhaps you don't. That's the law. Anyway we can debate that I imagine later. 30

HEMMINGS: It goes without saying we don't agree with what my friend says.

HIS HONOUR: I can actually understand why one wouldn't be - the contract is the best ---

HEMMINGS: The date of the contract is the best evidence but one has to look to the circumstances of each case. It depends upon the evidence that is available to the parties. 40

HIS HONOUR: I would have thought that the best evidence is get the people who did it and ask them why they did it but that is one thing that the Court says you can't do.

HEMMINGS: Q. Mr. Alcorn, the next point is as far as this analysis is concerned, Mr. Hyam adopts 12 per cent as the borrowing rate does he not? A. Yes.

Q. And you've given us the borrowing rates available as at that time for this day? A. Yes.

THE LAND AND ENVIRONMENT COURT
PLAINTIFF'S EVIDENCE
NO. 2(xv)
ALCORN Lawrence Lloyd
FURTHER RE-EXAMINATION

Q. What do you say should be the appropriate borrowing rate in this exercise? A. Well I believe that at 9½ per cent as was written in the contract there was no advantage to either party, that it was a market interest factor that would have been obtained by the purchaser for example from another source, external source. 10

Q. The contract actually referred to 9½ per cent did it not? A. No that was in the Leagues Club.

Q. I'm sorry. Yes the contract, yes of course the contract.

HIS HONOUR: Yes you said you wondered whether it was 9 or 9½ but you discovered it was 9½. But where does he say 12 per cent borrowing ---

HEMMINGS: 59A876 deferred 5 years at 12 per cent. Then he does an exercise your Honour to work out the --- 20

HIS HONOUR: That's his deferral. That's the borrowing rate though he's referring to?

OFFICER: Correct me if I'm wrong, he's doing it to equate to the Peter Kent transaction which was 12 per cent.

HIS HONOUR: Yes.

HEMMINGS: My friend says that but ---

OFFICER: The witness said it.

HIS HONOUR: Yes. You say it should be 9½? 30

HEMMINGS: Yes your Honour.

HIS HONOUR: That's your opinion.

HEMMINGS: Q. Is that so Mr. Alcorn? I believe that the price of \$7,485,000 is an equivalent cash price, if it had been a cash contract then that money would have been paid for it. A. If money is borrowed at 9½ per cent no adjustment is required because it's equivalent to cash at that time.

Q. Yes.

HIS HONOUR: Oh I see. Yes, thank you. 40

HEMMINGS: Your Honour I'll be referring to some authorities of Mr. Justice Isaacs later on but if the terms are precisely market terms one assumes that it is cash and one makes no adjustments either way if these terms are the normal market terms.

THE LAND AND ENVIRONMENT COURT
PLAINTIFF'S EVIDENCE
NO. 2(xv)
ALCORN Lawrence Lloyd
FURTHER RE-EXAMINATION

HIS HONOUR: But if the interest is higher or lower ---

HEMMINGS: Too good or too bad, well then one should adjust.

HIS HONOUR: Yes.

HEMMINGS: Q. So that there would be no adjustment because the terms were market terms? A. Yes. 10

Q. Now before we leave that particular property, as at the date of the purchase, whether you take it as December 1972 to February 1973, the land was in fact released for urban purposes by virtue of the relevant interim development order? A. Yes.

Q. However was there a time either of the acceptance of the tender or the contract, a development control plan over that land? A. No.

Q. And was sewer available at that particular time? A. No. 20

Q. At that particular time what was your basis for the likelihood of the availability of the sewer for that property? A. At the time I had been informed by the Water Board, either Mr. Maurice Slade or Jack Ellis, that sewer would be provided within 2 years of late 1972, early 1973.

Q. Well then in the absence of a development control plan at the date of purchase, and sewer still being a couple of years away, how does the analysis of that sale reflect upon your evidence you gave earlier as to the value of the subject land if it was immediately available for urban development? A. Sorry --- 30

Q. Was your figure high or low? Your analysis this morning --- A. You're speaking of the analysis that I did by revising Mr. Hilton's figures are you?

Q. Correct. A. It is low. The rate per acre at \$26,500 projected at August 1973 I believe to be low. To prove that I'd have to introduce sales and sales analyses --- 40

Q. I'm not asking you to do that. A. But so far as the vendor was concerned, and anyone making enquiries ---

Q. In fact at that date the land was not immediately available --- A. Was not immediately available for development and there was a risk factor involved in the holding charges etc. that it was going to attract during the period before development was able to take place.

THE LAND AND ENVIRONMENT COURT
PLAINTIFF'S EVIDENCE
NO. 2(xv)
ALCORN Lawrence Lloyd
FURTHER RE-EXAMINATION

Q. Well then how does - I'll move then to the Peter Kent property. I think you've already said in chief that in your opinion the Peter Kent property is superior in quality to the Goodacre land, did you not? A. Yes.

Q. Now that property had referred to in the contract a security at first mortgage, no interest for 180 days and thereafter at the rate of 12 per cent per annum. 10
A. Yes.

Q. The 12 per cent per annum in your opinion was that a penalty mortgage? A. I believe that was a penalty rate.

Q. And what do you mean by that? A. Well there was an interest-free period granted ---

HIS HONOUR: Q. If you had the interest-free period granted, how does it work out? A. Well they do a - I believe the - had interest been payable the rate of interest might have been in the order of 9½, 10 per cent over a period of 6 months. I'd probably say 10 per cent because it's such a short period. 20

Q. How long is the mortgage? A. It was only for 180 days your Honour, rent-free.

Q. That's rent-free but how long after that?
A. There was no fixed term.

Q. There was no fixed term? A. No, the contract merely states the first 180 days interest-free. 30

HEMMINGS: Q. If the borrower then decided to take up a mortgage and that mortgage was to be at 12 per cent, now my interpretation of that is that if they then took it up for a total of 2 years they got the first 6 months interest-free and that the 12 per cent should be averaged over the 2-year period. A. 12 per cent per annum over a - sorry as you were. 12 per cent for one year and 6 per cent for the remainder of the first year.

Q. Well you do not accept, comparing the mortgage arrangement in Peter Kent for the purposes of analysing the Cambridge Credit property? A. No. 40

Q. Is there anything further you want to say about the Peter Kent property? Or the analysis at 5(f)?
A. Only in that ---

Q. I think you've already disagreed that any allowance should be made for a remote location of the Peter Kent land? A. Yes, I don't agree with that. I believe that acre for acre the Peter Kent property is superior to the Goodacre property.

THE LAND AND ENVIRONMENT COURT
PLAINTIFF'S EVIDENCE
NO. 2(xv)
ALCORN Lawrence Lloyd
FURTHER RE-EXAMINATION

Q. Now can I take you to 5(d) which is the comparison of Fleurs sale No. 6, and sale 9, Vicinage. A. Yes.

Q. You are familiar with this property are you not?
A. I am.

Q. And are you familiar with the locality? A. Yes. 10

Q. For many years has the general area been known as the Fleurs area? A. The property Fleurs has - it has the name on the gate out there and it extended both sides of the road, Mamre Road, for as long as I can remember. The locality has just been known as - and I can probably remember 30 years, that area of land, that locality in Mamre Road has been called the Fleurs locality as it were, deriving its name from the property called Fleurs.

Q. You've referred to the reference in the Sydney Region Outline Plan to the Fleurs land? A. Yes. 20

Q. And so far as you are concerned do you identify the Fleurs land in the Sydney Region Outline Plan as the land involved in the subject property, sale No. 6?
A. I do. Not necessarily precisely that property I would say, but ----

Q. It's part of that land? A. Yes I believe that to be the case.

Q. Now Mr. Hyam and also Mr. Weir accepted this sale as an arm's-length sale. Do you accept it as an arm's-length sale? A. No I don't. 30

Q. Why not? A. Bearing in mind that I was working in the Penrith district when this all took place, it was a Stocks and Holdings purchase. Unit Constructions is a company controlled by the directors of Stocks and Holdings, and we in the area just said, oh well, Stocks and Holdings bought Fleurs. No. 1 Fleurs has at least - at least, and I have the company searches, 50 per cent common shareholding, in fact they - the same directors of Unit Constructions own at least 50 per cent if not more, and they do own more, but it's a very very involved process. There are something like 15 company searches required to get to the bottom of it. But the same two directors of Unit Constructions, that is Mr. Scheinberg and Mr. Hammond - and Mr. Hammond has changed his name from Scheinberg, he used to be John Scheinberg and he's now changed his name to John Hammond, and that is noted in the company searches also, are the same directors. There are additional directors in each company, but the break-up is - I can go through the share break-up --- 40 50

THE LAND AND ENVIRONMENT COURT
PLAINTIFF'S EVIDENCE
NO. 2(xv)
ALCORN Lawrence Lloyd
FURTHER RE-EXAMINATION

Q. Don't go into detail unless my friend wants you to in cross-examination, but are the major shareholders in each company identical and are they developers of Stocks and Holdings? A. They are. Developers, I'm sorry no they are directors of Stocks and Holdings. 10

Q. And they are shareholders in Stocks and Holdings?
A. Directors or part of the management team of Stocks and Holdings.

Q. And is the purchase price which you analyse a very low price? A. Very low.

Q. And do you regard that as an unreliable sale for the reasons that you've given? A. Well I was aware of the sale having taken place and I looked upon it as Stocks and Holdings doing a break-up of their company holdings, or the directors of Stocks and Holdings doing an internal break-up. I don't think it's reliable, I don't rely on it. 20

Q. And also as you've said there's reference to this land at pages 40 and 58 of the Sydney Region Outline Plan? A. There is.

Q. Now so far as the Vicinage property is concerned, from a - apart from the problems with the contract itself can you see any way of comparing the sale No.6 and sale No.9? A. Well if sale No.6 were an arm's-length transaction I would suggest that there would be, as the properties almost adjoin, they're quite close to each other, and maybe they do adjoin, I'm not exactly certain of the precise boundary of the Fleurs property, yes they could be compared topographically and so forth and if they were at arm's-length one might derive something from the Fleurs sale as compared with the Vicinage sale. 30

Q. Yes. But you cannot accept the sale No.6 as being an arm's-length sale? A. No, for the reasons given.

Q. And also there is a time difference --- A. Yes 40
of course there is, the 1st of October 1972 to the 27th of April 1973.

HIS HONOUR: That doesn't appear on 5(d), where's ---

HEMMINGS: That appears from the sale date then and ---

ALCORN: That's sale No. 9.

HEMMINGS: Sale No.6 is the contract date of the 1st of October 1972. That's at A12 your Honour.

HIS HONOUR: Right.

THE LAND AND ENVIRONMENT COURT
PLAINTIFF'S EVIDENCE
NO. 2(xv)
ALCORN Lawrence Lloyd
FURTHER RE-EXAMINATION

HEMMINGS: The first one's 24th of October 1973 and the second was the 27th of April 1973.

HIS HONOUR: No - what's the first date? This is 6. October I was told, 1972. Wasn't that the 1st of October 1972? Where's it appear that you get it? This in your original report? 10

HEMMINGS: A9.

ALCORN: Mr. Hyam's.

HEMMINGS: The first of the tenth 1972 I'm sorry your Honour.

HIS HONOUR: Yes. And then Vicinage?

HEMMINGS: That's 6 yes and sale No. 9 is ---

OFFICER: 27th of April.

HEMMINGS: 27th of April 1973.

HIS HONOUR: Thanks. 20

OFFICER: And Mr. Hyam has escalated.

HIS HONOUR: Yes I thought he did that.

OFFICER: At the foot of page 5(d).

HIS HONOUR: Yes. By making a further ---

OFFICER: Allowing 25 per cent for escalation.

HEMMINGS: Yes, over that period.

HIS HONOUR: Yes.

HEMMINGS: Q. I'll come back to that. Now 7 and 8, taking 7 at first, the first one that was a sale in October of 1973, 24th of October 1973? A. It was. 30

Q. And sale No. 8 was 1974?

HIS HONOUR: Just a minute, I just want to get this - writing on this, August 1974, what was 7 did you say, you just said it and I didn't note it?

HEMMINGS: I just said August 1974, that is sale No. 8, No. 7 was the 24th of October 1973.

Q. Now each of those properties had no urban potential? A. No.

Q. And in your opinion is the sale No. 7 inferior to 265. L.L. Alcorn, re-x

THE LAND AND ENVIRONMENT COURT
PLAINTIFF'S EVIDENCE
NO. 2(xv)
ALCORN Lawrence Lloyd
FURTHER RE-EXAMINATION

the quality of the land in sale No. 8? A. At the time of purchase, yes.

Q. So far as sale No. 8 is concerned, it's about 5 miles distant? A. Kilometres, miles, yes.

Q. I put to Mr. Hyam that this area within which the sale No. 8 is situated would be described as a dress circle area of higher quality, would you agree with that? A. I agree with that. 10

Q. And why do you say that? A. Well there are some very finely developed properties in the locality, I think, and if we can mention Mr. Dunbier's(?) property; well Mr. Dunbier has a very, very heavily developed property. There are trotting horse studs around there which are beautifully maintained, and constructed, white painted railing, that sort of thing. It is generally considered to be a nice location, very nice location. 20

Q. And so far as sale No. 8 is concerned, was it well pasture improved with paddock fencing? A. It was.

Q. And did you make enquiries as to what the purchaser thought was its potential for subdivision? A. I did.

Q. And what was that? A. The purchaser thought that he was able - when he purchased, was able to subdivide it into parcels smaller than 100 acres, he was able to subdivide the property, and he thought he was able to subdivide it in terms of the zoning that was then in force, into areas of approximately 10 acres, that is his actual - I suspect he probably means 5 acres, but he said 10. 30

Q. He said 10 acres? A. And that zoning has since been changed.

Q. Now so far as the sale No. 7 is concerned, that property, in fact to get a rezoning for 5 acre parcels, required the dedication of some 200 acres free of cost did it not? A. It did.

Q. And would that have to be taken into account in any comparison of the two properties? A. I believe so, yes. 40

Q. Now Mr. Hilton, Mr. Hyam and Mr. Weir, in their analyses of the Kulnamock property, and I want to go to that now, have each referred to the 5 acre area?
A. Yes.

Q. And have you identified the 5 acre area within the Kulnamock property? A. I have.

THE LAND AND ENVIRONMENT COURT
PLAINTIFF'S EVIDENCE
NO. 2(xv)
ALCORN Lawrence Lloyd
FURTHER RE-EXAMINATION

Q. You say that each of those people have identified the wrong part of the land as being within the area of the 5 acre zone? A. It appears from the descriptions that I've heard in the court, that they have identified the whole of the 5 acre area - zoned area, as lying in the corner of Jeanette Street and Regentville Road, or Luttrell Street, in that approximate locality.

10

Q. You can take it that Mr. Weir circled the area you've just described. A. Well I didn't see that.

HIS HONOUR: No, but he circled this area ---

OFFICER: He circled the inverted V.

HEMMINGS: Q. If they've done so, is that wrong?

A. Part of the 5 acre area lies there, yes.

Q. Is the area that is zoned 5 acres, only part of the area that they've indicated? A. Yes, and in fact it is only part of those blocks of land as well, in fact the 5 acre - and 25 acre zone boundary passes through the inverted V allotments, and the remainder of the 5 acre area fronts Mulgoa Road, there is some 8½ acres on Mulgoa Road.

20

Q. Is that in the vicinity of the flood-prone land?

A. It consumes the whole of the - it consumes a lot of flood prone land, yes.

Q. So far as it - there are two ---

HIS HONOUR: There's more than that.

30

HEMMINGS: There are two maps.

Q. Did you have a copy of the ---

HIS HONOUR: Q. Well where is the 5 acre ---

A. I obtained - I asked Penrith Council to prepare the precise boundary of the 5 acre zone, together with the gazettal which took place on the 24th of June 1960, they prepared that map for me and gave me a copy of the gazettal. I then transposed it onto - a green line shown there, and that is the 5 acre boundary line as I've shown it there.

40

OFFICER: May I approach?

HIS HONOUR: Yes.

ALCORN: This is not only just - but this is the whole of the land south of the break see, this is it here.

HEMMINGS: Q. It is just north of that line? A. Yes.

THE LAND AND ENVIRONMENT COURT
PLAINTIFF'S EVIDENCE
NO. 2(xv)
ALCORN Lawrence Lloyd
FURTHER RE-EXAMINATION

OFFICER: Five acres are all north of that line.

HEMMINGS: Q. So far as the Kulnamock property is concerned then ---

HIS HONOUR: It takes a bit off the west.

HEMMINGS: Q. So far as the Luttrell Street area, it is only the small property? A. Mm. 10

Q. Which doesn't include - in the balance of that area, and there is another area to the west, near what you call the flood prone areas? A. Well in fact it becomes that rather difficult shaped parcel there.

Q. Thank you.

HIS HONOUR: What is the exhibit number of this one? Do you know what exhibit number this one is? G2.

HEMMINGS: Q. Mr. Weir and Mr. Hyam analysed that purchase by assigning a higher value to the 5 acre portion of that land, can I take you to exhibit 12A, that is Mr. Weir's report. Do you see there where he has assigned 20 acres at \$8,000 per acre? A. Yes. 20

Q. Now firstly, because of the location, I want to take you to the merits of that particular deduction at a later time, but just taking the location of the 5 acre with respect to the Kulnamock property itself, is it proper to do that, such an exercise as has been done at this line, in exhibit 12A? A. No.

Q. Why not? A. Well not all of the land is on the top of the hill, part of the land in fact - there's some 8½ acres of the land in the flooded area 8.7 acres of the land in the flooded area, which hasn't been subdivided, it is part of the 81 3/4 acre parcel, the rest of the land lies on Jeanette Street, but it too is severed - that is the individual allotments are severed by the 5 acre line. 30

Q. Well is there any real advantage in any part of that land being in the 5 acre zone, so far as your analysis is concerned? A. I don't see it, no. 40

Q. Now so far as the --

HIS HONOUR: Which is the flooded area part?

HEMMINGS: That is the Mulgoa Road area, your Honour.

HIS HONOUR: Round here?

HEMMINGS: Yes, your Honour.

THE LAND AND ENVIRONMENT COURT
PLAINTIFF'S EVIDENCE
NO. 2(xv)
ALCORN Lawrence Lloyd
FURTHER RE-EXAMINATION

HIS HONOUR: Q. And you say that comprises almost 8½ acres of the 20 acres? A. 8.7 acres, yes.

HEMMINGS: Q. Now that criticism is directed to the location of the zones themselves, and the quality of the land. However, if the exercise is to look at the land purchased on the basis of having urban potential, would you assign a different value at all to land which could be subdivided for a non-urban purpose, such as 5 acres? A. I would not.

10

Q. Now you heard Mr. Talbot's evidence concerning access off Mulgoa Road, to the Kulnamock property, did you not? A. Yes.

Q. And I think you heard Mr. Weir saying yesterday that if he was wrong in accepting Mulgoa Road as appropriate for access, he may not reduce the comparison of Kulnamock with the subject property by 10 per cent? A. I recall this.

20

Q. Now rather than reduce the Kulnamock analysis by any factor, if you compare Kulnamock with the Tatmar property, so far as access is concerned, is Tatmar superior or inferior, or equal to ---

OFFICER: I object, your Honour, certain evidence about this was given in-chief.

HIS HONOUR: Yes.

OFFICER: This is not in reply.

30

HIS HONOUR: Why does this - this has already been given hasn't it, I thought ----

HEMMINGS: Well your Honour, Mr. Talbot's evidence wasn't given, that was evidence called by the respondent.

HIS HONOUR: Yes.

HEMMINGS: Mr. Alcorn made certain assumptions upon his own inspection of the property ---

HIS HONOUR: You correct me if I'm wrong, I thought in-chief Mr. Alcorn assumed that even with a Mulgoa entrance, Tatmar was still better.

40

HEMMINGS: Precisely, your Honour.

HIS HONOUR: Now you say Mr. Talbot has given evidence that Mulgoa is not an access option?

HEMMINGS: Well I'm asking the witness what his views are in the light of the evidence called by the respondent.

THE LAND AND ENVIRONMENT COURT
PLAINTIFF'S EVIDENCE
NO. 2(xv)
ALCORN Lawrence Lloyd
FURTHER RE-EXAMINATION

HIS HONOUR: I imagine he'll say - I suppose he ought to be given this opportunity, but I imagine he'll say well that only strengthens the view I had, but does that really carry ---

HEMMINGS: That's precisely - whether it carries it any further, your Honour, it is upon entitle(?) with respect I submit that in reply, for a witness to look at evidence called in reply to see what effect it has on his evidence-in-chief. He gave evidence-in-chief on certain assumptions, evidence is called in reply, evidence is called by the respondent, and he is now telling you how that evidence fits in with his original valuation. 10

HIS HONOUR: Yes, yes, Mr. Officer?

OFFICER: Restricted in that way, I have no objection, the evidence appears wide open. 20

HIS HONOUR: Q. Yes, well what do you say, assuming what Mr. Talbot said is correct about Mulgoa, how do you then compare access to the two properties? A. On that basis the access to the Federal Valuation and Agency Land is extremely restricted, and our access is far superior, and rather than deduct 10 per cent from the Federal Valuation and Agency sale ---

Q. Could you use the word Kulnamock so that we ---
A. I'm sorry. Rather than deduct 10 per cent, I take the view, which I took originally, that one starts with the Kulnamock property as the starting point, and then adds for superiority in respect of the access factors. 30

HEMMINGS: Q. And in the light of Mr. Talbot's evidence --- A. And in the light of Mr. Talbot's evidence that strengthens my original view.

Q. Thank you. Mr. Weir then escalates at 5 per cent per month, relying on sales 2 and 3. Do you recall that? A. I do.

Q. And I put to him that each of those sales had no potential at all for urban development, do you recall that? A. Yes. 40

Q. I think he agreed with that. Can you - do you have any view as to the reliability of the use of an escalation factor of lands having no urban potential such as sales 2 and 3 when doing an exercise such as the one done here on land having some urban potential?
A. My view is that it is a little like comparing oranges and bananas, that one should compare like with like. If one is comparing land with urban potential, recognised urban potential, by the market, then one 50

THE LAND AND ENVIRONMENT COURT
PLAINTIFF'S EVIDENCE
NO. 2(xv)
ALCORN Lawrence Lloyd
FURTHER RE-EXAMINATION

should not compare it with land which is well removed from any urban potential and not likely to have any in the foreseeable future.

Q. If those sales one was looking to had no potential for connection to the sewer, would that --- A. The availability of services - the possibility of obtaining the services is definitely a relevant consideration. 10

Q. Do those sales 2 and 3 have any comparability with the subject land or the Kulnamock land with respect to the availability of services? A. I don't believe they have any comparability.

Q. What do you say as to deducting something of the order of 15 per cent for "proximity to Penrith"?

A. I wouldn't deduct anything for these reasons. I don't believe the difference in distance between the two properties is of significance in distance from the town centre of Penrith. I would take the town centre as being, as it was in 1973, and that was the strip shopping centre not the Penrith Plaza which is some half a kilometre west of the strip shopping centre. Furthermore, once people get over say - and I use this as an example, of half a kilometre to say a maximum of one kilometre, they don't walk to the centre of town, they drive, so that once they are in their motor car an extra one half a kilometre, three-quarters of a kilometre, even 4 kilometres is not going to make any difference and I also evidenced that some of our most expensive suburbs in Sydney are located furthest or very close to being the furthest from the city and I quote Wahroonga and perhaps Appin. 20 30

Q. Is the quality of the land more important, in your view, than the actual distance from a commercial centre? A. I believe that is the case.

Q. You disagree with a deduction of anything like 15 per cent or any deduction because of the proximity to them? A. I disagree with it entirely. 40

Q. At page 2 Mr. Weir talks about the deduction "for size" and he told us he relied upon those sales but he felt that there should be some deduction for size. In your valuation report, you in fact make no adjustment either way for size, is that right? A. It's not quite true. I look at the market - the manner in which the market was escalating and I suggest that the market was escalating 10 per cent per month at that particular period of time. I have looked at the sales of large parcels, compared them with the sales of small parcels, and in the main, and in fact I think without exception when comparing similar properties, not properties that are miles apart but similar properties, preferably 50

THE LAND AND ENVIRONMENT COURT
PLAINTIFF'S EVIDENCE
NO. 2(xv)
ALCORN Lawrence Lloyd
FURTHER RE-EXAMINATION

adjoining, that there seemed to be a premium being paid for large parcels at that particular time. Weighing those considerations up, I then adopted the view, well, perhaps I am wrong with my 10 per cent per month and perhaps I am not quite accurate in saying that there was a definite premium, but weighing those things up, I adopted 10 per cent per month as the escalation cum size factor. 10

Q. You certainly wouldn't make any deduction. It is a question of whether you would add something to the valuation? A. That was the question which - yes, to which I directed myself.

Q. The second last exercise that Mr. ---

OFFICER: Your Honour I submit that the witness' evidence as to what constitutes his 10 per cent, and this is his 10 per cent per month, should be struck out. Until now throughout this case we have been told that Mr. Alcorn's 10 per cent is escalation. We are now told it is not escalation at this stage. 20

HIS HONOUR: That is right, is it? You say - I have a feeling in chief he referred ---

HEMMINGS: He says exactly that in writing in his report.

HIS HONOUR: Just let Mr. Officer finish. Yes.

HEMMINGS: It is in writing in his report.

HIS HONOUR: That's probably why I remembered it. I remember - that's exhibit --- 30

HEMMINGS: It is marked exhibit K, page 14, fourth paragraph.

HIS HONOUR: Yes.

OFFICER: I beg your pardon.

HIS HONOUR: I haven't struck it out but if I have I will strike it back in. But that is what I must have remembered. Yes.

HEMMINGS: Q. The further reduction was to increase that figure of approximately 15 per cent up to 40 per cent and make a deduction? A. Yes. 40

HEMMINGS: Q. What do you say as to that? A. Firstly I don't understand it.

Q. Let me put it this way. Is there any valuation principle of which you are aware which would lead you

THE LAND AND ENVIRONMENT COURT
PLAINTIFF'S EVIDENCE
NO. 2(xv)
ALCORN Lawrence Lloyd
FURTHER RE-EXAMINATION

to make a deduction such as the deduction that has been made at that part of the report? A. No I can't - I know of no principle. Certainly an opinion may lead you to that but I know of no principle which would indicate that.

10

Q. Do you know of any market evidence which would enable you to make any estimate to form an opinion as to whether or not that is an appropriate figure?

A. No I don't.

Q. The last exercise he does is to take the high tension easement and deduct two-thirds of the value from the value he had already arrived at which he had reduced by 40 per cent? A. Yes.

Q. You heard me ask him to compare the figure of \$1,300 per acre to his assigned value of \$3,500 per acre for the same land under the transmission line in his first exercise which was purely as a non urban parcel of 884 acres with no urban potential? A. Yes I recall that.

20

Q. Mr. Weir said that he thought the land was more valuable as part of a grazing property than as part of a parcel with urban potential? A. I recall him saying that.

Q. Do you disagree with that proposition? A. I disagree.

30

Q. If this land is to be regarded, this land under the easement, as available for playgrounds, or roads, in conjunction with some urban development, do you disagree with the reduction of a value by two-thirds as compared to the adjoining land? A. Good open space land, that is land acquired for open space for active purposes rather than passive, attracts in my opinion and in the opinion of any developer that I have ever spoken to and in my capacity as a developer in the early of the 1970s, that type of open space land is worth the same as the rest of the land which is going to be developed. It attracts the same value.

40

HIS HONOUR: I thought in your report you reduced it?

HEMMINGS: Q. You did make a reduction. A. I said not for - I said for active open space land. I did reduce it for the passive open space which is substantially affected or which is affected, and requiring repairs.

Q. That is why you have made the reduction in exhibit K? A. Yes. I'm sorry, we are at slight odds. We are talking about the high tension easement, aren't we?

50

THE LAND AND ENVIRONMENT COURT
PLAINTIFF'S EVIDENCE
NO. 2(xv)
ALCORN Lawrence Lloyd
FURTHER RE-EXAMINATION

HEMMINGS: Q. Yes.

HIS HONOUR: That's right, the 53 acres.

ALCORN: A. I'm saying that the 53 acres can be utilised for a fair portion of its area for the purpose of playing fields which would generally attract the same value as urban land or the surrounding land, but the high tension easement itself restricts the use of the land insofar as - there is an accessway got to be kept open throughout the whole length of the easement, and certain structures are restricted above certain heights and so forth, so that is the reason I ---

10

HEMMINGS: Q. Normal open space land in urban development might have the same value but if it is affected by a transmission line with structures on it, it would have a lower value? A. Yes.

20

Q. I will come back to exhibit 12A but, your Honour, can I enquire whether or not Mr. Shearman returned a copy of the Gosford planning scheme ordinance that he said he was going to uplift and ---

HIS HONOUR: No he did not, I don't think, did he? No.

HEMMINGS: I think it is part of the planning scheme of either Gosford or ----

HIS HONOUR: This? It is not this you mean?

HEMMINGS: It is your Honour, yes. That is exhibit AAN, and might Mr. Alcorn be permitted to turn back the - on the easel - the exhibit which is the Sydney Region Outline Plan?

30

HIS HONOUR: Yes certainly. Just turn the two sheets back.

HEMMINGS: Q. Mr. Alcorn, would you identify in the Gosford district the area of land which is shown as non urban between the existing urban area and the open space area on that - not in front of his Honour, would you go round the other side? A. I see it immediately south of that adjoining that railway line and extending down to the bottom edge of that urban area there.

40

Q. Looking at the exhibit which shows a subdivided area with streets and residential allotments, does that subdivided area correspond in your opinion with the red area which is shown as existing urban? A. Me looking at that, I think that that little point there has been extended to include that little subdivided area down there, it conforms to that shape, it kicks out. So that we have this little protrusion, as it were, sticking out.

50

THE LAND AND ENVIRONMENT COURT
PLAINTIFF'S EVIDENCE
NO. 2(xv)
ALCORN Lawrence Lloyd
FURTHER RE-EXAMINATION

Q. The non urban area, that area running north-south, between the open space and the existing urban, in your opinion does that correspond with the area running north and south between the subdivided area on that plan and the open space land? A. I have scaled it off and I believe it does, yes. I believe that non urban area there corresponds precisely with that area which is now coloured pink. 10

Q. That is an area which now, shown by that plan, is - includes urban purposes, special uses and industrial purposes? A. It does, yes.

HEMMINGS: Thank you, I will return the exhibit.

HIS HONOUR: Yes. If you are going on to a new subject matter I might ---

HEMMINGS: I won't be much longer. 20

SHORT ADJOURNMENT

ON RESUMPTION

HIS HONOUR: Yes.

HEMMINGS: Q. Mr. Alcorn, Mr. Hilton analysed the properties ASL in Jamison Road and referred to the land subdivided into 5 acre blocks, did he not? A. Yes.

Q. I think he said the land was subdivided into 5 acre blocks on both sides of Blaikie Road? A. As I understood it, Mr. Hilton said that the land was subdivided both sides of the road, leaving approximately a 19 acre residue unsubdivided. 30

Q. That's wrong, is it not? A. That's wrong, yes.

HIS HONOUR: Q. What is the position then, do you say? A. That was the case on 9th December, 1959, by DP30274 but on 11th April, 1961, DP206553 came into existence wherein the land on the eastern side of what was then known as Riverlands Road, it is now known as Blaikie Road, was converted into one allotment, namely Lot 1 in that DP, of 51 acres 1 rood 19 3/4 perches.

HEMMINGS: Q. So it was consolidated as one parcel? A. Consolidated as one parcel, leaving six allotments subdivided on the western side to Riverlands --- 40

HIS HONOUR: Q. Into 5 acre --- A. 5 acre, correct.

HEMMINGS: Q. You recall me putting questions to Mr. Hyam as to whether he'd given consideration to a comparison of the Stuart Chapman land which is on the other

THE LAND AND ENVIRONMENT COURT
PLAINTIFF'S EVIDENCE
NO. 2(xv)
ALCORN Lawrence Lloyd
FURTHER RE-EXAMINATION

side of the road from the ASL land at Blacktown?

A. Yes.

Q. Is the Stuart Chapman land - was that purchased on 9th February, 1973, for cash, zoned 5 acres?

A. It was, zoned 5 acres, yes.

10

Q. It was - it had flooding problems similar to those in the ASL property? A. Yes.

Q. It sold at a rate of \$1,916 per acre? A. Yes.

Q. In February of 1973? A. Yes.

Q. And the ASL property, it was twenty-five times larger than the Stuart Chapman land? A. Yes.

Q. And was also 4 months earlier than the Stuart Chapman land? A. Yes.

Q. The Stuart Chapman land was 60 acres? A. Yes.

Q. Your comparison between the ASL and Stuart Chapman land, ASL 1,496 acres at cash at October 1972 \$2,085 an acre, and the Stuart Chapman land 60 acres cash at February 1973 \$1,916 per acre? A. Yes. The cash rate per acre in respect of the ASL purchase was after allowing for the terms on the property and the amount of flood land. I'm sorry, no, no flood land there. No, just the terms.

20

Q. On that analysis, lands on opposite sides of the road don't show discounts for --- A. They didn't show a discount, no, in fact it showed a difference of an increase, a small increase, of \$169 per acre in respect of the ASL property.

30

Q. And in fact the Stuart Chapman land was zoned for 5 acre subdivision? A. Zoned for 5 acre subdivision, yes.

Q. I now take you back to exhibit 12A which at the back of it has a calculation divided into five stages? A. Yes.

Q. Have you studied that calculation and each of the stages? A. I have.

40

Q. Does the exercise that has been carried out correspond with any known - any valuation principle known to you? A. No, the hybrid exercise carried out here doesn't correspond, no.

Q. Is it a mixture of principles that apply to different valuation principles, in your view? A. In my view

it is a mixture of some of the principles that apply to two approaches to a valuation problem.

Q. I think you want to draw attention to what you regard as a number of errors in the exercise in the five stages, do you not? A. Yes. 10

Q. But in your opinion one cannot merely correct those errors to carry out this exercise because it is a mixture of different principles, is it not? A. I can't correct it, no. I find it difficult to correct to - arrive at a correct answer.

Q. What I am asking you is, could one take what you call a mixture of two principles and merely correct some of the mistakes in the exercise? A. No.

Q. Would one have to do either one of the two principles that you referred to? A. One or the other, yes. 20

Q. Not a mixture of both? A. No.

HIS HONOUR: This is either - what do you call it - this cash flow or the ---

HEMMINGS: Q. Either the DCF or the Thistlethwaite-Turner type approach? A. That's right.

HIS HONOUR: When you say Thistlethwaite-Turner type, you mean that Turner and the Minister?

HEMMINGS: Yes your Honour.

Q. Let's take what - in fact the exercise has been done. Firstly the exercise deducts \$913,920 in stage 1? A. Yes. 30

Q. And it says P and R 25 per cent. Is that a notional deduction? A. It is a deduction from the gross realisation. Assume you've got the property, all the allotments had sold within the selling period, then the return would be in the order of - or would be \$913,920.

Q. In the appropriate, say, Turner type approach, does that figure, the P and R figure, involve a hypothetical risk factor? A. Yes it does. 40

Q. In a cash flow exercise as has been carried out in this exercise in your opinion, is it inappropriate at each stage to deduct something for risk? A. Yes.

Q. When the exercise is done in stage 1, a loss is

THE LAND AND ENVIRONMENT COURT
PLAINTIFF'S EVIDENCE
NO. 2(xv)
ALCORN Lawrence Lloyd
FURTHER RE-EXAMINATION

shown at the completion of the exercise, is it not?

A. A notional loss is shown, yes.

Q. Is part of that notional loss a consequence of the deduction of the \$913,920 which includes notional risk? A. Yes.

10

Q. Is interest charged upon that notional risk in the exercise? A. Yes.

Q. And at stage 2, is the notional risk and the interest then carried forward as a loss? A. Yes, it is compounded throughout the exercise.

Q. Then for the rest of the exercise, is the notional loss and the interest on the notional loss compounded for the period of the exercise? A. The interest is. The notional loss is adjusted at the end of each exercise, but the notional loss is carried forward.

20

Q. There is another risk factor in each stage, isn't there? A. Yes.

Q. Do you say that is an error? A. Yes, it is not correct in my opinion. In fact no text book that I know of discloses that.

Q. Have you ever seen it done in practice? A. No.

Q. So far as the costs are concerned, in stage 1 is the whole of the sewer amplification and water amplification for the entire project been deducted as part of the first stage? A. Yes it has. Normally what happens is that amplification costs are paid in respect of each stage. One doesn't have to upgrade the whole of the sewerage treatment works or put in the whole of the main extending right throughout the whole property, the whole water mains and sewerage carry mains, you do it progressively, and furthermore, you rely upon the Water Board or your contractors to do the work so in the meantime, you can - if the work isn't completed by the time you have finished your first stage, you will bond the sum of money and the bonding rate is 1 per cent, but the whole of the money is not expended on day 1 of the commencement of development.

30

40

Q. Is it normal if one is proceeding in stages to have a linen plan released for each stage? A. Yes.

Q. Is usually the contribution made then when one is seeking the release of the linen plans? A. Yes, the Water Board certificate.

Q. Not the payment of the total expenditure for the whole project as and from day 1? A. No. It is quite

THE LAND AND ENVIRONMENT COURT
PLAINTIFF'S EVIDENCE
NO. 2(xv)
ALCORN Lawrence Lloyd
FURTHER RE-EXAMINATION

likely that those 336 allotments mentioned in stage 1 may be divided up into five stages, or three stages, or four stages.

Q. By including - this is probably obvious, but by including the whole of the cost in stage 1, is one then in this exercise charged interest on that because it is a loss which is then compounded for the rest of the exercise? A. Yes. 10

Q. You say that is wrong? A. Definitely.

Q. What do you say as to the interest rates? A. I consider those interest rates to be too high on a project of this size.

Q. What about the period over which interest rates are charged over the whole project? A. Again, Mr. Weir has said that he has allowed interest for the whole of the construction period and half of the selling period. That is not done. Again, you don't expend all of the money on day 1 of construction. We've got a sum of, well, even excluding the whole of the water amplification - sewerage amplification costs, we have a sum in the order of \$1.6 million and on day 1 of construction, you are not going to expend \$1.6 million. You expend it, you pay your contractors weekly, monthly, as the work progresses so that the normal approach - in fact the approach is to - without doing a cash flow exercise on it but in a Thistlethwaite alternate exercise, you allow interest on half the costs over the full development period or conversely, allow the full costs over half the development period. 20 30

Q. He has also taken an average cost over the whole - I'll withdraw that. He has taken the total cost of the whole project for all lots and divided it by the number of lots? A. Yes.

Q. Then he hasn't identified any particular stage, as he told us yesterday? A. No. 40

Q. But has applied the average cost to stage 1?
A. Yes.

Q. What do you say about that? A. Again, in a Turner type situation, I suppose that is acceptable but if you are doing a - acceptable insofar as you are doing the whole project. You sit down and you say, well, that land is going to be - that land in that corner is going to cost more in development expenses than that land up there. It is also going to realise a lower price or a higher price, you make your adjustments and you do pages and pages of that sort of exercise to end up with three pages of summary. 50

THE LAND AND ENVIRONMENT COURT
PLAINTIFF'S EVIDENCE
NO. 2(xv)
ALCORN Lawrence Lloyd
FURTHER RE-EXAMINATION

Q. But when you are doing it the way Mr. Weir has done it and you are selecting one particular stage as being the first stage, can you fall into error if you merely take the average cost in relation to stage 1?

A. You can, yes.

10

Q. So far as his gross realisations are concerned, in this exercise he has taken \$14,000 per lot and that's an average over the entire project for all the blocks in the subdivision itself? A. Yes.

Q. And if he made an error of - if he made any error in that gross realisation taking an average, would that make a very significant difference in the final figure for the value of the property? A. Depends on what the error was. Well if it's \$100 and 20, 2700 blocks, you know you're talking \$27,000, if he's made a \$1000 error well that's \$270,000.

20

Q. Yes. And if --- A. Sorry, is that the right - anyway you understand what I mean, that's the type of --

Q. I think you're talking in millions. A. Yes, \$2 million odd.

Q. He has only allowed for the residential blocks in this calculation has he not? Except where he allows for in stage 4 and 5 he has 16.25 acres at \$2.50 a square foot. A. Yes.

Q. That would be commercial land would it not?
A. Yes.

30

Q. Has he however on your estimate, ignored the area of land to be sold to the Education Department for schools? A. It would appear so, because the areas here don't include that Education Department land.

Q. And also ignored a couple of acres of land set aside for service stations? A. Two service station sites yes.

Q. And would you have assumed that the Education Department would have purchased land at a similar value to the residential development --- A. Yes.

40

Q. And that has not been included in the gross realisation? A. No it hasn't.

Q. So far as the sales evidence is concerned that he used, in the time that's been available to you, have you been able to do any sort of adequate check as to the reliability of the sales he has used? A. I've been able to do some check on those particular sales but - and because they happened to be Parkes

THE LAND AND ENVIRONMENT COURT
PLAINTIFF'S EVIDENCE
NO. 2(xv)
ALCORN Lawrence Lloyd
FURTHER RE-EXAMINATION

Development sales they took place at those contract dates, they were sold off the plan, the transfer took place some time towards the end of 1973, November 1973.

Q. Were they sales before the Subdivision Act was actually effected? A. Yes they were.

10

Q. And were they in your opinion related sales for that reason? A. I believe they were. As the subdivision progressed in that Terrace Drive area and in all Parkes subdivisions generally and Stocks and Holdings subdivisions at the time, people were able to buy off the plan at a - the first plan at a relative competitive price, a highly competitive price in fact and it wasn't unusual to find by the time the land was transferred that two or three contracts had been additionally entered into with other parties at a profit.

20

Q. Now if you were doing an exercise such as this would you average the price or would you seek to divide the whole property up and assign proper values for allotments within the subdivision which might have a higher or lower value? A. Well the way this is approached, it's divided up into 5 stages, and every stage carries the same costs and the same values etc., etc. Well that is not the way I would do it, if - I'd look at stage 1 and for example if I identified stage 1 as being the worst land or the best land or the middle-of-the-road land, I would apply a value applicable to that parcel of land. A block value to that particular parcel of land.

30

Q. And within the subject land would you expect certain areas to realise higher values than others?

A. I would. I'd expect for example the area backing on to the golf course to achieve - even though it's some relatively low land, but lands backing on to golf courses almost invariably achieve a price higher than lands not within the vicinity of a golf course. I'd expect the lands with - that are elevated and good views to command substantially higher prices.

40

Q. Is it a very substantial exercise if I wanted to carry out, as I probably do, this type of exercise?

A. I have done a similar exercise on a number of occasions, in fact I did a similar exercise in establishing the value of the Goodacre property in 1972, and it took me from the 31st of October till the 18th of December to work out those figures, and I would expect that an exercise in respect of a hypothetical subdivision here and a, (1) a hypothetical subdivision exercise, (2) a discounted cash flow exercise could take me 2 months to do. The initial hypothetical subdivision exercise might take 2 weeks, but then the cash flow, discounted cash flow etc, could well take 2 months.

50

THE LAND AND ENVIRONMENT COURT
PLAINTIFF'S EVIDENCE
NO. 2(xv)
ALCORN Lawrence Lloyd
FURTHER RE-EXAMINATION

Q. Now if this exercise was done as a discounted cash flow, if the exercise wasn't done as a mixture but was done separately as a discounted cash flow, where one deducts say in the first stage or each stage \$913,920, if you're going to charge interest on the borrowings would you have to set off as against that, the interest that you'd earn on the money that had been deducted at that stage? A. If it works out that this stage 1 was in fact a lost stage, then you would offset whatever profit was generated or risk factor that is - risk surplus, you'd have to offset that against the borrowings. You don't borrow money without - if you've got the money there you'll use that money, or conversely you'll put it at interest or maybe reinvest it in another property, which is again earning interest. Can I just say this also in respect that the way this is formulated, stage 1 should - each stage should produce a profit. If we take out the total water amplification costs and calculate the interest factor correctly, because this is the pure Turner approach excluding those items which you've just mentioned. But by throwing them in it shows that each stage is - well three stages are showing a dramatic loss which is not the case. 10 20

Q. Now with a cash flow exercise is it normal also to escalate land values on known factors and also escalate development costs on known factors? A. Yes. And that's one of the reasons that it's not generally accepted by the courts. Don't escalate the costs and prices and so forth. 30

Q. But in practice --- A. In practice you do.

Q. You use a discounted cash flow and you escalate ---
A. That's right.

Q. Land values and you escalate development ---
A. Yes I've done such an exercise on a number of occasions. 40

OFFICER: And interest as well.

HEMMINGS: Q. And any other charges. A. Yes.

Q. Well for the reasons that you've given in your opinion the exercise carried out by Mr. Weir is not one that you can either accept or adjust? A. I can't accept it and I can't adjust it.

Q. Now the last matter I want to deal with is this. In your exercise at exhibit K which is your adjustment on the - you're finding a value to place on the Kulnamock property, you carried out what is a normal exercise in values and deducted from the purchase price the value that you assigned for the improvements? A. I did. 50

THE LAND AND ENVIRONMENT COURT
PLAINTIFF'S EVIDENCE
NO. 2(xv)
ALCORN Lawrence Lloyd
FURTHER RE-EXAMINATION

Q. And by carrying out that exercise as appears at page 14 making adjustments for the superiority of the land and for the escalation value, you have assigned a figure of \$9,500 per acre have you not? A. Yes.

Q. You've heard in evidence from Mr. Hyam and you've seen his report, that he made enquiries and determined precisely what took place between the vendor and the purchaser so far as fixing the rate per acre of the Kulnamock purchase? A. Yes. 10

Q. Now you've been told that the rate per acre was in fact fixed by multiplying the area by \$6,000 an acre were you not? A. Yes the evidence that I've heard says that the rate per acre was fixed by multiplying 108 acres and 29 perches by \$6,000 per acre.

HIS HONOUR: \$6,000 per acre by - what was it, 106 wasn't it? 20

ALCORN: 108 acres.

HEMMINGS: By 108.

ALCORN: No roods, 29 perches.

HIS HONOUR: Yes.

HEMMINGS: Q. That's why you get the odd figure in the lump sum but it's a straight multiplication of 6,000 times the overall area? A. Yes.

Q. Now Mr. Alcorn now that you know that, and knowing also that the purchaser knew that he was getting a building, that he was also acquiring an obligation to give away part of the land, what conclusions do you draw now? A. The loan pricing structure being \$6,000 an acre and the contract stating that 2½ acres had to be given away, I would adopt the view that the value of the cottage, namely in the order of \$18,000 which I ascribed to it, offsets the loss of land. So that - and the land that was lost I might add was in the highest point of the property --- 30

Q. Some of the best land? A. Some of the better land yes, it's not the best land. I would not if I were analysing the sale from day 1 right now I would adopt \$6,000 an acre because that was the price that the parties agreed upon. 40

Q. And if you then made the same adjustments that you've done in K would that alter the figure of \$9,500 per acre at page 14 to something like \$9,750 or something of that order? A. It would alter it to exactly \$9,750.

THE LAND AND ENVIRONMENT COURT
PLAINTIFF'S EVIDENCE
NO. 2(xvi)
ALCORN Lawrence Lloyd
FURTHER CROSS-EXAMINATION

Q. Now when you arrived at your first rate per acre from that sale, you compared them with the sales that you've set out at the bottom of page 14, namely Calpac, ASL and the Leagues Club purchases? A. Yes.

Q. Which you regarded as being inferior land did you not? A. Yes. 10

Q. And the figure that you arrived at was well below any of those figures in any event? A. It was.

HEMMINGS: Yes, thank you.

FURTHER CROSS-EXAMINATION:

OFFICER: Q. Mr. Alcorn to assist you I'll draw attention to the change in the person who was examining you. This morning you said to Mr. Giles on his first examination that you valued the land of both the applicant companies as one parcel because you thought it was the highest and best use of each parcel that it should be regarded as part of one holding? A. Yes. 20

Q. And it is the first and most important step is it not in a valuation to determine what is the highest and best use of the subject of your valuation? A. Yes.

Q. And having determined that highest and best use you then go ahead and make your valuation on that basis on that assumed use? A. Yes.

Q. Now assume you thought some particular use was the highest and best use of the land, you satisfied yourself on that, and you went ahead with your valuation, and you reached a low figure that wouldn't assist your client, you wouldn't change it all, would you? A. Yes. 30

Q. You would? A. Yes.

Q. You would change it to a - you would depart from the highest and best use? A. When you say - I must have misunderstood you, Mr. Officer. I thought you were then implying that because I had arrived at such a very low figure, that it was not necessarily the highest and best use. To achieve the highest and best use --- 40

Q. I'm sorry, let me withdraw the question, and if I may, your answer; let me start again. If you satisfy yourself as to what is the highest and best use, then you proceed through advantages and disadvantages, and you follow that through to the end, and fix your value, with that as your highest and best use? A. Now the reverse applies slightly, insofar as you do your calculations - your rough calculations to start with, you set parameters as to what you might consider to be the
L.L. Alcorn, re-x,

THE LAND AND ENVIRONMENT COURT
PLAINTIFF'S EVIDENCE
NO. 2(xvi)
ALCORN Lawrence Lloyd
FURTHER CROSS-EXAMINATION

areas of highest and best use, the uses which are in the highest and best use category. You then do calculations, and you say well, that calculation comes up with that answer, that one comes up with that answer, that can't be of great assistance, the thing being that we must assume the highest and the best use, so you do your calculations - rough calculations first, just to satisfy yourself that you have actually found the highest and best use.

10

Q. But you remain satisfied, don't you, that the highest and best use of this land, both parcels, are to regard them as if one holding with urban potential?

A. I believe that, yes.

Q. You haven't departed from that at all, have you? Now I know your view very well, that there isn't a discount for size such as has been referred to, but if there were a discount for size, for a large parcel of urban land, viewing the two holdings as if one, if there were a discount for size in those circumstances, you would reflect it in your valuation, wouldn't you?

20

A. Yes.

Q. So if there be a discount for size, you would have no objection to the application of whatever the evidence discloses as being an appropriate discount, to the totality of these two holdings, viewed as one parcel? A. I would, because I would then not have achieved the highest and best use for the property.

30

HIS HONOUR: Q. What do you mean by the highest and best use? The most money that can be got for it, or are you talking in terms of physical use? A. Both, what is its value as - for its highest and best use, within the parameters of zoning and within the parameters of topography, etcetera.

OFFICER: Q. Well are you saying that if there be a discount for size, and I know your evidence is that - your view is that there isn't such a thing, but if there is a discount for size, would you change your view that these two parcels should be valued as one? A. Yes, I would, I would then value separately the 184 acre parcel, as distinct from the 700 acre parcel, provided I've done my sums firstly that way.

40

Q. And this is all on the assumption which I'm asking you to make, that there is a discount for size?

A. Mm.

Q. Would you still apply - be of the view, looking at them as separate parcels, that they each had potential for urban development? A. Mr. Ellis was coughing, and I missed the first - very first part of it - I'm sorry.

50

THE LAND AND ENVIRONMENT COURT
PLAINTIFF'S EVIDENCE
NO. 2(xvi)
ALCORN Lawrence Lloyd
FURTHER CROSS-EXAMINATION

Q. Assuming that there's a discount for size, would you still regard each of these parcels, viewed separately, as having potential for urban development? A. Yes.

Q. One is 184 acres? A. Yes.

Q. Or thereabouts; of course that wouldn't qualify under the Premier's announcement, in itself, would it? A. No.

10

Q. And would you nevertheless regard it as having urban potential? A. Yes.

Q. Equal to the urban potential that the totality of the two lots would have? A. Yes.

Q. An urban potential just as proximate? A. No, because I believe the development would start north and move south.

Q. Just as it has in the Cambridge Credit land, the development is now coming to the Peter Kent land, isn't it? A. In - now let me think about that, yes it is.

20

Q. Peter Kent is only now being developed, isn't it? A. Yes.

Q. It as it were, has had to wait for the areas north of it to fill up, or be bought up, so that a demand has come to the Peter Kent area? A. I don't believe that that is the only reason that it is now only being developed.

30

Q. It is however one of the factors that has led to the delay in the development of Peter Kent? A. If by waiting you mean that it has got to wait for all the services to get out there, yes, but I don't believe it did have to wait for the services to get out there, this long.

Q. However, certainly you think the 184 acre parcel of the subject land would be somewhat more delayed in its realisation of urban potential than the larger parcel? A. Than part of the larger parcel.

40

Q. Than the part to the north? A. I believe that development would take place firstly north and the eastern part of the property, that development would move west, from east to west.

Q. Take the larger parcel - I'm sorry, do you think the development would start uniformly along the eastern boundary of the entire holding? A. I believe that is an approach that could be taken, yes.

THE LAND AND ENVIRONMENT COURT
PLAINTIFF'S EVIDENCE
NO. 2(xvi)
ALCORN Lawrence Lloyd
FURTHER CROSS-EXAMINATION

Q. Well I'm asking you -- A. Well there are a number of approaches that you can take, that may be an approach, not necessarily uniformly, that is, day 1, you wouldn't go in and develop the whole of the eastern boundary, I believe that you might start - I would perhaps start coming in off Wentworth Road and moving slightly to the south, so that you would be - you would be developing the lands which overlook the golf course firstly, but not backing onto the golf course firstly. That is the approach that I would suggest, but there are a number of alternative approaches. 10

Q. I thought you told me a moment ago that if you viewed them separately, the parcels separately, though each would have in your view urban potential, the smaller parcel would not have precisely the same - or precisely as valuable urban potential as the larger? 20
A. You said the word proximate, we didn't discuss value.

HEMMINGS: The witness didn't mention value at all, your Honour, it was urban potential that was put to the witness.

OFFICER: Q. Well I thought you were saying, viewed separately you thought that the smaller parcel had slightly less urban potential than the large parcel?
A. No, no, I don't think - if I did say that then I was not correct in my own thinking. I believe - I thought that I had answered that they had similar potential, the same potential, but that the potential in respect of the smaller parcel was not quite as proximate, it was not as proximate as that in part of the large parcel. 30

Q. And by not as proximate, you mean, would be somewhat more delayed in its likely realisation? A. I would suggest ---

Q. Or what else do you mean by that? A. Yes, that's right, as parts - the very first part of the large property that you commenced development upon, has more potential than the last - or proximate potential than the last part of the large property that you develop. 40

Q. And so - and this is all on the assumption that one - that there is such a thing as discount for size applicable to 800 acres or thereabouts, you would I take it, first form the view that the highest and best use, or the - prima facie the highest and best use would be to value them as one parcel, with urban potential? A. It is the view I've taken. 50

Q. And you would do your exercise to attribute a

THE LAND AND ENVIRONMENT COURT
PLAINTIFF'S EVIDENCE
NO. 2(xvi)
ALCORN Lawrence Lloyd
FURTHER CROSS-EXAMINATION

value to them, and on the assumption I'm asking you to make, you then came to the discount for size factor which you had been let's say, instructed was a factor in the value world? A. Yes.

Q. If you then applied the discount, and didn't think the answer was an appropriate one, or wasn't a favourable one, what would you do then, would you go back to the beginning and say, well I won't value them together, I'll value them separately? A. If I'm instructed to take into account a discount for size, firstly I would satisfy myself as to what that discount for size should be, and having done that then my calculations would --- 10

Q. I'm sorry, let me assume then that - simplify it, assume a court had said to you, if you're valuing this parcel of land, we are satisfied on evidence, that there would be a discount of X per cent for size, if you're valuing this 800 acres as one parcel, now you do your exercise, and you come to the application of that discount for size, and then you have a look at the result, and how do you go after that, if the result doesn't seem appropriate to you, would you then go back and say, well I'll forget about valuing them together, I'll value them separately. 20

HIS HONOUR: When you say appropriate, what do you mean by that? 30

OFFICER: Well whatever the witness wants to put on it, I don't mind.

HEMMINGS: Well your Honour, I object to the question, the valuer doesn't put a value on that; he deduces it.

OFFICER: Yes, because I'm saying he has deduced a value. The witness has said before, if I did an exercise on the basis of highest and best use, and now I got a result that might well be that hadn't selected the right - in fact hadn't selected the highest and best use. 40

HIS HONOUR: Yes.

OFFICER: Q. Well now, assume you apply the discount for size, and you reach a figure, are there any circumstances under which you would not give your valuation as that figure, but would go back and start the exercise again with treating the two parcels as separate parcels, and value them separately.

HIS HONOUR: Having no other information?

OFFICER: Well he's done all his work, he has tried out 50

THE LAND AND ENVIRONMENT COURT
PLAINTIFF'S EVIDENCE
NO. 2(xvi)
ALCORN Lawrence Lloyd
FURTHER CROSS-EXAMINATION

valuing them as one parcel, and applied the discount for size, and I'm asking him, well now - this is all on the assumption there is a discount for size, would he then say to his client, that is my valuation, or would he say, well because of the figure, for some reason or other, I will go back and start the exercise and value them separately. 10

HIS HONOUR: You mean because it comes to a figure that's thought to be too long?

OFFICER: I don't mind for what reason. I asked him were there any circumstances in which he would.

ALCORN: A. Firstly, can I - I want to say this, that if I was asked to assume a discount for size then I would. I would, unless I was instructed to do so by the Court, I would value them separately. I wouldn't include the 184 acres with the 700 acres because that would be a totally incorrect approach. I'd be told you must discount X-percentage from a very large property, a very large parcel of land. So I wouldn't be doing the right thing by my conscience, my clients or anybody, for that matter, if I were to include 184 acres with 700 acres and proceed to discount the 184 acres. 20

OFFICER: Q. May I summarise it this way? Not believing that there is such a thing as discount for size applicable to the circumstances of the land we are speaking about, you have valued them together? A. Yes. 30

Q. If there be a discount for size, contrary to your view, then they should be valued separately? A. Yes.

Q. But you haven't done that exercise? A. No.

Q. I think at this stage Mr. Hemmings started asking you some questions about bank rates. The bank overdraft rates were controlled by the Reserve Bank, were they not? A. Yes.

Q. One knows that from the precise ups and downs of - as shown on these documents? A. Yes. 40

Q. The RSL was a very - sorry, the Rugby League Club at Penrith was a very wealthy institution? A. It got into some financial difficulties around about this time.

Q. After it bought the Jamison Road land? A. I'm not quite sure whether it was before or after.

Q. Rugby League Clubs have a pretty healthy cash flow, don't they? A. Yes.

Q. The Cambridge Credit sale, the finance was provided

THE LAND AND ENVIRONMENT COURT
PLAINTIFF'S EVIDENCE
NO. 2(xvi)
ALCORN Lawrence Lloyd
FURTHER CROSS-EXAMINATION

by a related company, was it not? A. I don't understand you. Which Cambridge Credit?

Q. The sale of the Cambridge Credit St. Clair land?

A. You mean when it sold to the Housing Commission?

Q. No, purchased from Goodacre? A. No, the finance was provided by the Australian Gas Light Company or by Goodacre, Goodacre being a subsidiary of the Australian Gas Light Company. 10

Q. What, a finance subsidiary? A. Finance and development subsidiary, yes, as I understand it.

Q. You commented this morning that the - from some source, you were made aware that by September 1973 the budget policies had started to grip, I think "grip" is the phrase you used? A. Yes. From the Bank of New South Wales authorities, I think. It was from the Bank of New South Wales. I thought we had --- 20

Q. Yes, you had lent them to me but I didn't observe that in them. A. It may have been in the original document.

Q. Anyway, so by September 1973, it could be seen that the budget policies were - there was some indication that they had started to work? A. Yes. The Bank report suggests - if I used the word "grip" and I'm not quite sure that I did, but nevertheless ---

Q. The budget grip or bite or something. A. Grip or bite, yes. The Bank's statement says that the Treasurer policies were - no notice was taken of them by the market place until they started to in around about September - in September in fact, the Bank's statement says. 30

Q. In September? A. Yes.

Q. Could you just check that for me if you have the --
A. There's only one problem. I believe that somebody down there has the original statement.

Q. Well can we go on with another point? A. Yes. 40

Q. You expressed the view that 9½ per cent was an appropriate rate if one is looking to what a developer would have to pay to borrow money in August 1973?

A. I was talking about a substantial developer, a substantial - the question was put me to as to a developer of substance and by that I mean a developer requiring to expend on a multi-million dollar project, multi-million, very high development, very costly at least.

THE LAND AND ENVIRONMENT COURT
PLAINTIFF'S EVIDENCE
NO. 2(xvi)
ALCORN Lawrence Lloyd
FURTHER CROSS-EXAMINATION

Q. Were you saying to such a developer, 9½ would be an appropriate rate in August 1973? A. I believe that to be the case, yes.

Q. The company Peter Kent was a company with substantial development activities of its own, was it not? 10

A. I wouldn't call them substantial. In fact what the Peter Kent contract - is that Peter Kent actually didn't end up buying the land. A company called Lanigan Pty. Limited - the name Peter Kent appears on the contract but there is an annexure in the contract wherein the name Lanigan Pty. Limited is used rather than Peter Kent.

Q. Yes but this is the situation, is it not? Under the contract Peter Kent had the right to purchase by itself or its nominee? A. Yes, a company to be nominated. 20

Q. To be nominated? A. Yes.

Q. And which it is in the contract suggested might be called Lanigan? A. I am not quite sure of that. I will accept that.

Q. Then there is another document by which the parties agreed, the vendor and purchaser agreed, that Lanigan having been formed by Peter Kent and nominated, all the rights and interests in the contract obtained by Peter Kents, rights and liabilities, are taken over by Lanigan? A. Yes. 30

Q. Then there is the transfer to Lanigan? A. Yes.

Q. There was nothing very mysterious about that, was there? A. No.

Q. So Lanigan, you would imagine, was a subsidiary of Peter Kent or controlled by it? Agreed? A. Yes.

Q. A fair inference? A. Yes.

Q. Now may I go back to my original question? Peter Kent was a company with substantial interests and activities in development, was it not? A. Again, I say - and I don't believe they are substantial. I believe that they were developers in the medium category, medium to largish small. They are not real small, they are not quite in the medium bracket. They are not as big as our biggest developers. They are not as big as (a) Lend Lease, (b) A.V. Jennings, and they are not as big - they were nowhere near as big as Parkes Developments. 40

Q. And they weren't as big as Cambridge Credit used

THE LAND AND ENVIRONMENT COURT
PLAINTIFF'S EVIDENCE
NO. 2(xvi)
ALCORN Lawrence Lloyd
FURTHER CROSS-EXAMINATION

to be? A. They weren't as big as Cambridge Credit.

Q. Or as big as ASL used to be? A. Cambridge Credit actually were not developers. Cambridge Credit were basically lenders.

HIS HONOUR: Q. Still going - still operating or --- 10
A. I frankly don't know. I haven't heard of their name for a long long time.

OFFICER: They were one of the wise ones that ---

Q. You suggested this morning that the 12 per cent indicated in the Peter Kent contract as being the rate applicable after 180 days if a purchaser wants mortgage finance that really one should try and average that?

A. Yes that would be an attitude that I might adopt.

Q. Isn't that what you suggested this morning?

A. Yes. 20

Q. You would do? A. Yes.

Q. Over 2 years or whatever, if the purchaser wanted finance up to the 180 days only for a further 180 you would average? A. Yes.

Q. If he wanted it for a week, you would average a bit? A. No I wouldn't.

Q. You wouldn't bother about a week? A. I wouldn't average that kind of - no.

Q. The purchaser gave consideration, did he not, in return for not having to pay interest for the first 180 days? A. If the purchaser gave consideration, yes, I believe so. I analysed it that way, yes. 30

HIS HONOUR: Q. What was that? A. I analysed the sale on the assumption that a built-in interest factor was included for that first 6 months in the event that the purchaser did not pick up the - a mortgage for any further period than 6 months and I said 10 per cent was built-in there.

OFFICER: Q. How did you derive that 10 per cent? 40
A. There was a penalty interest factor included in, for example, Lanham's Laundry contract, the Lanham's Laundry mortgage and so on.

Q. We are talking about the Peter Kent one.

HIS HONOUR: You were asking him how he did it and he went to another. Can I just ask this before you get on to - when you were putting to him there was

THE LAND AND ENVIRONMENT COURT
PLAINTIFF'S EVIDENCE
NO. 2(xvi)
ALCORN Lawrence Lloyd
FURTHER CROSS-EXAMINATION

consideration for this - no interest for 180 days, I had the impression there was something in the contract that expressed consideration for this, did it not, that's ---

OFFICER: May I come to that in a moment, your Honour? 10

HIS HONOUR: Yes.

OFFICER: Q. Did you look at the contract, the Peter Kent contract, to see if some consideration was disclosed from the purchaser that might be - explain the 180 days free of interest or did you have to go outside the contract? A. I just can't remember at the moment. I would have to have a look at the contract again.

Q. Let me ask you to assume, and I'll show you the contract if you wish, that the vendor was given possession or the right to possession for one year from the date of completion and the right to remove the buildings? 20
A. Yes, that returns to me I think now, yes.

HIS HONOUR: The vendor could remain in occupation for a year?

OFFICER: And remove the buildings.

Q. And his occupation was rent free, wasn't it? Does that come back to your mind? A. It does now, yes.

Q. Clause 27 of the contract. Don't you think that was a consideration which the purchaser gave as a quid pro quo or which would be set off against his freedom from interest for the first 180 days? A. It could be viewed that way. I wouldn't view it that way though because there were a number of contracts in the Penrith area, and in other areas, that wherein the purchaser would allow the vendor rent free accommodation for a period of time until such time as the services were coming through or whatever and that was usually 12 months, 18 months, and at the same time allow them the right to take away the building. That's not an unusual clause in a number of contracts. 30 40

Q. I am not concerned whether it is unusual or not. Don't you think that should be regarded as being some quid pro quo against the non-charging of interest for the 180 days? A. No, I don't.

Q. So you would average - if the 12 per cent money is taken up at the end of the 180 days, you will still say, well, we will do a straight time average, is that what you would say? A. Yes.

Q. Without regard to this benefit to the purchaser?

THE LAND AND ENVIRONMENT COURT
PLAINTIFF'S EVIDENCE
NO. 2(xvi)
ALCORN Lawrence Lloyd
FURTHER CROSS-EXAMINATION

I'm sorry, benefit to the vendor of rent free occupation
--- A. Yes,

Q. --- and taking away? Is your view that because a clause like this you say is common in the Penrith district, or out that way, therefore we'll just - we won't regard it as relevant for any purpose of calculating the advantages and disadvantages of the contract, just because it is common, is that what you are suggesting? 10

A. No, not necessarily because it is common, but because the factor that might evolve as a result of taking that into account might be a fraction of a percentage, so it is not a significant sum that one can take into account, it is not a significant sum.

Q. Peter Kent land was used for what, grazing land, or what was it used for before the sale? A. Some grazing land, and well a couple of cows, and - a few cows I suppose, but basically a poultry farm I think, from memory. Actually that house on Erskine Park Road wasn't very nice. 20

Q. Well it was a poultry farm was it? A. There were poultry sheds, there was shedding there, there was a few cows, it was just a little old mixed farm there.

Q. A mixed farm, well if the purchaser had possession, he could have found some occupier of it could he not? A. Undoubtedly. 30

Q. At some remuneration to himself? A. Yes.

Q. Which he allowed the vendor to enjoy? A. Yes.

Q. And he on the other hand didn't pay interest on the balance of the purchase money? A. Yes.

Q. Don't you think, in all fairness, that those two should be reflected one against the other? A. Well yes, I suppose I would do the exercise, if there was sufficient money involved.

HIS HONOUR: I think this was one of the criticisms of Mr. Hilton, that he wouldn't do this with respect to - wasn't that a criticism of Mr. Hilton, that he wouldn't make an allowance for the subject land being not - being rented out, for the buildings? 40

HEMMINGS: No, that is a different issue, that was the value of the buildings themselves, and at that time he was criticised because lands were normally used for some time because you get land tax benefits, but what my friend is putting, this is an entirely different exercise, is that you are prepared to give away all of 50

THE LAND AND ENVIRONMENT COURT
PLAINTIFF'S EVIDENCE
NO. 2(xvi)
ALCORN Lawrence Lloyd
FURTHER CROSS-EXAMINATION

your interest for 6 months, which would be an enormous sum ---

HIS HONOUR: Well it might be, but dealing with these things do you not take into account that for a year that you may have been able to rent this property, or whatever period it was, rent the property out, anyway that is what he's asking so ---

10

HEMMINGS: He said that that is a question of the degree, your Honour.

HIS HONOUR: Yes.

OFFICER: Q. You mean whether it is a large sum or not?

A. That's right, whether it is going to make any difference to the overall rate per acre that you end up with, and it might make - I don't know, but notionally I would have taken notice of it in my mind, I didn't think it was a sum of significance - sorry, a sum that was significantly going to affect the rate per acre finally, analysed. However, yes, I would take it into account.

20

Q. Mr.Alcorn, do you think I'm talking about the Peter Kent rate per acre in my questions about the present time? A. That is the ultimate figure that I would - that is the only reason that I've analysed the sale, I've got no other reason to look at the sale.

Q. Let me attempt to concentrate the discussion, I am attempting to suggest to you that your evidence this morning that the 12 per cent payable on the Peter Kent mortgage moneys, if taken up, after 180 days, I'm trying to suggest to you that - put to you that your suggestion this morning that that wasn't a rate which one should really accept, one should average that down, having regard to the 180 days free of interest, I'm trying to suggest to you that really one should pay either regard to the 12 per cent, or not merely average it on a time basis. Now with that indication of what I'm driving at, would you agree that the presence of this clause 27 in the contract would make it not right purely to average the 12 per cent on a time basis?

30

A. Yes.

40

Q. Because such a clause is common, such a clause as clause 27 is common? A. Sorry, I don't quite follow that last question.

Q. Well you say --

HIS HONOUR: I thought he agreed with you, Mr. Officer?

OFFICER: I thought he disagreed.

50

THE LAND AND ENVIRONMENT COURT
PLAINTIFF'S EVIDENCE
NO. 2(xvi)
ALCORN Lawrence Lloyd
FURTHER CROSS-EXAMINATION

ALCORN: A. I'm sorry, I meant to convey that I was agreeing with you.

OFFICER: Q. That you would not, in light of that clause, merely apply a straight average on a time basis, of 12 per cent? A. I would take note of that clause. 10

HIS HONOUR: Yes, that's what he said, he agreed with you. We'll never know though, will we, because we're not allowed to hear from the people who made this bargain.

OFFICER: Q. Mr. Alcorn, the Cambridge Credit interest rate was fixed February 1973, or perhaps December 1972?
A. Yes.

Q. And the Rugby Leagues Club, that was what date?
A. July 1973. In fact it was later than that, it was around about - that was when the contract took place, the date of the contract, the moneys had to be obtained within 3 months, I think the contract says, but I know from my own personal experience in the matter that it was - the interest rate was structured around August-September. 20

Q. Yes, I thought you said this morning it was a term of the contract that the purchaser had to be able to find money at 9½? A. Yes.

Q. And of course there were, even in the case of large purchasers, exceptions to the 9½ or thereabouts - 9½? A. What do you mean when you say exceptions, I don't --- 30

Q. Are you aware of the Kawacka purchase in July 1973, with provision for 10 per cent? A. Yes, I'm aware of the Kawacka purchase, but I can't remember the interest rate precisely.

Q. If I tell you the interest rate is 10 per cent, mentioned in the contract, that purchaser would be a substantial purchaser? A. I don't know. 40

HIS HONOUR: Is that the one, Stocks and Holdings property, down at Casula?

OFFICER: Yes.

HIS HONOUR: Q. And did you understand that the 9½ per cent in the other sale was that the purchaser could have called it off if he couldn't have arranged finance at 9½ per cent? A. I understood that to be the case, yes.

THE LAND AND ENVIRONMENT COURT
PLAINTIFF'S EVIDENCE
NO. 2(xvi)
ALCORN Lawrence Lloyd
FURTHER CROSS-EXAMINATION

OFFICER: Q. Now could I go back to the - when the effect of the budget started to bite, I don't know whether the report had been found.

HIS HONOUR: Have you found that report?

HEMMINGS: No I haven't, I can't find it in there, I think it is on the brown pages in the 1973 report, or the green pages of the 1973 report. We don't know whether it is in those documents or not. 10

DISCUSSION

ALCORN: Immediately I can't find it, but I will locate it for you, it is in these reports.

OFFICER: Q. Anyway, it was to the effect that by September, by some time in September, the budget policies were starting to bite? A. Yes.

HIS HONOUR: Q. And by that I understood you to say, Mr. Alcorn, that after the end of August? A. Yes. 20

OFFICER: Q. Well after - some time during September?

HIS HONOUR: Q. During September? A. Yes.

Q. That's what I understood it to be. A. I've just found it, it was here: However, a more powerful move was made in September, in an attempt to curb demand pressures which the budget had done little to alleviate.

OFFICER: Q. May I see that? A. Yes.

Q. Now you disagreed with Mr. - and this is back to - Mr. Giles is on the scene again now, you disagreed with Mr. Hilton's application of 10 per cent as the appropriate interest rate at which to discount a delayed rezoning? A. Yes. 30

HIS HONOUR: He said it should have been 4½.

OFFICER: Q. Yes, and you said if you apply 4½ to a starting point of \$26,000 you get to \$21,000 I think - sorry, \$23,200? A. Sorry, what period of time?

Q. 3 years. A. 3 years, yes, 4½ per cent?

Q. Yes. A. \$26,500, yes, \$23,200, in round figures.

Q. Now what you are saying by that, are you, that a person would pay \$23,200 to buy a bit of land, an acre, which would be released in 3 years, and would then be worth \$26,500? A. Yes. Not 1 acre, is it. 40

THE LAND AND ENVIRONMENT COURT
PLAINTIFF'S EVIDENCE
NO. 2(xvi)
ALCORN Lawrence Lloyd
FURTHER CROSS-EXAMINATION

HIS HONOUR: No.

OFFICER: Q. I'm sorry, you'd pay \$23,200 per acre?

A. Based on an in-selling, it would not then be worth \$26,000, it is now worth \$26,500.

HIS HONOUR: Q. No, it is now worth \$26,--- But he's not going to be able to get it for 3 years, so therefore he is paying a lesser figure for it, is that right, now? A. Correct. 10

Q. But deferred value.

OFFICER: Q. Yes, but isn't that the same as - well let me start off a slightly different way, if I am owed \$26,500, payable to me in 3 years, the present value is less? A. Yes.

Q. And if an appropriate rate at which to discount it is $4\frac{1}{2}$ per cent then the present value of that debt payable to me in 3 years is \$23,200? A. Yes. 20

Q. Which means that if someone wanted to buy that debt from me, payable in 3 years' time, if they paid \$23,200 for the debt they would - and an appropriate rate were $4\frac{1}{2}$, they would make no profit and no loss? A. They'd make $4\frac{1}{2}$ per cent compound.

Q. But they've outlaid \$23,200 in order to get the asset. A. Yes, they'd make $4\frac{1}{2}$ per cent compound over a 3-year period.

Q. And you suggest that that is what a person wishing to buy that debt from me would do? A. On the assumption that we're talking about a debt and those figures, yes. 30

Q. So the person would outlay \$23,200 for $4\frac{1}{2}$ compound? A. I'm assuming that that's their approach, yes.

Q. And likewise you say if there's a bit of land that will be - a bit of land which, whenever it is released will be worth \$26,500, if the release is 3 years off then the appropriate discount is $4\frac{1}{2}$ compound --

HEMMINGS: I object your Honour. I only object because I want to get the transcript correct. My friend prefaced his question by "likewise". He was the one who raised the comparison to a cash debt and applied these rates. 40

HIS HONOUR: Yes.

HEMMINGS: Mr. Alcorn never likewise applied those figures to a debt.

THE LAND AND ENVIRONMENT COURT
PLAINTIFF'S EVIDENCE
NO. 2(xvi)
ALCORN Lawrence Lloyd
FURTHER CROSS-EXAMINATION

HIS HONOUR: No he didn't. I know that.

HEMMINGS: I don't want the question to read as though Mr. Alcorn at some later time ---

HIS HONOUR: Has been adopting this ---

HEMMINGS: Is adopting that as applying to a debt. This factor has been derived from sales of land your Honour. 10

HIS HONOUR: Yes.

OFFICER: Q. Well let me - Mr. Alcorn looking at your exhibit AAZ page 3 ----

HIS HONOUR: That's the one you produced today is it?

OFFICER: Yes, the top one.

Q. Due for release in 3 years. Now the first line under that is present value of \$26,500 due in 3 years.
A. Yes.

Q. Aren't you saying from the analysis which you have done on pages 1 and 2 of the Cambridge Credit land or adjustment of Mr. Hilton's analysis of the Cambridge Credit land, that the value of land already rezoned is \$26,500 per acre? A. At what time? 20

Q. Rezoned at the present time. A. Yes, as at August 1973?

Q. Yes. A. Yes that's the calculation that produces there.

Q. And then you're saying in your paragraph 1 are you not, if however the rezoning is 3 years on, the value will be less than \$26,500? A. On current values, yes. 30

Q. And discounting at 4½ it'll be \$23,200? A. Yes.

Q. And are you not saying, if I have one parcel of land which is in August 1973 rezoned, already rezoned, and the value of which is \$26,500 an acre, and my neighbour has an equivalent parcel of land of equal value but his is scheduled to be rezoned in 3 years' time, then as at August 1973 his land is worth \$23,200 per acre? 40

HIS HONOUR: If the value of yours is worth \$26,500 and everything else is equal?

OFFICER: Yes.

HIS HONOUR: Yes.

THE LAND AND ENVIRONMENT COURT
PLAINTIFF'S EVIDENCE
NO. 2(xvi)
ALCORN Lawrence Lloyd
FURTHER CROSS-EXAMINATION

OFFICER: Q. That's what you're saying? A. Yes.

Q. And aren't you by that saying that a person will pay \$23,200 for the deferred release land because when it is released it will be worth \$26,500? A. No.

HIS HONOUR: I didn't understand that. I thought also 10
Mr. Officer that this is what Mr. Hilton did, the only
difference being Mr. Hilton put 10 per cent.

OFFICER: Q. Could you tell me what were the factors
that led you to accept 4½ as the appropriate rate?

HEMMINGS: Your Honour this was given in quite some de-
tail in chief, and not one question was asked. Your
Honour will recall, it's in the transcript ---

HIS HONOUR: I appreciate that, but it's going to be 20
asked now I mean - you see what I was going to ask, it
wasn't precisely what Mr. Officer was going to ask but
nearly the same thing.

Q. This was the figure he picked, is this correct,
in 1973, the 4½? A. No I didn't pick it your Honour,
I ---

Q. No well I mean you regard it as applicable for
1973? A. Correct.

Q. Right. And you gave some reasons to Mr. Hemming
this morning as to why you picked a much lower figure
than the 10 per cent and you made reference to savings
banks and overdraft rates and the like? A. Yes. 30

Q. I take that figure moves around a bit does it,
this figure that you would - I mean today for example
it would be much higher than 4½ per cent? A. I haven't
analysed today, but yes it does move, you know, if -
the compound factor decreases as the demand increases
as you can appreciate.

Q. Yes, right. Well now, I appreciate what you're
saying Mr. Hemmings but I'd like to know the answer
to this question anyway. What factors did you take
into account to apply as at 1973, 4½ per cent? A. My 40
schedule of rates per acre mid-1973 I adopted zoned
urban South Penrith and I'd adopted this for my examina-
tion of the lands, \$21,000 per acre to \$24,000 per acre.
The proposed early release around mid-1970's Terrace
Drive area was then selling for \$19,500 to \$20,000 per
acre, this is a locality the suggested release for which
mid-term was 12 years away, that is the North Orchard
Hills land which was due for release 1980 to 1990, that
was due for release - as at 1973 I'm sorry the mid-term
period would have been 12 years away. And the other 50

THE LAND AND ENVIRONMENT COURT
PLAINTIFF'S EVIDENCE
NO. 2(xvi)
ALCORN Lawrence Lloyd
FURTHER CROSS-EXAMINATION

one was the Colony Town land which was due for release 1985 to 1995, mid-term period would have been 17 years away as at 1973. Now by looking at the zoned urban value in South Penrith and the proposed release mid-1970's Terrace Drive which I took as 5 years away, and I applied the discount, I worked out what the discount factor was and I'll just do this exercise right now as I don't have the figures right in front of me.

10

HEMMINGS: I think I can help your Honour. I think on your schedule of rates assuming 5 years it's 3.71 of the Terrace Drive areas. The North Orchard Hills 4.59 per cent. And the suggested release 12 - 17 years away ---

HIS HONOUR: Better write those in, sorry start again.

HEMMINGS: 5 years 3.71 per cent.

HIS HONOUR: That's Terrace Drive. This is the deferral factor. I'll put a DF and then forget what that means.

20

HEMMINGS: Third one, North Orchard Hills 12 years, 4.59 per cent. And the No. 4, 17 years away, 17 years 4.42 per cent.

HIS HONOUR: Yes I see. And it's from those figures you --

HEMMINGS: He described it your Honour as being differences for the localities but there was a - I think he called it a common factor when he gave his ---

30

HIS HONOUR: Yes, and from those you picked this deferral factor to apply to this ---

HEMMINGS: Yes your Honour.

OFFICER: Q. Now you looked at the Fleurs sale and you looked at the company searches and formed the view that it wasn't an arm's-length sale? A. Yes.

Q. And you mentioned 2 directors of the vendor who - you didn't name them, but 2 directors of the vendor ---

HIS HONOUR: He did. Albert Scheinberg and somebody Hammond.

40

OFFICER: They were the same person.

HIS HONOUR: No Mr. Hammond was Mr. Scheinberg but not Albert Scheinberg.

OFFICER: Oh I'm sorry, I beg your pardon.

THE LAND AND ENVIRONMENT COURT
PLAINTIFF'S EVIDENCE
NO. 2(xvi)
ALCORN Lawrence Lloyd
FURTHER CROSS-EXAMINATION

ALCORN: John Hammond was John Scheinberg and Albert Scheinberg remained Albert Scheinberg.

OFFICER: Q. Are they related one to the other?

A. Yes.

Q. And they were two of the directors of the vendor company as at the date of the sale? A. Yes. 10

Q. Two out of how many? A. Two out of two.

HIS HONOUR: Q. That's out of the vendor company?

A. Yes.

Q. And the purchaser?

OFFICER: And the purchaser, well the two you've named --

A. I'm sorry, one out of four in that case.

HIS HONOUR: Q. And who was that? A. Albert Scheinberg. He was the - one of the two directors in Unit Constructions and John Hammond was the manager of Unit Constructions, Albert Scheinberg is a director of four directors in No. 1 Fleurs and is the manager of No. 1 Fleurs. 20

Q. And both Hammond and Scheinberg were directors of Stocks and Holdings? A. Yes.

Q. I think Mr. Albert Scheinberg is one of the - well he's the largest shareholder isn't he in Stocks and Holdings? A. I believe that's the case.

OFFICER: Q. And you have, I gather from one of my friend's questions, a list of the shareholders in the vendor and purchaser? A. Yes I have. 30

Q. That's Unit Constructions? A. Yes.

Q. That includes the two and only two directors of the vendor company? A. Yes.

Q. There are a number of other persons who are shareholders, how many in all? A. Persons? There are only 1, 2, 3 4 ---

Q. Well persons and companies. How many other shareholders? A. Well I got up to 15 including companies and didn't go any further because they become very very complex after that. For instance Albert Scheinberg is a director in John Hammond Investments - I'm sorry a shareholder in John Hammond Investments, and John Hammond Investments owns 50 per cent of both companies, Unit Constructions and No. 1 Fleurs. You've got Albert Scheinberg, Irwin Graff, Colin Barr, John Hammond --- 40

THE LAND AND ENVIRONMENT COURT
PLAINTIFF'S EVIDENCE
NO. 2(xvi)
ALCORN Lawrence Lloyd
FURTHER CROSS-EXAMINATION

HIS HONOUR: Q. That's another Stocks and Holdings ---
A. Yes.

OFFICER: Q. The two directors in the vendor company,
do they in their own right as individuals, have 50 per
cent or more of the shares in the vendor company? 10
A. John Hammond and Albert Scheinberg ---

Q. Individually. A. Individually ---

Q. Collectively, but in their own names? A. No.
No they don't.

Q. You're suggesting that the vendor company sold
this land at an over-value or under-value? Which?
A. Under-value.

Q. In other words that the directors of the vendor
company, except so far as they were the shareholders
were defrauding the shareholders of the vendor company? 20
A. No.

Q. Selling the asset at an under-value? A. I didn't
say that at all.

Q. Unless it - you say it was sold at an under-
value? A. That's my opinion. It is not an arm's length
transaction and I believe the price was under-value.

Q. You think it wasn't an arm's length transaction
because there was some but not entire correspondence in
the interests held in the vendor and the purchaser?
A. You say some but not entire correspondence. What 30
do you mean by that?

Q. If A and B control the vendor and are the only
shareholders and they sell to a purchaser in which they
are the only shareholders and which they control, there
is precise correspondence? A. Yes.

Q. There is no one else? A. Yes, right.

Q. No one to complain? In this case there were
people who could have complained? A. Yes, except - yes.

HIS HONOUR: These arm's length transactions - can I
just ask this question - do the Court's reject them? 40
I mean they don't - they could be husband and wife,
couldn't they, they'd be two separate individuals, and
you could read that, wouldn't you, as being a non-arm's
length transaction? It might - you don't - they might
be tax reasons, all sorts of reasons why people are
selling ---

OFFICER: That your Honour, one would certainly reject

THE LAND AND ENVIRONMENT COURT
PLAINTIFF'S EVIDENCE
NO. 2(xvi)
ALCORN Lawrence Lloyd
FURTHER CROSS-EXAMINATION

or view with suspicion a husband to wife transaction, or
parents --

HIS HONOUR: When you say "view with suspicion", it's
not because you think that one party is behaving dis-
gracefully but because of their relationship, you
don't think it is going - it is unreliable as a guide? 10

OFFICER: It is unreliable because their relationship
is such that they can, without any impropriety, trans-
fer it and under-value.

HIS HONOUR: Does that mean to say that all you've got
to do is find one shareholder in a company and it
becomes then, according to the law and without letting
anyone investigate it, a proper arm's length transac-
tion if you have one, as it were, shareholder whose
rights could theoretically have been damaged? 20

OFFICER: One, in principle, I would say yes, but here
we have - we don't even know - Mr. Alcorn doesn't even
know the full shareholdings in the vendor company.

ALCORN: A. Sorry, I know the full shareholding in
the vendor company.

OFFICER: Q. I thought you said you didn't know.
A. I stopped when I got to thirteen in the purchas-
ing company.

Q. In the purchasing company? A. Yes, or whatever
it was that I --- 30

Q. And you will agree - well, you don't know how --

HIS HONOUR: Q. Who are the shareholders then in the
vendor company? A. John Scheinberg - John Hammond né
Scheinberg, A. Scheinberg Holdings Pty. Limited,
J. Hammond Investments Pty. Limited, Winifred Hammond,
Edgar Dillon and Albert Scheinberg, they owned Unit
Constructions outright.

Q. I think Dillon is associated with --- A. Dillon
owned four B class shares out of a total of sixteen B
class shares out of a total paid up capital of - 40
sorry, a total share issue of 24,028 A class shares and
16 B class shares.

Q. This is the vendor company we are talking about?
A. Mm.

OFFICER: Q. Certainly there are, so far as your in-
vestigations went with regard to the purchaser - there
are people in the vendor, people or companies in the

THE LAND AND ENVIRONMENT COURT
PLAINTIFF'S EVIDENCE
NO. 2(xvi)
ALCORN Lawrence Lloyd
FURTHER CROSS-EXAMINATION

vendor, who are not shareholders in the purchaser?

A. No, that's not true. That's where I get into some slight difficulty because the line ---

HIS HONOUR: Q. He said he had stopped following the labyrinth. A. Yes, that's - if you can bear with me, I'll - A. Scheinberg holdings - Edgar Dillon is the only one if there is one, he owns all the B class shares but I think Edgar Dillon - it's a very bad photocopy and I think I did find Edgar Dillon's name here as ---

10

Q. Wasn't he the property manager of Stocks and Holdings? A. Yes, and I think he is a shareholder in the company.

Q. I know this because I acted for Stocks and Holdings while they were in the process of emptying out the Imperial Arcade and every tenant who was being tipped out investigated the affairs of Stocks and Holdings endlessly so I remembered who owned what and all these names coming back to me like some --- A. I will just have to - there are about ten other companies that I haven't searched yet. I've got some of the searches here but I didn't really trace Edgar Dillon. He is the only one that I didn't really trace right through.

20

OFFICER: Q. You formed the view - you formed two views about the Fluers property. One, that it wasn't an arm's length contract because there were - to the extent you have mentioned, people on both sides of the transaction? A. Yes.

30

Q. But your conclusion that the price was low, was that an independent conclusion you came to, and if so, what was your evidence that it was low? A. Comparable sales.

Q. Are they sales that have been referred to here in this Court? A. Yes.

Q. Which were they? A. ASL at North St. Marys 1,496 acres which sold at exactly the same time.

40

Q. Yes, any other? A. That's the major one. There were no other sales of 1,000 acres.

HIS HONOUR: Q. How big was Fleurs? A. It was over 1,000 acres but I can't recall.

HEMMINGS: Fleurs was 1,086 acres.

OFFICER: Q. When you said to my learned friend in relation to Mr. Weir's 40 per cent discount, do you remember that? A. Mm.

Q. On page 2 of 12A, you would agree, would you not,

THE LAND AND ENVIRONMENT COURT
PLAINTIFF'S EVIDENCE
NO. 2(xvi)
ALCORN Lawrence Lloyd
FURTHER CROSS-EXAMINATION

that if there were some additional - I'm sorry, you would agree would you not that if, apart from the prospect of any rezoning taking place at all except for the risk that there may be no rezoning for many many years, if at all, if there were a prospect that if any rezoning did take place, it might stop at the transmission line, you would reflect that additional risk? 10
A. That is an assumption you are asking me to make?

Q. Yes. I am asking you to assume, if there were, you would reflect it, wouldn't you? A. Yes I'd reflect it but I am just wondering whether I am going to reflect it exactly the way you have put it. You are saying an additional risk?

Q. Let me put it a different way. Assume that there was a risk, X-percentage is an appropriate discount for the risk that none of the land may be rezoned for 15 years, but of course it may be rezoned the next year for all we know? But if apart from that, there is some either prospect or possibility which I ask you to assume that if and when rezoning took place, it might stop at the TLE, then you would apply some discount factor for the first general risk to the whole of the land, and would you not also apply some additional discount to the land south of the TLE? A. No, I don't think I would do that. I think - as a matter of fact I know what I would do. If we're definitely on the assumption that there is no development to take place south of the high tension easement in the foreseeable future, is that the assumption? 20 30

Q. No, there are two assumptions. One is that the land - no part of the land may be rezoned ---

HIS HONOUR: It may be and it may not be too.

OFFICER: Q. No part of it may ---

HIS HONOUR: Will, you mean.

OFFICER: Q. No, no. There is the risk that no part of it may be rezoned at all in the foreseeable future. 40

HIS HONOUR: Yes, go on.

HEMMINGS: I am not trying to interrupt, I am trying to understand it your Honour so I can follow the cross-examination. Can I ask, is this line of questioning related to the exercise that Mr. Weir has carried out on page 2 of his report?

HIS HONOUR: It may ultimately be, but I think he is asking a general question first.

OFFICER: It will be in part. 50

THE LAND AND ENVIRONMENT COURT
PLAINTIFF'S EVIDENCE
NO. 2(xvi)
ALCORN Lawrence Lloyd
FURTHER CROSS-EXAMINATION

HIS HONOUR: Yes, so the first question is?

OFFICER: Q. The first question is, assume there is a risk that no part of the land may be rezoned in the foreseeable future. A. Right.

Q. Assume there is another risk, that if and when rezoning takes place, the TLE may be the southern boundary of the rezoned land? 10

HIS HONOUR: That is another risk. What you are asking is wouldn't that make - whatever percentage you put on the first one, wouldn't you increase it if you got --

OFFICER: Q. Nor the land south of the TLE for the second risk?

HEMMINGS: I object your Honour. There is one step being left out which makes the question impossible. What are you starting with, are you starting with a valuation based on urban potential or are you starting with the land valued as rural? The question is not capable of an answer. 20

OFFICER: I think the witness understood me to be speaking ----

HIS HONOUR: I suppose it must have to be urban potential, must it, otherwise you wouldn't start talking about these risks.

OFFICER: We are talking about chances of rezoning otherwise. However, I don't know whether the witness misunderstood me or --- 30

ALCORN: A. Quite frankly, yes, I did because I wouldn't apply a further risk to land that wasn't going to be rezoned. I would attach an increase to it because it adjoined urban land. I would attach an increase to the land south of the easement but start from a different figure.

HIS HONOUR: Q. So you wouldn't add a higher discount figure because you would say, well --- A. If we are looking at the land north of the easement as being land with urban potential, the land south of the easement having no urban potential, if that is the assumption, then I would start - sorry, no urban potential in the foreseeable future, than I would start with the non urban value south of the easement and increase it for the reason that it is adjoining urban land and with a lot of pressure being brought to bear, the facts are it just might be released in the not too distant future, but I wouldn't add a further discount to it. 40

THE LAND AND ENVIRONMENT COURT
PLAINTIFF'S EVIDENCE
NO. 2(xvi)
ALCORN Lawrence Lloyd
FURTHER CROSS-EXAMINATION

OFFICER: Q. Let me try again. I ask you to assume that the whole of land may be rezoned but that may be next year or 15 years away. We just don't know. You would regard it as having - the land as having some urban potential? A. The whole of the land? 10

Q. The whole of land but of a fairly indeterminate nature. You've got the possibility of one year to 15 years? A. Yes.

Q. On that basis you would - a purchaser would not value it having regard to land, the rezoning of which was imminent and certain? A. No, you'd look at - you'd generally look at sales of lands with similar potential.

Q. But my question was, you would not value that as land by regard to sales of land the zoning of which was imminent and certain? A. If you had no other evidence you might be forced to. 20

Q. But of course making a discount? A. Yes.

Q. Now - so at this stage we've applied a value by a discount, use of a discount, applied a value to land the whole of which may be rezoned in one year or 15, we don't know? A. Yes.

Q. And the discount will have reflected as best one can, the risk that it may be rezoned in one year or in 15? A. Yes.

Q. And, now at the same time we are asked to assume let's say, that if and when rezoning takes place there is a prospect that the land south of the TLE will not be rezoned? A. In that overall parcel, all of which has urban potential, and that there's a risk that none of it will be rezoned or some of it will be rezoned, but it all has urban potential. I can't --- 30

HIS HONOUR: You see, what he's saying - this is what - I had a problem with the question. You're asking him in the same question to assume the urban potential of the land south of the high-tension line, and yet at the same time you're asking him to assume it's not going to have any. 40

OFFICER: No your Honour.

HIS HONOUR: Well that's what I thought. I thought you said if it did have it was going to stop at the high-tension line.

OFFICER: There is the risk - it's not a certainty.

HIS HONOUR: Yes.

THE LAND AND ENVIRONMENT COURT
PLAINTIFF'S EVIDENCE
NO. 2(xvi)
ALCORN Lawrence Lloyd
FURTHER CROSS-EXAMINATION

OFFICER: It may approach, depending on what the prospects are.

HIS HONOUR: Yes, all right.

OFFICER: Q. Now if the whole of the land had this possibility it may be rezoned in one year or it may be 15 years before it's rezoned, and by an appropriate discount factor we reflect that risk, the risk that the purchaser may have to wait 15 years for it to be rezoned. A. Yes. 10

Q. And then there is another possibility on top of that, that if and when it is rezoned, whenever that be, it may stop at the TLE. So you've got one risk applies to the whole of it and then we've got a - second risk relates only to the land south of the TLE. A. That's two risks. 20

HIS HONOUR: Yes.

ALCORN: The first risk, isn't the zoning stopping at the TLE taken up in the first risk that the land may or may not be zoned in the first 1 to 15 years, and that the - so that there is not an additional risk on top of that 1 to 15 years. I can't make a second assumption that the - saying that the zoning is ---

HIS HONOUR: Q. Well can I ask you the question this way because Mr. Officer has persuaded me that I was wrong, but say I came to you one day, on Sunday, and said to you, these are the facts. I want you to tell me how much I should discount the value of this land the subject land, and that is because the whole of it's going to - I hope become available for urban development but it may be some time in 15 years. So you put a figure of 25 per cent on it for the whole of the land. A. Yes. 30

Q. Then I come back on Monday and I say, look I've just also learnt this other fact which I didn't know before, and that is that if it does become available it then might stop at the transmission line, halfway through the property. Would you say, well I'll add a percentage to what I've done or would you say, well look this is a new ballgame, I'll have to start re-thinking this out? A. I'd start a new ballgame, and I'd probably start by saying, well you can apply the 25 per cent to the land north of the easement, that's fair enough, but I really want to investigate what the situation is with sales of similar lands, see whether I could find some sales of similar - I don't think I could possibly --- 40 50

OFFICER: Q. You wouldn't keep on adding discounts.

THE LAND AND ENVIRONMENT COURT
PLAINTIFF'S EVIDENCE
NO. 2(xvi)
ALCORN Lawrence Lloyd
FURTHER CROSS-EXAMINATION

You would say on the second day his Honour comes back to you, you would say, well it may be all right for you to apply the discount I gave you yesterday of 25 per cent for the land north of the TLE --- A. Yes.

Q. But I have to re-think the situation of the land south of the TLE? A. That's what I'd seek to do, yes. 10

HIS HONOUR: And that's why I think he said besetting off close development to ---

OFFICER: Q. And you would look round then for land in the same situation as this land. Land as extensive as this is, south of a TLE. Sales of land south of a TLE or what? A. No. Look, I'd look for land that was preferably an area of 600 acres adjoining - immediately adjoining a parcel of urban land - urban zoned land or land with urban potential. Land with urban potential, similar to our land, and that's the ideal situation, hardly possible that you'd get that. 20

OFFICER: Q. Mm. A. You would then look for land sales in the category of being close to land with urban potential and maybe it's on the other side of the road, and try and apply that. They're the sort of investigations you'd make.

Q. And you say - sorry. Might you come to giving the enquirer a figure higher than 25 per cent? If you gave him 25 per cent the first day because of what he then told you, when you returned the next day you say you might tell him, well 25 per cent's all right but only apply it to the land north, I want to think about the land to the south. Do you think you might, having thought about it, give him a figure which was higher than 25 per cent for the land south? A. A discount factor higher than 25 per cent, I might. 30

DISCUSSION

ADJOURNED TO 3RD DECEMBER, 1981

THE LAND AND ENVIRONMENT COURT
PLAINTIFF'S EVIDENCE
NO. 2(xvii)
ALCORN Lawrence Lloyd
FURTHER CROSS-EXAMINATION

3rd December, 1981.

TATMAR PASTORAL COMPANY PTY. LIMITED AND ANOR

-v-

THE HOUSING COMMISSION OF NEW SOUTH WALES

HIS HONOUR: Yes, Mr. Officer.

10

LAWRENCE LLOYD ALCORN

FURTHER CROSS-EXAMINATION (CONTINUED)

HIS HONOUR: Yes.

OFFICER: Q. Mr. Alcorn, where within the SROP, areas phased for release were released, that was as services - amongst other things services became available?

A. Yes.

Q. And under those circumstances, take the case of the sewerage, the sewer amplification to the released areas would be done by the Water Board, and then developers would pay a contribution as and when their lands were subdivided? A. It wasn't always done by the Water Board, Penrith Council were responsible for the sewer.

20

Q. I'm sorry, yes, but the process was that the Authority, whichever it was, did the work, and then contributions were made by the developers, as their lands were subdivided? A. Yes.

Q. Now will you agree that it was of the essence of the Premier's announcement, and Sir Charles Cutler's letter to Mr. Vogan, that in any areas released pursuant to that policy, the whole of the costs were to be borne by the developers? A. Yes.

30

Q. And that was included, you would infer, because the funds of the Authority were - Tatmar had been dealing with the areas phased for release in the normal course of events? A. I suppose that could be a reason, yes.

Q. So it would be reasonable to assume that the Authority, whichever it was, was not at any time to be out of pocket in its provision of services to this land specially released? A. I suppose so.

40

Q. That is what you would infer from reading the document? A. Yes.

Q. So that with regard to any - I'm sorry, you have proceeded on the basis, have you not, that if the subject land were rezoned, it would be rezoned pursuant to

THE LAND AND ENVIRONMENT COURT
PLAINTIFF'S EVIDENCE
NO. 2(xvii)
ALCORN Lawrence Lloyd
FURTHER CROSS-EXAMINATION

the policy as you understood it, announced by the Premier, and also discussed by Sir Charles Cutler in his letter? A. Yes, that letter gave strength to the rezoning argument.

OFFICER: Q. Yes, and you would therefore have expected with regard to the provision of services to the subject land, if rezoned, that at no time would the Authority be out of pocket? A. I really couldn't say, I don't know, I would suggest that perhaps one alternative might be that the developer might guarantee the funds, and perhaps meet the cost of the contract work as it - as each monthly, fortnightly, weekly account came forth, he would meet that cost. 10

Q. Yes, well that means that the Authority, except for the delay of a week or a fortnight or whatever the accounting period was, the Authority would at no time be out of pocket, it would be reimbursed as the work was done? A. I would imagine so, yes. 20

Q. So that if sewerage works were necessary, the sewerage amplification was necessary, and it would be to bring sewerage to this land, then as the amplification work was done, to bring it to the site, somewhere on the site, except for the delays of a week or thereabouts, the Authority would not be out of pocket? A. That probably would be the case, yes. 30

Q. So that the developer - I'm sorry, it would be reasonable for any developer to infer, would it not, that if sewerage was to be provided by the connecting up to the Penrith system, that there would be amplification costs of bringing the sewer from some point of the Penrith system, to the boundaries of the land? A. Yes.

Q. And he would have to pay as the work was done, for that cost? A. I believe so.

Q. And you would agree that no lots - you would agree would you not that it would be a condition of subdivision approval, that sewerage be provided? A. Yes. 40

Q. And you would envisage I take it, in what you would regard as a high class development, you would envisage that if a person bought a block, sewerage would be available subject to reticulation within the site? A. I expect that the land would - well the Premier's letter required the land be fully serviced, yes.

Q. Before sold? A. I don't think that was implied at all, no. 50

Q. But in a high class development such as you're

THE LAND AND ENVIRONMENT COURT
PLAINTIFF'S EVIDENCE
NO. 2(xvii)
ALCORN Lawrence Lloyd
FURTHER CROSS-EXAMINATION

contemplating, it would be your understanding, would it not, that the sewerage would at least be to the site before lots were sold off? When I say to the site, to the boundaries of the subject land, before lots were sold?

10

HEMMINGS: He disagreed with that.

ALCORN: A. Yes, I would agree - well, not necessarily before the lots are sold, the construction work would take place concurrently, be building roads, building sewers, building drains, all at the same time as it were, well near enough to the same time, and perhaps when the subdivision was part constructed, an advertising campaign might be undertaken to promote the area, and then ultimately people would secure a parcel of land by deposit, that was the ruling market trend at that time, and settle when the land - when the linen plan was uplifted and deposited plan was registered, so that you know work would be going on concurrently.

20

OFFICER: Q. And by that stage of course, as you say, the work would have been completed? A. Work had to be completed by the - to get a linen plan uplifted, and the registration of the deposited plan, yes.

Q. So that if you were doing a hypothetical subdivision of this land, whatever stage - whatever area of it you select for your first stage, before you could uplift the linen plan for that area, for that portion of the subject land, sewerage would have had to have been brought to the subject - to that area of the subject land? A. Sufficient to cater for that particular location, sufficient to cater for that particular stage.

30

Q. Are you suggesting that - I'm sorry, the nearest sewerage point was somewhere in the South Penrith area, north of the freeway? You know that from Mr. Smyth?
A. Yes.

40

Q. Now let me just assume that the sewerage could have been brought from that point to the subject land without amplification north of the sewerage point in South Penrith? A. Yes.

Q. Let me just assume that for the moment? A. Yes.

Q. A developer would envisage, would he not, that the pipes laid to connect that point at South Penrith with the subject land, would be pipes of sufficient size to cater for the whole of the subject land?

A. Yes. Not the whole, I'm sorry, no, not the whole, because it may not - I'm not an engineer, it may evolve that there are two points of - or more than one point

50

THE LAND AND ENVIRONMENT COURT
PLAINTIFF'S EVIDENCE
NO. 2(xvii)
ALCORN Lawrence Lloyd
FURTHER CROSS-EXAMINATION

shall we say, of disposal of the effluent, that is, the fall of the land may dictate in the western end for example that it might have to go down Mulgoa Road, or - I don't know.

Q. Go down Mulgoa Road into the river? A. No. 10

Q. This is to a wholly new treatment works you're suggesting? A. No, I'm saying perhaps it may have been an alternative, that it could have linked up with Penrith - with the pipes running from Penrith proper, by running a line down Mulgoa Road, to link up with the pipes at around about Peach Tree - no, it would be north of Peach Tree Creek, around about Castlereagh Road, I don't know, I'm not an engineer.

Q. You heard Mr. Smyth give evidence? A. I did.

Q. And he discussed various ways in which one could link up with the Penrith - existing Penrith Treatment Works, if there were the sufficient capacity? A. Yes. 20

Q. And all of those - or each of those involved a single pipe, going from some part of the subject land to the treatment works? A. Yes, I think - well there were four alternatives weren't there?

Q. Mm. A. So that each alternative suggested a single line, well at least one path, whether it was a single line in that path, or more than one line in that path I don't know, again, I'm not an engineer. 30

Q. Well did you understand Mr. Smyth's report and evidence to be that one might have - bury a pipe from the treatment works to the subject land, and then at a later stage dig up and bury another pipe for another stage, and so on? A. I wouldn't dig up the first pipe.

Q. No, I'm not saying you dug up the first one, but you'd have to dig a trench and add another pipe?
A. That could well be the case.

Q. No, but did you understand Mr. Smyth's evidence to encompass that possibility? A. Yes, I think I did. 40

Q. Now you would agree would you not, that if the sewerage connection for the subject land were to be by single pipe from the boundary of the subject land, then the whole of the cost of the sewer amplification would be done at the one time, and before the first linen plan was uplifted? A. No.

Q. I'm asking you to assume, would you assume that sewerage from the subject land would be conveyed by a single pipe? A. Yes.

THE LAND AND ENVIRONMENT COURT
PLAINTIFF'S EVIDENCE
NO. 2(xvii)
ALCORN Lawrence Lloyd
FURTHER CROSS-EXAMINATION

Q. On some part of the subject land, to some part of the Penrith network? A. Yes.

Q. Now you would agree that pipe would have to be in before the first linen - the linen plan for the first stage, wherever it was, of the subject land, was uplifted? 10
A. Yes.

Q. And you have agreed with me before, that as the work was done by the Authority, the developer would be required at weekly or fortnightly intervals, to pay the cost? A. Yes.

Q. Thank you. You made a criticism of Mr. Weir's hypothetical subdivision, I'll call it that, for want of a better term, and you made the criticism that he had not included in his gross realisations any amount in respect of a sale of the school site, or the service station sites? A. It doesn't appear to be in there, no. 20

Q. You mean it is not referred to in type? A. No, I mean that the lots - the number of lots that he quotes, and the balance of the area at ---

Q. Stage 4 I think? A. Stage 4 16.25 acres, seems to be wholly applicable at \$2.50 a square foot, to commercially zoned land, they are not too necessary to a service station site or to the school site, and the additional 125 lots and 18 acres of unsubdivided land, as I think Mr. Heath claimed - discloses in the south-western corner, seems to be the balance of the land. 30

Q. The 120 lots are in the south-western corner, that would be your understanding, wouldn't it? A. I was of the understanding - 18 acres.

Q. And the 18 acres times 4 - I'm sorry, certainly those are not commercial lots in any sense, are they?
A. No.

Q. May I go back to the \$2.50 that you refer to in stage 4? For a service station site, \$2.50 is about reasonable, the expected realisation? Per square foot? 40
A. I wouldn't value it on a square footage basis. In fact I don't think too many valuers do. It is a bulk figure, it's \$75,000, \$50,000, \$150,000, that's the sort of ---

Q. For a site? A. For a site, yes.

Q. Have you scaled off from any Braun plans the size of the hotel, the shopping centre, the school and the service station? A. No. 50

THE LAND AND ENVIRONMENT COURT
PLAINTIFF'S EVIDENCE
NO. 2(xvii)
ALCORN Lawrence Lloyd
FURTHER CROSS-EXAMINATION

Q. That would be one method, wouldn't it, of checking before you accuse Mr. Weir of not having reflected any receipt from school and service station site?

A. That's one method. But the other method is to rely upon the report that was prepared by Heath and Partners and Economic Associates wherein they disclose the - I'm not sure whether they disclose the areas or whether they disclose ---

10

Q. Did you do that? A. I checked the Economic Associates report, yes, against ---

Q. For the size and areas to be devoted to the four things we have mentioned, school, shopping centre, hotel and service station? Is that what you say you did?

A. Yes I did. I checked - and I'm not sure what part I checked, whether it was the original Economic Associates - the original A.A. Heath report or the Economic Associates report, and that escapes me at the moment as to which one I did check. But it seemed to indicate that there was a deficiency in planned size.

20

Q. Have you a copy of the Braun subdivision before you, the subdivision plan? A. No.

OFFICER: May the witness be shown the exhibit which is -

ALCORN: The model is there.

HIS HONOUR: The model is there, if you want to look at the model.

30

OFFICER: May I approach the witness, the witness and the model?

Q. We see the shopping centre site, I suggest to you that's a little over 7 acres. Do you have any idea of that - where --- A. I'm not sure at this stage.

Q. So you didn't look at a plan and scale anything off? A. No I didn't.

Q. Thank you. We can do that by scaling at some appropriate time. Perhaps unless you - in case you wish or anyone wishes to check it, we will be suggesting that the shopping centre site is 7.3 acres, the hotel 1.6, the school 7---

40

HIS HONOUR: The service station?

OFFICER: The service stations are not shown on that model and they are not shown on - I think on - and there are some copies of the Braun plan in circulation as it were that don't have the service stations shown on the plan. They are shown in the exhibit - I'm sorry, we ---

THE LAND AND ENVIRONMENT COURT
PLAINTIFF'S EVIDENCE
NO. 2(xviii)
ALCORN Lawrence Lloyd
FURTHER RE-EXAMINATION

HIS HONOUR: Find it out, anyway, re-examination?

FURTHER RE-EXAMINATION:

HEMMINGS: Q. Mr. Alcorn, you were asked yesterday to assume or contribute your views that some reduction for the size of the combined parcels should be made in the final valuation. Do you recall that? A. Yes. 10

Q. If you assumed, so far as the combined sites were concerned, there was some reduction for size, and you were taking the aggregated site, would that lead to a greater reduction if there was a factor for magnitude and there was an urban ... (inaudible) ... than if you took the two sites separately? A. I think the aggregated site would disclose - if the reduction was applicable - the aggregated site would disclose a lower reduction factor than the two sites separately. 20

Q. The larger one would show a lower reduction than the two percentage wise? A. That would be my understanding of it. If the reduction factor was applicable, 184 acres would not attract the same percentage reduction as 700 acres.

Q. And 700 would not attract the same as 884?
A. As 884, that's - yes.

Q. Then the two smaller ones ---

HIS HONOUR: Assuming it operates at that level, between 700 and 884. 30

HEMMINGS: Yes.

Q. Assuming there was some market evidence that pointed to that figure, wouldn't the two combined smaller ones have a smaller percentage reduction than the larger one? A. Yes.

Q. By the way, assuming there was evidence that could be found in the market place to actually find those figures, in either case that percentage reduction could be applied, could it not, to your final figure that you've arrived at in exhibit L? A. Yes. 40

Q. Exhibit K. A. That's right.

HIS HONOUR: So I follow, if you can find - you say you can't but if you can find the market evidence to support this, you could apply it to 184 acres, you could apply it to 700 acres?

HEMMINGS: You either apply a figure for 884 acres or the one that you have derived from the combined, but whatever you derived you could apply that to ---

THE LAND AND ENVIRONMENT COURT
PLAINTIFF'S EVIDENCE
NO. 2(xviii)
ALCORN Lawrence Lloyd
FURTHER RE-EXAMINATION

HIS HONOUR: To Mr. Alcorn's ---

HEMMINGS: --- the figures that are arrived at in exhibit K.

Q. The second matter, you were asked to assume on the evidence, again contrary to what you have discerned from the evidence available to you, that there was a differing potential for release one part of the land to the other. Do you recall that? A. Yes. 10

Q. It was suggested to you that it might be said that each part of the land had a potential for release but the release might have been earlier for the land north of the transmission line to that south of the transmission line. Do you recall that? A. Yes.

Q. I think when you were being questioned as to how you would account for that in your valuation, it was suggested to you that you should apply a percentage reduction as Mr. Weir did at page 2 of exhibit 12A. Do you recall that? A. Yes I do. 20

Q. I think at that stage you said that you didn't believe that would be the appropriate way of starting up at the top and working down, did you not? A. I did say that.

Q. I want you to assume that there is evidence that there might be a delay for the southern area for release, as my friend put to you yesterday? A. Yes. 30

Q. What he was putting to you was that the purchaser would seek to take off a percentage reduction, to that effect? A. That's right.

Q. Of course, there are two parties to a transaction, are there not? A. Very much so.

Q. So far as your vendor is concerned, would he be looking to fix a price in some particular way if someone was suggesting to him that there should be a percentage reduction as distinct from some other method? A. I believe he would. I would believe that a vendor under those circumstances would look around the area and look at Terrace Drive which had been gazetted for early release - I'm sorry, the word "gazetted" is incorrect, it had been declared for early release, look at Orchard Hills and see that that was 7-17 years away, see the prices that they were paying, and perhaps - and I just suggest this as a mean - but perhaps he might have averaged the two. He's said, all right, there's 19½ over there, there's 1,300 there, perhaps I will ask for \$15,000 or \$16,000. 40 50

THE LAND AND ENVIRONMENT COURT
PLAINTIFF'S EVIDENCE
NO. 2(xviii)
ALCORN Lawrence Lloyd
FURTHER RE-EXAMINATION

Q. Would it be necessary for the parties to identify before any figure was fixed as to what would be the likely potential for the land? A. I didn't think any of the parties could have identified which would be the likely area for release. I believe that the whole area was - had urban potential and as to the parties defining which part of that land had urban potential, I --- 10

Q. So far as the vendor was concerned, you'd say he would be looking for sales of land in the locality which reflected the potential that the lands ---

A. Yes. Just because land is proposed for early release or proposed under a phasing plan does not mean that that land is going to be released for housing purposes or commercial or some form of urban use. It could well be that a very large proportion of a particular parcel of land might be taken away for special use purposes for the use of the public. 20

Q. Thank you Mr. Alcorn.

HIS HONOUR: Thank you.