

VALUERS'

JOURNAL

March 1995

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The NEW ZEALAND VALUERS' JOURNAL is the official publication of the New Zealand Institute of Valuers. The JOURNAL is published quarterly and the Editorial Board welcomes researched articles from qualified individuals concerned with valuation, business management of a valuation practice and property related matter.

Each article considered for publication will be judged upon its worth to the membership and to the profession. The Editor reserves the right to accept, modify or decline any article. Any manuscript may be assigned anonymously for review by one or more referees. Views expressed by the editors and contributors are not necessarily endorsed by the New Zealand Institute of Valuers.

All contributions should be typewritten on one side only of A4 sized paper and must be suitable for scanning. Computer disk copies (IBM compatible) are welcome. Original photographs, diagrams, tables, and graphs (including values creating any graphs) and similar material intended to illustrate or accompany an article should be forwarded separately with the text. The approximate places where illustrations are to be inserted through the text should be clearly shown in the manuscript.

A brief (max 60 word) profile of the author, a synopsis of the article and a glossy recent photograph of the author should accompany each article.

Complete editorial policy review process and style instructions are available from the Editor. Deadline is two months prior to each quarterly publication.

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The principles adopted by New Zealand valuer's many years ago have stood the test of time. That is how it should be. We have been fortunate in that we have had a Registration Board and the Courts to monitor deviations, to affirm principles and when appropriate, to endorse worthwhile change.

Our Institute's organisational structure, on the other hand, has largely remained unchanged for over 50 years. The "NZ Valuer" in June 1958 records 12 Members of Council, a Valuer Generals Nominee, 14 Branch Secretaries (including 2 sub branches) and a General Secretary. Today we have 14 members of Council and 17 branch Secretaries (including 3 sub branches) a Valuer-Generals Nominee and a General Secretary/CEO. No significant change in nearly 50 years!

In the 1950s a Council member from say Dunedin had to commit three full days and at least two nights to attend a one day Council meeting in Wellington. This would involve almost a full days train journey from Dunedin to Lyttleton, a night on the Interisland Ferry, a full day in Wellington with a reverse repeat on the journey home. In those days passenger jets, fax's, mobile phones, computers, copiers and conference links were in the realms of science fiction. Today an executive member of the Institute could conceivably visit 12 of the 17 branches in the same period it took that 1950's councillor to attend a one day meeting. The pace, the resources and indeed the attitudes in those formative years of the New Zealand Institute of Valuers were quite different. The majority of membership, and support, came from Government Department's, the most notable being the Valuation Dept but there was also significant representation from Lands & Survey and State Advances Corp. Neither of the latter now exist. The Institute branch and the council members

were entirely male, conditioned to a regimented post war society and largely constrained by the bounds of official red tape. Lateral thinking was not part of the vocabulary. The NZIV leadership comprised honest, intelligent and very dedicated men, They were steeped in tradition. They set up solid management structures suited for the times. But now, 50 years on can we continue to accept that this largely unchanged structure is appropriate for the technology available in today's world.?

Ten years ago a revolutionary government restructured the economy and the management of New Zealand. Most of us were affected. Some benefited, many suffered but few now condemn the action. Our National Council has made some bold and timely decisions over recent months. There is the commitment to press ahead with the Business Plan which had been promoted in a report prepared by Adrian Brady. The report outlines the place of NZIV in the 1990's marketplace. It analyses its strengths, its weakness's, its threats and its opportunities as a professional body. It positively promotes the vision that NZIV members can become the preeminent property professionals by the year 2000. As the report points out attainment of the goals will demand wider perceptions, enhanced business skills and a shared vision through consistent and dynamic leadership. There is a need for greater collaboration between NZIV and membership, between branches and between members themselves. The competition from other property based industries must be faced. We must not overlook that our most serious rival, the REINZ is also looking to restructure at this point in time. Valuers must be prepared to change their image, pay greater attention to quality and to focus more on the customer and the customers needs.

The proposals are worthy of the support and commitment of every valuer.

From The President's Pen

It was an honour to be elected President of our Institute during the recent Council Meeting at Twizel.

As a number of you know, I have been involved in Institute affairs for over 20 years commencing as part time lecturer at Wellington Polytechnic and then as a member of that Branch Committee in 1976. My philosophy has always been to, wherever possible, carry out the wishes of the members, whether it be at branch or national level, and to provide as much assistance as I can to fellow members.

It was evident at Twizel that your Council wanted change and action. The catalyst for this was the proposed Business Plan which had been prepared by Adrian Brady, Practising Valuer from Wellington which had set goals for the next five years. This plan had been discussed at a special Council Meeting as well as at the Annual General Meetings of the Auckland and Canterbury-Westland Branches where it received favourable responses. Following the Council Meeting at Twizel, this Business Plan will be fine tuned and an early Council Meeting will then be called to finally approve the document and put in place the appropriate strategies to achieve the goal of our members, to be the preeminent property professionals by the year 2000.

My aim over the next two years is to introduce the changes to achieve the goals contained in the Business Plan in consultation with Councillors and Members as well as to implement the mandatory CPD which was approved by Council. You will be aware that the number of hours required each year has been increased to 20 from January 1996. The work in this area has been developed to a very high level by the Education Board, chaired by Bill Cleghorn, and with the assistance of the Education Development Manager, Kathrine Fraser. You will note from your CPD Planner and other literature that the main criteria for CPD is that of

"relevance". It does not confine itself to technical matters which have been the basis of earlier proposals.

The other area in which I propose to ensure benefits come to members is in the further development of Guidance Notes for Valuers relating to areas of practice which have caused difficulties to some members in the past. This includes the valuation of new homes for mortgage security purposes, when the market value in some cases is lower than cost. This has been commented on in the past in Valuers NewsLine as well as in comments from the Registration Board.

As mentioned by John Larmer, the immediate past President, research was undertaken by MRL and we must build on this base. This is to ensure that the public are fully aware that members of the Institute are not constrained to only value, but can provide a very wide range of services. In fact some members of our Institute do very little in the way of pure valuation work and are seen by their clients as being very much the property professional, capable of undertaking many assignments due to their background, qualifications and expertise. We must build on this to ensure that all of our members are able to achieve the same variety of work and acceptance in the market place as being the preeminent property professional.

I also have the aim to control costs to valuers as I know full well, from members comments to me, that it is becoming a very costly business to be a registered valuer when our own fees are added to those of the Valuers Registration Board and the likely CPD costs. There is a possibility of a reduction in the NZIV income from VALPAK and therefore there is a definite need to control and reduce expenditure of our Executive and National Office. I will ensure that there continues to be a close scrutiny of expenditure and endeavour to achieve, in all cases, value for money for members.

I will be better able to expand on these comments once Executive and Council have met to discuss the initial actions to be taken in relation to the Business Plan.

Finally, I would like to thank the South and Mid Canterbury Branch for an excellent Conference held at Twizel with top quality speakers, field trips and organisation. Jane O'Connor, the new Councillor for this Branch did a magnificent job as Secretary of the Organising Committee as well as representing her Branch at the Council Meeting which preceded the Conference. Jane acted as coordinator between the Branch and Council and although she has a different style to the outgoing Councillor, Ted Fitzgerald, both have the ability to ensure that they are listened to. Similarly, David Patterson, acting Councillor for Southland represented the views from that area well, as had been previously done by the former long serving Councillor, Wade Briscoe.

611 K,0 

Iain Gribble

NZIV 1995 CONFERENCE

Highlights

South & Mid Canterbury Branch was host to this years Conference. The organising committee chose Twizel as the venue. The New Zealand Institute of Valuers' is believed to be the first professional organisation to have held its national conference at Twizel.

Ask anyone who attended the 1995 Conference and they will likely tell you that the 'MacKenzie Country Inn' is as comfortable as you will find anywhere, that Twizel is a neat tidy town with good shopping and excellent recreational facilities, that the airstrip is virtually at the front door, hospitality and scenery are unsurpassed and the whole region is a treasure chest of legend, diversification and clean fresh air. There will be strong and lasting memories for some of helicopter flights to Mt Cook, irish jokes, alpacas, clay cliffs, salmon

farms, Speights beer, and the Shindig at Glentanner.

To others there will be appreciation of the excellent selection of interconnecting papers presented at the Saturday and Sunday seminars. They ranged from "Tenure issues" through to "Valuing the High Country Estate", to "Tourism", "Conservation and "Hydro Electric Development". Notable guest speakers included Sir Peter Elworthy, Captain John Jones of Mt Cook Airlines, Guy Salmon of the Maruia Society, Mark France of ECNZ and Ian Rogers, Chairman of the Aoraki Conservation Board. (a selection of some of the papers are included in this issue). Members also had the opportunity to visit "Irishman Creek Station" where the late Sir William Hamilton invented and developed the Jet Boat.

National Council Meeting

National Council met for the two days preceding the AGM & Conference. Outgoing President John Larmer welcomed two new Councillors, Jane O'Connor (South & Mid Canterbury) and David Paterson (Southland). Also welcomed as an invited guest was Garry Rothwell (President Australian Institute of Valuers and Land Economists)

Reports included:

NZIV "Business Plan" and "Committee Restructuring" proposals:

The vision that "NZIV members be the preeminent property professionals by the year 2000AD" attracted significant time and debate. The report and plan presented by Adrian Brady covered in detail our present place in the property industry, a test of our strengths and weakness's, our services, our management and a marketing

Councillors and invited guests at the March Council Meeting 1995

Front row: Max Plested (Hawkes Bay), Bill Smith (Wellington), Allan Ford (Waikato), Alex Lang (Immediate Past President), Gary Rothwell (President AIVLE), John Larmer (Taranaki- President), Bill Cleghorn (Rotorua Bay of Plenty), Lain Gribble (Auckland), Gordon Kelso (Gisborne), David Patterson (Southland), Jane O'Connor (South and Mid Canterbury), Tricia Cameron (Council Secretary).

Back row: Bob Hargreaves (Central Districts), John Wall (Chairman Professional Practices Committee), Steve Baker (Northland), John Dunckley (Otago), John Gibson (Chief Executive Officer), Earl Gordon (Executive), Alan Stewart (Canterbury! Westland), Ross Calderwood (Valuer General's Nominee), Chris Orchard (Marlborough/Nelson), Bill Harrington (Editor New Zealand Valuers' Journal).

New Zealand Valuers' Journal ~ June 1995

Ross Calderwood, Jane O'Connor, Chris Orchard

and financial plan to take NZIV into the next millennium. The background is that NZIV grew out of a highly regulated economy and property market of 50 years ago. Many of the structures imposed then still prevail today. Some of these structures are no longer relevant. The membership of the NZIV is now in decline and it is deemed appropriate that NZIV develop a relevance to university graduates with property majors and to a wider membership base that has an affinity with land or property based industry.

It is recognised that NZIV provides a wide range of services of varying quality and relevance to the wider property market. There is potential to upgrade the quality through improved presentation and expanded relevance. The Continuing Education Programme is seen as the catalyst to this self improvement. The "Business Plan" envisages a more pro-active role for the CEO of the NZIV and a less, if not totally extinguished role for (some) committees. National Council would become more of a policy determining body, akin to a Board of Directors.

The key factors presented were:

- Education
- Leadership
- Communication
- Customer Focus

Concurrent with the "Business Plan" presentation was a report by the CEO (John Gibson) on "Committee Restructuring within the NZIV". Various options were presented for consideration by National Council. It was recognised that the present model of committee/board structure ensures member and demographic representation and continuity of policy but with the greater availability and use of consultants in adopting and developing some key areas (eg Standards), the need for the same range of Standing Committees/Boards must be questioned.

The opportunity to reorganise regional boundaries and representation, particularly in view of technological and proposed senior staffing changes was objectively discussed.

President John Larmer summed the entire discussion up by stating "it is not now a matter of will we change but how do we now proceed with change?"

The Business Plan was approved unanimously and will now be developed for presentation to members through their Councillors and the CEO.

Continuing Professional Development (CPD)

Kathrine Fraser (Education Development Manager) reported that the response to the recent publications on CPD has been very affirming. She pointed out to Councillors that CPD is not a measure of how many Conferences we each attend nor will it rope in the "cowboys". CPD is a sustainable re-education programme aimed at widening horizons and improving confidence, skills and attitudes of members. It is part of being professional. She compared the mandatory 20 hours/pa to be imposed on Valuers from 1st January 1996 with the 50 hrs/pa now required of Professional Engineers and 40 hrs/pa from Accountants. Councillors agreed that the benefits will far outweigh any added cost to practitioners. It was suggested that regional CPD programmes be advertised nationally in advance, similar to the AIVLE CPD programme.

Professional Practices Committee:

John Wall (Chairperson) reported that the number of complaints were about the same as last year. The NZIV are investigating five of them. His committee along with the Valuers Registration Board are disturbed at the number of member on member complaints. The overhead costs fall on the NZIV so all members are paying for sometimes trivial matters that should have been settled in house.

Code of Ethics:

Executive have appointed a sub-committee to review the Code of Ethics with particular attention to be given to gender inclusive language.

International Valuation Standards Committee (IVSC)

John Larmer reported that a minor change had been made to the name (previously TIAVSC) in order to reflect the wider field of valuation practice in general. At the Capetown meeting held in March New Zealand sponsored the Republic of China to join IVSC. This was largely on the initiative of Graeme Horsley. Lithuania and Poland were also admitted. Potential members include Russia, Thailand, Philippines and Hungary. Their inclusion will bring fellow member nations up to 50.

Plant & Machinery Valuers:

Earl Gordon reported that Peter Thompson (Christchurch) is the new President with Kevin Pike (Wellington) as Vice Presi-

dent. The Plant & Machinery Institute have introduced compulsory CPD. Practicing certificates will be issued to those who have completed the required level of CPD and produce proof of adequate professional indemnity insurance cover. Valuation Standards compatible with IVSC will be published. Members have approved a business plan for 1995 which aims to increase the membership base. Membership currently stands at 67, including 47 full members and 14 intermediate members.

Australian Institute of Valuers & Land Economists (AIVLE)

(it had previously been agreed that if nothing was said about yachting no mention would be made of cricket.)

Gary Rothwell reported that deregulation is very high on the Australian political agenda. AIVLE members are encountering a very confused registration system. AIVLE is adopting a very broad view of valuation and land economy. Gary later invited all Conference attendees to visit Sydney for the 18th Pan Pacific Congress of Real Estate Appraisers, Valuers and Counsellors from 21st to 26th April 1996. The Congress will be held at the Sydney Convention Centre at Darling Harbour. This large purpose-built facility is set in over 50ha of parks, gardens, shopping malls and amusement areas. It is a 5 minute monorail ride to

the city centre and within easy walking distance of a range of hotels.

"This will be the closest overseas conference that any kiwi can attend"

Alan Stewart and a local land occupier

Waiting for morning Haka practise

Valuers' Journal

Prof Bob Hargreaves (Chairperson) spoke of plans to include a separate section for purely academic papers in the Journal. These papers will be refereed by an international panel and only those accepted will be published. It is expected that there will be no more than four or five such papers a year. The criteria for submitting academic papers will be published in due course. Council approved the Editorial Board recommendation to move to a full colour cover for the Journal from the start of 1996.

Branch News:

Excerpts from Branch Councillors verbal reports include news that Northland business firms are assisting in running branch education programmes. 9 Aucklanders stood for 5 committee positions Waikato is ready to host the 1996 Annual Conference commencing 15th April 1996?. the theme will be "Dairying is it sustainable at present levels?". Wellingtons pedestrian

count produces a profit for the branch. 80% of sales are from non members. Nelson/Malbrough is planning to promote regular meetings to attract accountants and solicitors. Canterbury/Westland is seeking regular space in "The Press". South Canterbury is henceforth to be known as South & Mid Canterbury. The branch is the first to elect a female Councillor (Jane O'Connor of Valuation NZ). Otago combined with Southland

on a field trip to the

Edendale dairy processing unit. Southland now has a Queenstown representative on its committee but no permanent replacement Councillor as yet.

Adrian Brady

"Jigging at the Shindig"

Jivarois

The following awards were conferred by Council:

Life Membership

John Neville Beaufort Wall
(Wellington)

Fellowships

John Innes Barlow (Otago)

John Winston Charters (Auckland)

John A Fletcher (Otago)

Christian Wayne Nyberg (Wellington)

Roger Maurice Stone (Hawkes Bay)

Young Professional Valuer
of the Year (1994)

Leonie Mary Freeman (Auckland)

LIFE MEMBERSHIP AWARD

John Neville Beaufort Wall

The conferring of a life membership of the New Zealand Institute of Valuers to John Wall was recommended by Council and unanimously approved by members attending the Annual

General Meeting held at Twizel on Friday 31st March 1995. A Life Membership is awarded "to any Fellow or Associate who has rendered pre-eminent service to the Institute over a long period"

Citation

John Wall is a Fellow of the NZ Institute of Valuers and a Fellow of the Chartered Institute of Arbitrators. He is 61 years of age and has been active in the affairs of this Institute for over 35 years.

John joined the Valuation Department as an Urban Field Cadet in 1952 and after obtaining his Diploma of Urban Valuation at Auckland University, he spent periods at Auckland, Palmerston North, Masterton and Wellington as a Valuer and District Valuer before being promoted to the position of Supervising Valuer for the Wellington region in 1972.

He left the Valuation Department in 1973 to enter private practice in Wellington, initially with Harcourt & Co and later moving to Gellately Robertson & Co which evolved into the New Zealand wide valuation firm of Robertson Young Telfer in which he was a Principal and a Director. John Wall is now a Principal of Wall Arlidge Ltd, a Wellington based valuation practice which is a member of "Valgroup".

John joined the New Zealand Institute of Valuers in 1952 as a student member, becoming a full member in 1957. He was Registered as a valuer in 1960 and he served as a member of the Statistical Bureau from 1959 to 1990, being the Chairman from 1970 to 1990. He has been a member of the Executive Committee of NZIV since 1985 and is the present Professional Practices Committee Chairman. John Wall is widely known both within the valuing profession and the commercial property sector as a valuer of considerable ability, undoubted integrity and sound judgement. His experience is principally in the main business districts of Wellington but he has also been retained as Arbitrator and Umpire on numerous assignments throughout New Zealand and he holds an appointment as adviser to the High Court.

John has been fully involved with the Wellington Branch of NZIV, including the education of valuers both as a lecturer at Wellington Polytechnic and as a regular contributor to the New Zealand Valuers' Journal.

In recognition of his service to the NZIV and to the valuing profession over a long period of time, members attending the 1995 AGM were unanimous in approving Council's recommendation that Life Membership of the NZIV be conferred on John NB Wall.

Jennifer & Gary Rothwell & Jill Boyd

9eeowship Citations

John Innes Barlow

John Barlow has been involved in the valuation profession in Dunedin for twenty five years. He commenced his career as a rural valuer with the Government Valuation Department in 1970 upon completion of a Diploma of Valuation and Farm Management at Lincoln University. He moved to private practice in 1976 when he joined OB Smith in partnership and they practised as Smith Barlow. The partnership has developed to become the private company Barlow Justice Valuation, of which John is a director, and now comprises four valuers.

John has wide ranging experience in both rural and urban valuation work with a

particular interest in property consultancy. He is a member of advisory panels to Port Otago Limited and to the Dunedin City Council on investment property portfolios. He is widely consulted by commercial property investors in the city for his knowledge and expertise in investment properties.

The Otago Branch of the NZIV has benefited from John's support as he was a member of the branch committee from 1979 to 1984 and was chairperson in 1982 and 1983. He has been a regular attendee at branch luncheon meetings and seminars, has been a presenter at local seminars and has always shown a willingness to assist fellow members of the Institute who seek his advice.

John takes an active role in community affairs currently being the Chairman of the Otago Fish and Game Council (formerly the Otago Acclimatisation Society) of which he has been a member since 1984 and has been instrumental in the establishment of forward policies for the Council. He is the Secretary of the Dunedin East Rotary Club and was for many years a member of the Otago Fly Flingers Club where he is always willing to share his very wide knowledge of the sport.

Born in England John emigrated with his family to New Zealand as a small child and they settled in Invercargill where John later attended Southland Boys High School. He is a lover of outdoor pursuits, particularly fly fishing and tramping and he is a very accomplished long distance runner and a member of the Hill City Athletics Club. John (48) is married to Marilyn and they have two daughters, Sally and Emily.

John Winston Charters

Jack is a Director of Colliers Jardine in their Auckland Office with special responsibilities for hotels, motels and tourist ventures.

Jack was born in September 1943 and from school joined the Royal Airforce. After returning to New Zealand in the early 1970's, he began a building career and later joined the Valuation Department in 1971, initially located in Wellington. He became a member of the New Zealand Institute of Valuers in 1975 and was advanced to Associate the following year. Jack initially completed his urban examinations (Val Prof) and followed this up

with the rural qualification. Jack held positions as District Valuer in Invercargill, Whangarei and Henderson with the Valuation Department. In 1984 he joined the firm of Eyles Purdy which subsequently merged with Colliers Jardine, where Jack is Director of Hotels and

Leisure.

Jack has a special interest in the valuation of hotel and motel properties, tourist ventures and Maori Land. He has spoken at Institute Conferences and written articles on a variety of topics and he is highly respected in the areas of his expertise.

Jack has been a keen supporter of New Zealand Institute of Valuers initiatives including being an active member of the Northland Branch committee where he

was involved in promoting the interest of the younger members of the profession. His counsel is sought by many of his colleagues in relation to general property matters. He is prepared to help fellow members and is an active participant at Institute meetings including National Annual General Meetings and Conferences wherever they may be held.

Being an acknowledged expert in the valuation of hotels and taverns, Jack has served the profession well over a number of years and is held in very high regard by members of the profession. He has close family ties which has led to a full involvement in land related issues where he has given of his time willingly.

The Auckland Branch has no hesitation in recommending his advancement as a Fellow of the New Zealand Institute of Valuers.

John Fletcher

John Fletcher is a director of Macpherson Valuation Ltd, Dunedin. John joined Macphersons in 1973, after several years as a Property Consultant for a local authority and Trust Manager with Perpetual Trustees and in 1978 he became a partner in the practice. John specialises in commercial and industrial appraisals for rental, market, and refinancing purposes, but is experienced in all facets of urban valuation. He is an acknowledged expert in insurance valuations, and in 1989 contributed an authoritative chapter on "Valuations for Insurance Purposes" in the widely used NZIV reference "Urban Valuation in New Zealand", Volume II.

John has been an invited speaker at Lin-

coin and Massey Universities in his specialist insurance valuation field, and has also addressed local members of the Institute of Valuers in this area. He has maintained an active involvement in the affairs of the Institute, and although not serving at Branch Committee level he has provided much needed "back room" assistance and support to other members of his practise who have gone on to chair the Branch and hold other posts at Branch level. He is among the most regular of attendees at Branch and National meetings, conferences, and seminars, and takes an active and knowledgeable part in debate. John has been a source of guidance and support to young trainee valuers in his practice. He was Chairman of the Valuation

and Consultancy Group (Val Group) in 1992/93.

John takes an active role in community affairs, presently serving on the Management Committee of the Otago Early Settlers Museum; is an active member of the Andersons Bay Parish of the Presbyterian Church; is on the Fund Raising Committee for the Otago Museum Redevelopment; and is involved in a voluntary advisory role to the Kings High School Redevelopment Committee and Board of Trustees. John (50) is married to Mary and has three adult children, Janyne, Andrew and Stuart. He enjoys outdoor pursuits, including boating, fishing and tramping, based at the family's Central Otago holiday home in Cromwell.

John has the respect of the valuing and business fraternity alike, both locally and nationally.

Christian Wayne Nyberg

The Wellington Branch of the Institute is unanimous in supporting the nomination of Wayne Nyberg for the award of Fellowship as recognition of his outstanding service as a valuer to the public and to the business community of New Zealand. Wayne was born in 1943, educated at Wellington College, and upon leaving school worked for Woolworths and then commenced a cadetship with the Valuation Department which he completed in 1969. He subsequently moved to Harcourt & Co. Wellington, and was registered following completion of the Institute's professional examinations in 1971. In 1973, Wayne helped establish the practice of Simpson Horsely Nyberg & Associates which later became an integral part of

Darroch & Co Ltd.

Wayne Nyberg's valuation experience includes special purpose properties, infrastructural assets, freezing works, oil company installations and service stations, banking industry properties, hospitals and a wide range of commercial, industrial and retail premises throughout New Zealand.

Over recent years he has had major involvement in asset valuations for several large corporations and for a number of State Owned Enterprises, including the New Zealand Police.

Wayne has acted as expert witness in numerous legal hearings, and as arbitrator and umpire in rental disputes over many years. He has also participated as chairman, presenter and commentator at a

number of Institute and private sector property seminars and is a regular attendee at Wellington Branch meetings and seminars. Wayne is a long standing member of the Wellington Rotary Club, serving on a range of sub committees, including being a Trustee and the current Chairman of the Wellington Metropolitan Committee of the JR McKenzie Trust Board, one of the country's major charitable benefactors.

Within Darroch & Co, Wayne Nyberg is one of six directors, having specific responsibility for a variety of management tasks, co-ordination of the plant and equipment division, and the company's marketing activities. Wayne has consistently promoted the profession's services and standards to the general public and to the business community, and is a well respected citizen and senior member of the valuing fraternity in Wellington.

Roger Maurice Stone

Roger Maurice Stone is a registered valuer and is a principal partner in the Hastings firm of Logan Stone Ltd, Registered Valuers and Property Consultants.

Born in Christchurch in 1954 and educated at St Bedes College he took up a valuation cadetship in 1973 with Valua-

tion New Zealand in Christchurch. He worked in Christchurch and Greymouth before transferring to the Department's office in Wanganui in 1976 and then to the Napier office in 1977.

Roger completed the Institute's Professional Examination (Urban) and

was admitted as an Associate member of the Institute in 1977. He was also accorded registration as a valuer in 1977.

On leaving Valuation New Zealand in 1979 Roger commenced practice as a Public Valuer in Hastings with Harvey Fulton and Long. He left this firm in 1980 and joined Trust Bank Central Ltd as a valuer and in 1983 was appointed Property Manager for the Bank involving the total

administration of the Bank's property portfolio and valuation services throughout the Central North Island.

In 1986 he joined forces with Gerard Logan under the name of Logan Stone Ltd. Roger specialises in commercial and industrial valuations, investment advising, property development, acquisition and management. He was admitted as a member of the Property Management Institute in 1986. He is retained by many large local and national clients including financial institutions, stock and station firms, major retail groups and from the construction

industry. In addition his services are often sought as an arbitrator, umpire and expert witness in valuation disputes where his expertise, integrity and impartiality are highly regarded.

Roger has pursued an active role in the Institute of Valuers at local Branch and National level where he has made a significant contribution to the profession. He served on the Hawkes Bay Branch Committee from 1979 to 1989 being on several sub-committees and was Branch Chairman in 1985-86. In 1990 Roger was elected

Hawkes Bay Branch Councillor continuing until standing down in 1994.

At National level Roger served on the Services Committee and was Chairman from 1991 to 1994. Although no longer acting as Branch Councillor he is still involved in Institute affairs and is currently reviewing the National Modal House Specifications.

Roger is married to Sue and has two young daughters. When not actively pursuing family, business and professional interests, he enjoys running and trout fishing.

YOUNG PROFESSIONAL VALUER OF THE YEAR AWARD 1994

Leonie Mary Freeman

Leonie Freeman was named Young Professional Valuer of the Year at the NZIV Annual Conference held at Twizel in March. She holds a Masters Degree with first class honours in valuation and property management, has been a lecturer in valuation at Lincoln University, and was a member of the editorial board of this Journal for five years. Leonie has just turned 30 years of age and now runs her own Auckland-based business, "Crest Consultancy Ltd", specialising in the fields of research, education and computer advice to the property sector.

Presidential Citation

Leonie commenced a Bachelor of Commerce (V.P.M.) at Lincoln College in 1983 which she completed in 1985 with an outstanding academic record having been awarded the Valuers Registration Board Prize, NZ Institute of Agricultural Science Prize, WA MacGibbon Scholarship and the Michael Martin Bursary. She completed her Masters year in 1986 with another notable record and was awarded Senior Scholar B.Com (V.P.M.). In 1987 she completed her Masters thesis in the one year and graduated M.Com (V.P.M). Hons. on 6th May 1988.

While she was a student, Leonie worked at Simes Valuation Ltd, Christchurch, assisting with computer advisory work and analysis. Simes in turn provided Leonie with a scholarship to Lincoln. Following graduation she worked as a commercial valuer for Simes. In 1988 she left Simes to work for Darroch & Co where she remained until 1991. Although primarily based in Auckland

she specialised in computer based research and this involved assignments throughout New Zealand as well as assisting in the setting up of Darroch's computer systems. During this period Leonie was also involved in day to day valuation work including the valuation of specialist properties, portfolios, commercial properties and arbitration work.

In 1991 Leonie returned to Lincoln University to lecture in valuation and began a PhD on leasehold land issues but before completing this higher degree she left Lincoln to travel overseas for two years. She spent ten months in London training staff in computer applications. In late 1994 she undertook a brief international consultancy assignment in Fiji in association with Cedric Croft of Lincoln University.

She has a particular aptitude for computer application to the property industry and has run a computer awareness course for members of NZIV. She has contributed

John Larmer and Leonie Freeman

four articles to the NZ Valuers' Journal under her own authorship and has co-authored a further two. She has also written and published a booklet on lessees/lessors interest.

Leonie is an accomplished sportsperson, particularly at indoor cricket. Her previous employers all speak highly of her excellent work ethic and ability. She has a warm engaging personality. Leonie's academic achievements to date are quite outstanding. Council are unanimous that Leonie is a worthy recipient of this award.

INDUIMIVERE R CRUIN CH0 NG

by Squire Speedy

It was the mathematical physicist, Stephen Hawking of Cambridge, author of the best-selling book *A Brief History of Time* who said that any book with mathematical formulae cannot be a best seller. He allowed himself the luxury of using only one, Einstein's $E=mc^2$. Behind that simple formula is a vast complexity of modern physics theory that has to be understood before it can be applied. The use of the science of mathematics in valuation also needs to be understood before it can be applied correctly.

By the very nature of the profession of valuation, valuers use mathematics, but until recent years rarely above the arithmetic level called by Gauss (1777-1855) the Queen of Mathematics. The fact is that most people are allergic to mathematical formulae. Yet some react as if they were Holy Grail, instead of treating the various techniques merely as tools. Before we can use tools effectively we need the appropriate skills. I cringe whenever I see someone misusing a crescent spanner as a tack hammer. Choose the best tool for the job and use it properly. If the task is unusual we may have to find the right one to adapt and fine-tune the job. Although valuers must know some mathematical techniques, how many times have we put to one side an article with some mathematics in it with the half-hearted promise to ourselves to read it later, yet rarely get around to doing it unless compelled?

The logic of mathematics

Mathematics is an international human shorthand language that needs time and mental effort to translate. It is a precise discipline with powerful methods of logic and reasoning. When applied correctly it helps us to draw proper conclusions. It is as a tool of reasoning that makes its use so compelling, desirable, and essential in scientific and similar endeavour. A sound knowledge of the various appropriate mathematical techniques helps valuers acquire precise analytical habits of thought, which to those who have them, seem merely to be the application of common sense. Philosophers may ponder whether mathematics exists as part of nature or

Squire Speedy FNZIV(Life), BCom, MPhil(Hons) has contributed to the Journal for over 30 years. He is the author of several texts on property and financial matters. In 1955 he received the Council Trophy and in 1993 the John M Harcourt Memorial Award. In 1991 he was Tour Speaker on Resource Management sponsored by the Editorial Board, of which he is a member.

merely a series of creations of the human mind. Whether it is invented or discovered is an unsolvable conundrum. The fact is that over the long period of the rise of civilisation, mathematics has gradually emerged as a human activity to deal with problems both real and hypothesised. The modern world of mathematics has borrowed ideas from Egypt, Mesopotamia and the Islamic world. Its use spread through Greece then to the Graeco-Roman world, Europe and beyond. It is also known to exist in China since 300BC and maybe earlier.

Garbage in garbage out

The age of the computer has given wings to the use of mathematics in all manner of fields and has brought some advanced techniques within the apparent grasp of all who care to turn their minds to how to operate a few buttons. And good luck to them. They will need it, because few seem to understand fully the principles, the great strengths and inherent weaknesses of some of those push-button techniques. Computers do not eliminate human error, by misuse, or lack of understanding or judgement they often compound error. What has been said about computers, garbage in, garbage out, also applies to the use of mathematical models.

Magic formulas

Recent financial crashes illustrate the gambling nature of relying on formula and computer projections alone. Each market and sub-market has a mind of its own, with its own personality that reflects the forces of supply and demand peculiar to that market. An economic historian with the wisdom of hindsight can often work out a linking of separate markets with some degree of relationships, with leads and lags. Trying to find a magic formula that will reliably predict prices from one market to another is a form of sophisticated gambling that was behind the 1987 crash that toppled such "sound" institutions as the Bank of New Zealand. The recent collapse of the Barings investment bank is a sad reminder of what can happen. It was the Harvard philosopher George Santayana (1863-1952) who warned that those who ignored the lessons of history are doomed to repeat them. I can imagine his accusing finger pointing at the directors of such organisations.

Valuers get much closer to the appreciation of the true advantage of mathematics in the use of spread sheets where we can ask a series of "what if" questions, where at least we can consider the range of possible answers. We must also ask ourselves the "why" questions. The slavish following of a formula, equation or model can produce a precise figure that is unjustified and misleading. Scientists for generations have been lured and inspired by what they sometimes see as intellectual beauty in a particular mathematical formula, model, or technique. But prettiness of the form of mathematics is not by itself sufficient to justify its acceptance in applied applications.

Human influence

Valuers are concerned with applying mathematics to our analytical problems. Values, sales and rentals are not only about money and properties, they are also about past and future human decisions. Strictly speaking no truly scientific method can possibly apply to the precise resolution of imprecise human and marketing problems. But we may use various mathematical ways to reduce our margin of error. Fortunately human behaviour generally conforms to

broad logical patterns which we assume will continue, with truths greatly enlightened by various forms of analysis. The use of any applied mathematical technique can be, at best, only as accurate as the data used. There are as many individual variations in the property world as there are negotiating parties with their human foibles and frailties.

In recent times some valuers have felt compelled to use advanced techniques that originated in other disciplines, if only to give the appearance that they are up to date. Yet in this over-use of mathematics there are underlying dangers of giving undue weight to a chosen formula and to the electronically processed numbers crunched out.

Realities of the market

It was Sir Isaac Newton the patriarch of modern science (1642-1727) who said that scientists stand on the shoulders of giants. And so it is with valuation techniques. We draw on the past and also borrow and try to adapt from other professional disciplines to apply to our current valuation problems, as if the mere prestige of applied mathematics can give great authority to the final valuation figure. Some people are overawed with the end result of such techniques. Mathematical formulae and models used should be designed to simulate the realities of the market place. It is quite wrong to use a formula and then say that the market should conform to it. That's putting the cart before the horse. Worse still it reveals a lack of understanding of market forces and the underlying assumptions of the technique used. The moment of truth for any valuation theory or valuation is when it has to meet the test of the omnipotent market place.

Servant or master?

It was the Nobel laureate Steven Weinberg who said that mathematics itself is never the explanation of anything, it is the means by which we use one set of facts to explain another. In other words mathematics is the servant and not the master of the means by which we draw conclusions from a set of facts. There is a danger that when one technique has been proven successful in its field it can then be equally successfully when transplanted to another. We must always question a technique used even when it comes from our own field with apparent high authority. When it is borrowed, perhaps from its successful use for a particular purpose in managerial

accounting, economics, or investment analysis or similar disciplines, we must be extremely cautious that the underlying assumptions are still valid when used to estimate the market of real property.

Fact or theory?

The use of mathematical techniques in research in the property world is now virtually a necessity. Aided by computers much better analysis of the multifarious influences can be carried out. But there are other areas available where the clarity of mathematical thinking can be applied to non-mathematical issues. Contrast the difference between hard thinking based on sound reasoning drawn from hard facts, set out so that other people can clearly understand their precise meaning; and soft thinking based on mere theories, or folklore, or just emotion recorded in imprecise use of vague or trite words and catch-phrase jargon. A scientific approach implies that any accompanying report is meticulously accurate in its text and that the words used convey the true meaning of what is intended.

The valuation profession is still finding its way. I can remember the attempts during the days of stringent land sales and tenancy controls, of tribunals wanting to accept only certain tacitly approved formula-based approaches to valuations. Many were discarded by the profession as soon as the controls were lifted when the unbiased real market values had to be found.

Is it any wonder that valuers and lawyers get into great disputes whenever artificial definitions of market value are used for some commercial, contractual, or political purpose when there is no real market to be the ultimate arbiter.

The valuer's final judgment

No matter how sophisticated the technique used, there is still no substitute for that rare quality called judgement based on common sense that comes with

careful analysis of sales evidence, wide experience, and confidence to know when a particular formula or model does or does not strictly apply. Of course figures must often be used to support the reasoning behind the valuation conclusion. But it

should be emphasised that it is not so much the formula combined with the figures used, but rather the rationale behind their use that is of real value.

How could valuation aspire to being a science when science demands that any experiment can be repeated. No two properties are exactly the same. Of course there are similarities. Valuation is not a matter of pure number crunching. It is a profession that calls for many qualities. It requires wide learning like a science and does sometimes use scientific research techniques, similar to those of a scientist to establish the surrounding facts. Statistical analysis can be useful, persuasive, but not conclusive for the individual property.

Valuers should not be concerned with a high degree precision which gives a deceptive allusion of accuracy that simply cannot exist in the real world. Applied science has similar problems. The Nobel laureate Richard Feynman when working on the Manhattan Project that produced the atomic bomb had to caution his staff against trying to calculate to a fine degree of mathematical accuracy because at best the results were approximate.

Intuition

Enrico Fermi was another Nobel laureate physicist with the Manhattan atomic bomb project who believed in the use of the technique of rough approximation in mathematical calculations as an initial starter. The Fermi principle is never to start a lengthy calculation until you know the range of values within which the answer is likely to fall. Haven't sensible valuers been using this approach for generations? Before I heard of the Fermi approach I had often joked that if I couldn't work out the value of a property on the back of an envelope, then the price asked was too high. Sometimes my pulse rate has an intuitive response born of the distilled essence of

experience to respond to a particularly good

property. If ample market evidence is not available, my worry nerve is always agitated.

Ideally a valuer views the task independently, similar to a scientist (or judge), but more particularly valuation needs the art and judgement to deal professionally with

"I have a saying: The accuracy of a valuation is inversely proportional to the complications introduced. And like so many truisms it is for the guidance of the wise and the strict observance of fools."

the inexact results of human behaviour. Although valuers dodge the issue of predicting by claiming that a valuation is made at a specified date, whether they like it or not, they are in the forecasting business, if only because they assume the status quo.

Along with many other professions valuers must deal with the consequences of the vicissitudes of human nature.

Reasonable expectations

Perhaps we should have a good look at the better use of probability theory in the future. The great economist, Lord Keynes was impressed with its use, but also emphasised that it was expectations that were important in investment decisions. He observed that economic forecasting like weather forecasting is good for about six hours. As anyone relying on a weather forecast knows there is usually a high element of uncertainty notwithstanding the use of mathematically based computers. Boaties still prefer to have the input of the old lighthouse keepers who have been replaced by sightless instruments. The disturbing and yet stimulating new mathematical branch called chaos has made many in the forecasting business (whether for weather or economics) realise the ever-present potential for spontaneous disturbances.

Search for the truth

It is not the possession of mathematical valuation techniques that makes a valuer. There is really no substitute for the persistent and meticulous search for the relevant facts about a property and comparable sales and their proper analysis, within the ever-changing applicable market environment for which a variety of mathematical techniques are useful. Most important of all, the accuracy of a valuation is greatly enhanced by cross checking the valuation figure with other approaches. Then stand back and ask yourself whether the estimated figure makes sense relative to the market in the real world. It is this one element that particularly prevents valuation from being a science and turns it into an art and a profession.

Yet we have indeed much in common with science. Valuers like scientists, should always be aware of their own fallibility and must work hard to overcome any bias. Scientific knowledge is always tentative and continues to be refined. We might well ponder the words of that esteemed philosopher of science, Professor Sir Karl Popper (and sometime resident of New Zealand), when he said that it is not the possession of knowledge that makes a man of science, but the persistent and ruthless critical search for the truth.

Editor's Mailbox

The Editor,

Change Is it necessary for Academics?

I recently wrote an article on "Change: The Key Word for Valuers" published in the September 1994 edition of The Valuers' Journal and the article was reprinted both in Australia and South Africa. Several valuer friends have now pointed the finger at me and questioned whether we academics should also be undertaking a process of change. The answer is a definite 'yes'.

In fact, the goal for academics is similar to that of practising valuers as they must provide professional service to their clients (we call them stakeholders). These stakeholders are primarily our students but professional practitioners and the industry in general are also stakeholders and must be considered in our service provisions.

Initially I will deal with the responsibility to our students. It is not sufficient for us to simply train students in the valuation techniques of the market as often practitioners can do that better than us.

Our primary responsibility is to be facilitators of innovative knowledge and skills in order to improve decision making in property matters. To achieve this objective it is essential that we regularly study the advances in knowledge and technical skills within our specialised areas. This requires continuous research into our fields of expertise and a critical examination of existing processes. In addition to this, we must present the material to students in a logical and coherent fashion.

The new challenge to academics is to be competent and knowledgeable educators who have incorporated the new technologies into their teaching and meet quality standards. The major performance standard is student and peer evaluations and the student evaluations will become mandatory in the near future. I believe this is a step in the right direction.

However our new responsibility also includes extension activities which means we should be involved in assisting the profession and the practitioners in

educational matters. With the new emphasis on Continuing Professional Development, there is substantial scope for educators to assist the practitioners in the body of knowledge area. The practitioners should expect involvement by academics into short courses and presentations to meet CPD demand.

In presenting tertiary property courses, as we do in Property Studies, we must ensure that our courses are relevant and meeting the demands of the market.

This means greater liaison with practitioners and regular monitoring of the structure of the courses. The feedback which we have recently received from the industry is that there is a need for a postgraduate property course addressing the broad spectrum of changes in the industry and offered on a part-time basis to senior practitioners. In order to meet this need we have developed the Master of Property Studies which will be offered in mixed mode delivery and hence available to many practitioners throughout New Zealand and further afield.

In summary, we must change by being more service orientated, more competent and more productive. I accept that the changes are necessary and are achieving greater efficiencies. My personal concern is that these changes should be matched with performance based remuneration as without this incentive it will be difficult to retain competent staff.

I have penned these comments in the hope of receiving feedback from the profession on their expectations of academics and expanding the dialogue between those in the marketplace and those attempting to prepare students for the marketplace. In fact the profession and academics must change together and hopefully work closer together to achieve a challenging and prosperous future.

Yours faithfully

Terry P Boyd

*Professor of Property Studies
Lincoln University*

Crown Pastoral Lease Tenure

A Catalyst or a Constraint?

L

Over the next decade we will move by voluntary processes, from the present non-freeholdable perpetual leases to "limited freeholding". This change will encourage better utilisation of the land and sustainable use, greater security for its proprietors, and consolidation of the Crown's interest in "green assets" that will be retained for the Conservation Estate.

■
Sam Brown as Director of Crown Property Services, Department of Survey and Land Information Wellington, is responsible for the administration of all Crown Land in New Zealand.

Sam is a Registered Valuer. He holds the Diploma of Valuation and Farm Management (Lincoln).

The Crown Pastoral Lease Estate

I have three perceptions of the pastoral lease estate and the High Country.

The first perception is of hardy people and a bleak but beautiful environment.

This view is coloured by nostalgic tales of the courage and endurance of the first grazier settlers who came to live in this place. Many of those first settlers begat "dynasties" who over generations, brought into production a harsh land that contributes to the national prosperity we enjoy today. I believe that most of those early settlers were "good stewards". I can understand how overtime, such people developed a spiritual bond with the land. I empathise when perhaps they regard themselves as Maori might, as "tangata whenua" or "people of the land". I believe that spiritual bonds with the land transcend both nationality and ethnicity.

The second perception is of vast scale, (see map page 20) The Crown pastoral estate (including Molesworth Station) covers 2.7 million hectares.

This stretches from Southland to Marlborough and comprises 20% of the South Island and 10% of New Zealand. Much of this land is sub-alpine and environmentally fragile and has been farmed under grazing licences since the 1850's. There are approximately 370 individual leasehold properties. These carry approximately 1.6 million stock units, partly on improved grass lands, but mainly on modified native tussock, extending to 2000m above sea level.

The third perception is of an uncertain future for lessees if the status quo remains. I believe that rabbits, hieracium, land degradation, falling commodity prices and pressure from lobby interests have tended to push back the former political influence that pastoral lessees once enjoyed. The rise in "green politics" will I believe, make the future of pastoral leases less tenable in the long term. Despite that lessees currently hold "iron clad" contracts that give them significant rights. Legislation could change that at a stroke of the pen.

Land Tenure Reform

In light of its concern for land sustainability government believes the time has come to rationalise the tenure of this estate. The Minister of Lands is on record as saying that perhaps as much as 1 million ha may have the significant public values that would warrant their retention for the Conservation Estate.

This would allow the commercial balance of perhaps 1.7 million ha, eventually to be freeholded. I say "commercial" rather than "farm land", advisedly. Although pastoralism will remain the back bone of this sector far into the future, the opportunity to carry out other sustainable land uses should not be limited from the start, by assuming that only farming will take place. More of these matters later.

What is the Nature of the Pastoral Lease Contract?

Perpetual Crown pastoral leases came into being in 1948. Prior to that lessees only had 21 year leases which provided little security. They could not be renewed as of right and lessees faced the prospect of having to bid for renewed tenancies, against all comers. Perpetually renewable leases were issued against a background that the land was considered so environmentally fragile, that the Crown would not grant a right to freehold and imposed significant restrictions upon its use.

What are the Lessees' Rights ?

The main lessees' rights are:

The Right To Perpetual Renewal

Lessees have perpetual rights to renew their leases every 33 years. In effect, the Crown has contracted out the perpetual occupancy of the land, and reserves to itself the right to review the rent every 11 years and to impose conditions of use.

The Right To Exclusive Occupation & Quiet Enjoyment

Lessees have the right to exclusive occupation and quiet enjoyment of their leases. There is no public right of access and lessees may use the Trespass Act in event of trespass. The Conservation Amendment Act 1989 has brought a minor change. As the first 33 year renewal of each lease occurs, the Crown reserves marginal strips along qualifying bodies of water. As a result, access (at least to the water's edge) will progressively increase over time. However, in practice, lessees have tended to be accepting of visitors where those people first seek permission to enter, and where they respect the farmers' privacy and operational needs.

The Exclusive Right To Pasturage

Lessees have an exclusive right to pasturage, subject to stock limitations imposed as a condition of lease. Increases in stock limits may be negotiated, but the lessor has no right to reduce the "base limit".

Ownership Of Structural And Development Improvements

Lessees are assigned the ownership of structural and development improvements. The first comprises the normal buildings, fences, power and water reticulation, bridges, roads, etc. The second comprises clearing, grassing, drainage, land reformation and induced fertility where this has occurred. Lessees are free to sell their interests to the highest bidder, subject to approval by the Commissioner of Crown Lands of the incoming lessee.

A Fixed Basis For Rental

Lessees are entitled to a fixed rent. This is based on a percentage of the value of "The Land Exclusive of Improvements" or LEI. The definition of LEI is described in section 131 (c) of the Land Act 1948 and is nearly equivalent to the old "unimproved value" concept in the Valuation of Land Act, 1951. The method of assessing the LEI by analysis of comparable sales, has all the difficulties that unimproved value had, and then some! Assessment is complicated by section 131 (c) (ii) that requires values to be determined on an "equitable basis having regard to the relationship between the lessor and lessee".

The pastoral leases are currently undergoing a long transition of rent rates from their original stock unit charge basis. There are two lifts in this transition. The first lift occurs at the first 33 year renewal where rents move to 1.5% of LEI. The second lift occurs at the first 11 year rest where rents move to 2.25% of LEI, the maximum rate. The second transition period will not complete until 2016. It is worth noting that the annual rentals are currently just over \$1.1 million and the cost of administration is approximately \$2.5 million. On the projections we have made it seems unlikely that rents will exceed costs in the foreseeable future. The present government has given a commitment that it will not raise the rents in this present term. However, this must remain an option for future governments as a lift even to 5% of LEI would generate good surpluses for the Crown.

No Right To The Soil. Obligation To Farm Diligently

Lessees have no right to the soil or to use the land for any purpose other than grazing. Therefore, lessees must apply for consent to activities as diverse as planting (plantations of trees, disturbing the soil for cultivation and tracks or carting out commercial recreation activities on the land.

Lessees are also under an obligation to farm "diligently and in an husband like manner", to keep the land free from wild animals (including rabbits), to keep waterways free from weeds and to clear the land of all noxious weeds.

The Crown's Rights

The rights retained by the Crown include:-

Ownership Of The Land Exclusive Of Improvements

From which comes the right to charge a rental.

Right To Control Land Uses, In Particular

- Changes to stock limitations
- Burning of tussock, scrub, fern or grass
- Cultivation, tracking, cropping or grassing
- The clearing of bush and scrub
- Afforestation
- Non farming activities, including recreation and tourism.

Right To Consent To The Sale Of A Lease

The Commissioner of Crown Lands must consent to the sale of all leases before an incoming lessee can take possession. This consent extends even to approving of the managerial experience of new managers, including new owners.

Right Of Resumption

The Governor General may by Proclamation, resume possession of the whole or any portion of land held under lease. Compensation is payable for injurious effect.

Now if you think all this consent business is pretty paternalistic, you would be right. At times I wonder if we couldn't be doing something more productive with our time. Luckily I think that opportunity is upon us.

The Clayton Report

In 1982 the "Clayton Commission of Inquiry into the Pastoral Leases" found first, that pastoral lands in general, were grossly under-developed as a result of the pastoral lease tenure. Second, that the Crown's protection purpose for with holding freehold had not been fulfilled. The Commission therefore recommended that the pastoral leases be freeholded to release the potential that existed. However the administrative regimes of 1948 continued to set the patterns for another decade after Clayton. The effort to rationalise land tenure has been fraught with political difficulties that have polarised the stakeholders and crippled initiatives to amend the Land Act to provide for change.

The Martin Report

In April last year, the "South Island High Country Review" (the Martin Report), was released by the Working Party on Sustainable Land Management. The recommendations of this report focus on the key factors considered to be impeding sustainability in the South Island High Country. Existing tenure arrangements were one of the factors identified. The report made an emphatic statement about the need to review pastoral land tenure when it asserted,

"The present tenure regime, "is not achieving sustainable management and does not provide the flexibility to make the necessary changes towards ecological sustainability and economic viability. Clear accountability is required to enable the sustainable management of what is now pastoral lease land. For these reasons a review of pastoral lease tenure is required with the objective of freeholding all land not required by the Crown for the public interest. The process needs to be voluntary and expeditious. The Crown needs to make a commitment to proceed rapidly with pastoral review.""

The Case for Tenure Reform

As a result of public submissions on the Martin and three other related Crown reports, the government has identified a number of objectives that tenure reform should seek to achieve. These are:-

- i To promote sustainable land management and to clarify once and for all, the proprietary accountability for this land.
- ii To release the State's productive assets where these can be more efficiently used by the private sector.
- iii To safeguard the long term public interest in nature conservation, recreation, access, landscape, cultural and historic values.
- iv To take account of other Crown purposes including the Treaty of Waitangi.
- v To reduce the Crown's exposure to financial risk. These include the costs of administering the estate and having to contribute to "adverse events" costs because of the Crown's "landlord" status.

Fortunately by the time the Martin Report was published, Landcorp had been trialing a process that we have called "Tenure Review", for nearly twelve months. Tenure Review identifies the physical and intrinsic values (such as commercial and recreation) within individual pastoral leases so that these can be formally allocated for retention by the Crown, or freeholding to existing lessees.

Government insists that tenure review be a voluntary negotiated process with each party being free to withdraw right up to the point of signing a Tenure Review agreement. Tenure Review is based on the premise that the lessor and the lessee have an "undivided" financial interest in each lease. The separate interests within this are identified by negotiation and each party agrees to an exchange. This enables each party to take the attributes of the lease that best suit their aspirations. In practice Landcorp and the Department of Conservation work with the applicant to identify the areas each party is interested in. Negotiations flow from this. The Crown is keen to take its "share" in assets with significant public interest for conservation, recreation and public access. In exchange, but subject to a prior public consultation process, the Crown is willing to freehold the balance area to the existing lessees.

We have had some spectacular successes in the trials. We have released land that will allow a former lessee to be a "snow and (two legged) bunny farmer". He in turn has released 4,000 ha of rolling tops and given pedestrian rights of access over his freehold for trampers to enjoy this surrendered area. Another lessee will set up a rural/residential farming "life style" company on a property that would almost certainly be too small to survive commercially without off-farm investor opportunities generated by freeholding. In return the Crown has retained significant reserves and gained access to a lake and other conservation areas beyond. Another deal will provide impetus for the establishment of a vineyard and for consolidation of the present pastoral farming enterprise. In return the Crown gains public access to rolling tops and to a large historic area within the lease totalling 3,300 ha.

I don't think that all Tenure Reviews are going to be so spectacular in their results. However, what I hope for is four outcomes.

- i First, that we can settle the question of tenure once and for all.
- ii Second, that new freeholders can get on with their lives free of the State, albeit that their decision may be to use Tenure Review as an exit opportunity.
- iii Third, that freeholding will offer the opportunity for diversification and responsible stewardship that will ensure the sustainable future of this land.
- iv Fourth, that the Crown uses what I perceive to be the very last opportunity to reserve for posterity, conservation and heritage assets, within its present ownership.

The Legislative Needs

Our trial work has been carried out using the present Land Act. We have identified from this that the Act needs modifying to allow us to proceed more efficiently. We have encountered specific problems with using the "reclassification provisions" of the Act. These provide for the eventual freeholding only of pastoral land that can be reclassified to "farm land". Some of the land that clearly has "commercial value" (such as areas with commercial recreation values) cannot be reclassified as "farm land" by definition. This is because its present class VII or VIII classification prevents this, when clearly freeholding may be appropriate for uses other than grazing. In order to address this issue the Minister of Lands will shortly introduce "The Crown Pastoral Land Bill" to the House. The Bill has been developed in under 12 months and will hopefully be introduced in May. I know there is scepticism from the lessees although we are currently working on 40 projects and 80 others have made enquiries. The concept is supported by the High Country Committee of Federated Farmers. However the non-government organisations (NGOs) have expressed considerably more opposition to the concept so that the Minister will need to work through their concerns with care.

Analysis

My analysis is that Tenure Review is not the ultimate solution as most times it will be a compromise between what the Crown and the lessee each wants. However, I am strongly of the opinion that despite this weakness ;and the fact that it is a costly and slow process, it is deserving of support. The reason for this is that it is the best opportunity in the last 13 years for the Crown to gain access to lands that would otherwise have been inaccessible or sold off.

I think a "facilitating" rather than a "greedy" approach is required as equitable solutions must be found if lessees are to be encouraged to sign up. I say this to acknowledge that the present lessee's rights are strong and any alternatives must offer different, but equal rights to be attractive.

Conclusions

Turning now to the questions of time and valuation.

The projected time frame to review the whole Crown Pastoral lease estate (assuming everyone volunteers) is put at ten years but with the bulk of the estate (say 70%) being completed within five years. The reason for this time span is that reviews are expected to take between 8 and 14 months to complete the full cycle of negotiations, public consultations, re-adjustment of proposals based on useful public input, and surveying to raise title. However, it will be the valuation component that will be critical to any exchange of interests as my concern will be to ensure the Crown gets good value for its interest that it releases. Overall I expect that the exchange of interests will be fiscally neutral. However, to achieve this there will obviously be some "overs and unders"

dollars change hands to facilitate equalities of exchange. Valuation of the interests will doubtless set these amounts.

I trust that this paper provides you with a background to the changes that I expect to occur. In conclusion I return to my original themes to close.

I perceive this to be the last frontier of Crown land settlement.

I believe that tenure reform is necessary to encourage better utilisation of the land and sustainable use, to provide greater security for its proprietors and to reserve for posterity conservation assets that are currently locked away.

Perhaps I may be a party to ringing down the curtain on a largely monocultural High Country grazier institution, that is nearly as old as European Settlement in New Zealand.

PASTORAL LEASE LAND SOUTH ISLAND

STATISTICS

Area (including Molesworth)	= 2.7 million ha
No of leases	= 370
Stock units	= 1.6 million
% of New Zealand	= 10%

CHRISTCHURCH

Waitaki River

STEWART ISLAND

VALUING THE HIGH COUNTRY ESTATE

by KR Taylor

The high country of the South Island of New Zealand constitutes about 4 million hectares of which approximately 2.7 million hectares is controlled by the Crown and is leased under pastoral lease tenure. In addition to this, and outside the scope of this paper is a further 3.5 million hectares of National Park, reserves and other conservation estates. An attempt has been made to find a meaning for "estate", This proved difficult as no dictionary meaning relates to what is to be considered in this review. The options offered by my dictionary included:-

1. *Landed property containing a residence.*
2. *A large area of new property development especially of houses or of industrial premises.*
3. *Property possessions.*
4. *Large area growing rubber, tea, grapes etc.*

These definitions are all somewhat inadequate for what has become part of New Zealand's prime real estate. Possibly the closest are the second and third options.

The second dictionary description may be the more appropriate as there is extensive property development in the high country. This is not the subsidy induced farm development of the 1970's and early 80's. Rather this description reflects a realisation that traditional uses may not be the "highest and best use" of such landscapes. Even a casual observer will note that the High Country Estate is a very diverse area of land with a very diverse set of interests. When it comes to valuing this estate there are a number of perspective's from which it could be considered. Among these could be:-

1. The high country grazier producing the world's best quality wool. Even this option has changed with a number of wool producers being very

market directed. In at least one situation the high country real estate is jointly owned by the primary producer and the woollens manufacturer. Recent opportunities have identified alternative fibre producers including the alpaca.

2. The producer of quality live animals and animal products. This ranges from the traditional beef producer to the entrepreneur with wild animal safaris and specialist animal products of which probably the best known is deer velvet.
 3. The tourist travelling by bus from Christchurch to Queenstown via Mt Cook. The scenic value is generally unmeasured and undervalued. The rural landscape outside the recognised "protection estate" is of vital importance to a large market.
 4. The tourist operator who wishes to intercept the bus travelling from Christchurch to Queenstown. A whole new infrastructure has developed in recent years to support this. Has anyone tried buying lunch in Geraldine, Tekapo, Twizel or Omarama in recent times? This places pressure on the existing rural services. It also may enhance the range of services available to the community. We now hear of farmers who use cell phones for on farm communication!
- The opportunity has also been created for new service locations and supporting requirements. This is further discussed elsewhere in this paper.
5. The thrill seeker/adventurer. I include in here both the "free" user and the commercial opportunity. First, we are all aware that there is no such thing as a free lunch. The provision of "public" recreation opportunity has become a vital component of the value of the estate. The commercialisation of rock climbing, orienteering, parapenting, mountain biking and other activities ranging from guided walking to extreme skiing adds a new dimension.

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This spills over into the "protected" estate with income benefits to the managers of that estate.

6. The ecological protectionist. You may ask why this group appears in a discussion about value, especially in a sub section relating to property development. With the "greening" of the land, ecology has become a saleable item. The purist recognises that in order to lift the land from its current use to the perceived higher use of protection there is a cost. Much debate has been entered into as to who should pay. At the present time protection is often an outcome from tenure review through a trading of property rights. The market place has, I believe yet to recognise the value of both on site and off site protected areas. Eco-tourism is a catch cry of the 90's.
7. The forester who recognises the opportunity for quality timber production with potential returns greatly in excess of pastoral production.
8. The business person. You may well call all the above business ventures, and rightly so. I guess I am now referring to those who think further outside the circle. As we learnt earlier in this conference business people have used the high country for years, the development of the Jet Boat is one example. There is a demand for

ventures such as vehicle development, high altitude sports training and movie filming to name but a few. Many other ventures have been born out of high country necessity and I imagine most have been casually absorbed without recognition.

9. Communications. The past decade has seen rapid change in the communications industry. Sites with a view are in demand for radio telephones, cellular phones, television etc. With the greater use of VHF transmitters requiring line of site communication and competition between providers more and more sites are in demand. Many of the industries providing such communication are earning large fees from their use. The market for prime sites is also growing with significant fees being paid to land owners and occupiers.

10. Those outside the above sample.

What is being valued?

For many years high country valuation was regarded as "just" a simple form of rural valuation. My considered view is that a valuation of the high country estate now involves a very complex form of business valuation.

I also feel that the third dictionary definition (ie "property possessions") may well also be appropriate. Anyone following the current debate on property rights might agree.

The graph overpage (Figure 1) shows the major high country sales which took place in Canterbury and Otago between 1992 and 1995. I have analysed the sales on the basis of land without buildings (LWOB). My reason for this approach was that it allowed a number of sales which did not possess significant buildings to be included. It thus assumes that what is left denotes the productive base for livestock farming. In spite of my previous dialogue livestock farming was still the declared reason for some 90% of the purchases referred to.

What is Happening?

In The NZ Valuers' Journal (March 1995 page 10) Dr TP Boyd, in his paper on " The Importance of Market Analysis" quotes Richard Ratcliff thus:

"Until recently, the appraisal fraternity has failed to recognise that appraisal is a behavioural science. There has been too great a preoccupation with the property object and with methodology and not enough attention to people and how they make their real estate decisions".

In my opinion, the variability of sale price in Figure 1 reflects the personality of the buyer as much as the product being purchased. It is worth while spending a little time discussing the highs and lows contained in that graph. The critical sales which lie outside a normal range are numbered on the graph.

Components of the High Country Estate.

1. Tenure

The issues of tenure have already been covered by Sam Brown, Commissioner of Crown Lands. I would however like to expand further on this topic . Pastoral leasehold tenure has been seen by many as a restriction to realising the potential of the high country. I refer particularly to the Martin Report.' This can be disputed as any "restriction" is not readily evident

from sales of pastoral land. In preparing this paper I studied 42 sales which had taken place over the past three years. Of those 35 were leasehold and 7 freehold. There was no measurable price difference between the leasehold and the freehold sale prices.

It is however worth noting that where new investment is involved, lessees are seeking the freehold of key land to both facilitate

alternatives and secure investment. This has led to the Crown programme of tenure review. Interest in this programme has exceeded most expectations, especially in Otago where a limited programme has been operating for the past three years.

2. Restrictions

There is some separation between land of different tenure in this situation. The pastoral Lessee has a right of pasturage and

Glentanner Park, a Unique Situation?

By definition "Glentanner Station", which most of you visited on Saturday, is a pastoral leasehold run. It will now be clear to you all that the underlying use as a pastoral run is but a small facet of the operation. We discovered a camping ground, a heli-pad, an airport, safari operations, heli-ski operations and the overall integrated tourist development. Mr Ivy recently spoke to a similar group as yourselves, with a vital interest in the South Island high country He endeavoured to explain his perspective of land use in the high country. A response from one of the distinguished visitors was: " Mr Ivy is in a very fortunate position in that he is on the Mt Cook road, these opportunities do not exist elsewhere".

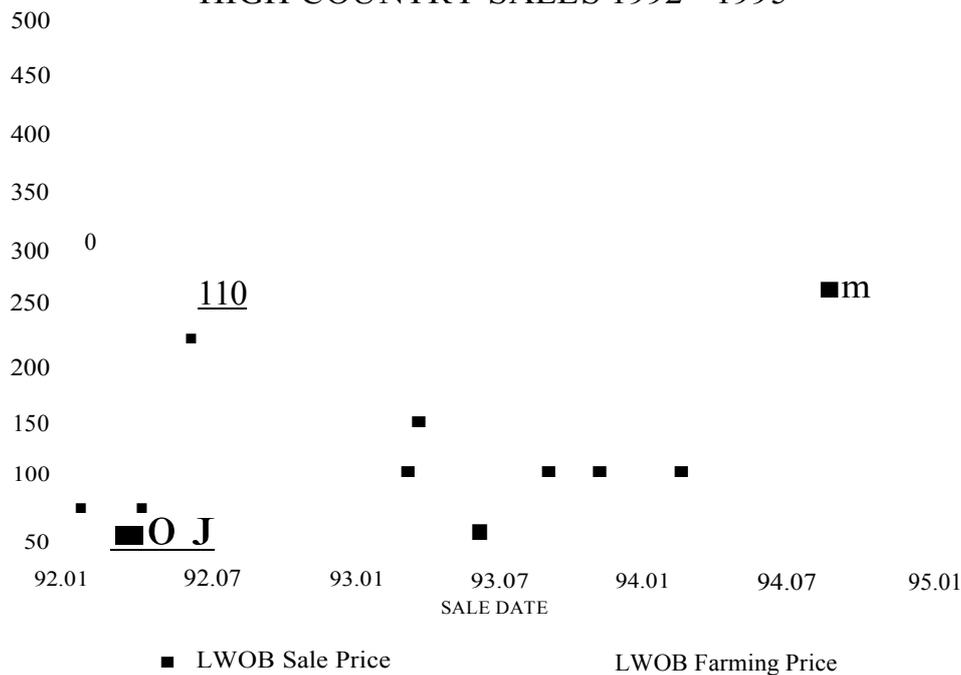
I enjoy exploring this comment. The reality is that Mr Ivy has identified and developed some opportunities that may be unique to his location. 30 years ago this was not the perception of Glentanner pastoral run.

I would like also to refer to another of my high country associates, Mr John Lee of Cardrona Valley. When Mr Lee had the opportunity to buy the "Knuckle Peak" run he saw it through the eyes of a farmer but recognised the opportunity to establish a ski-field. The resulting Cardrona ski-field is regarded as one of the best intermediate ski areas in New Zealand. John Lee also turned his eyes to his own family property and saw that a road to the top of the Pisa Range opened the door to all sorts of opportunities. Mr Lee and partners now run a successful Nordic ski-area (the only one in New Zealand, and a high profile winter Olympic sport), an international vehicle testing facility, and numerous other commercial activities.

Again it has been said that Mr Lee is in a unique location with unique opportunities. It may be true that the particular opportunities are unique, but it raises the question of what can be done elsewhere.

Such attributes are often only recognised by a small number of people. Where they are recognised they create often unexplained anomalies in the market place. Even the most astute analysis of a sale may often fail to identify why, and it may become some time later before the reason emerges.

Figure 1
HIGH COUNTRY SALES 1992 - 1995



- This was an open market purchase by an overseas investor which reflected the perceived benefit of a "retreat". The location is desirable but only 30% of the property is available for pastoral use. The components of this purchase include the overseas perception that it is pleasant to have access to a natural environment. To the best of my knowledge alternative uses are not planned.
 - This property is an isolated property but with take frontage. The purchaser was a businessman. The purchase reflects the perception of the natural environment. Subsequent events suggest that the opportunity to further invest in the property may have also been a motive. Long term plans have not been disclosed.
 - The low purchase price of this property reflects an isolated holding with little immediate prospect of greater or alternative use. The best of the property was sold separately.
 - A component of the sale price here was an anxious buyer and a disinterested seller. The property has lake frontage. The price paid reflects this together with the special environment in which the property sits. There is a clear expectation of alternative uses.
 - This has similar attributes to 4.
 - This purchase reflects a connection with other property held by the purchaser. The property also has special interest for alternative uses, some of which are already established.
 - This was a keenly sought after freehold property with considerable reputation. The purchase price tended to reflect the personal interests of the purchaser and strong competition at the sale. Few analysts predicted the sale price before hand.
 - A remote property. The sale price would tend to suggest that the special features of the property were undervalued. The vendor was also under some pressure to complete a sale.
 - This sale was to a businessman who bought it as part of a package. The most valuable land attached to the property had been removed prior to sale. The property could incur high maintenance and management costs.
 - This property was also purchased by a businessman who owns adjoining land. It was regarded as an opportunity for improved access to other land. Subsequent development proposals suggest that there is an expectation of increased production from the total land holding.
 - This property is in a very sort after location and has considerable potential for alternative land uses including viticulture and associated tourism.
- In preferred locations the market continues to grow. The preferred locations seem to only partly relate to economic opportunity and more to less tangible motivation. The presence of business investors also impact on this market place. In the March 1995 issue of The NZ Valuers Journal, (pages 17 to 23) Hargreaves and McCarthy presented "A Rural Perspective Real Estate Cycles"³. Of some relevance to this discussion is their conclusion that "business and corporate type purchasers.....are [not] numerically very significant. This is not the case in the South Island high country. (Refer Figure 2)

permanent occupancy. The Lessee may obtain consent from the Commissioner of Crown Lands to alter the stock numbers, disturb the soil, burn vegetation, transfer and a range of other transactions. The Lessor (Crown) retains the right to obtain rent from the property and after the first period of 33 years to review that rent every 11 years. The Lessee also requires a separate permit to conduct, or allow to be conducted, a range of commercial ventures particularly in the tourism area. The Lessor reserves the right to effectively veto such operations by a third party.

Local restrictions may be imposed by the District and Regional Councils. These restrictions may relate to many of the same areas applied by the Crown, but they do apply to all tenures of land. This component will become more important as time progresses; as I will explain in the next section.

An often overlooked restriction is that of public expectations. The social conscience of the land occupier may dictate the actions undertaken, or the way in which they may be undertaken.

3. Zoning

As alluded to above, zoning in the high country estate is as important as that relating to commercial premises in a city area. Under the Resource Management Act 1991 both regional and local authorities are likely to apply zoning restrictions to the high country estate. The Act intended that the effect of use should be the criteria but experience to date suggests that Councils are using a zoning approach to achieve this.

4. Location

Historically the location of a high country property has been considered a major component of its value. Sales evidence suggests this is still the case, but the criteria for assessing the location appears to have changed. Remoteness is not necessarily a negative component to the value of a high country property. Location may determine the type of stock that maybe carried given, the climatic and physical restrictions, it may relate to the position of the property relative to tourist sites, it will most certainly relate to the economic potential in terms of alternative land use including other primary production.

5. Problems

Much comment has been made in recent years about the degradation of the high country. The ravages of rabbits and

hawkweeds are often visible indications of such problems. The debate continues as to whether these are the cause or effect of degradation. In certain locations the effect of tuberculosis on cattle and deer is of much greater significance. It has been suggested that land subject to the most severe of these problems is valueless. There is a contrary view to this which believes that land is always worth something. Evidence in the market place to date would suggest that there is still strong demand for properties even with some of these problems. Of the 98 properties which benefited from the Rabbit and Land Management Programme approximately 25% have been purchased during the 5 years of the programme. In most cases there is no distinguishable difference in the sale price for these properties compared to others selling at the same time. This may in part reflect the special value of these properties in the production of high value fine wool.

6. Conservation

Land in its natural state, or land which represents a component of the natural state is becoming a sought after commodity. Land with conservation values has established a market in its own right. The marketing of the New Zealand clean green image has taken some hold in the high country with properties that reflect these components often achieving high sale prices. A factor relating to this which the market place is inconsistent in recognising is the benefit of a conservation backdrop to a property. This could be regarded as a component of location but is a very real marketing factor that should be recognised more in the market place. The significance of this particular component is that many properties can derive their value from the same backdrop.

Valuation

1. Not as Simple as A * B = C

From the discussion it should be noted that there are many components to the individual property value. In the past rural valuation has been largely regarded as a straight forward matter of identifying stock or production and multiplying by a proven factor and arriving at a value. This is now far from the case unfortunately. The rural market tends to be less rational than the urban market in adding another dimension to this form of valuation.

The time has arrived where factors such as tourist counts, frontage and depth, and economic analysis are more important components. The presence or absence of international buyers in the market place also has to be accounted for.

2. Valuing the Non Productive

As noted above there are factors such as conservation interest which are gaining increasing importance as a component of valuing the high country estate. Valuing this estate defies the normal criteria of production related assessment. It is also difficult to maintain the stance that because a similar property fetched a certain value per hectare that this figure then becomes the multiplier. That remains a matter for the valuers expert opinion based on as many factors as the valuer can obtain to aid his/her assessment.

3. Whose Interest?

As noted in my previous section on tenure the varying interests in relation to pastoral leases are often ignored. There are unfortunately still many uninformed buyers involved in the purchase of pastoral leasehold land. This is particularly true with leases still to complete the original 33 year term, still subject to very low rentals. With the growing recognition that rents

Figure 2
Sales by Type of Purchaser

Type of Purchaser	All Rural Sales	High Country Sales
Existing Farmer	70%	50%
New Farmer	18%	14%
Business/Corporate	9%	24%
Other incl Overseas	3%	12%

As will be noted from this table the South Island High Country has percentagewise attracted more business and overseas interest than the wider regional rural market. Hargreaves & McCarthy presented their Rural Market Clock in the same issue of the Journal. (3). It is acknowledged that their assessment of market stage reflects the wider rural market, but it is my opinion that the High Country market is still located around 11 o'clock.

Figure 3
COMPONENTS OF HIGH COUNTRY VALUE

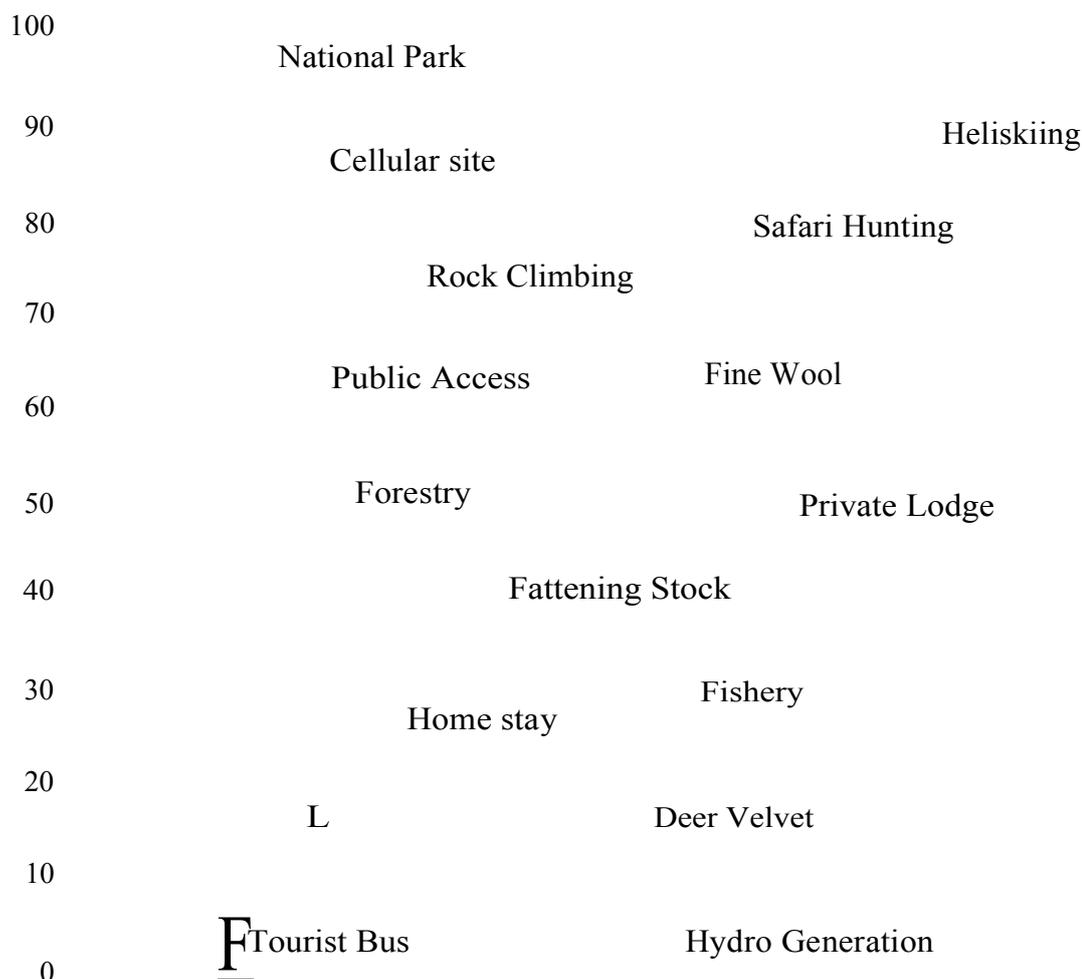


Figure 3 is a hypothetical High Country property and is a diagrammatic representation of some of the components that may contribute to its value.

will increase there may be more account taken of this in the sales process in the future.

I have outlined the rights of the various parties to a pastoral lease. It should be noted that not only does the lessor have the right to impose a regularly reviewed rental but also that the lessor has the right to restrict the uses to which the property can be put. Recently reviewed leases show rentals of up to 2% net. This level of rental was deliberately lower than that for other leases in recognition of the restrictions placed on the operation by the lessor.

Conclusion

The high country estate has many values, not all of which are recognised in the market place. The valuer has the task of identify what these values might be. In many instances they will reflect the move away from the high country estate being regarded solely as the domain of merino sheep and hereford cattle. Valuers working in this field must ensure that they are continually looking to new ways of assessing the intangible.

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The Conservation Estate

A Valuation Perspective

by John Dunkley

Conservation

When it comes to valuing the conservation estate, we valuers need to examine our perspectives, discard those which are no longer appropriate and add new ones to our valuation 'tool kit', along with our tape-measures, cameras and computers.

When something is 'in perspective' all its parts are represented in proportion, that is, the parts are correctly regarded as to relative importance.

To draw, 'in perspective' is to represent two dimensionally an accurate portrayal of a three dimensional reality. In valuation we are required to evolve the techniques to arrive at an accurate numerical representation of physical and emotional reality.

When people approach any event, or object, they bring to that experience their own way of seeing, experiencing and explaining. Their multiple and different perspectives make up the single reality.

Finally, a picture, or model, or object may seem confused and inexplicable, until it is viewed in the right direction, or in some other way exhibits or contains an unexpected and valuable quality.

Of course valuation perspectives require that we take all of this in to account; technique; the ability to rank, and subjective experience. However, most important I believe, is the idea behind that last definition of perspective. The idea that while the monetary value of a resource may be unclear at this point in time, as its preservation is paramount, its value is significant.

So, what is Conservation and why conserve?

"Conservation means the preservation and protection of natural and historic resources for the purpose of maintaining their intrinsic values, providing for their appreciation and recreational enjoyment by the public and safeguarding the options of future generations. (Conservation Act 1987)" or

"Conservation is the management of human use of the biosphere to yield the greatest sustainable benefit to the present generation while maintaining the potential to meet the needs and aspirations of future generations. Conservation is the positive, embracing, preservation, maintenance, sustainable use of resources, restoration and enhancement of the natural environment. Conservation is a process to be applied cross-sectorally and not an activity sector in its own right. Conservation is concerned with maintaining the integrity of the whole ecosystem as well as the sustainable use of particular resources within the ecosystem (NZNCC 1981)."

Valuers need to appreciate that 'natural resources' mean, plants, and animals of all kinds, the air, water, soil, landscape and

The Personal Perspective

Examining perspectives for valuing Conservation is very much a left-brain, right-brain, activity. It involves the head and the heart, art and science.

The Department of Conservation and Crown Land Department present negotiations with lessees aims to protect important ecological, or at risk, areas by trading ownership i.e. freeholding. As the value of outright ownership is largely personal, this programme can only proceed on a case by case basis as each lessee has different personal motives - different ties to the land and differing future expectations from ownership of the land.

There is no denying the power of the feeling of 'belonging to the land.' I quote

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landform, geological features, systems of interacting living organisms and their environment.

As to 'why conserve?' with the advent of the Ministry for the Environment and Department of Conservation (DOC) we have in this country both conservation policy makers and enforcers. The major legislation is contained within the Resource Management Act 1991, although the Ministry for the Environment is also responsible for the Environment Act 1986, Ozone Protection Act 1990 and the Soil Conservation and Rivers Control Act 1941.

extracts of Chief Seattle's reply to the President of the United States in 1854 when his peoples' lands were taken in exchange for a reservation.

"We are part of the earth and it is part of us" - (Chief Seattle)

Of recent times, production economics have played a part in valuation and a complex discounting process has evolved to establish market values.

But in the end, it doesn't matter how intricate the model or formula used if the value is driven from the heart rather than the head.

Hence our traditional tools of valuation have been found to be seriously lacking as the sales often contradict the 'values'

assessed and valuers struggle to identify the 'market place.'

Conservation values can become extremely complicated as evidenced by a recent case in South Westland when a farmer opted to fell his stand of centuries old Rimu, situated on a scenic highway within a World Heritage Park. The negotiation that followed the public outcry was far from a normal market-based transaction. It was an uneven battle with the traditional stance being the loser. In short, the analysis of similar blocks of land without including any special buyer, seller or market factor was found to be inadequate in this situation.

The Environmental Perspective

As potential valuers of these conservation assets we need to look to first principles and have an understanding of the following key concepts outlined in the Ministry for the Environment's paper "*Ecological Principles for Resource Management*" (1988) which outlines the basic ecological concepts by drawing on principles of physical, ecological, energy and systems theory, as well as human ecology.

It also discusses policy implications, including objectives for environmental protection. This includes the definition of concepts such as "renewable" and "non renewable resources", "conservation", and "Sustainable resource use".

Natural resources are forms of matter and energy considered useful by human society. They are parts of ecosystems recognised as providing utility to humans.

Renewable resources are continually regenerated naturally. They include solar, wind, wave and water energy plus living matter such as fish, grass and trees. (Hunt 1979 page 12).

Non renewable resources are of fixed supply. Once used they cannot be replaced. They include coal, gas, oil and many minerals - including all metals (*Ibid.*).

Development is the modification of the biosphere and the application of human, financial, living and non-living resources to satisfy human needs and improve the quality of human life. (NZNCC 1981)

Sustainable Resource Use is when a resource is consumed at a rate no greater than at which it can be renewed by natural processes. Sustainable use of resources must allow for seasonal variation and other factors such as breeding season and the perturbations caused by natural or man-made disasters (NZNCC 1981, page 10).

It must be recognised that ecosystem and habitat diversity at the global level is essential to maintain the genetic pool of information from which evolution has proceeded and upon which the future life processes are dependant.

Whilst valuers have a special connection to the word 'value' and have often had a life's training in its application, they must appreciate that there are wider and deeper connotations, particularly within this area of conservation.

The post election night briefing paper for the Minister of Environment, November 1993, included in it some of these more comprehensive definitions of value

Values are the preferences which we have and which we recognise others as having. They lie at the heart of human behaviour in the shape of our political, economic, and legal systems.

There are others.

Utility value is the usefulness or desirability which something (or someone) has to someone else. It is possible to assign a price to utility value by asking people how much they would pay for it. "*Utility*

value varies from user to user and it is difficult to determine the value which future generations or other species might put on something."

Then there is Intrinsic value, the inherent value of something in and of itself the value it has because it exists. Because this is not transferable, it cannot be traded (or priced?)

In our own country, the term Mauri, "special character" expresses this notion of intrinsic value. It includes the idea that the resource itself gives indications of its state of health, its viability.

Much of the current environmental concern is based on the idea that some natural, or culturally sacred, things may have intrinsic value which is not recognised in our legal system but should be.

Ecological value is the combination of intrinsic and utility values within an ecosystem. Intrinsic values may belong to particular species, or to the entire ecosystem. The utility values are those which the inter dependent species of an ecosystem have for each other.

The Resource Management Act 1991 now provides mechanisms for protection, but these are often imperfectly understood or implemented.

The Resource Management Act 1991

The relevance of this Act is summarised within the post election briefing paper as follows:

The core of the framework of legislation is the Resource Management Act 1991. This law is unique. It brings together management of land use, water use (including the coast), air quality, and discharge of contaminants into (pollution of) land, water and air.

The act is designed so that decisions affecting the use, development, or protection of land, water, air and related resources are based on an informed understanding of the affects of the environment.

The Resource Management Act 1991 is aimed at enabling development whilst promoting, and where practicable improving, environmental quality. It defines the purpose to be achieved (ie sustainable management of natural and physical resources) and then sets functions and duties on Government and users which are designed to advance this purpose.

The Government must ensure that any relevant legislative and policy proposals are consistent with the Resource Management Act 1991 and do not undermine or damage it. The Act's purpose of sustainable management of natural and physical resources must be considered in policy development right across central government.

The Resource Management Act 1991 as it affects valuers is summarised in an NZIV Conference paper titled "*Some Implications for Property in Trends in Resource Management*" by Allan Crosby. (Something else to add to your toolkit)

Resource Use

Modern resource use therefore is a very complex matter. The use is controlled by statute, and some would argue not rigorously enough, in order to ensure the long term sustainability of the planet.

Renewable resources should be harvested at a sustainable level. Where the use is greater than reproduction or replenishment of the resource then an accurate valuation should reflect the end value as being less than the beginning value. A non renewable resource is currently valued on the basis of the future returns with little regard for the law of diminishing returns at a future date nor the impact on the ecosystem on expiry. Natural resources gain value through the utility they provide and this utility although timeless becomes more valuable as does a non renewable resource due to the scarcity created by both national and international development.

The Economic Perspective

Economics are a building block in every valuer's tool kit. Whether it be through capitalisation rates, discount rates, internal rates of return, or some other common denominator, properties are analysed and compared and the market characterised. These tools quantify in real terms market demand and supply and utility.

Where there is a market the price is determined by the demand for a good supplied. Where the supply is very limited the price is high. The position on a demand curve represents the price for exchange in the market place.

Non Market Valuation

Natural resources like water, air and unique flora and fauna are not exchanged in the market place. These are public goods. A pure public good is characterised by non excludability; it will benefit everybody (directly or indirectly). The use of the goods by one person usually does not diminish the value of the goods to the next user.

"But how can you buy or sell the sky and the warmth of the land?"

"But if we sell you our land, you must remember that the air is precious to us, that the air shares its breath with all living things around us"

(Chief Seattle)

Concepts of Value in Non Market Valuation

(ref Reinhard Pauls 1990)

Use Value

Present and expected future use of the resource.

Option Value

Allowance for uncertainty

Quasi Option Value

The affect of knowledge about the future resource use outcomes (eg rain forest logging).

Existence Value

This is the value associated with the mere knowledge a resource exists.

Measurement- Non Market Valuation

In economic terms values can be estimated directly by determining the maximum willingness to pay, or indirectly by determining demand curves and measuring consumer supply.

Direct

Contingent Valuation

This involves the simulation of a market. A consumer survey is used to determine price.

(There are some alternative available approaches such as contingent valuation methods *Bradford, 1970, Brookshire, Etol, 1980 Turner & Bateman 1993*).

Indirect

Travel Cost Analysis

This method assumes that people pay to consume a good; for example the further from a national park the more the cost of getting there.

Indifference Curve Mapping

An analysis (by survey) of consumer preferences enables an indifference curve to be constructed.

Hedonic Pricing

Market value analysis of the componentry of a good on an elementary basis.

Cost Benefit Analysis

This is often achieved through the application of a discount rate.

These economic approaches to measurement do not produce a value in terms of the valuers' "market" definition. They rely on the present or current use potential. In contrast is the ancient, and now ultra-modern, perspective of the environment, that each part is inextricably connected with the whole.

The conservation estate value is influenced by the direct users (visitors) and indirect users (those who derive benefit from the

fact it exists). There then becomes an assumption that each conservation area is part of the total New Zealand conservation estate which, to a degree, is part of the world conservation estate. If a vital part of the estate is not protected then it may be lost for all time and our environment threatened in ways we had not foreseen. The difficulty, is to identify the vital elements and ensure their protection.

With diminishing resources such as coal reserves, gold, zinc and oil where there is a finite known reserve and a calculated expiry date, consequences and values can be assigned.

As the reserves are economic, revenue may be gained from them and the value is generated by that potential future use. Discounted cashflow methods can be used to determine physical attributes however, we are seriously lacking in the ability to accurately assess future opportunity cost. The conservation estate value on the other hand is generated through its guardianship and protection in its original state.

In arriving at value we assume that there are two parties - a buyer and a seller. In some cases, particularly in conservation, there will be a third party the user (paying or non-paying, both present and future) who gains utility from its existence. The user is like a lessee, licensee, and is distinctly different from either the purchaser or seller. The purchaser, being generally the preservationist, is a properly constituted body, or government authority, and is there to protect and enhance the quality of the estate for the present public users, the future public users and for the estate itself which may be millions of years old.

In this particular purchaser's motivation (distinct from the user), the concept of marginal utility and substitution do not have an economic relevance. Rather they have a physical relevance, as to critical timing issues relating to destruction, public pressure and the availability of public funding. Therefore it is assumed we are dealing with a very special supply and demand concept.

"Total economic value can be expressed as the sum of use value plus option value plus existence value".

Weber 1992

How then can a 'Market Value' be assessed for a conservation estate?

The Inter-Relationship of Market Value and Time

1. Market Value

Market Value is defined by the New Zealand Institute of Valuers as being:

The estimated amount for which an asset value would exchange on the date of valuation between a willing buyer and a willing seller in an arms length transaction after proper marketing wherein the parties had each acted knowledgeably, prudently and without compulsion.' Ref New Zealand Institute of Valuers Valuation Standard 1 Market Value basis of valuation.

To act knowledgeably, prudently and without compulsion the conservation motivated purchaser has a different set of rules which apply to property transactions.

The most frequent purchaser of conservation land is DOC. Once a site is categorised as "significant", purchase is negotiated from a 'Market Value' base. The price paid is normally within the adjoining owner premium range of value although occasionally an 'intrinsic value' premium has to be paid. DOC maintain that they will not be placed in the position of 'forced' purchaser although this does appear to be the case in a few instances when viewed from the 'market value'

current use perspective.

To accurately balance economic, social and environmental factors a ranking system needs to evolve.

Figure 2 demonstrates a possible basis for ranking of the conservation estate assets.

Vicary, *Trends in Appraising Conservation Easements*, outlines two methods of valuation in compensation. He notes the difference motivations of the developer and preservationist.

2. The Time Perspective

Discount rates - The Commercial Measure "Tisdell 1991 "

"A sum of money available in the future is generally regarded as being worth less than the same sum of money available now because if the sum of money were available now it would be invested at a going rate of interest to ensure its return plus accumulated income from the interest on it at a later date. The sum of money, which if invested now, will accumulate to a future sum after the addition of interest is the net present value or discounted present value of the future sum. Clearly the net present value of the future sum of money is lower the higher the rate of interest and the more distant in time the availability of the future sum".

In the above example suppose that an individual owned a natural resource which can either be conserved or developed. His/her stream of expected return from developing it is indicated by the curve OAD and from conserving it by OAB. The higher rate of interest applied by the individual, the more likely the development alternative is to be preferred. If these curves are relatively typical of alternatives, development tends to be privately preferred over conservation, even though socially this choice may not be optimal. V Carey Smith (1974) has argued that natural conserved resources are likely to increase more rapidly in value in the future than developed resources so the type of relationship indicated in Figure 3.0 may not be typical.

Note also that when the Government is using social cost benefit analysis to choose between alternatives, the use of the market rate of interest as a discounting device may be inappropriate. If the market rate is excessive from the social viewpoint, the Government, by using it for cost-benefit analysis, may, in cases such as those illustrated by Figure 3, be led to choose development whereas conservation is socially optimal. That

is, assuming that reconversion of developed resources to a natural state is impossible or extremely costly.

The public, or collective good, characteristics of conservation are important and this raises the issue of how best to evaluate the demand for such goods by empirical means.

Social Discount Rate

Vicary (1994) notes developers are motivated by DCF. approaches to valuations. In contrast preservationists have different priorities regarding the price of time which economists explain by social discount rates

approaching zero. That is they place much greater priority on benefits to be received far into the future.

The discount rate is the valuers' method of focusing benefits to produce a value.

Figure 2: Value Ranking

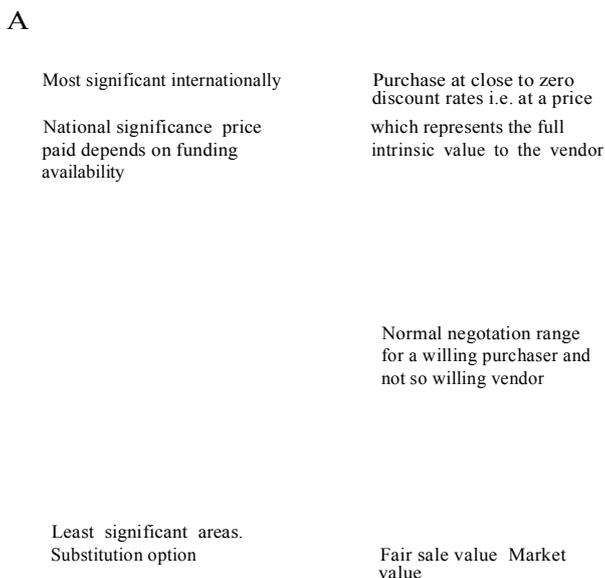
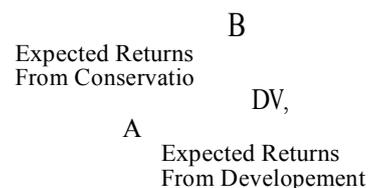


Figure 3
7



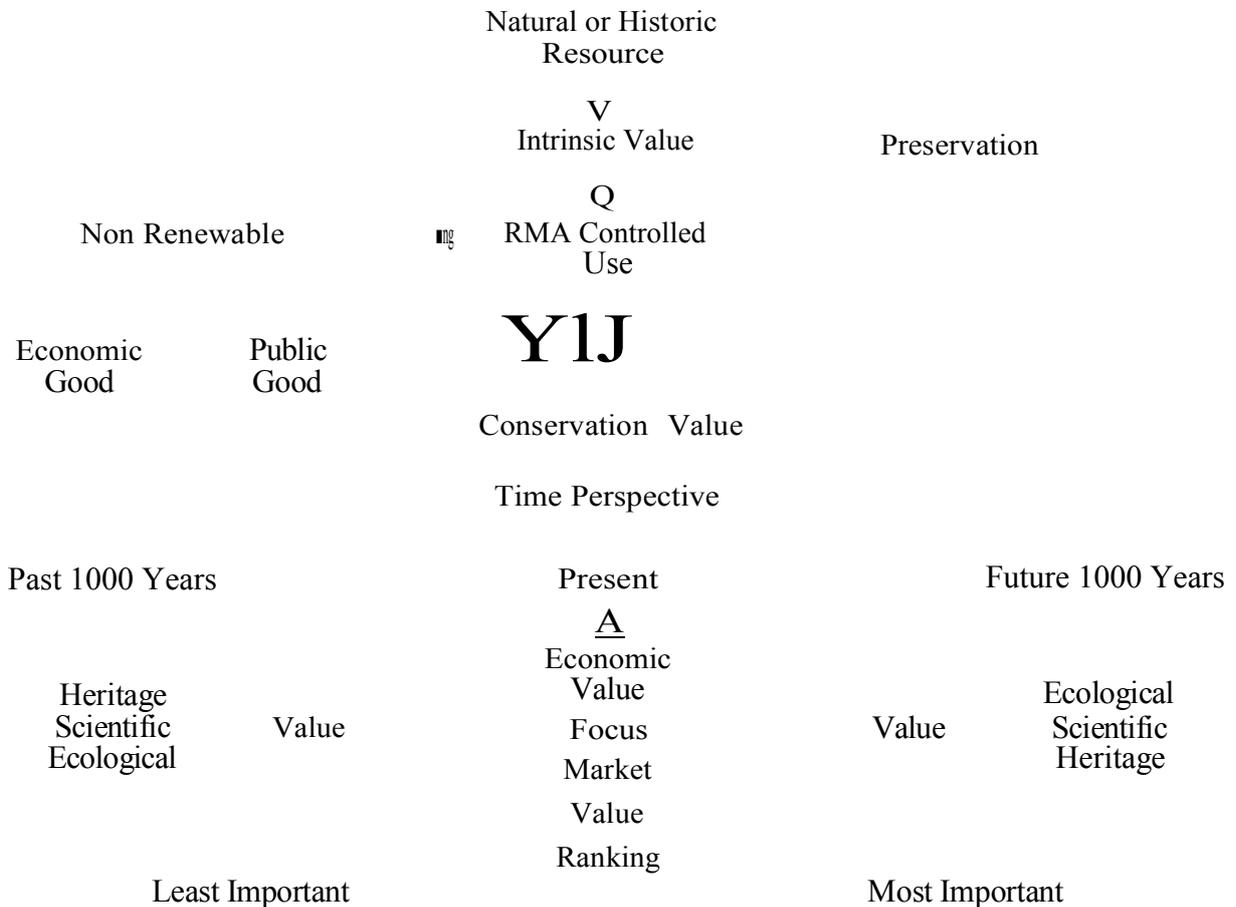
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Conclusion: Conservation Values: a modern perspective

Whilst it has been said that "valuers go backwards into the future ..." valuing conservation assets brings perspectives of both the past and the future into the present. Such a perspective is now enforced through the Resource Management Act 1991 and has precedence both locally and nationally in conservation estates. The philosophy is substantiated in economic terms by special resource users. So far in New Zealand conservation estates reflect only the estate's current value to New Zealand without future or international influences. Valuers and investors treat property as a mid to long term resource being an investment over ten to say 50 years. In reality land is here to perpetuity. The Pakeha's use of the land has spanned 140 years, the Maori eight times longer, whilst the tuatara has lived in New Zealand since the dinosaurs. Conservation valuers must add to their "tool-kit" a new appreciation of time, which includes the following assumptions:

- That the time value of money is less relevant.
 - That the uniqueness of a conservation estate will enhance its value.
 - That substitution methods of valuation are generally inadequate but can be used to set minimum levels of value.
 - That cash flow potentials of conservation estates may enhance values in the short term but cannot form the long term basis of value.
 - That conservation areas will be ranked and values will evolve from particular rankings.
 - That values of surrounding land and alternative uses of the land will be useful only as to indicate a minimum level of value.
 - That conservation values may be threatened by natural disaster, illegal actions and special allowable covenants transferred by the Resource Management Act 1991, the Treaty of Waitangi and the State Owned Enterprises Act.
- In conclusion, what should be in our Valuation 'Tool-kits' when we set out to value a conservation asset in the twilight of the twentieth Century?
- A copy of the Conservation Acts and related legislation.
 - A copy of the Resource Management Act 1991.
 - A subscription to Brookers Resource Management Gazette. An understanding of ecological principles for resource management. An ability to identify intrinsic values.
 - An understanding of the local market.

Conservation Value in Perspective



Valuation Perspectives Pertaining to

by Ian Smillie & Brian Kellett

In order to carry out any asset valuation, the valuer must understand the purpose of the exercise as well as the political and market forces affecting the industry in which the asset is being operated.

The appropriate valuation approaches should then be adopted.

General Characteristics Of Generation and Transmission Assets

Electrical power is generated and consumed in real time. Generally power cannot be stored but fuels in the form of water, coal, gas, can.

The demand for electrical power over any 24 hour period and over the course of a year is uneven. The load is generally provided by lowest cost stations first, then by plants in merit order. The higher cost stations are brought in last to meet peak demand. In New Zealand the base load is generally supplied by the geothermal plants and the hydro plants. The fossil fuel burning plants supply peak loadings.

The production of electric power is subject to various legislative standards but is generally undifferentiated except for voltage.

Voltage is stepped up from generator voltage by power station transformers, transmitted at high voltage to minimise "line loss" and then stepped down at the user end.

A centralised load control and dispatch system covering all generating plants is required to match supply and demand and to regulate station outputs according to a variety of criteria including:

- maximisation of reservoir storage
 - maintenance of reservoir storage capacity to accommodate floods
 - minimisation of spillage
 - maintenance of spinning reserve to accommodate shutdowns/demand surges •
- minimisation of costly fuel burns

The overall aim is to maximise the system efficiency - subject to meeting prescribed supply security levels. Computer modelling techniques are used, all variables being expressed in the form of costs.

General Characteristics of Hydro Plants

In New Zealand 70-80% of demand is supplied by hydro power. Potential from hydro schemes is measured by the product of head x water flow (m³/sec). Schemes are developed where potential power output can be realised at least cost, therefore the best sites (cheapest to develop) are usually exploited first.

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Ideally the generator should be as close as possible to the end user to minimise transmission loss. In New Zealand, line loss can be up to 10% of total output measured in gigawatt hours (GWh) per annum.

Hydro plants are site specific and are characterised by high capital costs and very low variable costs. Most plants can be run and controlled remotely. Most non capital costs are associated with planned maintenance of electro-mechanical plant. Hydro schemes may be multi-purpose in that reservoir use may include flood con-

trol, irrigation, city water supply, fishing and recreation. However the actual power plant is single purpose and produces an undifferentiated commodity output.

High capital costs are partly due to lengthy construction periods of 3 5 years and the associated cost of capitalised interest which may account for 25% of total cost.

Hydro plants are long lived. Some small schemes built in the 1920's are still operating.

There is no inherent limit on size. Plants can range in capacity from a few kilowatts

to thousands of megawatts. (Manapouri is 590 megawatts)

Water is not consumed by a hydro plant and may be used a number of times over by

a series of plants on the same river system. Environmental costs may include flooding of reservoir areas and variations in lake levels, variable rates of water discharge and the need to construct access roads and transmission lines. Consents to the use of land and water are required under the Resource Management Act.

Background To Power Industry Organisation in New Zealand

As at February 1995, 95% of generation capacity was controlled by Electricity Corporation of New Zealand (ECNZ) under the State Owned Enterprises (SOE) Act 1986.

Prior to 1 April 1987 when ECNZ was established power production and transmission was the responsibility of the Electricity Division of the Ministry of Energy (NZED). There was considerable cross subsidisation in favour of domestic consumers. The main goal of NZED was security of supply.

A bulk supply tariff was set from time to time by the Government as the basis of charge to some 50 odd electrical supply authorities.

Generation capacity resulted from long term planning and ECNZ acquired considerable excess capacity in 1987.

Government inspired Public Sector Reform starting in the mid 80's included a number of steps:

- 1 Commercialisation (State Sector Act 1988)
- 2 Corporatisation (SOE Act 1986)
- 3 Privatisation

The general reform process was accompanied by:

- deregulation (removal of barriers to competition)
- removal of exclusive rights to supply geographic areas (eg gas distribution)
- separation of social goals from commercial goals
- access to services of natural monopolies (eg access to grid)
- "user pays"

Under the SOE Act, ECNZ has operated as a limited liability company with all shares being held by the Crown. ECNZ pays tax and returns dividends to its shareholder.

Transpower New Zealand Limited
On 1 July 1994, ECNZ transferred the net assets of Transpower to the Crown at book value. Transpower is now constituted as a separate SOE. It is regarded as a natural monopoly and is required to transmit power from any supplier in return for fair wheeling (ie transmission) charges.

The book value of transmission lines and substations as at June 1994 was \$2.36 billion (32%) out of a total of \$7.13 billion for ECNZ's fixed assets.

Further Reform

ECNZ enjoys virtual monopoly status. Consequently it has the power to:

- set wholesale prices
- set spot market prices
- fix the terms of long term contracts (only 12 month contracts were available)

In 1987, ECNZ had excess generation capacity and was able to set prices below the marginal costs faced by potential competitors (ECNZ was apparently concerned about potential competition from Auckland Electric Power Board among others). There is at present considerable debate

concerning the method of removing ECNZ's dominant position in the industry. Options for the removal of ECNZ dominance without break-up include:

- establish a monopoly wholesaler - basically as a counter to the monopoly generator
- establish a wholesale market institution according to prescribed rules

Options for removal of dominance that include break up include:

- retention by ECNZ of a 60% core and a lease-out of the other 40% in five groups
- various break up scenarios including the separation of the main thermals to produce competitive discipline.

If a break up option is adopted, prices should be set as a result of competitive forces. If demand rises the competitive price must rise to meet long run marginal cost (LRMC) - otherwise the marginal plant would not be built. There would probably be extra short run costs in the form of extra management and funding expenses.

There are a number of consumer groups currently arguing for a continuation of low (by world standards) prices. One proposal is that prices for hydro power should be capped or averaged with thermal power. Part of the current debate relates to the paradox that the break-up of ECNZ dominance (a good thing) could result in higher tariffs (a bad thing). This paradox is considered to have resulted partly from ECNZ's ability to price its output at average costs (ie below LRMC) and from a low base valuation which has allowed ECNZ to meet its Return on Assets (ROA) requirement at low tariffs.

VALUATION ASPECTS

The book value of NZED assets at take over date was \$3.766 billion. The assets were valued for transfer at \$6.36 billion as at 1 April 1987. This valuation resulted from a brokered agreement between Treasury acting on behalf of government and the new ECNZ board. ECNZ operated under a license arrangement for the first year pending final agreement on the valuation. Long term debt was adjusted to \$3 billion.

It should be noted that the valuation was made for corporatisation not privatisation. The aim was to establish opening book values and provide a ROA basis within a structure having a normal commercial debt/equity ratio.

How was the Valuation Made?

→

An explanatory note issued by NZ Treasury indicated that the valuation was based on a capitalisation of future earnings approach.

The Treasury apparently did not use a replacement cost approach although Peat Marwick had estimated that the (depreciated) replacement cost of the generation and transmission assets was some \$15.62 billion (it was apparently rejected because some assets like Marsden B created no cash flow).

The Treasury approach was to:

I Assess the commercial cost of supplying electricity:

- cost of fuel
- cost of labour
- cost of capital (via a commercial rate of return)

2 Determine prices based on the above costs

3 Determine value based on prices

The note explained that prices determined asset values (not the other way round). The question that remains to be answered is how were the costs, particularly the capital costs, assessed?

There was considerable excess generation capacity in 1987 and this factor would have impacted on the expected cashflow and may have resulted in a "low" valuation. The 1987 valuation has continued to form the basis of ROA performance measurement reported in ECNZ's annual accounts.

ECNZ should possibly have revalued its assets, probably resulting in higher values leading to:

- higher depreciation allowances
- lower profits
- poorer performance indicators
- upward pressure on tariffs (ie electricity prices would be closer to LRMC)

A Discounted Cash Flow (DCF) Approach for Valuation of a Group of Hydro Plants

The DCF approach is considered to be particularly appropriate for hydro (and thermal) plant assets.

The DCF approach capitalises overall business income. In this case the output is an undifferentiated commodity produced by commonly available plant. As there are no brand name or goodwill factors the capitalised value of the business should be close to the value of the assets.

Cashflows are a real measure of commercial value. From a shareholders point of view the value of an investment is generally measured by the residual cash flows available to shareholders after expenses (including interest but not depreciation), capital expenditures and tax have been deducted.

The discount rate can be interpreted as the required rate of return with the magnitude dependent on the rate of return available from other investments.

The DCF approach allows for expected cash flows. Therefore if an asset or plant represents capacity which is in excess of demand its value will be reduced accordingly. If the demand is expected to change in the future the valuation will be influenced by estimates as to timing.

If the expected revenues are set within a competitive market then the capitalised value may be regarded as market driven (assuming that input markets are competitive also).

A business including a single hydro plant would be a price taker and a DCF approach should be particularly appropriate. However if the hydro group under consideration represented a dominant grouping (as in the case of ECNZ) a range of capitalised values could result depending on the anticipated tariff. It is likely that the tariff would be set within a "comfort zone" that is:

- low enough to discourage new entrants
- low enough to avoid anti-trust or regulatory interference
- high enough to satisfy the shareholders.

The Capital Asset Pricing Model (CAPM) could be used together with the weighted Average Cost of Capital (WACC) model for the discount rate.

For a given business/asset profile and income stream the main variable in the capitalisation process is the risk-free rate, usually based on 5 year government stock.

A WACC based discount rate at April 1987 of 17.7% would be 9.1% at March 1995 (using a 50:50 debt/equity ratio and an ungeared beta of 0.45).

For a given income flow, capital value would have doubled between 1987 and 1995.

The whole valuation is therefore affected by prevailing interest rates at the time of valuation.

A Depreciated Replacement Cost Approach

Due to individual site characteristics the replacement costs of a number of hydro plants with the same capacity would be expected to differ, with the earlier plants being least-cost. If age and remaining-life depreciation factors were applied in a normal manner the net value of the earlier plants would be even lower than the later plants.

If the group under consideration operated under competitive market conditions, then the last plant would represent the marginal cost of production because the plant would not have been built unless the price of power was at a level to meet marginal cost.

Therefore under a competitive scenario a DRC approach would under-value the earlier plants unless a "site value factor" was introduced.

Assessment of Replacement Costs

It is not generally considered appropriate to "optimise" hydro generator assets prior to estimating the replacement cost. The optimisation concept was introduced for regulating prices of Electric Power Board and similar monopolies.

Under a rate-of-return regulation a monopolist is entitled to recover the market rate of return on the value of the assets. If the asset base had included redundant assets the monopolist could secure a return on assets whose economic worth was low or zero. A replacement cost estimate based on two large (cheaper) generating units in place of four actual units could overlook a number of factors including supply security. It may be appropriate however to consider basing the replacement cost estimates on plant sourced from countries different from the original source.

In the past site acquisition has not involved large capital costs because the land was likely to have been crown land in the first place. If land was acquired under the Public Works Act the price would have excluded compensation for the special suitability of the site for hydropower. Access by corporations to suitable sites through the Public Works Act is not now available and full market price could be demanded by owners in future.

If the group under consideration operates under monopoly type conditions which allows average rather than marginal cost pricing then a DRC approach could show that some (later) plants were valued at levels above those indicated by a DCF approach. If the assets are to be transferred DRC can provide a basis for asset allocation and depreciation allowances.

Any such proposals should be discussed with the management. Replacement cost estimates should generally follow atop-down approach with starting global estimates based on published rates for similar schemes, previous valuations or updated historic costs. The global estimate may be adjusted according to available evidence and the degree of accuracy required.

Construction cost rates would generally be applied on a broad basis. For example a composite earth embankment rate could include excavation, grouting, cutting and transport of aggregates and compaction together with drains and monitoring equipment.

Estimates for electro-mechanical equipment would normally be based on suppliers quotes.

A detailed bottom up replacement cost estimate would require a variety of technical input by experts but may still be unreliable.

Summary

It is a fundamental principle of valuation that all available approaches should be employed. It is clear that both DCF and DRC approaches throw light on different aspects of the business/assets. In this respect hydro plant assets are no different from other assets.

The effects of a selective approach to the valuation of New Zealand's power generation and distribution assets continue to have major repercussions.

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THE EFFECT OF TRANSMISSION LINES ON PROPERTY VALUES

A Statistical Analysis.

by Judith Callanan, BBS (VPM) and
Professor R V (Bob) Hargreaves, BS, MBA

This paper addresses the effect of HVOTL's on the value of residential land and improvements. A parallel study on the attitudes and reactions of property owners toward living close to HVOTL's and of persons (valuers, real estate agents etc) considered to be potential influences on home buying decisions in these areas was conducted at the same time by Sandy Bond of Massey University. (Sandy Bonds' paper will be published in the September 1995 issue of the NZ Valuers' Journal . Ed)

A case study approach was used to examine the effects of HVOTL's on property values in the suburb of Newlands, Wellington. Newlands was chosen because it has two sets of HVOTL's transecting the suburb. The Khandallah - Takapau line was erected in 1924 and upgraded in 1983. This line runs through the eastern side of the suburb. The second line is the 'Khandallah - Haywards' line which was erected on 1 August 1931 and upgraded in 1981. This line runs along the South East corner of Newlands. Both HVOTL's come together in the southern part of the suburb.

The study used econometric analysis techniques to determine a suitable multiple regression equation to quantify the effect of the HVOTL's on property values. The objective was to develop a model that was conceptually and methodologically sound and robust enough to be used for further research. Other areas that could be addressed are rural, commercial and industrial.

Literature Review

The only previously published study done in New Zealand on HVOTL's effects was completed by Valuation New Zealand (1968). This study was carried out in Christchurch and Auckland. The results of that study showed that in Christchurch the HVOTL's did not appear to have any effect in the average locality but they did have a negative effect in the superior locality. The Auckland study was taken in an average to superior area and the results show that in a few cases HVOTL's did have an effect but that the majority of properties were not effected. This report concluded that although the transmission wires may not have a quantifiable effect, it was clear that the presence of a power pylon on a property or situated in close proximity to a property does have a detrimental influence on the property value. The Valuation New Zealand study used an indexing system to compare changes in property values along the transmission line corridor, with those outside it. The basis for the indexing system was the most recent rating valuation.

There have been a number of HVOTL's studies carried out in the United States and Canada. Kinnard (1967), and Priestley (1990) have been particularly prominent in this field. A major review and analysis of the literature was carried out by Kroll and Priestley (1992) for the Edison Electric Institute. Their findings were that in about half the studies carried out, the HVOTL's had not effected property values and in the rest of the studies there was a loss in property value of between 2 and 10%. A Canadian study showed that there was a positive influence from HVOTL's when

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This research study arose from a consultancy in November 1993 between Transpower New Zealand and the Massey University Real Estate analysis unit (MUREAU).

the transmission corridor was on a well wooded 90m right of way, which adjacent properties had access to, thereby creating a positive attribute to the property. Kroll and Priestley were generally critical of most valuer type studies because of the small number of properties included in the studies and their failure to use econometric techniques such as multiple regression analysis. They found that the Colwell (1990) study was one of the more careful and systematic analysis of residential impacts. This study was carried out in Illinois and found that the strongest effect from the HVOTL's was within the first 15m but the effect dissipated quickly after this, disappearing beyond 60m.

The New Zealand situation is somewhat unique in that the HVOTL's transcend over the top of housing and are not over an easement or right of way adjacent to the property, as is the case in the United States and Canada. In the Newlands area where the pylons are on privately owned land Transpower NZ has an existing use right under the Resource Management Act 1991. The health effects of electro-magnetic fields from High Voltage Overhead Transmission Lines (HVOTL's) have been described by Ahlbom (1987) Anna (1989) and Coghlan (1992) and are generally inconclusive.

The Newlands Area

The suburb of Newlands is located in the city of Wellington. Newlands is a medium cost dormitory suburb situated approximately 5 - 10 minutes drive north from the Wellington central business district. The suburb is generally of a hilly terrain and the HVOTL's were built on ridges within the suburb making them a very prominent part of the suburb.

Probably the most attractive aspect of the suburb is the panoramic views of the Hutt Valley, downtown Wellington and the Wellington harbour from the development on the North East ridge within the suburb. A major detracting feature of the area is the exposure to the south which means strong southerly winds on a number of occasions during the year. Although the suburb is predominantly single family residential housing there are some multi-unit houses and there is a small commercial shopping centre within the suburb.

Two other interesting aspects related to the suburb are that the north island main trunk railway passes under the suburb in a deep tunnel and the Wellington City airport flight path passes directly over the top of the suburb. Our investigations have shown that as the aircraft flight path transects the whole area there appears to be a fairly constant noise impact over all houses. The deep railway tunnel under the suburb is not noticeable to residents in any way and there are no vibrations from the trains. A large section of the suburb has overhead power distribution and overhead telephone lines which is a prominent feature in local views. A limitation determined since concluding this research, is the presence of strong rumours amongst local residents and real estate agents that either one or both lines were to be removed in the near future. This may have influenced the purchasers decision and purchase price. Subsequent to this study the section of the 'Khandallah - Haywards' line that runs through Newlands has been removed.

Analysis And Results

All previous major overseas studies have used the statistical method of multiple regression analysis to investigate the effect of one dependent variable, in this case selling price, measured against a number of independent variables including the transmission line variables. The resultant explains the relationship between the effects of the independent variables against the selling price.

Model Specification

The model Specification used to describe the changes in sale price and HVOTL's impacts has three different types of variables:

- Property specific variables
- Real estate market factors
- Transmission line and pylon effects

An understanding of the housing market in New Zealand has helped formulate the most appropriate variables to be used in the

regression model. Due to the large number of variables that may come into a purchaser's decision, this list only contains those variables which could be objectively determined plus a subjective variable for view, and have significant explanatory power.

Sources of Information

The prime source of information was the New Zealand Institute of Valuers Valpak II software. Sales were extracted for the period 1 January 1983 - 31 January 1993. To eliminate large changes in the market over time, and changing perceptions of transmission line effects, the researchers ended up using a five year time frame. Five years of data produced 330 sales within 300 metres of the HVOTL's. This provided sufficient sales to make the regression equation statistically reliable and to give confidence in results.

The suburb was visited by the authors on several occasions to make visual observations relating to variables such as views, and the visual impact of the HVOTL's. The measurements relating to the distance from a sale property to the pylons or lines were taken from detailed maps obtained from the Department of Survey and Land Information.

Field inspection revealed that 4.5% of the sales were directly under the HVOTL's, and 10% of sales were within 50 metres of the HVOTL's. The hilly terrain in the suburb meant that it was possible for a property to be only fifty metres from the line and yet have no visual impact, whereas a property one hundred metres away above the line may be looking straight into it. This causes the results to be inconclusive as to where the transmission line effect on value diminishes.

Model Results

A number of different regression models were tested in order to obtain the most appropriate specifications with the line of best fit. Different transformations were used to find the line of best fit, for the distance to the nearest transmission line and pylon, as well as for the house area and lot size. Regression equations were run on a 95% confidence interval, and at varying distances from the HVOTL's including a control area. In all of these equations certain variables consistently appeared as significant. These variables all appear in the final results. The variables used in the analysis are shown in Table 1.

Table 1

Variables used in the Analysis

Sale Price:	Adjusted by CPI to 31/12/93 basis
Property Features:	Land Area (m ²)
	Floor Area (to nearest 10 m ²)
	Exterior Construction (Brick, weatherboards etc)
	Roof Construction (Tile, steel etc)
	Condition of Building (very good, average, poor etc)
	Year of Construction (decade built)
	Panoramic View or Not (Yes/No)
	Arterial Road (Yes/No)
Location:	Location 1 to 8 (suburb divided into 8 neighbourhoods)
Market:	Year of Purchase (split into 6 month periods)
Transmission Lines:	Reciprocal of Distance (1/distance x 100)

A number of regression equations were tested by utilising the SPSS package. The final regression equation based on 330 sales as shown in Table 2:

Table 2

Variables	Regression Coefficients	T Test Values	Sig.T
Constant (Intercept)	\$46985		
Floor Area	\$371	22.20	.0000
Land Area	\$16	3.5	.0005
Sale in first half of 1989	\$23915	12.3	.0000
Sale in second half of 1989	\$23189	11.3	.0000
Sale in first half of 1990	\$18670	8.5	.0000
Sale in second half of 1990	\$15385	6.3	.0000
Sale in first half of 1991	\$8715	4.0	.0001
Very good, Above average condition	\$23341	3.5	.0004
Average Condition	\$18444	2.7	.0056
Location four	\$(4783)	-3.4	.0006
Non panoramic view	\$(4058)	-2.9	.0033
Constructed in 1950s	\$(7496)	-2.9	.0033
Proximity to Pylon	\$(3551)	-4.4	.0000
Number of Observations		330 sales	
Adjusted R-Squared		.74	
Standard error as % of Sales Price		8.5	
F Statistic		64.22	

The results set out in Table 2 show a statistically significant regression equation. The F statistic of 64.22 shows that the chances of the equation at the 95% confidence being an accidental effect are very low. The non HVOTL's variables that were significant in this equation are similar to those appearing in the final equation for the control area.

Transmission Line - Related Variables
A number of different data transformations were used to evaluate the effect distance from the HVOTL's has on property values. The best fit was found to be reciprocal of

the distance times one hundred to both the nearest lines and the nearest pylons. Table 3 shows that this indicates a diminishing effect on property values which reduces to a minimal amount around one hundred metres. The effect is shown in Figure 1.

The different models tested showed an inconsistent result on transmission lines but consistently a negative result was obtained on the distance to nearest Pylons. In the final model a negative effect of -\$3551 times the reciprocal distance was obtained on the Khandallah - Haywards line. This statistic was significant;-

Table 3

Reduction Percentage of Average Price from proximity to pylons

Distance	Dollar Amount	Percentage
<u>At 100 metres</u>	<u>-\$3551</u>	<u>-2.7%</u>
<u>50 metres</u>	<u>-\$7102</u>	<u>-5.4%</u>
<u>30 metres</u>	<u>-\$11,836</u>	<u>-9.1%</u>
<u>20 metres</u>	<u>-\$17,755</u>	<u>-13.6%</u>
<u>15 metres</u>	<u>-\$23,673</u>	<u>-18.2%</u>
<u>10 metres</u>	<u>-\$35,510</u>	<u>-27.3%</u>

The above table indicates a reduction in house prices of around twenty percent of the average sale price for houses very close to the pylon and dropping off to two percent at 100 metres.

Summary and Conclusions

The aim of the project was to research the impact of HVOTL's on property values.

The results show that the effect of having a 'pylon' close to a particular property is significant and has a negative effect of twenty percent at ten to fifteen metres from the pylon, decreasing to five percent at fifty metres. This effect diminishes to a negligible amount after one hundred metres. The presence of a 'transmission line' in the Newlands area has a minimal effect of less than negative one percent for those properties directly under the line, and is not a statistically significant factor in the sales price.

The area near to the Khandallah Haywards line showed a larger effect than the area near the Khandallah - Takapu Rd line. This may be because of there being no sales within twenty metres of a pylon on

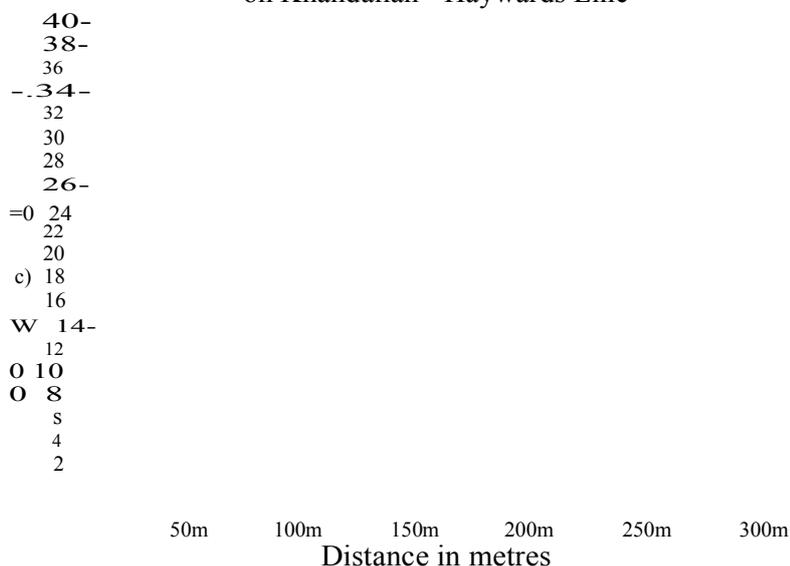
the Takapu Rd line.

These results are unique to the Newlands area. It is highly likely that a different result would be obtained in a flat area, with no views or where the housing is in the higher price range. Overseas studies have found there to be a varying effect according to the type of housing and topography. This may be due to more affluent buyers being able to afford to pay extra to have no detracting visual aesthetics. The other factor which came to our attention, related to strong rumours within the suburb, that the transmission line(s) would be removed at some stage.

Also HVOTL's may have more impact in suburbs where there are no other visual barriers, such as overhead power distribution lines and telephone lines or views.

Figure 1

Effect of Distance from dwelling to pylon on Khandallah - Haywards Line



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Securitised Property

Is it as Good as the Real Thing?

by Nigel Bunn

Until recently New Zealand property investors had few options for property investment vehicles. Whilst for some time there have been a number of small unlisted trusts and some significant property companies; securitised property vehicles such as Listed Property Trusts have only recently become a major part of the New Zealand market,

The succession of floats over the last two years has provided investors with a real choice as to their property investment vehicle. The popularity of these types of vehicles is in part due to the significant advantages they offer in comparison to direct property investment.

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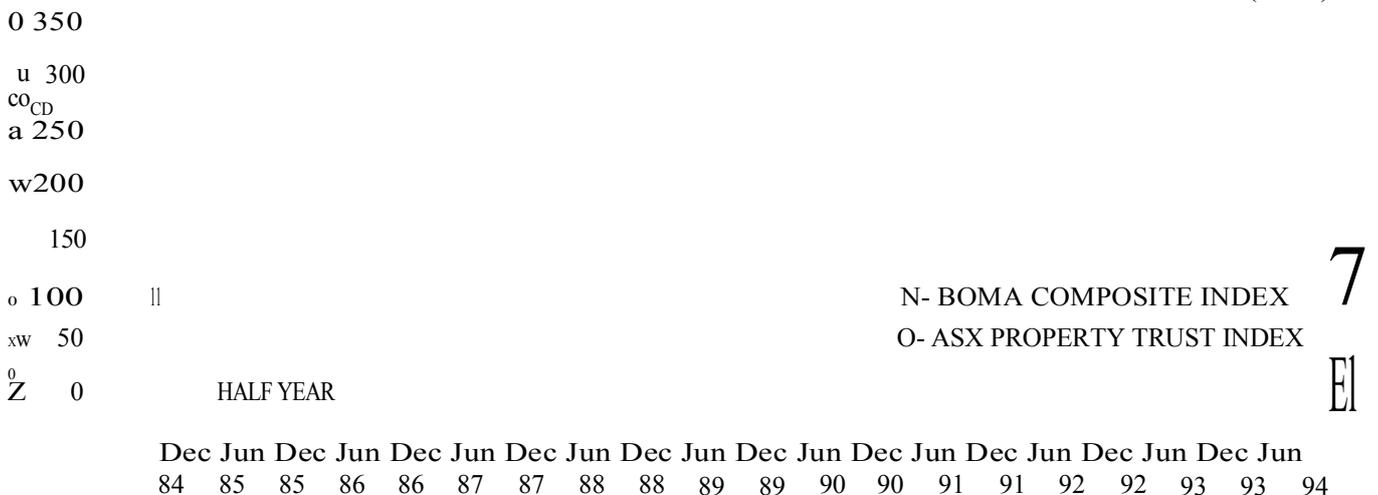
Liquidity

The obvious advantage is liquidity. As listed securities are traded on a daily basis stock holders can monitor the value of the investments constantly with the support of actual transactions unlike physical property which is only valued periodically. Transaction costs are in many cases lower (or certainly not as visible) for these types of securities in comparison to direct property investments (brokerage versus stamp

duty and legal and real estate agent fees). Moreover, the stock Exchange listing rules and financial reporting and disclosure of information regulations offer investors more protection than the "buyer beware" principle that applies to direct property. However, large parcels held by institutions or corporates can be difficult to place, particularly in a falling market. Turnover of property stocks on the New Zealand

Stock Exchange is low in comparison to quality industrial stocks. Stocks which have a high turnover are generally more liquid and are referred to as having a "deep" market. To that end the market for most New Zealand property stocks is quite shallow and large institutional investors who hold sizeable parcels may well view their property stocks to be only marginally more liquid than direct property.

COMPARITIVE PERFORMANCE LISTED PROPERTY TRUSTS VS DIRECT PROPERTY (AUS)



The above chart tracks the performance of the BOMA Composite Index in Australia against the Australian Stock Exchange Property Trust Index. Both Indices have a base of 100 starting in December 1984. The BOMA Composite Index is a weighted index which comprises all categories of direct property (retail, industrial and commercial).

Spread Risk

Arguably the most important single advantage of securitised property is the ability to spread risk through diversification. In New Zealand only the largest corporate and institutional investors have sufficient resources to compile a fully diversified portfolio which contains the appropriate spread of prime commercial, retail and industrial properties. By purchasing securities in one vehicle with a diversified portfolio or in a number of vehicles with specialised portfolios small and medium size investors can gain exposure to a diversified property portfolio.

Relative Performance

The recent popularity of listed property vehicles can at least in part be explained by these significant advantages securitised property has over direct property investments. However, the two forms of investment have different characteristics and will not necessarily provide identical benefits to the investor. Given the short history of securitised property in New Zealand it is worth considering the relative performance of direct property versus securitised property in Australia over the last ten years. It is interesting to note that after the 1987 share market crash direct property significantly outperformed listed trusts until around the start of 1992. It appears that the reason for the poor performance of the trusts over that period is related to the depressed state of the equities market and reflects the high correlation between property trust units and equities. After the share market crash in 1987 direct property in Australia continued to perform very strongly (unlike in New Zealand where the property market effectively collapsed soon after the share market). Looser monetary and fiscal policies implemented by the Australian government combined with negative sentiment towards the equities market in the period from 1987 to 1990 helped direct large quantities of investment funds towards property and it was not until late 1991 when the major correction began.

Correlation with equities

This situation emphasises one of the key differences between physical property and Listed Property Trusts. Trust units have a higher correlation with equities than direct property and may perform differently to physical property in certain economic con-

ditions. This is an important factor for investors who look to spread risk through diversification. One of the key reasons fund managers invest in direct property is its relatively low correlation with equities and fixed interest investments. In very simple terms modern portfolio theory advocates spreading the investment nest egg over a variety of investment classes which will perform differently under different conditions. Listed Property Trust units have a correlation of approximately .77 with equities in Australia. This means that for every 1% movement in the equities market the value of LPT units can be expected to move in value by 0.77%. Direct property is believed to have a significantly lower correlation with equities although the actual figure is open to debate. Some Australian studies have suggested a correlation of about .25 for retail property and about .6 for office buildings.

Natural Hedge

This makes property a natural hedge against adverse movements in the equities market and helps fund managers spread risk. Securitised property, therefore, may not provide the same diversification advantage to investors as direct property. Some investors seeking to build a diversified investment portfolio and who may be tempted to hold all of their property allocation in listed vehicles may leave themselves over-exposed to adverse movements in the equities market.

"Appraisal Smoothing"

The correlation between equities and direct property is, however, an issue over which there is some debate. Some argue that the effects of "appraisal-smoothing" (ie imperfections in the valuation process) cause property to appear less volatile than it really is, thus distorting its correlation with other asset classes. To an extent, this is supported by the anecdotal evidence.

Property markets in New Zealand and Australia collapsed a few years after the 1987 share market crash and this could be interpreted as a direct reaction to the change in the equities market which was delayed by "appraisal smoothing". However, the share market crash coincided with a massive over supply of office space and it was this factor which was the main driver in the property market correction and not the share market crash. More recently, during 1994 equities performed poorly yet property which is now recovering from the

massive oversupply problems of the late 1980's showed quite strong returns.

Australian experience

The relative performance of the two property asset classes in Australia raises a number of other interesting issues. It could be argued that the share market is a more efficient pricing mechanism than the physical property market and that the ASX Property Trust Index anticipates movements in physical property. From the start of 1993, for example, the Property Trust Index has moved sharply upward whereas the BOMA composite index has been virtually static. The commercial property market recovered strongly during 1994 and the future direction of the BOMA index is likely to follow that of the ASX Property Trust Index. Moreover, during the period between 1988-1991 when the market experienced buoyant but artificially inflated conditions and the BOMA Composite Index rose sharply before declining in 1991-1992, the ASX Property Trust Index showed a steady but much more gradual growth phase.

This situation is also reflected in the yield differential between the two property asset classes over time. In June 1989, for example, yields on the six largest Property Trusts ranged from 8.5% to 10% whereas yields for prime commercial property in Sydney and Melbourne were sharply lower at about 5% to 5.5%. The situation was reversed in November 1993 when yields on the six largest property trusts ranged from just under 7% to around 8.25% and yields on Sydney and Melbourne commercial property ranged from 8% to 9.25% and 8.5% to 10% respectively.

This is further evidence that the listed property trust market has anticipated movements in physical property prices.

Conclusion

It will be interesting to see if similar trends emerge in New Zealand over the next few years. At the present time it appears as if the direct property market and the share market are pricing property assets at about the same level. Based on the Australian experience investors should tread carefully if one property market shows a marked difference in price from the other. For the securitised market to demonstrate its full advantages it will need to develop in more depth, it is not yet mature.

Technology forum

Technology Forum is a regular feature of the NZ Valuers' Journal. Its aim is to report on Computer technology as it evolves with particular emphasis on information systems, property sales and database issues, telecommunication, computer hardware and software developments. It will also endeavour to cover technological developments in the building, mapping and other similar land based industries.

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COMPUTER OPERATING SYSTEMS

by James Bennett

Whatever computer you use, at some stage you will become aware of the presence of some software which controls your computer in a very draconian way. This software is not a virus or some sinister programme introduced by a competitor. It is your operating system. Most problems with reading files, lost files, insufficient memory, disk full, or when the computer stops completely can be traced to glitches in the way your application is interacting with your computer's operating system. Like it or not, the computer won't run without the operating system. The operating system actually does many jobs for the other software applications you use. When an application requests a file or wants to save a file, the operating system will provide the interface with the disk or network. File deletions, character capture from the keyboard or serial port, printer control, and mouse input are services provided by the operating system. This means a consistent platform can be relied upon by software developers and they do not have to write these services into their products. Some software developers have acknowledged the inherent limitations of operating systems and have added some useful tools into their packages. These usually help in listing, locating, copying and moving files.

DOS

The most common operating system used is DOS. DOS is an acronym for Disk Operating System. Earlier operating systems were loaded from tape drives and were referred to as TOS. Now you can get DOS in ROM cards and the bigger operating systems on Compact Discs. New versions of operating systems avoid references to specific storage devices, such as disk operating system, and instead use copyrighted names such as Warp, Daytona and Chicago.

Your experiences with the operating system will vary from minor, if you use a Macintosh, to major if you use UNIX or DOS.

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What happens when you turn your computer on.

Most computers don't retain what was in the memory chips when the power was turned off. This means the computer must reload all the house keeping software and your software applications from some permanent storage device, usually your hard disk, before you can resume work.

Some of the things a DOS based computer will do after the power is switched on are;

1. Check and configure other hardware items installed in the PC eg, Video card, keyboard, disk drives, mouse, check memory.
2. Load files from the boot disk, normally the C drive (IO.SYS and MSDOS.SYS).
3. Run the command processor (you see this as the DOS prompt).

4. Run a menu or immediately start Windows or some other software application.

The boot disk is usually the hard disk in your PC. You probably call this the "C" drive. The boot disk has the two special files referred to above, IO.SYS and MS.SYS. When the computer is switched on it looks for a boot disk. Usually drive A is checked first and if there is no disk found then the installed hard drive is inspected.

If you leave a disk in the floppy drive the computer will look at it and tell you "Non system disk or disk error, replace and press any key". This means that the computer has not found the system files it needs on that disk and cannot proceed any further. The solution to this is to remove the disk and allow the system to locate the hard drive which hopefully has them installed on it.

These files are the guts of DOS. They provide the links to all other pieces of hardware, control data flow between disks and memory and accept keyboard and mouse input. There is also another file called COMMAND.COM. This processes the commands you type at the prompt. These files don't occupy that much space on your hard drive. When DOS lists its requirements as 6 MB of disk space, most of that is taken up by additional utilities. These reside in a directory called DOS. Some of the files in there that you may use on occasion are-

FORMAT.COM Formats disks before use.

CHKDSK.COM Checks that files are written to disk properly and repairs corrupted files (or SCANDISK in newer versions). Use this if you have problems reading or writing your files.

HIMEM.SYS Memory manager (usually loaded automatically).

EMM386.EXE Manages additional memory above 1 MB (loaded automatically).

SMARTDRV.EXE Disk buffering programme (usually loaded automatically).

Most of the files in the DOS directory will never be used, but are there in case you have an unusual setup or you happen to know what they are and how to use them. There is quite a range of operating systems that your PC can run on. Some of those available are presented in Figure 1.

Figure 1: Operating Systems

Operating System	Version	Software House	CPU Compatibility (Chips That Run It)
MS-DOS	6.21	Microsoft	Intel family
PC-DOS	6.1	IBM	Intel family
DR-DOS	7.0	Now Novell	Intel family (called Novell 7)
Windows 95	4	Microsoft	Intel family (release late 1995 also called Chicago)
OS/2	2.1	IBM	Intel family & Power PC Shortly (called Warp)
Windows NT	3.5	Microsoft	Intel family, Power PC, DEC Alpha (called Daytona)
Macintosh	7.x	Apple Computers	Motorola 6980x0 and Power Mac
UNIX		Assorted	Varieties available for most platforms

At this stage, most operating system's are hardware specific. This means they are designed to work with CPU chips from one particular manufacturer, MS-DOS, OS/2, Windows NT will run on Intel family chips. Macintosh OS will run on Motorola 68000 series and Power PC/Mac chips.

Advanced workstations and servers will usually run on a UNIX variant and/or Windows NT. Mainframe computers have a proprietary operating system from the likes of IBM, HP, Unisys etc. Some of the

new operating systems for desktop PCs are being written to run on a variety of computers. This means you can now buy the software of your choice without being tied to a particular computer manufacturer. You may have a mixture of 486, Alpha's Power PC's and Pentium machines all running Windows NT and using the same applications.

The operating system you end up with is mainly determined by the applications you will want to run. Many people will buy a Macintosh because of the ease of use of applications and minimal hassle managing files. Some companies will use UNIX work stations because of the power and connectivity to their network. Most people buy IBM compatible computers because they are cheap, fast, readily available, and run MS-DOS and Windows.

Most of you will have seen or used DOS based PCs at some stage and are aware of the Windows based software that is slowly displacing it. I say slowly because with the hype and advertising aside, most PC's

still run DOS of some sort, Lotus 123 and WordPerfect 5.1 or some other DOS applications. They keep using these packages because they are fast, familiar, do what is required and to run the newer versions would require expensive hardware upgrades.

If you are buying a new computer, it should be both fast and have heaps of disk space so you can run the Windows based software if you choose to.

The Background to DOS

Given the significant role that DOS has played in personal computer development, it is interesting to look at how it is developed and why we still use it.

Around 1978 and 1979, the market served by IBM's Data Entry Systems division began to change. Instead of terminals and mini computers or mainframes, customers began demanding autonomous, low cost, single user computers with minimal computing power or connectivity, but compliance to standards like the ASCII alphabet and the BASIC programming language. The closet product in IBM's line was the 5110, a closed, BASIC-in-ROM machine with a tiny built in character display. The 5110 was uncompetitive, and IBM started losing tenders to key customers, mostly Government agencies. Data Entry commissioned a consulting firm to design a stop gap machine to fill what was perceived within IBM as a short lived, specialised niche. It was intended that the stop gap machine would only be offered for a couple of years until it would be replaced in "The Product Line" by an

internal IBM design. Some IBM executives believed the single user desktop system was a fad which would die out when the shortcomings of such systems became appreciated.

This was the IBM PC. The motherboard design was based very closely on a single board computer. Among other things, Intel argued that 640KB was more memory than single user applications will every need, because of the efficiency of segmented memory "management".

The Monochrome and Colour Graphics Display Adaptors were based on application notes for the Motorola 6845 video controller chip, except that the strangely interlaced pixel addresses in the CGA appears to have been extremely short sighted. The "event driven" keyboard was an original design, but the concept is from the Xerox Alto and Star graphics workstations. The keyboard noise and "feel" was intended to emulate those of the IBM Selectric typewriter. The Cassette Tape Interface design was original, and similar in concept to the one on the Radio Shack TRS-80.

Data Entry Division approached Digital Research Inc. to offer its popular CP/M-86 operating system on the machine, but DRI rebuffed them. IBM's second choice was BASIC-in-ROM vendor Microsoft, which had no operating system product at the time but quickly purchased a crude disk operating system called 86-DSC from Seattle Computer Products to offer it to IBM. Its command interpreter was an imitation of UNIX Bourne Shell, with the special characters changed to avoid infringing AT & T's copyrights. So this is where the strange DOS command conventions originated.

Data Entry Division began offering this system in various State procurement tenders without any plan to offer it to the public.

It became obvious that the Cassette Interface and optional 360KB Flexible Disk Drive were inadequate. The Cassette Interface was dropped, and an optional Fixed Disk Drive offered on a revised model known as the IBM Personal Computer X. (A fixed, or "hard" disk had been offered on the PC by special order, but few were sold).

The X was successful beyond all expectations. IBM offered the system to the public after it became clear that no other division was going to come up with anything in time. IBM published complete schematics and ROM listings, and en-

couraged clones. With Microsoft writing the operating system and dozens of other manufacturers producing clones, the only real standard the clone makers had to adhere to was "will MS-DOS run on it?". If it did, then people bought it. They were after a computer that ran the software they wanted to use rather than buying a system with no flexibility.

DOS in its various forms is a command based operating system. This means you have to type in a "command" and process each one in sequence. For example to copy a file from one disk to another you must specify the files location, name and destination and new name (if needed) viz `COPY C:\DATA\CHAPTER1.DOC A:\` (enter).

Pressing enter after typing the command tells the operating system to process the line. If you mistype a command or file name DOS won't recognise it and will return an error. You will then need to locate your mistake, correct it and re-enter the command. This is the standard method of interacting with the PC. For experienced users, it is both quick and efficient. Novices, however, find it cumbersome, confusing and frustrating.

There are ways of getting around DOS's "limitations" if you see them that way. The applications you use can offer easier ways to manage your files, eg, WordPerfect 5.1 (DOS) allows you to list files, move, copy, rename, delete, print and combine with others. There are also specialised utilities available such as PC Tools, Xtree and Norton utilities which make life a lot easier.

Most people don't actually work in DOS itself but enter their applications via a menu. The only time you need to get your hands dirty and get under the bonnet is when you encounter problems, or need to reconfigure your machine for some new hardware or software. To appeal to a wider market, Microsoft released a DOS add-on called Windows.

Windows

The first editions of Windows were not that successful but version 3.0 was very successful. Subsequent versions 3.1 and the network version 3.11 are extremely popular and have addressed some of the stability problems of earlier versions. Now most popular applications are available in Windows format and some are only available for Windows.

Windows is referred to as a GUI - graphical user interface. The term graphical differentiates it from DOS's character

based format. Graphical User Interfaces such as Windows, Macintosh, OS/2, Windows NT and Windows 95 don't use a command line interpreter. The items you work with are represented as graphical objects and icons. Applications usually run in a workspace or window. Most GUIs use a mouse to implement point and click & drag and drop functions, Note the mouse could also be a track ball or pressure sensitive pad.

Graphical User Interfaces have several advantages and disadvantages over Character based Interfaces. The most obvious disadvantage is they are a lot slower. This shouldn't continue to be a problem as newer computers are getting faster, better at handling graphics and, hopefully, the rate of hardware development will keep ahead of the software developers.

Why are GUI's slow?

GUI's operate with a set of 255 characters. The screen will usually display 80 of these across and 25 deep giving a maximum of 2000 possible characters on the screen at one time, usually in one colour. This doesn't require much memory or processing time to update a screen of text. The video card redraws the screen and handles the constant refreshing of the display. But a GUI represents the text on the screen as graphics. This is done so as to provide a more accurate rendition of what the fonts will look like.

A full screen of graphics will take up at least 640X480 dots plus extra information for the colour of each dot. This is a minimum of 307200 bytes of information required for a relatively low resolution display. So a GUI adds a processing overhead of about 200-400 times as much information to your computer. You can get around this to a certain extent by adding a good fast graphics accelerator to your system. This will off load some of the work of rendering screen graphics to a specialised chip in the video card.

Some other factors contributing to the apparent slowness of the computer are; the large number of screen fonts available, multiple applications being run simultaneously, insufficient memory which forces overflows to be constantly written to disk (which is a lot slower than RAM).

Advantages of GUI's

A lot of these are purely subjective, but if it makes using the computer more enjoyable then that at least is an advantage. The first thing that appeals is that work on the screen looks pretty well just like what the printer would produce. This means you

don't need to spend a lot of time printing and previewing your work and making small adjustments.

You may have seen the acronym WYSIWYG used in reference to some operating system's or programmes. It translates to "what you see is what you get" although you aren't always that lucky. If you bold, underline, italicise or increase the font size, these changes will show on screen but the real benefit is being able to see pictures on screen as they will appear in your document.

The use of a mouse means you can select objects or blocks of text and move them around or between applications via the clipboard. Selecting options from menus or tool bars is quick and easy, and most applications offer additional short-cuts through the right mouse button.

Most GUI packages are written to take advantage of standard menu structures and facilities provided by the GUI operating system. To you this means each application will always have a File, Edit, Window and Help menu which all have similar options within. Once you have the concepts of using one package fairly well established, it doesn't take much time to learn another type of programme as it will have a similar menu structure and concepts.

If you use your PC a lot, then an added benefit of GUI's is that you can customise the colour schemes, add your own background pictures, build cute little icons and adjust the resolution of the display to your preference.

Another nice feature of GUI's is being able to run more than one application at the same time and being able to move and link information between them. There is a difference in the way different operating systems achieve this. DOS, Windows and Macintosh will allow more than one programme to run at the same time but splits up processing time between them. The programmes don't actually all run at the same time but cooperatively share the resources allocated by the operating system. Warp, Daytona and Windows 95 (Chicago) have what is called pre-emptive multi-tasking where applications can appear to all run at the same time.

These use system resources more efficiently by allocating more time to other tasks when appropriate. For example an application waiting for a file from disk doesn't need any CPU time so other programmes are serviced say a communications programme or network mail. Multi tasking also uses disk buffering a lot better. Files can be read before they are needed and saving to disk can be delayed until convenient. Operating systems such as DOS, MSWindows, MacOS and such do not allow true preemptive multi tasking and can not do the read aheads and the write behinds.

The new multi tasking operating system's have markedly improved on the old DOS file naming restrictions of 8+3 characters. Daytona and Windows 95 will allow file names of up to 256 characters and you are allowed to use punctuation, periods, dashes etc. You could probably write your basic memo in just the file name space. Along with this there is added security for files and disks, embedded network support and TCP/IP if you want to surf "The Net".

So the next operating system you buy will probably be a multi tasking GUI running on an enormously powerful computer with 16 MB of RAM, a 2 MB PCI or VL-Bus video and a 1 GB hard drive. But for all that, it will run marginally quicker than your DOS based monochrome 286 with Lotus 123 V2.2 or WordPerfect 5.1+.

So, will you upgrade? Probably.

New Zealand Institute of Valuers Annual Manuscript Competition

Conditions of Entry

The New Zealand Valuers' Journal Editorial Board offers an annual Award for a leading article to be published in the Journal. The Award has a value of NZ\$1,000 and shall be paid to the successful applicant who meets the following conditions:

1. The competition is open to any author of an original work based on research into or comment on a topic related to the valuation of real property.
 2. Entries should be submitted to the Chief Executive Officer, New Zealand Institute of Valuers, P O Box 27-146, Wellington. The closing date for submission of manuscripts shall be 1st April in each year and any winning article shall be published in the Journal.
 3. Preference will be given to "first time authors" and New Zealand Institute of Valuers' members. The author shall provide a brief biographical note which may be published.
 4. The article shall not have been submitted to any other journal or publisher prior to being submitted for entry into the competition.
 5. The article shall not exceed 10,000 words including any equivalent space where illustrations, diagrams, schedules or appendices are included.
 6. The manuscript shall be typewritten, double spaced.
 7. The author shall supply a short synopsis of the article, setting out the main thesis, findings or comments contained in the article.
 8. The winning manuscript shall become the property of the New Zealand Institute of Valuers and the author shall agree as a condition of receiving the award to pass copyright to the Institute and no reprinting of the article shall take place without the express consent, in writing, of the Editor of *The New Zealand Valuers' Journal*.
 9. All unsuccessful applicants for the Award shall be advised.
 10. Judging shall be by the Editorial Board and shall be on the basis of the relevancy, quality, research and originality of the article to the principles and practice of valuation. The judges' decision shall be final and binding. The Editorial Board shall not be bound to make an award in any year if no article meets an acceptable standard. The judges reserve the right to nominate their own awardee should any article not be submitted for consideration by an author.
- 1.1. The decisions of the Editorial Board on any matter relating to the competition and Award shall be non-reviewable and correspondence shall not be entered into nor reasons given for the decisions of the Board.

LEGAL ISSUES

Forestry Rights - An Introduction

by Andrew Caddie, Wellington Associate

Introduction

An article in the March '94 edition of the Journal covered forestry valuations in the context of forestry syndication.

The purpose of this article is to provide some background into the legal status of forestry rights, their advantages and disadvantages, things to watch out for and, briefly, touch on valuation issues.

Background

New Zealand has had a well established exotic plantation forest estate (predominantly pinus radiata) for many years. Ownership of this estate has, until relatively recent times, been concentrated in the hands of the State and large corporates. However, a variety of factors is persuading ordinary New Zealanders that direct ownership of an interest in a forest has advantages over indirect ownership (through ownership of shares in the likes of Carter Holt or Fletcher Challenge). These factors include:

- significantly increased international prices for good quality saw logs and logs suitable for production of high grade veneer (peeler) logs;
- a recent overhaul of the previous forestry taxation regime has resulted in a less discriminatory regime (forest expenditure may be set off against other income in the year in which the expenditure is incurred);
- growing interest/concern as to the desirability of providing for ones retirement. The long wait (25-30 years) between planting and harvest sits well with a long term investment decision.

These (and other) factors have led to an increased demand for good quality land suitable for afforestation. This demand is flowing through into land prices. Prices in excess of \$2,000 per hectare are becoming increasingly common for what is perceived as strategically located good quality land. However, whilst the returns from forestry are high, so too are the initial establishment and on going tending costs needed to produce a high quality end product.

Increasingly, land owners wishing to invest in forestry but wishing to spread the risk of the project are looking for investors who can contribute cash. Equally, increasing land prices make it attractive for investors to sidestep the initial cash outlay required by outright purchase of the land. A joint venture in such situations seems logical. In order to get such potential joint ventures off the ground an appropriate legal mechanism is needed.

This material has been prepared as a Member Service for the NZIV by KENSINGTON SWAN, Barristers, Solicitors & Notaries Public in Auckland and Wellington. Members having any enquiries on the issues reported should contact the offices of Kensington Swan or their own legal advisors. The NZIV accepts no responsibility for the opinions expressed.

Possible Legal Mechanisms

A variety of legal devices exists for achieving the separation of the forest from the land.

Lease

Prior to 1983 a common device was the use of a conventional lease. Subject to the terms of the particular lease it allows obligations to be distributed between the lessor (or landowner) and the lessee (or investor). However, in many instances, the exclusive possession nature of a lease does not sit well with the likes of, say, farmer landowners. Further, given the

long term nature of a forestry project, lessees are well advised to have their lease registered against the certificate of title pertaining to the land in question. Difficulties arise where the lease is over land which is part of a certificate of title. In this case to register the lease a subdivision would be required with its attendant costs and delays. A lease over 20 years was deemed to be a subdivision in terms of the then Local Government Act (now the Resource Management Act 1991). Accordingly, a subdivisional consent had to be obtained and issues of reserve contributions, etc addressed. As a consequence, attention began to focus on a traditional legal device known as a "profit a prendre".

Profit A Prendre

The holder (grantee) of a profit is given the right to extract something from another's land, for example shingle, flax or timber. Profits can be registered against the certificate of title thereby providing the holder with legal security as to access. The distinguishing feature between a profit and a lease is that a profit creates exclusive right to work or take a particular product not an exclusive right to possession of the land. Thus continuing rights of access the land owner (grantor) can be easily addressed.

Unfortunately, profits suffer in legal terms. There is some uncertainty as to whether a profit can be granted to a forestry company to harvest and remove timber when the trees, the subject of the profit, are not in the ground at the time of the grant. Arguably, the grant is not more than a licence.

Licences

The use of licence has a significant disadvantage in that it is not binding on third parties who may subsequently purchase the licensors land. Nor is a licence registerable or caveatable in terms of the Land Transfer Act.

These and other technical problems as to the appropriate legal mechanism for a forestry joint venture were addressed with the enactment of a new piece of legislation.

The Forestry Rights Registration Act 1983

To encourage the growth of joint ventures between rural land owners and investors, Government passed the Forestry Rights Registration Act 1983 ("the Act"). The Act provides a powerful but simple mechanism (the Act is only three pages long!) which ensures access rights for the establishment, maintenance and harvesting of a crop of trees. In essence, the Act has created a statutory form of "profit a prendre" but removed the uncertainties referred to above.

Courtesy of the Ministry of Forestry

In this article, a reference to a forestry right is a reference to a forestry access right created under the Act.

Nevertheless, there are advantages and disadvantages in the use of a forestry right which should be considered.

Advantages

- A forestry right may be registered against a certificate of title. Registration is legal notice of the terms which are set out in the document.
- A registered forestry right runs with the land and is unaffected by changes in ownership of the underlying land.
- The forestry right grants access rights to establish, maintain and harvest one or more crop of trees on the land.
- A grant of forestry right is not a subdivision in terms of the Resource Management Act. This avoids any survey or reserve contribution requirements.
- Where the forestry block forms only part of the land, the boundaries and access routes of the forestry right may be indicated by reference to a diagram or aerial photograph (no survey is required).
- The Memorandum of Transfer recording the grant of forestry right (which is registered against the Certificate of Title) contains the basic agreements between the parties. There are no regulations controlling the format of forestry rights.
- The contents of the forestry right is potentially of considerable contractual flexibility.
- A grant (or transfer) of a forestry right is not caught by the Land Settlement Promotion and Land Acquisition Act 1952. Another saving in time and expense.
- In stumpage share arrangements, using a forestry right will not incur stamp duty when the forestry right is granted.
- There is no legal impediment to a registerable security, such as a mortgage, being granted over a registered forestry right.

Disadvantages

- Mainstream financial institutions are still uncertain about the value of a mortgage over a registered forestry right. This is slowly changing as some banks (such as Westpac) become more comfortable with the concept.
- Registration of the forestry right means that it is a publicly available document. Where the parties do not wish certain details of the agreements to be open to public gaze, additional documentation will be needed.
- The prior agreement of any mortgages, etc, will be needed before registration.
- Relatively recent changes to taxation legislation have created a little uncertainty as to the tax treatment of an initial grant of a forestry right. These uncertainties need to be handled with care (and professional advice sought) until the size of the problem (if any) can be gauged.

Where land, the subject of forestry right is sold (in the context of an overall farm sale) and the new landowner has no legal interest in the crop the subject of the forestry right, this may impact on the attractiveness of the property as a saleable proposition and/or the market price of the property as a whole.

Terms Of The Forestry Rights

It needs to be stressed that a forestry right should be seen as the "cement" between the joint venture family trust parties. Each joint venture party's choice of a legal vehicle by which they will take their interest in the tree crop the subject of the forestry right is a separate issue. For example, a farmer landowner may wish to grant the forestry right to a joint venture consisting of the farmer's family trust and the joint venturer's legal entity. A joint venture investor might decide to use a qualifying company or a partnership composed of a group of qualifying group of companies. The prospectuses issued by Green Plan Forestry Limited are interesting examples as to the manner in which forestry rights can be used in the context of a public offer.

However, the detail of the possible terms and conditions that might be included in the forestry right will, of course, impact upon the long term durability of the joint venture and these should be carefully considered. The following is a brief outline of some of the possible terms and conditions that might be included in a forestry right;

- The parties must be clear as to who is to do what and when. A landowner contributing only land will want to make sure that there are appropriate obligations for the parties to meet at regular intervals and agree on an annual operational plan and so on.
- Appropriate obligations need to be in place to ensure compliance with all appropriate laws and statutes by the party(s) who will be responsible for carrying out the work. For example to obtain and comply with all necessary resource and other consents.resource and other consents;
- Who will be responsible for putting in place forest fire or other policies of insurance?;
- Are controls on the ability of the investor to assign (transfer) or deal with its interest in the forestry right without the consent of the landowner needed?
- The forestry right must include a general statement as to the type and timing of the silvicultural regime to be implemented. To achieve a high value end product, tending operations must be done on time.
- Stumpage share details are, of course, a very vital and potentially contentious issue. Will the respective parties shares be fixed in advance or at the end of the rotation? What price reference points will be used in determining whether a prospective buyer's offer for the mature forest is acceptable?
- A dispute resolution that is fast, flexible and binding should be agreed.

Valuation Issues

It is very likely that in 10-15 years the number of immature woodlots being offered for sale will increase dramatically. The development of a more extensive sales data base will greatly assist the advisers of would be purchasers as the valuation of a mid-rotation (or younger) stand is always a more problematic exercise than that of a stand aged, say, 20 years or more.

Inevitably a number of these sales will involve the sale of interest's in joint venture forests which have used a forestry right as the basis of the joint venture. On the face of it, the valuation of such a forest is simply a valuation of the crop. However, I suggest that as the secondary market becomes more sophisticated potential investors will require a consideration of issues wider than say the choice of the appropriate discount rate and so on. For example:

- What implications does the structure of the joint venture have for either seller or purchaser? Is the interest for sale held in a company or directly by an individual? Tax considerations may make the purchase of an interest in the forest by way of acquisition of shares more attractive than a direct purchase from an individual.
- The manner in which the joint venture parties have agreed to calculate their respective shares in the mature crop may also have future flow on effects. If the existing parties have agreed in advance their respective shares, what will be the ongoing costs of bringing the forest to maturity? How well have the parties documented who bears that cost. Are the administrative procedures by which annual budgets are agreed workable? If the parties determine stumpage share at the end of the valuation based on individual contributions over the

life of the crop, how well has this been documented? For example, where the major contribution of the land owner is the land, does the stumpage share formula allow for increasing land prices over the life of the crop and if so by reference to what bench mark(s)? Where stumpage shares are determined at rotation end, the availability of detailed and accurate records is required. What is the state and integrity of the existing record system? Does the incoming party have the necessary skills/inclination to supervise/manage this ongoing commitment?

- Until comparatively recently the log export market has focussed on external quality indications, eg small end diameter, length of the log and so forth. That is, purchasers have been primarily volume focussed. However, most foresters are predicting that log purchasers will, in the future, want more comfort as to quality factors which an external examination cannot easily reveal. Thus, log growers who can substantiate that the crop received the appropriate thinning and pruning treatments at the right time will be better placed to negotiate premium prices as against those growers who cannot. The availability of good stand records signed off by reputable forestry professionals will go some way to convince would be mid- term purchasers that one forest is a more attractive proposition over a similar, but less well documented, forest.

Clearly, a careful reading of the 'fine print' of a forestry right will be required in addition to a physical assessment of the crop, its location from export ports or domestic processing facilities, and so on.

Conclusion

Forest growing is a long term investment and carries additional risks inherent to long term investment. However, the fundamentals seem good and there is widespread investor interest. This interest is having a consequential flow on effect to rural land prices. Increasing land prices make joint ventures between land owners and investors attractive for a number of very pragmatic reasons. In the joint venture situation the forestry right is a powerful but simple concept whereby joint venture parties can document a long term access arrangement in a legally effective manner.

In addition, the forestry right allows flexibility as to the introduction of new parties over the life of the project. However, as the secondary market in the sale of immature forests develops advisors to would be investors will need to be able to differentiate between those forms of forestry rights which enhance the forest, the subject of the forestry right, against those that do not. Where valuers are required to look beyond the 'physical' characteristics of the growing crop to 'secondary' matters that may impinge on the proposed investment expert professional advice should be sought.

Courtesy of the Ministry of Forestry

Legal Decisions

Compensation - Compulsory acquisition - Whether land used 'personally' - Public Works Act 1981, Part VI ands 105

I
In the Court of Appeal of New Zealand
CA.144/93
BETWEEN: CROMWELL
PROPERTY
HOLDINGS AND DEVELOPMENT
LIMITED
Appellant
AND THE MINISTER OF WORKS
AND DEVELOPMENT
Respondent

Coram: Cooke P
Hardie Boys J
Tompkins J

Hearing: 5 December 1994

Counsel: Trevor Shiels for Appellant
Keith Robinson and Meredith
Townsend for Respondent

Judgment: 22 December 1994

JUDGMENT OF THE COURT DELIVERED BY TOMPKINS J

A claim by the appellant for compensation under the Public Works Act 1981 ("the Act") was moved into the High Court. On an application to determine a preliminary question of law, Holland J decided that the appellant cannot be awarded compensation under Part VI of the Act in those proceedings. From that judgment, the appellant has appealed.

Background

For the purposes of this appeal, it is not necessary to detail the protracted history of this compensation claim. The following is the sequence of relevant events.

In 1980 the appellant purchased four properties in Terrace, Cromwell, which were in the centre of the old Cromwell town. Three of the properties, 50, 64 and 78 Melmore Terrace, had erected on them buildings that were occupied by tenants. The fourth, 24 Melmore Terrace, was a vacant section. The appellant acquired the properties with the intention of holding them as long term leasehold investments, and, in the case of 24 Melmore Terrace, erecting a new building that would also be leased.

All of these sections were within the area to be flooded by the Clyde Dam. In June

1982 representatives of the Ministry of Works commenced negotiations with the appellant to see whether agreement could be reached upon the terms on which the properties could be acquired. Proposals and counter proposals followed over the next three years. By March 1985 the appellant had made it clear to the Ministry that it wished to relocate by receiving comparable property in the new Cromwell township. But by that stage the Ministry had already acquired the lessees or tenants' interests in the properties and in some cases had relocated these tenants in buildings in the new town. On 11 October 1985 the respondent gave the appellant notice of its desire to acquire the land pursuant to s 18 of the Act. On 5 June 1986 the Minister gave public notice of the proposed compulsory acquisition. To that the appellant objected. This objection came before the Planning Tribunal in May 1987. The chairman of the Tribunal urged the parties to reach agreement. This they did. A formal written agreement dated 29 May 1987 was entered into by the parties. The appellant agreed to the Crown taking the land under the Act. Possession was to be given on 30 October 1987. We return later to the other provisions of the agreement relevant to this appeal.

In the meantime, the appellant lodged a claim for compensation dated 31 March 1987, which the respondent required be heard by a Land Valuation Tribunal. The claim for compensation was followed by an amended claim dated 21 July 1992. In addition to various monetary claims, the appellant sought an order requiring the respondent to transfer to the company equivalent tenanted land and buildings in an equivalent area with equivalent prospects and showing an equivalent rental return to the property situated on the land taken. The value of the land sought by way of exchange was claimed to be \$528,000.

This part of the claim was formulated under Part VI of the Act. The respondent contended that the appellant was not entitled to bring a claim under that Part. Hence the parties agreed to formulate a

question asking whether the claimant was entitled to compensation under that part of the Act pursuant to the agreement of 29 May 1987 or otherwise. The claim having been transferred to the High Court, Holland J, in his judgment delivered on 24 May 1983, held that it was not.

Part VI of the Act

Part VI of the Act deals with the granting of land or easements in lieu of monetary compensation. Central to the appeal is s105(l) which provides:

"105. Granting of land as compensation where equivalent land not readily available (1) Notwithstanding anything in section 62 of this Act, where any land which has been notified and which -

(a) Contains a dwelling which was occupied by the owner as a private residence for himself and his family (if any) immediately before the giving of vacant possession; or

(b) Was used by the owner personally for any purpose -

is taken or acquired for the public work for which it was notified, and land reasonably equivalent to that so taken or acquired is not readily available on the market for sale or other disposition to the owner at a reasonable price for the re-establishment in the same area of his place of residence or other activity, the notifying authority, with the agreement of the owner, shall take all reasonable steps to grant to the owner in payment or satisfaction or part payment or satisfaction (subject to payment by way of equality of exchange where appropriate) of the compensation to which the owner may otherwise be entitled -

(c) Crown land or other land of the notifying authority not subject to any restriction on sale or other disposition; or

(d) Land held for any public work which is no longer required for any public work or which is no longer required for any purpose incidental to any public work; or

(e) Land acquired, and developed or built on under section 21 of this Act."

Subsection (2) requires an owner claiming under the section to be the owner of the land on the date on which the land was taken. Subsection (3) provides that any land granted under subs (1) shall be "reasonably equivalent" to the land taken. Subsections (5) and (6) empower an owner to apply to the Tribunal for an order requiring the authority to take action and to act in accordance with subs (1).

Section 106 provides that notwithstanding anything in s62, any Crown land or land held for public work may be granted, with the agreement of the person entitled, in payment or satisfaction or in part payment or part satisfaction of a claim for land taken, damage done or injurious affection. As in the present case agreement was not reached, the relevant provision was s105; although s106 may still be available.

The issues on the appeal

At the hearing in this court, as in the High Court, two issues arose.

1. Did the agreement of 29 May 1987 confer on the appellant a right to claim compensation under Part VI?
2. Apart from the agreement, was the appellant entitled to claim land as compensation under s105?

Other issues likely to arise under a s105 application, including whether reasonably equivalent land was readily available, and whether the Crown had taken all reasonable steps, were reserved for further consideration if the appellant had established a right for its claim for compensation to be satisfied in whole or in part by the granting of reasonably equivalent land under s105.

The agreement of 29 May 1987

This agreement, entitled "Memorandum of Agreement on Compensation for Land Required for Essential Works" is in the form of a standard printed agreement with alterations and additions. It records the appellant's agreement to the Crown taking under the Act the land described in the schedule on the conditions set out in the agreement. Clause 1 provides that 10 cents shall be paid by way of compensation "but the said sum is accepted without prejudice to my right to have compensation determined under Parts V and VI of the Public Works Act". Possession of the land was to be given and net rates apportioned as at 30 October 1987. A number of clauses were added to the printed agreement. The crucial clause is clause 10:

"10. Further to clause I hereof, it is agreed that the owner may pursue a claim in terms of Part VI of the Public Works Act 1981."

It is the appellant's submission that this clause, taken in the context of the agreement and the surrounding circumstances, amounted to an express agreement or acknowledgement by the respondent that the appellant was entitled to compensation under Part VI and in particular under s105.

It is the respondent's submission that the clause amounted to no more than an assurance that whatever rights the appellant might have under Part VI, including s 105, were expressly acknowledged as continuing to exist, unaffected by the appellant entering into the agreement.

Mr Shiels made detailed submissions and referred to a number of authorities on the extent to which the court can properly have regard to extrinsic evidence in interpreting the contract, referring to the well known speech of Lord Wilberforce in *Prenn v Simmonds* [1971] 1 WLR 1381, 1385 and a number of the New Zealand authorities that have commented upon it. But we agree with his submission that there is very little in the factual background that is likely to assist the court in interpreting the agreement and in particular clause 10. The relevant surrounding circumstances are those to which we have already referred, namely the existence of a claim to be compensated on a land for land basis, a challenge to the compulsory taking of the land that had been referred to the Planning Tribunal, and an agreement that the land should be taken without prejudice to the appellant's rights to have compensation determined under Parts V and VI.

In support of his submission Mr Shiels analysed clause 10. He pointed to the opening phrase "Further to clause I hereof as indicating an intention to confer upon the appellant for whose benefit the clause was inserted, some rights in addition to those in clause I to have compensation determined under Parts V and VI. Secondly he referred to the phrase "it is agreed" as indicating a formal agreement by the respondent to the right to claim under Part VI. Thirdly, he referred to a claim "in terms of Part VI which he submitted supported an interpretation that Part VI was to apply to any claim brought. He also referred to other clauses in the agreement including clauses 7, 8 and 12.

These contain provisions for the Crown to continue to pay rent until the assessment of compensation by agreement or otherwise. But we do not consider that these clauses aid in interpreting clause 10.

We are not able to accept his submission. Had it been the intention of the parties to record an express agreement that the claimant was entitled to make a claim under s105, it would have been both simple and obvious to have done so. An agreement that "the owner may pursue a claim" in terms of Part VI amounts in our view to no more than an acknowledgement, possibly inserted, as Holland J considered, out of an abundance of caution, that despite the appellant agreeing to the land being taken, it was not by virtue of that agreement to be deprived of its right to bring a claim under Part VI if it were able to do so. The opening phrase "Further to clause I hereof" is no more than a reference back to the clause, and its reference to Parts V and VI. The clause refers to the whole of Part VI which would embrace not only s105 but also other relevant provisions such as s106 which would enable the parties to reach an agreement to accept other Crown land in full or part satisfaction of its claim for compensation.

Section 105 of the Act

For a claimant to be entitled to require the notifying authority to provide land reasonably equivalent to that which has been taken or acquired, the land which has been taken must be land which:

- (a) Contains a dwelling which was occupied by the owner as a private residence for himself and his family (if any) immediately before the giving of vacant possession; or
- (b) Was used by the owner personally for any purpose -"

It was the appellant's submission that in the present case the land was within paragraph (b), that is, it was land that was used by the appellant personally for the purpose of leasing to tenants or, in the case of 24 Melmore Terrace, its use was retention for that ultimate purpose.

Counsel referred to the predecessor of s 105 which was s 101 H of the Public Works Amendment Act 1976. Subsection (1) is similar to s105 except that paragraph (b) reads:

- (b) Was used by the owner for farming, commercial or industrial purposes. "

Paragraph (b) in s 105 therefore contained two changes. The first was that instead of being restricted to farming, commercial or industrial purposes, the paragraph was to apply to land used for "any purpose" - thus in that sense the scope of the paragraph was widened. The second change was the insertion of the word "personally" which restricted the operation of the paragraph to land that was used personally, a restriction that was not in its predecessor. This is a restriction to which effect should be given in a practical realistic way.

Neither counsel were able to refer to any authorities in New Zealand or elsewhere that considered the appropriate interpretation of a statutory provision requiring use personally. Reference was made to the judgments of the high Court of Australia in *Ryan Municipal Council v MacQuarie University* [1977] 139 CLR 633 where the issue was whether for rating purposes land owned by the university was used "solely for the purposes thereof when its use was devoted to commercial and shopping facilities. The court, by a majority, held that it was, since the use was solely for the benefit of students and therefore for the purposes of the university. But this does not aid in interpreting paragraph (b) of s105 and the meaning of "personally".

The Oxford English Dictionary, 2nd ed, vol. XI, p 603, gives the primary definition of "personally" as being "in a personal manner, capacity etc" and also as meaning "in the way of personal presence or action; in person". In our view, it is in that sense that the word is used in paragraph (b). This is consistent with the reference in paragraph (a) to a dwelling occupied by the owner as a private residence for himself and his family. The purpose of the section is to require the notifying authority to provide reasonably equivalent land, but only where there is the necessary personal involvement in the land in either of the respects in paragraphs (a) or (b), to enable persons with such an involvement to be reestablished on equivalent land owned or available to the Crown, but not available on the market for sale. We do not consider it helps to consider whether the criteria would be met in other circumstances, as each must depend on the particular facts. We accept that land can be used by the owner personally for any purpose where, as here, the owner is a limited liability company. It is common place for small one or two person busi-

nesses to be carried on by a company under circumstances where the company could properly be considered to be using the land personally. Similarly, a large company with many shareholders may use land personally, if it is in occupation of the land, or otherwise uses the land in a way that has the necessary personal involvement. In the context of the Act, "Personally" does not necessarily require use by a human person. This accords with the Acts Interpretation Act 1924, s4, if not inconsistent with the context, "Person" includes a corporation sole and also a body of persons, whether corporate or unincorporate.

In the present case the land was undoubtedly being used personally by the appellant's tenants who were in occupation of shops on the land. But Mr Randle, a shareholder in and the managing director of the appellant, according to his affidavit, resides in Auckland. The company was formed with the object of building up a collection of rental premises to provide a long term secure investment for the Randle family. There is no suggestion that he or any other shareholders or members of his family had any involvement in person with the land other than as owner and lessor. The paragraph, in our view, cannot have been intended to embrace an owner whose only direct involvement with the land, apart from ownership, is as land-

lord. At least in circumstances such as in this case, we do not consider that a landlord can be said to be using the land "personally". Holding land merely as an investment cannot normally be described as using it personally.

The situation is no different with the empty section. It too was not being used by the appellant in person. At the time of the taking it was not being used at all. It was, as we have indicated, the appellant's intention to erect a building that would be leased, in which case it would be in no different position from the other three properties.

For these reasons we conclude that the land at the time it was taken was not used by the appellant personally for any purpose and therefore was not within s 105. It follows that the appellant does not have the right to claim land as compensation under that section.

Result

The appellant having not succeeded on either of the grounds advanced, the appeal is dismissed. The respondent is entitled to costs which we fix at \$3,500, plus disbursements, if any, to be fixed by the registrar.

Solicitors:

Checketts McKay, Alexandra for Appellant
Crown Law Office, Wellington, for Respondent

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Undergraduate Research At Massey University in 1994

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In most years a group of enterprising extramural students decide to tackle a paper entitled Special Topic in Real Estate. This paper offers students an extremely wide choice in study topics and may involve a research report, case study or a detailed literature review. Students generally find topics related to fields that they are working in. This provides extra motivation for their study as results can also be used in the work place.

In 1994 five students completed this paper and this article briefly summarises three of their reports.

Paul Brears: "Assessing the Attitudes of Building Managers in New Zealand to Fire Safety Management in multi-level Buildings"

Paul was assisted by BOMA in his research. His topic involved surveying Auckland and Wellington building managers to investigate their attitudes to fire safety in multi-level buildings.

The report had four major discussion items under which building managers attitudes were examined, these were:

- (i) Priorities from 1984-2004
- (ii) Current performance against priorities
- (iii) Actions and attitudes against priorities
- (iv) Evacuation plans

Results showed that building managers see evacuation plans, fire safety plans, fire wardens and legislative requirements as the most important aspects of fire safety in multi-level buildings.

The overall conclusion from the report was that fire safety measures have improved considerably since 1984 and will continue to improve into the year 2004. There are still many issues which building managers need to address in order to provide fire safety to occupants of their buildings, however most are actively addressing the major ones at present and see fire safety as an important issue which requires greater development. There was a consistent level of correlation between building manager's attitudes to priorities, performance against these priorities and actions and attitudes to keep priorities.

Paul Cain: "Present Ramifications of Previous Land Compansation Settlements made as a result of Land Severance due to the Development of Water Power in the Mackenzie Basin"

Paul's research involved a survey of run holders whose land was taken compulsorily for water storage for the generation of hydro electric power. He was interested in obtaining quantitative information regarding compulsory acquisition as well as attitudinal information.

His results showed that most farmers (75%) were unhappy about their land being severed. He concluded that there is a need for the Crown to have a better Public Relations attitude towards effected persons. This should include the negotiation of a fair settlement prior to commencement of construction with a follow-up programme to ensure that compensation is effective.

Peter Nicoll: "An investigation into the need for the Land Information System presently being prepared by the Government's core property date agencies."

Peter investigated the theoretical benefits in establishing a Land Information System and then surveyed a group of potential users of a Land Information System to determine the need for such a system.

He concluded that there is a perceived need for the Land Information System presently being developed by the Government's Core Property Data Agencies both by the property related professional organisations that use the core property data (as an efficient tool in searching and improving the accuracy of the said data), and by Government itself as an efficient database management tool with the added benefit of being potentially profitable at the same time.

If readers have an interest in any of these research reports please contact Iona McCarthy at the Property Studies Department, Massey University, Palmerston North for further information. (Contact Phone number: (06) 356 9099 extension 8205)

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The New Zealand Institute of Valuers membership comprises professionally qualified persons who value, appraise, advise, consult, manage, arbitrate and negotiate in all respects of land, buildings and other real and personal assets.

STATEMENT OF OBJECTIVES

To achieve this the Institute will continue to

1. Provide a framework within which members may advance their educational and professional development within a diverse membership activity.
2. Provide a progressive organisation responsive to change and membership needs.
3. Provide channels of communication between members, the organisation and the public.
4. Encourage maximum member participation in the affairs of the Institute.
5. Develop, set and effectively maintain standards of practice for the benefit of both the membership and public while ensuring fair and expeditious disciplinary procedures are available.
6. Establish education, admission and categories of membership criteria and provide appropriate pathways to admission.
7. Encourage research and develop viable services of benefit to members.
8. Develop closer association and cooperation with other professional bodies both in New Zealand and overseas.