July 2002

new zealand property JOURNAL

PROPERTY VALUATION
The challenges facing valuers in Australasia

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Submitting articles to the NZPI Property Journal

Notes for Submitted works

Each article considered for publication will be judged upon its worth to the membership and 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 editor and contributors are not necessarily endorsed by NZPI.

Deadline for contributions is not later than the January 10, May 10 and September 10 of each year.

Format for Contributions

All manuscripts for publishing are to be submitted in hard copy typed double-spaced on one side only of A4 sized paper and also in Microsoft Word document format on IBM compatible 3.5" disk or alternatively emailed to head office.

Any photographs, diagrams and illustrations intended to be published with an article, must be submitted with the hardcopy. A table of values used to generate graphs must be included to ensure accurate representation. Illustrations should be identified as Figure 1, 2 etc.

A brief (maximum 60 words) profile of the author; a synopsis of the article and a glossy recent photograph of the author should accompany each article.

Manuscripts are to be no longer than 5000 words, or equivalent, including photographs, diagrams, tables, graphs and similar material.

Articles and correspondence for the NZPI Property Journal may be submitted to the editor at the following address: The Editor, NZPI Property Journal, PO Box 27-340, Wellington.

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EDITORIAL

2002 has shaped as one of the busiest years for some time.

September 11 and the poor performance of capital markets around the globe have seen a re-rating of real property assets in New Zealand. However, the challenge is to always provide a product that is attractive to those who make decisions on investment in property. Then there is the ongoing challenge to ensure that people, places and spaces are maximised for the full benefit of the community, the individuals within them, and the economy.

It was to this end that the Institute held its second annual conference in Rotorua in May. Among the 30 speakers were seven international speakers who talked on a range of diverse topics.

Digital intelligence and the interaction between the computer and the built environment was an issue that provoked much food for thought. Indeed, the proposition was that buildings are computers and computers are buildings. The integration of technology into the built environment is pushing new boundaries. Digital intelligence is challenging the traditional 2D view of the world with the suggestion that it is a dimension of the past, being surpassed by 3, 4 and 5D concepts and realities.

Emotional intelligence challenged our concepts of human capital, and what that actually means and translates into for us in our organisations, and as individuals.

First hand experience of, and lessons from, September 11 provided useful practical insights into risk management. Along with engineering insights and tales of personal experience the presentations provided an amazing experience.

In this journal we have included some of the papers from these and other conference speakers.

Water is one of the most important elements in any environment. In New Zealand we are seeing the emergence of new markets for water which are at a relatively immature stage. To assist with the understanding of these markets, we have included a paper based on the Australian experience which will give some insights into where our New Zealand water markets may evolve to.

The property asset base is made up of some $400+ billion and is crucial to the success of the economy and our communities. What you do as professional is therefore very important. I trust that the contents of this journal will provide you with insights and assistance as you go about doing your important work.

Conor English
Editor
New Zealand *Property* Journal

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Why become a member of NZPI?

NZPI's primary objective is to represent the interests of the property profession *in New Zealand.*

The New Zealand Property Institute:

- Promotes a Code of Ethical Conduct
- Provides Registration the formal recognition of experience and certified qualification of excellence
- Provides networking opportunities
- Assists in forming professional partnerships
- Provides a marketing tool in the approach to new and existing clients
- Provides The PROPERTY Business 6 times a year in partnership with AGM Publishing
- Distributes national NZPI newsletters and email updates
- Delivers a National and Branch CPD programme
- Offers membership with the International Facility Management Association (IFMA)
- Offers other international linkages
- Offers networking opportunities between the profession and the universities through the NZPI "Buddy Programme".
- Promotes annual NZPI Industry and Student Awards
- Delivers an annual NZPI Conference
- Offers links and information through the NZPI website wwwproperty.org.nz
- Provides regular branch breakfast and lunch seminars
- Promotes the annual Property Ball in partnership with the Property Council.
- Provides NZPI Confidence index and NZPIJobMail.

For more information on our services to members contact the NZPI National Office:

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Challenges confronting property valuation practitioners in Australasia

Background

The New Zealand Property Institute (NZPI) was launched in 2000 following the overwhelming support for a new organisation by members of the New Zealand Institute of Valuers (NZIV), the Institute of Plant & Machinery Valuers (IPMV), and the Property & Land Economy Institute of New Zealand (PLEINZ).

The new institute has a membership of some 3000 key property professionals who provide services in a number of property related areas. These include; property management, property consultancy, property development, property valuation, facilities management, plant and machinery valuation, financial analysis, real estate sales and leasing, project management, and others.

The institute has 17 branches across provincial and metropolitan New Zealand, a number of overseas members, and is affiliated to a number of other international property organisations, including RICS, PRRES, etc. The NZPI Registration Board provides registration in the following streams:

- Property consultancy
- Property management
- Facilities management
- Plant and machinery valuation

Members who are registered valuers are administered by the Valuers Registration Board (VRB). The VRB's role is to ensure a minimum standard of entry for valuers becoming recognised by registration. Further, the VRB is responsible for keeping an up-to-date register of all registered valuers, and the issuing of annual practising certificates. To obtain registration applicants must have obtained the age of 23 years, completed an approved tertiary degree and have not less than three years practical experience in New Zealand within the 10 years immediately preceding applying for registration.

Australia

The Australian Institute of Valuers and Land Economists (AIVLE) was repositioned in 1998 in response to the changing needs of, and influences on, the property profession and renamed The Australian Property Institute (API).

The API is a national body with more than 7500 members who are experts professionally involved in the valuation, administration and use of land, property, and plant and machinery. The institute has eight divisions including the national office that are generally determined by the state boundaries of Australia. Membership entry to the API is based upon tertiary educations standards, accompanied by recognised practical experience, similar to the requirements of the NZPI. The members practice across a wide range of activities such as property valuation and analysis, finance investment research, development subdivision, sales, leasing and management, and plant and machinery valuation.

Closer links: The 1998 Trans Tasman Mutual Recognition Arrangement

The Trans-Tasman Mutual Recognition Arrangement (TTMRA) between New Zealand and Australia came into effect on May 1, 1998. Its objective is to reduce regulatory barriers to the movement of goods and services between New Zealand and Australia. For valuers, it means that if a person is registered to practise as a valuer in New Zealand, then they will be entitled to practise an equivalent occupation in an Australian jurisdiction (and vice versa).

However, every New Zealand applicant for admission as an associate member to the API will be referred to the divisional membership committee which shall satisfy itself as to whether or not the applicants who have an approved overseas degree, have a period of at least two years approved professional experience gained in New Zealand within the four years immediately prior to the date of application.

Issues and challenges facing property valuers in Australasia

A global profession: RICS

The Royal Institute of Chartered Surveyors (RICS) is an international organisation with some 108,000 members working in 124 countries (Armstrong, 2000). The importance of establishing a truly global profession was identified as a key part of the status agenda in the Harris *Report* of 1998. According to RICS chief executive Louis Armstrong: "From July 2001, the institute will become more recognisably international with the advent of a governing council made up of representatives from all world regions. The governing council will make policy for the whole profession. Globalisation of business has become a reality and the internet is forcing the pace of change. The overall mission of RICS is to

elevate the status of the RIGS qualifications worldwide..."

Key strategic objectives are to:

- Increase the profession's influence and business potential worldwide
- Promote the qualification
- Attract top quality entrants, qualifying indigenously
- Create a global brand.

Priority areas for the next three years are Europe, USA, Australasia and China. The RIGS was established in Australia with an office in Sydney in December 1999. It is now attempting to enter the New Zealand market. However, there has been a degree of resistance from the local members and their institutes.

The property institutes within Australasia are already struggling to maintain membership levels and recruit new members and the entrance of RIGS to these markets is viewed unfavourably by many. All three bodies continue to compete for members and how successful they are in their recruitment efforts will likely be determined by the level of membership services offered at the most reasonable fee.

Undoubtedly, all members conscious of the need to strengthen their profession and have a more global focus will view the benefits of an international organisation more favourably. However, some Australasian members remain parochial and resistant to change in the face of the challenges of internationalisation and doing business in the global economy. Sole practitioners are particularly at risk of not managing to keep pace with change and compete at an international level.

Concern has been expressed that the larger firms will get larger and that the sole practitioners will not be able to compete and will be forced out of business. It is true that the pace of change threatens the livelihood of many valuers and only those that can meet the challenges will survive.

Legislative challenges:

New Zealand

A major change to the tradition of rating valuations in New Zealand occurred in 1998. The Rating Valuations Act 1998 repealed the Valuation of Land Act 1951 and amended the Rating Powers Act 1988.

Under the previous legislation all properties in New Zealand had to be valued for rating purposes by a quasi-government body: Valuation New Zealand (previously The Valuation Department). The new Acts formalised the corporatisation of VNZ and provided for the appointment of a Valuer-General within Land Information New Zealand (LINZ) and for the creation of a crown-owned company (Quotable Value NZ).

The new Act also provided for contestability of valuations by 2002 all territorial authorities can choose who provides their valuations that they use for rating purposes. Thus, Quotable Value NZ has had to compete with other valuation service providers. The only requirement is that the valuation services provided must be carried out under the authority of a registered valuer. Sending of notices of valuation to ratepayers is the responsibility of territorial authorities. The Valuer-General regulates provision of valuation services to local authorities to ensure national consistency (rather than provide these as previously).

This change has not only made the market for territorial valuations more competitive but also more contentious in terms of uniformity. Standardisation of methods and access to a central database is no longer possible when the rating valuation work and associated databases are spread between various organisations. The quality and maintenance of those databases is left to the discretion of each independent valuation provider. This brings into question the quality and fairness of the valuations for rating purposes where a level "playing field" is paramount.

Australian taxation valuations are still undertaken by the equivalent of the NZ Valuation Department, The Valuer General's Office (VGO). It will be interesting to see if similar privatisation and free-market moves that have occurred in New Zealand are replicated in Australia.

Australia a new tax system

The Goods & Services Tax became effective in Australia on July 1, 2000. The introduction of GST follows similar moves in New Zealand (1987) and Canada (1991). The Howard Government, re-elected in 1998, made a major reform of the taxation system by reducing personal income taxation and introducing the Goods and Services Tax (GST). The chief executive of the Property Council of Australia, Peter Verwer, was quoted as describing the reform as "the most radical improvement in the tax system as it applied to property in the post-war period". However, there have been a number of questions raised by valuers over the application of GST to property transactions and also from a business-owner's perspective.

To help address these issues the Australian Property Institute established a national GST committee headed by KPMG tax partner Peter Poulos and other leading practitioners from the. property profession to review the GST legislation and provide advice to members. A number of CPD events have been held throughout the country to clarify some of the issues relating to the impact of GST on property. The API has since released a series of advice notes for its members on GST and real property. The package provides practical guidance to the property profession in applying GST to construction contracts, leases and a number of other relevant topics and clarifies what should he considered when applying the GST.

One such issue that raised concern amongst valuers was the disposal of real property and GST. The API's director of research and policy, Grant Warner, clarified a number of points concerning the methods of sale for the disposal of commercial property. There are three

methods of sale of real property for GST purposes:

- The normal method (subject to full GST)
- The margin scheme; and
- A going concern

Under the normal method GST at a rate of 1/10th of the purchase price would be applied to the sale of a property. The normal method is best suited to the disposal of real property that is not a going concern and where the purchaser can recoup the GST by way of a tax credit at the end of the tax period.

Under the margin scheme, GST is calculated at a rate of 1/11th on the difference between the purchase price of the property and the valuation of the property as at July 1, 2000 (where the property is owned by the vendor prior to July 1, 2000). Where the commercial property was not held by the vendor prior to July 1, 2000, and is placed on the market after July 1, 2000, the margin is calculated at the rate of 1/11th on the difference between the vendors original purchase price of the property and the current sale price of the property. Where the margin scheme is utilised as the disposal method, the purchaser cannot claim an input tax credit for the GST paid.

The margin scheme is best suited as a disposal method where the purchaser is a financial institution, a bank, life insurance company, superannuation funds or private individuals who have no entitlements to input tax credits. The margin scheme cannot be utilised if the property has previously been sold via the normal method. The margin scheme can be utilised if the property was previously sold as a going concern. This is because the acquisition of a going concern is not viewed as a taxable supply

A commercial property sold as a going concern is GST-free. For a commercial property to be sold as a going concern the following must apply:

- the purchaser must be registered or required to be registered,
- the sale of the property is for consideration, and
- the vendor and the purchaser must agree in writing that the supply is of a going concern.

In addition:

- the vendor must supply to the purchaser all of the things necessary for the continued operation of the enterprise, and
- the vendor must carry on, or will carry on, the enterprise until the day of transfer of the property.

There is, at present, no defined level of occupancy of leased commercial premises included in the definition of going concern. Clarification on this issue is currently being sought from the ATO. At present the sale of a commercial property with an income stream may be viewed as a going concern. The vendor is responsible for remitting GST to the ATO. For the vendor to recoup the GST from the purchaser the sale contract must state the method of disposal utilised and include a clause requiring the purchaser to pay the GST to the vendor. Purchasers of commercial property do not have to be registered to acquire property or be able to claim input tax credits. They may however be required to be registered in order to claim an input tax credit.

Other issues raised by API members have included:

- The quantum of GST payable on sales of newly constructed dwellings, pre and post July 1, 2000, which have been pre-sold (off the plan) with no mention of GST in the contract.
- The quantum of GST payable on construction costs not spent by July 1, 2000, and applicability of the margin scheme.
- Does a fixed price contract entered into before July 1, 2000 impact on whether GST is payable?
- Does the liability for GST matter if the development project is residential versus non-residential?
- The GST liability for sale of a residential property (block of flats) previously held for investment purposes and settled either pre or post July 2000.
- The GST liability on the leases of non-residential property.
- Will landlords be able to recoup GST payable on building expenses regardless of whether or not a lease is explicit on the payment of GST?
- Is GST payable if a property is sold after July 1, 2000 where there has been no capital gain?
- A lease entered into prior to December 2, 1998, not fully paid, and with a review opportunity between July 8, 1999 and July 1, 2000, will be subject to GST from July 1, 2000. However, clarification is needed on the GST liability of a lease entered into in February 1996 for a 10-year term with a review to market every two years.

As can be seen from the above example and valuers' questions the issues relating to the treatment of GST are not straightforward. Clarification from the ATO will be required where interpretation of the Act is unclear.

Further, many valuers view the new legislation as an administrative "nightmare" as it has required them to learn, develop and introduce new and involved accounting practices into their businesses. The national secretariat of the API has been working hard to answer all members' questions and has posted answers to these and other questions on the API web site at http://www.propertyinstitute.com.au/GST-Page.htm.

Professional indemnity insurance challenges (Australia)

There are currently no Australian insurance companies prepared to underwrite professional indemnity (PI) for valuers and only one international insurer (Lloyds, London) that is willing to do so. Further, the premiums have escalated sharply. Apparently, Australian valuers have claimed 350% of the premium pool for the last several years and if API does not institute compulsory annual risk management seminars for its members, they will not be able to get professional indemnity insurance at any price (Kooymans, 2001).

As a consequence, national certified practicing valuers in Australia have been forced out of the

valuation profession because they can no longer afford professional indemnity insurance. Premiums for certified practicing valuers (CPVs) are between $4000 and $12,000 per annum for an average of $1 million in cover. This is an enormous expense when CPV's fees average only a few hundred dollars and their incomes are often quite modest by professional standards.

The high cost of professional indemnity insurance results from many factors, but huge court settlements make a hefty contribution. Australian courts have set precedents that allow for higher awards to litigants than is common in some other jurisdictions. The highest settlement awarded to date has been for $3.5 million in 1999.

"Senior members of the API appear to be speculating that many valuation practices, if not all, may not be able to afford to arrange PI cover next year..... if this worst prognosis is correct, many practices will have to consider whether to continue without cover or do something else" (Spencer, 2001). Spencer, a sole practitioner in Perth, Western Australia, points out that many major clients require a continuing professional indemnity cover before they will enter a valuation contract. Valuers are understandably concerned about what will happen with those clients in the event that PI cover is unavailable.

The Australian Property Institute is currently examining the problems of PI insurance within the property profession and believes the crisis in PI insurance is now an issue that state governments should urgently examine if they want to ensure that Australian consumers can afford the services of their professionals. To begin addressing the issues the recently formed API national council sub-committee on PI insurance sent out a survey to all members on the March 16, 2001. The aim of the survey is to ascertain members' experience with PI to gain a detailed understanding of the magnitude of the current "parlous state" of the PI market.

This survey is the precursor to the development of a number of strategies aimed at improving the market for PI insurance for members on a short-term, medium-term and long-term basis. The survey results will allow the API to analyse the total premium pool, how it has evolved in recent years and the claims ratios/relativities. The statistics on claim type, property type, etc, will help to isolate areas of risk and to formulate strategies to alleviate the cost of insurance for members who do not take on high-risk work. Meanwhile, uncertainty remains about the future of the profession in the event that no affordable PI insurance cover is available.

The level of fees

The level of fees for valuation services has been dropping over recent years, partly due to the competition for valuation work from non-traditional suppliers of valuation services: banks, accountants, lawyers etc. These related disciplines are seen by many valuers to be encroaching and poaching on their area of specialisation. While under fee pressure valuers, in an attempt to increase turnover volume, are pushed at an increasing pace resulting in greater risks of making mistakes and lower grade work. To compound the fee-issue the profile of the valuation profession appears to be suffering, partly as a consequence of the standard of work being conducted (low fees resulting in time pressures: shorter reports and more mistakes) and the media attention to negligent valuers. It has become a vicious cycle.

Another compounding issue is the huge demand being placed on valuers by banks who are requiring a greater level of detail in valuations particularly for commercial lending on proposed developments. Pressure to produce work involving greater detail and exactness is also coming from landlords and tenants in rent-review valuations. In practice, an increase in valuation detail and accuracy is to be encouraged but it is posing a major challenge for valuers as clients resist paying extra for the time necessary to achieve this.

A related issue is the use, or abuse, of the computer. While technological advancements have made valuers' tasks more efficient they also pose huge challenges to valuers to maintain high standards, especially when clients expect portfolios to be valued in ridiculously short time frames. The potential for error is enormous. Valuers are cutting and pasting documents incorrectly, printing out documents and sending them to clients without proof-reading them, or mistakenly sending out old drafts. All of these errors are a result of valuers trying to do too much in too little time, an indirect consequence of the low fees being charged.

The design and implementation of robust and mandatory self-audit functions would help overcome many of the potential pitfalls outlined here, according to Daly (2001). The introduction and mandating of such functions would, ideally, be enforced by the professional body within each country.

Standardised valuation reports: An efficient process?

In an attempt to standardise residential mortgage valuation reports in Australia and allow valuers to be more efficient while maintaining high standards of practice, a report, and associated software package called *Property Pro:* API Residential *Mortgage Short, form Report:* Valuation and Security Assessment was introduced in 1997, and updated in 2000. However, there has been much debate over the use of a short-form report and whether residential mortgage valuations and associated reports should be standardised. Further, some teething problems occurred in the valuation methods recommended and methods of analysis used. These have since been addressed and Property Pro is now being trialled in New Zealand.

Valuing public sector infra-structural assets

Over the past few years there has been a worldwide movement towards public accountability and more efficient resource management. As a by-product of this, together with the introduction of various legislations, the need has arisen to define, value and record local authority assets and resources, and to do so using specific financial reporting guidelines. The main purpose of this process is to enable authorities to make the most cost-effective use of their capital and to ensure that no asset is overlooked or under-utilised. This exercise is not unique to Australasia, other countries are in the process of, or have completed, the collation of such data.

National professional bodies have worked at an international level to ensure a similarity of approach in response to the increased awareness of the need to adopt common standards globally, as discussed below However, these developments are not without their problems. For example, it is questioned if the methods of valuation are sophisticated enough to cope with the task, especially when dealing with assets that are held primarily to provide services to the community rather than to generate revenue, such as infra-structural assets. Most valuation methods are based on the assumption that property is purchased and held for financial gain and that it will be utilised to meet that purpose. Hence, the values being assessed do not fit in with the philosophy of the undertaking concerned. Herein lies the problem.

Results from research conducted in 1995 both within Britain and New Zealand to determine the current practice of how local authorities record and value the assets they own showed that that the procedures and methods adopted by local authorities, and the valuers they employ, varies widely (see Bond & Dent 1996, 1998 and Dent & Bond 1999).

Interestingly, British authorities are not required to value many of the more difficult to value asset classes, such as infrastructure and yet, the New Zealand authorities are. There is ongoing debate over how to value infrastructural assets and whether they should be valued at all. For example, Birch (1991) stresses the basis of valuation needs to reflect the value of the assets not only to the Crown but to the taxpayer also. Birch warns that the process of valuation should only be carried out if it meets this objective and if it is a cost effective method of achieving its purpose.

Young (1993) is particularly critical of the process and questions how, by simply changing the method of accounting, this will achieve more efficient management and how, by valuing the assets, the use of them will become more efficient. He also questions the need to value all assets or utilities involved, as some may in fact be liabilities rather than assets. He cites the views of Auckland City Council that the value of infrastructural assets is irrelevant in terms of accounting or operational efficiency, and that the cost of the valuation exercise is a waste of ratepayers' resources. "Auckland city executives believe that a valuation approximation obtained at little expense is all that is required for accounting and managerial purposes..."

Given that the current legislation requires these assets to be valued in NZ, clear and specific guidelines are required by valuers on the methodology to use when valuing infra-structural assets.

Thomson (1993) outlines the three traditional approaches to valuation and how applicable they are to valuing crown assets. He mentions that adopting the sales comparison approach for valuing city utilities is inappropriate as these are rarely traded so little market evidence exists upon which this approach relies. Even where sales do exist he feels these could not be sensibly compared due to New Zealand's small size. He considers the net income approach to he invalid for valuing (often) monopolistic businesses as price of services are not set by market forces and thus will not reflect net current worth, as defined.

The literature indicates that the replacement cost, or variation of this, has being relied on where no active market exists for an asset and/or the assets are non-income generating. This is the method that is generally accepted within the New Zealand profession for valuing infrastructural assets.

The replacement cost approach combines two approaches to value total property. The sales comparison approach is used to value the land, and a depreciated cost method is used to value the improvements. As mentioned above, the sales comparison approach is not appropriate where there is no market evidence and as land forms a large proportion of the total asset value, often, this approach dominates the cost approach. Herein lies one of the limitations to the traditional valuation method. However, given that it is primarily the improvements that give a public good asset its unique characteristics, this problem is not insurmountable and comparable sales of similarly located vacant land are usually available.

Perhaps the most difficult aspect of the replacement cost approach is in the assessment of depreciation. Depreciation is difficult to identify accurately, much less quantify. Accrued depreciation is defined as a loss in value from any cause. The principal causes of accrued depreciation are physical deterioration, functional obsolescence and external obsolescence. The most common and simplest method of assessing depreciation is by estimating the economic life of the asset and calculating the annual rate of depreciation that will reduce the value of the asset to nil by the end of its economic life.

For assets that are to be maintained in perpetuity, such as roading, an estimate of economic life is not sensible as the asset will be maintained in perpetuity. The asset will, of course, suffer physical depreciation but to deduct this from an estimate of cost will derive a value figure unlikely to be related to its true worth. For

example, to ensure the assets continued existence the physical depreciation will, in most cases, be rectified on a continuing basis. However, if this cost were to be deducted from the cost of the asset, it would, over time, provide a negative value figure.

The approach to assessing depreciation, as outlined, assumes that depreciation accrues in equal annual amounts over the estimated life of a property but this may not be the case and is difficult to prove. Further, obsolescence is particularly difficult to measure due to its largely intangible nature and uncertainties over causes. Thus, any allowance for depreciation contains an element of judgment not capable of proof.

To date, little attention has being given to other possible alternative valuation methods that might better meet the valuation purpose, as outlined above.

The most recent method advocated, a refinement of the cost approach, called the optimised replacement cost approach is considered by Thomson (1993) to be the most satisfactory method available particularly for infrastructural assets. The reason given for this is that it overcomes a number of limitations of the traditional replacement cost approach such as the assumption that the assets will be replaced with ones much the same as those existing. Horsely (1991) lists factors that the approach accounts for including: exposure to private sector competition; obsolescence due to changes in public policy; or other confounding factors, such as industry regulation.

The idea behind the "optimisation" process is to take into account technological and functional obsolescence by assessing replacement costs using "modern equivalent assets". For example, the replacement of cast iron gas mains with polythene. Further, the process assesses the most efficient asset configuration for replicating the existing services provided by the assets and, thus, does not need to assess cost based on assets that are either under, or over, utilised which the traditional cost approach includes. The technique has been applied to the valuation of some local authority infrastructural assets, for example, in Palmerston North and Auckland.

However, few advocates of this approach have provided practical examples of how it can be applied to various types of assets. Further, as the approach still requires the estimation of depreciation the problems, outlined above, with the traditional approach still remain. For example, in describing the method, Horsely (1994) simply mentions that the system or network can be depreciated on the basis of the service life of the individual components but provides no explanation of how the latter is derived.

How valuers go about estimating not only the lives of assets but also the most efficient asset configuration is open to speculation. It would be of interest to know, for example, how the most efficient configuration of roading would be decided? According to a report by Deloitte Ross Tohmatsu on valuation methodologies to apply to the valuation of Crown Health Enterprises, the most appropriate asset configuration and assessment of the existing asset structure against this requires engineering assessments. This being the case the optimised replacement cost approach will involve the estimates from not only valuers, but engineers as well, adding to the total cost of the exercise which may well be beyond the budget of many local authorities.

For those assets with earning potential, such as water supplies, which operated as a monopoly where prices were set outside of a contestable market Thomson (1993) recommends an optimised deprival value methodology. The reason given for advocacy of this approach is that it takes into account the monopoly nature of the assets by setting values at:

- No greater than depreciated replacement cost (DRC), if discounted cash flow (DCF) is greater than DRC
- No less than net realisable value (disposal value of the asset net of disposal costs), if DCF is less than NRV
- Discounted cash flow value, if NRV is less than DCF, and this is less than DRC.

However, such an approach still requires the assessment of DRC, or variation of this and, as such, is open to the same criticisms outlined above. Further, as this approach requires the assessment of various value figures the time and cost of the valuation exercise will be greatly increased and, as mentioned, this may be beyond the budget of many local authorities.

Fortunately, some of the issues surrounding the valuation of infrastructural assets will be resolved with the introduction of new valuation standards, as outlined below However, until these standards become widely known and effective in 2002 inconsistencies in valuation approaches are likely to continue.

Valuation standards

There is a huge range in both the quality of reports produced and the advice provided by valuers in Australasia. To address this the NZPI and API standards boards were established to set standards to the valuation profession and contribute to international standards. For example, the NZPI standards board currently focuses on three key areas:

1. To integrate the NZ and Australian Standards by the year 2002. This project will be an important step in the globalisation process for New Zealand.

2. There is a new financial reporting standard. The key changes for valuers are that market value existing use has gone as the standard has shifted to a fair value basis and secondly, that depreciated replacement cost has been strengthened as an application where there is no direct market evidence. The standard replaces SAP28 and the fixed asset portion of SSAP3. The Standards Board has worked closely with the Institute of Chartered Accountants of New Zealand through the review process to date.

3. The International Valuation Standards Committee has recently released IVS 2000, a substantial document that has received international recognition by valuers, standards setters and institutional users of valuation standards. This document will provide the substance for the rewrite of the New Zealand Valuation Standard 3.

In areas other than financial reporting, globalisation is also impacting with demand for standardisation in banking, securitisation and insurance reporting. Expert groups have been established for public sector property, securitisation, bank lending, and emerging markets. Reports will be received from these groups over the next year. In addition, IVSC is working closely with the European group valuers to have IVS 2002 adopted as the primary standard document.

Summary

There are enormous pressures for valuers to produce more work but in less time and to meet increasingly complex and stringent standards of professional practice. This is in addition to competition for valuation work from related professions: banks, lawyers, and accountants, both nationally and internationally. Fee reductions to compete for work have become the norm.

The passage of new standards and legislations impacting on valuation makes it imperative for valuers to keep abreast of these. Attending continuing professional development (CPD) courses aids this process but many valuers are feeling, incorrectly, that the time and cost of these courses, in the face of increased business pressures, is not justified. It becomes a vicious cycle leading to falling standards of valuation practice and greater exposure to risk. It is perhaps not surprising then, that insurance companies are no longer prepared to underwrite valuers' PI cover. This puts the future of the valuation profession in doubt.

The way forward for the profession in Australasia is open to speculation but appears to be pivotal on the following moves:

- Establishment of risk reduction and risk management processes including, mandatory self-audit functions,
- Introduction and enforcement of valuation standards relating to methodology and reporting,
- Internationalisation of services,
- Raising the profile of the profession both nationally and globally,
- Raising fees.

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An institutional economic analysis of securitisation in real estate

Introduction

Real estate can without doubt be identified as the oldest form of investment known to man.

Even in the modern high technology economies real estate is a dominant economic factor, although the demands of investors and users have changed with time. The increasing need for high and secure returns, driven by the rising global competition through open markets, also affects the investment in real estate.

The intrinsic immobility of real estate calls for other means of economic exchange. Securitised real estate is the logical answer to the demand for efficient international diversification of real estate portfolios. Yet, despite the theoretical charm of the solution, securitised real estate has failed to meet the high expectations of potential investors.

There are many factors influencing the viability of securitised real estate. The new institutional economics is a suitable instrument to analyse the decisive factors in the relationship between the investor and the management of the investment vehicle, which ultimately determines the success of an investment form. The paper will use the new institutional economics approach to locate the decisive determinants for the viability of securitised real estate and search for explanations for the moderate performance of many forms of securitised real estate.

The market for securitised real estate

Market developments in Germany and the United Kingdom

Germany as well as the UK lack an instrument similar to the American REIT. Real estate companies underlie the same regulations as all other publicly listed companies. The market capitalisation of German real estate companies amounted to approximately 13 billion euros in September 2001. In the UK the situation is similar. The market capitalisation of British real estate companies exceeds £22 billion.

In Germany the number of listed real estate companies has seen a steady growth; however this is not due to the public placement of newly formed property companies but by the development of former non-property companies into the real estate business in the course of the closure of the original line of business. Moreover, it would be exaggerating to speak of a drastic growth and establishment of real estate companies as an investment vehicle for indirect real estate investments.

Currently the market has entered a phase of stagnation. This is illustrated by the example of the Bayerische Immobilien AG, which has recently decided to put off its planed secondary offering, intended to increase its free float from 3% to 25%. Furthermore the initial public offering of the Viterra AG, which was an alternative to a direct sale of the real estate subsidiary of the EON AG, was dismissed as an option due to the low expected price.

In Britain the development has even been regressive. Many companies have been taken private in the past year, due to the high discount on their net asset value. The trend towards going private in the UK does not only apply to the real estate sector, yet it is eminent there.

The development was started a year ago through the going private of the real estate group MEPC. BPT followed in March 2001, Delcaney in April. Furthermore, Burford Holdings, Frogmore Estates, Regalian and the Moorfield Group were delisted. In many cases the current share price lies 25% and more, in some instances even almost 50% under the net asset value. This low valuation reflects not only the hesitance of institutional investors to place their stake in smaller companies; but also highly capitalised real estate companies experience regular undervaluation, as the MEPC takeover proved. In this environment it is not surprising that even companies like Moorfield, that specialise in the takeover of undervalued real estate companies, refrain from public listing.

Development of the REIT-sector in the USA

Unlike in Germany and Britain, in the USA there is an institutionalised form of traded real estate securities, which have to fulfill certain requirements in order to be recognised as a REIT and receive tax exemption on the corporate level. The market capitalisation of REITs has seen a steady growth. From 1990 to 1994 the number of REITs has almost doubled, from 119 to 226. The market capitalisation has increased five times from $US8.7 billion to $US44.3 billion over the same

period. At the end of 2000 the NAREIT counted only 189 REITs, but the market capitalisation has climbed up to $US140 billion.

The discounts on the net asset value are in average significantly lower than in Germany or Britain. Furthermore, contrary to Germany or Britain, premiums on the net asset value can be observed. This on the one hand documents the maturity of the investment vehicle REIT, on the other hand the better institutionalised incentives and tax privileges play an important role in the positive development of this segment.

The authors focus on the institutional aspects of successful real estate investment vehicles. For this purpose the new institutional economics are applied to securitised real estate investments, to uncover the mechanisms that enhance or inhibit the acceptance of this investment form.

The instrument of the new institutional economics

Adequacy and applicability

The focus of this paper is the systematic deficiencies of securitised real estate. Factors for the underperformance of individual securitised real estate products (such as differences in taxation, incoherent investment strategy, inefficient financing etc) are neglected (Compare Illustration 1). The aim is rather to distinguish the common deficiencies of the asset class securitised real estate. These can be found in the relationship between the management of the investment vehicle and the investor, which is the subject of this paper.

Underperformance of a traded real estate investment vehicle as expressed in a discount on the NAV of the securitised real estate must be attributed to the investment vehicle including its management. If differences in taxation and financing for directly held and securitised real estate are abstracted, only the relationship between investor and management can account for discounts or premiums on the NAV of the held real estate (Compare Illustration 2).

The analysis of the relevance of contractual and non-contractual relationships is domain of the new institutional economics. Therefore the theory is the adequate tool to uncover the systematic deficiencies of securitised real estate. In the next step the applicability to the matter will be established.

Securitised real estate can be met in many forms across the continents. An efficient application of the new institutional economics however limits the analysis to two parties: principal and agent. The investor is the principal while the management acts as the investor's agent. The approach lends itself to basic equity investment vehicles (eg, REITs, property companies, property shares), as they can be described effectively in the above-mentioned form.

In order to generate comparable and concise conclusions, the relationship between principal and agent must be reduced to the essential determinants, which will be shown next.

Illustration 1: Context of the paper

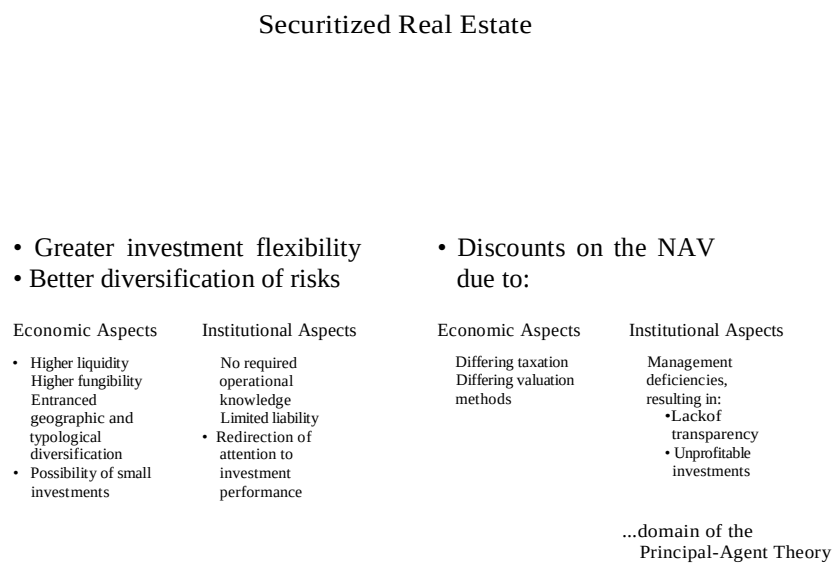
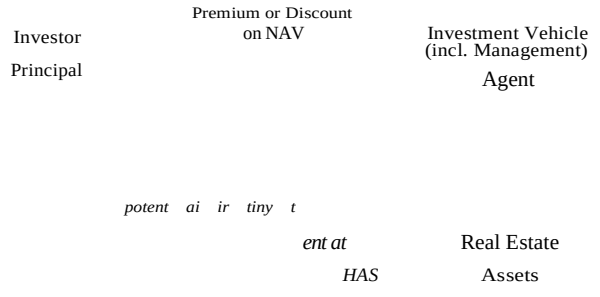


Illustration 2: Principal-Agent-Relationship



Basics of the new institutional economics

The new institutional economics was established as an extension of the classical economic theory to include the economic relevance and characteristics of institutions. The new institutional economics also deals with the economic analysis of legal contractual relationships, which apply for instance to the relationship between an investor and the management of his investment.

At its core lies the separation of ownership and control, which is typical for securitised investments. This is subject of the agency theory, which is sub-domain of the new institutional economics.

The agency theory deals with the contractual relationship between two parties. The principal employs the agent to fulfill a task in his place. To satisfactorily complete the task the principal also grants the agent a limited freedom of choice. The information after the closed contract is considered distributed asymmetrically in two ways:

1) the efforts of the agent cannot be observed directly by the principal and

2) the agent makes an observation that the principal does not make. Furthermore it is too costly for the principal to acquire the information. This problem field is known as moral hazard.

A further aspect of the agency theory deals with asymmetric information before the contract is completed. The agent has better information concerning his qualities than the principal. This constellation is known as adverse selection. It was originally taken from the insurance industry, where the insurance taker has better knowledge of his personal risks than the insurance company. Hence the insurance company faces the risk that only people with higher than average risks buy insurance. This leads to an inefficient distribution of risk as well as economic disadvantages for the insurance company.

Analysis of the relevant principal-agent constellations in securitised real estate

Pre-investment relationship

Real estate investment vehicles compete for capital. Investors have to decide how they place their capital. The investment decision is guided by two attributes, risk and return. In theory the investment process could be reduced to finding the investment opportunity with the best risk-return ratio. However, risk and return are uncertain attributes. Investors have only limited means to distinguish profitable investment opportunities. Information is not always sufficiently available as well as costly to acquire. Therefore investors have to make an investment decision based on incomplete information. This is especially the case for securitised real estate investments.

This situation bears the danger of the phenomenon of the "lemon market" described by Akerlof in 1970. Applied to securitised real estate markets this describes a state in which the profitable investment vehicles leave the market because investors are not willing to pay the full price for a potentially unprofitable investment, due to their lack of information. As more and more profitable investments leave the market the average investment quality will further decrease, making investors even more hesitant to place their capital. This will eventually lead to a collapse of the market.

The continuous privatisation of public property companies in the UK could be an instance of this phenomenon. However, in order to substantiate this conclusion the profitability of the companies taken private and the ones remaining public would have to be determined.

In principle adverse selection applies to all investment opportunities under asymmetric information. Why should it be of special relevance for securitised real estate?

In this context it is helpful to consider the

economic characteristics of the asset class real estate. Especially the lack of transparency and the heterogeneity of real estate can be substantial sources of adverse selection problems. Institutional investors have still comparably little experience with securitised real estate and its management.

The negative effects of adverse selection are twofold. On the company level they hinder the acquisition of new capital and raise the danger of hostile takeover due to undervaluation in the capital market. On the aggregated level the market will be inefficient due to thin trading and low general demand. To counter the problem of adverse selection the quality of an investment should be determinable by the investor prior to the placement of his capital.

Post-investment relationship

Once investors have placed their capital the management of the real estate company could act opportunistically, investing the money to maximise their own benefit. The likelihood of moral hazard increases if there is no need for raising further capital in the future. Opportunistic behavior of the management is made possible through the asymmetric distribution of information between principal and agent. The principal (investor) has no direct control over the actions of the agent (management).

Moral hazard can occur in many forms. This begins with the amount of effort that the management puts into the fulfillment of its tasks. The principal has no means to control the effort directly. The output of the management, determined by the success of the investment vehicle, cannot be attributed to the potential effort of the management as other environmental factors influence the success.

Should the investment be profitable it cannot be concluded that the success is due to the quality and effort of the management, as sheer luck or a rising market may be the causes. The same holds true for a less profitable investment. As the management has no incentive to put in its full effort, through the lack of control, the likelihood of a sub-optimal development increases.

A further danger implied by the asymmetric information can be seen in the managerial decisions of the agent (hidden actions). The interests of principal and agent are not identical. While the principal maximises his wealth through profitable investment of his capital, the agent maximises his wealth through the payments for his services.

The compensation of managers traditionally correlates with the value of the managed assets. This implies an inherent incentive for managers to increase the amount of assets under his management. This can lead to investment decisions, which are not in the interest of the principal, thus reducing the value of his investment and shifting wealth from the principal to the agent. Real estate investments are vulnerable to this problem, as one bad investment, can harm the profitability of the entire company, due to the high investment volume of real estate.

Deduction of problem solutions

Pre-investment relationship

The central aspect of the adverse selection problem is the uncertainty regarding the quality of the investment. The investor needs credible proof of the quality of a potential securitised real estate investment, which is called a "signal" in the terminology of the new institutional economics. The more information a company discloses about the held real estate the more credible becomes its professionalism and quality orientation. The European Public Real Estate Association recommends publishing information on the sub-portfolio and on the property level. For a detailed listing of the recommended information for disclosure see appendix.

Another way to establish credible proof of the quality and value of the property is the expertise of a reliable independent third party Thus the true quality of an investment can be revealed to the investor. Furthermore, the employment of a third party is self-enforcing, as investors will only place their capital with companies that have been examined by the independent institution, thus creating an industry standard.

Accordingly, the European Public Real Estate Association (EPRA) recommends that all valuations of the company's property should be conducted by external valuers to "maximise investors' level of confidence in the objective nature of the valuation" Furthermore, EPRA recommends that asset valuations should be disclosed at least once a year, and all assets owned by a company should be valued as of the same date.

A further suitable tool in this context is rating. Rating can take place on two levels: at the corporate level and the property level. This gives real estate companies the opportunity to proof their quality concerning management and assets.

Rating combines a large variety of facts into a brief assessment. The investor can use the assessment to focus on the relevant factors for his investment decision. The rating takes the role of a signal, which communicates the quality and the risk exposure of the investment vehicle to potential investors. Notably, the agent will only send out the signal, if the associated costs (rating fees etc) are lower than the expected benefits (lower cost of capital, positive investment cash-flow, stable market capitalisation etc). On the basis of the information conveyed in the signal and his own assessment the principal can make his investment decision.

An additional signal to investors are professional investor relations, offering potential investors

detailed information on the strategic orientation and the current assets held by the company. The provided information should include location and type of assets held as well as the current tenants including their solvency. Companies with high quality assets are more likely to provide the information, thus giving investors a signal regarding their quality.

However providing transparency for the investors also bears the risk of giving competitors too much insight into the internals of the company. Furthermore, the provided information can weaken the negotiation power for the sale of assets, as the estimated value has been revealed to potential buyers.

Generally the investor faces two factors when placing his capital, the quality of the assets and the management. While the assets can be accounted for to a sufficient level (depending upon the transparency provided through the management), the management is an uncertain factor to the investor. To resolve some of the uncertainty, the track record (if available) of the management can be taken into consideration.

Luts Ristow, the former chairman of the RSE AG, can serve as a positive example. When he took over the management of the TAG Tegernsee Immobilien- und Beteiligungs-AG the stock price went up more than 100%, due to his excellent track record as a manager.

Post-investment relationship

After the investment the principal faces the danger of moral hazard. As with adverse selection the source of the problem is the asymmetric distribution of information and non-congruent interests between principal and agent. Two possibilities of opportunistic behavior have been described. While the level of effort that the management puts into its responsibilities is harder to control, the, investment decisions, which may or may not be in the interest of the principal are more essential to the overall profitability.

Level of effort

Since the level of the agent's effort eludes the principal's control (apart from the control over presence at work), the principal has to ensure that it is in the interest of the agent to invest his full effort.

This is generally achieved through management incentives. The key to successfully implementing management incentives is to achieve virtual congruence of the interests of the principal and the agent. Then the asymmetric distribution of information will not be of further relevance. Management stock option programmes are a popular incentive, however they fail to meet the principal's objectives. The asymmetric pay out structure of stock options lets its value increase with the volatility of the underlying stock. This can lead the

management to take risks, which are not in the interest of the principal.

Incentives generally are of monetary nature. Therefore, the first requirement for an incentive is a parameter that it is linked to. Possible parameters are the stock price, the net asset value, profit, turnover etc. The principal has to decide which parameter or which combination of parameters reflects his objectives best. There is no universal answer to this question, as it depends on the type of company and its stage of development. Nonetheless some assumptions can be made for real estate investment vehicles.

Stable cash flows, steady growth and low risk are typical characteristics of real estate investments. These attributes should be reflected in the investor's objectives. It would be a mismatch if a growth oriented investor placed his capital in real estate, as his expectations will not be met. Real estate, securitised or not, is a long-term investment, often used as a hedge against inflation. Therefore a steady development of the net asset value is a suitable objective and incentive parameter. In an efficient market the net asset value must then translate into a corresponding stock price of the securitised real estate.

Once an incentive scheme has been drawn up it must be substantiated through the corresponding operating figures. An effective incentive scheme must define clearly the numbers by which the success of the agent is determined.

A conflict of interest can arise by the fact that the operating figures are usually provided by the management, which thus determines its own success (unless the stock price is the basis of the incentive scheme). It may be advantageous to contract the services of an independent institution such as an auditing firm and professional real estate appraiser to verify the data.

As both principal and agent are aware of the asymmetric information distribution, it is in the interest of the management to create the informational transparency by its own effort, thus avoiding intervention by the principal.

Investment decisions

As the principal's agent the management is held to run the business according to his interests. This applies to the operative decisions as well as to investment decisions. As the profitability of a real estate investment vehicle depends mainly on its assets, investment decisions are of great importance. Besides determining the profitability they can also alter the characteristics of the portfolio. A low risk portfolio can be turned into a high risk investment through the participation in large scale project developments. While this can in the best case lead to a higher yield, it cannot be concluded that such a path would lie in the interests of the principal, who

might see him/her forced to sell his/her stake.

There are two factors, which drive the investment style of a real estate vehicle. The primary factor is the self-prescribed focus or specialisation and thus strategic outline of the vehicle. This serves as a signal for investors, who look for a specific type of investment.

The secondary factor is the individual investment style of the management. The key problem is the lack of directional control over the management of the property assets, due to the separation of ownership from control. In order to avoid investment decisions, which do not meet the objectives of the principal, a form of governance is needed. The aim is to verify, that all investments are within the scope of the strategic outline.

While the incentive schemes that govern the level of effort of the management can also serve as an incentive to avoid unprofitable investments, as these negatively influence their compensation, they cannot inhibit investments, which change the risk-return characteristics of the portfolio.

On the opposite, if the incentive scheme is implemented as a bonus without downside potential (which resembles a financial option) the management may be encouraged to take greater risks. Therefore it would seem wise, to implement an incentive scheme, which also allows for negative bonuses, if the economic aims are not met. While this may seem harsh for the management, it only reflects the economic situation of the investor. By establishing congruence of the interests of the principal and the agent, it can be ensured, that the agent acts in the interests of the principal.

Transparency

The most efficient counter measure to principal-agent constellations is the avoidance of asymmetric distribution of information. While many of the world's largest publicly listed companies have learned the importance of transparency and investor relations, this lesson has not reached the majority of real estate companies.

The value of a real estate investment vehicle is based primarily on the value of the underlying assets. This is expressed in the net asset value approach to real estate companies. Therefore it is only logical to communicate the net asset value on a regular basis to the capital market, which should be based on appraisals by independent and qualified appraisers. Not doing so will almost certainly lead to a discount on the share price, as uncertainty is always punished by investors who try to protect their interests.

However transparency does not stop there. The net asset value is only a static indicator of the assets' value. Investors require detailed information on the future development of the real estate portfolio in order to assess the dynamic value of their investment as well as reproduce the stated net asset value. These are the fundamental requirements for analyst coverage, which is a necessity for efficient pricing. Furthermore institutional investors will require ad hoc publicity. Transparency is the key to efficient pricing, which is in the interest of the agent.

In order to control the relative performance of a real estate security the shareholder needs a benchmark. To be expressive the benchmark needs to be a compilation of property companies with the same investment focus and strategy. This is difficult if property companies lack a strategic outline, as it is the case with many German property companies, which invest in various types of real estate in several countries across Europe. Furthermore, the number of comparable companies is relatively low, which diminishes the chances for compiling a representative benchmark. For instance, there is only one German real estate company that focuses exclusively on shopping centres.

Conclusions

The limited success of securitised real estate, despite its obvious advantages, raises the question about the obstacles that this investment form faces.

Corporate governance has been an important issue in the development of the global capital markets. Typically countries with well-developed corporate governance mechanisms also have the strongest capital markets in terms of size and turnover. The protection of the investor's interest is a key feature for the acceptance of an investment vehicle. This also applies to securitised real estate.

The paper dealt with the most eminent problem fields regarding the protection of investors' interests. The agency theory was employed for this purpose. The two sources of agency problems were identified as the inherent conflict of interests between investor and management and the asymmetric distribution of information between the two parties. Furthermore counter measures were introduced, to limit or eliminate the negative effects. Most importantly, the avoidance of asymmetric distribution of information through efficient investor relations to achieve transparency. Secondly the need for an effective management incentive scheme that truly reflects the investor's interests.

Combined these measures can create the professionalism that today's investors require of modern investment opportunities. Naturally agency issues are only one determinant for a successful investment. The profitability, which is influenced by the economic framework and conditions is a key factor for the future acceptance. However investing capital has always and will always be a matter of trust, which correlates tightly with an efficient corporate governance.

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Appendix

EPRA best practices policy recommendation, October 2001

Information to be provided on investment and development assets.

(Investment properties)

Information on sub-portfolios as appropriate (eg, appropriate sector, region or city):

- Area in square metres
- Average rent per square metre
- Annualised net rent based on current rent roll
- Market rents (ERV) if fully leased at current market rents
- Cash flow
- Operating profit
- Fair market value
- Vacancy by area and rent
- Description of lease expiration profile
- Top 10 tenants by rental income
- Rental income breakdown by tenant business sector

EPRA recommends that a complete list of the properties owned should be provided.

The following information should be provided for each property/building in the portfolio:

- Address
- Land area
- Lettable building space
- Type of property (eg, the respective proportion of office/retail/residential/storage, etc.)
- Occupancy rate
- Acquisition date
- Percentage of ownership (and commentary on control provisions)
- Form of ownership (eg, fee or leasehold ownership)
- Year of construction completion/major refurbishment

Development Assets

Information on sub-portfolios as appropriate: (e.g. appropriate sector, region or city):

- Development costs, including costs to date, costs to completion and capitalised interest
- Breakdown of lettable area according to regions and usage (e.g. office, residential, etc)

The following information should be provided for each development project:

- Address
- Type of property (eg, the respective proportion of office/retail/residential/storage/etc)
- Lettable building space
- Expected date of completion
- Percentage of ownership (and commentary on control provisions)
- Status (eg, planning permission/under construction/letting status, etc)

Managing successful Maori Farms

Ngati Whakaue Tribal Lands (NWTL) is one of many successful Maori land based organisations scattered throughout New Zealand that has managed its way through the ups and downs of the primary sector of the economy and is flourishing today still owned by the descendants of its original owners.

These owners came together more than 40 years ago and put their land holdings into a single incorporated entity in return for pro rata shareholding in the incorporation effectively a private company, but governed by the Maori Land Act rather than the Companies Act. There are important differences in the two governing acts which have significantly different impacts on governance and shareholding but also many similarities.

My role is that of gneral mnager and I carry out the executive requirements of NWTis committee of management - the equivalent of a board of directors under the Companies Act. I have been in the role for two years and intend to make only general observations about interesting issues facing successful Maori farming organisations that I have observed.

One notable point is that they have survived intact and are moving forward today with unchanged ownership compared to so many other farming (and industrial) businesses and companies in New Zealand. NWTL for instance is now 42 years-old with a sound balance sheet. I find that an interesting statistic for what is in effect a private family farming organisation.

Maori owned farms may have been farmed conservatively in many instances but they have survived and are now moving ahead. I'm mindful of the golden first rule of business: "survive". So many New Zealand organisations have not survived in recent decades.It is interesting to look at why organisations survive or fail -

1) organisational competence is a key issue;

2) meeting the needs of the market place is another; or

3) providing value to owners - something that varies widely according to the weighting owners apply to different values, financial and cultural.

A major reason for the longevity of Maori owned farms is, I suspect, the conservative legislation controlling such organisations. Perhaps the major result of the legislation is the good management systems it fostered. On the other hand there has been a high price associated with the conservatism for instance, perpetual leases with peppercorn rentals have been a major problem for owners

There is now a strong forward movement in a number of such organisations taking place throughout the country building on a strong base. Ngaitahu and Whakatu in the South Island and Tainui, Mangatu, Tuwharetoa, NWTL, and PKW in the central North Island are perhaps among the better known and are providing a lead to the rest. There are a growing number of others - keeping their heads down and getting on with the job. This growth is good news for their owners and for New Zealand. There is a real renaissance going on not based on handouts but on sound commercial investments.

However the conservative nature of the legislation, while it has preserved ownership and the organisations themselves, at the same time appears to have thrown up some real challenges for these organisations as they now invest in growth and seek to increase benefits to their owners.

Separation of owners from direct involvement in the business

An inevitable result of gathering land into sizeable units and running them as farming or forestry businesses on behalf of many owners meant the people left the land for the cities and urban life. Modern business practice has replaced people with efficient systems and machinery. This is true of all New Zealand farming businesses. Also, New Zealand farming in general lost its glamour as a career for young people.

These large farming businesses now face a real challenge in attracting young descendants hack into farming careers, getting modern agri-business education and filling the staff roles required. Once people have left the land it is hard to attract them back it's a tough physically challenging life, so very different to urban life.

This issue is one of the great challenges facing all New Zealand farming and Maori farming organisations.

On top of the economic and social drivers faced by all, Maori organisations suffered as well from other factors such as the land being leased to Pakeha farmers for a number of generations or being run by "Maori Affairs" - as it was called on behalf of owners. The owners became totally separated from their land in an active operating capacity

Many Maori farming organisations have acknowledged this challenge and are beginning to address it in a positive fashion but there is a long way to go.

1. Financing growth ownership structures and governing legislation

While the legislation succeeded in preserving the entities intact, it also enshrined non-tradability of the assets to a considerable extent. I believe the modernising of such legislation to ensure its continued relevance in a modern world is one of the challenges facing owners.

This non-tradability places some unique constraints on providing security for financing new investment in growth activities, often preventing it. Hence leasing options or zero development options often being chosen by owners.

There are no simple answers and often heard simplistic pakeha criticism misses the point in my view. On the one hand the conservatism has preserved the asset ownership intact. On the other, it has made investment for growth very difficult. Investment is synonymous with risk as we all know so well. Who is to say, in the long run, which is more important short-term gain over long-term survival of ownership.

2. Term of outlook rates of return

It is clear to me that many Maori organisations take a very long-term view much longer, generations longer than pakeha and commensurately look for lower immediate returns and risk profile.

That long-term strategy is now paying off. Such organisations are now well placed to face an exciting future supplying a much more sophisticated and higher returning world food market. They are also looking to diversify into other sectors of the NZ economy and off-shore as well.

3. Aspirations of owners

The migration from the land and subsequent effects on ownership and governance legislation plus the longevity of ownership over generations has led to large numbers of shareholders. The aspirations of owners vary widely and are often quite different from the short-term profit orientation of a "single generation" farming business.

There have always been strong cultural ties to the land and I believe these have been strengthened despite ownership becoming more diverse and individual shareholding reduced to smaller and smaller parcels.

The dividend cheque to a single owner of a large family farm is significant today. For example, this last year surpluses of $40 per stock unit for sheep and beef farms was common. If you have 25,000 stock units that is $1 million profit. For a single-family ownership this is significant and profit orientation looms large.

But if there are many owners, some with small shareholdings, the dividend might only be a few dollars each.

The focus quite naturally shifts towards rather more meaningful aspects of ownership. For instance:

(a) The ongoing well-being of the asset for future generations providing a strong symbolic and cultural foundation and spiritual base for the iwi involved, providing identification with "roots". I sometimes think many New Zealanders are crying out for such a sense of place. I think this aspect of Maori farming organisations is important to understand and quite wonderful.

(b) Finding other ways to deliver tangible benefits to beneficiaries:

- Education scholarships
- Venture capital eg. Lake Taupo Funds
- Iwi investments in other industrial sectors

4. Governance/leadership evolvement

The legislation controlling such organisations was designed around the leadership systems pertaining to past eras.

All large-scale businesses today face an enormous challenge to ensure their governance evolves fast enough to meet the challenges of a rapidly changing environment.

The highway of corporate New Zealand is littered with the carcasses of the organisations whose boardrooms did not keep up. Air NZ, Fletcher Challenge, Brierley. Those former giants of the New Zealand meat industry Fonterra ... we wait with baited breath!

Large scale Maori farming organisations are no different and face just the same needs:

- They have a problem with the migration from the land as I have already described.
- They also face leadership succession processes more suited to a more stable era an era that is likely gone forever.

This particular challenge - that of leadership and governance must be faced and overcome for these organisations to continue to prosper over generations to come.

Governance and leadership quality is one of the greatest challenges facing New Zealand corporations of all shapes and sizes today.

5. Triple bottom-line reporting

What is interesting is that the challenges I have referred to are really no different to the new wave of "triple bottom-line goals" now increasingly being focused on by modern corporations.

They are all seeking to embrace enduring values that will promote their longevity to answer the

questions: what's it all about? What is their enduring purpose for existing?

There is a wonderful book that examines the attributes of 100 longest enduring corporations called Built to Last. A very interesting study. They are all about 100 years old IBM, Johnson & Johnson, Ford.

They seem to have employed triple bottom-line goals to various extents, from way back and often without really appreciating they did so.

I see many similarities in today's large Maori farming organisations again often without knowing it but those underlying goals are there.

Take for example NWTFs strategic purpose. The purpose of Ngati Whakaue Tribal Lands incorporated is:

- To benefit the people of Ngati Whakaue Tribal Lands Inc shareholders and beneficiaries and increase their opportunities in life
- To safeguard and improve corpus lands
- To maximise shareholder wealth

NWTFs committee of management certainly embraces all these challenges in a positive fashion as do many other similar organisations.

In my view large Maori farming organisations in New Zealand are beginning to play an increasingly important role in the development of New Zealand as a nation. They are Maori organisations that have never been based on handouts nor do they seek special assistance. They are commercial, successful and forward looking.

They face many unique challenges but are addressing these challenges positively. The leaders among them are showing the way.

There will need to be increased efforts and changes on the one hand but preservation of great values on the other. As a nation we would do well to warmly support their success. In my view prejudice and "tall poppy" syndrome gets far too much support in this country to a debilitating extent. It seems a national past-time for New Zealanders to knock New Zealanders. Worse, there seems to be a commitment to prejudiced reporting and discussion where we wallow in the negative views of NZ life.

I believe this country needs to openly celebrate success and prosperity if we are going to move forward.

NWTL is certainly concentrating on a positive future and it is a great privilege to be involved with such an organisation at such an exciting stage in its life.

Towards an understanding of indigenous property rights

Abstract

The notion of such rights has resulted in a wide ranging re-examination of accepted concepts of property rights. The paper presents a disconcerting challenge to valuers to understand property rights as conceived in the indigenous world, and their worth.

Introduction

Since the decision in Mabo v Queensland (Mabo *No 2)* (1992) *1* 75CLRI, there has been a growing recognition in Australia that existing property rights *per se* are poorly understood. Before attempting to comprehend enigmatic forms such as indigenous property rights, Jeremy Campbell usefully provides us with general guidance for the task ahead suggesting that as one:

...trawls through the history and *philosophy of truth...* material (will be found] *for a sharper* argument that meaning, *interpretation, conjecture, opinion, belief are increasingly* the "nets in which we *try* to catch *the real world"...*

Familiar property rights such as land and minerals have seen the development over the past century of a body of valuation theory and practice, which has been supported by case law. These historic roots of theory and practice are now being questioned, due to a need to conceive a method of assessing compensation when indigenous property rights are extinguished or impaired. The valuation profession has found it necessary to relinquish its grip of some basic principles which have their source in the way in which property rights are understood, and then valued.

Existing compensation methodolgy

When familiar property rights such as land and minerals are compulsorily acquired, the loss incurred by the dispossessed owner can be assessed through the examination of a number of heads of compensation which have been constructed by the courts over a long period.

All of these heads of compensation, except solatium have their source in the assessment of a quantifiable loss which can be evidenced physically in one way or another. When land is removed from the possession of an owner, this is a physically observable phenomenon. When the costs associated with the re-establishment of a business are tabulated, one can contrast the financial situation prior to the compulsory dispossession often with considerable accuracy.

Even broader losses can be assessed. As the economist David Pearce points out many social and environmental costs that are incurred have a "price", it is just that compulsory dispossession of property rights results in the crystallisation of loss, and hence a need for quantification, or "pricing" of that loss. As Pearce observes:

(h]ere then is a basic *source of* market failure, although it may *seem* slightly *odd to* call *it that since* markets do not in fact exist at all, in that many environmental services are being treated as *if they were free* because *they are* owned by *everyone there are no* individually ascribed *property* rights.

Addressing indigenous property rights

When we are faced with assessing compensation for the dispossession of a holder of indigenous property rights, we are presented with both familiar physical losses such as the inability to access land, and unfamiliar losses such as spiritual and cultural impairment. This latter class of losses lies at the core of the task encountered when assessing "just terms" compensation for a dispossessed holder of indigenous property rights.

Indeed, it has been suggested by anthropologist Diane Smith that conventional principles of

valuation have little if any use in determining such compensation, given that spiritual and cultural attachment can pervade all constituent parts of a particular native title. At the 2001 Native Title Representative Bodies Legal Conference in Townsville, she discussed this issue in some detail in her paper entitled Valuing Native *Title:* Negotiating the cultural *perspectives* and multiple statutory pathways to compensation under the Native Title Act *1993,* and it is compelling reading.

However, it appears highly unlikely the courts will dismantle the current framework of compensation law and practice when formulating an acceptable approach to the assessment of compensation when indigenous property rights and interests are extinguished or impaired. Rather, the courts would appear more likely to construct a further head of compensation which deals with spiritual and cultural attachment. This task will involve valuers, property lawyers and the courts taking on the territory and language of previously untravelled notions of property rights.

Language is an important tool in this exercise, and we are limited in how to meaningfully describe spiritual and cultural attachment. However, in surviving language from medieval times we can garner a glimpse of property rights with their rich spirituality, a facet which pervaded all of medieval society. This language could be a useful tool in attempting to describe unfamiliar facets of indigenous property rights.

For example, "home" is an old English word which describes to the reader the place where one lives permanently, especially as a member of the family or household. It is often used to represent the centre of family life, figuratively demonstrating a person's feelings or consciousness. Alternatively the old English word "house" does not achieve this purpose, merely providing a bland functional description of a habitable structure, with no reference to familial connection.

From this fragment of language, there is every possibility that compensation law and practice may find the way of expressing the meaning of spiritual and cultural attachment in the context of the esoteric world of property rights. All of this discussion is however too imprecise at present for the valuation profession which is grounded in observing physical phenomenon.

Importantly, recent research suggests that a more comprehensive tabulation of fundamental characteristics of property rights ought to provide a level of certainty for the valuation profession such that a meaningful description of indigenous property rights can be constructed. There is considerable attraction to a form of comprehensive specification of fundamental characteristics which appears to have been first described by Anthony Scott, of the Department of Economics, University of British Columbia in 1986. He describes a test for property rights which relies upon the identification of a minimum of six fundamental characteristics which he asserts to be present in any property right namely duration, flexibility, exclusivity, quality of title, transferability, and divisibility.

Spiritual and cultural attachment is an intrinsic component of indigenous property rights and interests and can be captured and analysed by this test for property rights, and therefore meaningfully described in a manner which will be of assistance to the valuer. A diagrammatic representation has been prepared which describes the results when this test is applied to indigenous property rights overall:

Divisibility Flexibility

Transferibility Exclusivity

,Quality of Title

It will be seen that in duration, exclusivity, divisibility and quality, indigenous property rights exhibits scores approaching 100, while flexibility scores 40 and transferability 0. A maximum score is 100 while a score of 0 indicates that this characteristic is totally absent. The advantage with this method of describing property rights is that it enables a comparison to be undertaken between more commonly encountered rights such as land and minerals, and indigenous property rights and interests arising from a particular location.

It offers considerable hope that indigenous property rights when examined in this manner may display the content attributable to spiritual and cultural attachment, and other current heads of compensation ordinarily encountered when property rights are compulsorily acquired. By contrasting each of the displays in a manner not dissimilar to a kaleidoscope, the space attributable to spiritual and cultural attachment could be discerned.

Conclusion

At the outset it will be recalled that Jeremy Campbell reminded us that truth is relative and malleable, and urged the sourcing of "material for

a sharper argument". This is indeed the task ahead as we gain a greater understanding of the complex rights and interests which together form the notion of indigenous property rights. These are property rights which have clearly not been encountered before with any regularity, however the requirements for just and fair compensation suggests that the common law world is now being required to address the nature and content of these seemingly enigmatic property rights.

It is a task which the valuation profession in both Australia and New Zealand must squarely face, and it is a task which is fraught with difficulty and complexity. It is also an enterprise for which the valuation profession is ideally suited.

About *the author: John* Sheehan is national native title spokesman *for* the Australian *Property* Institute. He is a distinguished scholar in the disciplines *of* land *economy* and planning.

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Remaining competitive in the eBusiness world

Introduction

Combining the skills of fast decision making along with the critical flexibility required to remain competitive in the eBusiness world are emerging as key skills for property managers.

Learning objectives:

1. Define how to apply eBusiness strategies needs to match property realities.
2. Understand the cultural and technological challenges you will face when migrating to eBusiness.
3. Gain factual data that can be used to implement the strategies.

Where are we?

What a fascinating few years we have just experienced. The emergence of the internet and its associated tools and solutions has become one of the standard communication mediums of business worldwide.

Our profession has approached the internet tentatively in context to other industries (banking, investment, books, flowers, etc). Although internet tools like e-mail have become part of everyday business life, other internet solutions like collaborative project extranets are only now beginning to be viewed as useful tools for our projects and the facilities we manage. The promise of e-commerce in our industry is also a far way from becoming an everyday reality.

In essence, our industry's use of the power of the internet has barely even scratched the surface. But change is a constant and our industry is standing at the rim of the chasm of opportunity.

The change we are experiencing today is happening at an unprecedented rate. Many are calling this rate of change and increased connectivity the "net economy" The internet has allowed businesses to streamline processes and make them more efficient, which has driven competition and productivity further than we've seen in the past. Thus, this "networked effect" has dramatically changed the way our global and national economies operate and interoperate and how people expect to be serviced.

Our profession is just beginning to awaken to new ways of working and finding new revenue and profit streams due to this net economy., By not totally abandoning all existing processes and relationships of the "old economy", but rather integrating net economy tools and views, our profession and our industry are poised for unprecedented growth and prosperity. This is the reality of eproperty.

The internetworked (net) economy

How does our profession position itself to benefit from this internetworked (net) economy?

First we must realise that a new value network has been created by the internet. The human and intellectual capital that can be brought together in an instant, regardless of time or geography is the new wealth creator.

Second is the physical manner in which these people are brought together (extranets, wireless, etc), sometimes called structural capital, is how your property business and organisation will reach its goals.

The net economy, meaning bringing people, places and things closer together, is the next phase of where our industry is heading with the internet. By choosing to plan your IT decisions on connectivity between your people and data, you and your business will be well positioned as an eBusiness.

An eBusiness primer

Interconnecting your company into global information and product markets through web-based eBusiness tools is a beginning step to understanding the changing role you and your business will play in the net economy.

By using eBusiness tools like collaborative project extra nets, you will be able to see first hand the efficiencies created by:

- Giving project team members in every part of the information supply chain access to key information from anywhere, at anytime;

- Making well-informed, multi-party decisions more quickly;
- Communicating to the rest of the team in real time;
- Automatically archiving all activity into a permanent, digital project record.

The real property dot com industry ($US700 million of global investment as of December 2001, according to a study by the digit group) has been designing, building and providing these type of web-based tools over the past four years. In all there have been nearly 100 companies that have entered or have announced plans to enter the eBusiness service provider market for real property

In most cases these are being designed as "hosted solutions", meaning that your data and most of the functionality of the software both reside offsite in servers maintained by the dot com. The dot com acts as an ASP (application service provider), selling you the use of that functionality and the access to your stored data over the internet on an as-you-go basis. This is a fundamental change from the traditional business model of having to buy, install and maintain software on your own computers. The ASP will keep the software up to date, and all you need is a standard web browser to use it.

Your company can now try a number of providers in this ASP approach without having to invest in software or commit to standardising at this point in the development of the market.

The downside of trying several providers is time. There are no standards yet, so each system has its own workflow, business rules and organisation, and it will take time for your staff to learn how to use each system and comparatively evaluate them.

Also, many of the dot corns are start-ups that were funded sometime in 1998-2000 by venture capitalists hoping to take them public within short period of time. That now being highly unlikely, some will not receive further funding and will be unable to continue operations. You don't want to be working with one of those when their time runs out. Looking at the stability of the organisation behind the Web site may be more important than looking at the functionality when deciding who to try. Our suggestion is to look at who will make the transition from a first to second generation property dot com by matching the following criteria to your dot com of choice:

- Are they linking their online services to legacy property software systems?
- Do they provide trusted content?
- Are they allowing for customised and personalised interfaces for end users?
- Do they have 24x7 customer support and do they resolve customer issues in a timely manner?
- Do they have solid property industry personnel, who really understand process, working for them?
- Once these set of metrics are answered, you can make a more informed decision.

Basic IT strategy

In the minds of our profession, the realities of managing bricks and mortar have far outweighed the benefits of bits and bytes. This mind set is slowly being replaced with the reality that information systems, when properly implemented, used and maintained, can be an enormous competitive advantage in the marketplace.

The convergence of the property industry with information technology (IT) and the net economy is providing the catalyst for unprecedented growth that is being witnessed in new offerings of IT tools. Knowing what these tools are and how to implement them can be a frustrating exercise unless you set an IT strategic framework to see how these tools, when you discover them, can be useful to you and your business. By looking at how the IT industry creates and uses its IT framework, your property eBusiness can begin to reap the benefits of IT.

Called three tiered architecture by many in the IT industry, the basic structure of IT systems today are being built in three distinct categories:

- Databases - the foundation of data, structured to be re-used many times. Oracle and Microsoft Access are database examples.
- Applications this is where the "number crunching" happens. Modular, task-oriented applications are what we have traditionally used. Archibus and Microsoft Word are application examples.
- Browsers - Browsers are no longer defined as just web browsers like Microsoft Internet Explorer or Netscape Navigator, but are now considered any viewing device that can input a request and publish the result via an application and database. Cell phones and Palm devices are considered browsers.

By breaking down your IT systems into these three categories, your property eBusiness will be in the position of using IT in new, more flexible ways. After creating your IT framework, it would be beneficial to look at how your people use IT and at what stages different applications take the lead during a project.

By using both the three-tiered architecture approach to your IT infrastructure and a project lifecycle stage method breakdown for user applications, your IT strategy will provide benefits of not becoming obsolete before its time.

Data flow versus documents

One of the most critical steps one can make to adapt to the nature of the net economy is to change your view of information from documents to data. The property industry is document-centric in the

form of drawings, specifications, O&M manuals, valuations, etc. The fundamental nature of how we do business is based on documents that are usually linked to contractual obligations.

Our industry's first information technology tools created electronic versions of our traditional documents in the form of CAD, Microsoft Word documents and other "files" that stored information that we needed to procure and manage a building project. This is about to fundamentally change.

The power in using a business communication platform like the internet is in managing the flow of individual pieces of data that can make up a document when you need a document. This means that the information technology tools that you choose today should not just create documents, they should be feeding a database and be able to generate reports. The value of data is greater than the value of documents when used to communicate property information.

An analogy can be made to the financial markets. Financial data is constantly flowing through the financial industry in the form of earnings reports, revenue projections and other financial data. When a company needs to measure itself, it generates reports in the form of balance sheets and income statements.

In a similar manner, traditional "reports" can now be generated from property project data that are captured in tools like Object Oriented CAD and project extranets. The flow of project data is immense, but the tools used to measure the project's performance or meet contractual obligations are becoming easy to use and will take the place of traditional "silo-style" document creation.

Many property firms have installed document management systems to help them get a handle on the vast amount of documents necessary on their projects. With database-centric solutions becoming more accepted, we are maybe seeing the end of document management and the beginning of data management.

This transition will be littered with failed attempts by users that do not differentiate documents and data and their inherent values.

With documents, you are creating a data silo with limited value, meaning that the document has value at that moment in time and usually for one project at a time. When in data format, you have the flexibility to generate reports, integrate into other systems and create a mechanism for new revenue streams and/or cost savings. A basic understanding of the value of data versus the value of documents can help you make smarter information technology decisions.

Real property e-commerce

Electronic commerce (e-commerce) is not just about business-to-consumer, monetary sales. Automatic internet-based procurement holds the potential to dramatically redesign and improve purchase-to-order processes for goods and services by creating virtual business-to-business markets that can be customised to reflect a company's contracts, business rules that can be globally accessible over the purchaser's intranet or through an extra net service.

These virtual procurement channels employ a self-service business model and enable the delivery of dynamic content, applications, project information, project management, and decision support information at the point of purchase.

To date, the internet has primarily been portrayed as the latest and greatest channel for sales and customer service. But when the smoke clears from the initial blast of e-commerce hype, internet technologies will prove to be catalysts to improve supply chain management processes, particularly in the property industry procurement and purchasing processes. We have recently seen reports that pinpoint the first quarter of 2003 as the breakthrough time for e-commerce in our industry.

But there is a question emerging concerning the conventional wisdom of today's e-commerce models. This new thinking states that pure internet plays will not be the stand-alone, e-commerce marketplaces they are being sold as today. There must be an integrated strategy that incorporates the existing bricks and mortar world with the point and click process of the internet to create a clicks and mortar environment.

This new environment takes into account the reality that not everyone is computer savvy, but allows them to participate at their own level of technology, even a fax machine. The ability to have one foot in the physical world and one foot in the virtual world, linked together through commerce is the next phase of commerce over the internet.

The problem with property dot com eMarketplace companies is that they seem to forget who the purchasing audience is. What may seem like a good business idea in the world of academia does not always translate well to the real world, and unfortunately, many venture capitalists (VCs) are just realising this critical mistake that the majority of their funded property dot com eMarketplace companies are hopelessly lost, losing millions of dollars.

The integration of old economy suppliers with new economy dot com web efficiencies, means an interesting and profitable model begins to emerge. Taking a lead from the dot corns, the traditional property suppliers of the world are linking their inventory to transaction marketplaces they run for their own profit.

The interesting piece of the model to watch is if the existing dot coms approach the old economy

suppliers as a FTD-style service to survive or if the old economy suppliers choose to enter the dot corn space with applications of their own, discarding the majority of existing dot corns to the trash bin of history.

Next steps

Understanding and using the next phases of the internet will require careful insight and fast implementation in order for your property business to transform into an eBusiness and remain competitive. This net economy approach learns from the past in order to create the future. The traditional linear process of procurement that hands information off at incremental times indicates that nearly 80% of all costs are embedded into a property project during planning and design before its tossed over the wall for procurement and fulfillment.

This vision integrates solutions and content in an environment for project team members to communicate, coordinate and collaborate information in a smarter way. It is all about getting innovative projects designed, constructed and managed faster with fewer mistakes, thus saving time and money by exploiting the velocity of internet to collapse time and distance.

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Signs of maturity in Australian water markets

Abstract

In a mature water market with many active buyers and sellers and with a free flow of information about supply, demand and prices paid, prices should not vary greatly at any given time. Willing buyers should always be prepared to pay the going price set by the most efficient and highest value producing irrigators. This paper will analyse the prices paid in two water markets in Australia in order to establish the level of price dispersion and how this has changed over time and to identify which factors affect the prices offered and accepted by buyers and sellers in order to identify signs of market maturity.

The buyers' and sellers' perception of the purchase and sales price will also be analysed as an indicator of the market participant's knowledge of prevailing market prices. The paper shows that in the emerging market prices fluctuated widely and markets generated some inefficient outcomes. As markets matured and restrictions on trade were eased, price fluctuations were reduced and market outcomes became more rational. Major determinants of water prices and lfuctuations are market restrictions, water use efficiency, value of commodity produced and the bargaining strength of the buyers and sellers.

Introduction

Markets in water rights or entitlements emerged in Australia in 1983, when it was first introduced in South Australia and have since increased in use and operations (Bjornlund and McKay, 2001b,a). This process has been driven by the need to reallocate an increasingly scarce resource among competing users and to move water to higher valued and more efficient users, and away from inefficient low value users on unsuitable soils.

Such reallocation would achieve a number of policy objectives: it would increase the total value of output from the limited resource, with both significant economic and social benefits, and reduce environmental degradation caused by irrigation. Further, it was the policy expectation that markets would achieve this in a socially equitable way, since the sellers would receive some compensation from the buyers.

Water was traditionally appurtenant to land and could therefore not be sold separately thus preventing the above reallocation. This has changed dramatically during the past 20 years to a degree where today all Australian states have either formally introduced water markets and separated the land and water rights, or are in the process of doing so. This process is most advanced in the three southeastern states: South Australia, New South Wales and Victoria.

The National Competition Policy has spurred this process on by sweeping reforms of the water industry and other industries previously controlled by government entities, such as telecommunication, electricity, gas, and rail services. The states have committed themselves to implement these programmes and are under severe financial penalties from the Federal Government if they fail to do so.

For water markets to achieve the discussed benefits it is imperative that they reach maturity as quickly as possible. While markets are still immature, inefficient outcomes and often politically undesired impacts will often be the result of market forces. Market maturation is an important consideration when investors evaluate risk and thereby determine their required discount rate for acceptable investments. This decision in turn determines value.

Within immature markets, price dispersion is high and investors require a high discount rate, whereas in mature markets investors are willing to accept lower discount rates. As more sophisticated and diversified property rights are defined, market liquidity is improved and the potential number of investors widened, thereby increasing the marginal utility of any property right.

The first section of this paper describes the study area and the factors influencing water trading policies within them, the second section explains the methodology applied in this research, the third section outlines the data used, while the fourth section

discusses the outcome of the hedonic models applied to the data. The fifth section provides an overview of the relevant literature. The sixth and major section discusses the findings of the research. This section is divided into a number of subsections: the first one discusses price dispersion over time, while the other subsections discuss the anticipated price determinants. The seventh section provides an overview of the signs of maturity identified in this paper, while the final section provides some conclusions.

The study area

This research is based on an analysis of transfers of permanent water entitlements in two irrigated regions with different water use characteristics and water allocation policies. Both areas are located in the southern part of the Murray-Darling Basin (Figure 1). In June 1995 the Murray-Darling Basin Commission decided to place a cap on water extraction within the basin set at the 1993/94 level of development. Member states can therefore not in any year extract more water than they would have done with the infrastructure and other developments in place during 1993/94 (MDBC, 1998).

This step was taken because water extraction in the basin had continued to increase and was predicted to continue to do so, if no steps were taken to prevent it. Such development would have significant impacts on the ecological system of the basin and thereby its productive capacity with significant environmental and socio-economic implications. This cap will have an impact on future water allocation levels.

At the end of the study period for this project, in December 1996, the cap had not yet had an actual impact, but irrigators had started to come to terms with its inevitable long-term implications, causing some to start buying permanent water in preparation for this impact. The cap has since had a significant impact on the allocation policies especially in Victoria and New South Wales. South Australian irrigators have not felt the impact as badly since the cap for that state was set at the 1993/94 level of entitlements and not development.

Figure 1: The Murray-Darling Basin

The River Murray in South Australia (SA)

This region has three sections: the Riverland, stretching along the River Murray from Blanchetown to the SA/VIC border, dominated by horticulture and viticulture, the lower reaches of the river dominated by broad acre farming and dairy, and the lakes area with broad acre farming and emerging viticulture.

Irrigators have water entitlements, either as part of an irrigation district or as an individual irrigator pumping water from the river (a private diverter). These entitlements are generally accepted to be 100% secure - that is, they will be delivered in full every year. Trade was introduced on both a permanent and temporary basis in 1983, the first Australian state to do so.

From the beginning trade was only possible among private diverters. In 1989 trade was expanded to allow irrigators within irrigation areas to trade with each other. This ability was put into legislation with the Irrigation Act 1994. Trade between irrigators within irrigation areas and private diverters was made possible in 1995 when irrigation area authorities were issued with a license under the Water Resources Act 1990. Finally trade was fully included in legislation with the Water Resources Act 1997. (Bjornlund and McKay, 2000a).

South Australia took early voluntary steps to reduce water extraction from the River Murray in the 1960s and 1970s by reducing water entitlements down to actual or committed use (Bjornlund and McKay, 1998). As a result of this conservative and responsible behavior by the SA government, the MDB cap was set at the 1993/94 level of entitlement rather than the 1993/94 level of development (MDBC, 1998). As a result water trading in SA has been able to activate unused water without any impact on the general level of annual allocations to all irrigators.

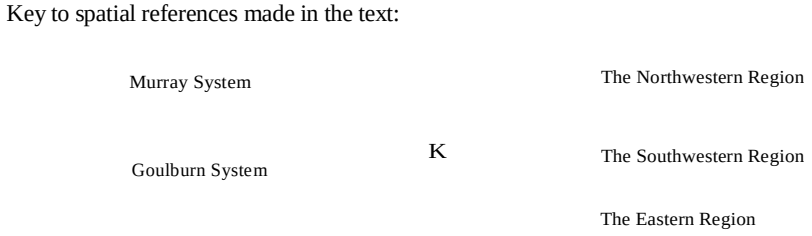
The Goulburn-Murray irrigation district (GMID) in northern Victoria

The predominant and high-value water use in this region is permanent pastures for dairy, with large areas of low value production such as broad acre cropping and annual pastures for grazing of cattle of sheep in the western part.

To understand the following discussions, it is necessary to explain the allocation policy in Victoria.

All irrigators have a water right, with a security of delivery of 97 out of 100 years. In addition, sales-

Figure 2: The Goulburn-Murray irrigation district and directions of trade



water allocations are announced every year, as a percentage of water right, depending on the availability of water in the storages. The level of sales-water has traditionally been very high often in excess of 100% of water right. The long-term mean of sales-water is now, with the cap in place, expected to be about 60% of water right (Murray Water Entitlement Committee, 1997), but fluctuates widely. Many irrigators, with permanent pastures depending on traditionally high levels of water rights, are therefore buying water to compensate for the reduction in annual sales-water (Bjornlund and McKay, 2002).

The GMID is supplied by two different systems: the Goulburn and the Murray system (Figure 2), with the Murray system traditionally having higher sales-water allocations. Annual water trading was introduced on an experimental basis within some irrigation areas in 1987. Both permanent and temporary trade was included in the Water Act 1989,. but regulations for permanent trade were not in place until 1991, and the first permanent transfers were registered in January 1992.

Trade was both possible within irrigation areas and between private diverters, but, not between the two groups. This was made possible when the Water Act was amended in 1995 (Bjornlund and McKay, 2000a). Over the years spatial restrictions on trade between different rivers and irrigation areas have been eased but some restrictions are still in place. Trade cannot take place from the Murray system to the Goulbum system but can in the opposite direction.

The Victorian Government's reaction to the cap was to retain the high level of reliability of supply of water rights and adjust total water use to stay within the cap by reducing annual sales-water allocations. As water trading activates traditionally unused water, total water use increases, with reductions in annual sales-water allocations as a consequence.

The methodology

In this study, hedonic functions have been applied to transactions of permanent water entitlements, to identify the factors determining the buyers' and sellers' willingness to accept prices. The hedonic theory sets itself apart from property appraisal, by shifting the focus of interest from determining the value of the commodity to determining the partial value of its underlying characteristics. Griliches (1971) did some

of the early work on hedonic price functions when analysing car prices. He did so in order to improve the way price indexes are adjusted to distinguish the proportion of price increases caused by quality changes from those caused by inflationary price increases.

The theoretical framework is developed around the fact that many commodities are heterogeneous goods, consisting of a bundle of characteristics in different quantities. These goods cannot be un-bundled, and the characteristics sold separately; neither can they be re-packaged. Buyers in the market are therefore shopping around, finding the bundle of characteristics, which best suits their purposes. If enough of such packages including different quantities of each characteristic are sold in the market, a hedonic price function can be identified:

P(Z) = f(Z1 ..... Zn),

where P(Z) is observed product prices and Z1 to Zn is the bundle of product characteristics. Solving this function for a large number of transactions will establish the value of each of the Z characteristics.

The issue of the functional form of the hedonic function has been widely discussed (Halvorsen and Pollakowski, 1981; Milon et al., 1984), and rather mechanical methods have been developed to establish the best fitting form (Box and Cox, 1964). However, this study attempted to keep variables in a linear form, unless strong theoretical arguments or empirical evidence suggest that a non-linear form should be used. This approach ensured the most consistent interpretation of the coefficients. Even though this approach can be at the expense of a drop in explanatory power, it has often been followed in the literature because of the easier ability to interpret the outcome and especially make comparisons between models.

In the process of building the final models, a number of issues have to be considered. One key assumption is that the independent variables, the Zs, in the equation, are truly independent, that is, no multicollinearity exists. This is especially important in a study like this, where the emphasis is on the relative magnitude of the estimated coefficients, rather than the predicted value of the dependent variable.

To ensure this, scaled condition indexes, and their associated variance-decomposition proportions have been used (Belsley, 1991). The advantages of this approach are that it identifies the variables involved in interdependency, and provides measures of their severity This enables the analyst to better identify the potential impact of such interdependencies on the outcome. If the involved variables are not of key concern for the analysis, the remaining coefficients can still be used.

The second key assumption is homoscedasticity, which means that the population disturbances have the same variance or that there is no pattern in the residuals. Since there is no universally accepted way of testing for this and several methods exist, often yielding contradictory results, two different methods have been applied - the Langrange Multiplier Test and the Breusch-Pagan-Godfrey Test (Gudjarati, 1995).

Finally the risk of misspecification of the model has to be considered, that is the omission of relevant variables, inclusion of irrelevant variables or the use of wrong functional form. For this purpose Ramsey's Reset Test has been used (Gujarati, 1995). No model discussed in the findings section is in violation of any of these assumptions based on the above tests and conservative parameters set in the literature (Gujarati, 1995).

The data

Within the GMID information about water transfers including: date of transfer, volume traded, water use prior to trade, size of water right and name and address of buyers and sellers were obtained from Goulburn-Murray Water. For the period from 1992 to 1994 mail questionnaires were used and responses were obtained from 188 or 64% of all buyers and 149 or 53% of all sellers. For the 1994 to 1996 period telephone interviews were conducted with 100 or 35% of all buyers and 100 or 41% of all sellers.

Along the River Murray in South Australia information about water transfers including: date of transfer, volume traded, water use prior to trade, entitlement size, and name and address of buyers and sellers were obtained from the Department of Environment and Natural Resources office in Berri for private diverters and in Barmera for irrigation area irrigators. For the period from 1987 to 1994 mail questionnaires were used, and responses were obtained from 146 or 58% of all buyers and 122 or 52% of all sellers. For the 1994 to 1996 period telephone interviews were conducted with 100 or 72% of all buyers and 103 or *45%* of all sellers.

In order to obtain information about prices in both study areas it was necessary to interview the buyers and sellers, since prices are not registered in any public register. During the interviewing process property and personal characteristics were also gathered.

The models

The hedonic models for sellers and buyers within both study areas and for both study periods are displayed in Appendix 1, 2, 3 and 4. For simplicity, linear models have been preferred. The only exception is the sellers' model within the GMID (Appendix 1). In the linear version of this model most of the variables were insignificant. Therefore, a non-linear model has been reported even though it is more difficult to interpret. The model fulfils all statistical requirements and when tested proved superior to the linear model. Individual variables follow non-linear forms where

such transformations were anticipated due to the nature of the variable and empirical observations. These exceptions are "time since sale", where the graphs in Figures 3 and 4 indicate that a non-linear relationship was present and the variable "size of transfer", where economic theory suggests that economies of scale will cause this variable to be non-linear.

The models have quite good explanatory power (based on adjusted R2) ranging from 44.1% for the sellers' model during the first period in SA to 77.2% for the buyers' model during the first period within the GMID. Generally, the buyers' models have the highest explanatory power, with the exception of the models for the second study period within the GMID. This could be an indication that the market was a buyers' market, where the buyers set prices depending on their individual circumstances. Variables are generally significant at the 0.01 or 0.05 level. In some instances a one-tailed test was used, since the coefficient had the anticipated sign.

Comparing these results with the two other applications of hedonic models to water transfers identified in the international literature, namely the studies by Colby et al (1993) and Challen (2000), the above results become very acceptable. The study by Colby et al achieved an explanatory power of 54% using a sample of 97 water purchases and the study by Challen an explanatory power of 64% using a sample of 178 observations. Both of these studies base the explanatory power on the R2 and not the adjusted R2 resulting in a comparatively higher explanatory power than the one reported in this study using adjusted R2 values.

Literature review

A review of the international literature only revealed two previous studies applying hedonic functions to water market prices: one in the US (Colby et al, 1993) and one in Australia (Challen, 2000). The study by Colby et al used only secondary data preventing the model from accounting for individual personal or water use characteristics. The study analysed water transfers within a study area, which was dominated by cross-sectoral transfers under the prior appropriation doctrine in the southwestern part of the US.

The data set, however, included two important variables, which intuitively should have a significant impact on the buyers' willingness to pay. The first was the presence of high profile buyers such as a municipality, a power station or a mine. The second was the priority date of the water right, which indicates how certain the holder of the right is of actually receiving the water every year, and therefore is an obvious determinant of the willingness to pay.

Anecdotal evidence within the study region as well as economic theory, suggests that these two variables should be major price determinants. The model also included a non-linear transformation of the quantity of water sold using a logarithmic transformation. The variable had a negative sign showing that prices decrease with volume traded reflecting the general economic law of decreasing marginal return and economies of scale.

The study by Challen (2000) was based on water transfers along the River Murray in South Australia during the 1987 to 1996 period. This study area is the same as one of the study areas in this paper and covers the same time period. Challen based his analysis on surveys of water buyers and agents facilitating water transfers and secondary data provided by the relevant department.

This survey provided information about prices and some information about the intended water use and the involvement of brokers. The model also used information about major commodity prices and information about volume of water trade and date of transfer provided by the department. Challen found: 1) there was a relationship between some commodity prices especially citrus for processing and chardonnay vine grapes showing a positive but less than linear response of water prices to commodity prices; 2) the involvement of a broker resulted in an increase in price of A$20 per ML or about 5% on an average price of A$425 per ML. It could be noted here that 5% proved to be the standard brokerage fee for permanent trading during the first two years of the interstate water trading pilot programme (Young et al, 2000); 3) the rehabilitation levy paid within some districts caused a decrease in water prices; 4) that buyers in the Riverland paid lower prices which was opposite to expectations; and 5) that buyers intending to apply the water to vegetables and orchards paid a premium.

When comparing this analysis to the one discussed in this paper it should be noted that: 1) the analysis is based on buyers only; 2) not all information is provided by the buyers themselves but by the involved broker; 3) 85% of the buyers in the sample used brokers, while research has shown that only about 60% of all buyers during the period used brokers (Bjornlund and McKay, 1999); 4) the analysis involved only one model covering the entire period.

Another factor discussed in the literature is related to the ability of water to trade freely both spatially and between different classes of irrigators. Any attenuation placed on the free movement of water will reduce the exposure to market participants and the variety of users able to bid. Such limitation of trade will reduce the price of water as well as the volume of water traded (Gardner, 1985). The proficiency and efficiency of the market is another important determinant of prices and price fluctuations. Brown et al (1982) found that water prices increased the more proficient the market operated.

Other characteristics influencing price within the

study area should be associated with factors related to the individual buyers' and sellers' ability to use the water to produce a profit. The highest value producers should be willing to pay the highest prices and thereby outbid the lower value producers. The same line of logic also suggests that the more efficient water users should be willing to pay a higher price, since they can produce more output per unit of water applied.

Two more factors were anticipated to have an impact on the price of water. The first is the size of transfer. The general rule of economies of scale suggests that the larger the quantity of water traded the lower the per unit price as found by Colby et al (1993). Howe et al (1990), however, argued that larger transfers save the buyers the trouble of identifying and negotiating with several sellers and many transfer costs are constant regardless of the quantity of water transferred thus reducing the cost per ML for larger quantities. Both of these issues should increase the buyers' willingness to pay for larger volumes.

The final reason is associated with the buyers' and sellers' bargaining strength. Dragun (1983) argued that the final transfer price should be determined by the bargaining position of the parties. This is supported by the fact that many irrigators sold because they were in financial difficulties: the most important reason for selling water was because the seller needed the money (Bjomlund and McKay, 2002), about a quarter of the sellers sold water on which their existing production depended and had no plans to reduce their irrigated production, and 71% of the sellers used the proceeds from the sale to pay this year's bills (Bjomlund and McKay, 2000b). Likewise, many buyers within the GMID purchased water to support their significant investments in permanent pastures, milking herd and equipment when annual sales-water allocations declined (Bjornlund and McKay, 2002). Irrigators under such pressure to buy or sell should be willing to pay higher prices or accept lower prices.

This section has discussed the various factors or characteristics potentially influencing price based on existing literature. The following sections will analyse to which extent these factors have actually influenced price within the two study regions based on the hedonic functions. When building the models, attempts were therefore made to include significant variables measuring the impact of these factors either directly or as proxies. The models for the two periods do not contain the same variables since changes to policies, and the relative profitability of various crops, have changed over time, and insignificant variables have been eliminated in the model building process.

The findings

The first part of this section will discuss price dispersion and trends, while the following parts will discuss the various value determinants derived from the hedonic models.

A. Price dispersion and trends

To give an impression of price dispersion and trends as well as market activities, Figures 3 and 4 show the minimum and maximum prices paid, the number of transactions on a quarterly basis and the volumes traded on an annual basis. Trade in SA shows a much stronger growth in volume traded, number of transfers, and prices as well as lower price dispersion.

Figure 3 shows that until 1994 trade had its seasonal fluctuations, but stayed at much the same overall level with trade escalating after 1993/94. The year of 1988 saw very high volumes traded due to a single buyer, a new major almond grower. Until the beginning of 1991, maximum prices went up and down but with a slow upward trend. During 1991 and 1992 the trend tended to go slowly downward, while from 1993 to 1996 prices went up at a rapid pace. This continued until 2000, when prices culminated at A$1100-$1200/ML, but has since declined to around A$1000/ML.

The maximum and minimum prices indicate substantial price dispersion during some periods. Minimum prices seem to have stabilised over the period, whereas maximum prices still show some high blips caused by individual buyers willing to pay above market prices. As an example, one milk processor, buying water for industrial purposes, caused the high purchase price of A$560/ML in the third quarter of 1990. Both minimum and maximum prices seem to be quite stable during the period from mid-1995 to the end of 1996, indicating a maturing market.

Figure 4 indicates that within the GMID the dispersion between minimum and maximum prices remained high throughout the five-year period. Minimum prices were very volatile whereas maximum prices remained stable with a slowly increasing trend from the first quarter 1994 and then accelerating during 1996 toward A$500/ML. This could suggest that the efficient dairy producers, which are the major water buyers and the highest value producers within the GMID, set the maximum at a level they can justify.

The fluctuating minimum prices reflect a thin market, where some irrigators are under pressure to sell at times when no efficient and high-value producing irrigators are buying and therefore have to sell to opportunistic buyers at lower prices. This lfuctuation suggests an inefficient market. The trend of increasing prices continued until 2000, when prices culminated at around A$800/ML driven by demand from the vine industry in Sunraysia downstream of the GMID.

Prices have since come down to a level around $600-700/ML, due to reduced demand caused by a decline in new contracts for wine grapes. The general price level, with exemption of the very low minimum prices, seems to reflect the ACIL report's (1984) expectations of between A$200 and A$400 per ML. The large price dispersion seems to reflect the potential

Figure 3: Minimum/Maximum Prices and Number of Permanent Transfers
The Murray River South Australia: 1987-1996

0

Quarter of transfer

A Minimum 4 Maximum No of transfers

Volume (ML):				Standard deviation as % of mean quarterly price:
1987	3290	1992	2398	1987-92:18%
1988	5861	1993	6908	1992-95:12%
1989	3149	1994	5422	1995-96: 6%
1990	2769	1995	7490	
1991	963	1996	4176	

Figure 4: Minimum/Maximum Prices and Number of Permanent Transfers
GMID Victoria: 1992-96

500
400
300
200
100
0

Quarter of transfer

A Minimum 4Maximum - No of transfers

Volume (ML):				Standard deviation as % of mean quarterly price:
1992/93	2715	1997/98	16349	Consistently above 20%
1993/94	8100	1998/99	23283	
1994/95	6369	1999/00	18173	
1995/96	9941	2000/01	16851	
1996/97	8230			

buyers' opinion when interviewed by ACIL, proposing a price level between A$50 and A$500/ML.

The price dispersion between minimum and maximum prices appears higher within the GMID. This could reflect the greater diversity of the nature of water rights within the GMID. The sales-water component varies between private diverters and irrigation areas and between regions. Also different spatial restrictions on trade exist. In comparison water rights in SA are more uniform and no spatial restrictions exist. This corresponds with the findings of Colby et al (1987) and Gardner (1985). Telser (1978) suggested that under such market conditions proper price levels would not be formed and prices therefore lfuctuate widely

The minimum and maximum prices displayed in Figures 3 and 4 still indicates some price dispersion raising doubt about whether the market has actually matured. However analysing standard deviations of quarterly mean prices in South Australia shows that the standard deviation as a percentage of quarterly mean prices reduced significantly from around 18% from 1987 to June 1992, down to around 12% from June 1992 to June 1995 and further reduced to around 6% from June 1995 to December 1996.

This analysis indicates that price dispersion has reduced significantly and Figure 1 shows that both volume of water traded and number of transfers increased further indicating a maturing market. A similar analysis of quarterly mean prices within the GMID shows steady and very high standard deviations at a level consistently around or above 20% of quarterly mean prices. The reasons why individual quarterly minimum and maximum prices still fluctuate are analysed in the findings sections of this paper and show some signs of a maturing market within the GMID.

Market activities within the GMID have also increased significantly since 1996 to a level where volumes of water traded have been consistently between 16,000 ML and 24,000 ML per annum since June 1997 (See Figure 4)

B. Spatial restrictions and restrictions on transfer between different classes of irrigators

Restrictions on transfer between different classes of irrigators were removed within both study regions in 1994 and within the GMID spatial restrictions were eased but some still remain. The analyses confirm the findings of Gardner (1985) that the larger the geographical area within which the water can be traded, the higher the price. Within the GMID, during the first study period, this was expressed in three different ways. Within the Northwestern Region (see Figure 2), where trade could only take place within and between the three irrigation areas (Kerang, Cohuna and Swan Hill), water was traded for A$85.79/ML less according to the buyers' model and A$107.07/ML less according to the sellers' model (Appendix 1).

The reasons for the lower price within this region are: 1) the inability to trade water to the eastern region, where most of the high value producers are located and therefore most of the demand; and 2) the fact that this region is supplied from the River Murray, which traditionally has received consistently higher annual sales-water allocations.

No changes took place to the spatial restrictions within the northwestern region from the first to the second period, but the cap and water markets started to make an impact. It became apparent that the level of annual sales-water allocations would be reduced and a maximum level made standard throughout the GMID. The northwestern region would therefore no longer be able to receive sales-water allocations in excess of 100%.

Irrigators having relied heavily on the higher sales-water allocations therefore came under pressure to purchase additional water rights. Demand for water within the northwestern region therefore increased from the first to the second study period with the effect that the price reduction came down to A$66.62/ML in Cohuna and to A$33.29/ML in Kerang. In the sellers' model the reduction came down to A$60.24/ML and was only significant in Kerang, which is most severely suffering from salinity problems.

During both study periods, it was possible to trade water from the eastern region to the northwestern region. This however did not take place. The high value producing irrigators in the dairy areas of Cohuna have been able to compete successfully for water within the northwestern region. They have apparently been able to satisfy their demand from sellers within the region and have seen no reason to purchase additional water at higher prices from the eastern region.

During the first study period it was not possible to trade water between private diverters and irrigation areas. This prevented the high value producers within irrigation areas from buying water from private diverters who traditionally have large volumes of unused water. Private diverters wanting to sell water therefore had to sell to other private diverters, and accept the price they were willing to pay The buyers' model suggests that private diverters paid $167.93 less while the sellers' model suggests that private diverters received A$84.82/ML less. As a consequence, volumes traded among private diverters were quite low

During the second study period trade between private diverters and irrigation areas was introduced with the effect that the volume of trade involving private diverters increased by 167%, and the price reduction declined to A$40.68/ML in the buyers' model, and to A$34.27/ML in the sellers model. This decline in the sellers' model was only if a private diverter was selling to a private diverter. If a private diverter was selling to an irrigation area buyer the price paid was equivalent to other sales.

This again shows that the price level is reduced if spatial or other restrictions are placed on water trade. The changes from period one to two show the impact of increased competition for water introduced by the removal of impediments to trade, but also indicate imperfections in the market. The private diverters selling for A$34.27/ML less must be ill informed of the recent policy changes and the price level within irrigation areas.

The final spatial impact is within the Southwestern region (Figure 2). During the first study period the findings indicate that irrigators within that region purchased water for A$32.33/ML less than irrigators within the eastern region. On the other hand irrigators within the southwestern region selling water only sold for A$16.57/ML less than water sellers in the eastern region. The difference between the sellers' and the buyers' price reduction must be caused by internal trade.

Some sellers within the southwestern region are obviously not aware of the price level in the eastern region and therefore allow buyers within their region to purchase at lower prices. Other irrigators selling to buyers in the eastern region are getting better prices, with the effect that the coefficient in the sellers' model indicates a smaller price reduction with a much larger standard error representing the higher level of variation.

This reduction in prices in the southwestern region is not significant in the second study period. This can be caused by two factors. First, some spatial restrictions on trade have been removed and second, sellers in the market might be better informed about their options and about price levels within the GMID. This suggestion could be supported by the fact that the use of water brokers went up by 47% from the first to the second study period. In conclusion, early markets failed to be efficient due to inefficient information lfows and spatial and other restrictions on trade.

In SA, spatial restrictions were not imposed during any of the study periods. However, it was not possible to trade between irrigation areas and private diverters during the first period. As a consequence, only 26% of all transfers took place within irrigation areas during the first study period.

During the second period, 26.3% of the buyers were from irrigation areas compared to 70.9% for the sellers. The proportion of irrigation area sellers thus increased by 170%, while the proportion of buyers remained unchanged. Price variations caused by location were not as predominant in SA. In the first study period, the only spatial variable of significance was that buyers within the Waikerie irrigation area paid A$90.71/ML more. This is the major citrus growing area and during the first study period the citrus industry experienced good profits compared to other commodities.

During the second study period, when irrigation area irrigators became more active in the market, spatial issues as well as irrigator type became more significant in the models. The models in Appendix 4 indicate that private diverter paid A$46.65/ML more than irrigators within irrigation areas. The sellers' model indicated that private diverters sold for A$17.33/ML more than sellers within irrigation areas. As in the similar model for the sellers within the GMID, it was found that the standard error of the coefficient in the sellers' model was quite large and the coefficient therefore only significant at the 0.1 level.

This is caused by the fact that most irrigation area sellers sold to private diverters and therefore sold at higher prices, while irrigators selling within and between irrigation areas sold for less. This difference in market behaviour produces higher variation and must be a result of lack of information flow in an inefficient market. This is also reflected in the variable "use broker". If the seller used a broker the seller received A$22.17/ML more corresponding with the findings of Challen (2000) among the buyers.

Within irrigation areas the irrigators selling to private diverters used brokers more frequently than those selling to other irrigation area irrigators. The use of broker is a proxy for market proficiency as discussed by Brown et al (1982). The sellers using a broker benefit from the broker's market knowledge.

Finally, water sold out of the Lakes area sold for A$40.47/ML less. This is not a reduction caused by restrictions on trade or different classes of irrigators. It must be an expression of market inefficiencies. Water sellers within the Lakes area were mainly low value producers with broad acre production or no water use at all. Water therefore had a relative low value to these sellers. They must have accepted lower prices out of ignorance about the real value of water for high-value producing irrigators in the Riverland approximately 400-600 km upriver.

In reality an irrigation area irrigator in the Riverland sold water for A$23.14/ML more than a private diverter in the Lakes area. These findings are contrary to those of Challen (2000) but in accordance with expectations.

The difference in the findings could be due to the fact that the result in this study is based on analysis of irrigators selling water out of the Lakes area while Challen's model is based on irrigators buying water into the Lakes area. The sellers within this area are low value inefficient irrigators or irrigators who never used their water, while the buyers within this area are predominantly vineyard, both new greenfield developments and expansions of existing operations.

C. Water use efficiency

Various measures of and proxies for water use efficiency were included in all models. During the first study period in SA irrigation methods were included in both the buyers' and sellers' models (Appendix 3). The buyers' model clearly indicated that the more

efficient the irrigation method the more the buyers were willing to pay.

For each hectare the buyers had with drip irrigation, they would pay an additional A$5.17/ML. The other irrigation methods had a negative impact on the willingness to pay: micro jet sprinklers by A$0.15/ha/ML, overhead sprinklers by A$0.63/ha/ML and furrow or flood irrigators by A$1.96/ha/ML. That furrow and flood irrigators were capable of buying water at a lower price indicates inefficiencies in a thin market where no other buyers are present, or where lack of market information prevents sellers and buyers from identifying each other.

This lack of information caused the Department of Environment and Natural Resources to publish a list of all licence holders giving information about entitlement and actual water use in 1994 to assist buyers in identifying potential sellers.

The sellers' model indicated that irrigators using micro jet sprinklers, which is one of the most efficient irrigation methods for horticultural crops, sold water for A$20.02/ML more for each hectare being irrigated by micro jet sprinklers. This could represent irrigators selling water which has become surplus due to the introduction of a more efficient irrigation method. Such irrigators were in a position where *they* did not have to sell. They were located within the Riverland, where most of the demand was and therefore were most likely to establish contact with potential buyers.

During the second study period (Appendix 4) the issue of irrigation method was not significant. This represents a maturing in the market. That the inefficient irrigators were no longer capable of buying at lower prices might be a result of better knowledge about supply and demand along the river.

This could reflect the increased use of brokers as well as the release of the list of water entitlement and water use figures in 1994. This is a positive development from both an economic and environmental perspective. The only irrigation method represented during the second study period was centre pivot in the sellers' model. Sellers having 100% of their irrigated area under centre pivot sold for A$50/ML less. Centre pivot is the most efficient irrigation method for broad acre and vegetable crops and therefore most commonly found in the Lower Murray and the Lakes area. This price reduction is therefore likely to be a proxy for the low value producing broad acre farmers in the lower reaches of the river.

Within the GMID it was not expected that irrigation methods would be an important issue due to the predominance of gravity irrigation. However drainage, laser grading and re-use systems were likely measures for water use efficiency. Within both the sellers' and buyers' models and during both study periods the presence and extent of off-farm drainage access were significant price determinants.

During the first study period the measure was the cost of drainage. The higher the drainage cost paid to the GMW the higher the price. The drainage cost depends on how big a proportion of the irrigated area is connected to public off-farm drains. During the second study period both the sellers and buyers paid and got approximately A$18/ML more if they had access to off-farm drainage either in the form of public or private drains.

D. The value of commodities produced and the productivity of buyers and sellers

The types of production, as well as various measures of the productivity of the buyers' and sellers' properties, were represented in all models. In SA, water use was only significant in the sellers' model during the first study period. The sales price decreased the larger the proportion of the irrigated area in citrus, and increased the larger the area in stone fruit. That some citrus growers sold water for lower prices during that period, when the citrus industry was otherwise experiencing a good time, must reflect inefficient irrigators with low quality planting not capable of maintaining production and profits at a level representative of the citrus industry in general.

During the second study period, vegetable and horticultural growers, except citrus, paid highest prices followed by vine growers. Vine growers paid less for water because they purchased large volumes of water for major new developments and therefore operated from a position of strength. That citrus growers paid less reflects the findings in the irrigated land market during that period that water used for citrus production did not command its previously higher prices (Bjornlund, 2001) and reflects the changing fortune of the citrus industry due to increased competition for cheaper imported concentrates as tariffs were reduced. The findings regarding citrus are also supported by the work of Challen (2000) who found that prices for oranges for processing (Valencia) was the most significant commodity price affecting the price of water.

The buyers' model showed that irrigators wanting to increase the application of water on existing crops were willing to pay higher prices. This could indicate that these buyers expected to increase productivity from existing infrastructure without any further cost. The marginal value of water applied for this purpose is likely to be high. Buyers wanting to apply the water on new crops were also willing to pay higher prices. This could reflect that these buyers are going to apply the water on choice soils, using the most productive varieties and most efficient irrigation technology. Finally, buyers wanting to expand existing crops paid less for water. These buyers are mainly within irrigation areas where the price level generally is lower and where soils are likely to suffer from the long-term impact of irrigation reducing the productivity of water.

In the Riverland, sandy soils are considered the

most productive soil type for horticultural crops, especially citrus. It was therefore not unexpected that the sellers' model during the first study period showed that the price increased with the proportion of the irrigated area with sandy soils. This is likely to be a measure of the more efficient farmers selling marginal proportions of unused water and therefore not in a position where they have to sell below going prices. It is also likely to represent the fact that citrus was the economically best performing crop during the first study period.

The sellers' model during the first study period also showed that sellers, perceiving that they had severe water quality problems, were selling at lower prices. This is likely to represent inefficient producers farming in unsuitable locations such as anabranches or other backwaters, where water quality is worse than in the main river. Such irrigators will have a low production and their planting and other irrigation infrastructure will therefore have lost all or part of their value. Irrigators in this position are often in financial difficulties and under pressure to sell, and are therefore willing or forced to accept lower prices.

Within the GMID both the first and second study period showed that price was related to the area of permanent pasture for dairy, which is the highest value water use in the area. The buyers are willing to pay increases with the area in permanent pastures for dairy, while the sellers are willing to accept lower prices the larger the area in annual pastures.

During the second study period, dairy had a dual impact on sales prices. First, the larger the proportion of the selling farm in dairy production the lower the sales price. Second, for each hectare the selling property has in permanent pastures for dairy the higher the sales price. This reflects the findings of the first study period, that the more land the sellers had with annual pastures for dairy the lower the price, since the presence of annual pastures for dairy raises the percentage of the farm in dairy production.

This was tested by replacing the variable "percentage of irrigated land in dairy" with the variable "number of hectares with annual pastures for dairy". In this model the latter variable was significant with a negative sign, confirming the findings of the first study period. Introducing this variable into the model however resulted in the variable "number of hectares with permanent pastures for dairy" being insignificant and an overall reduction in the explanatory power.

The test however confirmed that the two dairy variables in the model reflect that irrigators with many hectares of permanent pastures for dairy are selling at a premium, whereas the presence of annual pastures for dairy cause a reduction in price. This suggests that efficient dairy farmers with excess water sold at a premium, whereas less efficient dairy farmers sold at lower prices.

Buyers who intended to expand their irrigated area for cattle production and sellers who intended to reduce their irrigated area for cattle as a consequence of the water transfers, bought and sold for higher prices. This could indicate that the cattle industry has niches of high profitability. Irrigators expanding into these segments of the market are willing to pay good prices. For the buyers it could also reflect the fact that a significant proportion of the buyers expanding their cattle production consisted of non-commercial farm properties. Other irrigators electing to reduce their irrigated area for cattle must be doing so as a rational business decision rather than out of financial distress and therefore able to sell at higher prices.

E. The volume of water traded

The volume of water traded was significant in more than half the models. However, the impact on price was not consistent, reflecting both the findings of Colby et al (1993) and the arguments presented by Howe et al (1990).

During the first study period in SA prices decreased with volume traded. In the buyers' model this was reflected by the coefficient having a positive sign and a reciprocal functional form. Buyers were willing to pay almost A$77/ML more, if they bought one ML and A$7.7/ML extra if they bought 10 ML. One of the reasons could be that most of the small volumes were traded within irrigation areas, where buyers did not have to produce an irrigation drainage and management plan as a part of the transfer process thus lowering transfer costs and increasing the willingness to pay, and probably also because many of the buyers of small volumes were hobby or "lifestyle" farmers willing to pay a premium in pursuit of their non-economic objectives. In the sellers' model, this was reflected by the coefficient having a negative sign and linear form indicating that for each ML increase in the volume traded, sellers received a lower price following the findings of Colby et al (1993).

During the second study period, both the sellers' and the buyers' model showed that small volumes traded at lower prices. The coefficients had a negative sign and followed a reciprocal functional form. Buyers would pay $89/ML less if they purchased only 1 ML and A$8.9/ML less if they purchased 10 ML. This could reflect that the department tightened the transfer procedures for small transfers significantly increasing per ML costs for small transfers.

The same trend was found in the buyers' model during the first study periods within the GMID. The reduction for 1 ML here was A$141 reducing to A$14.10/ML if 10 ML were purchased. Both of these findings support the arguments of Howe et al (1990). That most models had volume in a reciprocal form clearly indicates that the price differences are most important for very small volumes, as the volume increases the price difference decreases rapidly.

F. The bargaining strength of buyers and sellers

The bargaining position of the buyers and sellers

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can be difficult to measure and quantify. A number of variables indicating the market power and financial strength of the buyer and seller or variables functioning as proxies for such factors were included in most models. Size of the sellers and buyers either in form of the number of irrigated hectares or the volume of water entitlements were significant in most models. The theory was that the larger buyers and sellers were negotiating from a position of strength. The larger irrigators are more likely to be able to conduct the sale or purchase at a time of their choice, that is, when better prices can be achieved.

During the first study period in SA, the entitlement of the sellers was significant, showing that the larger the entitlement the higher the sales prices. During the second study period, the sellers' model included the variable "number of irrigated hectares", which is closely related to the size of the entitlement.

That model indicated that the larger the sellers' irrigated area, the higher the sales price. The buyers' model for the second study period showed that buyers who did not have any prior entitlement, paid $19 less. This reflects that many of the buyers not having any prior entitlement, were large new enterprises such as vineyards, purchasing large quantities of water. This again must represent a position of strength in the bargaining process.

Within the GMID a similar relationship was found. During the first period sales prices increased with property size. The functional form of the variable indicates that the increase was most significant for small farm sizes. The second period found a negative relationship between the number of irrigated hectares and sales price, the variable followed a linear form and the reduction was only minor with a reduction of 6 cents per ha or A$6.00/ML for a property with 100 ha. This is likely to represent the large extensively farmed irrigated properties in the two western regions.

Irrigators within the GMID have a tradition of using large quantities of annual sales-water and in many instances have established permanent pastures on the strength of such annual allocations. It was therefore considered that the extent to which the buyers and sellers used their water right prior to sale should be an indicator of their bargaining position.

A buyer using in excess of 130% of their water right prior to purchase must have been under some pressure to increase their water right within an environment of declining annual sales-water allocations. In the same way, it must be considered that sellers having used in excess of 130% of their water right prior to sale must be under some kind of pressure to sell. Such a sale will cause a reduction of their existing irrigated area or increased exposure to future cuts in annual sales-water allocations.

During the first study period the percentage of allocation used was significant in both the sellers' and the buyers' models. The buyers' model indicated that the larger the proportion of their water right the buyers used, the more they were willing to pay. A buyer using 200% of water right was willing to pay a premium of A$28/ML. The sellers' function followed a squared form. This indicated that the price reduction accelerated, the larger the proportion of the water right the seller used. A seller using 200% of water right was willing to accept a price reduction of A$72/ML.

G. The impact of personal factors on the willingness to pay and accept prices

The final factor analysed was the sellers' personal characteristics. These are factors such as age, length of farm ownership and the reasons for selling and buying. In SA, the model for the second period reflected two factors: the sellers' age and the importance of "retire" as the reason for selling.

Older farmers sold at lower prices with an irrigator of 70 years selling for A$30.50/ML less than a seller at 40. This could reflect inefficient farmers, who have not kept their farm up to date and are now selling, because the farm has become unviable. On the other hand, older farmers, who are selling because they make a conscious decision to retire, and therefore intend to use the proceeds from the sale as part of their retirement plan, are selling for higher prices by as much as A$27/ML.

This difference might reflect their different position in the bargaining process. The older farmer selling to retire might more properly have investigated what water prices were and be able to time the sale to get a better price. On the other hand, the inefficient older farmer might be under financial, health or family pressure to sell and therefore did not find out what the proper market price was, or was unable to hold on to the water until a higher price was offered.

Within the GMID, the sellers' model for the second study period included the variable "years of farm ownership". This variable indicated that the longer the sellers have owned the property the lower the sales price. As with the variable "hectare irrigated" in the same model, "years of farm ownership" has a fairly insignificant impact on sales prices. It is likely to represent farms in the southwestern region where the largest proportion of the sellers (75%) had owned their properties for 10 or more years.

The sellers' model also indicated that sellers who made a conscious decision to reduce the irrigated area, possibly as part of a restructuring of the property and as part of a whole farm plan, sold at higher prices.

H. The awareness of prevailing market prices among buyers and sellers

The buyers' and sellers' perception of the agreed price as being either cheap or expensive was included in most models as an indicator of the market participants' knowledge of the prevailing market prices.

During the first study period only the buyers were asked to rate how they perceived the price as being

very cheap to very expensive on a one to seven scale. The variable was significant at the 0.01 level within both study areas, clearly indicating that the buyers were well aware when they managed to buy water at a good price, and when they had to pay a high price to get what they needed. During the second study period, both the sellers and buyers were asked about their perception of the price. In SA, this variable was not significant in either the buyers' nor the sellers' model.

This could reflect the graphs in Figure 1 showing a narrowing of the gap between the minimum and the maximum prices as well as the sharp fall in standard deviations. This indicates that the market has matured and that bargains are not available any more.

Within the GMID, the buyers' perception was still significant at the 0.01 level reflecting the significant dispersion between minimum and maximum prices shown in Figure 2. The variable fails to be significant in the sellers' model. This could indicate that the sellers are less aware of the prevailing market conditions and are not aware when they sell water at less than the going price, which corresponds with the general lower adjusted R2 values of the sellers' model. This indicates a still immature water market.

Signs of maturity in water markets

The following provides a review of the major indicators of a maturing market within the two study regions both based on the hedonic models discussed in this paper and events in the permanent water markets since the end of the study period.

Within the GMID:

- The removal of barriers to trade between irrigation areas and private diverters resulted in higher volumes of water traded and a reduction in the price difference between the two types of water entitlements.
- The price difference between the eastern part and the southwesten part disappeared from the first to the second period indicating a better flow of information and the easing of some restrictions on trade.
- The use of market facilitators increased from the first to the second study period by 36% for buyers and 47% for sellers (Bjornlund and McKay, 1999).
- Significant increase in market activity since the end of the study period.

Along the River Murray in SA:

- Also in SA the removal of barriers to trade between irrigation areas and private diverters resulted in an increase in the volume of water traded.
- Irrigators within irrigation areas, aware of the ability to sell to private diverters, obtained a better price.
- The use of brokers increased from the first to the second study period by 35% for sellers and 8% for buyers (Bjornlund and McKay, 1999).
- During the first study period inefficient irrigators were able to buy water at much lower prices due to lack of market information. This was not the case during the second study period when the relevant department had increased the information level about supply and demand and the use of brokers had increased.
- Price dispersion was significantly reduced: the standard deviation of prices went down from 18% to 6% of the mean quarterly price.
- The buyers' perception of the price as cheap or expensive ceased to be efficient in the second study period reflecting the reduced price dispersion.

Conclusions

This paper has analysed transactions in the permanent water markets in Victoria and South Australia prior to December 1996. Hedonic models were applied to transactions during two time periods: before and after 1995. This year was chosen because in both states trade was made possible between irrigation area irrigators and private diverters, significantly freeing up market operations.

In both states market activities increased significantly in the previously subdued section of the market. In South Australia this section was irrigation areas where significant volumes of excess water existed and limited space was available for expansion. As a result of the changes in 1995 the number of water sales by irrigation area irrigators increased by more than 170%, with all the increase being sold to private diverters, where the bulk of expansion took place within viticulture and horticulture.

In Victoria the subdued section was among private diverters with significant volumes of unused water and predominantly low value water uses. Sales by private diverters therefore increased significantly after 1995, with the increase predominantly going to irrigation areas, where demand was high from the dairy industry.

The price difference between the two sections in the market evened out, however, if trade took place between a buyer and a seller both within the subdued section, water was still trading at a lower price. Spatial restrictions on trade also exist in Victoria. The analysis showed that the more restricted the market, the lower the price and as restrictions eased and annual allocations were evened out, prices became more uniform.

Within a sector of the GMID, with low value production and significant salinity problems, water sold at lower prices during the first study period. This difference was reduced after 1995. However, it was again found that if trade took place between buyers and sellers both within the low value producing area, water was still traded at lower prices.

The above findings suggest that price dispersion did decline over time as irrigators gained more experience with market operations, suggesting that markets have matured. However, it is also suggested that there is still an inefficient flow of market information causing some irrigators to sell at lower prices. Since 1996 markets have matured further with

increased use of water brokers and the emergence of water exchanges (Bjornlund and McKay, 2001b) and this process is ongoing (Bjornlund 2000 and Bjornlund and McKay, 2001a).

Three other main findings emerged: 1) efficient and higher valued irrigators were willing to pay higher prices and capable of achieving higher prices when selling; 2) buyers and sellers in the strongest bargaining position paid lower prices and received higher prices; and 3) older farmers tended to sell for lower prices unless they did so as part of a planned retirement process.

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APPENDIXI

Hedonic Models Water Transfers within GMID, 1992-94

Variables:	Buyers model (i	SEp	Seller model a	SE3	Functional form/sellers
Private diverter	-167.93	11.70-	-84.82	14.48-	Dichotomous
Co, Ke, S.H.'	-85.79	7.35-	-107.07	11.06-	Dichotomous
P.H. and Boort	-32.33	14.08-*	-16.57	11.17yr	Dichotomous
Quantity (ML)'	-141.35	72.72-			
No allocation'	59.49	12.11-			
Use % of a11°	0.14	0.03-	-0.0018	0.0012y	Squared
PP dairy (ha)	0.11	0.06''			
AP dairy (%)			-2.06	0.98**	Linear
PP sheep (%)			8.35	3.42**	Log
Property size (ha)			3.29	0.66*	Square root
Drainage cost	4.87	1.91*	1.37	0.67*-	Squared
Quarter of transfer	-3.13	0.96-	-0.39	0.11 *	Squared
Increase ex. Crop'	2.55	1.02•			
Decrease irrigations			9.38	4.00**	Log
Perception of prices	6.28	2.25'			
Constant	268.85	14.96-	307.13	7.53*	
n	144		106		
Adj. R'	0.77168		0.6709		
SEE	29.83		31.57		
F	44.94		22.4		

'Sign. attbe 0.01 level, -Sig. at the 0.051evel, yr Sign. st the 0.1 Ievel (seta these tiro variables ere aignifinet uaisg a once tailed test, iilchean bejustiaed since the signs are as expected). (he)=numb*rofhactarm inthat lead once;(%)=% of total irrigation main'' land use; PP pernunem pastures; AP amual pastures m reciprocal ftmctional form, 2 the buyer had no aaoationprior to this purebsos 3The buyers or sellerS total allocation priorto this transaction, ° The buyer's orseller's *wa*ter use as * peroentage of their total atoca on priorto this tosses tioa 5 The importance of Increasing the area ofoxistiug sop (as rated bythe *buy*eron a 1-7 scale, 1= not imptiortant; 7= extremely importmt), a The importance of demsssiag the irrigated area (an rated by the eellert'The buyer or the seller me within the Northwestern part (Karen& Cohuoa and Swan Hii¢ 'th€ buyers perception ofthe price as being very cheap = I to 7-very e,pemive

APPENDIX 2

Hedonic Models Water Transfers, GMID, 1994-96

Variables:	Buyers model a	SE(i	Seller model P	SEa	
Private diverter (0,1)	-40.68	15.25•			
Buyer private diverter (1,0)			-34.27	10.17*	
Cohuna (0,1)	-66.62	10.22•			
Kerang (0,1)	-33.29	16.03**	-60.24	9.28*	
Shepparton (0,1)			-21.20	7.97•	
Rochester (0,1)	31.15	11.34*			
Hectare irrigated (ha)			- 0.06	0.02•	
Off-farm drainage (0,1)	18.12	10.14ty	18.22	6.63•	
Years of Fann ownership			- 0.40	0.17**	
Quarter of sale (squared)	0.76	0.12-	0.74	0.09•	
Perception of price (1-7)1	15.83	3.02*			
Water quality problems2	5.90	1.90•			
PP dairy (number of ha)				1.07	0.39•
PP dairy (a/o)	0.50	0.12•			
Dairy (a/o)			-0.44	0,11*	
Sheep (%)			0.29	0.08•	
Reduce cattle (ha)			1.06	0.24•	
Expand cattle (ha)	5.23	1.69•			
Constant	319.27	13.78-	387.22	6.89•	
n	125		114		
Adj. R2	0.58604		0.63475		
SEE	39.98		27.64		
F	18.55		18.85		

*Sign. at the 0.01 level, ** Sign. at the 0.05 level, 46ign. at the 0.1 level.
(z%i2= no%w oftotal irrigated area; (ha) =number of hectares in that land use; I see Table 1;
ater quality problems, 7 = severe problems.

APPENDIX 3

Hedonic Models The Water Market The River Murray SA, 1987-1993

	Buyers model		Seller model	
Variables:	p	SEP	3	SEP
Non-farming user (0,1)	38.83	17.09••		
Furrow irrigation (ha)	- 1.96	1.123,		
Overhead sprinklers (ha)	-0.63	0.363,		
Drip irrigation (ha)	5.17	1.63		
Under canopy (ha)	*-0.15*	0.04"		
Micro jet sprinklers (ha)			20.02	7.20"
Quantity sold (ML)'	76.90	36.50**		
Quantity sold (ML)			-0.10	0.04"
Allocation (ML)			0.03	0.0153,
Quarter of sale (1-28)	2.06	0.59"	1.39	0.733,
Perception of price (1-7)2	24.79	4.19"		
In Waikerie lA (0,1)	90.71	21.12"		
Land in citrus (a/o)			-1.21	0.28"
land in stone fruit (%)			0.37	0.24
Land with sandy soil (%)			0.34	0.13
Water salinity problems (1-7)'			-14.02	3.27"
Constant	210.90	20.89"	339.19	15.46"
n	114		84	
R2	0.545		0.441	
F	16.05		9.19	
SEE	45.60		51.39	

*Sign. at the 0.01 level, **Sign. it the 0.05 level, pSiga. at the 0.1 level (all two tailed)
(he) =number of hectares in that land with that characteristic, (%)= %or irrigated land with that characteristics ' Size of transfer were included in the reciprocal functional form.' see Table 1; ' same as for water quality problems in Table 2

APPENDIX 4

Hedonic Models The Water Market, River Murray in SA, 1994-96

	Buyers model		Seller model	
Variables:	P	SEP	D	SEP
Quarters since sale (1-12)'	-0.88	0.06•	- 1.03	0.11"
No prior allocation (0,1)	-19.06	8.42**		
Land in vine (*/r)	0.15	0.083,		
Land vegetables or horticulture excl. citrus (%)	0.28	0.09"		
Land in vegetables (%)			-0.39	0.11*
Expand under canopy (ha)	-0.30	0.13**		
Land with centre pivot (%)			- 0.58	0.25**
Private diverter (0,1)	46.65	7.33"	17.33	9.653
Lakes Area (0,1)			-40.47	20.29**
Quantity sold (ML)2	-89.15	30.49"	-46.68	24.39**
Irrigated land (ha)			0.29	0.05"
Increase area of existing crop (1-7)'	- 3.08	1.18"		
Increase water on existing crop (1-7)'	3.12	1.20"		
Grow new crops (1-7)'	2.01	1.243,		
Retire (1-7)'			3.91	2.223,
Sellers age (years)			-1.15	0.32"
Use broker (0,1)			22.17	8.42"
Constant 506.12	11.76*	580.53	16.48*	
n	156		101	
R2	0.689		0.600	
F	35.55		16.00	
SEE	34.71		32.49	

* Sig. at the 0.01 level, ** Sign. at the 0.05 level, rpSign. at the 0.1 level (alt two tailed)
(he) = number of hectares in that land with that characteristic, (%) = % orr irigated land with that characteristics. 'using a squared functional form, ' using a reciprocal functional form,' reasons *for* selling and buying: I-not important to 7 = very important

How the new Local Government Bill deals with property issues

The Public Works Act is also under review, with a bill expected to follow the submissions on the discussion paper. The major feature of the Bill is that it gives territorial authorities the same capacity to carry out any activity as companies currently have. Presently, territorial authorities need specific authority under the Act, or other legislation, to undertake any activity. We set out below a comparison between the current position in the Act and what the Bill proposes.

Acquiring and maintaining property

Current

LGA 225 - Councils may acquire and maintain property necessary for the efficient and effective performance of their functions.

LGA 225(2) and 247F and section (16) of the Public Works Act empower councils to acquire land under the Public Works Act for public work.

Proposed

LGB 9(2) full capacity will entitle councils to acquire the land they need for their purposes.

LGB 165 authorises councils to purchase, or take in the manner provided in the Public Works Act, land for the purposes of or in connection with any work councils were empowered to undertake before July 1, 2003.

Comment

LGB 165 seems unnecessary and confusing. The clause can be interpreted so councils can only purchase land for public works. Possibly, councils' full capacity could be read down in respect of the purchase of land, by the specific provision in the Bill clause 165.

The reference back to what could be done before July 1, 2003 will create difficulty in the future as councils will have to refer back to what could be done. The Public Works Act itself is the subject of review, so there may not be any body of precedent under any new legislation as at July 1, 2003.

Section 16 of the Public Works Act empowers councils to acquire land under the Public Works Act for any "local work". Under the Public Works Act local work means: "A work constructed or intended to be constructed by or under the control of a local authority, or for the time being under the control of a local authority."

That definition and Section16 provide a wide power for councils to use the Public Works Act for works. Where councils need to acquire land for non-public works, councils' full capacity would enable them to seek to acquire the land in the same manner as anyone else.

The review of Public Works Act will deal with the extent to which councils can compulsorily acquire land and what they must do when they wish to dispose of public works land. There is no need to bring those issues into LGB.

Purchasing land by installments

Current

LGA 228 entitles councils to acquire land by installments.

Proposed

LGB 9(2) full capacity will allow this.

Power to sell

Current

LGA 230 power to sell subject to the passing of a resolution following public notice. The power to sell is restricted by the procedures and requirements of various other statutes, eg, the Public Works Act and Reserves Act 1977 (RA).

LGA 572 power to develop and sell property held for commercial or industrial purposes.

Proposed

LGB 9(2) full capacity will enable councils to dispose of land. However, this is restricted by:

- LGB schedule 5 clause 31(1)(c) which prevents councils from delegating the power to purchase or dispose of assets, other than in accordance with the long term council community plan.

- LGB 126 which imposes restrictions on the disposal of parks.

- LGB 128 which imposes restrictions on the disposal of endowment property or land held on trust.

However, the Bill clause 128 is more liberal than the Act section 230 as the minister may approve other uses of such property. Councils can still sell such property unless the instrument of endowment or trust prohibits this. The Act required councils to apply the proceeds to the purchase of other land. The Bill entitles council to apply the proceeds to another purpose identified by them as long as they attempt to contact the donor of the land and ascertain their views, and the council has notified its intention to dispose of the property in its long-term community plan. - The processes to be dealt with for the disposal of land in the Public Works Act and Reserves Act.

Leasing

Current

LGA 231 - general leasing power, which constitutes councils leasing authorities under the Public Bodies Leases Act (PBLA). This has the effect of making that Act apply to council leases, unless otherwise stated.

LGA 232 relating to cinemas.

LGA 233 relating to leases to other territorial authorities.

LGA 236 relating to leases to the Crown.

LGA 341 relating to leases of space above and below roads. This provision remains as part XXI of the Act will not be repealed.

LGA 345 relating to leases of land not required for road stays as per the Act section 341.

LGA 553-557 and 560 and 561 relating to leases of flats and houses and leases of land held for housing.

LGA 572 relating to leases of land held for commercial or industrial purposes.

LGA 591 relating to carpark leases.

LGA 596 leases for purposes relating to promoting public health and wellbeing.

LGA 597 leases relating to medical practitioners' surgeries.

LGA 598 leases relating to promoting community welfare.

LGA 601 - leases relating to promoting recreation and community development.

LGA 661 - relating to leases of stock dips.

Proposed

LGB 9(2) full capacity, plus the Act sections 341 and 345 relating to roads.

LGB 260 states councils will cease to be leasing authorities under the PBLA from when the Bill comes into force. However, PBLA will continue to apply to existing leases under PBLA and renewals of those leases. The specific powers of leasing in section (45) of the Public Works Act and the Reserves Act will continue to apply.

LGB 9(2) full capacity will be restricted to the extent of provisions in trust or endowment instruments. Leasing provisions of the Burials and Cremations Act will continue to apply.

Easements

Current

LGA 235 - power to grant easements.

LGA 238 power to grant easements under road for conduits for petroleum and other purposes this remains as part XXI of the Act will not be repealed.

Proposed

LGB 9(2) full capacity, but restricted by specific provisions of the Reserves Act and the Public Works Act and any specific provisions of trust or endowment instruments.

Development and use of property

Current

LGA Part XXXII Land Development for Housing, Commercial and Industrial Purposes.

LGA Part XXXIII Farming and Afforestation.

LGA Part XXXVI Recreation and Community Development.

LGA Part XXXIIX Urban Renewal.

Proposed

LGB 9(2) full capacity.

Mel Easton is *a partner* at Phillips Fox.

Local Government (Rating) Bill passed

The new Bill represents a significant overhaul of the previous rating legislation, with the government endeavouring to update and simplify existing powers and responsibilities to meet the needs of modern local authorities.

There were some last minute changes to the Bill as it went through the committee of the House. These include:

- clarification that the transitional provision for leases entered into before August 8, 2001 continues to apply if a lease is renewed by a lessee on the same terms and conditions;
- the introduction of a new power allowing the government to bring in regulations prescribing how local authorities may assess rates for sewage disposal on land used by educational establishments but only after consultation and the preparation of a government report;
- the removal of proposed category which would have allowed targeted rates to be charged by reference to the number of visitor stay units in a rating unit preventing councils from charging "bed taxes";
- an amendment to the Local Government Act 1974 clarifying that "internal borrowing" by a local authority is permissible;
- further consequential amendments to the Rating Valuations Act 1998; and
- various other minor amendments to "tidy up" the Bill.

The new Bill applies for the rating year beginning July 1, 2003.

Local authorities will now need to audit and amend their rating processes to ensure that they comply with the requirements of the new Bill.

Chris Mitchell is *a partner at* Phillips Fox.

Summary case law

High Court

- Lease
- Valuation
- Maori Reserved Land Amendment Act 1998, s 4

A-G v Williams 5/11/01, Doogue J, RO Harrington, HC New Plymouth AP34-43/01

Lease - Valuation Farming leases of Maori reserved land in Taranaki Amendment to Maori Reserved Land Act changing terms of lease but allowing for compensation for leaseholders Two methods of assessing amount provided Compensation could be assessed under schedule or calculated by Land Valuation Tribunal Lessees' claim for compensation dealt with by Tribunal Crown appealed from Tribunal's assessment Whether Tribunal's approach to interpreting legislation correct Whether determination of market values wrong in fact Whether determination justifiable - Whether Tribunal's jurisdiction limited to awarding compensation for the three listed matters in s 4(1) Maori Reserved Land Amendment Act 1998.

Held, Tribunal's obligation was to comply with operative provisions - It is for Tribunal to determine value in accordance with valuation law Appropriate for Tribunal to treat value as of 1 January 2001 as consequence of factors referred to in s 4(1) - No basis for Crown to interfere with Tribunal's approach in using customary methods of determining market value of Taranaki dairy farms Open to Tribunal to accept tenure discount method adopted by lessees' valuers Tribunal entitled to infer that factors in s 4(1) were the only ones affecting value "Investment model" favoured by Crown not necessarily appropriate to farming operations Appeals dismissed.

(32pp)

High Court

- Unit titles
- Breach of rules
- Exemplary damages
- Appropriate defendants
- Whether fiduciary
- Strike out application
- Unit Titles Act 1972, ss 14(4), 37(11),(12), 40, 51 (2)

Manning v *Body Corporate* 12641129/11/0 1, Master Faire, HC Auckland CP89sd01

Strike out application Dispute between unit proprietor and secretary of body corporate Stratum estate in freehold for each of four principal units and an accessory unit pursuant to Unit Titles Act 1972 - Second defendant was secretary appointed by body corporate - Fourth and fifth defendants owners of principal units A and B and associated accessory unit Plaintiff owner of principal units C and D.

Under first cause of action plaintiff sought appointment of administrator to exercise powers of body corporate and its committee to exclusion of body corporate and its committee Defendants sought to strike out second to fifth defendants from this cause of action because no relief was sought against them.

Held, second to fifth defendants should not be struck out from first cause of action Third to fifth defendants' rights are affected by the making of an order under s 40 - Second defendant would be affected by appointment of administrator by virtue of s 40(3).

Under third cause of action plaintiff sought general damages of $15,000 and punitive damages of $20,000 against second defendant for breach of duty Defendants submitted that plaintiff's claim for damages should not be allowed because no recognisable psychological injury had been pleaded and therefore compensatory damages could not be allowed Whether primary victim of negligence can recover damages for mental injury falling short of recognisable psychiatric illness.

Held, in a negligence claim for mental injury a plaintiff cannot recover damages for mental states such as distress or humiliation which fall short of recognisable psychiatric illness Defendant must have performed an actionable wrong for plaintiff to be entitled to exemplary damages No recoverable loss has been caused and no cause of action has been made out Third cause of action struck out.

Under fourth cause of action plaintiff contends second defendant has breached its statutory duty to plaintiff Plaintiff sought damages under s 37(12) - Defendant submitted it is not under a statutory duty and s 37(12) does not give plaintiff cause of action against it.

Held, s 37(11) defines who is bound by the rules and therefore who can be sued for breach of statutory duty under subs (12) - Subsection (11) does not designate corporate secretary and therefore no action under s 37(12) can succeed against it Fourth cause of action struck out.

Under fifth cause of action plaintiff alleged second defendant breached fiduciary duty to plaintiff Whether the defendant owed fiduciary duty to plaintiff.

Held, no generally accepted fiduciary relationship exists between body corporate secretary and individual proprietors such as exists between lawyer and client etc - On assessment it was clear secretary was not fiduciary - Fifth cause of action struck out.

Under sixth cause of action plaintiff claimed defendant chairman of committee breached statutory

duties and was liable under s 37(12)(b) - Whether chairman breached duty imposed on him pursuant to rules.

Held, submission that plaintiff could only sue body corporate and not individual proprietors for breach of rules was rejected - The committee exercise powers and duties of body corporate Individual committee members must be under duty to perform duties of body corporate - Where rules are breached the body corporate has breached the rules and the committee members have breached their obligation to abide by the same rules Any other construction would render a Court order enforcing the rules nugatory Sixth cause of action not struck out.

Seventh cause of action alleges defendant chairman of body corporate committee owes fiduciary duty to plaintiff.

Held, chairman not fiduciary Seventh cause of action struck out.

Orders made accordingly.

(19pp)

Court of Appeal

- Appeal
- Procedure
- Summary judgment
- Boundaries
- Contract

Junior Farms Ltd v *Ormiston Park* Estate Ltd 13/12/01, CA209/01

Appeal by plaintiff Plaintiff had sought to sell floodplain area surrounding stream to local council Area on two certificates of title limited as to parcels - Plaintiff later agreed to sell 50 acres of land to Hampton Securities Ltd as industrial land Boundaries uncertain - Agreement for sale of land by Hampton to Ormiston Ormiston's parent company Farmers Deka guaranteed sale Ormiston's surveyors prepared plan dividing land into 3 lots - Plaintiff claimed it had only sold 50 acres with the balance to be reconveyed to it Claim that Hampton had agreed to compensate it if Ormiston obtained more than 50 acres Whether plaintiff's case sustainable.

Held, letter relied on by plaintiff did not contemplate retransfer of anything but floodplain When consenting to plan deposit to allow floodplain to be retransferred plaintiff made no mention of other lots - Claim could not succeed Appeal dismissed.

(9pp)

High Court

- Lease
- Assignment
- Consent

Laurence Farms *Ltd* v Richardson Chapman 6/11/01, Master Thomson, HC Wellington CP182/01

Lease - Assignment Consent - Application to set aside default judgments against defendant Whether defendant released from continuing liability under lease - Whether Fair Trading Act breached Whether assignment clause in lease breached by failure to obtain plaintiff's consent and deed of guarantee Whether plaintiff's claims subject to arbitration agreement in lease Whether substantial defences existed Whether failure to file excusable - Whether judgment irregularly obtained.

Held, material before the Court raised genuine dispute Defendant's delay not sufficient to convince Court that leave should not be granted for that reason alone - Plaintiff had rightly conceded it would not be irreparably harmed by granting of application Application granted.

(7pp)

Court of Appeal

- Agreement for sale and purchase
- Deposit payable in instalments
- Forfeiture of instalments made
- Requirement to pay balance of deposit
- Contractual Remedies Act 1979, ss 5, 8, 9

Garratt v Ikeda 13/9/01, CA44/01

Appellant unconditionally agreed to buy residential property from respondent for $1,830,000 - Standard form contract required appellant to pay $180,000 deposit in three instalments - Appellant paid first two instalments of $25,000 each but failed to pay third instalment of $130,000 Respondent allowed extension of time - When third instalment still had not been paid respondent validly cancelled contract keeping $50,000 - Summary judgment was granted in respondent's favour for recovery of $130,000 (balance of deposit) plus interest Appellant appeals - Whether obligation to pay balance of deposit was extinguished by respondent's cancellation (s 8(3)(a) Contractual Remedies Act) - Whether s 9 Contractual Remedies Act provides relief.

Held, s 8(3)(a) does not divest unconditionally accrued rights Unconditionally means there must be no impediment to enforcement of right at point of cancellation An unpaid deposit is recoverable after cancellation as an obligation already unconditionally existing Respondent did not have to give another notice of cancellation after his first one - Contract expressly made time of essence for all three instalment dates Relief under s 9 was precluded by 's 5 Contractual Remedies Act Relief would not have been granted at any rate - There was no reason to depart from ordinary cancellation rules Appeal dismissed.

(23 pp)

High Court

- Civil procedure
- Injunction
- Lease
- Distress

Lloyd *Holdings Ltd* v Hudson *Ltd* 5/12/01, Morris J,

HC Auckland CP592-S

Civil procedure - Application for interim injunction to prevent defendant lessor from distraining against plaintiff's chattels pending hearing Lessor sublet premises to law firm Defendant owned next-door premises, had planned demolition work Representations made to plaintiff that inconvenience would be minimal and rent could be reconsidered if demolition and reconstruction effects caused problems - Effects made it difficult for sublessor to carry on business - Plaintiff claimed it had suffered losses - Plaintiff withheld rent as set-off against breach of quiet enjoyment clause in lease - Rent paid into special bank account - Defendant advised plaintiff that it intended to distrain for rent - Whether serious question to be tried - Whether damages adequate remedy.

Held, not clear that defendant was responsible for construction company's activities which had caused problems - No evidence that defendant had authorised actions complained of Nothing to suggest that arrangements with construction companies fictitious thus justifying lifting of "corporate veil" - Discharge of interim injunction ordered.

(8PP)

High Court

- Building Act
- Conviction
- Unsafe dwelling
- Admission of further evidence
- Building Act 1991, s 80(1)(b); Summary Proceedings Act 1957, s 119(3)

Law v Wilson 13/12/01, Glazebrook J, HC Auckland A110/01, A113/01

Appellants were found guilty of permitting building to be used by tenants (couple with four children) as dwelling house when building was not safe or sanitary for that purpose - Fined $40,500 - Appellants appeal conviction and sentence Seek leave to adduce further evidence - Effects of hydroponic marijuana cultivation Evidence from pest expert and evidence going to character of tenants Whether evidence available at trial - Whether relevant, capable of belief and might effect outcome of trial - Whether in interest of justice.

Held, above tests met - Leave granted to adduce further evidence.

(8pp)

High Court

- Maori land
- Status
- Rehearing
- Application out of time
- Land Transfer Act 1952, s 62; Te Ture Whenua Maori Act 1993, ss 43, 81, 88, 122, 125, 133, 136, 140; Maori Land Court Rules 1994, rr 2(2), 21, 22, 24, 26, 34

Edwards v Mao*ri* Land Court 11/12/01, Ronald Young J, HC Wellington CP78/01

Plaintiffs have been sole owners of 133 hectares of Taranaki dairy land since 1993 - Plaintiffs signed contract with third defendants to sell land subject to Maori Land Court ("MLC") granting change of status from Maori freehold to general land MLC granted change of status Contract for sale of land became unconditional - Plaintiff's sisters objected to change of status and method by which change had occurred Injunction granted preventing transfer of land to third defendants MLC granted application for rehearing out of time - Present proceedings were filed before rehearing could be considered - In current proceedings plaintiffs seek judicial review of MLC's decision to grant rehearing and a quashing of that decision Alleged failure by MLC to consider and give reasons for granting leave to apply for rehearing out of time.

Held, grounds for judicial review were made out by plaintiffs - Judge needed to illustrate he had considered application for leave before considering the application for rehearing Judge failed to hear at all from plaintiffs and failed to give any reasons for decision Judicial review of MLC's decision granted Order of MLC quashed Application for leave to bring application for rehearing referred back to MLC for hearing Third defendants' application for specific performance adjourned pending resolution of MLC litigation.

(50pp)

High Court

Mortgage
Mortgagee sale
Property Law Act 1953, s 103A

Westpac Banking *Corp v* Down 14/12/01, Harrison J, HC Auckland, CP317-IMO 1

Mortgage - Mortgagee sale Westpac applied for summary judgment against Mr Down for amounts owing on three separate loans including $500,000 mortgage entered into on 25/3/99 for three-unit Christchurch property Mr Down defaulted on debts and Westpac sold his property at auction on 15/3/01 - Allegation that Westpac breached s 103A Property Law Act 1952 by not obtaining best price reasonably obtainable for property Whether Mr Down entitled to relief under Part I Credit Contracts Act 1981 - Westpac had obtained valuation indicating a combined value for the properties at $477,00 with a forced sale value of $405,000 - Mr Down had paid $780,000 in 1998 - Counsel for defence emphasised discrepancy between sale and purchase prices - Mr Down produced two undated agreements for sale and purchase: one for two units at purchase price of $500,000 and second for unit 3 at purchase price of $250,000.

Held, Mr Down had suffered from dramatic drop in property value - However, Westpac's process had been appropriate - Court required expert evidence that Westpac breached statutory duty Argument that

responsible bank officer would advise selling at top end of scale in price range of $405,000 to $477,000 lacked credibility No arguments of estoppel made Arguments that Westpac refused to give Mr Down details of transaction, or a copy of valuer's report stating that three units sold as block might yield price range of $365,000 to $385,000 not directly relevant Judgment for plaintiff Westpac entitled to costs on a 2B category.

(9pp)

High Court

- Residential tenancies
- Arrears owing
- Counterclaims
- Residential Tenancies Act 1986, ss 55(1), 77(2), 85, 119

O'Shea v Brown 14/12/01, O'Regan J, HC Auckland APIIO-PLO1

Residential tenancies - Ms B rented property from first appellant First appellant applied to Tribunal for termination of Ms B's tenancy alleging rent in arrears for 22 weeks - Ms B filed counterclaim Inspection by Auckland CC - Premises dangerous and unsanitary Ms B moved to accommodation owned by second appellant At hearing Tribunal ran out of time to hear all matters raised by second appellant and Ms B During hearing Ms B admitted rent had not been paid At end of allocated time Tribunal made order terminating tenancy and ordering payment of arrears to first appellant Tribunal subsequently heard Ms B's counterclaims and rejected them all Stay of orders was granted in District Court - District Court found Tribunal should have heard Ms B's counterclaims before terminating tenancy because s 55(1) did not exclude rules of equity Tribunal needed to determine whether Ms B had equitable right of set off before determining whether order under s 55(1) could be made Subsequent hearing of Ms B's counterclaims did not remedy deficiencies in earlier process because there was a degree of prejudice District Court judge quashed Tribunal's orders and ordered rehearing on all issues.

Held, District Court analysis is correct - Wording of s 55 does not over-ride analysis in Grant or Hamilton Ice Arena - Determination of landlord's claim for rent should in fairness involve determination of claims which could lead to equitable set off Tribunal should determine both landlord's claim and tenant's counterclaim before determining whether order should be made under ss 55 or 77(2) - Appeal dismissed.

(8pp)

High Court

- Breach of contract
- Misrepresentation
- Building Act 1991, s 91(2)

Klinac v Lehmann 6/12/01, Glazebrook J, HC Auckland AP15-01

Breach of contract Misrepresentation Appellant entered into agreement to sell property to respondent - Partial settlement effected leaving outstanding sum owed to appellant Appellant filed proceedings Respondent filed defence and counterclaim claiming that appellant had misrepresented status of building work and breached clauses of sale and purchase agreement Building work done several decades ago District judge, following a Hamilton CC decision, held that breach of contract claim statute barred by s 91(2) Building Act 1991 - Held misrepresentation defence was not statute barred Appellant appealed decision on grounds that two defences cannot be differentiated.

Held, no basis for distinguishing two defences as per Contractual Remedies Act 1979 - Both limitation period under Limitation Act and s 91(2) start from date of alleged breach of contract of sale of property not from date of antecedent building works - Defence and counterclaim in pre-contractual misrepresentation not statute barred Appeal dismissed.

(18pp)

High Court

Lease
Re-entry
Injunction

Governors Ltd v Anderson 7/12/01, Wild J, HC Wellington CP21 1/00

Re-entry based on alleged non-payment of rent and failure to keep premises in good repair Tenant applied for interim injunction restraining landlords form preventing tenant taking possession of premises Order sought for landlords to deliver up possession Interim injunction allowed Opposed by landlords - Landlords re-entered premises in interim.

Held, landlords re-entry to premises in face of injunction Genuine dispute concerning overpayment of rent Court unlikely to have rescinded interim injunction No grounds for implying term that landlords could act on fresh breach by tenants into injunction What was sought to be implied contradicts express terms of injunction Evidence of conditional contract for premises and installation of staircase showed intention to "steal a march" on tenants - Landlords in breach of injunction Application to rescind injunction failed.

(6pp)

High Court

- Compulsory acquisition
- Public Works Act 1981, s 40
- Procedure
- Application
- To strike out

The Sisters *of Mercy* (Roman Catholic *Diocese of* Auckland Trust Board) v Attorney-General (No 2) 14/12/01, Randerson J, HC Auckland CP219/99

Compulsory acquisition Procedure - Application To strike out Earlier judgment dismissing defendant's

application to strike out plaintiff's claim Declaratory relief sought under s 40 Public Works Act Whether defendants had breached statutory obligation to offer compulsorily acquired land back to plaintiff Two of former defendants struck out of proceedings - Waitemata District Health Board substituted for Waitemata Health Ltd Waitemata District Health Board brought second application to strike out parts of proceedings - Whether Health Sector (Transfers) Amendment Act 2000 precluded relief.

Held, post-2000 version of offer-back clause was intended to apply to land that had been subject to ss 40-43 Public Works Act 1981 as at 10 May 1993 which had been transferred at least once under Health Sector (Transfers) Amendment Act 2000 New version widened exclusion but meaning remained essentially the same Under both versions there is no impediment to operation of ss 40-43 if land no longer used for purposes of transferee - No practical change in use of land Still arguable for plaintiff to establish rights under s 40 at trial Application dismissed.

(15pp)

High Court

- Summary judgment
- Mortgage
- Powers of sale
- Property Law Act 1952, ss 92, 103A

Harts Contributory Mortgages Nominee Co Ltd v *Bryers* 19/12/01, Fisher J, HC Auckland CP403-IMOO

Summary judgment Mortgage Powers of sale Plaintiff alleged defendant owed sum sought as guarantor for four companies Mortgages over strata title apartments given as security Service of default notices under s 92 Property Law Act Defendant sought finance for residential development Four companies of which defendant was director owned six of 14 strata titles in proposed apartment block Four companies leased their properties to another letting company owned by defendant Letting company not successful - Payments under mortgage in arrears - No payments made Plaintiff appointed receiver companies for the mortgagor companies Receivers found building in state of disarray Receivers auctioned property Whether Property Law Act notices defective Whether collection fees wrongfully included in amount Whether plaintiff breached its realisation duties as mortgagee.

Held, date intended by notice would have been obvious to reader particularly in context Guarantors received similar notice and must have known same period involved Defendant familiar with requirements of s 92(2) Property Law Act Plaintiffs could have relied on remedial effects of s 92(1A) - Plaintiff's issuing proceedings asking for collection commission to be paid to itself was unequivocal direction that payment be made to it Section 103A Property Law Act did not apply to defendant as guarantor Express contracting

out - Tenancy venture failed and receiver justified in selling with vacant possession Judgment for plaintiff.

(20pp)

High Court

- Injunction; interlocutory; concurrent judicial review
- Previous resource consent
- Standing
- Views; privacy; damage to interiors

Grieve v City Developments Palliser Ltd 4/12/01, Durie J, HC Wellington CP213/01

Inter-partes application for interlocutory injunction restraining defendant from selling townhouses under construction until Wellington CC had certified that all statutory and regulatory requirements had been complied with, and validity of resource consent granted to carry out work had been determined through concurrent application for judicial review Defendant had obtained resource consent in 1999 to develop site on steep slope - Site contained existing home above townhouses being built on balance of site - However, defendant had built before subdividing property and required new resource consent to provide for number of units and additional works carried out Plaintiffs had agreement to purchase existing home when title issued, and had taken possession as tenants when second resource consent granted Preliminary question raised on standing of plaintiffs to proceed with action Defendant contended sale and purchase contract had been avoided under s 63 Real Estate Agents Act

Plaintiffs no longer had any legal interest in the land

Plaintiffs concerned that townhouses spoiled views and impinged on privacy, and that steep embankment cut close to home had caused cracking in interior and was less secure than retaining wall originally proposed

Alleged that by not notifying council that plaintiffs were persons likely to be affected, defendant had breached contract, and breached duty of care to plaintiffs.

Held, Court satisfied that purported forfeiture under s 63 Real Estate Agents Act was of no effect

Plaintiffs retained legal interest that enabled them to proceed with application - Court considered plaintiffs had arguable case As occupiers and prospective purchasers they were entitled to notice of application for resource consent However, plaintiffs had entered into agreement knowing of projected development and had recorded particular provisions to facilitate development - Had opportunity to record in contract any specifications for townhouses as might have been mutually agreed In terms of injunction being equitable remedy, Court concluded equities lay with defendant Refused to grant injunction Costs awarded to defendant on basis of category 2 band B.

(20pp)

High Court

- Sale and purchase agreement
- Breach of contract
- Strike out application

Court v McBreen 13/11/01, Master Yenning, HC Christchurch CP73/00

Defendant agreed to sell land to plaintiff Defendant not registered proprietor of land Land held in name of Eagle Spares Ltd Agreement subject to vendor entering agreement with Eagle Spares to purchase land Defendant's solicitor advised plaintiff Eagle Spares no longer willing to sell land to defendant - Second letter confirmed this, stating contract was at an end - Three months later plaintiff learned Eagle Spares agreed to transfer land to defendant Defendant seeks to strike out plaintiff's third amended statement of claim.

Held, cause of action for breach of contract by failing to comply with implied term is inconsistent with other aspects of plaintiffs' pleading Therefore second part of para 17 of statement of claim cannot stand and is dismissed Duty of good faith will not be implied into commercial contract such as this Paragraph 18 cannot stand and is dismissed as it refers to failure to act in good faith Cause of action in estoppel cannot be sustained on facts pleaded and is struck out Amended pleading to be filed and served within 14 days.

(14pp)

High Court

- Lease
- Breach
- Guarantee
- Liability

Polperro Corp Ltd v Thompson 20/12/01, O'Regan J, HC Auckland CP187/00

Lease - Breach Rent - Liability Defendant one of two guarantors of sublease granted by plaintiff to ML Restaurant Ltd - Breach of lease - Plaintiff sought damages from plaintiff under guarantee Complaints about alleged use of premises as tavern rather than restaurant as licensed Re-entry by plaintiff for alleged non-payment of rent ML Ltd sought relief under s 118 (2) Property Law Act 1952 - Terms of settlement and variation of lease agreed between parties Failure to pay rent owing under settlement ML Ltd and defendant deliver up possession Defendant paid $45,000 to plaintiff claimed to be in full and final settlement of claim Extent of defendant's liability under guarantee.

Held, Judge in previous proceedings explicitly held that terms of settlement and variation binding on ML Ltd Judge would have explicitly excluded guarantors if she had intended to make finding that they were not similarly bound Judge's decision estopped defendant from denying consent Payment of $45,000 only barred further claims for rent or operating charges and associated costs Failure to yield vacant possession caused plaintiff to lose Corporate Host agreement Defendant liable for loss of bargain damages Reasonably foreseeable that failure to do so could prejudice ability to lease greater area of building Total damages of $456,168 awarded to plaintiff.

(2Spp)

High Court

- Summary judgment
- Drainage and landscaping work
- Subdivision
- Local Government Act 1974, s 122C(1)(a)

Royal Palm Beach Estate Ltd v Tauranga DC 12/12/01, Master Kennedy-Grant, HC Tauranga CP12/01

Plaintiff and defendant each applied for summary judgment Plaintiff alleged agreement with defendant that plaintiff to carry out drainage reserve development and landscaping work on subdivision for payment of $935,085 - Defendant denies agreement If there was agreement then defendant contends it is unenforceable because ultra vires or no consideration 'Whether there was such agreement between parties - If so whether agreement is enforceable Whether ultra vires defendant - Whether supported by consideration.

Held, there was no such agreement between parties - Letter was not offer capable of acceptance - It was statement of what defendant intended to do (whether or not plaintiff agreed) - Clear that defendant was not willing to separate cost of reserve development and landscaping independently of settlement of land acquisition - Letter was immediately rejected If there was such agreement between parties it was not ultra vires defendant - Obligation of local authority to manage funds prudently cannot be said to be one of its purposes - If there was such agreement between parties it would fail for want of consideration No benefit to defendant under agreement Plaintiff's application for summary judgment dismissed defendant's application for summary judgment granted.

(23pp)

Awards

Roy Vernon Thompson NZPI Life Membership

As the New Zealand Property Institute's first life member it is wholly appropriate that the recipient is Roy Thompson whose property career has traversed all of the respective valuation and property related disciplines and who throughout a 36 year career in property has attained and fostered the highest standards of professionalism and integrity

Thompson's property career began in Christchurch in 1968 and he quickly achieved qualification as ANZIV & AREINZ. Through the 70s and early 80s, based in Wellington, Thompson was the NZ property investment manager for T & G/National Mutual forming an investment portfolio in excess of $1 billion.

Throughout his career, Thompson has been a long serving and distinguished member of both the foundation institutes of the NZPI. He was one of the founding members of PMI culminating in his role as national president of the institute in 1981 & 1982 and being awarded fellowship in 1985.

In the late 80s Thompson assumed a role as director of the Hat-courts Corporation and also became national president of BOMA now the Property Council. Our industry owes Thompson a great debt of gratitude.

His endeavours, and those of his peers, at the inception of our foundation institutes and at the inception of property as a professional discipline, have contributed hugely to the standards, ethos and aspirations represented by the NZPI today.

Thompson's career has spanned the growth of professionalism within our industry. Countless members of the property fraternity have sought his advice and both New Zealand and Australian practitioners mark him as a property professional and leader of the highest order.

In March of this year Thompson retired from Thompson Wentworth, the professional property services company he founded in 1989. During his time there, Thompson has continued to mentor the careers of property graduates in his employment and has continued to do his part in ensuring property professionals are the suppliers of choice by the general public.

Malcolm Russell Hanna NZIV Life Membership

Malcolm Hanna commenced his valuation career in February 1962 as a trainee valuer with Gordon Harcourt Limited under the direction of John Harcourt (a past president and life member of the New Zealand Institute of Valuers).

Hanna remained with Gordon Harcourt Limited from 1962 to 1965 when he joined the valuation practice of Gellatly Robertson where he became a partner shortly thereafter. He remained with that firm through various changes (Gellatly Robertson through to Robertson Young Telfer) until 1994 at which time he resigned as a director of the Wellington office and the national practice to set up as a sole practitioner, a chartered arbitrator, real estate adviser and registered valuer specialising in matters relating to arbitration and litigation.

Hanna was recommended for membership of the student group of the New Zealand Institute of Valuers in March 1962 and from then on he took a keen and active interest in the affairs of the institute.

Hanna completed his examinations in 1965 and in that year was awarded the council trophy for the student who completed the examination with the most merit.

He was secretary of the Wellington branch of the institute from 1964 to 1967 and became a full member of the branch committee in 1966 and subsequently chairman of the branch.

Hanna was a member of the education committee and board of examiners of the institute from 1971 to 1975 and was an examiner in academic subjects and the practical oral examinations in Wellington.

He was appointed the dominion publicity officer in 1971 and became the first chairman of the publicity and public relations committee, a position he held until 1975.

He has attended a number of Pan Pacific conferences and was a principal speaker at the 7th Pan Pacific Congress in San Francisco in 1973 and a commentator at the 8th congress in Rotorua in 1975. Hanna was also co-author of the paper Education and the Valuing *Profession* and was a contributory author of Urban Valuation in *New* Zealand *Volume* II, one of the major textbooks of the institute. He has represented the institute on several inter-professional committees, particularly those relating to replacement insurances.

He was made an associate of the New Zealand Institute of Valuers in 1966 and became a fellow of the institute in 1977. He was admitted as a fellow of the Chartered Institute of Arbitrators in 1978 and is a foundation member of the Arbitrators and Mediators Institute of New Zealand and for a number of years has served as a member of the national arbitration panel of that organisation. He was invited to join the American Society of Real Estate Councilors, which is widely regarded in the USA as one of the most prestigious professional real estate groups and was the first New Zealander to be so invited.

Hanna was appointed by the government as one of its two representatives on the Valuers' Registration Board and

served continuously on that board for 15 years from 1973 to 1988, nine of those years being deputy chairman. He was a member of the Wellington Land Valuation Tribunal for ten years and was a Director of Valuation New Zealand and Quotable Value New Zealand for three years.

He has appeared as an expert witness on a broad range of real estate and valuation matters before the High Court as well as the Land Valuation Tribunal, the Environment Court, the Waitangi Tribunal and has also been involved in many major arbitrations.

There are few members who have given the service to the New Zealand Institute of Valuers and the valuing profession that Malcolm Hanna has. He is well recognised for his valuation work throughout New Zealand and is held in high regard by his colleagues and the Wellington branch for the presentation and quality of his work and the enthusiasm and his support for the profession as a whole. Hanna continues to take a keen interest in the institute.

J M Harcourt Memorial Award Neil Kelvin Darroch

Darroch's long record of service to the New Zealand Institute of Valuers culminated with the Pan Pacific Congress at Auckland in April 2000. Darroch chaired the organising committee that spent some four and-a-half years preparing for what was a most successful event due, in no small part, to his stewardship. While Darroch's modesty would no doubt prevent him from accepting all of the plaudits for the congress, all other members of the organising committee would readily accept and acknowledge he was the helmsman and main motivator.

Darroch was educated at Auckland Grammar School and joined the Lands & Surveys Department as a rural ifeld cadet after obtaining his University Entrance in 1953. He graduated from Lincoln College in 1958 with a Diploma in Valuation and Farm Management and commenced his property career with the Department of Lands and Survey as a field officer in Palmerston North where he became an intermediate member of NZIV, was registered as a rural valuer in 1963 and became an associate member of the institute in 1964.

The following year he was transferred to Auckland and in 1967 commenced the NZIV professional urban examinations. In 1969 Darroch joined the Auckland Harbour Board as a property officer and in 1971 established himself in private practice in Takapuna on Auckland's North Shore where he is still based today.

Almost immediately Darroch became active in the Auckland branch of the Institute of Valuers giving his time to lecturing students at Auckland University and helping to prepare valuers for the institute's practical and oral examinations. Darroch joined the branch committee in 1975, was branch chairman in 1977/78, became a member of the Property Management Institute in 1978 and an associate member of the Institute of Arbitrators in 1980.

During this time Darroch's practice began to expand to the extent that he became one of the highest profile valuers in the country with the formation of the national practice of Darroch & Co. He has always been seen as an innovator and leader in both institute matters and "the business of valuation and property". Darroch has participated as a speaker at seminars and conventions and his status was recognised in 1985 with the awarding of a fellowship. Darroch was chairman of the Massey University Property Foundation from 1994 1998.

Darroch's interests include boating and saltwater fishing. He is also an active grandfather to his grandchildren.

Over the past 30 years Darroch has, both directly and indirectly, played an influential role in the careers of a number of valuers, many of whom hold prominent positions within the industry today. He has been a selfless contributor on a number of fronts.

Brent McGregor Young Property Professional

The Young Property Professional of the Year was awarded to Brent David McGregor. This award was created by the New Zealand Property Institute board in recognition of excellence in the field of property by a young professional under 30 years of age. Westfield New Zealand sponsored the award.

McGregor is an NZPI Auckland branch member and works within the real estate group of Ernst & Young. He came from a national valuation practice where his experience had been in valuation and consultancy over a wide range of property types within New Zealand, Asia and the Pacific Islands.

He has extended his skills to take a broader view of property both through his academic qualification (a Masters Degree in Property Studies from Lincoln University) and in his recent work in such diverse areas as financial structures for real estate, tax implications of different real estate structures, real estate consulting, and some direct involvement in the transaction end of the real estate market through the provision of tenant representation services.

McGregor authored many of the regular Ernst & Young articles which are provided in each issue of The *Property* Business and these have encompassed a wide range of topics as befits his skill and special areas of interest.

McGregor is a shining example of the professional excellence that is displayed by many of the younger members of our profession.

Fellowship 2 002 citations

Antony McEwan

Born in Wellington in 1957 and moving to Auckland at primary school age, Antony McEwan grew up and attended primary and secondary school at Blockhouse Bay. He began his career in valuation in 1974 under a valuation cadetship with Valuation New Zealand incorporating fulltime employment with university studies. McEwan gained a Diploma in Urban Valuation from Auckland University in 1977.

McEwan remained with Valuation New Zealand until 1980, with the majority of this time based in the greater Auckland area, but with two years in Northland. During this period McEwan gained experience in the valuation of residential, commercial and industrial property together with small rural holdings. After registration McEwan, a keen yachtsman, sailed from New Zealand through the Pacific as part of a year's OE.

Upon returning McEwan joined Marc Sheldon's one-man practice, initially covering the full spectrum of valuation work. McEwan's efforts and the quality of his work have been a contributing factor in the growth of Sheldon & Partners.

McEwan is now a senior partner and director of the valuation consultancy practice of Sheldon & Partners, which has grown to be one of the larger valuation practices operating within the greater Auckland region. It currently employs 11 valuers plus support staff. On a day-to-day basis, McEwan is involved in the joint administration of the valuation practice, administration of computer systems and training of valuation staff.

With the expansion of the practice McEwan now specialises in North Shore City industrial and commercial work, although he continues to undertake valuations throughout the greater Auckland area. His scope of work spans from portfolio, disposal and new development valuations through to rental assessments, negotiation and arbitration.

McEwan is well respected by his peers as an impartial and able valuer, able to cope with complex technical and legal issues. As a result, members of the institute have appointed him to act as an arbitrator and umpire in a number of significant valuation disputes. He has also given expert valuation evidence before tribunals and the District and High Courts.

Following on from a survey of lending institutions conducted by the Australasian Self Storage Associations, McEwan was appointed by that association as a recommended "panel valuer". He has attended overseas seminars on the valuation of self-storage facilities.

McEwan has been an active member of the Auckland branch of the New Zealand Institute of Valuers since 1988. During this time he has been convenor of the statistics, new legislation and education subcommittees.

McEwan is a senior member of the New Zealand Property Institute and has been co-convenor of the membership committee of the Auckland branch. In that role he has made a point of maintaining the standards of the profession and encouraged younger members to uphold standards and advance their qualifications.

McEwan is currently branch chairman, having just moved into his second term in this role.

Outside of valuation, McEwan's interests centre around his family. He is married to Marcia and they live on the North Shore with their three children, two girls and a boy. A busy work and family life limits McEwan's time for other activities although he still finds time for some golf, a little social cricket and various aquatic activities.

Brian Kellett

Born in Aberdeen Scotland in 1937, Kellett studied mechanical engineering in Edinburgh, qualifying in 1963. He then served a five-year general engineering apprenticeship with United Wire Works in Edinburgh and after a two-year break for National Service rejoined the company for a further seven years reaching the position of assistant engineer.

From 1968 to 1969 he worked as a project design engineer of tubular heat exchangers and pressure vessels for Motherwell Bridge Thermal.

In 1969 he joined Andrew Denholm Scotland as engineer/chief draftsman responsible for development and design of high volume bakery ovens and electrical systems. He dealt with clients on technical matters and in the course of this travelled extensively in Europe.

In 1976 he became an engineer at Taylor Richardson and was responsible for costing of fans, dust collectors, attenuators and perforated metal products manufactured by the company. In December 1976 he was appointed company engineer reporting to the general manager. Duties included selection and

design of the company's products and production machinery. In May 1977 Kellett was appointed engineering manager and in December 1981 general manager of the firm reporting to the board of directors. In this capacity he was responsible for the total operations of the company, which employed more than 40 staff.

In 1987 Kellett joined Beca Valuations, Auckland as manager of plant and machinery and infrastructure valuations leading a team of plant and equipment valuers who have carried out major valuation assignments for leading companies both within New Zealand and overseas, as well as government departments, educational institutions, healthcare providers, and local authorities. Under Kellett's leadership Beca Valuations has become recognised as a pre-eminent specialist in infrastructure valuations such as power generation assets, roading, water and drainage reticulation and treatment plants.

Kellett has a high degree of technical competency and has introduced computer based systems and procedures that allow for mass appraisal of assets. Qualifications and memberships he has gained during his career include: Higher National Certificate (Mechanical Engineering) - Heriot Watt College Edinburgh; Computer Basic Programming; Auckland Technical Institute; Plant & Machinery Valuations - Massey University, Chartered Engineer; Member Institute of Mechanical Engineering London; Member Institute of Professional Engineers (NZ); Senior member Institute of Plant & Machinery Valuers; Registered Plant & Machinery Valuer (NZPI) and Registered Engineer (NZ)

Kellett was one of the founders of the New Zealand Institute of Plant and Machinery Valuers (IPMV) circa 1990. This was the first formal organisation in New Zealand to organise and regulate plant and machinery valuers and promote nationwide plant and machinery valuation standards. Kellett devoted a lot of personal time and travelled regularly to Wellington during the set-up phase of the institute prior to 1990.

Kellett was Auckland branch chairman of the IPMV from 1991-1992 and national president from 1992-1994 and served on many membership interview panels and sub-committees during the formation of the institute. Kellett was largely responsible for writing the IPMV Plant and Machinery Valuation Standards issued in April 1998. These are still the current plant and machinery valuation standards formally recognised by the NZPI.

Kellett initiated the plant and machinery valuation course at Auckland University in 1996 and has been responsible for running the course as head lecturer up to the present day. This was the first, and remains the only specialist plant and machinery valuation qualification available in New Zealand.

Following the merger between the IPMV and the NZPI, Kellett served on the NZPI education committee in 2001. He has published many papers and articles for the IPMV, NZ Valuers Journal, NZIV and other technical publications.

Kellett is currently serving on a liaison committee with the Audit Department regarding infrastructure valuations and is retiring at the end of 2002.

Kellett has upheld high standards throughout his career and has made an outstanding contribution to the development of the plant and machinery valuation profession through his role in the formation of the IPMV, drafting the IPMV Plant Valuation Standards and the valuation course at Auckland University. He is highly regarded by other plant and machinery valuers and senior NZIV members and has always remained approachable and willing to devote time to assisting other institute members and students.

Chris Orchard

Orchard was born in 1959, in Blenheim, and educated at Marlborough Boys College. Orchard moved to Wellington and joined the government Valuation Department as a cadet commencing in 1977 and immediately joined the institute as a student member. Urban study and examinations were completed and the institute's practical and oral examination successfully completed in 1980.

Orchard then studied for the institute's rural professional examinations, completing the practical and oral examination in 1983 thus achieving a distinction held by only a handful of members who initially trained in the urban field.

Orchard was admitted as an intermediate member in 1980, became registered in 1982 and was advanced to associate membership in 1984. Orchard worked for the department for 11 years, all in the Wellington office, rising to the position of senior district valuer. During that time Orchard became a well respected member of Wellington's valuation community and was well known for his willingness to help practicing valuers.

By 1988 the call back to Blenheim and private practice was too strong to resist and Wellington lost Orchard to the long standing Blenheim firm of Hadley and Lyall. Orchard remained in that practice until 1999. During his time with the Nelson/Marlborough branch Orchard took an active role which saw him participating as a branch committee member for six years, newsletter sub-editor one year, branch vice-chairman two years and as a branch councillor for four years.

In 1999, Orchard returned to Wellington where he has worked with Warwick J Tiller & Co and Knight Frank (NZ).

Orchard is an excellent supporter, promoter and ambassador for the institute. His attitude extends to his conduct in business as he constantly promotes high standards to the general public and business

community. Orchard is a respected, senior member of the valuation fraternity

David Simpson

Simpson was born in 1937 and educated at Nelson and Wellington Colleges. He commenced employment in the property industry with the city valuer's office of the Wellington City Council in the mid-1950s. He then moved to the government Valuation Department, on to the valuation division of Harcourt and Co, and then joined Simpson, Horsley, Nyberg and Stewart in a practice from which the Wellington office of Darroch & Co evolved in 1986. Simpson moved from Darroch to work on his own account in 1990 and continues to practice as Simpson Valuations.

Simpson joined the New Zealand Institute of Valuers as a student in 1957 and qualified through the urban professional examinations in 1965 gaining registration and associateship in the same year. His practice base has encompassed residential, lifestyle, commercial and industrial properties throughout the Wellington region and his consistency and thoroughness has endeared him to his fellow professionals, and to the public over many years.

Simpson offered himself for Wellington branch service to the New Zealand Institute of Valuers early in his career, and has been a great supporter of the profession through his commitment to institute meetings, pedestrian counts, seminars, workshops, and conferences both in New Zealand and overseas. He is remembered as one of the most regular contributors to the institute's Statscom cost information newsletter for many years.

As a senior member of the profession, Simpson has been a real strength in sharing his knowledge and experience with other valuers.

Donald Knight

Knight has been involved in the valuation profession for 30 years. His introduction to valuation was made as a valuation cadet in the Valuation Department at Wellington. He became registered in 1975. His interest and knowledge of valuation principles lead to Knight lecturing valuation for three years in valuation I for urban professional institute qualifications.

He spent time in the Valuation Department's Christchurch office before taking a position as loans manager for Trust Bank Southland in Invercargill. In 1986 he rejoined Valuation New Zealand in the Nelson office, a position he still holds today.

Knight is QVs principal valuer of commercial and industrial property and has broad knowledge and experience in consultancy and valuation in this area. He has an excellent reputation both among clients and the broader property profession for his technical ability and knowledge in law relating to valuation of property. His opinion is often sought from property professionals.

He has been active in the New Zealand Institute of Valuers' affairs, having served continuously on the Nelson/Marlborough institute committee from 1987 to 2000. Knight held the offices of chairman in 1993-94 and branch newsletter editor for many years. His articles and views on valuation matters are widely published and his willingness to freely give his time to other valuers in discussing property issues holds Knight in high regard.

Knight was an active sportsman playing hockey at national and representative level for several years. He continues to enjoy tramping and other outdoor activities..

Garry Dowse

Dowse is currently employed as a lecturer at Massey University, teaching Applied Valuation 1, Advanced Valuation 1, Applied Valuation 2, and a post-graduate paper, Contemporary Issues in Real Estate. He is also involved in teaching real estate block courses at Massey and Albany campuses.

Before joining Massey in 1995, Dowse worked as a valuer for Quotable Value and for the Palmertson North valuation firm of Blackmore and Associates. He currently has active valuation participation, through resolving local valuation disputes, in the role of arbitrator.

He has had a long association with the NZPI, having served on the local branch of the NZIV and NZPI as a committee member for a period of around 10 years. He played a major role in the organisation and delivery of the successful bi-annual Massey Spring Seminars held in 1997, 1999 and 2001.

Dowse is closely involved in the production of the Residential and Commercial Real Estate Market Outlook Series, published quarterly by the Massey University real estate analysis unit. He has produced a significant number of articles and papers on real estate and given a number of addresses, including those to The Pacific Real Estate Society conferences. Dowse has also given radio interviews on property issues, produced articles for the Valuers *Journal,* and co-authored (with Professor Bob Hargreaves) a chapter on NZ rating systems for an international textbook edited by Professor McCluskey.

Dowse has recently completed the final paper in his Masters of Property, and has a background in sports through soccer and the completion of a number of Rotorua Marathon events. Aged 40, he is married to Donna and has three school aged children.

Grant Utteridge

Utteridge was born in Christchurch, educated at Otago Boys High School and graduated from Lincoln University in 1981 with a B.Com (VPM) covering both urban and rural disciplines.

In 1982 he joined the Valuation Department in

Rotorua and remained with it until 1987 involved in all types of valuation work throughout the Bay of Plenty/Taupo region.

He gained registration as a valuer in 1985 and was granted associate status by the New Zealand Institute of Valuers in 1986.

Utteridge joined the firm of Reid & Reynolds, registered valuers and property consultants, Rotorua in 1987 and was admitted as a partner of that firm in 1989 and remains today with that firm as a director responsible for marketing operations and information technology systems as well as the commercial property consultancy and valuation side of the business.

The commercial sector of his work includes industrial and tourism and he has been involved in the assessment of the impact of contamination on land value. Utteridge was also a member of a national working party examining proposed changes to the Maori Reserved Land Act 1955. He is the body corporate secretary for a local shopping centre and has been extensively involved in a wide range of rental and leasing negotiations.

Utteridge is well recognised by his peers and the Rotorua business community for his skills, competence, integrity and ethical standards.

For more than 10 years Utteridge has played a prominent role in the activities of the local branch of the NZIV/NZPI including two years as chairman and as convenor of the organising committee for the 1999 national conference in Rotorua.

In 2000 Utteridge was chairman of the judging panel of the Rotorua section of the Master Builders Homes of the Year competition.

Utteridge is a married man with young family and is an avid sportsman and has been actively involved as a player and administrator in squash, rugby, cricket and triathlons and is currently chairman of Squash Bay of Plenty.

As can be seen Utteridge has been actively involved in his profession and the community and has gained the respect and esteem of people in both arenas.

Ian McDowell

McDowell was born in Rotorua, educated in Rotorua and graduated from the University of Auckland with a Diploma in Urban Valuation in 1966.

In 1964 McDowell joined the New Zealand Institute of Valuers as a student member attached to the Auckland branch and became an intermediate member in 1967, advanced to associate in 1971 and gained registration as a valuer in 1970.

McDowell's early working life as a valuer was with Yarntons in Auckland and after a short overseas trip he returned to Rotorua in 1971 and joined his father, the late Gordon McDowell, FNZIV, in the firm now known as McDowell & Co.

McDowell & Co, a real estate and valuation firm, was founded in 1911 by McDowell's great-grandfather and is now one of the largest real estate companies in Rotorua with an independent valuation division.

The company is headed by Ian McDowell who, whilst being heavily committed in his managerial role, is also actively involved in valuation and property management activities.

McDowell is also the Rotorua District Council valuer, a position he has held for many years.

From 1974 to 1990 McDowell served on the branch committee of NZIV including two years as chairman. He also served continuously during that period on the tariff subcommittee and was a member of the 1975 Pan Pacific Congress organising committee and the 1984 national conference organising committee both events held in Rotorua.

McDowell continues to actively support branch activities.

In addition to his service to the NZIV, McDowell has held a number of positions on the regional REINZ including a term as president.

McDowell is held in high esteem by his peers and the Rotorua community and is recognised for his professional skills and competency and high ethical standards.

His considerable managerial and professional skills are well demonstrated by the success of his company.

McDowell is a married man with a teenage family and is active in the community in particular in the Rotary Club where he has been president and also in the Rotorua 4-Wheel Drive Club.

Malcolm Alexander

Malcolm Alexander was born in Wellington in 1947 and attended Rongotai College. After leaving college, Alexander commenced employment with the Wellington branch of the then government Valuation Department as an urban valuation trainee. As a student member of the institute, Alexander studied the urban professional examinations and passed the final practical and oral examination in 1970.

During Alexander's student training period, his practical experience included a period with T&G Mutual Life Society. Alexander then rejoined the Valuation Department between 1969 and 1971. After this he then joined the Hutt Valley's then most prominent valuation practice, Holmes, Foster & Co, where he was involved in the full range of urban valuation work.

Alexander was registered as a valuer in 1972 and was advanced to associate status in 1973.

After 10 years with Holmes, Foster & Co, Alexander worked for a development company for three years followed by a short period practicing on his own account before being invited to join a recently established Lower Hutt partnership, Appraisal Valuations.

In 1994, after 10 years with Appraisal Valuations,

Alexander established his own practice, Alexander Valuations. Alexander's wide variety of experience, mainly in the Hutt Valley, is keenly sought after by clients in the business community and he is held in high esteem by the valuing profession. Alexander is well known for the thoroughness he strives for when advising clients on property matters.

Alexander has had a long involvement with branch committees and helping to arrange branch activities, culminating in holding the onerous position of secretary/treasurer for more than four years.

Michael Connolly

Connolly was born, raised and educated in Christchurch. Following completion of his secondary schooling, Connolly worked in the construction industry in New Zealand and overseas and in 1981 entered the valuation profession attending Lincoln University as a mature student. He completed his Bachelor of Commerce (Valuation and Property Management) degree in 1983.

Following graduation, Connolly moved to Australia and was employed as a valuer by the South Australian Department of Lands progressing to the position of senior regional valuer. Whilst in Australia, he was a member of the Australian Institute of Valuers and became an associate of the Australian Institute of Valuers in 1987. His work in Australia involved all facets of valuation including specialist commercial, viticulture and coastal developments as well as early development of computer assisted valuations for rating and taxing.

Following his return to New Zealand in 1989, he joined United Building Society (which became United Bank) working in both valuation and property management areas. Connolly obtained his New Zealand valuation registration in 1991 and progressed to member of the Property Institute in 1994. He is an associate of the Real Estate Institute of New Zealand.

Following the purchase of United Bank by Countrywide, Connolly was employed by Simes as a property manager before moving to Colliers Jardine to establish and manage its property management division in Christchurch. Connolly currently heads the Colliers International property management division, which is one of the largest in Christchurch.

Connolly was active on the Canterbury branch committee of PLEINZ for a number of years and served as national councillor for PLEINZ in the period leading up to the formation of NZPI. He was an active supporter of the new institute and assisted during this period with his experience of the formation of the Australian institutes while in Australia.

PLEINZ branch committee work included organising seminars for CBD and fostering the buddy system with Lincoln University.

Since the formation of NZPI, Connolly has continued his involvement in the institute's affairs serving on the national membership committee, the local branch committee and also was a member of the organising committee of the inaugural NZPI conference 2001 in Christchurch.

Connolly is highly respected by his peers in both the valuation and property management arenas within the Christchurch property profession. He is a model of integrity and has been generous with his time to others within the property profession through his involvement with PLEINZ and more recently NZPI and also in the fostering of young property professionals in Christchurch.

Connolly is married with four children and is actively involved in sporting committees associated with his children's sporting interests.

Neil Lyons

Lyons originally trained as a draughtsman and started work for the Dunedin firm of A & T Burt. For a number of years he worked as a project manager for Arrow International and was involved in a senior role working on a number of wide and varied projects for Arrow International.

In 1995 Lyons set up his own consultancy business: Accord Consultants. Lyons is the managing director of the company, which is involved in both project management and development work, for a range of clients. Lyons is a registered property consultant.

Lyons has been heavily involved with the institute in Otago/Southland after becoming a full member in 1987.

Lyons has served on the local branch committee of the Property Management Institute since 1990 and is still a committee member of the Property Institute. From 1993 to 1996 Lyons was the branch chairman of the Property Management Institute and from 1996 until the merger of the two institutes in 2000, Lyons was branch councillor for Otago/Southland.

As well as being both chairman and councillor (for a time concurrently) Lyons has been involved in many initiatives of the local committee. He was instrumental in organising the successful series of workshops run by the local branch for a number of years.

On a national basis Lyons was convenor of the publishing sub-committee at a time of major changes and improvement to *The Property* magazine. Lyons is an unassuming individual, and is not the sort of person to "sing his own praises". He is well known in property circles and Lyons is highly regarded within the property industry.

Lyons is married to Colleen and they have two grown children both living overseas. Lyons' leisure time spent travelling, playing golf and tramping. He is also involved in the development of his Omahau Downs property near Twizel for the tourist market with the development of a tourist lodge.

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Paul Keane

In 1969, Paul Keane became involved in the shopping centre industry in New Zealand starting with a company named the Fletcher Trust and Investment Company in Wellington as centre manager of Wainuiomata Shopping Mall.

After three years he was transferred to Christchurch where he managed the Northlands Shopping Centre and subsequently became the South Island manager for Fletcher Trust and Investment Company, being responsible for shopping centre activities throughout the rest of the South Island including places like the relocation of the then Cromwell Town Centre, and developments in Queenstown and Dunedin and research in Gore.

Transferring back to Wellington in the late 1970s, Keane became the Wellington regional manager for the Fletcher Trust and Investment Company, which subsequently changed its name to Challenge Properties following the Fletcher Challenge merger. His responsibilities in Wellington were both retail and commercial activities and such activities included the development of Fletcher Challenge House in Wellington, incorporating Lambton Square Shopping Centre underneath, the completion of the BNZ Shopping Centre project and management of the total building in Wellington, and a range of small developments.

In 1984, the company transferred him to Auckland as general manager for Challenge Properties, with the new role encompassing both shopping centre and commercial activities throughout New Zealand.

In late 1988, he formed a company called Retail Consulting Group, which focused its attention in the areas of the retail market providing consulting services to retailers and shopping centre owners.

During this time, Keane has worked on major projects throughout Australasia, including Fiji's fist modem shopping centre in Suva, Downtown Boulevard, Westgate Shopping Centre, New Zealand's first bulk retail centre and undertaken roles for New Zealand's leading companies including St Lukes Group, Christchurch International Airport, Tourism Holdings, Civil & Civic, Sky City, Bank of New Zealand and Armstrong Jones.

Keane is recognised by his peers as a leader in the retail management and development fields. He was one of the foundation members of PLEINZ and has served on the committee in the education, social, and CBD portfolios, giving his time freely in presenting seminars to institute members, and presenting research papers on retail dynamics and demographics.

Peter Doolin

Doolin has 18 years of experience in property development, including four years in a major London firm acting for developers of industrialist states and retail developments.

Doolin is a property partner in the Auckland office of lawyers Phillips Fox.. His practice concentrates on commercial property developments including purchases, sales, subdivisions and leasings. His particular specialty is retail and shopping centre developments.

Doolin has been an active member in PLEINZ and latterly NZPI. He has been instrumental in providing the NZPI with significant sponsorship, both financial, in services and providing extensive research papers, presentations and seminars in such areas as the review of the Auckland District Law Society new lease format, property research, syndications of properties and commentaries on Resource Management Act legislation.

Doolin is a regular presenter on legal and property law issues on behalf of the institute and the CBD seminar programme. As a partner in a prominent law firm, Doolin has been a champion for institute members and their professional involvement in the property fields.

Thomas Esplin Lewis

Lewis is a practice manager of the Auckland valuation company of TelferYoung (Auckland), as well as being one on of the national directors.

Lewis commenced with the Valuation Department in 1964, moving to Auckland in 1966 as a cadet to attend Auckland University.

On completion of his training and gaining his Diploma in Urban Valuation, Lewis joined a property management company on the North Shore, and then moved to Barfoot & Thompson valuation division, rising to valuation manager.

Lewis joined Robertson Young Telfer in 1987, where he has specialised in retail, commercial and insurance valuations.

Lewis has contributed to the advancement of the valuation profession in Auckland in a major way. He has given freely of his time to assist junior valuers, and has taken a keen interest in the training of a number of valuation graduates throughout his career.

Lewis lectures at Auckland University on insurance valuations and has given lectures to other valuation practices on this topic. He provided significant background information and assistance to the committee, which reviewed the insurance valuation report guidance notes in 1994 for the Technical Handbook.

Lewis has taken an interest in litigation area of valuation, being appointed umpire or arbitrator on numerous occasions, as well as acting as an expert witness.

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NEW ZEALAND

property INSTITUTE

STATSCOM

Index to Castings

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(04) 384 7094, Fax (04) 384 8473
julia@property.org.nz

Costings

Floral ostings

Levin Lifestyle April 2002
Contributed *by John* Rimmer-Arends, TA Valuation Ltd.
Construction: 4 bedroom, dining, family room, lounge, ensuite and study. Internal access garage. Concrete slab with timber frame. Split stone concrete brick cladding. Pre-coated steel tile roof. Plaster board wall and ceiling linings to paint finish.
Areas: Total 251m22
Contract Price: $187,223 (incl. GST)
Analysis:
Total: 251m2 $745/M2 Modal Rate: $880 Multiple: 0.85
Notes: Not included: water tank, septic tank, power to site, carpets, drapes, light fittings and site development. Cost including power, septic and water calculated to $215,000 or $856 per m2.

Rangiora, Canterbury Westland House, November 2001
Contributed by Denis J Milne, North Canterbury Valuations
Construction: 4 bedroom, 2 bathroom hip roofed bungalow with integral double garage situated on a level section. BV wall, Coloursteel rib roof, double glazing, Stonewood Homes Ltd.
Areas: Garage 38.14m2
Dwelling 170.17m2
Net Contract Price: $145,546 (excl. GST)
Analysis:
Total: 170.17m2Modal Rate: $609.59
Notes: Country build factor 1% of contract price per 10km.

Hastings, Artesian Well September 2001
Cont*ri*buted by John Reid, *John* Reid and Associates
Construction: 125mm steel case to depth of 38 metres, including 3-metre stainless steel screen, all headworks for irrigation purposes, plus permit costs.
Contract Price: $9,500 (excl. GST)
Notes: Quote also received for 150mm well at $14,300 and 200mm well at $17,600

Residential Costings

Levin April 2002
Contributed *by John* Rimmer-Arends, TA Valuation Ltd.
Construction: 4 bedrooms and office, ensuite and internal access garage. Concrete slab and timber frame. Textured plaster over 45mm external insulated cladding. Steel tile roof. Plasterboard wall and ceiling linings. Average quality fittings for a house of this size and cost.
Areas: Total 233m2
Contract Price: $226,000 (incl. GST)
Analysis:
Total: 233m2$970/m2 Modal Rate:$880 Multiple: 1.1
Notes:Does not include carpets, drapes and other chattels. No driveway, fencing or other site development.

Commercial Costings

Hastings, Transportable Office Building
September 2001
Contributed *by John* Reid, *John* Reid and Associates
Construction: Sited on wooden skids, fiber cement wall cladding, aluminium joinery, fully lined, Coloursteel iron roof.
Areas: Total 24m2
Contract Price: $15,319 (excl. GST) + air conditioning unit $3,350
Analysis:
Office: 24mz $638/m2 Modal Rate: $929.30 Multiple: 0.69 Air conditioning unit 24m2$140/m2 Modal Rate: $929.30 Multiple: 0.15

Napier, Seal Around New Development
September 2001
Contributed *by John* Reid, *John* Reid and Associates
Construction: Excavate to 100-150mm depth, supply and compact base-course material, seal with grade 3 and 5 racked in chip seal.
Areas: Total 750m2
Contract Price: $15,023 (excl. GST)
Analysis:
Total: 750m2 $20.03/mz Modal Rate: $929.30
Multiple: 0.21

Napier, 2 Level Showrooms September 2001
Contributed *by John* Reid, *John* Reid and Associates
Construction: Concrete foundation, trimline Colorsteel exterior cladding, plus powder coat aluminium joinery and trimline Colorsteel roofing. Each unit is to be provided with a kitchen sink bench, toilet plus hand basin. The interior is to be lined with 9.5mm Gibraltorboard walls and ceilings while each unit has access to a small balcony area on the upper lfoor.
Areas: Ground Floor 314m`
First Floor 249m2
Contract Price: $257,000 (excl. GST)
Analysis:
Total: 563m`$456/mzModal Rate: $929.30 Multiple: 0.49
Notes: Price includes all fees including vehicle crossing of $3,600. All five units separately metered and will be leased individually.

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