

# LAND COURT OF QUEENSLAND

CITATION: *Lansdowne Pastoral Company Pty Ltd v Department of Natural Resources and Water* [2008] QLC 0130

PARTIES: Lansdowne Pastoral Company Pty Ltd  
(appellant)  
v.  
Chief Executive, Department of Natural Resources and Water  
(respondent)

FILE NO: AV2006/0686

DIVISION: Land Court of Queensland – General Division

PROCEEDING: An appeal against an annual valuation

DELIVERED ON: 30 June 2008

DELIVERED AT: Brisbane

HEARD AT: Blackall

MEMBER: Mr JJ Trickett, President

ORDER: **The appeal is allowed, the valuation of the Chief Executive is set aside and the unimproved value of the "Lansdowne" aggregation as at 1 October 2005 is determined at Ten Million, Five Hundred Thousand Dollars (\$10,500,000).**

CATCHWORDS: Unimproved value – grazing property at Tambo – comparison with determinations of selected cases – sales relied upon in the selected cases – other sales evidence - classifications of country - carrying capacity – sheep area values – allowances for size and disabilities - *Valuation of Land Act 1944*

APPEARANCES: Mr A Boyd, agent, for the appellant.  
Mr W Isdale, Executive Legal Consultant, Crown Law, for the respondent.

[1] This is an appeal by a landowner in the then Shire of Tambo against the unimproved value applied to its land by the Chief Executive, Department of Natural Resources and Water (the Department) under the provisions of the *Valuation of Land Act 1944* (the *Act*).

- [2] The Lansdowne Pastoral Company Pty Ltd (the company) is the owner of a grazing property known as "Lansdowne", containing a total area of 62,933.323 ha. However, the property is an aggregation comprising a northern part, known as "Lansdowne" Head Station, situated approximately 16 km south of Tambo on the bitumen sealed Ward River Road, and a southern part, known as "Lower Lansdowne", situated approximately 50 km south of Tambo, with access by a mixture of bitumen, formed earth and gravel and formed earth (black soil) roads.
- [3] Although the two parts of the property are separated from one another, the Department has included them in one valuation under s.34(1)(b) of the *Act*, as they are worked as one holding and used exclusively for the purpose of farming (as defined) and are owned by the same company. As at 1 October 2005, the Department applied an unimproved value of \$11,500,000, or \$182.50/ha, to the property. The company appealed to the Land Court against that valuation, stating that its estimate of the unimproved value is \$6,500,000.
- [4] The appeal was lodged on the company's behalf by its agent, Mr A Boyd. The grounds of appeal are wide-ranging but general in nature, essentially contending that the unimproved value is excessive because of the failure by the Department to take into account and make proper allowance for various matters, or to apply the correct principles of valuation.
- [5] This was one of a number of cases tried by fast-track hearing, following the determination of selected cases, "Ravensbourne" in then Shire of Blackall and "Minnie Downs" in the then Shire of Tambo.<sup>1</sup> The parties agreed that the remaining appeals be determined by confining the evidence to comparisons with the decisions in those cases and to the sales relied upon in arriving at those determinations. However, because of the special circumstances of this appeal in relation to such a large area, extending across the Tambo Shire, further evidence of other sales and the relativity of valuations of other properties in the southern part of the Shire, were also heard.

### **The Evidence for the Appellant**

- [6] Evidence for the appellant was given by its manager, Mr C H Turnbull, who is also a director of the company, which conducts a sheep stud operation at "Lansdowne". Mr Turnbull explained that the company had instigated the appeal because of its concern about the quantum of the present valuation, which had increased from the previous valuation of \$3,850,000 made as at 1 October 2001. He contends that "Lansdowne" is dissimilar and not comparable to the selected property, "Minnie Downs", which he

---

<sup>1</sup> *Walker and Anor v Department of Natural Resources and Water* [2008] QLC 0008.

described as lightly shaded to timbered country, whereas "Lansdowne" is basically all open downs country.

[7] Mr Turnbull maintains that the appellants in the area had agreed to the selected case being "Minnie Downs" to establish a level of value for the northern part of the Shire. He contends that the Department had already established a level of values for the southern part of the Shire by reducing the valuation of a property in that area known as "Barwhinnock", to a level which reflected an increase of 100% over the previous valuation of that property. That contrasts with the increase of nearly 200% in the valuation of the "Lansdowne" aggregation.

[8] Attached to Mr Turnbull's statement<sup>2</sup> were land system maps of both the Head Station and "Lower Lansdowne", which were very similar, if not identical, to the WARLUS land system mapping, relied upon by the Department. However, Mr Turnbull had further refined the land systems into five land classifications for the whole of the property which were set out in his statement as follows:

"Category 1

Wooded alluvial 1,037 ha.

Flat alluvial plains subject to occasional flooding, Mitchell open tussock grassland, deep brown to grey cracking clays – associated scalded areas.

8,672 ha

Flooded alluvial plains with numerous braided channels coolibah river gum low open woodland flat alluvial plains subject to occasional flooding, Mitchell, open tussock grassland, deep brown and grey cracking clays and associated scalded areas.

Category 2

Wooded downs 963 ha.

Gently undulating planes Mitchell grass wooded/shrubland/bloodwood and ironbark

4,288 ha

Gently undulating plains Mitchell grass wooded/shrubland grasslands moderate deep brown and grey cracking clays with self mulching surfaces scattered pebbles may occur.

Category 3

Undulating downs 27,826 ha.

Flat gently undulating plains Mitchell grass open tussock grasslands moderate deep brown and grey cracking clays with self mulching surfaces scattered pebbles may occur.

Also contains white spear and yabla grass.

Category 4

Undulating downs with timber 16,319 ha.

Flat gently undulating plains Mitchell grass open tussock grasslands wooded or tall open shrubland on rubbly sandstone outcrops moderate deep brown and grey cracking clays with self mulching surfaces scattered pebbles may occur.

Category 5

Open alluvial 3,322 ha.

Flat plains adjacent to major alluvials subject to seasonal flooding coolibah open forbland flat alluvial plains subject to occasional flooding, Mitchell open tussock grassland deep brown and grey cracking clays associated scalded areas."

---

<sup>2</sup> Exhibit 2.

[9] In his oral evidence, Mr Turnbull ranked all those categories in descending order of quality:

- Category 3 – undulating Mitchell grass downs (similar to "Uanda", but with feathertop and speargrass mainly on "Lower Lansdowne");
- Category 4 – undulating downs with timber (the main category on the Head Station), varying from ridge country with shallow top soil with mainly buffel grass, to deep black soil Mitchell grass on the flats;
- Category 5 – open alluvial country, with scalded claypan areas away from the river, mostly on "Lower Lansdowne" along the Ward River;
- Category 2 – wooded downs which includes patches of scrub country, mainly on "Lower Lansdowne", with lighter carrying than the downs country, being mainly sweet herbage country rather than Mitchell grass, with pebbly red soil areas and some erosion problems;
- Category 1 – wooded alluvial being the plains along the Ward River, with claypan areas and braided channels, good Mitchell grass in the channel but little to no useful grass on the claypans; all flooded country.

*Flooding -*

[10] The Ward River runs through both Head Station and "Lower Lansdowne". Head Station is situated towards the head waters of the Ward River and does not suffer flooding to the extent of "Lower Lansdowne", where flooding is a significant problem. Mr Turnbull provided a map with the flooded areas marked and gave evidence of the extent of flooding along the Ward River and its tributaries.<sup>3</sup> The flooding is so severe that five large paddocks and some smaller paddocks cannot be used to run sheep between November and March each year, some even being dangerous for cattle.

*Inferior downs country -*

[11] Mr Turnbull emphasised that the downs was not all first class Mitchell grass downs country like the highest valued property in the area, "Uanda", but much of Head Station comprised the Category 4 country, with areas of shallow topsoil ridges grassed mainly with Buffel grass. While there was no ashy downs on Head Station, towards the eastern boundary of "Lower Lansdowne" was a large area which Mr Turnbull described as "ashy", which although growing Mitchell grass, suffered badly from cracking which affected the growth of grass. That area, he said, dries out more quickly and in wet weather is a problem as stock become bogged.

*Carrying Capacity –*

[12] Mr Turnbull was aware that the Department's traditional carrying capacity on "Lansdowne" overall had been 1 sheep to 1.35 ha. However, he maintained that

---

<sup>3</sup> Exhibit 2, Annexure.

following an objection by the company to the 2001 valuation, departmental representatives had agreed that the carrying capacity should be extended to 1 sheep to 1.4 ha, which was the safe carrying capacity attributed to the property following a study by the Department of Primary Industries.

*Working difficulties –*

- [13] "Lansdowne" is by far the largest property in the area and the two parts of it are separated by the properties "Baree", "Tarrina" and "Sunny Downs" which, according to Mr Turnbull, creates management difficulties. Because of the size of the two parts of the property, two sets of infrastructure had to be established, with two homesteads, two shearing sheds and associated buildings and yards. The distance between those two sets of infrastructure is approximately 40 km by a main road, requiring all vehicles to be registered, unlike a consolidated parcel. Furthermore, with any flood in the Ward River, access to "Lower Lansdowne" is impossible.
- [14] Mr Turnbull contends that following the objections to the 2001 valuation, the Department had recognised and made allowance for the factors of size, flooding and severance and reduced the valuation of "Lansdowne" from \$5,100,000 to \$3,850,000, a reduction of approximately 25%. He asserts that those disabilities should again be recognised and a valuation of \$136.20/ha, should be applied to "Lansdowne" overall, a total valuation of \$8,570,000.

### **The Evidence for the Department**

- [15] Evidence for the Department was given by registered valuer, Mr PJ Haydon, who explained that he had valued "Lansdowne" by reference to the Department's historical records, with the assistance of the WARLUS land system mapping, regional ecosystem mapping and satellite imagery. He described "Lansdowne" overall as comprising:
- 28,000 ha (44%) downs, with a carrying capacity of 1 sheep to 1.2 ha.
  - 15,935 ha (25%) downs, with a carrying capacity of 1 sheep to 1.3 ha
  - 5,250 ha (8%) Bloodwood/Ironbark red soil ridges, with a carrying capacity of 1 sheep to 1.4 ha;
  - 600 ha (1%) remnant scrub, with a carrying capacity of 1 sheep to 3.5 ha; and
  - 13,148.323 ha (21%) channels, with a carrying capacity of 1 sheep to 2 ha.
- [16] He assessed the carrying capacity at the traditional carrying capacity applied by the Department of 1 sheep to 1.35 ha, or 46,617 sheep.
- [17] While recognizing that there was an area of remnant scrub on the property, Mr Haydon said that it was in patches or associated with the riparian areas. He did not think that but for the vegetation management legislation, the company would have developed it. In

any case, he said, such a small proportion of remnant scrub would have no effect on the carrying capacity or potential of the property.

[18] Mr Haydon maintains that his second downs classification, with a carrying capacity of 1 sheep to 1.3 ha, refers to the country described by Mr Turnbull in Category 4. He suggests that would be a better way to describe it.

[19] Mr Haydon agreed that the Department had reduced the 2001 valuation of "Lansdowne" by approximately 25% to recognise the size, flooding and severance of the property into two parts. He asserts that he has maintained those allowances by applying the general increase in the valuation of downs country to the previously reduced valuation. In that way, he said, the allowances have been incorporated into the new valuation.

[20] Mr Haydon adopted the traditional carrying capacity which appeared in the Department's records of 1 sheep to 1.35 ha. In relation to Mr Turnbull's evidence that the Department had adjusted the carrying capacity of "Lansdowne" to 1 sheep to 1.4 ha, Mr Haydon said he could find no reference in the historical record of any such agreement. However, he could not deny that such an agreement had been made.

[21] In Mr Haydon's opinion, the selected case, "Minnie Downs", is the most appropriate comparison for the valuation of the subject land. Although "Minnie Downs" has more timbered country, both are essentially downs country in the same locality.

[22] Mr Haydon rejected Mr Turnbull's argument that there are different market forces for downs country in the southern end of the Shire. He admitted that there were sales of different types of country that showed different rates per hectare to the downs country. He denied that the sale of "Barwhinnock" is downs country, describing it as comprising 4,000 ha of scrub and 2,100 ha of open forest country, approximately 5,800 ha of which had been developed, out of a total area of 14,433 ha. Its carrying capacity had been assessed at 1 sheep to 1.9 ha. Mr Haydon was of the view that "Barwhinnock" comprises different types of country to the essentially downs country on "Lansdowne".

[23] "Barwhinnock" was a sale on 21 October 2005, which was analysed by the Department to show an unimproved value of \$104.06/ha. Following an objection by the owner, an unimproved value of \$90/ha had been applied as at 1 October 2005. Mr Haydon maintains that the sale had been used to value similar country to "Barwhinnock", but could not be used to value country such as "Lansdowne".

[24] According to Mr Haydon, the southern part of Tambo Shire and the northern part of Murweh Shire had been valued by reference to the sale of a property known as "Nive Downs", containing an area of 13,742 ha, which comprised essentially downs country with developed scrub. That sale was analysed by the Department to show an

unimproved value of \$175.50/ha and \$164/ha had been applied at the relevant date. The carrying capacity of "Nive Downs" was assessed by the Department at 1 sheep to 1.4 ha, a sheep area value of \$230/ha. That compares with \$277 on the selected case, "Minnie Downs".

[25] "Nive Downs", like "Lansdowne", comprises two separate areas. Mr Haydon maintained that the sale price therefore incorporates what the purchaser allowed for severance. However, "Nive Downs" was purchased by an adjoining owner and is much smaller than "Lansdowne". Furthermore, the Department had applied only 87% of the analysed unimproved value from the sale which, in my view, makes it difficult to draw any conclusion about the effect on value of the severance.

[26] When questioned about the large discrepancy between the percentage increase applied to "Lansdowne" at nearly 200% and the percentage increase applied to "Barwhinnock", Mr Haydon expressed the view that percentage increases are not a reliable comparison. He contends that during the process of analysing the sale of "Barwhinnock", the departmental valuers had found that the 2001 applied value of \$648,000, or \$44.90/ha, was incorrect as the scrub on the property had been wrongly valued. The correct value should have been \$550,000. If that had been the applied unimproved value, the percentage increase in "Barwhinnock" in 2005 would have been 136%, not 100%.

### **The Issues**

[27] There is little between Mr Turnbull and Mr Haydon regarding the classification of the country on "Lansdowne". Mr Turnbull accepted Mr Haydon's classification of the first and second categories of downs and the respective carrying capacities assigned to those areas. He also agreed that Mr Haydon's third classification of bloodwood/ironbark red soil ridges and a carrying capacity of 1 sheep to 1.4 ha, was similar to his Category 2 country.

[28] However, Mr Turnbull disagreed with Mr Haydon's last two classifications. He thought there was a larger area of remnant scrub which could not be cleared because of the vegetation management legislation. He also thought that Mr Haydon's carrying capacity was too optimistic. Furthermore, he disagreed with Mr Haydon's carrying capacity of 1 sheep to 2 ha on the channels.

[29] Mr Turnbull's area of remnant scrub was based on an assessment contained in a letter dated 11 January 2007 from the Principal Project Officer of the Enterprise Assistance Unit of the Department.<sup>4</sup> It seems that following the vegetation management legislation prohibiting the further broadscale clearing of remnant vegetation, affected landowners

---

<sup>4</sup> Exhibit 4.

could apply for an enterprise assistance grant of up to \$100,000 per farm business. As part of that process, the Department's officers made an office-based assessment of the areas affected by changes to the vegetation management legislation. I assume that means an assessment of the areas which could have been cleared prior to the legislation, but which no longer can be cleared since the moratorium on broadscale tree clearing took effect.

[30] The letter indicates that an area of 2,023 ha was affected by that legislation. However, that was an office-based assessment and there is no indication as to how it was carried out. On the other hand, Mr Haydon is of the view that all but 600 ha of that area could not reasonably be categorised as remnant scrub, as it probably included areas which normally would not have been cleared.

[31] In the circumstances, as I have no evidence of how the enterprise assistance estimate was carried out, I accept Mr Haydon's measurement of 600 ha of remnant scrub. However, that does not resolve the difference in their respective assessments of carrying capacity.

[32] Mr Haydon assessed 13,148 ha of channels, which he explained would also include claypan areas. On the other hand, Mr Turnbull's classification in Category 1 includes 9,709 ha of what he refers to as claypans with braided channels, with good grass in the channels, but mainly bare claypans away from the channels. He also includes 3,322 ha of his Category 5, open alluvial country, which seems to be comprised mainly of scalded claypan areas. While the total area would be compatible with Mr Haydon's area, Mr Turnbull's description would make a carrying capacity of 1 sheep to 2 ha appear to be somewhat optimistic.

[33] Mr Turnbull contends that he and the Department agreed on a carrying capacity for "Lansdowne" at 1 sheep to 1.4 ha at the time of the objection conference in respect of the 2001 valuations. Mr Haydon could find no record of that agreement, but could not deny that it was made. In the circumstances, I accept the carrying capacity of 1 sheep to 1.4 ha, which does not seem unreasonable having regard to the extent of the flooding and the areas of lighter carrying country on the aggregation.

[34] "Lansdowne" is by far the largest property in the traditional sheep area of Tambo Shire. It seems that the Department recognised that some allowance should be made in the rate per hectare for such a large property, when dealing with the objections to the 2001 valuations. According to Mr Turnbull, an allowance of 10% was made for size. Mr Haydon considers it appropriate to continue that allowance, but not increase it, because of what he regards as the demand for larger properties with little apparent discounting of

the rate per hectare. He cited some examples of sales of larger properties which, he said, sold for only slightly less per hectare than sales of smaller properties. However, no specific details were given.

[35] Mr Haydon said that the Department at that time had made a 3% allowance for the extent of the flooding on "Lansdowne". That was also considered to be appropriate.

[36] There was evidence that the Department had also allowed 3% for the management problems created by the severance of the two separated parts. When confronted with the evidence of the difficulties and costs of maintaining two sets of infrastructure and the extent of the management difficulties, on reflection Mr Haydon thought that an allowance of 5% would not be unreasonable to recognise those disabilities. He pointed out that the sale of "Nive Downs" was of two separate parcels and that any discounting would be reflected in the sale price. However, as referred to earlier, that argument has little impact as the Department applied only 87% of the analysed value.

[37] The real issues as far as Mr Turnbull is concerned, are the amount of the valuation and the extent of the increase at nearly 200%, compared with the increases in the valuations of other properties, particularly "Barwhinnock" at only 100%. He also refers to the fact that the selected case, "Minnie Downs", increased by only 156%.

[38] In my opinion, although it is understandably important to a landowner, any comparison based on the percentage increases in the valuations of various properties has little or no validity, particularly where those properties are of different types of country. Mr Haydon explained that relativities were changed where he considered it necessary to do so. Apart from the changed circumstances resulting from the vegetation management legislation, it seems that there were many inaccuracies in the 2001 valuations. The property, "Uanda", is generally considered to justifiably be the highest valued property in this area of the Tambo Shire. There is evidence that its valuation was out of relativity following a reduction of its valuation on objection to the 2001 valuation. To restore the correct relativity, Mr Haydon increased its 2005 valuation by more than the average. Furthermore, there is evidence in the Department's schedule of sales that its valuers considered that the 2001 valuations of some other properties were incorrect. That seems to have become apparent when they analysed the sales of "Minnie Downs", "Barwhinnock" and "Nive Downs".<sup>5</sup>

## Conclusion

---

<sup>5</sup> See remarks for each of those sales in Exhibit 8.

- [39] From the evidence given by Mr Haydon and photographs which were tendered,<sup>6</sup> I am of the opinion that the sale of "Barwhinnock" is of no assistance in arriving at the unimproved value of "Lansdowne". Even though it is in close proximity to "Lower Lansdowne", I agree with Mr Haydon that it is not comparable. The fact that its valuation increased by only 100%, could be the result of an incorrect valuation in 2001. That is no reason to reduce the valuation of "Lansdowne".
- [40] I agree with Mr Haydon that the sale property, "Nive Downs", is a better comparison. However, "Nive Downs" is not all Mitchell grass downs country, but includes developed scrub, river frontage and forest country.
- [41] Mr Haydon relies principally on "Minnie Downs" as the selected case determined by the Court at \$185/ha, with a carrying capacity of 1 sheep to 1.5 ha, and a sheep area value of \$277. However, as Mr Turnbull points out, "Minnie Downs" is somewhat different country and while it sets the standard for the northern end of Tambo Shire, it is some distance away from "Lower Lansdowne".
- [42] In earlier cases in which Mr Turnbull was a witness concerning the open downs country in the vicinity of "Lansdowne" Head Station, he accepted that "Uanda" was representative of the best quality downs country in the Tambo Shire. Mr Haydon had applied an unimproved value of \$239.50/ha to that property, which had an agreed carrying capacity of 1 sheep to 1.2 ha. That is a sheep area value of \$287.40. However, "Uanda" is a much smaller property than "Lansdowne", has none of its flooding problems and is one parcel.
- [43] The evidence is that Mr Haydon valued "Uanda" by comparing it with the sale property "Minnie Downs", which the Court determined at an unimproved value of \$185/ha. "Minnie Downs" is somewhat inferior country overall to "Lansdowne", but does not suffer the extent of flooding and has no severance problems.
- [44] In the present case, Mr Haydon gave evidence that he relied on the sale of "Nive Downs" to value the better quality country in the southern part of the Tambo Shire. "Nive Downs" is also much smaller than "Lansdowne", suffers some flooding from the Nive River and is in two separate parts. It has a carrying capacity of 1 sheep to 1.4 ha, but includes a significant proportion of developed scrub, the cost of which must be taken into account. Mr Haydon applied an unimproved value of \$164/ha to "Nive Downs", which is a sheep area value of \$230. However, that sheep area value takes into account the cost of developing 4,387 ha of scrub.

---

<sup>6</sup> Exhibit 6.

- [45] Having regard to the sheep area values of those three properties, if the size, flooding and severance issues are put to one side, the sheep area value of "Lansdowne" must be more than that of "Minnie Downs", but less than that of "Uanda". However, those issues would influence the price that a prudent purchaser would pay for "Lansdowne" and must be taken into account.
- [46] Without resorting to the various percentage allowances made by the Department when reducing the 2001 valuation of "Lansdowne" on objection, I have come to the conclusion that the evidence justifies a sheep area value somewhat less than the \$277 determined for "Minnie Downs".
- [47] The only other guidance is from the sheep area value of \$230 applied by the Department to the sale property, "Nive Downs". The sheep area value of "Lansdowne" should be somewhat higher than that.
- [48] In the circumstances, after weighing all the evidence, I propose to adopt a sheep area value of \$235. At a carrying capacity of 1 sheep to 1.4 ha, or 44,952 sheep, that amounts to a valuation of \$10,563,720, or approximately \$167/ha. When rounded that amounts to a valuation of \$10,500,000, and I propose to adopt that figure.

#### **Order**

The appeal is allowed, the valuation of the Chief Executive is set aside and the unimproved value of the "Lansdowne" aggregation as at 1 October 2005 is determined at Ten Million, Five Hundred Thousand Dollars (\$10,500,000).

**JJ TRICKETT**  
**PRESIDENT OF THE LAND COURT**