

LAND COURT,

BRISBANE

30 November 1995

**Re: Appeal against Annual Valuations  
Valuation of Land Act 1944.  
Shire of Aramac.  
(AV94-195 and AV94-374).**

**John Allen Schulz**

**v.**

**Chief Executive, Department of Lands**

(Hearing at Barcaldine)

## **DECISION**

Mr JA Schulz is the owner of a grazing property known as "Marie Downs" and described as GHPL 02/3689, Lot 1 on Plan WL 40, Parish of Thistlebank, County of Walker, containing an area of 11,460 hectares. For the annual valuations made as at 31 March 1992, and as at 30 June 1993, the respondent valued that land at \$96,000, or approximately \$8.40 per hectare. Mr Schulz has appealed to the Land Court against the 1992 and 1993 annual valuations.

"Marie Downs" is situated approximately 102 kms north of Aramac, with access by 35 kms of bitumen sealed road, with the balance being formed earth road. Barcaldine is the nearest railhead, being approximately 170 kms to the south. Rural electricity and digital radio concentrator (DRCS) telephone are connected to the property. Mail service is twice weekly.

"Marie Downs" is watered by one flowing artesian bore and bore drain system, several small earth dams and a reciprocal bore drain supply from the adjoining "Thistlebank". The property is used for sheep breeding and woolgrowing.

Evidence was given by the owner, Mr JA Schulz, and by Mr PR Whip, a registered valuer employed by the Department of Lands. Mr Whip's report describes "Marie Downs" as follows:

" The northern part of the property known as "Marie Downs" comprises:

Approx 3000 ha (26%) open to lightly shaded bull mitchell plain, generally harder grey soils subject to periodic inundation. Grassed with mitchell,

bull mitchell, blue (browntop) grass with neverfail and wire grasses in harder areas, patches of lignum and needlewood. Areas of red brown soil ridges in the north and small areas of silver gidyea and boree on the south west. Ranges from good quality plain country to flooded heavy bull mitchell country.

Approx 2600ha (23%) well shaded black gidyea country, generally harder grey soils merging to red-brown soils in the north-west. Fair cover of mitchell and bull mitchell grass exists throughout but the country is fragile and does not stand up to prolonged overstocking.

Balance of northern area 264 ha (2%) comprises flooded black gidyea and creek channels, interchannel areas are generally scalded. Very low pasture value with only coarse channel grasses in the channels and light herbage in good seasons on the balance.

The southern part of the block known as "Lochahndhu" comprises:

Approx 3000 ha very thick mixed black and silver gidyea flanked by numerous broken creek channels of Tetherope, Tin Dish, Jam and Torrens Creeks. Subject to heavy flooding and scalding on the interchannel areas, very low pasture value with coarse grasses on the channels and only very light herbage in good seasons on the balance. There is a small area (approx 150 ha) of plain country in the middle of this area which experiences heavy stocking pressure and is showing signs of degradation.

Approx 1200ha (10%) open to lightly shaded bull mitchell plain, generally harder panning grey soils subject to periodic inundation. (Owners have constructed earth banks in the past to control claypanning and encourage grass growth). Grassed with bull mitchell, blue (browntop) grass with neverfail and wire grasses in harder areas. Goes to an area of red brown sandridges in the north.

Balance comprises approx 1246ha (11%) mixed open plain country with broken red sandridges. Plain country grassed with mitchell, blue (browntop) grass and neverfail/wire grass, sandridges have spinifex and desert grasses. Due to the mixed and broken nature of this country, stock tend to selectively graze the sweeter pasture, leading to overgrazing of the more fragile country types. "

Mr Schulz contended for an unimproved value of \$50,000 in each case. He did not greatly disagree with Mr Whip's description of country, but thought that he did not sufficiently emphasise the extent of the inundation in big floods. Mr Schulz said that

very little of the property was not affected in major floods.

Mr Schulz was concerned that the valuer may not have taken into account a number of the special problems of the property in arriving at his valuation. For the proper functioning of the property, Mr Schulz contended that it was necessary to make extensive improvements to achieve the carrying capacity on the land. Shape and severance necessitated a far higher proportion of boundary fencing than normal. For example, there are three severed areas requiring fencing of 8.04 kms (including nine channel crossings, two of Torrens Creek), 9.92 kms and 9.9 kms respectively. Total boundary fencing is 87.76 kms of which 36.44 kms is sole cost and not shared by adjoining landowners.

In addition, "Marie Downs" is fenced into 25 paddocks, 18 on the northern block and seven on "Lochahndhu". This, Mr Schulz said, was part of the process of rehabilitating the land and running it in such a way that pastures are preserved on the different types of country. He contended that further paddocks are necessary, including six more on "Lochahndhu" to enable the "retiring" of three areas of eroded claypans.

Mr Schulz explained that the black gidyea country on the northern block is unique to the area. He said that properties with similar soil types have been denuded and "panning" has occurred. Annual grasses have replaced the mitchell grass cover, greatly reducing the carrying capacity. The husbandry and capital investment necessary to maintain the cover on "Marie Downs" have resulted in greatly improved pasture compared with that on the adjoining properties.

He said that this was particularly noticeable at the time of hearing, as drier times have resulted in vastly dissimilar pasture response. The "panned" soils on adjoining properties are no longer protected by the mitchell grass tussocks and the exposed soil requires several times the quantity of rain to produce a response. On the adjoining land, the pasture was almost exhausted, while "Marie Downs" still had adequate cover to sustain its usual stocking rates.

These particular features of "Marie Downs", according to Mr Schulz, make it more difficult and expensive to manage and maintain than open downs properties, such as "Bowen Downs". He disagreed with the Department's carrying capacity of 6,000 sheep on "Marie Downs", contending for a "weighted" capacity of 4,500 sheep. This he arrived at by comparing the carrying capacity of the northern block with the adjoining land of similar type which had been denuded as explained above. If "Marie Downs" had been treated the same way, its carrying capacity would be no higher than the adjoining land which Mr Schulz estimated to be 1 sheep to 6 acres, giving the northern block a

carrying capacity of 2,500 sheep. There is no argument about the carrying capacity of "Lochahndhu", which in its present state would carry 2,000 sheep.

Mr Schulz's main argument is with the relativity of the open downs country, particularly "Bowen Downs", with "Marie Downs". The open downs country has an agreed carrying capacity of 1 sheep to 3 acres (1 to 1.2 ha) and is much less costly to develop and maintain. Even after severe droughts and bare of mitchell grass, the open downs country recovers much more quickly than the "Marie Downs" country.

The downs country was reduced by 40% at the time of the 1992 valuation and that level of values was maintained in 1993. However, by contrast, "Marie Downs" was reduced by only about 20%. This seems to be the crux of Mr Schulz's argument.

Mr Whip led evidence to valuations of \$92,000, or approximately \$8 per hectare, for both 1992 and 1993. He provided a report which outlined in detail the background to the 1992/1993 valuations. In summary, this report traced the history of the wool market before and after the removal of the Reserve Price Scheme for wool in June 1991.

The uncertainty prior to the removal of the Reserve Price Scheme had an effect on the property market. After June/July 1991, the market rallied somewhat with the Official Wool Indicator reaching a high of just under 600 cents in July, before falling away to a low of 430 cents in October.

The indicator rose to 575 cents in early 1992 and remained at that level until early March when the market rose sharply to 650 cents. It then slid back to around 600 cents through to June/July 1992, but led to renewed confidence in the industry which lasted until early 1993.

In March 1993, following minor fluctuations, the Wool Price Indicator began to fall, reaching a new low of 380 cents in April/May, with confidence in the industry affected accordingly. Wool prices climbed back and, by December 1993, the indicator was at 480 cents and some confidence returned to the industry. The market continued to firm, apart from minor fluctuations, through 1994, with the Wool Price Indicator opening in 1995 at 780 cents.

Throughout this period, Mr Whip reported, the cattle market was comparatively stable, apart from seasonal and trade fluctuations. Temporary lows were balanced by market highs through 1991, 1992, and 1993. This was followed by a gradual downward trend in cattle prices in early 1994, which levelled out towards the end of that year.

In a report on the background to the property market, Mr Whip made the point that the valuations as at 31 March 1992, and 30 June 1993, were made following periods of extreme volatility in the market for sheep country, particularly for downs country, because of the fluctuation in wool prices. The property market had increased from the 1980s, driven largely by increasing wool prices through 1987/88, continuing to

a peak in late 1989.

Annual valuations of the area were carried out with relevant dates of 31 March 1989, and 31 March 1990. The values in 1989 showed marked increases from the previous valuation of 1981. However, the 1990 valuation was re-written in order to reflect the market uncertainties regarding the Floor Price Scheme.

There were no sales in the area until late 1991, when the market perception was that the market for woolgrowing land had bottomed. However, no valuation was carried out in 1991, and the first valuation to reflect the effect of the wool crash on unimproved values was the 1992 valuation. Sales analysed throughout the west of Queensland showed marked decreases in the traditional sheep country, i.e. the downs country, while sales in the traditional cattle country showed no such reduction.

Through mid-1992 to early 1993, the property market in the Central West remained relatively static, with only a few sales occurring at the same market level of the earlier sales. Sales that did occur indicated that the revaluation as at 30 June 1993, should remain at the same level as the 1992 valuation.

Although the sales indicated that there was an emerging confidence by the end of 1994, the prevailing dry seasons through much of the period saw market levels remain at much the same level as 1992/93.

In his report, Mr Whip included three schedules of sales from which he drew those conclusions. The sales of purely downs country reflect the fall in the market to which he referred. The sales of mixed forest country to the east indicate that land which has been regarded as traditional cattle country had retained its value and not fallen. Mr Whip explained his reasoning thus:

" I've included three schedules and they relate to the 1992 revaluation, the 1993 revaluation and the latest revaluation for 1995... to give the Court the benefit of an overall view which I believe to be important in this case. To go back to the 1992 sales. These were the first sales which showed the impact of the crash in the wool industry and I believe that the removal of the floor price and the subsequent uncertainty in the wool industry had a major impact in that it changed relativity between country that was downs country and country that was the traditional cattle country or the desert type countries.

In this period there were no sales of country that was even remotely comparable to "Marie Downs". ... The sales that we did have ... include sale 1, "Lou Lou Park", sale 2, "Lochinvar", sales 5 and 6, "Ban Ban" and "Flora Glen". ... The sale of "Lou Lou Park", I believe, has relevance in this case. It's not directly comparable to "Marie Downs" in any way. It's a desert block, much lighter carrying capacity and has been used for cattle for many years and will be used for cattle. ... It serves to illustrate that the

value of that country had not dropped as a result of the uncertainties in the wool market. The values were retained there.

The sale of "Lochinvar", again it's not comparable to "Marie Downs" in country type or situation or in fact in any respect, but it serves to indicate that the type of country had not dropped in value. It's a better type of country, it's got good silver gidyea, good pulled silver gidyea and pulled scrubby forest and some lighter desert country. I've included that to indicate again that there was a market level for that type of country that hadn't reduced due to the wool crash.

The sale of "Ban Ban" is generally open downs country ... and, as you can see from the map, many miles away from "Marie Downs". It and "Flora Glen", which is in the same location, are the only clean downs sales in this area and they both indicated a reduction of 40 per cent ...

I see "Marie Downs" ... as not being directly comparable to any of these sales but what I do see the sales indicate is that we have the desert country which is obviously very inferior to "Marie Downs", showing that the values have remained constant. We have the straight open downs type country showing that there is a reduction in the order of around 40 per cent. I see "Marie Downs" as being a merge type block, which is, it's on the fringe of country that has been traditionally used for sheep and on the other side, country that has traditionally been used for cattle. I see it as an area that is gradually moving out of sheep. ... There are no sheep enterprises to the north ... "Marengo" was the last one to go out of sheep. The purchaser will be using it for cattle. "  
(Transcript page 25 line 27 to page 26 line 54).

This was Mr Whip's reason for leading evidence for the reduction of the valuations of "Marie Downs" to \$8 per hectare, a reduction of 24% from the 1990 valuation, instead of the 40% reduction which applied to the valuations of the open downs country.

I have expressed my reservations about the use of the sale of "Lochinvar" in *Rich and Others v. Chief Executive, Department of Lands*, the decision in which was delivered today. The other desert sales in Mr Whip's schedule were, with the possible exception of "Ightham", of inferior type of desert country.

With a few well known exceptions, most of the country in Central Western Queensland is suitable for the running of both sheep and cattle. The open downs country has traditionally been used as sheep country, although there are isolated properties that have always been used for cattle. Since the 1970s, more and more traditional sheep country has been used to run cattle. Many properties run both sheep

and cattle.

It seems, as explained by Mr Whip, that in the years leading up to the uncertainty for the future of the wool industry which culminated in the removal of the Floor Price Scheme, the traditional open downs and gidyea sheep country was selling at a price based on its productivity for sheep. Any purchaser wishing to run cattle had to compete with prospective purchasers in the sheep industry and be prepared to meet their price to obtain that type of country. In other areas, particularly in the harder desert areas, prices were much lower, regardless of whether purchasers intended to run sheep or cattle. Because of the difficulties of running sheep in such country, most of that land has been for many years used as cattle country. Those few purchasers intending to run sheep (usually as relief country) seemed to pay no premium for desert country.

With the removal of the Floor Price Scheme, the traditional sheep country fell in value to a level where the premium as sheep country was removed or at least reduced. Departmental valuers estimated that the removal or reduction of the sheep premium brought levels back by 40% from the unimproved values applied in 1990. However, in the desert country, because prices were being paid at cattle levels, there was no such fall in value.

Between these two extremes, there was country, such as "Marie Downs". In Mr Whip's opinion, there was not the same premium being paid for that country prior to the fall in wool prices in the 1990s. However, he recognised that there may have been some premium. This is why he referred to such properties as "merge blocks" and merged the reduction in former unimproved values from the 40% for the downs country to no reduction for the harder desert country.

Even if the sale of "Lochinvar" is excluded from the basis of his valuation, this does not affect Mr Whip's overall reasoning. Therefore, the argument which succeeded in the Blackall Shire cases is not open in this case. There the argument revolved around the value to be applied to developable gidyea country on mixed gidyea desert properties, compared to the values applied to other gidyea country.

The black gidyea country on "Marie Downs" was agreed by the parties not to be developable. It is quite different to the country in "Lochinvar" and the Blackall cases.

Mr Schulz did not try to refute Mr Whip's overall argument, particularly as he did not know many of the sales. His reasoning was based purely on the relativity argument, particularly the relativity with open downs country such as "Bowen Downs". In my opinion, he was not successful in proving Mr Whip's reasoning to be incorrect. Therefore, I must find that Mr Schulz's principal argument based upon relativity with downs country has not been proved.

Mr Schulz's secondary arguments were: first, that not sufficient allowance has

been made for the extent of flooding on "Marie Downs"; and second, the problems with its shape and its severances, which make the property difficult to work and costly to fence. Mr Whip agreed that the property had the problems outlined by Mr Schulz, but said that he believed they were taken into account in his revised valuation. He said without those problems the percentage reduction of 24% would have been somewhat lower.

After considering the whole of the evidence, I am satisfied that Mr Whip was well aware of the problems outlined by Mr Schulz and has made a practical determination of the carrying capacity at 5,000 sheep. Therefore, I feel that Mr Schulz has not been successful in proving his secondary arguments.

Therefore, having found that Mr Schulz has not been successful in proving either of his grounds of appeal, I accept the valuations advanced by Mr Whip of \$8 per hectare for "Marie Downs" for both the 1992 and 1993 valuations. The appeals will be allowed to that extent.

Accordingly, the appeals are allowed, the valuations of the Chief Executive are set aside and the unimproved value of the subject land for the valuations as at 31 March 1992, and as at 30 June 1993, are in each case determined at Ninety-two thousand dollars (\$92,000).

**Member of the Land Court**