

LAND COURT OF QUEENSLAND

CITATION: *Far North Queensland Ports Corporation Limited v Valuer-General* [2024] QLC 3

PARTIES: **Far North Queensland Ports Corporation Limited & Leased to Abelian Pty Limited & Shangri-La Hotel (Cairns) Pty Limited**
(appellant)

v

Valuer-General
(respondent)

FILE NOS: LVA202-23
LVA203-23

DIVISION: General

PROCEEDING: General Application

DELIVERED ON: 12 February 2024

DELIVERED AT: Brisbane

HEARD ON: 2 February 2024

HEARD AT: Brisbane

A/PRESIDENT: PG Stilgoe OAM

ORDERS:

- 1. The application for an Order requiring the Appellant to provide further and better particulars of their contended highest and best use of the subject land is refused.**
- 2. Any submission as to costs must be filed and served within 14 days of the publication of these reasons.**

CATCHWORDS: REAL PROPERTY – VALUATION OF LAND – OBJECTIONS AND APPEALS – QUEENSLAND – OTHER MATTERS – where the Valuer-General seeks orders for further and better particulars of the appellant’s asserted highest and best use of the subject land – where the appellant stated that their contended highest and best use would be provided after the delivery of expert reports – where expert reports have not been delivered – whether the

Valuer-General is entitled to further and better particulars before the delivery of expert evidence.

REAL PROPERTY – VALUATION OF LAND – OBJECTIONS AND APPEALS – QUEENSLAND – OTHER MATTERS – where the Valuer-General seeks further and better particulars of the appellant’s statement of facts and issues – the nature of pleadings in valuation appeals – whether statements of facts and issues in valuation appeals are subject to the ordinary rules of civil procedure.

Land Valuation Act 2010 (Qld) s 169(1), s 170(b).

Kennards Self Storage Pty Ltd v Valuer-General [2023] QLC [3]; followed

APPEARANCES: D Quayle (instructed by Miller Harris Lawyers) for the appellant

JM Horton KC, with Dr G Sammon (instructed by Crown Law) for the respondent

- [1] Far North Queensland Ports Corporation Limited is the registered proprietor of land in Cairns on which The Hilton Hotel and the Shangri-La Hotel are located. Unusually in a land valuation appeal, the Corporation argues that the issued valuations of the subject properties are too low.
- [2] The Shangri-La Hotel sits within Precinct 11 of the Cityport Local Area Plan (LAP) within the Cairns Port Authority Land Use Plan (LUP). The LAP contemplates that Precinct 11 will consist of mixed uses accommodating retail, commercial, tourist and accommodation uses.
- [3] The Hilton Hotel sits within Precinct 8 of the LAP. The LAP states that Precinct 8 is primarily a tourist accommodation area with the Hilton Hotel being the focus and principal use within the precinct. It states that no major development is intended with the exception of the minor expansion or upgrading of the hotel.
- [4] In its grounds of appeal, the Corporation stated that both sites had the potential to be developed to a greater intensity than their present uses. In its statement of facts and issues, the Corporation repeated its view with some detailed exposition of the relevant planning considerations.
- [5] Through late disclosure, it came to the attention of the Valuer-General that there had been a proposal to add an additional two floors to the Shangri-La Hotel comprising

permanent residential accommodation. The Valuer-General wants the Corporation to provide particulars of the Corporation's proposed highest and best use; specifically, whether it contends for a permanent residential component.

- [6] These are the reasons why I have refused to order the particulars be provided.
- [7] As I have previously observed¹, the intervention of expert witnesses in land valuation appeals often means that the hearing involves a different highest and best use, land conditions and comparable sales from that first posited by the parties. An appellant is limited in the scope of its appeal by the grounds of the objection². Thereafter, the identification of the issues and the scope of the appeal is largely in the hands of the experts.
- [8] Although the statements of facts and issues take the place of pleadings in land valuation matters, they are necessarily of a different character from the pleadings in civil litigation. Although the Corporation bears the onus of proof, the involvement of experts means that the hearing is more in the nature of an administrative review – the Court is tasked with arriving at the correct valuation³.
- [9] The possibility of permanent residential accommodation has already been flagged through the Corporation's reference to the terms of Precinct 11. The Valuer-General is fairly on notice that this may be an issue in the hearing. It does not matter whether the Corporation thinks that is the highest and best use because that is a matter on which the valuers will give evidence and the Court will decide. The material clearly shows that it is an option; whether or not the introduction of permanent accommodation as the highest and best use will depend on many factors, all of which the valuers must consider. Requiring the Corporation to articulate its view of highest and best use will assist neither the experts nor the Court.

Orders

- 1. The application for an Order requiring the Appellant to provide further and better particulars of their contended highest and best use of the subject land is refused.**

¹ *Kennards Self Storage Pty Ltd v Valuer-General* [2023] QLC 3 [27].

² *Land Valuation Act 2010* (Qld) s 169(1).

³ *Ibid* s 170(b).

- 2. Any submission as to costs must be filed and served within 14 days of the publication of these reasons.**