

PRIVATE LANDS (MINING PURPOSES) LEASE APPLICATION 1268
(NEWCASTLE) BY BROKEN HILL PTY. CO. LIMITED.

Inquiry for assessment of rent and compensation.

This has been an inquiry for assessment of rent and compensation in respect of private lands the subject of Private Lands (Mining Purposes) Lease Application 1268 Newcastle by Broken Hill Pty. Company Limited. The application was lodged on 21st. June, 1960 and is intended to give the applicant title under the Mining Act in respect of an area upon which is placed a transmission line which has been in existence since 1933 and is the main power source for the John Darling Colliery.

The area applied for is in the Parish of Kahibah, County of Northumberland, and for the most part comprises a strip of land 50 links wide running adjacent to and parallel to the Belmont-Redhead Railway. The application area thus covers a strip 50 links (33 feet) wide at the rear of a number of blocks of land fronting Kalaroo Road. The area surveyed also takes in three small rectangular intrusions onto that private land for the purpose of including in the lease areas upon which are placed stay-poles. There are two such stay-poles upon lands owned by G. & J.M. Morf. The assessment made herein is made on the understanding arrived at during the hearing that poles on Morfs' land will be removed and the two rectangular areas surveyed to cover their site will be deleted from the application.

On 22nd. March, 1974, the inquiry was opened at Newcastle and there were appearances by or on behalf of the applicant and the landowners R.W. Browne & Son, Morf, Mansfield, Barter, Hart, W.E. Bramble & Sons Ltd., and Newcastle Haulage & Transport Co. Ltd. Some evidence was given on behalf of the applicant and the landowners Morf and Barter. The hearing was adjourned so that the area could be inspected, and so that the parties could present more material upon which an assessment of compensation could be based.

On 19th. July, 1974, I inspected the subject area in company of a representative of the applicant and some of the landowners, although all landowners had been notified of the time and date of the proposed inspection.

The hearing was resumed on 6th. September, 1974, when the only appearances were on behalf of the applicant and the landowners Morf and Hart. I was informed on behalf of W.E. Bramble & Sons Limited that it did not wish to appear but left it to me to make an assessment.

The lands of Morf and Barter were described as "industrial land". I believe that description can be applied to all of the affected lands.

The 1973 Unimproved Capital Values attributed to the various parcels of land are shown on the plan "A" produced by the applicant's representative. I adopt those valuations as the basis of my assessment. There was no other reliable evidence of the value of the land.

"Industrial lands" are commonly valued at so much per square foot independently of frontage or depth, but an analysis of the values accorded, as per plan "A", to the lands of Styman-Mansfield-Gardner and those of Barter-Davies-Cooper indicates that the value of land towards the rear of the blocks is less than towards the frontage, but the rate of decrease in value according to depth is not nearly as accelerated as it would be in the case of urban lands.

The greatest single factor affecting the value of the lands applied for is the topography; a great deal of the area is a depression or depressions, caused, according to the evidence, by earth having been removed at some time in the distant past to build up the adjoining railway embankment. These low-lying areas are subject to inundation from time to time. The lands to the western and southern end of the application area are more affected than those to the northern and eastern end.

The evidence is that none of the application area is used by the landowners now, with the exception of a residence which has been placed on Barter's land, within the application area as to part, in comparatively recent times. Landowners indicated in evidence that they may wish to use the land in future; Mr. Morf may wish to extend his nursery, Mr. Mansfield wishes to have more room for his mobile crane, Mr. Barter may use the area for parking vehicles.

The applicant's agent has indicated that, so far as is consistent with the operation and maintenance of the transmission line, it has no objection to use of the application area by any landowner. Despite this, it is clear that any lease will involve a deprivation of the possession or use of the surface of land, calling for compensation. Actual surface damage will be negligible and no compensation is payable under that head.

The applicant's agent submitted that an important factor was that the present landowners bought from or derived title from the New Redhead Estate & Coal Company, the previous landowners, with whom the applicant had an agreement as to the transmission line, which was in existence on the land when the present landowners came into possession. No agreement was produced. It was not suggested that the applicant has any title to the land other than through the lease application.

Mr. Wheeler, for the landowners Morf spoke of the applicant's ability to pay compensation and tendered the applicant company's annual report. That is, of course, irrelevant.

I consider a proper measure of damage or loss through deprivation of use or possession of land to be the present value of the land less the amount of that value postponed for the period of the lease at 10%. The evidence is that a lease for 20 years is applied for ~~the~~ and that period is still required.

Thus, if land is valued at \$1000, compensation should be calculated thus, by way of illustration,

Present value	\$1000
Less 1000 x .14864	
(the factor .14864 being the present value of \$1 postponed 20 years at 10%)	149
Loss to be compensated	<u>\$ 851.</u>

I assess the values of the lands of the undermentioned landowners, within the application area, in the following amounts:

Universal General Stores	\$	200.
Brown & Son		750
Morf		750
Styman/Mansfield		750
Barter		1600
Hart		1200
Hollis		1100
Bramble		2300
Newcastle Haulage		300

As to the lands of Universal General Stores, account has been taken of the proposal indicated in plans in evidence to resume the greater part of that land for an expressway.

I assess compensation in the following amounts

Universal General Stores	\$	170.
Brown		639
Morf		639
Styman/Mansfield		639
Barter		851
Hart		1022
Hollis		937
Bramble		1958
Newcastle Haulage		255.

The amounts assessed as compensation above are to be paid by the applicant to the Mining Registrar, Newcastle, within one month, and are to be paid out to the landowners upon the grant of the lease applied for.

The area applied for is between 1 and 2 hectares and rent of any lease granted would be in accordance with section 95 of the Mining Act, 1973, \$12.50 per hectare or part thereof, per annum. That amount, spread over the number of landowners here involved, would be negligible as a factor offsetting loss through deprivation of use or possession of the land, and no regard is had to rent in the above assessment.

No assessment is made of rent, in view of the provisions of section 95.

No order for costs.

W. Anderson
Warden.

13.10.75.