

SENATE INQUIRY SUBMISSION

POST GFC BANKING

DAVID BONE ON BEHALF OF MY COMPANY GELROL PTY LTD

This submission can be read in conjunction with my first submission to the Senate Inquiry.

I am a licensed Builder and Property Developer with over thirty years in business.

The initial loan approval in 2008 was for \$4.94 million (including compounded interest) with security of the following from a Bankwest Panel Valuer which the Bank instructed.

102 Clarence Street, Wallalong - \$5,000,000.00 plus GST

210 Fotheringay Road, Clarencetown - \$1,900,000.00 plus GST

221 Fotheringay Road, Clarencetown - \$3,900,000.00 plus GST

Therefore \$10,800,000.00 in security for \$4,940,000.00 in borrowings = 44% LVR

My first submission was no 71 in the list of responses to the Senate Inquiry.

My second submission is in relation as to events that have occurred since the first submission period closed in late May 2012.

A brief description of what is available in Submission 71.

Bankwest appointed the receivers Taylor Woodings to manage the sale of the assets of the company and my assets which were secured for finance.

Bankwest appointed receiver's, Taylor Woodings wrote to my company and stated that Bankwest had appointed them on the 14.9.2011.

This was in direct contradiction to the Bankwest letter which I received on the 13.9.2011 stating a further period of time was offered to extend the facility.

My NSW development site at Wallalong was first identified as a Potential Urban Release Area by Port Stephens Council in 2002.

I exchanged on an unconditional contract of sale in 2005 for the subject site for \$10 million plus GST to three individuals and their company.

Bankwest appointed _____ of Colliers to value three properties in February 2011, the contract was still on foot at Wallalong as the purchasers had negotiated a variation to the contract.

I mentioned the sale but he never requested a copy of the contract.

I later terminated the contract due to non performance and was successful in the NSW Supreme Court action in February 2012 against the company and the individuals.

This judgement took into consideration the land's value and we offered the Court a series of snap shots into the values at particular intervals.

Of the several valuations, all were shown to be above \$5 million plus GST and so an upward movement was demonstrated as the rezoning process was crystalised.

102 Clarence Street, Wallalong has been identified as part of a Urban Release Area of approximately 3,500 homes and is included as a candidate site in the NSW Government Land Release Review into Housing supply in December 2011.

The site has major development outcomes for the Hunter Valley, with the ability to deliver 350 residential lots or equivalent with a rural / residential component. Its area is 88 acres.

Adjoining 2 acre blocks in Wallalong sell for \$350,000.00 regularly.

600 square metre residential lots within eight kilometres sell regularly for \$200,000.00 each.

A 25 acre adjoining parcel involved in the same rezoning process sold for \$2.6 million to an astute experienced developer.

A less attractive 80 acre parcel sold in 2008 for \$4,000,000.00. This was to an experienced developer.

The gross realisation of 102 Clarence Street, Wallalong once completed is in excess of \$71 million

On the 18th April 2012 I instructed MJD Valuers (who were the original Bankwest appointed Valuers) to undertake a valuation based on the strategic planning background which was always available to all Valuers, to better appreciate the likely timeframe to achieve a rezoning of the land.

The land was then valued at \$8,695,652.00 plus GST on an as is basis.

Bankwest appointed receivers, Taylor Woodings have appointed Jurd Real Estate – Cessnock to sell the Wallalong parcel as well as another property at Clarencetown, which is owned by my company Gelrol Pty Ltd.

The property at Clarencetown is 210 Fotheringay Road, Clarencetown and was valued on the 19th August 2011 for \$1.675 million plus GST on an as is basis (down from the original \$1.9 million).

This site has Development Approval and I also achieved a Construction Certificate Approval in December 2011, which would further increase the value.

The gross realisation of this site is \$4,425,000.00

Between these two sites there has been \$3.8 million spent in Development approval and holding costs including government fees and many consultant fees for the Wallalong site.

Therefore a minimum of \$10,370,652.00 by an updated registered valuation was available to the Real Estate Agent, he never requested this however.

I do not understand how a Bank can demand that when you apply for finance, a valuation must be less than 3 months old. But in Taylor Woodings case, did they undertake such a review of the Valuation within three months of them selling these properties.

If they did so they may have found that the security had therefore changed as per registered valuations dated 18.4.2012

102 Clarence Street, Wallalong - \$8,695,652.00

210 Fotheringay Road, Clarencetown - \$1,675,000.00

221 Fotheringay Road, Clarencetown - \$4,350,000.00

Therefore – registered valuations = \$14,720,652.00 as of 18.4.2012 – representing a reduction of the LVR to 34%

An example of a rezoned parcel in the Wallalong area need look no further than the Stockland's purchase of 80 acres of rezoned residential land in March 2011 for \$22 million.

This parcel is only 8 kilometres from my site at Wallalong and was also attached to an existing village, like my Wallalong land.

I also question as to why a Real Estate Agent would be chosen from an area nowhere near the subject sites, when there is approximately 30 well established and respected Real Estate Agencies and a minimum of 120 salespeople between Jurds office and the subject sites.

I have in my possession a copy of an acceptance letter from the Real Estate Agent stating that the two properties have been sold for a total of \$2.25 million plus GST to a willing purchaser.

I was handed this letter from the aggrieved purchaser who was led to believe he was in the process of purchasing the two parcels. He informed me of this after he started to sense something was very wrong with the sale process.

For some reason the receivers legal team stopped corresponding with the purchasers lawyers, no explanation has been forthcoming as to why the receivers and estate agents stopped the sale process.

My former legal team received a letter in July 2012 telling them the property 102 Clarence Street, Wallalong had sold for \$840,000.00.

The exchange took place on the 22nd June 2012.

I have since held a conversation with the purchaser _____, who I have used for over ten years selling livestock for me, from my property at Wallalong. _____ is also a Real Estate Agent in Maitland, he is a Director of Bowe and Lidbury who also sell livestock in the region.

Bowe and Lidbury also buy and sell cattle for _____ of Jurds Real Estate.

_____ has since told me that _____ said to him "If you offer \$840,000.00 you will get this property".

I am aware of another offer that Jurds did not consider further and he told these experienced developers that "I will not send you a copy of the contract as it has been sold".

I know by the timing that the property had at that stage not exchanged.

29.6.2012

My former Lawyer was informed that 210 Fotheringay Road, Clarencetown had exchanged and we have not been able to obtain the sale price.

5.8.2012

The entire Wallalong Urban Release Area goes on public display for comment.

15.8.2012

Another property my company owns is – 221 Fotheringay Road, Clarencetown. This property was valued in August 2011 at \$4.35 million plus GST on an as is basis.

It has a gross realisation of \$12 million plus in land sales.

The land is rezoned and I have commissioned numerous reports in preparation prior to submitting the DA. At the time of the receivers being appointed the reports were being finalised.

_____ from Jurds Real Estate is the agent selling this property under expressions of interest also.

We have not been informed about any of the progress.

The tenants of the farm house have left the property in a state of duress due to the attitude of the Real Estate Agent and receiver. She complained particularly of _____ bad manner when dealing with her young family.

3.9.2012

The property 102 Clarence Street, Wallalong settled for \$840,000.00.

I wish to raise the breach in the Corporations Act 420a that the receivers are duty bound to sell all assets for the highest price and it is clear this did not happen.

Collusion between the Banks and their Receivers, Real Estate Agents and purchaser who is a Real Estate Agent himself also is evident in this instance.

4.9.2012

Receiver Taylor Wooding , left a message on my phone to say they will now pursue other assets to cover their manufactured shortfall. In his words “your parents home has come back on our radar”.

These assets include my elderly parent’s villa which my parents have paid for in full in 2000 and we had transfer documents and contracts prepared in 2003. Bankwest did not even know about this unencumbered property until the receivers were sent in. The receivers were very keen to sell the property for their fees. The villa is worth \$550,000.00.

During this process, I have lost other properties due to Bankwest appointing receivers. It can trigger defaults on other mortgages which have a clause in the mortgage, that if a person or their company is placed in the hands of a receiver then that mortgage can be placed into default. This happened.

This is an example of the flow on effect the appointment of the receivers has had on my company and family and our hard earned wealth.

Another high value property in Wallalong was placed in the hands of a receiver and a sales campaign produced dubious results. This property is 137 High Street, Wallalong.

It was being sold at the same time as my other parcel – 102 Clarence Street, Wallalong.

The 120 acres has the ability to deliver 500 residential lots plus medium density and commercial land.

The gross realisation on this site is \$132 million

The property sold for \$1.12 million to a Director of the company that held the mortgage.

I have spent approximately \$3 million on reports and time to prepare this site for rezoning. I have also helped numerous landholders with their rezoning of their land at no cost to them.

The rezoning application is due for submission in September 2012. The period for this rezone is estimated at twelve months from the submission date.

There was a registered valuation undertaken in August 2012 for \$12.173 million on a as is basis.

This matter is currently being disputed in the Supreme Court of NSW.

If required I would be willing to appear before the Inquiry and discuss what the Bankwest / Commonwealth Bank and receivers disgraceful action has done to my once productive business.

Yours Sincerely

David Bone - Director and Shareholder of Gelrol Pty Ltd

10.9.2012

