



HIGH COURT OF AUSTRALIA

Public Information Officer

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WARREN HALLORAN AND THE PERSONS NOMINATED IN THE ATTACHED
SCHEDULE OF OWNERSHIP v MINISTER ADMINISTERING NATIONAL PARKS AND
WILDLIFE ACT 1974

A series of steps taken to produce certain stamp duty consequences in connection with changes in the ownership of land the subject of claims for compensation were not effective to achieve their purpose, the High Court of Australia held today.

In 1998, the Minister acquired parcels of land totalling about 2,639 hectares to establish the Jervis Bay National Park on the New South Wales south coast. Section 37 of the *Land Acquisition (Just Terms Compensation) Act* entitles land owners to compensation from the State of NSW when land is resumed. Land in NSW adjacent to the Commonwealth Territory of Jervis Bay, formed in 1915, was subdivided for the building of a town to support a proposed port in the Territory but the town never proceeded. Before the resumption, Mr Halloran and the other appellants sought to transfer lots held by several companies to 770 different owners and claimed more than \$46.7 million in compensation under section 37. The transfers were done in May 1998 by way of a 23-step scheme that included the execution of 770 trust deeds, with each trust settled for \$10. No stamp duty was paid on the transfers. The Minister disputed that the scheme achieved its intended purpose.

In the NSW Land and Environment Court, Justice Angus Talbot found in favour of the parties to the scheme. The Minister successfully appealed to the NSW Court of Appeal, which held that the purported transactions had not in fact occurred. In an appeal to the High Court, the appellants claimed the Court of Appeal erred in concluding that they had not established that equitable interests had been created or acquired so as to attract an entitlement to compensation when the land was resumed.

The High Court unanimously dismissed the appeal. It held that the steps taken were ineffective to avoid stamp duty and, because no stamp duty was paid, proof of the transactions was denied by the *Stamp Duties Act*.

- *This statement is not intended to be a substitute for the reasons of the High Court or to be used in any later consideration of the Court's reasons.*