



HIGH COURT OF AUSTRALIA

11 June 2025

VALUER-GENERAL VICTORIA v WSTI PROPERTIES 490 SKR PTY LTD
[2025] HCA 23

Today, the High Court allowed an appeal from a judgment of the Court of Appeal of the Supreme Court of Victoria. The question was whether the definition of "improvements" in s 2(1) of the *Valuation of Land Act 1960* (Vic), for the purpose of ascertaining the site value of land, requires the answer to the question whether "the effect of the work done or material used increases the value of the land" to be determined: at the time of the valuation; or at the time the work was done or the material was used (that is, at the time the putative "improvements" were made to or constructed on the land).

Landene is a two-storey brick residence constructed in the Queen Anne style in 1897 on St Kilda Road in Melbourne. The land on which Landene is located ("the Land") is surrounded by mostly commercial and residential development of a much greater height and scale than Landene, reflecting the zoning of the Land and the area surrounding it as "Commercial 1" Zone. At the time of the relevant valuations, 1 January 2020 and 1 January 2021, the Land was subject to a heritage overlay, which meant a permit was required to demolish or remove Landene.

The Court of Appeal (Emerton P, Kennedy and Lyons JJA) held that the question whether "the effect of the work done or material used increases the value of the land" is to be determined at the time the work was done or the material was used (that is, at the time the putative "improvements" were made to or constructed on the land). As a result, the Court of Appeal dismissed the Valuer-General's appeal against orders of the Victorian Civil and Administrative Tribunal which set aside the Valuer-General's decisions not to adjust the site value of the Land in the amount of \$6,200,000 at the relevant valuation times and reduced the site value of the Land to \$2,925,000 at those times.

The High Court unanimously allowed the appeal and remitted the matter to the Court of Appeal for determination in accordance with the High Court's reasons for judgment. The Court of Appeal's construction was contrary to the text, context and purpose of the definition of "improvements" and, on analysis, would be impossible to apply in any practical way. The definition of "improvements" requires the answer to the question whether the putative "improvements" increase the value of the land to be determined at the time of the valuation. The "improvement" must increase the market value of the land compared to the market value of the land without the "improvement". The alternative valuations are both to be conducted at the time of the valuation and based on the orthodox concept of market value, which carries with it the conventional understanding that the market pays for land at its highest and best use, properly understood as the most valuable objectively ascertained development potential which is legally permissible, physically possible and financially feasible. Long-standing authority supports this approach to the definition of "improvements" in the Victorian legislation. The Court of Appeal's erroneous construction was material to its decision to dismiss the Valuer-General's appeal.

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.