

# Current & future considerations for service station site contamination

Layla Bray

## Site Value S.2(1) Valuation of Land Act (VLA) 1960

- ▶ *‘site value of land, means the sum which the land, if it were held for an estate in fee simple unencumbered by any lease, mortgage or other charge, might in ordinary circumstances be expected to realise at the time of the valuation if offered for sale on such reasonable terms and conditions as a genuine seller might be expected to require, and assuming that the improvements (if any) had not been made’*

# Section 5A - VLA 1960 - Determining value of land

(1) Unless otherwise expressly provided where pursuant to the provisions of any Act a court board tribunal valuer or other person is required to determine the value of any land, every matter or thing which such court board tribunal valuer or person considers relevant to such determination shall be taken into account.

## 5A(3)(b)

- (b) the effect of any Act, regulation, local law, planning scheme or other such instrument which affects or may affect the use or development of such land;
- (c) the shape size topography soil quality situation and aspect of the land;
- (d) the situation of the land in respect to natural resources and to transport and other facilities and amenities;
- (e) the extent condition and suitability of any improvements on the land; and
- (f) the actual and potential capacity of the land to yield a monetary return.

# Specialist Property Guidelines for Petrol Stations

August 2011

## Specialist Property Guidelines for Petrol Stations

These guidelines are to be used when valuing Petrol Stations for rating and taxation purposes.

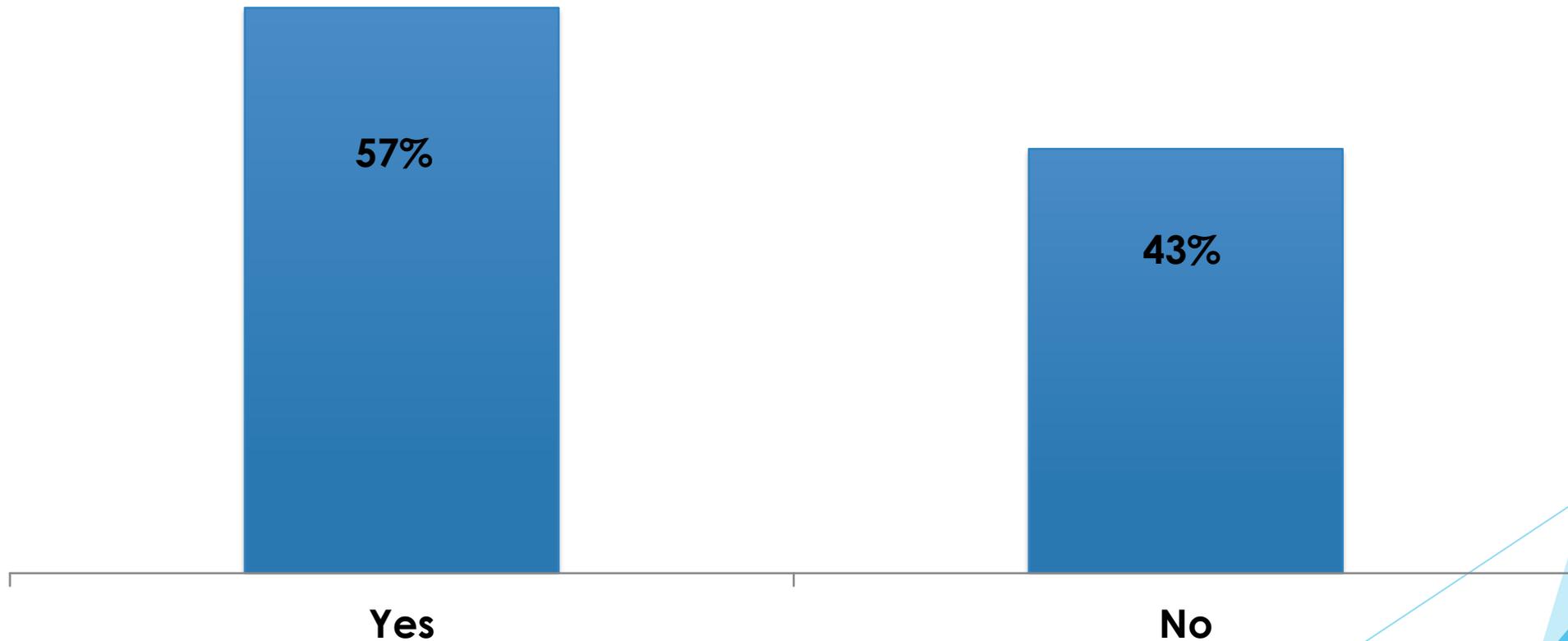
When determining the site value the valuer needs to determine the highest and best use of the site, to be one of three options:

1. Highest and best use is considered to be a petrol station (Primary and Secondary Tier), the highest and best use is deemed to be for a commercial/industrial use or the highest and best use is deemed to be for a residential use.
2. Defining the highest and best use is significant due to the varying implications contamination and the relevant standards of 'clean-up' pertaining to the alternate or continuing use of the site can have on the site value.
3. Also regard must be had to the requirement of removing the underground tanks for any other use other than for a petrol station. An allowance for the removal of tanks and for any remediation of contamination can be made if the alternate use value is to be applied.

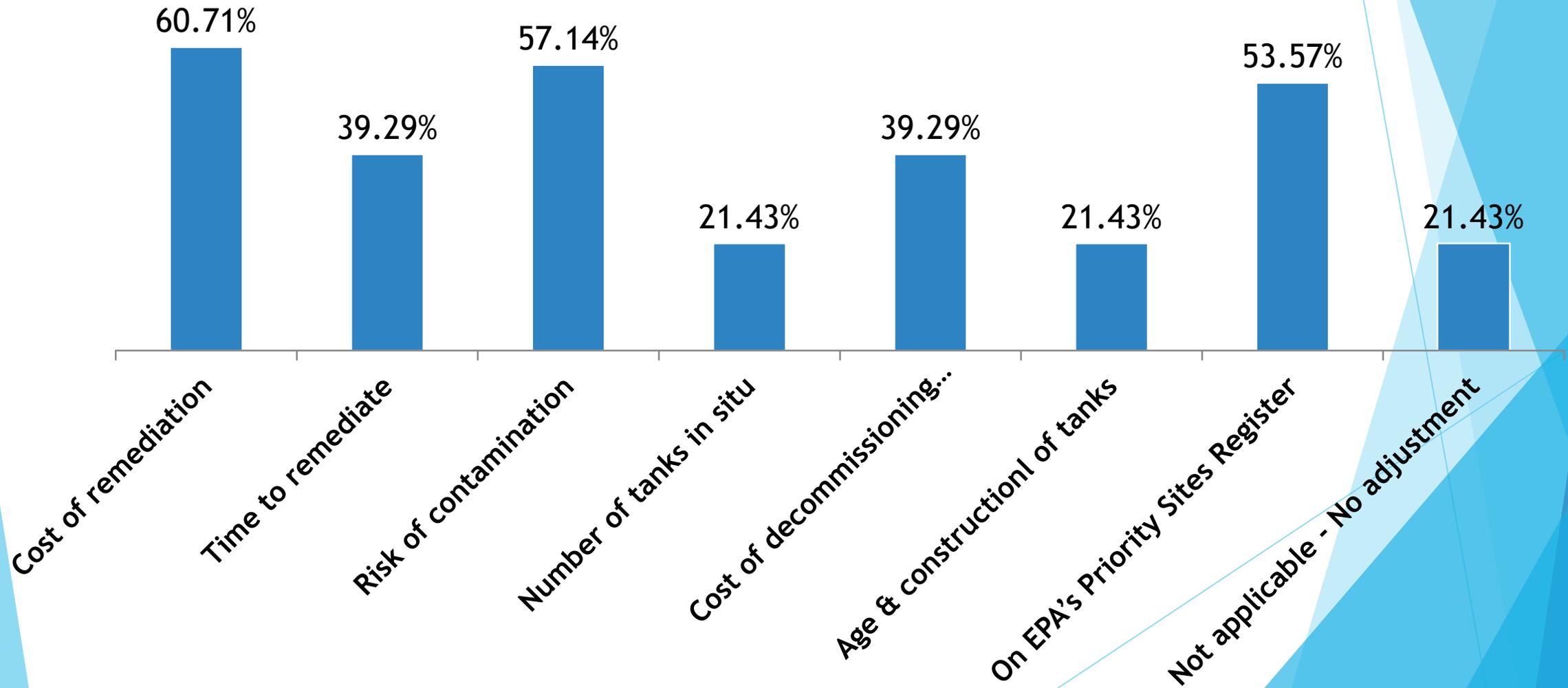
# The evidence

	Subject Objection	Sale 1	Sale 2
<b>Location</b>	Port Melbourne	Port Melbourne	St Kilda East
<b>Zoning</b>	GRZ1	GRZ1	GRZ1
<b>Land Area (m2)</b>	906	746	426
<b>SV \$/m2</b>	\$5,022	\$5,815	<b>\$2,500</b>
<b>Date</b>	1/01/2018	10/03/2016	7/12/2017
<b>Uncontaminated Sales Range \$/m2 2016 -2018</b>	~ \$5,400 - \$6,600	~ \$5,400 - \$6,600	<b>~\$3,000 - \$3,800</b>
<b>Use</b>	Operational Service Station	Previous Service Station, Car yard with 5 Tanks in Situ	Previous Service Station, current manual carwash and café
<b>Planning / Environment</b>	EAO	No EAO, Environmental Report	No EAO

When contemplating the site value of a service station, do you or would you apply a discount or adjustment to reflect potential contamination without having been provided with any evidence of contamination?



# What does that discount or adjustment made to site value encompass?



# How much is your typical adjustment/ discount to the site value, or how much do you believe it should be? (\$ / %):

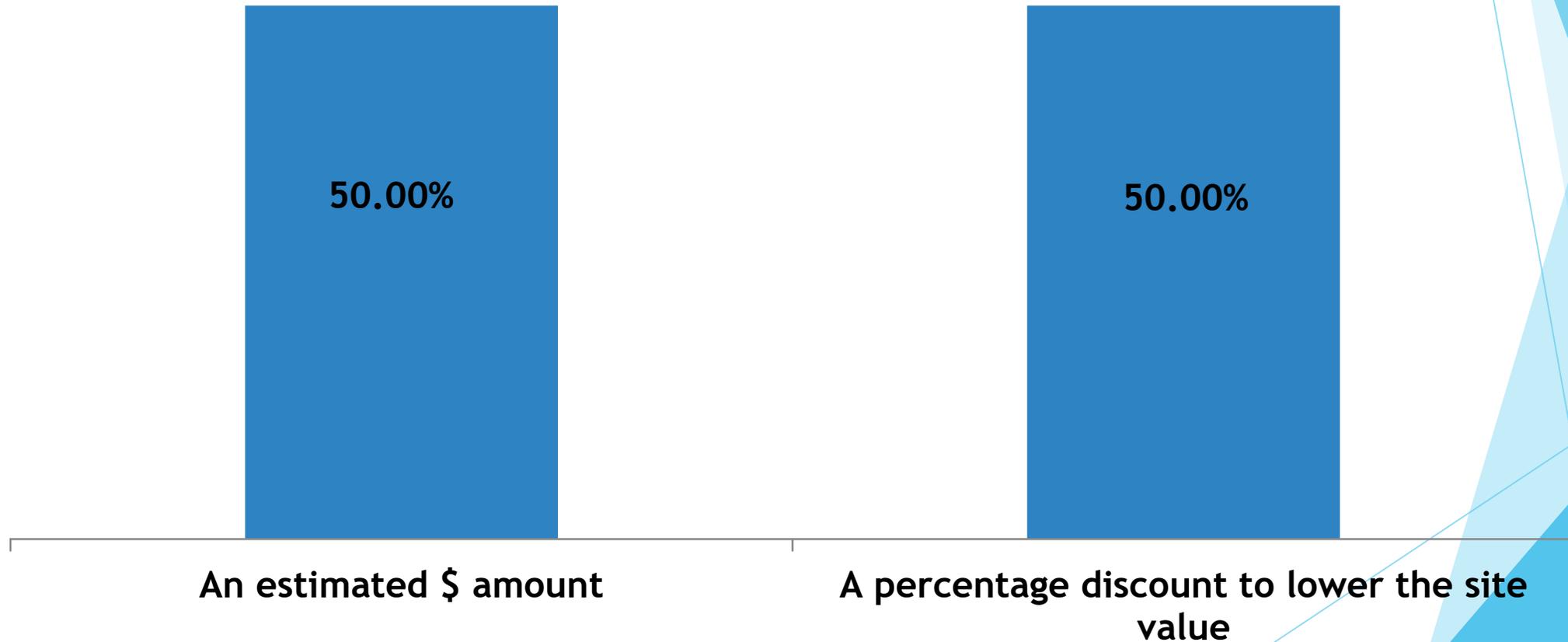
When expressed as a %

- ▶ Range of answers from 0% - 75%+
- ▶ Mode was generally 10% - 20%

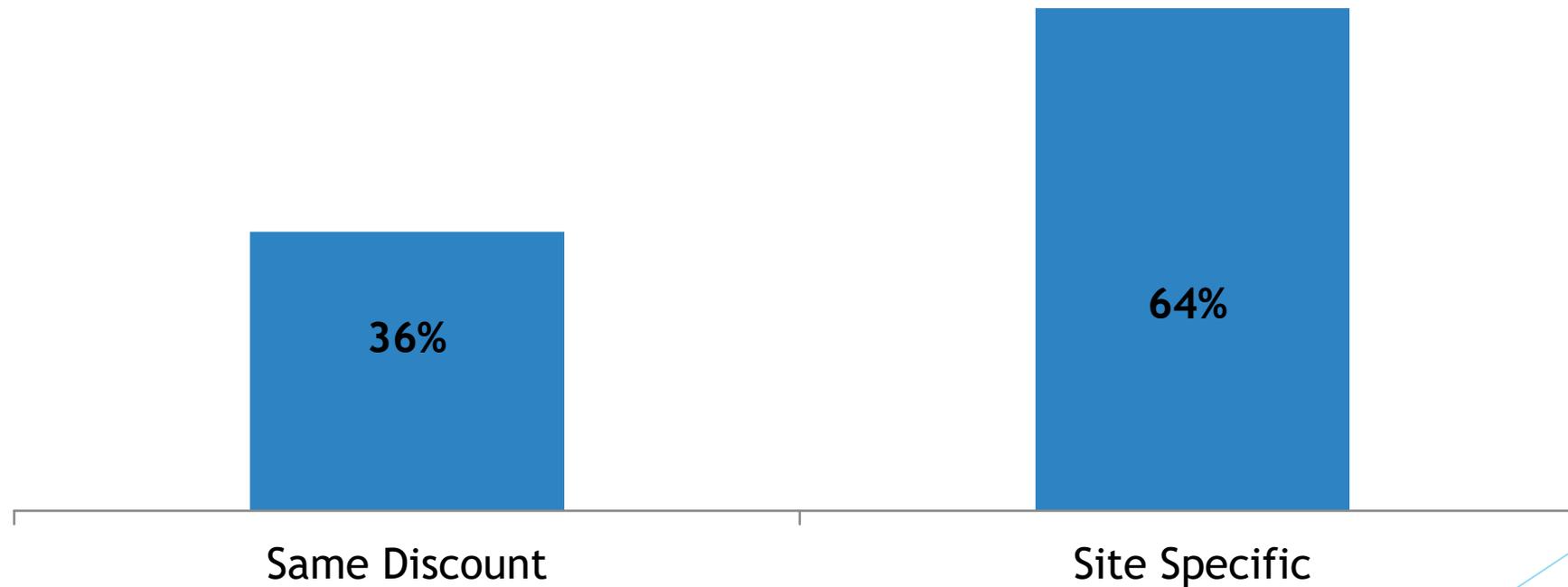
When expressed as a \$ amount

- ▶ \$200,000 - \$1,000,000
- ▶ Majority of answers were as a %

# What is the adjustment reflective of?



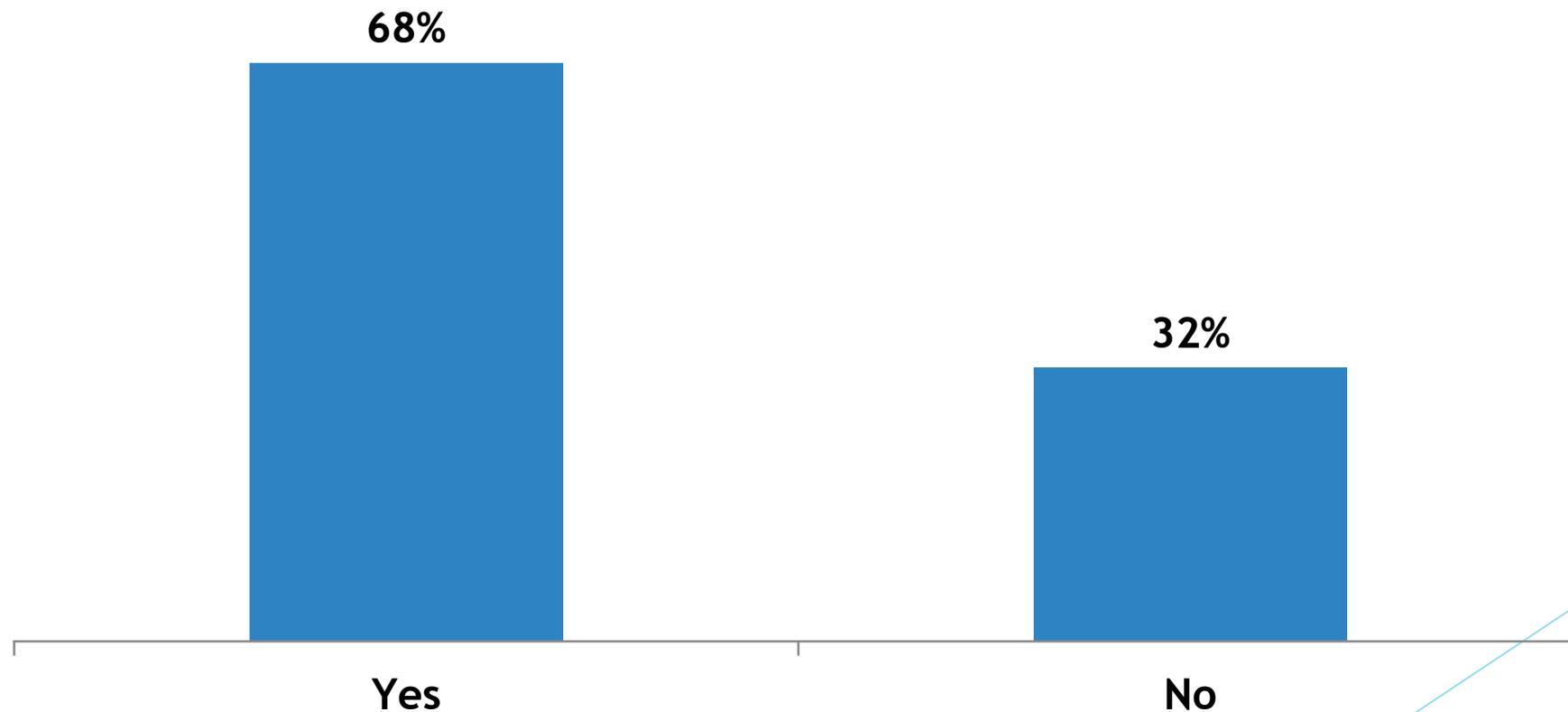
Do you typically apply the same, or a similar discount or adjustment to reflect potential contamination across the service station sites that you would value, or is it site specific?



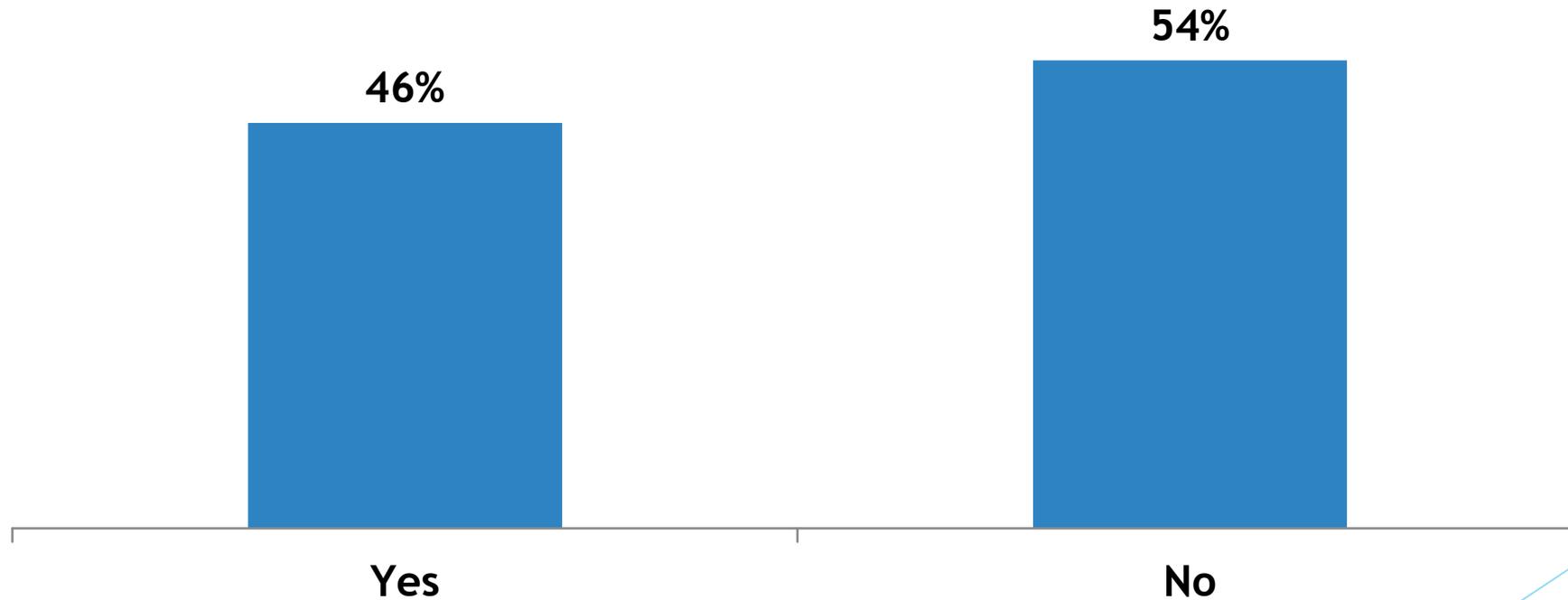
# If you consider the adjustment to be site specific, what factors would most influence the level of adjustment/ discount that is applied?

- ▶ Actual costings/ report for that site
- ▶ Operator
- ▶ Zoning/ Location - and therefore demand for site
- ▶ Number/ age of tanks
- ▶ Land Size
- ▶ Site History
- ▶ EPA Priority Site and/or Environmental Audit Overlay

Do you, or would you take into consideration lease terms such as remediation clauses, make good provisions, or maintenance requirements when contemplating contamination adjustments?



If you consider the highest and best use of a site is for a Service Station, do you still discount to reflect possible contamination?



## How much is your typical adjustment/ discount to site value when the highest and best use of the site is for a service station? (\$/ %):

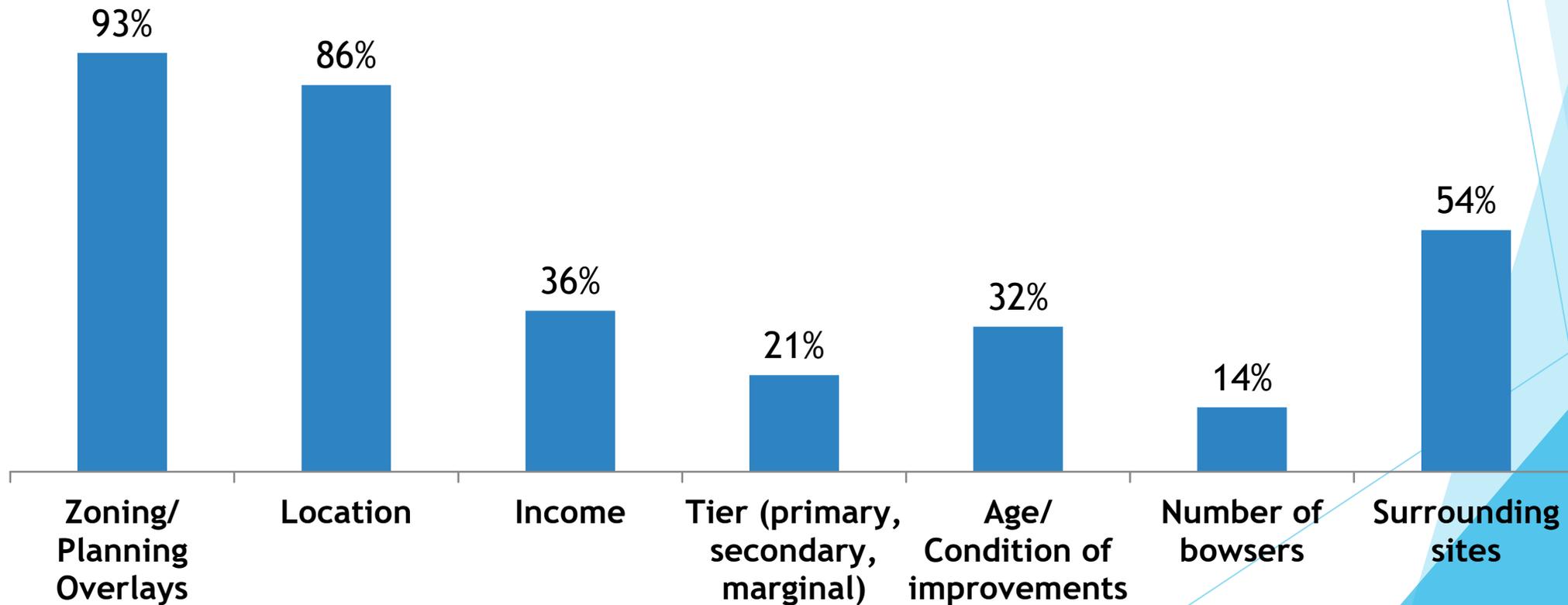
### When expressed as a %

- ▶ Range of answers from 0% - 25%
- ▶ Mode was generally 5% - 10%

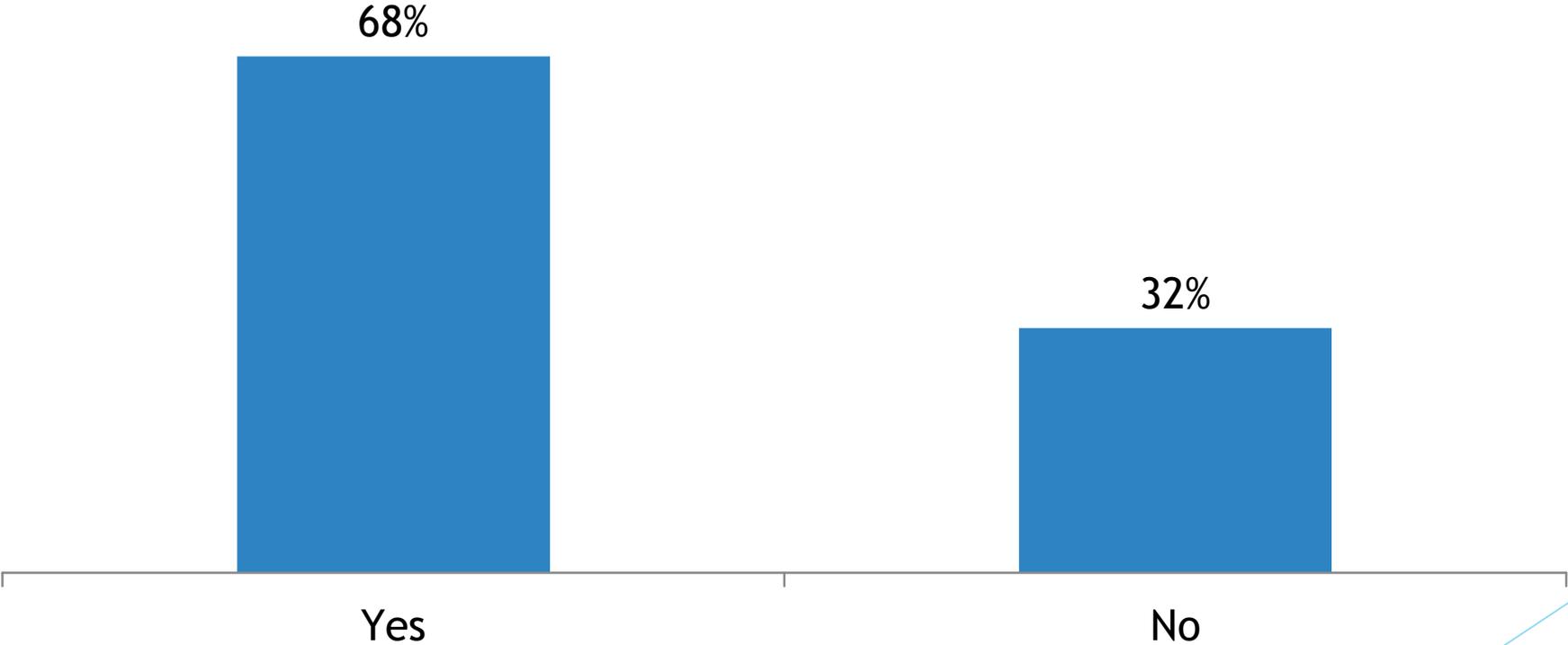
### When expressed as a \$ amount

- ▶ \$100,000 - \$200,000
- ▶ Majority of answers were as a % - but much lower discounts than when there was a higher and better use.

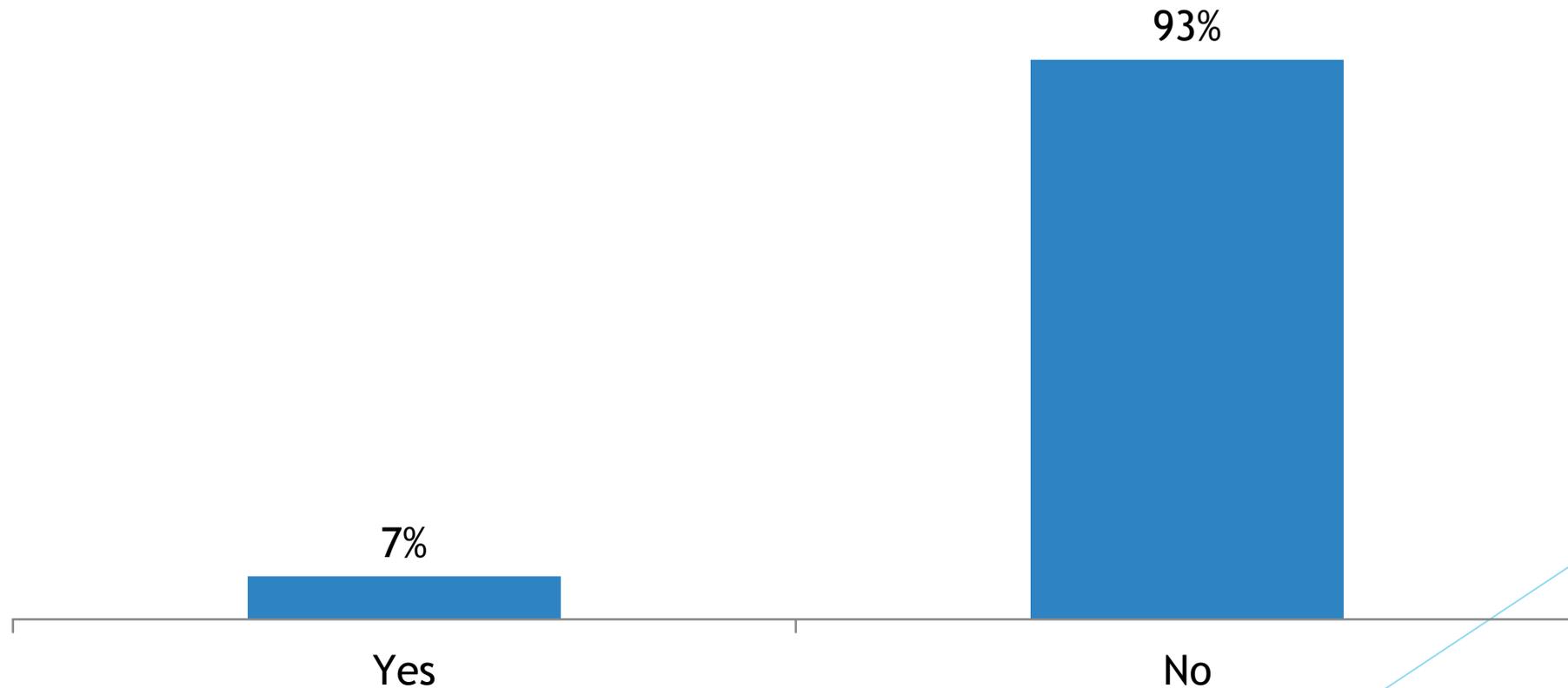
When considering the highest and best use for land that is currently used a service station, what is the greatest consideration for you in determining the highest and best use?



Do you, or would you consider the impact of contamination when contemplating what the highest and best use for the site would be?



Do you discount the site value of properties adjoining a service station to reflect possible contamination?



85<sup>TH</sup> ANNUAL

IAAO

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SEPTEMBER 8-11, 2019  NIAGARA FALLS, ONTARIO, CANADA

# Property Record Card

## Physical Address: 1551 Glenn Center DR

Status: ACTIVE	Corp Limit: WINSTON-SALEM	Assd. Acreage: 2.85	Utilities: AC-PUB_PAV, LC-DESIRAB, UT-PUB_SEW, UT-PUB_WAT
Market Area: UNION CROSS RD @ I-40 - NORTHE (321)	Special District:	Total SFLA: 0	
Land Class: Commercial Retail/Wholesale	Fire District:	Total GLA: 7507	Flags:
Pin History: 6874-16-3471   6874-16-3453   6874-16-5821	Township: WINSTON-SALEM		

Deed Book/Pg: 003210/00098    Deed Date: 12/19/2014    Stamps: \$2,400    Description: Sheetz Convenience Store LO102 BL6644 BU1

Name: <b><i>Ptm L P</i></b>  Mailing Address: 5700 6Th AVE Altoona PA 16602 -1111	<b>Jan 1, Owner(s)</b>	<b>Sales Details</b>				
	<i>Ptm L P</i>	<b>TYPE</b>	<b>PRICE</b>	<b>DATE</b>	<b>SRC</b>	<b>STATUS</b>
		LND	\$1,200,000	12-19-14	R	Q

Historic Deferral:	<b>Total Cost Value of Property:</b>	Valued by cost	<b>\$2,742,900</b>
Use Value Deferral:	<b>Total Exempt/Deferred:</b>		<b>\$0</b>
Exempt Value:			
Exempt Desc:			

<b>Total Taxable Value:</b>	<b>\$2,742,900</b>
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### Land Summary

Seq	Zoning	Land Desc	Land Units	Rate	Size Adj Factor	Land Adj	Adjusted Rate	Land Value
1	HB-S	COMM/INDUS-SQFT01	124131.00 SF	\$11.55		LOCATION(90.00%) ROADFRONTAGE (110.00%) SIZEADJ(88.00%)	\$10.06236	\$1,249,100
<b>Total Assessed Value for Land:</b>								<b>\$1,249,100</b>

### Improvement Summary

Card #	Seq	Type	Description	Grade/QLTY	Physical Depr	Year Built	% Complete	Assessed Value
1		Comm. Bldg	1551 Glenn Center DR	AVG	AVERAGE (2%)	2015		\$1,010,100
1	1	Misc. Impr.	REFUSE-AREA-5	C (100%)	AVERAGE (12%)	2015	100%	\$32,600
1	2	Misc. Impr.	PAVING-CONC-N-BASE-5	C (100%)	AVERAGE (30%)	2015	100%	\$211,800
1	3	Misc. Impr.	LIGHT-FX-MERC-VAPOR	C (100%)	AVERAGE (12%)	2015	100%	\$4,800
1	4	Misc. Impr.	LT-POLE-16/MERC-VP	C (100%)	AVERAGE (20%)	2015	100%	\$29,400
1	5	Misc. Impr.	CANOPY-5	C (100%)	AVERAGE (12%)	2015	100%	\$141,900
2		Comm. Bldg	1551 Glenn Center DR	AVG	AVERAGE (5%)	2015		\$58,200
2	1	Misc. Impr.	PAVING-CONC-N-BASE-4	C (100%)	AVERAGE (30%)	2015	100%	\$5,000
<b>Total Assessed Value for All Listed Imprvs:</b>								<b>\$1,493,800</b>

**Total Taxable Value:**

**\$163,200**

**Land Summary**

Seq	Zoning	Land Desc	Land Units	Rate	Size Adj Factor	Land Adj	Adjusted Rate	Land Value
1	HB	COMM/INDUS-SQFT01	4754.00 SF	\$24.05		SHAPE(90.00%) SIZEADJ(110.00%)	\$23.8095	\$113,200

**Total Assessed Value for Land: \$113,200**

**Improvement Summary**

Card #	Seq	Type	Description	Grade/QLTY	Physical Depr	Year Built	% Complete	Assessed Value
1		Comm. Bldg	289 S Stratford RD	AVG	AVERAGE (43%)	1982		\$45,200
1	1	Misc. Impr.	PAVING-ASP-N-BASE-3	C (100%)	AVERAGE (50%)	2014	100%	\$4,800

**Total Assessed Value for All Listed Imprvs: \$50,000**

**Misc Improvements**

Seq	Card #	Type	Eff Year	Size	Base Price	Grade	% Comp	Common Int %	Phy Depr	Econ Depr	Funct Depr	Migr Adj	MA Fact	Assd Value
1	1	PAVING-ASP-N-BASE-3	2014	3524	\$2.50	C (100%)	100%		AVERAGE (50%)			110.011 351%	1.00	\$4,800

**Total Assessed Value for Misc Imprvs: \$4,800**

# Appraising Contaminated Property - Case Study USA

- ▶ **Cost Approach-** rests upon the idea that the market value of an improved piece of land is equivalent to the market value of the land plus current construction costs of improvements, less any depreciation. The cost approach is also often used in instances of contamination, by estimating the present value of direct and indirect costs (costs and impacts), a cost to cure deduction is made for the duration of the remediation plan. Can be considered 'cured' when a 'No Further Action' notice is issued by the regulatory body.
- ▶ **Income Approach-** utilizes the present value of the projected, typical income stream for the type of property. Income producing properties are the most frequently affected by contamination and environmental regulation. The most easily identifiable effect of contamination is the ability of a property to continue to generate income. This approach is also effective in instances where the current cost to cure exceeds the replacement cost of the property. Courts in the US have recognized that there is a 'value in use' for the owner, even where no other market exists, so long as they continued to operate.
- ▶ **Sales Comparison Approach-** Comparisons are made with recently sold, similarly affected properties. Where this evidence is available it is considered the most objective and provable approach.

# Environmental Risk

## ► Environmental risk -

*“The additional or incremental risk of investing in, financing, buying and/or owning property attributable to its environmental condition.*

*This risk is derived from perceived uncertainties concerning:*

- (1) the nature and extent of the contamination;*
- (2) estimates of future remediation costs and their timing;*
- (3) potential for changes in regulatory requirements;*
- (4) liabilities for clean up (buyer, seller, third party);*
- (5) potential for off-site impacts; and*
- (6) other environmental risk factors, as may be relevant”*

# Environmental Risk / Stigma / Trouble Factor

- ▶ **Trouble factor -**

described by some experts as “a quantifiable financial impact resulting from the time and effort expected to be spent in dealing with contamination”.

- ▶ **Environmental stigma-**

“An adverse effect on property value produced by the market’s perception of increased environmental risk due to contamination”

- ▶ **ANZ Valuation and Property Standards- “Stigma”**

‘This is an intangible factor that may not be measurable in terms of cost to cure but may have real impact on Market Value. It arises from the effect of present or past contamination upon the market’s perception of the property and represents a discount, beyond the direct and indirect costs likely to be incurred, required to compensate for the risks associated with contaminated or previously contaminated property including the risk of achieving the planned remediation’.

# Lifecycle of Remediation

- ▶ **1. Before Remediation** - after the discovery of contamination, but before the development or approval of a remediation action plan, risk and uncertainty are at their highest at this point as the nature and extent of contamination is not known and the costs have not been quantified.
- ▶ **2. During Remediation**- Remediation begins according the clean up plan and as certainty and information increases, the environmental risk and stigma decreases.
- ▶ **3. After Remediation**- Regulatory closure is achieved, uncertainty and risk decrease further or dissipate entirely and value rebounds.

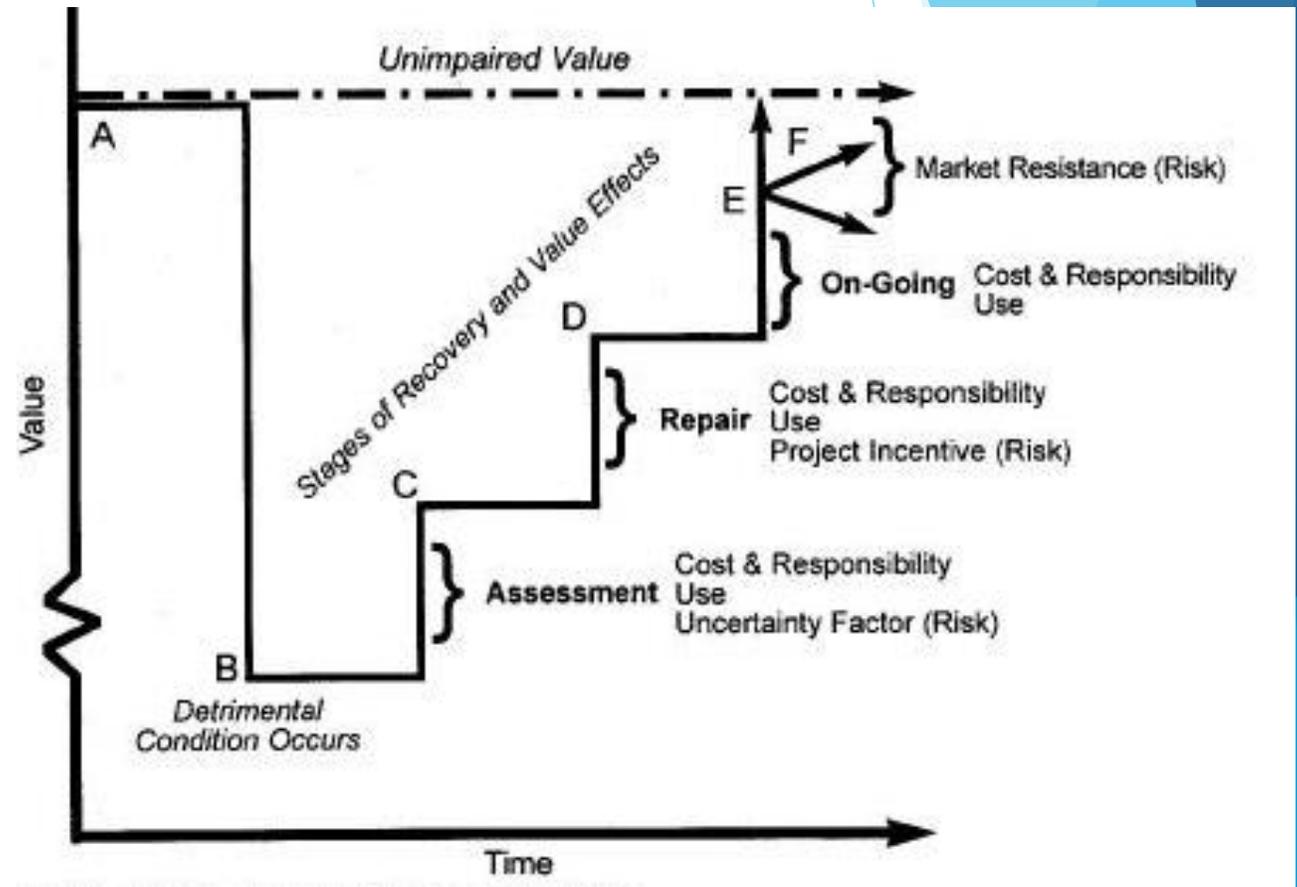


Figure 1- © 1996, 1997 Randall Bell, MAI

# Brownfield initiatives / superfunds

- ▶ Brownfield initiatives are regulatory initiatives designed to assist in making remediation a viable option for urban brownfield sites.
- ▶ The US EPA and state regulatory groups reduce the risk of these sites and assist in remediation by funding loans, loan guarantees, reduced taxes, restricting and reducing liability and allowing for less costly, more limited clean up from site specific risk based criteria. Tax credits can also be available for equipment and improvements made to control pollution.

# However ...

“The analysis of the effects of increased environmental risk and uncertainty on property value (environmental stigma) **must be based on market data, rather than unsupported opinion or judgment.**”

US Market Data -

‘Geotracker’ (State Water Board), EPA ‘EnviroMapper’, Company Chemical Listings

Powerful mapping tools that capture a variety of environmental information, permits, superfund sites, and current and previous clean up action reports and remediation plans. The US EPA has also performed a number of studies of costs at different times.

# New South Wales - Valuer General's Policy

## Valuation of contaminated land - June 2019

Like the Victorian *Valuation of Land Act 1960*, there is no definition or direct mention of contamination, or contaminated land within the NSW *Valuation of Land Act 1916*.

However, the NSW Valuer-General defined contaminated land as '*a property which is identified or recorded by a local or state government as being contaminated, or is widely known to be contaminated*'.

It is clearly stated in the policy document 'In the absence of evidence of contamination, you should value the land as a clean site'.

Access to public information- The *Protection of the Environment Operations* (POEO) public register, Contaminated Land Public Record, List of Possibly NSW Contaminated Sites Notified to the EPA and Information on Land subject to a management order or voluntary remediation agreement

The document considers two methods in which to value contaminated land

1. Direct Comparison
2. Hypothetical Development Method

# Independent Inquiry in to the EPA

- ▶ In 2015 the government launched an independent inquiry into the EPA.
- ▶ First comprehensive review of EPA since its inception in 1971.
- ▶ Following public submissions the inquiry made 48 recommendations for potential improvement, and in 2017 the State government provided support in full or in part for all 48 recommendations.
- ▶ *The Environment Protection Amendment Act 2018*

# The Environment Protection Amendment Act 2018

- ▶ Comes into effect 1 July 2020
- ▶ Duty to Manage Contaminated Land and Duty to Notify of Contaminated Land.
- ▶ The duty to notify will require the persons in control of the land to notify the EPA as soon as practicable if contamination will pose a significant risk to the environment or human health. There will be further criteria set out in proposed subordinate legislation and regulations, in the absence of that it may apply in instances where clean up costs will be > \$50,000.
- ▶ Audits - The 53X and 53V audits are being replaced with Preliminary Risk Screen Assessments and Scaled Audits.
- ▶ Contamination defined - S.35 defines contamination as 'land for which a waste chemical or prescribed substance is present on or above the surface of the land at a concentration above background levels and which creates a risk of harm to human health or the environment'.
- ▶ The 'polluter pays' principle will be enshrined in the new Act

Tools Drawing & Measure Advanced Tools



Home



Layer List



Legend



Zoom In



Zoom Out



Pan



Reset View



Print



EPA Data



Historical Business Listings



Env. Audit Overlays



Identify



Search



Feedback



Help

Contact Us

Help

Legend



Filter Swatches...



Filter

EAO - Environmental Audit Overlay

EAO - Environmental Audit Overlay

Victoria Unearthed

EPA Priority Sites Register Points

EPA Priority Sites Register Areas

Victorian Landfill Register Point

Closed

Operating

Victorian Landfill Register Areas

Closed

Operating

Groundwater Restricted Use Point

Groundwater Restricted Use Areas

EPA Audit Points

EPA Audit Areas

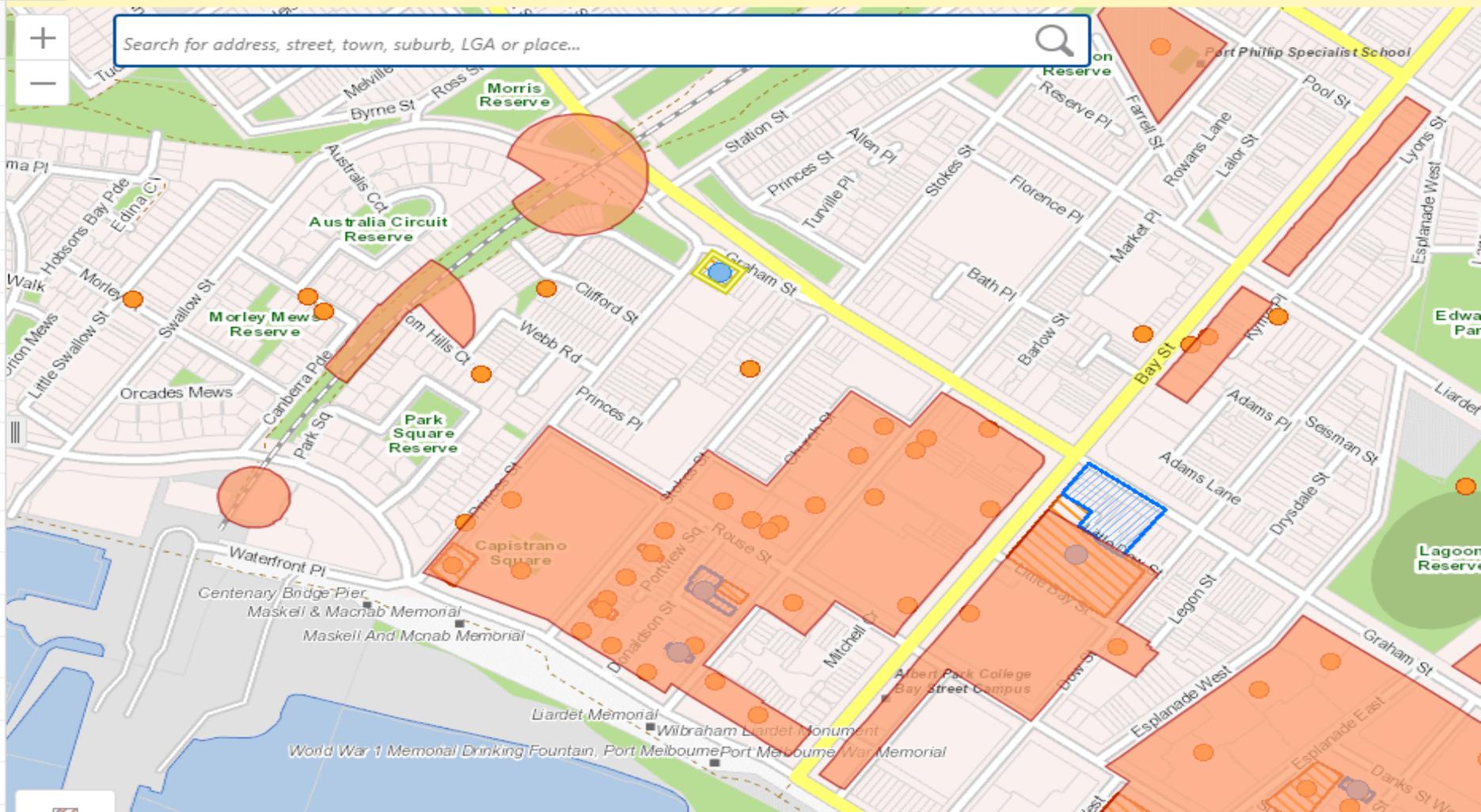
EPA Licensed Sites Points

EPA Licensed Areas

Search for address, street, town, suburb, LGA or place...



Click or tap a location on the map to learn what's there.



# Victoria Unearthed

Pan

Reset View

Print

EPA Data

Historical Business Listings

Layer Activation

Env. Audit Overlays

Identify

Find Data

Search

Feedback

Contact Us

Help

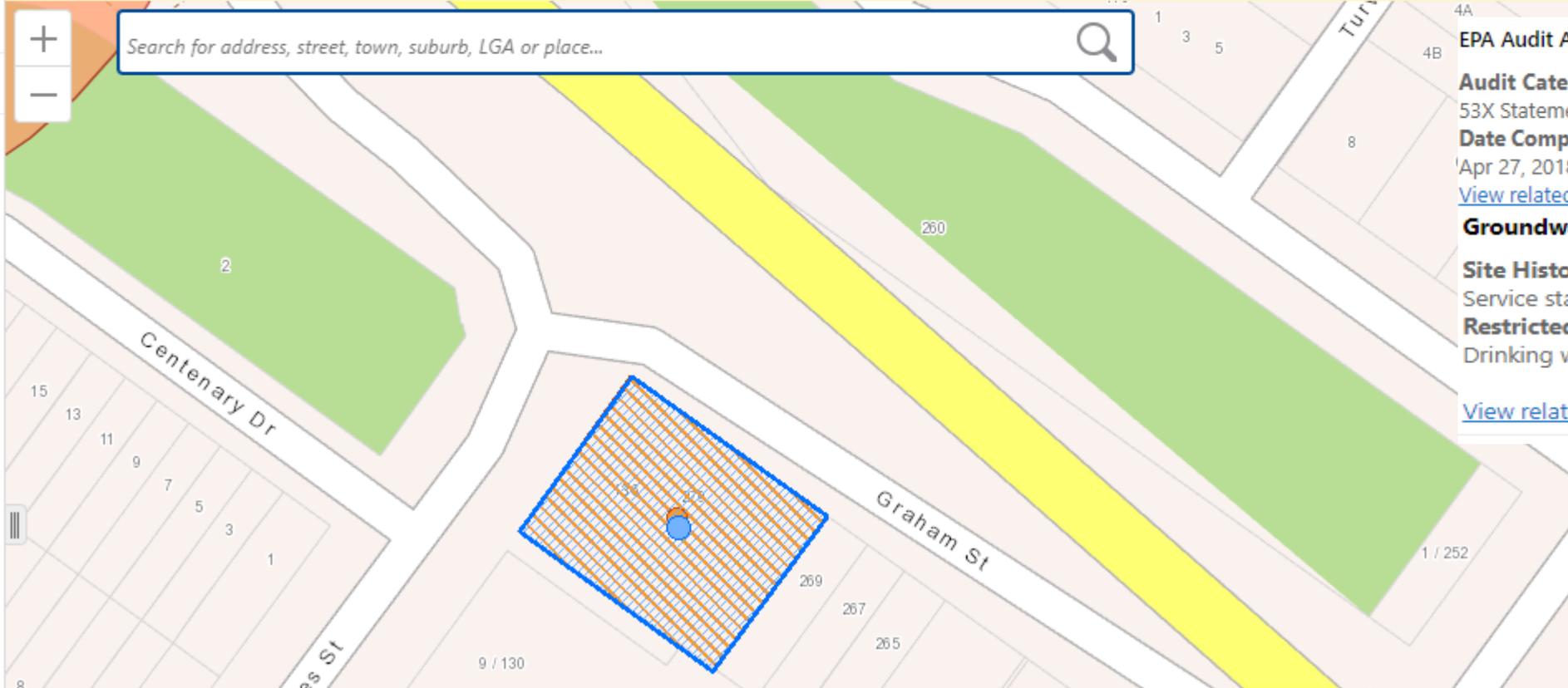
Help

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Click or tap a location on the map to learn what's there. X

+  
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Search for address, street, town, suburb, LGA or place...



## EPA Audit Areas

**Audit Category:**  
53X Statement

**Date Completed:**  
Apr 27, 2018 12:00 AM

[View related reports](#)

## Groundwater Restricted Use Area

**Site History:**

Service station/fuel storage

**Restricted uses:**

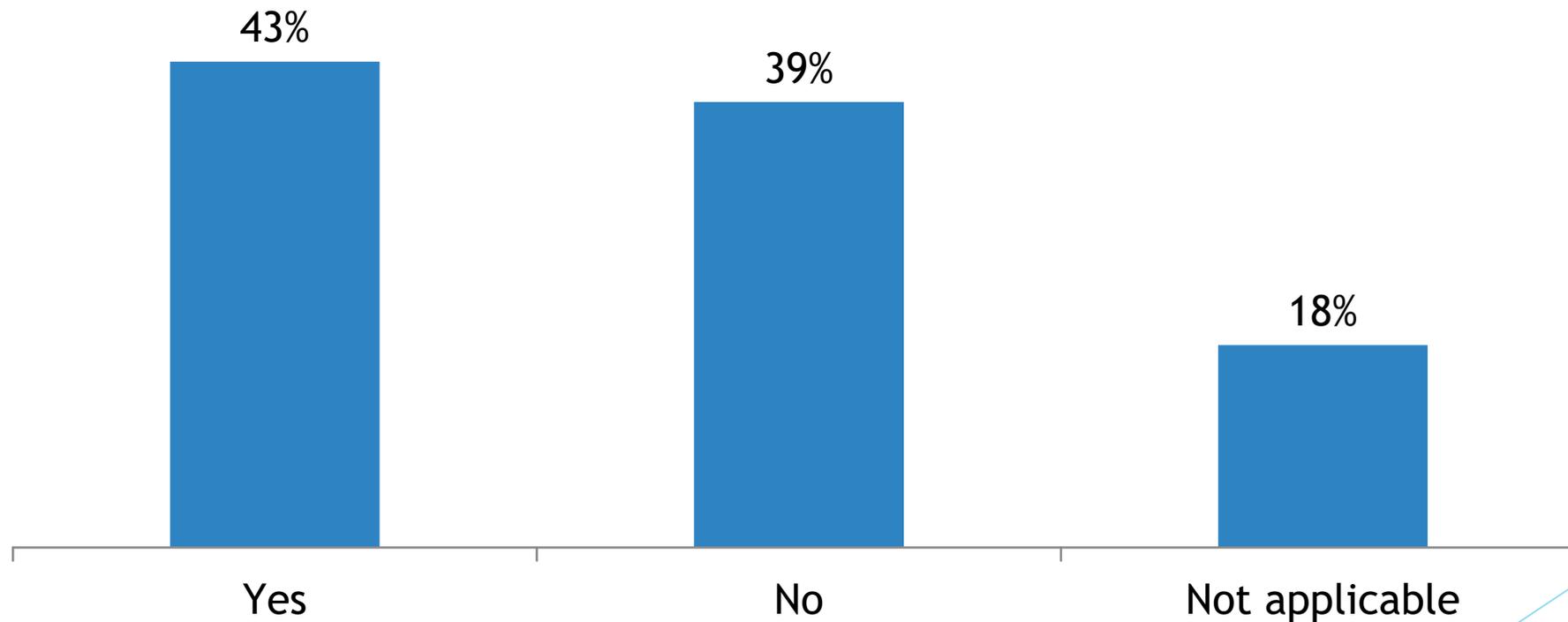
Drinking water

[View related reports](#)

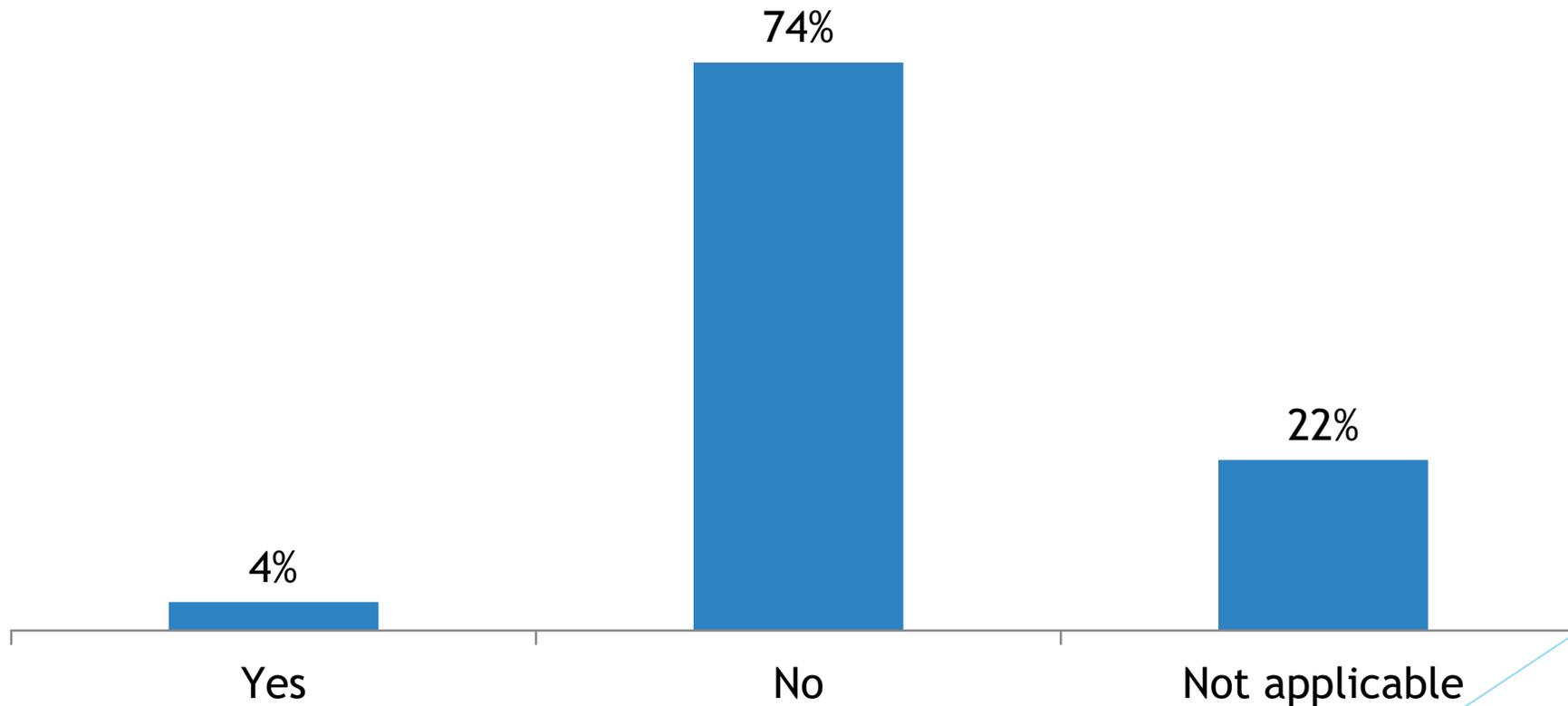
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<b>Planning / Environment</b>	EAO	No EAO, Environmental Report	No EAO

In any site value disputes or objections to a service station have you typically been provided or sighted evidence of contamination from the service station operator or owner?



Do you typically receive detailed information regarding contamination or responsibility for contamination on your rental questionnaires, or when making information requests?



# My final thoughts

- ▶ If there is no evidence provided or available, I don't believe any adjustment to site value reflective of remediation costs, or time should be applied.
- ▶ I don't think any adjustment is necessary when the highest and best use is a current service station use, it doesn't impact the ability to achieve that use, and until a different use is considered there will be likely no trigger for them to remediate the site. And at such time you may wish to consider it.
- ▶ Consider that environmental stigma or risk may be present.

# My final thoughts

- ▶ Whilst I know applying a risk or stigma adjustment is a subjective tool, I think it is one that can be informed on a site specific basis by the considerations that are already being made: Age, History, Type/ Number of Tanks, Operator, Zone, Location, Surrounding use etc.
- ▶ Adequate market data is scarce, but so is the provision of actual evidence.
- ▶ There isn't any clear legislative or policy guidance regarding when and how contamination should be considered, which has led to inconsistencies in approach and differences in opinion.

# Caltex Service Station Divestment

- ▶ There is an upcoming opportunity to consider the concept or risk or stigma to the test further following an upcoming Caltex service station divestment.
- ▶ Caltex are selling 25 sites Australia wide, 7 of which are in Victoria, they are being put to the market as redevelopment sites and expressions of Interest close end of October.
- ▶ Caltex have prepared Environmental Due Diligence Reports, including remediation timelines for each site and will remediate each site and remain in occupation of the site under a license fee for the duration of the remediation. The license fee can be determined by the purchaser, but it is thought it will be somewhere between 3-6% of the price per annum.

# Caltex Service Station Divestment

Address	Current Zoning	Indicative Remediation Duration	Remediation Standard
382-386 Lygon Street, Brunswick East	C1Z	12-15 months	Commercial/ Industrial
147 Koornang Road, Carnegie	C1Z	12-15 months	Commercial/ Industrial
409 Clayton Road, Clayton	C1Z	12-15 months	Commercial/ Industrial
484 Canterbury Road, Forest Hill	C1Z	12-15 months	Commercial/ Industrial
521 Nepean Highway, Frankston	GRZ1	12-15 months	Low density residential with gardens
793-797 Whitehorse Road, Mont Albert (Box Hill)	RGZ2	15-18 months	Limited soil access residential
281 Gaffney Street, Pascoe Vale	C1Z	12-15 months	Commercial/ Industrial

# References

1. *Valuation of Land Act 1960* S.2 & S5A. Available: [http://classic.austlii.edu.au/au/legis/vic/consol\\_act/vola1960173/](http://classic.austlii.edu.au/au/legis/vic/consol_act/vola1960173/)
2. Valuer General Victoria & Municipal Group of Valuers 2011 *Guidelines on Valuation Methodology for Petrol Stations*, Victorian Government Department of Sustainability and Environment, Melbourne.
3. Appraisal Standards Board. (2016-2017). 'USPAP Advisory Opinions' Washington, DC: Appraisal Foundation. Available:<https://www.appraisaltests.com/wp-content/uploads/2016/10/2016-17-eUSPAPFinal-bookmarks-retail.pdf>
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6. Cooney, R. (NA). 'Impact of Contamination on Real Property' PowerPoint presentation]
7. International Association of Assessing Officers (2016). '*Standard on the Valuation of Properties Affected by Environmental Contamination*' International Association of Assessing Officers Kansas, Missouri.
8. Valuer-Generals Policy 2019 'Valuation of Contaminated Land'. Office of the Valuer General NSW Available: [https://www.valuergeneral.nsw.gov.au/\\_data/assets/pdf\\_file/0002/200000/Valuation\\_of\\_contaminated\\_land.pdf](https://www.valuergeneral.nsw.gov.au/_data/assets/pdf_file/0002/200000/Valuation_of_contaminated_land.pdf)
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11. Donaldson, M., Wood,S. 2019 'Caltex Retail Service Station Divestment - 2019, Proposed Approach to Site Remediation - 25 Sites. Caltex Australia Petroleum Pty Ltd.
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13. Hall, J. 2018 'The end of Victoria's environmental law as we know it?' Ashurst. Available: <https://www.ashurst.com/en/news-and-insights/legal-updates/the-end-of-victorias-environmental-law-as-we-know-it/>

Thank you.

The background features abstract, overlapping geometric shapes in various shades of blue, ranging from light sky blue to deep navy blue. These shapes are primarily located on the right side of the frame, creating a modern, layered effect against the white background.