



NSW Legislative Council Hansard

Valuation of Land Amendment Bill

Extract from NSW Legislative Council Hansard and Papers Wednesday 24 May 2006.

Second Reading

The Hon. TONY KELLY (Minister for Justice, Minister for Juvenile Justice, Minister for Emergency Services, Minister for Lands, and Minister for Rural Affairs) [5.57 p.m.], on behalf of the Hon. John Della Bosca: I move:

That this bill be now read a second time.

I seek leave to have the second reading speech incorporated in *Hansard*.

Leave granted.

This bill contains a number of amendments to the Valuation of Land Amendment Act 1916 which are aimed at remedying problems and anomalies that have arisen in practice. The Valuation of Land Act 1916 provides for the valuation of land in New South Wales. Among other things it establishes the Office of the Valuer-General and provides for the appointment of contract valuers. The Act requires that all land in New South Wales, except Crown land in those parts of the Western Division that are not within the area of a rating or taxing authority, must be valued each year. Valuations under the Act are used primarily as the basis for calculating rates and land tax. For consistency, land is valued as at 1 July each year.

The Valuer-General is required to keep a Register of Land Values and to supply valuation lists—extracts from the register—to rating and taxing authorities. The Act also sets out various allowances that are to be taken into account when valuing land for the purposes of the Act, such as money expended to subdivide or otherwise improve the value of the land, as well as factors to be taken into account by rating authorities when calculating rates or tax. The Act was amended in 2000 to give effect to recommendations of the Walton inquiry report. At that time some provisions were removed from the Land Tax Management Act 1956 and incorporated into the Valuation of Land Act. The amendments set out in this bill are aimed at addressing problems with various sections of the Act and correcting anomalies that have been identified in practice, some of which have arisen as a result of the 2000 amendments.

The first item I want to deal with is an amendment to section 14A of the Act to allow the Valuer-General to make a new valuation of land of his or her own volition at any time if the circumstances regarding that land have changed; for example, if the land has been subdivided. At present, where circumstances regarding a block of land change, the Valuer-General can make a new valuation only if requested to do so by a rating authority, meaning a local council, the Chief Commissioner of Taxation or Sydney Water Corporation. In order to keep valuation information up to date it is necessary for the Valuer-General to have a discretion to carry out a new valuation at any time, on his or her own volition, should the Valuer-General become aware that there has been a change of circumstances without having to wait for a request from a rating authority.

Next, section 14K is amended to ensure consistency in assumptions that can be made about the land being valued and other comparable land. That section sets out assumptions the Valuer-General is required to make about, firstly, the physical condition of the land and, secondly, the manner in which the land may be used. At present there is an inconsistency in the wording of the parts of the section that deal with each of those assumptions. The amendment will remove the inconsistency. The amendment will bring the wording of the section into line with what the Land and Environment Court considers to be the correct interpretation of the intention of the section. The next item concerns section 14V of the Act, which deals with allowances for subdivision. It requires the Valuer-General, when valuing a parcel of land, to make an allowance—that is, give a deduction—for money spent subdividing the land. The section is amended to provide that the allowance will cease when the subdivider sells the land. This will ensure that only the person who incurred the expenditure gets the benefit of the allowance.

The next item deals with allowances for profitable expenditure made in relation to the land, and their exclusion in certain cases. When valuing a block of land the Valuer-General is required to make an allowance—that is, a deduction—for money spent by the owner that might increase the value of the land. Examples might be works to supply water to the land or protect the land from flood. Section 14M of the Act is amended to bring its wording into alignment with section 14V, thereby ensuring that only the person who incurred the expenditure can get the benefit of an allowance. The next item relates to who can claim a subdivision allowance. At present there is some doubt as to whether a subdivision allowance can be given if the land being subdivided is owned by more than one person—for example, if two blocks each owned by different people are being subdivided together. The definition of subdivider in section 14S is amended to clarify that land owned by two or more people will qualify for a subdivision allowance.

Another amendment relates to land which is situated partly in one valuation district—that is, a local government area—and partly in another district. Currently, section 28 requires that each part must be valued separately. This can lead to inaccurate and misleading valuations. For example, in one case the boundary of two local government areas divided a parcel of land into a small part with road frontage and a larger part without road frontage. When valued separately the small part had a low value because, even though it had a road frontage, requirements for the setback of buildings meant the space available for building was quite small. Further, the large part also had a low separate value because it had to be valued on the assumption that it had no road frontage. The two values for the separate parts resulted in a much lower total value than if the parcel had been valued as a whole. A single valuation would have resulted in a more accurate reflection of the parcel's true value. The bill amends section 28 to provide that in such a situation a parcel is to be valued as a whole parcel in a single valuation and then apportioned between local government areas.

New section 28A will provide that if land is rateable or taxable as to part only, the part that is rateable or taxable may be separately valued. The Act is also being amended to remove an inconsistency regarding when a person may object to a valuation. Section 29 is amended to remove the power of the Valuer-General to fix, in the notice of valuation, the time within which persons may object to a valuation, as this is inconsistent with section 35, which specifies a set period of 60 days. This amendment will also clarify that a person may object to a valuation after receiving a land tax assessment without having to wait for a formal notice of valuation.

At present, section 35 requires that an objection be lodged within 60 days of receipt of a land tax assessment or service of a notice of valuation under section 29. However, section 29 only allows a person to object to a valuation after they receive a notice of valuation. The Valuer-General is only required to issue a notice of valuation when a valuation list is provided to a local council, which occurs every three years. As Land Tax is levied annually, a person may wish to object to the valuation on which the land tax assessment is based. It is arguable that if a person has not yet received their notice of valuation then, technically, they may not be able to object. It would not be fair to prevent a person from objecting in that situation so, as a matter of practice, the Valuer-General already allows people to object after receiving a land tax assessment. This amendment will regularise that practice and remove any ambiguity.

Section 29 is also amended to ensure that a person who objects to a valuation must give notice of the objection to every person with an interest in the land who has received a notice of valuation. Section 76 is amended to authorise the Valuer-General to supply New South Wales public authorities with information about land valuations. The Valuer-General is already authorised to supply such information to Commonwealth public authorities. This will provide consistency in the application of the section and ensure the provision of information to State departments and agencies is treated in a similar way to Commonwealth agencies. Finally, the bill also contains a number of amendments in the nature of statute law revision. I commend the bill to the House.