

First print



New South Wales

# Valuation of Land Amendment Bill 1996

## Explanatory note

This explanatory note relates to this Bill as introduced into Parliament.

### Overview of Bill

The objects of this Bill are:

- (a) to amend the *Valuation of Land Act 1916* to allow the Valuer-General to determine the value of separate parcels of land that comprise the site of a building by valuing the parcels together (even if they are in different ownership or are comprised in different strata plans) as if they were a single parcel and then apportioning that value between the separate parcels, and
  - (b) to amend the *Land Tax Management Act 1956* to give similar powers to the Chief Commissioner of Land Tax for land tax purposes, and
  - (c) to amend the *Strata Titles Act 1973* and the *Strata Titles (Leasehold) Act 1986* to make it clear that if the site of a building is subdivided by means of more than one plan, the parcels that are created by that subdivision are to be valued in accordance with the above principles, and
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- (d) to amend the *Valuation of Land Act 1916* to make it clear that excavation and other work done for the purpose of the erection of a building are to be considered to be land improvements for valuation purposes, and
- (e) to make minor amendments to the *Valuation of Land Act 1916*, for the purpose of inserting appropriate cross-references to the relevant valuation provisions contained in the *Strata Titles Act 1973*, the *Strata Titles (Leasehold) Act 1986* and the *Heritage Act 1977*.

### Outline of provisions

**Clause 1** sets out the name (also called the short title) of the proposed Act.

**Clause 2** provides for the commencement of the proposed Act on a day or days to be appointed by proclamation.

**Clause 3** is a formal provision giving effect to the amendments to the *Valuation of Land Act 1916* set out in Schedule 1.

**Clause 4** is a formal provision giving effect to the amendments to the *Land Tax Management Act 1956* set out in Schedule 2.

**Clause 5** is a formal provision giving effect to the amendments to the *Strata Titles Act 1973* set out in Schedule 3.

**Clause 6** is a formal provision giving effect to the amendments to the *Strata Titles (Leasehold) Act 1986* set out in Schedule 4.

### Schedule 1      Amendment of Valuation of Land Act 1916

#### Valuation of parcels of land that form the site of a building

Amendments to the *Valuation of Land Act 1916* provide for the method of valuing parcels of land where the site of a building is subdivided into separate parcels of land. For instance, the new valuation method will apply where a building is the subject of more than one strata plan, or one or more strata plans and a deposited plan, with each plan relating to different parts of the building.

The new provision allows the Valuer-General to value all of the parcels of land that are created by the subdivision together as if they comprised a single parcel. The value of each separate parcel is then to be obtained by apportioning the total value between the parcels on the basis of their respective rental values. (See Schedule 1 [5])

Explanatory note

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This method of valuation will apply only if at least 2 of the parcels created by the subdivision are adjoined horizontally (one above the other).

The object of this amendment is to overcome one aspect of the decision of the Land and Environment Court in *Perpetual Trustee Co Ltd v Valuer-General* (1994) 83 LGERA 206. That case involved the valuation of a parcel of land used as an underground car park. The rest of the building (erected on top of the car park) was comprised in a separate parcel. The Court noted that a parcel of land is to be valued under the Act by assuming it is in its virgin condition but that the adjoining land and environs are in their existing condition. Accordingly, the value of the land used as a car park had to be obtained by determining the capital sum that the land might realise, having regard to the need to build the car park *after* the building on top of the parcel was erected.

That valuation method resulted in the total value of the land used as a car park, together with the land used for the rest of the building, being less than it would have been if the whole of the building (including the car park) had been comprised in a single parcel of land.

### Land improvements

The definition of *land improvements* is amended to make it clear that the excavation, filling, grading or levelling of land for the purpose of the erection of a building, work or structure (other than for the purpose of works of irrigation or conservation) is a land improvement. (See Schedule 1 [1])

This amendment aims to overcome another aspect of the Land and Environment Court decision in *Perpetual Trustee Co Ltd v Valuer-General* (1994) 83 LGERA 206. The Court said that the excavation for a building is not necessarily a land improvement because it does not necessarily restore or improve land surface.

The effect of the amendment is that the value of any excavation or similar work done for the purpose of erecting a building will be included in the land value of the land.

### Minor changes

Notes are inserted in the Act to refer the reader to the valuation provisions contained in the *Strata Titles Act 1973*, the *Strata Titles (Leasehold) Act 1986* and the *Heritage Act 1977*. (See Schedule 1 [2], [3] and [4])

**Schedule 2      Amendment of Land Tax Management Act  
1956**

The *Land Tax Management Act 1956* is amended similarly to the *Valuation of Land Act 1916* so that, if the site of a building is subdivided into separate parcels of land, the Chief Commissioner of Land Tax is entitled to value the parcels of land in the same way as the Valuer-General under the amendments contained in Schedule 1 [5]. (See Schedule 2 [1] and [2])

**Schedule 3      Amendment of Strata Titles Act 1973**

Schedule 3 contains amendments to the *Strata Titles Act 1973* that are consequential to the amendment contained in Schedule 1 [5]. The amendments make it clear that if the site of a building is subdivided into separate parcels, and one of the parcels is a strata parcel, the strata parcel is to be valued in accordance with the principles outlined above.

**Schedule 4      Amendment of Strata Titles (Leasehold) Act  
1986**

Schedule 4 contains amendments to the *Strata Titles (Leasehold) Act 1986* that are consequential to the amendment contained in Schedule 1 [5]. The amendments make it clear that if the site of a building is subdivided into separate parcels, and one of the parcels is a strata parcel, the strata parcel is to be valued in accordance with the principles outlined above.



New South Wales

# Valuation of Land Amendment Bill 1996

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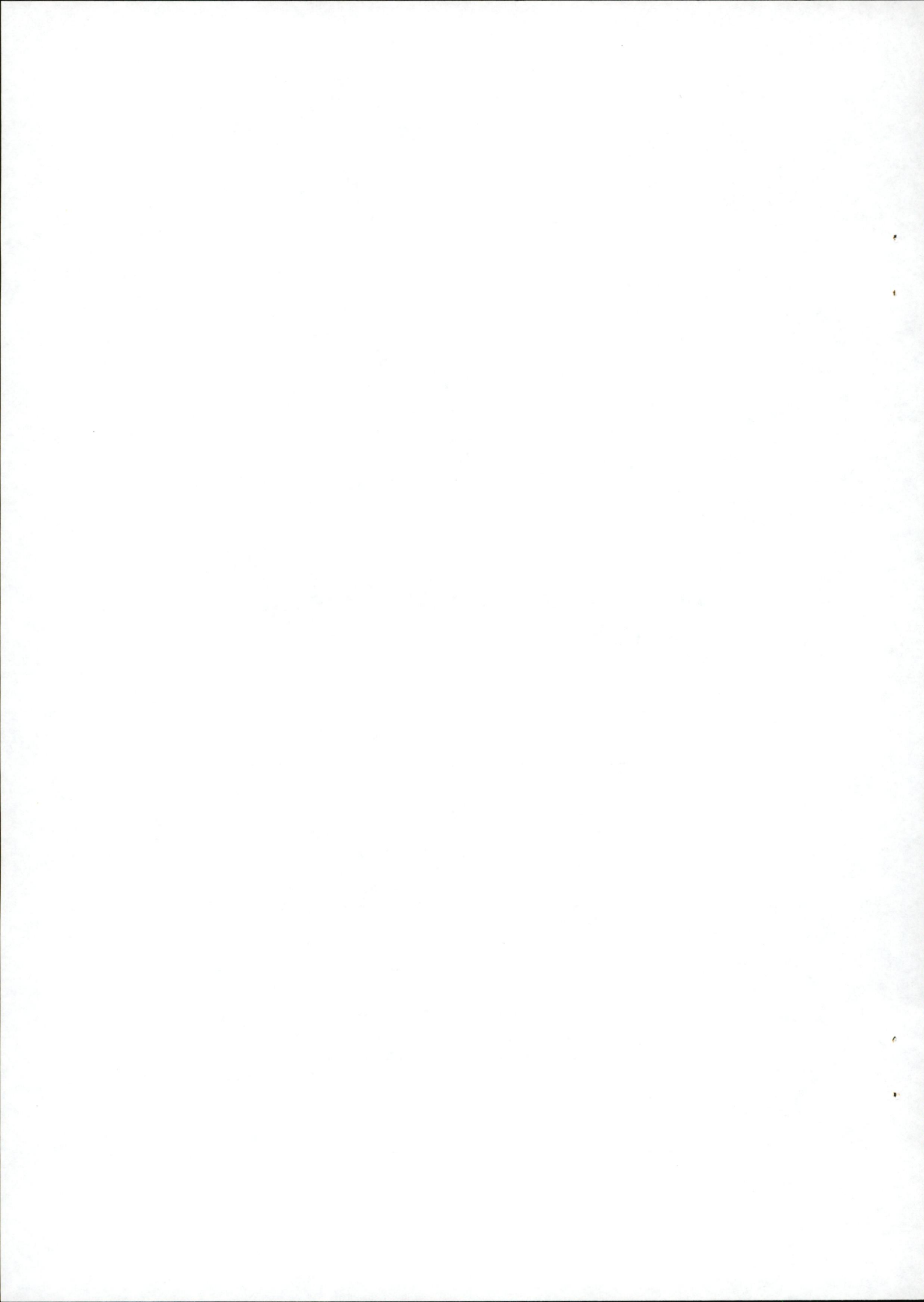
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New South Wales

## Valuation of Land Amendment Bill 1996

No. , 1996

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### **A Bill for**

An Act to amend the *Valuation of Land Act 1916*, the *Land Tax Management Act 1956*, the *Strata Titles Act 1973* and the *Strata Titles (Leasehold) Act 1986* with respect to valuation of parcels of land that form part of the site of a building; and for other purposes.

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**The Legislature of New South Wales enacts:**

**1 Name of Act**

This Act is the *Valuation of Land Amendment Act 1996*.

**2 Commencement**

This Act commences on a day or days to be appointed by proclamation. 5

**3 Amendment of Valuation of Land Act 1916 No 2**

The *Valuation of Land Act 1916* is amended as set out in Schedule 1.

**4 Amendment of Land Tax Management Act 1956 No 26** 10

The *Land Tax Management Act 1956* is amended as set out in Schedule 2.

**5 Amendment of Strata Titles Act 1973 No 68**

The *Strata Titles Act 1973* is amended as set out in Schedule 3.

**6 Amendment of Strata Titles (Leasehold) Act 1986 No 219** 15

The *Strata Titles (Leasehold) Act 1986* is amended as set out in Schedule 4.



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## Schedule 1 Amendment of Valuation of Land Act 1916

(Section 3)

### [1] Section 4 Definitions

Insert after paragraph (d) of the definition of *Land improvements* in section 4 (1): 5

- (d1) without limiting paragraph (d), any excavation, filling, grading or levelling of land for the purpose of the erection of a building, structure or work, not being for the purpose of irrigation or conservation, 10

### [2] Section 4 (2)

Insert before section 4 (3):

- (2) Notes in the text of this Act are explanatory notes and do not form part of this Act.

### [3] Section 4, note

15

Insert after section 4:

**Note.** Refer to Division 6 of Part 4 of the *Strata Titles Act 1973* and Division 6 of Part 4 of the *Strata Titles (Leasehold) Act 1986* for provisions relating to the valuation of parcels under those Acts.

### [4] Section 7F, note

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Insert after section 7F:

**Note.** Division 6 of Part 6 of the *Heritage Act 1977* deals with heritage valuations. In certain circumstances the Valuer-General is required to make a heritage valuation of land that is subject to a permanent conservation order under that Act. 25

**[5] Section 26A**

Insert after section 26:

**26A Valuation of parcels that form part of the site of a building**

- (1) If the site of a building is subdivided into separate parcels of land solely by means of a subdivision to which this section applies, the value of each of those parcels is to be determined as follows: 5
- (a) first, the Valuer-General is to value all of those separate parcels as if they comprised a single parcel and that single parcel and all improvements on it were owned by a single owner, and 10
  - (b) then, the Valuer-General is to apportion the value obtained under paragraph (a) between each of those separate parcels, on the basis of their respective rental values as a proportion of the sum of the rental values of each of those parcels. 15
- (2) This section applies to subdivision by any of the following means: 20
- (a) subdivision by the creation of 2 or more lots in a deposited plan,
  - (b) subdivision by a deposited plan and one or more strata plans,
  - (c) subdivision by 2 or more strata plans.
- (3) This section does not apply unless at least 2 or more of the parcels of land created by the subdivision are adjoined horizontally (that is, one is wholly or partly above the other). 25
- (4) The site of a building includes land consisting of space above or below the building. 30
- (5) In determining the rental value of a parcel of land, regard is to be had to any improvements on or appertaining to the parcel.
- (6) This section does not limit any power of the Valuer-General to include 2 or more parcels of land that are owned by the same person in one valuation. 35

(7) In this section:

***building*** includes a building that is in the course of construction.

***parcel of land*** means a parcel (within the meaning of the *Strata Titles Act 1973* or the *Strata Titles (Leasehold) Act 1986*) or the land comprised in a lot in a deposited plan.

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***strata plan*** means a strata plan within the meaning of the *Strata Titles Act 1973* or the *Strata Titles (Leasehold) Act 1986*.

**Schedule 2      Amendment of Land Tax Management  
Act 1956**

(Section 4)

**[1]      Section 56 Application of Valuation of Land Act 1916**

Insert in section 56 (1) after the matter relating to section 26 of the *Valuation of Land Act 1916*:      5

26A (Valuation of parcels that form part of the site of a building)

**[2]      Section 56 (2)**

Insert "26A," after "26,".

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**Schedule 3 Amendment of Strata Titles Act 1973**

(Section 5)

**[1] Section 5A**

Insert after section 5:

**5A Notes in text**

5

Notes in the text of this Act are explanatory notes and do not form part of this Act.

**[2] Section 90A**

Insert after section 90:

**90A Valuation of parcels that form part of the site of a building**

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- (1) If the site of a building is subdivided into separate parcels of land (as referred to in section 26A of the *Valuation of Land Act 1916*), and one or more of those parcels of land is a parcel within the meaning of this Act, the value of any such parcel is to be determined in accordance with that section.

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- (2) A reference in that section to the Valuer-General is to be read, for the purposes of this section, as a reference to a valuing authority.

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**Note.** Section 26A of the *Valuation of Land Act 1916* provides that if the site of a building is subdivided into separate parcels of land, the value of each separate parcel is to be determined firstly by valuing all of those separate parcels together as if they comprised a single parcel and then by apportioning the value so obtained between the separate parcels.

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**Schedule 4 Amendment of Strata Titles  
(Leasehold) Act 1986**

(Section 6)

**[1] Section 4A**

Insert after section 4: 5

**4A Notes in text**

Notes in the text of this Act are explanatory notes and do not form part of this Act.

**[2] Section 122A**

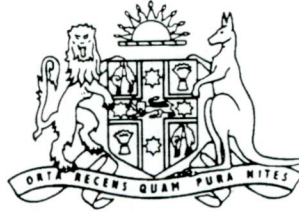
Insert after section 122: 10

**122A Valuation of parcels that form part of the site of a building**

(1) If the site of a building is subdivided into separate parcels of land (as referred to in section 26A of the *Valuation of Land Act 1916*), and one or more of those parcels is a parcel within the meaning of this Act, the value of any such parcel is to be determined in accordance with that section. 15

(2) A reference in that section to the Valuer-General is to be read, for the purposes of this section, as a reference to a valuing authority. 20

**Note.** Section 26A of the *Valuation of Land Act 1916* provides that if the site of a building is subdivided into separate parcels of land, the value of each separate parcel is to be determined firstly by valuing all of those separate parcels together as if they comprised a single parcel and then by apportioning the value so obtained between the separate parcels. 25



New South Wales

# Valuation of Land Amendment Act 1996 No 67

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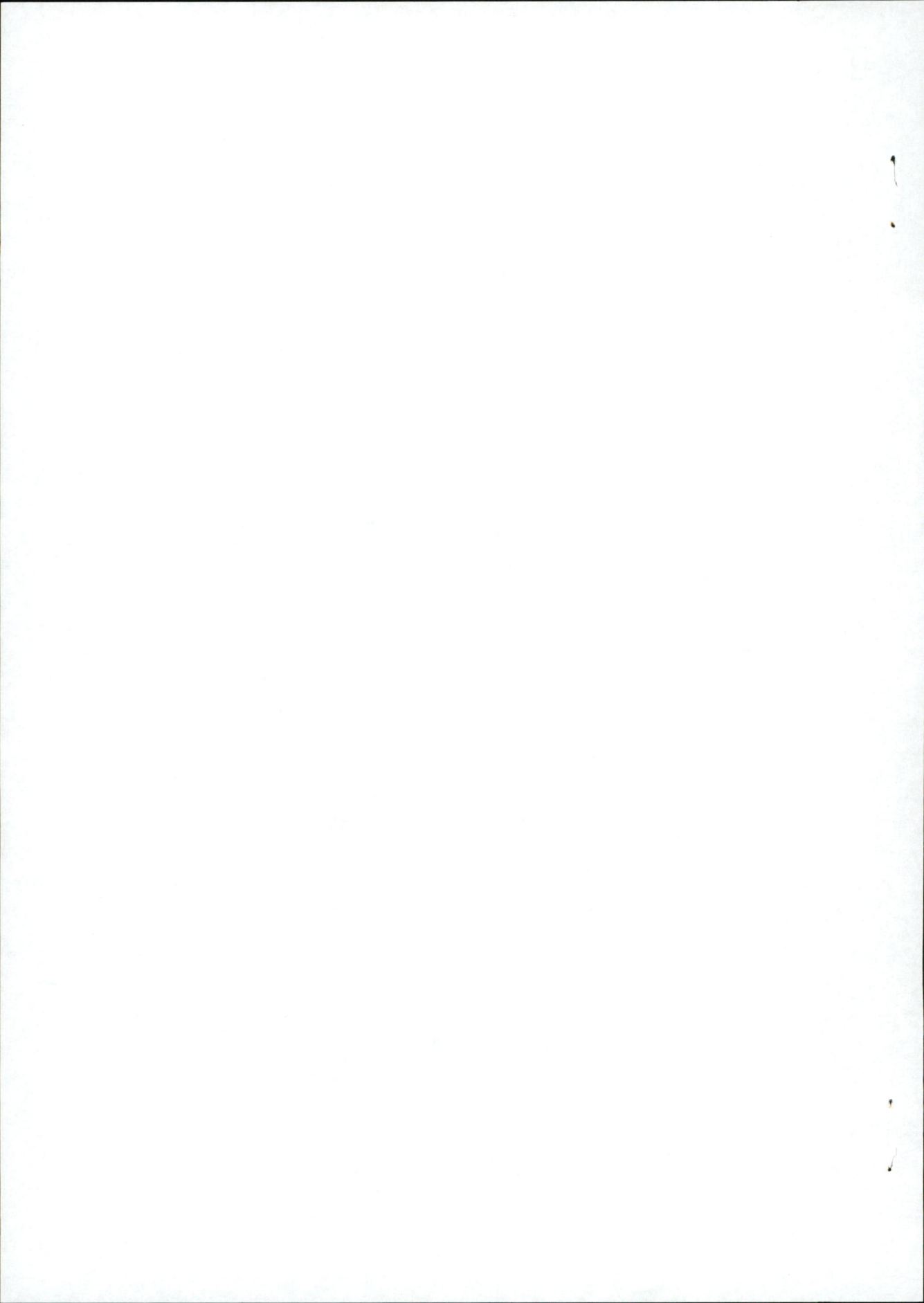
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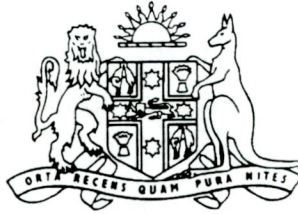
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New South Wales

# Valuation of Land Amendment Act 1996 No 67

Act No 67, 1996

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An Act to amend the *Valuation of Land Act 1916*, the *Land Tax Management Act 1956*, the *Strata Titles Act 1973* and the *Strata Titles (Leasehold) Act 1986* with respect to valuation of parcels of land that form part of the site of a building; and for other purposes. [Assented to 27 September 1996]

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**The Legislature of New South Wales enacts:****1 Name of Act**

This Act is the *Valuation of Land Amendment Act 1996*.

**2 Commencement**

This Act commences on a day or days to be appointed by proclamation.

**3 Amendment of Valuation of Land Act 1916 No 2**

The *Valuation of Land Act 1916* is amended as set out in Schedule 1.

**4 Amendment of Land Tax Management Act 1956 No 26**

The *Land Tax Management Act 1956* is amended as set out in Schedule 2.

**5 Amendment of Strata Titles Act 1973 No 68**

The *Strata Titles Act 1973* is amended as set out in Schedule 3.

**6 Amendment of Strata Titles (Leasehold) Act 1986 No 219**

The *Strata Titles (Leasehold) Act 1986* is amended as set out in Schedule 4.

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## Schedule 1    Amendment of Valuation of Land Act 1916

(Section 3)

### [1]    Section 4 Definitions

Insert after paragraph (d) of the definition of *Land improvements* in section 4 (1):

- (d1) without limiting paragraph (d), any excavation, filling, grading or levelling of land for the purpose of the erection of a building, structure or work, not being for the purpose of irrigation or conservation,

### [2]    Section 4 (2)

Insert before section 4 (3):

- (2) Notes in the text of this Act are explanatory notes and do not form part of this Act.

### [3]    Section 4, note

Insert after section 4:

**Note.** Refer to Division 6 of Part 4 of the *Strata Titles Act 1973* and Division 6 of Part 4 of the *Strata Titles (Leasehold) Act 1986* for provisions relating to the valuation of parcels under those Acts.

### [4]    Section 7F, note

Insert after section 7F:

**Note.** Division 6 of Part 6 of the *Heritage Act 1977* deals with heritage valuations. In certain circumstances the Valuer-General is required to make a heritage valuation of land that is subject to a permanent conservation order under that Act.

**[5]      Section 26A**

Insert after section 26:

**26A Valuation of parcels that form part of the site of a building**

- (1) If the site of a building is subdivided into separate parcels of land solely by means of a subdivision to which this section applies, the value of each of those parcels is to be determined as follows:
  - (a) first, the Valuer-General is to value all of those separate parcels as if they comprised a single parcel and that single parcel and all improvements on it were owned by a single owner, and
  - (b) then, the Valuer-General is to apportion the value obtained under paragraph (a) between each of those separate parcels, on the basis of their respective rental values as a proportion of the sum of the rental values of each of those parcels.
- (2) This section applies to subdivision by any of the following means:
  - (a) subdivision by the creation of 2 or more lots in a deposited plan,
  - (b) subdivision by a deposited plan and one or more strata plans,
  - (c) subdivision by 2 or more strata plans.
- (3) This section does not apply unless at least 2 or more of the parcels of land created by the subdivision are adjoined horizontally (that is, one is wholly or partly above the other).
- (4) The site of a building includes land consisting of space above or below the building.
- (5) In determining the rental value of a parcel of land, regard is to be had to any improvements on or appertaining to the parcel.
- (6) This section does not limit any power of the Valuer-General to include 2 or more parcels of land that are owned by the same person in one valuation.

(7) In this section:

**building** includes a building that is in the course of construction.

**parcel of land** means a parcel (within the meaning of the *Strata Titles Act 1973* or the *Strata Titles (Leasehold) Act 1986*) or the land comprised in a lot in a deposited plan.

**strata plan** means a strata plan within the meaning of the *Strata Titles Act 1973* or the *Strata Titles (Leasehold) Act 1986*.

**Schedule 2 Amendment of Land Tax Management Act 1956**

(Section 4)

**[1] Section 56 Application of Valuation of Land Act 1916**

Insert in section 56 (1) after the matter relating to section 26 of the *Valuation of Land Act 1916*:

26A (Valuation of parcels that form part of the site of a building)

**[2] Section 56 (2)**

Insert "26A," after "26,".

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## Schedule 3 Amendment of Strata Titles Act 1973

(Section 5)

### [1] Section 5A

Insert after section 5:

#### 5A Notes in text

Notes in the text of this Act are explanatory notes and do not form part of this Act.

### [2] Section 90A

Insert after section 90:

#### 90A Valuation of parcels that form part of the site of a building

- (1) If the site of a building is subdivided into separate parcels of land (as referred to in section 26A of the *Valuation of Land Act 1916*), and one or more of those parcels of land is a parcel within the meaning of this Act, the value of any such parcel is to be determined in accordance with that section.
- (2) A reference in that section to the Valuer-General is to be read, for the purposes of this section, as a reference to a valuing authority.

**Note.** Section 26A of the *Valuation of Land Act 1916* provides that if the site of a building is subdivided into separate parcels of land, the value of each separate parcel is to be determined firstly by valuing all of those separate parcels together as if they comprised a single parcel and then by apportioning the value so obtained between the separate parcels.

## Schedule 4 Amendment of Strata Titles (Leasehold) Act 1986

(Section 6)

### [1] Section 4A

Insert after section 4:

#### 4A Notes in text

Notes in the text of this Act are explanatory notes and do not form part of this Act.

### [2] Section 122A

Insert after section 122:

#### 122A Valuation of parcels that form part of the site of a building

- (1) If the site of a building is subdivided into separate parcels of land (as referred to in section 26A of the *Valuation of Land Act 1916*), and one or more of those parcels is a parcel within the meaning of this Act, the value of any such parcel is to be determined in accordance with that section.
- (2) A reference in that section to the Valuer-General is to be read, for the purposes of this section, as a reference to a valuing authority.

**Note.** Section 26A of the *Valuation of Land Act 1916* provides that if the site of a building is subdivided into separate parcels of land, the value of each separate parcel is to be determined firstly by valuing all of those separate parcels together as if they comprised a single parcel and then by apportioning the value so obtained between the separate parcels.

[Minister's second reading speech made in—  
Legislative Assembly on 4 June 1996  
Legislative Council on 17 September 1996]

BY AUTHORITY