



**PARLIAMENT OF NEW SOUTH WALES**

**JOINT STANDING COMMITTEE ON THE OFFICE OF THE  
VALUER GENERAL**

**ISSUES PAPER - INQUIRY INTO THE LAND VALUATION SYSTEM**

**FEBRUARY 2013**

# Membership

CHAIR	Mr Matt Kean MP
DEPUTY CHAIR	The Hon. Scot MacDonald MLC
MEMBERS	Mr Clayton Barr MP The Hon. Adam Searle MLC Ms Leslie Williams MP
CONTACT DETAILS	Joint Standing Committee on the Office of the Valuer General
TELEPHONE	02 9230 2354
FACSIMILE	02 9230 3052
E-MAIL	<a href="mailto:JSCOVG@parliament.nsw.gov.au">JSCOVG@parliament.nsw.gov.au</a>
URL	<a href="http://www.parliament.nsw.gov.au/valuergeneral">www.parliament.nsw.gov.au/valuergeneral</a>

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# Terms of Reference

That the Committee inquire into and report on the following terms of reference:

1. To investigate the extent to which the current land valuation system delivers transparent, efficient, equitable and consistent outcomes for stakeholders. This includes monitoring and reviewing the exercise of the Valuer General's functions with respect to land valuations under the *Valuation of Land Act 1916* and the *Land Tax Management Act 1956*, including:
  - a. Volatility in land valuations;
  - b. Complexity in the valuation system;
  - c. Drivers of inefficiency in the system including market distortions, and administration and compliance costs ; and
  - d. Any inequity in the valuation system.
2. To make recommendations on the issues above, including but not limited to:
  - a. Any legislative changes required;
  - b. Changes consistent with best practice in comparable jurisdictions;
  - c. Measures to improve transparency within the system;
  - d. Measures to achieve greater efficiency within the system;
  - e. The need for possible amendments to the *Valuation of Land Act*; and
  - f. A cost-benefit analysis of proposed changes to the system.
3. This is noting that the focus of the inquiry is not directed at revenue but the valuation system.

# Issues Paper

## INTRODUCTION

The valuation system is necessary for the State to levy land tax and for local government authorities to charge rates. This is because both of those levies involve the application of rates to the value of an owner's taxable land. Modern principles of public policy require that tax systems are transparent, efficient, predictable and equitable.

There have been a number of issues identified with the current system: the language and structure of the *Valuation of Land Act 1916* (NSW) has been described as out-dated;<sup>1</sup> property holders sometimes have difficulty understanding their valuation;<sup>2</sup> a number of court decisions have highlighted concerns regarding the proper construction of the Act<sup>3</sup>; and the *Valuation of Land Act 1916* has been the subject of a number of *ad hoc* amendments creating unnecessary complexity in the legislation<sup>4</sup>. The Committee has therefore resolved to undertake a full review of the valuation system.

The Committee intends to engage in extensive public consultation. Public submissions will be accepted until 8 March 2013. The Committee will also hold public hearings in March 2013.

It should be noted that the focus of this Inquiry is the valuation system, not state revenues.

## THE VALUATION SYSTEM IN PUBLIC ADMINISTRATION

By way of background, land tax and council rates are wealth-based taxes that are levied on the value of real property held by a legal entity. In this country, all states and territories, except the Northern Territory, levy land tax and, while rates vary from state to state, the systems are broadly consistent. It should also be noted that land tax revenue is significant for the state, as it represents 12% of the tax base. This is also broadly in line with other Australian jurisdictions, as shown on the following table.

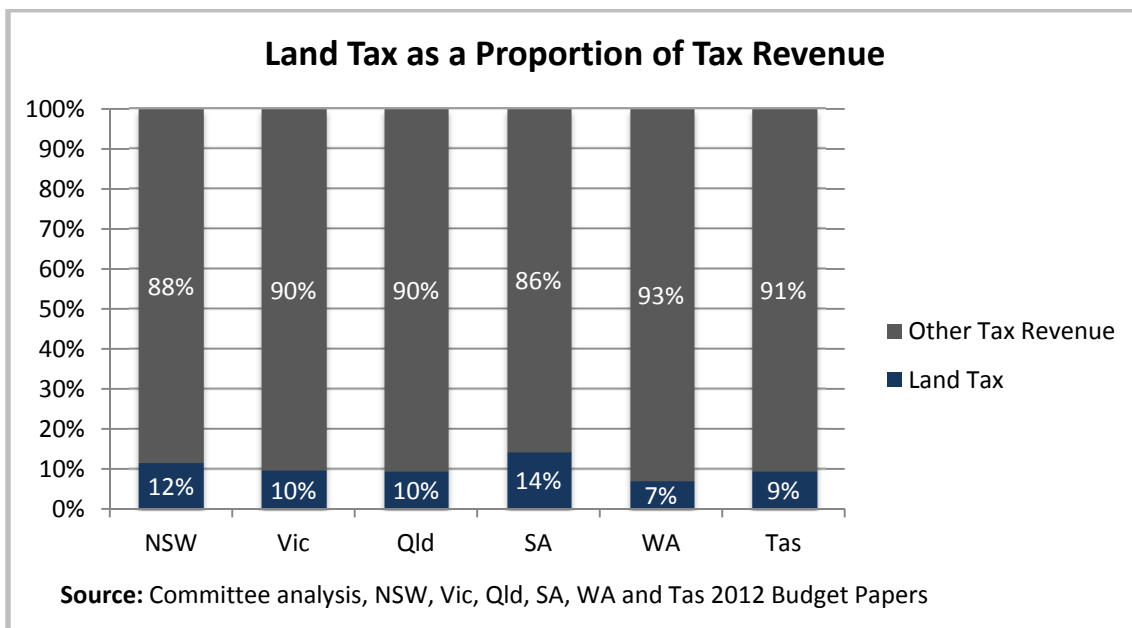
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<sup>1</sup> NSW Joint Standing Committee on the Office of the Valuer General, *Report on the Inquiry into the provisions of the Valuation of Land Act 1916*, at para 4.90.

<sup>2</sup> Ibid at para 4.7.

<sup>3</sup> See *Commonwealth Custodial Services Ltd v Valuer General* [2007] NSWCA 365; *Valuer-General v Commonwealth Custodial Services Ltd* [2009] NSWCA 143; *In Adam Pty Ltd v Valuer-General* [2011] NSWLEC 55

<sup>4</sup> NSW Joint Standing Committee on the Office of the Valuer General, *Report on the Inquiry into the provisions of the Valuation of Land Act 1916*, at paras 4.91-4.92.



Interestingly, there are differences between jurisdictions in the definition of land value and the methods employed to assess it. Identifying the best criterion for land valuations is not a simple calculus. The definition should create as few distortions to the market as possible, be simple conceptually and have some form verifiability.

Currently, NSW uses the site value definition, which is the value of cleared land that is ready for development<sup>5</sup>. Up until relatively recently, Queensland applied an unimproved capital definition. This definition assessed the land as though it was in its untouched state. A very different system is soon to be applied in the Republic of Ireland. In that country, land will be valued at the market price by the landowner once every three years.<sup>6</sup> In Singapore, land tax is assessed on the basis of the annual value of the land; that is the annual amount of rent that could be levied from the property<sup>7</sup>.

Complexities also arise regarding how to deal with mines and minerals, properties that are the subject of heritage listings, archaeological sites and wildlife districts: see ss 14G and 14D of the *Valuation of Land Act 1916* (NSW).

Land tax itself is considered relatively efficient because of the immovability of the tax base<sup>8</sup>. However the Henry Tax Review has noted that a broader tax base would improve the efficiency of the system because it would create fewer distortions in the market<sup>9</sup>. In NSW the valuation system could be considered to favour strata holdings. This is because while the market value of a strata title may be quite high, the taxable land value attributed to the titleholder may be low because the land value is spread across the strata titleholders on the property.

<sup>5</sup> Department of Environment and Resource Management, *Queensland Statutory Valuation Reform Review*, prepared by PriceWaterhouseCoopers, June 2010, pp. 75-76.

<sup>6</sup> Republic of Ireland Treasury, *Budget 2013*, Local Property Tax Leaflet, [http://budget.gov.ie/Budgets/2013/Documents/Local\\_Property\\_Tax\\_Leaflet.pdf](http://budget.gov.ie/Budgets/2013/Documents/Local_Property_Tax_Leaflet.pdf) accessed 20 January 2013.

<sup>7</sup> Inland Revenue Authority of Singapore website: [www.iras.gov.sg/irasHome/page04\\_ektid2110.aspx](http://www.iras.gov.sg/irasHome/page04_ektid2110.aspx) accessed 20/01/2013

<sup>8</sup> Henry Tax Review, *Australia Future Tax System Part 1*, p. 13.

<sup>9</sup> *Ibid*, p. xxi.

## IMPERATIVE FOR REVIEW

There are a number of reasons for a review of the Valuation of Land Act. The current valuation regime was established in 1916, based on economic theories prevalent in the 1800s. The Act subsequently has undergone significant ad-hoc amendment, which has created unnecessarily complex legislation. There have also been a number of Court decisions which raise concerns regarding the Valuation system, especially surrounding the valuation of mines and heritage properties: see *Commonwealth Custodial Services Ltd v Valuer General (Money Box 1)* [2007] NSWCA 365; *Commonwealth Custodial Services Ltd v Valuer General (Money Box 2)* (2009) 74 NSWLR 700; *In Adam Pty Ltd v Valuer-General* [2011] NSWLEC 55. Further there are media reports of some rural councils facing significant revenue shortfalls because of objections to valuations and of the objection system favouring wealthy individuals and corporate entities. Meanwhile, in certain parts of Queensland, land valuations have been subject to material volatility.

In this context, the Committee considers that it is necessary for a broad-based review of the valuation system to test the integrity of land valuations and to identify changes required to ensure the system maintains public confidence.

## FOCUS OF THE INQUIRY

The Committee's assessment of the current system will focus on the following criteria:

Criteria	Description	Key Indicators
<b>Transparency</b>	The transparency of the system is necessary to maintain the public's confidence. For the land valuation system, the crux is the ease with which a taxpayer can understand the determination of their land value and tax liability.	<ul style="list-style-type: none"> <li>• The extent to which people understand how their land is valued.</li> <li>• The objectivity of valuations.</li> </ul>
<b>Efficiency</b>	The efficiency of the land valuation system includes administration and compliance costs associated with maintaining it; as well as any market distortions created through its application.	<ul style="list-style-type: none"> <li>• Administration and compliance costs</li> <li>• Distortions in property investment decisions between: <ul style="list-style-type: none"> <li>○ dwelling types</li> <li>○ states</li> <li>○ other capital investments</li> </ul> </li> </ul>
<b>Predictability</b>	The predictability of the system depends on the capacity of government and landholders to forecast tax revenues and liabilities.	<ul style="list-style-type: none"> <li>• The capacity for government to forecast revenues</li> <li>• The capacity for landholders to forecast tax liabilities</li> </ul>
<b>Equity</b>	The equity of the system depends on the extent to which people of low-socioeconomic status have access to appeals mechanism.	<ul style="list-style-type: none"> <li>• The cost, inconvenience and expertise required to object</li> </ul>

Noting that the focus of the inquiry concerns the valuation system and not state revenues, the Committee is seeking submissions from stakeholders addressing the above criteria or other matters encompassed by the Inquiry's terms of reference.

In preparing their submissions to the Committee, stakeholders may wish to consider a range of policy levers that the Committee could recommend to the Government. Those policy levers may include, but are not limited to:

- Legislative change;
- Statutory modification of the definition of land value;
- Operational changes to valuation methodologies;
- Procedural modifications to the objection system; or
- Operational changes to communication packages.

The list above should be interpreted as indicative rather than exhaustive.

Interested parties are invited to make public submissions until 8 March 2013.

The Committee will also hold public hearings in March 2013, following the submission closing date. The Committee may also call witnesses as the need arises.