PARLIAMENT OF NEW SOUTH WALES

Joint Standing Committee on the Office of the Valuer-General

Report on the Inquiry into the provisions of the *Valuation of Land Act 1916*

Together with answers to questions on notice, transcript of evidence and minutes of proceedings

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Committee functions

The Committee was first established in July 2003 as a joint statutory committee, and re-established in the 54th Parliament on 25 September 2008, by resolution of the Parliament. The Committee comprises five members, including two members of the Legislative Council and three members of the Legislative Assembly.

Resolution Appointing Committee

That:

(1) A joint standing committee, to be known as the Joint Standing Committee on the Office of the Valuer-General be appointed.

(2) The Committee's functions be:

(a) to monitor and review 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*, and in particular:

(i) to monitor the methodologies employed for the purpose of conducting such valuations,

(ii) to monitor the arrangements under which valuation service contracts are negotiated and entered into, and

(iii) to monitor the standard of valuation services provided under such contracts;

(b) to report to both Houses of Parliament, with such comments as it thinks fit, on any matter connected with the exercise of the Valuer-General's functions referred to in paragraph (a) to which, in the opinion of the Committee, the attention of Parliament should be directed;

(c) to report to both Houses of Parliament any change that the Committee considers desirable to the Valuer-General's functions referred to in paragraph (a); and

(d) to inquire into any question in connection with the Committee's functions which is referred to it by both Houses of Parliament, and to report to both Houses on that question.

(3) The functions of the Committee do not extend to the investigation of any matter relating to or arising from a particular valuation of a specific parcel of land.[1]

[1] NSW Legislative Assembly Votes & Proceedings, 25 September 2008, No 85, item 21, p. 921; NSW Legislative Council Minutes, 25 September 2008, No 67, Entry 27, p 806.

Terms of reference

The Joint Standing Committee on the Office of the Valuer-General resolved to conduct the following inquiry:

"That the Committee inquire into the provisions of the Valuation of Land Act 1916 with particular reference to:

(1) the efficiency and effectiveness of the current provisions of the Act;

(2) its application to stakeholders; and

(3) any related matter."

Scope of the Inquiry

The Inquiry is being undertaken to determine issues and concerns of stakeholders in relation to the provisions of the *Valuation of Land Act 1916*. Identification of key issues of concern will feed into the proposed review of the Act by the Government. The inquiry does not extend to an examination of Land Tax and the way it is applied in New South Wales.

Chair's foreword

I have pleasure in presenting the report of the Joint Standing Committee on the Office of the Valuer-General on its Inquiry into the provisions of the *Valuation of Land Act 1916*. This will be the final report of the Committee for the 54th Parliament.

The New South Wales *Valuation of Land Act* is the oldest valuation statute across all Australian jurisdictions, with the majority of other States using legislation drafted in the 1960s and 70s, and as recent as 2001 in Tasmania.

Since it was first introduced in 1916, the New South Wales Act has undergone various amendments to support ongoing system improvements as well as reflecting numerous changes in government policy. The Committee was advised earlier this year that a comprehensive review of the Act is under consideration.

The purpose of this Inquiry was to seek the views of stakeholders on the efficiency and effectiveness of the existing provisions of the Act and to identify issues for consideration as part of that review.

The Committee received 20 submissions from residential landowners, valuers, local councils, the Land and Property Management Authority and peak bodies such as the Australian Property Institute, the Royal Institute of Chartered Surveyors, the NSW Revenue Professionals and the Association of Mining Related Councils.

From the evidence presented, some key stakeholders believed that the Act is operating efficiently and effectively but others identified areas that they considered needed to be reviewed.

One of the major issues raised was the timing of valuations. The Act currently provides for all valuations to be made as at 1 July each year (the base date). Notices of valuation are issued to landowners in January following the valuation and applied by local councils for rating purposes on 30 June. The Office of State Revenue (OSR) also applies these valuations on 31 December for the purpose of land tax assessment.

Questions were raised as to whether it would be more efficient to align the dates used by local councils and OSR for rating and taxation purposes. In a related issue, in 2005 the Ombudsman recommended that the base date should be moved back to March in order to facilitate the valuation process. While this recommendation was not accepted by the Government, some submissions to this Inquiry suggested that it should be reconsidered.

Issues relating to the objection process were also raised. The Act currently allows an objection to be lodged either (a) when the valuation is first issued or (b) when the land tax assessment is issued. Whereas this is common practice in most Australian jurisdictions, questions were raised as to whether a single objection model, as in Queensland, would be more efficient. A further issue was whether the current provision that allows for 60 days to lodge an objection should be shortened.

Some submissions also suggested that there is a need to review the provisions relating to the valuation of mines and minerals, to take account of increases in mining production within existing leases.

The Committee also received contrasting views on whether irrigation works should be exempted from the value of land.

Finally, from the comments made in submissions, it is clear that the language contained in the current Act is outdated and unclear, which causes significant interpretation issues.

Many issues raised in submissions were technical in nature and the Committee believes that these are better suited to a departmental review rather than committee inquiry, and are not discussed in depth in this Report.

The Inquiry does not extend to an examination of land tax and the way it is applied in New South Wales, which is governed by the *Land Tax Management Act*. Some submissions also raised issues relating to valuation methodology. However, the *Valuation of Land Act* does not specify the type of method by which land values are to be determined. Consequently issues relating to land tax and methodology are also not addressed in this Report.

From the evidence presented to this Inquiry, the Committee agrees that although many of its provisions are operating efficiently and effectively, the Act would benefit from a comprehensive review to make it clearer and less complex and to remove anomalies such as outdated language and unclear provisions. Other issues, such as those relating to valuation dates and objections also need further consideration.

This Report is intended to open the discussion about whether the Act should be reviewed by highlighting the key issues raised by stakeholders. It therefore does not make any recommendations about specific issues, but recommends that a comprehensive review be undertaken.

In conclusion I would like to extend my thanks to the Valuer-General, the Land and Property Management Authority, and to the other stakeholders who expressed their views to the Committee. Their comments were valuable in highlighting issues that need to be considered as part of a comprehensive review of the Act. I would particularly like to thank the Members of the Committee and the Committee Secretariat for their work during this Inquiry.

Marie Andrews MP
Chair

Recommendation

The Committee recommends that a comprehensive review of the Act be undertaken and that issues raised in this report be considered as part of that review by the Valuer-General . Particular consideration should be given to the following issues:

- Options for the use of alternate value bases, where these might be applicable;

- Valuation and application dates used by rating and taxation authorities with a view to determining the costs and benefits of realigning these dates;

- The costs and benefits of implementing the Ombudsman's recommendations that the general valuation date be moved to 1 March in the valuing year and the amendment of the schedule for the production of proposed values by contractors accordingly (Section 14B);

- How States that provide multiple opportunities for objections deal with the concern of local councils that their rates are based on a valuation that may be overturned at a later date;

- Section 35, to determine whether the timeframe for lodging an objection should be amended to 45 days;

- Section 29, to insert a provision prescribing the appropriate level of information allowing the Valuer-General to properly consider an objection;

- Section 35B(2), to determine whether there is a need to retain the statutory requirement that the delegate who considers the objection must be separate from the person who considers the objection;

- Section 14F, relating to the valuation of mines and minerals, to ascertain whether this section meets the requirements to value land within the expanded mining sector. Particular consideration should be given to examining whether section 60A should be amended to permit local councils to request a further valuation when significant changes occur to a mining lease during the valuation cycle;

- *Part 5 Use of Valuation Lists,* to permit more flexible provisions for the Valuer-General to provide valuations for use by various agencies as determined by the Valuer-General;

- Removal of outdated language and unclear provisions; and

- Technical issues raised in submissions made to this Inquiry and detailed in the Committee's Report.

Abbreviations and explanations

Abbreviations

AMRC	Association of Mining Related Councils
DCPs	Development control plans
IPART	Independent Pricing and Regulatory Tribunal
LEPs	Local Environment Plans
LPI	Land and Property Information
LPMA	Land and Property Management Authority
LVAG	Land Valuation Advisory Group
MDAFs	Mixed development apportionment factors
OSR	Office of State Revenue
OTEN	Open Training and Education Network
SEPPs	State Environmental Planning Policies

Explanations

Land value	land value reflects the market value of the land as at 1 July in the year of valuation and is based on the land being vacant. Most land in New South Wales is valued using the mass valuation approach, where properties are valued in groups called components.
Mass valuation system	refers to the generation of land values for multiple properties at a given date. Mass valuations are generated by standardised computer methods as distinct from individual or handcrafted valuations.
Component method valuation	refers to the NSW methodology for generating mass valuations. The method involves grouping properties that are similar or are likely to change in value in similar ways. These groups or components contain benchmark properties, which are handcrafted and serve as a standard basis for mass generation of land value.

Chapter One - The Inquiry

1.1 Since it was first introduced in 1916, the *Valuation of Land Act* has undergone various amendments to support ongoing system improvements as well as reflecting numerous changes in government policy.

1.2 The Valuer-General wrote to the Committee in June 2010, noting that a review of the Act had been under consideration for some time. He suggested that a survey, conducted by the Committee, be undertaken to ascertain what the main stakeholders would like to see in a new or revised Act as this would be of assistance to his Office.

1.3 The Committee therefore resolved on 22 June 2010 to conduct an Inquiry into the provisions of the *Valuation of Land Act 1916* with the following terms of reference:

> That the Committee inquire into the provisions of the *Valuation of Land Act 1916* with particular reference to:
>
> 1. The efficiency and effectiveness of the current provisions of the Act;
> 2. Its application to stakeholders; and
> 3. Any other related matter.

Conduct of the Inquiry

1.4 The Committee wrote to key stakeholders and placed an advertisement in the media inviting interested individuals and organisations to make a written submission to assist the Inquiry process. The submission process closed on 30 July 2010 and twenty submissions were received (see Appendix Three).

1.5 Some submissions raised issues relating to land tax and the methodology used to determine land values. As these matters fall outside the Inquiry terms of reference, they are not specifically addressed in this report, except where they relate to provisions within the Act.

1.6 Other submissions raised issues that were of a highly technical nature, or which required clarification. The Valuer-General therefore appeared before the Committee at a public hearing on 22 October 2010 (see Appendix One). The Valuer-General also provided supplementary information on questions asked at the hearing (see Appendix Two).

Chapter Two - The Act

Introduction

2.1 According to Land and Property Management Authority (LPMA), the purpose of the *Valuation of Land Act 1916* (the Act) is primarily to provide consistent, reliable and independent valuations for the purpose of levying rates and taxes. The Act provides for a custodian (the Valuer-General) for these valuations to ensure the purposes of the Act are met and that valuation outcomes are equitable and meet the needs of all stakeholders.[2]

2.2 The Act established the Valuer-General as a Statutory Officer reporting to the Parliament to ensure independence from the rating and taxing authorities and to provide a single point from which all rating and taxing authorities could obtain valuations.

2.3 Under the Act, the Valuer-General is required to value all land in New South Wales annually, except for Crown Land and those parts of the Western Division that do not fall within the area of a rating or taxing authority. For the purposes of a general valuation, land is valued as at 1 July in the year the valuation is made.

2.4 The Act provides for three methods of valuation: land value; improved values; and assessed annual value. Land value is the value of land only and is the method currently in use in New South Wales. The Act requires that land values are to be 'market values' but does not specify the method by which land values are determined.

2.5 The Act also allows for a variety of allowances and apportionment factors in determining the value of land to take account of such things as heritage orders and other restrictions.

2.6 The Valuer-General is required to issue a Notice of Valuation to the landowner whenever he furnishes a valuation list to the council of a local government area. The landowner has a statutory right of objection to this valuation and appeal to the Land and Environment Court if dissatisfied with the Valuer-General's determination of the objection.

2.7 Annual valuation lists are also provided to the Office of State Revenue for the purpose of that authority assessing land tax under the *Land Tax Management Act 1956*. The statutory right of objection also applies to these valuations.

2.8 The provisions of the Act also permit the Valuer-General to provide land values to several other government agencies other than rating and taxing authorities, such as Sydney Water Corporation and the New South Wales Fire Brigades.

[2] Land and Property Management Authority (LPMA), Submission no. 9, p. 5.

History of the Act

2.9 The New South Wales *Valuation of Land Act* is the oldest valuation statute across all Australian jurisdictions, with the majority of other States using legislation drafted in the 1960s and 70s, and as recent as 2001 in Tasmania.

2.10 The Act was introduced in 1916 for the purpose of providing a uniform valuation system for rating and taxing purposes and to create the position of Valuer-General.

2.11 According to LPMA, in 2010, while there have been changes to the organisational structures over the lifetime of the Act, the notion of the Valuer-General ensuring consistency and independence as a central authoritative figure on land values for the state remains.[3]

2.12 A significant change occurred in 1996 when the Act was changed to permit the Valuer-General to enter into contracts with private valuation firms to provide rating and taxing valuation services.

2.13 The Valuer-General's Department was also split into a regulator and service provider, with the Valuer-General retaining the policy, regulatory and contract management role and the State Valuation Office as a commercial service provider. The Valuer-General also retained responsibility for maintaining the Register of Land Values (the Register).

2.14 Further changes occurred as result of the 1999 *Report into the Operation of the Valuation of Land Act* (the Walton Report), to avoid duplication with the *Land Tax Management Act*, and the NSW Ombudsman's 2005 report on *Improving the Quality of Land Valuations issued by the Valuer-General*.

2.15 The Act changed again with the introduction of the *Water Management Act 2000*. Previously water rights were included in valuations prepared under the *Valuation of Land Act*. Under the current provisions, land values for irrigated rural land ignore the added value of any water secured by a water right.

2.16 Currently the operational responsibilities of the Valuer-General are carried out under delegated authority by Land and Property Information (LPI), on behalf of the Valuer-General. LPI, a Government Business Enterprise, is part of the Land and Property Management Authority and its work includes letting and managing valuation contracts, managing the objections and appeals process and maintaining the Register.

2.17 The Act is regularly reviewed by the Valuer-General to take account of changes in government priorities, policies and structures.

[3] Ibid, p. 6.

Key elements of the Act

2.18 In brief, the Act:

- sets out the functions and powers of the Valuer-General;
- provides for three methods of valuation;
- defines the meaning of land value and land improvement;
- requires that land values are to be 'market value' but does not specify the methodology by which they must be determined;
- determines the timing of valuations;
- provides for contracts for valuation services;
- determines how land is to be valued;
- provides for objections to be lodged against valuations;
- provides for the range of government agencies that may use valuations;
- establishes the Register of Land Values; and
- provides for a range of concessions and allowances in determining the value of land.

2.19 The Act also determines the relationship between land valuations and other relevant legislation such as the *Land Tax Management Act*, the *Local Government Act*, the *Water Management Act* and the *Environmental Planning and Protection Act*.

Key stakeholders

2.20 Key stakeholders include: residential and business landowners; local councils; the Land and Property Management Authority; the Office of State Revenue; and government departments and agencies that use valuation data and valuers. Peak bodies such as the Australian Property Institute, the Property Council of Australia, the Royal Institute of Chartered Surveyors, the NSW Revenue Professionals, the Local Government and Shires Association and the Association of Mining Related Councils also have an interest in the operation of the Act.

Chapter Three - Summary of key issues

3.1 From the evidence presented to the Committee, some key stakeholders believed that the Act is operating efficiently and effectively but others identified areas that need to be reviewed.

3.2 For example, in their submission, the Royal Institution of Chartered Surveyors (RICS) commented that:

> RICS has examined the *Valuation of Land Act 1916* and finds that at the present the Act works in an efficient and effective manner with no immediate need for major alteration of the Act.
>
> RICS finds that the requirement that the Office of the Valuer-General is enshrined within the Act with specified responsibilities allows for effective transparency and acts in the best interest of the public.
>
> Similarly the Act ensures that there is a robustness to the appeals process, this is an important factor in public surety in the Act.[4]

3.3 Members of the Australian Property Institute were also broadly of the opinion that the Act functions satisfactorily, however they made suggestions relating to valuation base dates and the need to review the issue of water rights.[5]

3.4 Land and Property Management Authority (LPMA) noted that while the Act largely supports efficient and effective valuation outcomes, a comprehensive review is required to address many of the issues that arise from its outdated language, unclear or inconsistent provisions and numerous amendments. Specific matters that need to be addressed include:

- matters relating to the Register of Land Values;
- the need to review the provisions applying to concessions and allowances;
- the use of valuations by rating and taxing authorities;
- the right of the Valuer-General to make and alter valuations;
- matters relating to the objection process;
- matters relating contracting for valuation services;
- delegation to public officials; and
- outdated language and unclear provisions.[6]

4 Royal Institution of Chartered Surveyors, Submission no. 11, p. 2.
5 Australian Property Institute, Submission no. 18, p. 1.
6 LPMA, Submission no. 9, pp 17 – 24.

3.5 The Act currently provides for land valuations to be made as at 1 July each year (known as the base date) and notices for valuations are issued to landowners in the January following the valuation. Local councils issue rate notices as at 30 June each year based on these valuations and the Office of State Revenue (OSR) applies the valuations on 31 December each year, for the purpose of land tax.

3.6 LPMA commented in its submission that the use of different dates of application by the OSR and local councils creates a level of inconsistency with the application of the Act, particularly concessions and allowances, and suggested realigning the land tax year with the rating year to provide a uniform date. [7] The Australian Property Institute also suggested aligning the valuation base dates with dates adopted by the Office of State Revenue or local councils.[8]

3.7 Several submissions from valuation contractors also suggested there is a need to either change the base date or to realign the contractor's programme with either the Office of State Revenue calendar year or the Council's rating date in order to allow more efficient valuation processes. Specifically, submissions called for the implementation of two recommendations made by the Ombudsman in 2005 that section 14B of the Act be amended to provide for land to be valued for the purpose of a general valuation at 1 March in the valuing year in which the valuation takes place and that the schedule for the production of proposed values by contract valuers be amended accordingly.[9]

3.8 NSW Revenue Professionals, which represents persons involved in the rating and revenue functions of local government, raised a number of issues that they believed needed either clarification or review. Some of these are technical in nature and are discussed later in this report. Others, such as their belief that rating valuations based on land values is outdated and should be replaced by improved capital value, are discussed further in this section.[10]

3.9 Several local councils made submissions to this Inquiry which covered a range of issues such as valuations of mining leases,[11] appeal procedures in relation to the objection process and the need for a revised methodology to be applied in the valuation of leases on Commonwealth land.[12]

7 LPMA, Op cit, p. 19.
8 Australian Property Institute, Op cit, p. 1.
9 Southern Alliance Valuation Services, Submission no. 6, p. 1; and Robertson & Robertson, Submission no. 14, p. 2.
10 NSW Revenue Professionals Society, Submission no. 10, pp. 2-4.
11 Association of Mining Related Councils (AMRC), Submission no. 8, p. 1; and Blayney Shire Council, Submission no. 12, p. 1.
12 City of Botany Bay Council, Submission no. 17, pp 1 & 2.

3.10 Contrasting views regarding the exemption of irrigation works from the value of land were expressed in submissions. [13] Several issues of a technical nature were also raised. These issues are addressed in more detail in Chapter Four.

[13] Moree Plains Shire Council, Submission no. 19; pp. 1-2; and the Gwydir Valley Irrigators Association, Submission no. 20, p. 2.

Chapter Four - The efficiency and effectiveness of the current provisions of the Act

4.1 The purpose of this Inquiry was to examine the efficiency and effectiveness of the current provisions of the Act and to identify those areas that stakeholders believed needed review.

4.2 This Chapter is intended to open the discussion about whether the Act should be reviewed by highlighting the key issues raised by stakeholders. It therefore does not make any recommendations about specific issues.

4.3 The Committee's overall findings with regard to the provisions of the Act are discussed in Chapter Five.

Methods of valuation

4.4 There are approximately 2.4 million land valuations produced annually in New South Wales. The Valuer-General provides land values to local councils for rating and the Office of State Revenue (OSR) for managing land tax, as well as a number of other government agencies. Each valuation is recorded in the Register of Land Values.[14]

4.5 The Valuation of Land Act provides for three methods of valuation, although only one, land value, is currently in use in New South Wales:

1. Land value which uses a common basis for assessing the value of the land excluding any improvements. Land value reflects the market value of land as at 1 July in the year of valuation and is based on the land being vacant (section 6A);

2. Improved value of land, which values the land and buildings (section 5); and

3. Assessed annual values which are based on rental returns for a property (section 7).

4.6 Improved values for the whole of New South Wales were last made in 1973. According to Land and Property Management Authority (LPMA), since then little data has been kept on improved property attributes. Their submission noted, however, that this information may be available in some form through local councils or commercial organisations, but is not available in a comprehensive or complete record for all properties across the whole of New South Wales. [15]

[14] *NSW Valuer-General's Report 2008-09*, p. 22
[15] LPMA, Op cit, p. 15.

4.7 The submission from LPMA also noted that land value has been considered by various previous inquiries and reviews to be the most appropriate method for providing rating and taxing valuation in New South Wales. LPMA believe that New South Wales has a strong and robust methodology of land valuation that has been developed over a long period and which is generally accepted as an equitable and reasonable basis of valuation. They admit, however, that valuations based on land values are sometimes not readily understood by landowners, particularly where there is a lack of evidence of land sales in areas that have been built on for many years. [16]

4.8 In contrast, NSW Revenue Professionals consider rating valuations based on land value to be outdated and believe that it is extremely difficult for some council staff and customers to understand what the land value of a property is. They suggested that local councils should have the option of using improved capital value or unimproved capital value, depending on the council's requirements for determining valuations, as in other States where this is an option.[17]

4.9 The Valuer-General agreed that other States do use different systems of valuation. For example:

> As you are aware here in New South Wales we use land value. Queensland up until two months ago used what they used to call an unimproved land value, which was a true unimproved value back to its original state as opposed to what it might be today. They have since amended their Act to effectively mirror what the New South Wales definition of land value is. Within Victoria, councils have the option of using what is called an improved capital value, a land value or an annual rental value. Those various scenarios apply to other States as well.[18]

4.10 He noted, however, that in the case of Victoria, local councils are responsible for doing the valuations and the Valuer-General simply oversees them. New Zealand has the same provisions, in terms of an annual rental value, a capital value or a land value. [19]

4.11 The Valuer-General went on to say that there are effectively a number of options that could be looked at for New South Wales. However, to update the valuation system in the case of a capital value system would come at a significant additional cost. This is because of the large amount of maintenance that would need to be undertaken to update the system as building permits were issued.[20]

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16 LPMA, Op cit, p. 15.
17 NSW Revenue Professionals, Op cit, p. 2.
18 Transcript of evidence, 22 October 2010, p. 17.
19 Ibid, p. 17.
20 Ibid, p. 18.

4.12 The submission from LPMA also indicated that the collection and creation of the base data to implement an improved value system would add considerable initial establishment costs and would involve significant variations in rates and taxes. According to LPMA, any consideration of change would require a detailed cost benefit analysis.[21]

4.13 The Valuer-General told the Committee that another consideration is that the system is now in such a position that it is widely accepted by the public. However, the option remains for another system to be used.

> .....to change it could really, I guess, throw the cat amongst the pigeons in terms of putting the whole system on its ear in the understanding of the system. That has downstream ramifications for councils as well, having to change their rating systems and the administration of it and all those things.....but to put it succinctly, the option is there. [22]

Valuation and assessment dates

Different dates of application used by rating and taxation authorities

4.14 Section 14B of the Act currently provides for all valuations to be made as at 1 July each year. These valuations are then applied by the OSR on 31 December following the valuation. Notices of Valuation are issued to landowners during January following the valuation and applied by local councils for local government rating purposes as at the following 30 June.

4.15 LPMA considers that this timing provides valuations that are as near as possible to reflect the market conditions at the valuation date to the time they are applied. In their opinion, however, the different dates of application required by the rating and taxing authorities create a level of inconsistency with the application, particularly of concessions and allowances.

> For example, Section 14V of the Act, relating to exclusion of subdivision allowances in certain circumstances, has two subsections which are identical except that one refers to the application for land tax purposes at 31 December under the *Land Tax Management Act 1956* while the other refers to the application of rates and charges at 30 June under the *Local Government Act 1993*. This may cause inconsistency in the application and effect of the same valuation by different rating and taxing authorities at the same date.[23]

4.16 LPMA also believe that there are potential benefits and efficiencies relating to aligning the land tax year with the rating year to provide a uniform date of effectiveness of the valuations. In their opinion, this would provide better

21 LPMA, Op cit, p. 16.
22 Transcript of evidence, Op cit, p. 18.
23 LPMA, Op cit, p. 19.

clarity and reduce landowner confusion between the differing dates the valuations have effect.[24]

4.17 The Australian Property Institute believes that a member suggestion of aligning the valuation base dates with dates adopted by various other stakeholders such as the OSR appears to be worthy of consideration, particularly having regard to the date of sales evidence adopted by valuers contracted to perform statutory valuations.[25]

4.18 The Committee sought advice from the Valuer-General as to the cost of moving the taxing date to 30 June or, alternatively, moving the rating date to 31 December and whether there are any practical issues or problems associated with that change.

4.19 The Valuer-General responded that his two principal government stakeholders are the OSR and local government.

> They both have differing needs in respect of when they require to have the valuations provided. Currently under the *Land Tax Management Act*, the Office of State Revenue are required to have a finalised copy of the register of land values as at midnight on 31 December so they can commence issuing land tax assessments in early January. From a local government perspective, they need to have as close as possible to a finalised role by 30 June of the following year. So you have two competing interests there. There are reasons and rationale with both organisations as to why they required them at certain times. [26]

4.20 As this was a complex issue, the Valuer-General took the question on notice. In his response, he commented that both the OSR and local government local councils have specific reasons for maintaining the current dates, and the potential implications of aligning the major two valuation stakeholders would be significant.

> **Moving the 'rating year' from 30 June to 31 December to align with the 'land tax year'**
>
> Moving the 'rating year' from 1 July to the prior 31 December would mean land values were being used for rating purposes prior to Notices of Valuation being issued to landowners and there would have been no opportunity for objections to be lodged or reviewed prior to Councils' rates notices being issued.
>
> There would be other major implications for Councils. Moving the rating year to the prior 31 December would shift Councils operating year to a calendar year basis. This would have a significant impact on Councils in the interim as well as long term. There would be additional resource requirements and one off cash flow implications. Importantly moving the 'rating year' in NSW to this date would mean NSW was out of alignment with other States and territories. This would have implications for Council reporting cycles at a National level.

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24 LPMA, Op cit, p. 19.
25 Australian Property Institute, Op cit, p. 1.
26 Transcript of evidence, Op cit, p 5.

> **Moving the 'land tax year' from 31 December to 30 June to align with the 'rating year'**
>
> If the 'land tax year' was moved to 30 June, this would result in the issued land values being at least 12 months old before they were issued on land tax assessments. Currently they are approximately six months old when issued. The main implication is that the greater the interval between when the values 'as at' and the date of issue the more likely it is for landowners to contest the land value. Most people are only aware of what they are reading and hearing within the media today rather than what was happening at least 12 months ago.[27]

4.21 He went on to say that a further complication would be that land tax assessments are based on a three year average.

> This means that even where Council rates are based on a current general valuation, the land tax assessment value will not be the same. Even if the two dates were aligned, the final year land value used for compiling the three year average for the land tax assessment and rating purposes would only be the same value for approximately one-third of all land tax properties. There would only be 100% alignment if either Local councils adopted annual land values or land tax reverted to using general valuations instead of annual valuations. [28]

4.22 In his opinion, there would be substantially higher costs to the valuation system if land values were issued annually for all properties, and there could also be potential cash flow issues for land tax revenues with the land tax year being adjusted by an initial six month period. There would also be a likely increase in the number of objections received each year, many of which may relate to land which is not subject to land tax or be in force as a council rating value. [29]

Valuation timeframes

4.23 Section 14B of the Act currently provides for all valuations to be made as at 1 July each year (the base date). For contractors, the valuing process commences on 1 March and they are required to deliver provisional values on 15 September and final values on 15 October. This, according to Robertson & Robertson, compresses the valuation timeframe into a 7 month period.[30] Southern Alliance Valuation Services also called for an amendment to the base date on the grounds that it would improve the quality of service delivery by valuation contractors, and recommended 1 May as the optimal date. [31]

4.24 In his report into *Improving the quality of land valuations issued by the Valuer-General,* the NSW Ombudsman found that

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27 Answers to questions on notice, Question no.1: *Different dates of application used by rating and taxation authorities*.
28 Ibid.
29 Ibid.
30 Robertson & Robertson, Submission no. 14, pp.1-2.
31 Southern Alliance Valuation Services, Submission no. 6, p. 1.

> The proximity of the base date to the timing of submissions of component factors and proposed values not only affects the capacity to obtain and analyse the most relevant market data, it also affects the amount of time contract valuers have to develop their initial values from the application of proposed factors and to test that data through the application of statistical quality assurance measures and verification exercises. It also significantly limits the time contract valuers have once component factors are approved to verify the resultant values and handcraft where necessary. [32]

4.25 The Ombudsman argued that moving the base date back 3 months and allowing more time for contract managers to quality assure the proposed values and resolve any identified problems would be a desirable reform. He recommended that:

> The Minister initiate action to seek Cabinet endorsement to amend section 14B of the Valuation of Land Act to provide for land to be valued for the purposes of a general valuation at 1 March in the valuing year in which the valuation takes place. (Recommendation 6.2)

> Subject to a change in the valuation base date, the schedule for the production of proposed values by contract valuers be amended to provide a reasonable time buffer for contract managers to perform an expanded range of data integrity and other quality checks to better ensure a high level of accuracy in values prior to their adoption and entry into the Register of Land Values. (Recommendation 6.3)[33]

4.26 The Committee asked the Valuer-General to explain why the Ombudsman's recommendations were not implemented.

4.27 He responded that, as a result of the recommendations, he undertook a large amount of consultation with New South Wales Treasury, the OSR, the Department of Local Government and the Local Government and Shires Association. He also sought input from the Land Value Advisory Group (LVAG), which has a number of participants from throughout the property industry, as well as local government.

> Rather than just put one date to them, I proposed to them three dates: either looking at maintaining the status quo, which is 1 July; the 1 March date which was proposed by the Ombudsman; and then an intermediary one, which was 1 May. The feedback from that consultation was mixed. Predominantly the feedback was that they were indifferent to changing the date from their perspective. [34]

4.28 The Valuer-General told the Committee that, since the Ombudsman made his recommendations, a large amount of work had been undertaken to improve the valuation system and the work is now spread across

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32 NSW Ombudsman, *Improving the quality of land valuations issued by the Valuer-General A special report to Parliament under s31 and s26 of the Ombudsman Act 1974,* October 2005, p. 88.

33 Ibid, p. 94.

34 Transcript of evidence, Op cit, p. 13.

12 months of the year, although there are some contractors who still undertake all the sales analysis in the last couple of months leading up to the date of valuation.

> So one of the areas we have worked on is to ensure that that sales analysis has been undertaken over 12 months of the year to spread that burden. Also what it ensures is that the contractors are more up-to-date in terms of what is happening with the market. So they know where the market is going and what impacts on various categories, so that when they get to 1 July it is not all happening at once, they have actually got a very good idea before it happens. That is one aspect.
>
> The other aspect is that Land and Property Information Valuation Services now undertake audits throughout the year to assist in that process as well. We also now have an agreement with the Office of State Revenue where we receive through from them a list of effectively provisional sales that are occurring where a document has had to be lodged with the Office of State Revenue in regard to stamp duty. So we have got an early indication there of what is happening in respect of values. Also, now we have improved technology, both the capability within ValNet itself, that is the database used by Land and Property Information Valuation Services, but also as far as examining values and the spread of values spatially through things like Val Map, which is available to contractors as well. [35]

4.29 He continued that there were specific reasons why the OSR and local government require valuations on 31 December and 30 June respectively. The major issue is that the wider the gap between the valuation date and the date that valuations are issued to landowners, the greater the issue for landowners being able to understand their land value.

> Generally, landowners are only aware of what is happening in the market today. They are actively reading media, there are always property sections in news print, there are things happening on radio and television which indicate where the market is at. So their perception is all about today. To suddenly have to ask them—at this stage we are only talking about six months difference—to reflect in terms of what the market was back then is a difficult circumstance. To widen that gap further to nine months where you can have significant value movements or market changes, is even more difficult to do. I am very keen to try and keep that gap as narrow as I possibly can.[36]

4.30 According to the Valuer-General, the other consideration was the impact that those dates have on the valuers who are undertaking the work and on the team auditing that valuation work.

> It is not actually the date itself that causes the issue. It is more the relationship between that date and when we issue or have to have these final values available to issue to either the Office of State Revenue, in particular, or to landowners which causes or did cause the issues. [37]

35 Ibid, pp. 13-14.
36 Ibid, p. 14.
37 Ibid, p. 13.

4.31 However, as the last review of the valuation dates was undertaken in 2005 when the Ombudsman undertook his investigation, The Valuer-General thought that it would be timely to have another look at the valuation date to see if there is any need to alter either the valuation date itself, or when information is provided to the major stakeholders. [38]

Objections

4.32 Part 3 of the Act deals with notices and objections and several submissions identified provisions where it was felt that efficiency and effectiveness could be improved. A summary of the key issues that were raised in submissions follows.

Lodgement of objections

4.33 Section 35 of the Act provides that, except in certain circumstances, an objection must be lodged with the Valuer-General, in accordance with the regulations, not later than 60 days after:

(a) the date of service of the notice of valuation under section 29, or

(b) in the case of a valuation for the purposes of the *Land Tax Management Act 1956*, the date of service of the relevant land tax assessment under section 14 of the *Taxation Administration Act 1996*.[39]

4.34 NSW Revenue Professionals argued that having two opportunities to lodge an objection creates a problem for local councils, where an objection is upheld against a valuation used by the OSR that has already been in use by a council for rating purposes for some time. [40]

4.35 The Committee asked the Valuer-General whether similar provisions exist in other jurisdictions and what would be the consequence of limiting objections to 60 days (or 45 days if this is changed) after an owner is first notified of a valuation.

4.36 The Valuer-General provided a chart summarising the objection provisions in other States/Territories and New South Wales. The majority of the other Australian jurisdictions also have the ability for landowners to object more than once, and to object outside the legislated objection period. Queensland and Tasmania are the only States limited to the first time a valuation is notified, however there still remains a right of review outside the official objection period (see table 1).

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38 Ibid, p. 14.
39 Section 35(10), *Valuation of Land Act 1916* (NSW)
40 NSW Revenue Professionals, Op cit, p. 3.

4.37 He told the Committee that there are checks and balances in place in New South Wales to limit the opportunity to object to a land value more than once. A second objection is only valid if there is fresh evidence to demonstrate that the land value may be incorrect.

4.38 According to the Valuer-General, to change the current practice to that of Queensland could result in a greater number of objections, increased costs and a likely increase in the timeframes to resolve objections. It could also undermine improved public confidence in the NSW valuation system. [41]

Timeframe for lodging an objection

4.39 Notices of valuation are currently issued progressively from mid January to late February and the majority of Land Tax Assessments are issued during the same period.[42] Any person to whom the Valuer-General has given written notice of a valuation may lodge a written objection to any such valuation under section 29(3A).

4.40 In its submission, LPMA states that Land and Property Information (LPI) has significantly reduced the processing time for objections to an average of 83 days. The submission also noted that:

> For the maximum efficiency and benefit to be obtained, particularly in local government areas, the majority of objections should be completed by the 30 June rating commencement date, to avoid re-levying and recalculation of rates by rating authorities. Similarly, the determination of an objection prior to the completion of the Office of State Revenue instalment process would also improve the efficiency of the tax collection system and reduce the recalculation and revision of taxable amounts.[43]

4.41 To continue to improve the turnaround of objection determinations prior to critical rating and taxing dates, LPI recommends the reduction of the time allowed for an objection be lodged. LPI believes that considerable time and efficiency gains with no resulting loss in the public's right to object will be achieved with a reduction in the objection lodgement period. By way of example, the submission noted that Queensland is reducing its timeframe for lodging an objection to 45 days.[44]

4.42 The Committee agrees that it would be appropriate to review the timeframe for lodging an objection with a view to adopting the Queensland model.

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41 Answers to Questions on Notice, Question no. 2, Objections.
42 LPMA, Op cit, p. 21
43 LPMA, Op cit, p. 21
44 LPMA, Op cit, pp. 21 – 22.

Table 1: Jurisdictional comparison of objection periods[45]

Jurisdiction	Objection Instrument	Objection Period	Comments
New South Wales	Notice of Valuation Land Tax Assessment	60 days from the date of issue of Notice of Valuation and Land Tax Assessment.	Valuer General has the discretion to accept objections outside of the 60 days (must be an acceptable reason).
New Zealand	Notice of Valuation	30 working days – revaluation. 20 working days – roll maintenance.	Landowners may request new valuation during currency of valuation roll New valuation must preserve uniformity with comparable roll parcels not sales. Councils can charge a fee for this service.
Queensland	Notice of Valuation	60 days after valuation is issued.	Late objections may be accepted due to specific circumstances. Cannot object to land tax assessment. Objection period may be extended where owner requests to have their land classified as rural.
Western Australia	Rate Assessment Land Tax Assessment	60 days from the making of the general valuation within the gazette.	Valuer General may extend objection period if reasonable cause – on a case by case basis. There is no continuous right of objection.
Tasmania	Notice of Valuation	60 days from the receipt of a Notice.	Landowners can request a review outside of the 60 day period of receiving a Notice of Valuation. However this is called 'section correspondence' (not an objection). The valuation may be reviewed however the objector has no right to take the matter to the Land Valuation Court. This also applies to Land Tax Notices.
South Australia	Land Tax Assessment Rates Notice Emergency Services Notice SA Water Rates Notice	60 days from the date of service of each Notice.	Landowner can object. Valuer General has the discretion to extend the 60 day period (must be 'reasonable' cause). There is no continuous right of objection.
Northern Territory	Valuation Notice	30 days to object.	There is no opportunity to object outside of this period. No land tax in Northern Territory.
ACT	Land Tax Assessment Valuation Notice	60 days upon issue of the Valuation Notice.	No right to objection outside of 60 day period.
Victoria	Rates Notice Land Tax Notice	Within two months of the issue of a Rates Notice and/or Land Tax Notice.	There is no option of a late objection or continuous right of objection.

[45] Answers to Questions on Notice, *Question no. 2, Objections.*

Supporting information for objections

4.43 Section 29(3B) provides that a person who objects to a valuation must notify each other person to whom notice of the valuation is required to be given under subsection (1):

(a) of the fact that he or she has made such an objection; and

(b) of the reasons for which he or she has made the objection.

4.44 The Act does not, however, contain a provision that prescribes what constitutes the appropriate level of information that would allow the Valuer-General to properly consider an objection.

4.45 A process was introduced in 2005 by LPI to reject objections that it felt did not adequately explain the reasons contended by the landowner as to why the land value was incorrect. Objections that are rejected through this screening process are returned to the landowner to give them the opportunity to lodge appropriate supporting evidence to enable a proper review of the land value to be undertaken.[46]

4.46 The Queensland *Valuation of Land Act* was recently amended to include a definition of what constitutes a properly made objection. [47]

4.47 The submission from LPMA suggested that consideration should be given to including a similar provision in the New South Wales Act, prescribing what constitutes the appropriate level of information to allow the Valuer-General to properly consider an objection. [48]

Independence of objection decisions

4.48 Section 35B of the Act provides that:

(1) The Valuer-General must consider an objection that has been duly made and either allow the objection or disallow the objection.

(2) If the Valuer-General delegates the functions conferred by this section, the delegate who considers the objection must be a different person from, and not subordinate to, the person who made the decision against which the objection is lodged.

4.49 This provision was originally inserted after the *Walton Report* considered that there was a perceived lack of independence in the objection decision making process. [49]

4.50 The submission from LPMA argues that there have been significant changes to the valuation system and the objection processes. Greater independence has been achieved by the use of valuation contractors for

46 LPMA, Op cit, p. 21
47 Section 52AA, *Valuation of Land Act 1944* (QLD)
48 LPMA, Op cit, p. 21.
49 Ibid, p. 22.

both the recommendation of the new land values that are made each year and the quality assurance of the valuations by LPI. As a result, LPI believes that this requirement is no longer necessary because the independence and transparency of objection reviews can be managed by the Valuer-General. [50]

4.51 In support of this, the submission cited the Ombudsman's report into *Improving the Quality of Land Valuations issued by the Valuer-General*, which found that there was sufficient separation between the initial decision-maker and the objection decision-maker. [51]

4.52 The Committee asked the Valuer-General what burden is being imposed by the current provision and how would he be able to fairly manage the inherent conflicts involved in the same person or a subordinate considering an objection.

4.53 The Valuer-General replied that there are two aspects from the burden perspective that cause issues with the existing procedures required by the Act:

> One is, from my point of view, our existing rating and taxing contractors are best placed to be able to provide us with information in respect to, firstly, how they arrived at their valuations, secondly, how they undertook their analysis and, thirdly, their in-depth knowledge of a particular area. While to some extent we take into account all that through them providing sales information, it also means that we are not actually tapping into some of that information that they have got because we use an independent person or an independent valuer to undertake some of that work. So there is an issue around that in terms of making the best use of available information. [52]

4.54 The second point that he made related to the availability of resources.

> I have spoken to this Committee before about it in the early stages. We did not, from my point of view, have enough contractors on board to undertake the reviews of land values where an objection had been lodged. Since that time we have put in place a number of procedures and processes to ensure that that has now become more efficient and effective. Also, as I spoke to you before, we have had a significant reduction in objections, which has now meant that we have sufficient resource and they are generally able to cover those objections and ensure they are reviewed in a timely manner. From a burden point of view they are the two issues. One is the availability of resource, which we have largely overcome. The other one is a potential cost issue in having an independent review undertaken as opposed to getting the contractor to do some of that work. [53]

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50 Ibid, p. 22.

51 Ibid, p. 22, citing NSW Ombudsman, *Improving the quality of land valuations issued by the Valuer-General A special report to Parliament under s31 and s26 of the Ombudsman Act 1974,* October 2005, p. 78.

52 Transcript of evidence, Op cit, p. 7.

53 Ibid, p. 7.

4.55 The Valuer-General pointed out to the Committee that he had no intention of moving away from having that independent review, which is unique to New South Wales, and which for him, provides true transparency in the valuation process.

4.56 He continued that the second part of the question was related to managing those inherent conflicts with the contractors being involved.

> As I said before, we have had some significant enhancements to the valuation system to overcome some of those hurdles. One of them is in terms of the quality controls that we put in place and the second one, obviously, in terms of the transparency of the decisions we make either through the issuing of Notices of Valuation or through the objection process.[54]

4.57 The Valuer-General concluded by saying that he was of the view that the previous hurdles have now been overcome and that he could move forward as far as making more use of the contractors to assist with the objection review process.[55]

4.58 The Committee also asked the Valuer-General to comment on allegations made in a submission to this Inquiry that the Office of the Valuer-General was carrying out aggressive valuations related to industrial land. The submission was particularly concerned that the onus was on homeowners and business operators who had the least supporting resources or expertise to challenge that valuation.[56]

4.59 He replied that this may have occurred prior to his tenure as Valuer-General:

> Some of the decisions that we made had no transparency in them in that they just simply provided either a "Yes, your objection is accepted and we have amended it", or, if they did not amend it, there was no explanation provided as to why it had not been amended. [57]

4.60 However, since then his Office had gone to significant lengths to ensure that sufficient information was provided to landowners to assist them with understanding the valuations and how they are arrived at, particularly in having to provide us with sales evidence as to why they think the objection is wrong.

> So, to that extent, we now provide, as part of the process, what we call a general valuation sales report which each individual objector either receives when they lodge their objection via the Internet or by calling our call centre and getting that information through them. If we issue what we call an objection kit, which has got all this information with it, a general valuation sales report is also provided with that. So they can

54 Ibid, p. 7.
55 Ibid, p 8.
56 Macpherson Property & Management, submission no. 3.
57 Transcript of evidence, Op cit, p 8.

> use that information, which our contractors have also had available to them, to be able to prove that there is an issue with valuation and that it should be altered. That does not stop them from going and getting other evidence as well, and we would certainly obviously encourage that to occur. [58]

4.61 From his point of view, there has been a big change in process, which is reflected through the significant reduction and objections received, as well as from the amount of correspondence or reduction in correspondence that he and the Minister received. His office is, however, continuing to work on improving the general valuation sales report to be able to provide more information to assist with lodgement of objections. [59]

Valuation of mines and minerals

4.62 Section 14F of the Act covers the valuation of mines and minerals. LPMA believe that the provisions relating to the valuation of mines and minerals may not currently meet the requirements to value land within the expanded mining sector of New South Wales, for example gas leases.[60]

4.63 Some local councils were also concerned about the provisions relating to mines and minerals. For example, the Association of Mining Related Councils (AMRC) commented that:

> One issue that remains vexatious for some members is where mining companies are rapidly expanding their operations to increase production within their existing mining lease.[61]

4.64 The AMRC were concerned that, under the provisions of the Act, local councils are not entitled to a revaluation outside the normal four year cycle:

> The difficulty under the current legislation is the variable quality and quantity of mineral resource within each ore body and the ability of local councils to levy a proper and equitable rate, reflecting such changes, without eroding their rate base capacity.[62]

4.65 Similar concerns were expressed in the submission from Blayney Shire Council, which gave the example of a mining company that had recently obtained development consent to commence mining a third ore body within its current mining lease area.

4.66 The Council argued that delaying the revaluation of this mine site to the general revaluation process prevented local councils from being able to

58 Ibid, p 9.
59 Ibid, p. 9.
60 LPMA, Op cit, p. 24.
61 AMRC, Op cit, p. 1.
62 Ibid, p. 1.

levy a proper and equitable rate, which adversely affected its rate base capacity. [63]

4.67 The submissions from Blayney Shire Council and the AMRC recommended that the Act be amended to allow an annual revaluation of mine sites where it can be demonstrated that mining production has substantially varied.[64]

4.68 The Committee asked the Valuer-General to describe the capacity under the Act for local councils to have land revalued in these circumstances.

4.69 Mr Parker responded that s.14A of the Act currently allows for valuations to be made in circumstances where there is a change.

> Generally what is meant by "circumstances of change" is things like change in zoning, change in size of the property, or change in dimensions. Obviously, during a program you will have properties that split and change circumstances. That allows the Value-General to redetermine those valuations on a yearly basis, or as they occur. In the case of the expansion of the mines, if there were a change to the lease area that would trigger one of these actions, under section 14A. [65]

4.70 When asked what would happen if an open cut mine was suddenly to double in size, Mr Parker replied:

> That is not something that we have in the past actually accounted for on a progressive basis. The valuation would take the circumstances into account as at the date the valuation was made, when we delivered the values to the councils, every three or four years. I am not so sure that if we were advised of such an expansion that the Valuer-General would not have discretion to be able to review that value. But that would be based on the circumstances and we would need to see the submission and so forth as to what actually occurred. [66]

4.71 The Valuer-General added that, under section 60A local councils have the ability to ask the Valuer-General to provide a fresh valuation but with certain restrictions, as follows:

> It normally refers to a planning instrument, a water right being acquired or going somewhere else, where there is damage, for example, through slip or erosion or things like that, and we can account for that, or where it has been affected by a coastal hazard or something. There is opportunity within the existing Act for the Valuer-General to be able to make a fresh valuation but the council would need to let us know the circumstances in which they are looking for this amended valuation. [67]

63 Blayney Shire Council, Op cit, p. 1.
64 Ibid, p. 1 and AMRC, Op cit, p. 1.
65 Transcript of evidence, Op cit, p.16.
66 Ibid, p.16.
67 Ibid, p.16.

4.72 He went on to say that:

> I have a close relationship with the Mining Related Councils, which represents large local government areas that have got significant mining interest. This issue has been raised through that in the past and I have worked closely with them in respect of the particular issues. We have made similar comment there; that they need to put a submission into us to have a look at to make a decision as to whether we can revalue or not under the current requirements of the Act. [68]

Exemption of irrigation works from the value of land

4.73 Up until 1 July 2005, the Act required land values for irrigable land to include the added value of any licence to take water. Land value of irrigable land was the value of the land with the water right(s) 'in situ' and was based on sales of properties with water rights.

4.74 In accordance with the *Water Management Act 2000*, valuations made since 1 July 2005 must ignore the existence of the water access licences.[69]

4.75 This requirement is set down in section 6A(4) of the Act and reinforced under the definition of land improvements, which specifically excludes improvements for the purpose of irrigation.

4.76 The Australian Property Institute raised the issue of water rights and the necessity to reflect whether a water right under the *Water Management Act 2000* has been deployed at particular sites. The submission notes that when a water right has been deployed, the site value becomes an amalgam of the site value and the water right. The site value may be merely notional and does not reveal a value for rating and taxing purposes.[70]

4.77 The Institute called for a more subtle approach to site values in non-metropolitan areas, separating those with deployed water rights and those without a water right.[71]

4.78 Contrasting views regarding the exemption of irrigation works from the value of land were expressed in submissions.

4.79 For example, the submission from Moree Plains Shire Council suggested that the removal of any provision in the Act that exempts irrigation improvements from being excluded from the valuation for rating purposes could be beneficial. [72]

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68 Ibid, p.17.
69 Department of Lands, *Land values for irrigation properties*, 2008.
70 Australian Property Institute, Op cit, p. 1.
71 Ibid, p. 1.
72 Moree Plains Shire Council, Op cit; pp. 1-2.

4.80 However, the submission from the Gwydir Valley Irrigation Association argued that the development of irrigation infrastructure does nothing in itself to enhance the productive value of the land, as it is useless without access to water. [73]

4.81 The Committee asked the Valuer-General whether there would there be any benefit in removing the exemption for works of irrigation from the Act.

4.82 In response the Valuer-General took the Committee through the process that was taken to implement the changes that occurred in 2005 as a result of the enactment of the *Water Management Act 2000*.

> There are a number of instruments associated with water and land. They include an instrument called an access licence, which effectively entitles the owner of that licence to a share of the water resource. That particular instrument is tradable—in other words, it is not part of the land—and therefore from our perspective we do not value that. The second instrument is what is called a water use approval, which gives the person who is on the land the right to be able to use the water. The third instrument is the works approval, which gives them the ability to construct works on the land to assist with the water supply—for example, it might be border dykes or things like that. As I said, the access licence itself is tradable, so the water use and works approval is something that we do value.
>
> In 2005 we were the first State to take account, in our land values, of the removal of water. That was a long and involved process affecting a large number of rural local government areas. We worked very closely in respect of that with the Department of Local Government. They were active in terms of recognising that for a lot of councils the removal of the water would mean a reduction in their rating base that they would be able to utilise. They were also very much aware that it would potentially result in a redistribution of the rates, with those farms that previously had irrigation works being more valuable than dryland farming. However, with the removal of the water it would mean that a lot of the irrigation farms would then be comparable to dryland farms effectively. So there was the rates redistribution issue as well.
>
> In undertaking that work in removing the water from the land value, we advised all affected councils by letter, the process that we would use to do that, and the timing as far as achieving that result. We also made the offer in that letter that, should they require assistance in terms of understanding it, or assistance in terms of using that valuation base for rating purposes or integrating rates into the values we were issuing, we were quite happy to assist. A number of councils took up that offer, which was pleasing.[74]

4.83 The Valuer-General also said that several local councils had decided that the inclusion of irrigation works in the land value would assist in terms of raising the value of those properties and hence potentially alter the rating distribution. However, many other local councils were reluctant to put in

[73] Gwydir Valley Irrigators Association, Op cit, p. 2.
[74] Transcript of evidence, Op cit, pp. 14-15.

place any form of differential between the dryland and irrigation farmers, simply because they saw it as politically unpalatable to do so.[75]

4.84 According to the Valuer-General, this issue had been raised at one of the Local Government and Shires Association conferences, where a working group containing representatives of local councils with irrigation properties was established, and for which he had been asked to provide expert advisory services. However, individual local councils had since resolved many of their issues and the working group was disestablished. [76]

4.85 He concluded by saying that the effect of reinserting irrigation works into the value of land would increase the cost of undertaking valuations, because all properties would have to be inspected and information sourced correctly.

The use of the Register of Land Values by government agencies

4.86 Part 5 of the Act provides for the use of valuation lists by rating and taxation authorities. Local government councils and the OSR are the primary users of the valuation services. However, there are also a number of secondary users of the system including other State government agencies, the Commonwealth Grants Commission and private property information brokers.

4.87 The use of the system by these secondary users has been an on-going matter of discussion between the Committee and the Valuer-General. The Committee has been of the view that secondary users should be charged an appropriate fee and recommended that the Valuer-General investigate this. At the Seventh General Meeting, the Valuer-General told the Committee that an independent analysis had been carried out by KPMG and their report was currently under consideration. [77]

4.88 In a related matter, the submission from the Land and Property Management Authority noted that the currently provisions of the Act do not cover the whole range of agencies that use the values. Additionally it does not specifically state that the Valuer-General may provide values to agencies other than rating and taxing authorities, Sydney Water Corporation and the New South Wales Fire Brigades. Other agencies that currently use values contained in the Register of Land Values but which are not provided for in the Act include:

- Crown Lands – to determine rentals for domestic waterfront leases;
- New South Wales Maritime – to determine rentals for waterfront leases;

[75] Ibid, p. 15.
[76] Ibid, p. 15.
[77] Ibid, p. 2.

- New South Wales Treasury – used to determine Commonwealth Grants;
- Department of Local Government – to determine Local Government Grants; and
- Various other agencies – to determine land leasing based on the value contained in the Register.

4.89 LPMA believe that the Act is restrictive as to the way that valuations can be obtained, applied and used by other agencies and recommend that a review of the Act include more flexible provisions for the Valuer-General to provide valuations for use by various agencies as determined by the Valuer-General.[78]

Outdated language and unclear provisions

4.90 According to LPMA, the language in the Act is outdated and often complex, which causes significant interpretation issues. Anecdotal evidence suggests that this leads to confusion for landowners and results in increased objections and litigation.

4.91 LPMA also notes that, since its proclamation, there have been numerous amendments to the Act, many of which have been largely ad hoc to address specific issues, rather than reviewing the instrument as a whole.

4.92 As a result, LMPA believes that the Act is somewhat disjointed and some amendments appear to conflict with existing provisions. Similarly redundant provisions may cause conflict when used to assist in the interpretation of operational sections leading to consequences not intended by the Act.

4.93 The submission from LMPA recommends that the Act requires a comprehensive review to address many of the issues that arise from its outdated language, unclear or inconsistent provisions and numerous amendments to the Act.[79]

Technical issues

4.94 Several submissions, including those of LPMA, the NSW Revenue Professionals and City of Botany Council raised issues that were of a technical nature.

4.95 Particular issues included the need to review:

- concessions and allowances in order to simplify the provisions and provide for a more transparent and consistent outcome;

[78] LPMA, Op cit, p. 18.
[79] Ibid, p. 23.

- provisions that allow the Valuer-General to enter into contacts for valuation services, particularly to provide for special arrangements for valuation services should a contractor fail or for services that do not attract market competition;

- provisions relating to mixed development apportionment factors, missed use apportionment factors and land of which part only is rateable or taxable;

- the definition of the Register of Land Values to improve efficiency and resolve issues surrounding privacy and access to the data held within the Register;

- the right of Valuer-General to make and alter valuations to provide better clarity and certainty to rating and taxing authorities as to the application of valuations made by the Valuer-General and to provide improved transparency of process and outcomes for stakeholders;

- provisions relating to the requirement to supply information to the Valuer-General and the power of access by authorised persons;
- Provisions relating to the valuation of Commonwealth lands;

- Provisions relating to notification of objections. Section 29 requires that an objector to notify all persons covered by the section of their written objection to a valuation.

4.96 The Committee believes that consideration of these issues would be best addressed by a review of the Act and have therefore not considered them in this Report.

Chapter Five - Committee findings

Summary of findings

5.1 The purpose of this Inquiry was to:

1) examine the efficiency and effectiveness of the current provisions of the *Valuation of Land Act 1916;*

2) determine its application to stakeholders and identify what they would like to see in a new or revised Act; and

3) examine any other matter.

5.2 The Committee received 20 submissions from private citizens, valuers, property managers and local councils, and major stakeholders such as the Australian Property Institute, the Royal Institute of Chartered Surveyors, New South Wales Revenue Professionals and the Land and Property Management Authority.

5.3 Major stakeholders such as the Australian Property Institute and the Royal Institute of Chartered Surveyors stated that the Act was operating satisfactorily. Other major stakeholders, such as the Land and Property Management Authority (LPMA), the NSW Revenue Professionals, indicated that the Act suffered from decades of amendments and changes in language. As a result, the Act was considered to be unclear and inconsistent in parts. Submissions from these stakeholders and local councils also raised anomalies in the interaction between the Act and rating and taxing legislation, as well as highlighting other technical problems.

5.4 A number of property owners raised issues with their valuations and called a change in valuation methodology. The Committee considered that the issues raised do not indicate a systemic failure with the provisions of the Act and can be adequately addressed through the objection process. As a result they are not addressed in this Report.

5.5 From the evidence presented to this Inquiry, the Committee agrees that although many of its provisions are operating efficiently and effectively, the Act would benefit from a comprehensive review to make it clearer and less complex and to remove anomalies such as outdated language and unclear provisions.

5.6 The Committee considers that many issues raised are technical in nature and are better suited to a departmental review rather than committee inquiry. The Committee thinks that they should be addressed as part of a comprehensive review of the Act.

5.7 The Committee also believes that any review of the Act should pay particular attention to issues such as consideration of alternative value bases and whether it would be more efficient to align the base date with those used by rating and taxation authorities.

5.8 From its discussions with the Valuer-General over the past few years, the Committee is satisfied that the Valuer-General has addressed ongoing concerns in relation to the timing of valuations. It does, however, agree with his suggestion that it would appropriate to have another look at the dates during a wider review of the Act.

5.9 With regard to the issue of whether landowners should have more than one opportunity to object to a valuation, the Committee notes that the Valuer-General does not support adoption of a single stage, such as in the Queensland model. The Committee notes that the New South Wales system of allowing objections to both the initial valuation and again at when a land tax assessment is issued is common practice in other States.

5.10 The Committee believes, however, that this does not address the situation that is affecting local councils whereby their rates are based on a valuation that may be overturned at a later date. The Committee therefore considers that, as part of the review of the Act, the Valuer-General should examine how other States deal with this particular issue, and identify and implement best practice accordingly.

5.11 The Committee also notes that the Valuer-General has already discussed the issues raised by mining related local councils with regard to their need to be able to have mining leases revalued on an annual basis. As LPMA have indicated that they are planning to look at other issues related to mining as part of any review of the Act, the Committee considers that this issue be further examined as part of that review.

5.12 Finally, from the submissions, a key issue seems to be that council staff and landowners have difficulty understanding the definition of land value. The Committee therefore considers that the Valuer-General should investigate not only clarifying this definition but also ways of improving the understanding of council staff and landowners in this regard.

Conclusion

5.13 The purpose of this Inquiry was to seek the views of stakeholders on the efficiency and effectiveness of the existing provisions of the Valuation of Land Act, and to identify areas that needed review.

5.14 A wide range of issues were raised by stakeholders during this Inquiry and the Committee believes that the Government should consider their submissions during any review of the Act.

5.15 Several key issues arose that the Committee believes should receive particular attention. These include a review by the Valuer-General of:

- Options for the use of alternate value bases, where applicable;
- Valuation and application dates used by rating and taxation authorities with a view to determining the cost and benefits of realigning these dates;
- The cost and benefits of implementing the Ombudsman's recommendations that the general valuation date be moved to 1 March in the valuing year and the amendment of the schedule for the production of proposed values by contractors accordingly (Section 14B);
- How States that provide multiple opportunities for objections deal with the concern of local councils that their rates are based on a valuation that may be overturned at a later date;
- Section 35, to determine whether the timeframe for lodging an objection should be amended to 45 days;
- Section 29, to insert a provision prescribing the appropriate level of information allowing the Valuer-General to properly consider an objection;
- Section 35B(2), to determine whether there is a need to retain the statutory requirement that the delegate who considers the objection must be separate from the person who considers the objection;
- Section 14F, relating to the valuation of mines and minerals, to ascertain whether this section meets the requirements to value land within the expanded mining sector. Particular consideration should be given to examining whether section 60A should be amended to permit local councils to request a further valuation when significant changes occur to a mining lease during the valuation cycle;
- *Part 5 Use of Valuation Lists*, to permit more flexible provisions for the Valuer-General to provide valuations for use by various agencies as determined by the Valuer-General;
- Removal of outdated language and unclear provisions; and
- Technical issues raised in submissions made to this Inquiry and detailed in this report.

5.16 The submission from LPMA recommended that any review of the Act should be conducted in consultation with key stakeholders, including rating and taxing authorities, to ensure all needs are met.[80]

[80] Ibid, p. 24.

5.17 The Committee believes that this Inquiry is the first step in this consultation process and that the issues raised in the submissions should be considered during any review of the Act.

Recommendation

The Committee recommends that a comprehensive review of the Act be undertaken and that issues raised in this report be considered as part of that review by the Valuer-General . Particular consideration should be given to the following issues:

- Options for the use of alternate value bases, where these might be applicable;
- Valuation and application dates used by rating and taxation authorities with a view to determining the costs and benefits of realigning these dates;
- The costs and benefits of implementing the Ombudsman's recommendations that the general valuation date be moved to 1 March in the valuing year and the amendment of the schedule for the production of proposed values by contractors accordingly (Section 14B);
- How States that provide multiple opportunities for objections deal with the concern of local councils that their rates are based on a valuation that may be overturned at a later date;
- Section 35, to determine whether the timeframe for lodging an objection should be amended to 45 days;
- Section 29, to insert a provision prescribing the appropriate level of information allowing the Valuer-General to properly consider an objection;
- Section 35B(2), to determine whether there is a need to retain the statutory requirement that the delegate who considers the objection must be separate from the person who considers the objection;
- Section 14F, relating to the valuation of mines and minerals, to ascertain whether this section meets the requirements to value land within the expanded mining sector. Particular consideration should be given to examining whether section 60A should be amended to permit local councils to request a further valuation when significant changes occur to a mining lease during the valuation cycle;
- *Part 5 Use of Valuation Lists,* to permit more flexible provisions for the Valuer-General to provide valuations for use by various agencies as determined by the Valuer-General;
- Removal of outdated language and unclear provisions; and
- Technical issues raised in submissions made to this Inquiry and detailed in the Committee's Report.

Appendix One - Transcript of evidence 22 October 2010

REPORT OF PROCEEDINGS BEFORE

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

INQUIRY INTO THE PROVISIONS OF THE VALUATION OF LAND ACT 1916

———

At Sydney on Friday 22 October 2010

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The Committee met at 10.30 a.m.

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PRESENT

Ms M. T. Andrews (Chair)

Legislative Council	**Legislative Assembly**
The Hon. K. F. Griffin	Ms A. P. Megarrity
	Mr M. J. Richardson

CHAIR: I declare open the public hearing for the inquiry into the provisions of the Valuation of Land Act 1916. Before the proceedings commence I ask everyone present to switch off their mobile phones; even if they are on silent mode, they interfere with the Hansard equipment. I thank Mr Western and Mr Parker for appearing before the Committee today.

PHILIP JOHN WESTERN, New South Wales Valuer-General, 9 Otago Parade, Yowie Bay, sworn and examined:

MICHAEL JAMES PARKER, Acting Program Manager, Valuation Services, 13 Green Street, Cronulla, affirmed and examined:

CHAIR: Mr Western, the Committee may wish to send you some additional questions in writing, replies to which will form part of your evidence to be made public. Would you be happy to provide a written reply to any further questions?

Mr WESTERN: Yes.

CHAIR: If you should consider at any stage during your evidence that certain evidence or documents you may wish to present should be heard or seen in private by the Committee, the Committee will consider your request. However, the Committee or the Legislative Assembly itself may subsequently publish the evidence if they so desire. Mr Western, would you now like to make an opening statement?

Mr WESTERN: Yes, if I may. I thought it might be useful to bring the Committee up to date with where we are at with the valuation program. Mr Parker and his team are currently in the process of putting together the final valuations as at 1 July 2010. That involves some 2.43 million valuations. As I said before, we issue approximately a third of those valuations each year. This year approx 745,000 will be issued to 53 different councils. We will be sending local government those values towards the end of November or the beginning of December this year, and they will also be released to the landowners in mid to late January and into early February.

In respect of the Office of State Revenue, we will provide them with all of the approximate 2.43 million valuations. They have already had provisional values provided to them as at 15 September. They will receive a copy of the Register of Land Values as at 31 December, and I understand they will also commence sending out land tax assessments at the beginning of 2011 and that process will continue throughout 2011.

The other matter I would like to bring to the attention of the Committee relates to objections. As you know, everyone who receives a Notice of Valuation or a land tax assessment has the right to object. Land and Property Information are continuing to process those objections currently. As at last Monday 18 October, we had received some 3,700 objections. This is an extremely pleasing

result; it is less than 0.4 per cent of the total number of valuations we have issued either to local government or to the Office of State Revenue. That compares with, on average, about 12,000 objections which would have been received five years ago, so there is a substantial improvement there. The other very positive thing that has happened is that at this stage approximately 93 per cent of those objections have been completed. We would not expect that statistic to get much better than that, because there are obviously more objections continuing to come in as the Office of State Revenue issues land tax assessments. That is once again a great result.

The final matter I would like to bring to the attention of the Committee is that I am also charged with providing each year a land tax threshold. We have undertaken that work and the gazettal occurred last Friday. The land tax threshold for the 2011 land tax year will be $387,000. That is based on the average land value for the respective valuations for the three-year period 1 July 2007; 1 July 2008 and 1 July 2009. The previous land tax threshold last year was $376,000, so that has increased slightly, indicating an upward movement in land values over that period.

CHAIR: After our sixth general meeting the Committee made three recommendations—regarding university training, fees for valuation information and services, and the national licensing of valuers. Mr Western, has anything been done in response to those recommendations?

Mr WESTERN: Yes, we have commenced some work on that. At the moment we are awaiting responses from a number of organisations in regard to those recommendations. We have sent letters out to the Department of Education and Training, the Office of Fair Trading and the Treasurer in respect of the valuation services and pricing. In regard to university training, as I have made the Committee aware before, I am one of the national councillors on the Australian Property Institute National Council.. Part of the exercise I am involved in is the accreditation of some educational institutions in respect of their valuation component. I was recently involved in the accreditation for the University of Queensland, for their property program. During November I will also be involved in the accreditation of 2010 here in Sydney of OTEN and also the Sydney Institute of Technology, for their valuation programs. Through that process I will be able to have some good input into what training and what educational qualifications are then provided for valuers. Also, we are continuing to work on ensuring that other programs have the rating and taxing component in them. The Australian Property Institute is very much aware of the necessity to have that, and is working cooperatively in terms of trying to ensure that that occurs.

In respect of the fees for valuation services and products, the Committee will be aware that I asked KPMG to undertake an independent analysis of the current prices that have been charged for those services outside of the statutory provisions we make to local government and to the Office of State Revenue. They have now produced that report, and I have passed that on to Land and Property Information to put it to their Pricing and Access Committee for consideration. They are currently going through that process, and I am expecting

a decision in respect of how pricing should be altered—or in some cases, how pricing should be implemented—in early 2011. So that is progressing quite nicely.

The other matter was in respect of the national licensing of valuers. There has been no change since the last meeting of this Committee. Everything is still on track, as I understand it, in that valuers will be part of national licensing in 2013. At this stage, as far as I am aware, the committee, which was the Occupational Advisory Committee, which we were anticipating the Australian Property Institute would be asked to join, has not been implemented in respect of the valuation side of things at the moment. But that is still progressing and we are expecting that we will have representation on it.

The Hon. KAYEE GRIFFIN: The submission from the NSW Revenue Professionals raised a number of quality control issues regarding your office. In particular, the duplication of entries, the inappropriate cancellation of entries, ensuring that information regarding mixed development appointment factors are placed on the file, failing to cancel allowances that are no longer valid, and the quality of general revaluation and supplementary valuation lists. Are you aware of the circumstances leading to those concerns and what action are you taking in response to those concerns?

Mr WESTERN: I am aware of the concerns that have been raised. I will ask Mr Parker to respond to those.

Mr PARKER: If I could speak to each point. The duplications occasionally occur when Old System Title properties are converted to Torrens Title, because they cannot be spatially recognised and they use a different system of legal description. The Old System, as you probably know, uses the old volume and book entry; Torrens Title is a lot and DP. So they are not spatially identifiable. Although we go to a lot of effort to align properties, check areas and things like that, it is really a hands-on situation that has to be done by individuals. So from time to time because of the nature of them some are missed. We also believe that that is a pretty rare event.

Inappropriate cancellations do occur from time to time. Again, that is a human process in our data group of putting properties together that perhaps should not be put together. We have tried to instigate processes and systems to make sure that does not happen. We are doing our best to work with the Ratepayers Association and local councils to make sure all these administrative sort of things are rectified.

The MDAFs are provided by our contract valuers. It is their responsibility to provide those. We do run checks on all the MDAFs and other concessions to make sure that they have been delivered. So obviously anything that was delivered in the previous load that has not shown up in this year's load should show up. So there should not be many situations where that actually occurs. Again, the only reason that would possibly occur would just be because of human error. We do have computer checks on all those sort of things.

The next one is cancellation of allowances. LPI provides valuations to councils every three to four years. We do a check on all the allowances and whether they are applicable at the date the valuation is made. Currently we do not update whether those allowances should fall off in between the rating periods. Under the Local Government Act and under the Land Tax Management Act those authorities can go in and remove the allowances. I know this submission came from the NSW Revenue Professionals, and again I think it is a bit of whose responsibility it should be to remove those, whether that is theirs or whether that is ours, and we need to work with them. Perhaps we can provide them with more information just to assist them to be able to remove the allowances when they do lapse. The subdividers allowance particularly is probably the one that they are talking about because that only lasts three years from the date of registration of the deposited plan. So it is a bit of an administrative burden for them to check the dates of registration of the deposited plans and go back and see when if falls off and so forth. So perhaps we might be able to assist them in computer generating a list that will allow them to do that.

The quality of the general valuations and sup list, obviously LPI is working towards providing all our data to a high standard. We have regular meetings with the NSW Revenue Professionals; we have regular correspondence with councils and regular meetings with them. So all of these issues which are sort from an administrative viewpoint, we try and work towards resolutions with them and develop processes that will obviously provide them with the most quality that we can.

The Hon. KAYEE GRIFFIN: I ask a supplementary question. Are you mainly dealing with individual councils or do the local government issues come through the Local Government and Shires Association?

Mr PARKER: No, there are a number of avenues where those sorts of issues can be raised. Obviously local government individually can make representations to us but we have quarterly, I think it is, meetings with the NSW Revenue Professionals. There is a representative from local government on the Land Value Advisory Group. So there are a number of different avenues in which they can raise any difficulties and obviously we will address those.

Mr WESTERN: I might speak to that a bit later in one of the further questions that have been asked of us. But can I just add a further comment to what Mr Parker has said?

CHAIR: Yes.

Mr WESTERN: The number of errors that occur in respect of those matters that have been raised by the NSW Revenue Professionals is minimal. There are very few of them that occur. However, I do appreciate that when they do occur they cause issues for councils in particular. As Mr Parker pointed out, we want to look to work with them more closely to address that situation.

I have one further comment to make in respect of the quality of the revaluation and the supplementaries that are issued. One thing that I am

extremely proud of in regard to the New South Wales valuation system is that benchmarked against other worldwide jurisdictions from a qualitative point of view our valuations are of some of the highest calibre around. That is measuring it both statistically through tried and proven methods but also through our customer surveys that we undertake and in respect of the correspondence and feedback we are getting. That is not to say that we are sitting on our laurels. We are continuing to work to improve it.

Mr MICHAEL RICHARDSON: Have you had a look at the submissions to the Committee?

Mr WESTERN: Not in detail.

Mr MICHAEL RICHARDSON: One of the issues that was raised by a number of those making submissions was that the different dates of application used by the rating and taxing authorities create inconsistency and complexity that serve no obvious purpose. The Property Management Authority, of course, was one organisation that took issue with the way things are done at the moment. What would be the cost of moving the taxing date to 30 June or, alternatively, moving the rating date to 31 December? Are there any practical issues or problems associated with that change?

Mr WESTERN: We received these questions yesterday so we have had sufficient time to be able to provide responses to them all. I would like to take that question on notice.

Mr MICHAEL RICHARDSON: I appreciate it is a complex question.

Mr WESTERN: However, I would like to provide you with a quick overview of the complexity of the valuation dates, and to some extent I have provided that in my opening statement. Our two principal government stakeholders are the Office of State Revenue and local government. They both have differing needs in respect of when they require to have the valuations provided. Currently under the Land Tax Management Act, the Office of State Revenue are required to have a finalised copy of the register of land values as at midnight on 31 December so they can commence issuing land tax assessments in early January. From a local government perspective, they need to have as close as possible to a finalised role by 30 June of the following year. So you have two competing interests there. There are reasons and rationale with both organisations as to why they required them at certain times.

From my point of view, it is important that we are able to do two things. One is to ensure that we provide them with the most accurate and consistent valuations that we can, but also to ensure that we bed down for them their respective valuation bases so that they can administer either through land tax or through rates and ensure that there are not going to be any repercussions with further objections. We have gone a long way to improving that situation through the processes that we have put in place. As I said in my opening statement, the significant reduction in objections is testament to the fact that we are bedding that down further. As I said, we will provide a more detailed response to that question in the next few days.

Ms ALISON MEGARRITY: In relation to evaluation methodology, the submission from the Land and Property Management Authority mentioned that it recently issued an expression of interest for proponents to trial alternate valuation methodologies in a pilot program to gauge opportunities for further improvements in efficiency and effectiveness. Can you explain the pilot program to the Committee and provide an update on its current status?

Mr WESTERN: I briefed the Committee at the sixth general meeting in respect to the alternate valuation methodology. Just to refresh you very quickly, the idea behind this project is that through our existing tender process for rating and taxing contractors, we already offer the opportunity for valuation contractors to provide innovation—in other words, to look at alternative valuation methodologies. However, the contractors—and rightly so from my point of view—are focusing on getting the valuations done and they have not really got the opportunity to be able to experiment with alternative methodologies. We saw that there was an opportunity to do this through putting out a fresh tender specifically for them to be able to have a look at the alternative methodologies.

We put a tender out mid-2010 and the tenders closed as at 8 August. We were pleased to receive eight submissions, expressions of interests, for tenders, which is a very pleasing result. We have undertaken initial analysis of those and have narrowed it down to a short list, which we are currently putting through an evaluation process—due diligence, probity—plus undertaking interviews. We expect to be able to be in a position to notify those tenderers either late in 2010 or very early in 2011 with the objective of commencing that project proper in early 2011. What this will mean is that we are not going to look to alter the existing valuation methodology that is there which, to refresh you very quickly, is the component method of valuation where we group like types of property together that we expect to increase in value or decrease in value by similar amounts within the market. Our contractors undertake analysis of sales in the location and then apply that to what we call benchmarks.

The idea of this would be to have available to prospective tenderers the availability of another methodology to be able to undertake the work, but that would be their choice to do. Therefore, it would provide some flexibility in terms of how they go about it. But, importantly, from my point of view it means that we have what would be a tried and true method as opposed to saying that we are not sure if this is going to work or not. So it has some massive benefits. The other thing it does is provide the rating and taxing contractors with a business outcome that potentially can provide them with better margins in respect of their business and hence better returns either to the business or to the shareholders.

CHAIR: Mr Western, the Land and Property Management Authority in its submission on page 22 sets out the requirement under the Act that "The delegate who considers the objection must be a different person from and not subordinate to the person who made the decision against which the objection is lodged is no longer necessary." In support of this it cites the Ombudsman's report 2005, which says, "Excluding contract managers and persons of equivalent rank restricts the process." What burden is being imposed by the current provision? How would

you be able to fairly manage the inherent conflicts involved in the same person or a subordinate considering an objection?

Mr WESTERN: I might just take you back to 2005 to the Ombudsman's report. As you rightly mentioned, he stated in that report that the system or procedures that were there were potentially causing some resourcing issues both for contract managers, within Land and Property Information, and for contractors themselves. At that stage the processes that we had in place meant that our contract managers were closely involved with the revaluation process that contractors were undertaking. Since that time, while our contract managers or our district valuers are still closely involved, they are not involved intimately in terms of a day-to-day operational basis. So the situation has changed from there.

There are two aspects from the burden perspective that cause us some issues with the existing procedures that we have in place, as required by the Act. One is, from my point of view, our existing rating and taxing contractors are best placed to be able to provide us with information in respect to, firstly, how they arrived at their valuations, secondly, how they undertook their analysis and, thirdly, their in-depth knowledge of a particular area. While to some extent we take into account all that through them providing sales information, it also means that we are not actually tapping into some of that information that they have got because we use an independent person or an independent valuer to undertake some of that work. So there is an issue around that in terms of making the best use of available information. The contractor has.

The other point is in terms of the availability of resource. I have spoken to this Committee before about it in the early stages. We did not, from my point of view, have enough contractors on board to undertake the reviews of land values where an objection had been lodged. Since that time we have put in place a number of procedures and processes to ensure that that has now become more efficient and effective. Also, as I spoke to you before, we have had a significant reduction in objections, which has now meant that we have sufficient resource and they are generally able to cover those objections and ensure they are reviewed in a timely manner. From a burden point of view they are the two issues. One is the availability of resource, which we have largely overcome. The other one is a potential cost issue in having an independent review undertaken as opposed to getting the contractor to do some of that work.

I need to point out to this Committee that I have no intention of moving away from having that independent review. That, for me, provides true transparency in the valuation process. It is a situation that we here in New South Wales are privileged to have. No other State or in New Zealand or, to my knowledge, in other Western jurisdictions has that independent review to the extent that we do. So it is something I think we should continue to hold on to and, once again, it provides transparency in the process.

The second part of the question was in regard to managing those inherent conflicts with the contractors being involved. As I said before, we have had some significant enhancements to the valuation system to overcome some of those hurdles. One of them is in terms of the quality controls that we put in place and

the second one, obviously, in terms of the transparency of the decisions we make either through the issuing of Notices of Valuation or through the objection process.

I will just mention now a couple of the enhancements that we have made to ensure that those conflicts are avoided. One is that we have improved processes in place both for our rating and taxing contractors. For our internal valuers who are involved with the contractors as far as examining their work, we have Contract Managers in place to ensure that contracts are being adhered to and requirements under the Processes Manual, and also we have a number of milestones which contractors are required to go through to ensure the accuracy and consistency of the land values.

Land and Property Information also have in place a sophisticated audit process, which is undertaken 12 months of the year. So, once again, this ensures that where there are conflicts or issues occurring they can be picked up quite quickly. We have constant monitoring of the valuation process and a peer review process, and I think, importantly, we have on top of that an independent review being undertaken through the services of Associate Professor John McFarlane of the University of Western Sydney, who I have spoken about before. This is integral in ensuring that he is continually digging into the system to look at various aspects of it to find where there are deficiencies in areas that we can improve in, and that assists us also in quickly picking up where there are issues with the system. Having said all that, I am of the view that the hurdles that were there before have now been overcome and that we can move forward as far as making more use of the contractors to assist us with the objection review process.

The Hon. KAYEE GRIFFIN: Mr Western, councils have expressed concern that valuations they have been using for some time for rating purposes may be the subject of an objection when those valuations are used for the first time by the Office of State Revenue and that this could have an effect going back two to three years, given the council cycles. Do similar provisions apply in other Australian jurisdictions that permit a ratepayer to have two opportunities to lodge an objection, and what would be the consequence of limiting objections to 60 days after an owner is first notified of a valuation?

Mr WESTERN: Once again, a reasonably detailed response is required. I will need to talk, obviously, with other jurisdictions who, incidentally, I am meeting up with next week. May I take that question on notice and provide a written response to the Committee?

Mr MICHAEL RICHARDSON: Could I just commend you on your statement that you wanted to maintain the independence of the objection process? That is fundamental to the integrity of the whole valuation system, and we could go right back to the bad old days if you did not do that. Just in the context of talking about objections, a submission to the Committee alleged that your office was carrying out aggressive valuations, particularly in respect of industrial land, with the onus placed on homeowners and business operators to prove that your valuation is not correct. It also complained that the onus was on

homeowners and business operators who had the least supporting resources or expertise to challenge that valuation, in other words, to make the objection. Would you like to comment on that assertion?

Mr WESTERN: Obviously that is a view that they have got and they are entitled to. I would certainly have said that prior to my taking up the role of Valuer-General that may well have been the case. Some of the decisions that we made had no transparency in them in that they just simply provided either a "Yes, your objection is accepted and we have amended it", or, if they did not amend it, there was no explanation provided as to why it had not been amended. We have gone to significant lengths to ensure that we provide sufficient information to landowners to assist them with understanding the valuations and how they are arrived at, particularly in respect of them having to provide us with sales evidence as to why they think the objection is wrong.

So, to that extent, we now provide, as part of the process, what we call a general valuation sales report which each individual objector either receives when they lodge their objection via the Internet or by calling our call centre and getting that information through them. If we issue what we call an objection kit, which has got all this information with it, a general valuation sales report is also provided with that. So they can use that information, which our contractors have also had available to them, to be able to prove that there is an issue with valuation and that it should be altered. That does not stop them from going and getting other evidence as well, and we would certainly obviously encourage that to occur.

So I think from my point of view there has been a big change in terms of process and, as I said, I think overall that is reflected through the significant reduction and objections that we actually do receive and also in terms of the amount of correspondence or reduction in correspondence that I personally get across my desk and that the Minister receives as well. Having said that, once again, I am very, very keen to continue to improve that process and the transparency of the decisions that we make, and we are continuing to work on improving the general valuation sales report to be able to provide them with more information to assist them in terms of lodging their objection.

Mr MICHAEL RICHARDSON: Pro rata would you get more objections to residential valuations, to commercial valuations or to industrial valuations, because industrial valuations, I think, are particularly difficult, are they not?

Mr WESTERN: I might ask Mr Parker to comment on that, but certainly, from my point of view, on a pro rata basis we would receive more objections to residential. For example, if I just do a quick comparison with the City of Sydney CBD, which, as you will be aware, a significant amount of those properties within the State which are land-tax liable rest within the City of Sydney CBD, we have undertaken a significant campaign to work with landowners and the Property Council to ensure that we are providing them with good information, and that has resulted in a reduction in the number of objections we receive directly out of the city.

Mr PARKER: I would say that residential still provides us with the most objections, and even though industrial might be more complex it does not seem to generate the same activity of objections. I am not sure what the reasons are; I do not have any facts as to exactly how it would correlate to in numbers.

Mr MICHAEL RICHARDSON: Maybe because it is a commercial matter and they can write it off against tax?

Mr PARKER: Possibly. There is obviously more emotion involved in residential and people challenge that more readily.

Ms ALISON MEGARRITY: This will be a very long and complex question because I must provide some background. My constituents are confronting a very confusing situation. I am sure that it is not unique to my electorate; any member who has riverfront properties in his or her electorate would know of similar cases. Please bear with me as I work my way through it.

This question pertains to the situation where property titleholders have a common asset. In this case it involves riverfront properties with jetties and pontoons. The waterways authorities strongly encourage people to enter into joint arrangements to install pontoons in an attempt to reduce building on rivers. In some cases the construction of these facilities has been approved only if it involves a joint asset. Accordingly, each year a Crown land rental must be paid to the waterway authority for the ground underneath the jetty or pontoon. A concession is applied for river or water-access-only properties. That is the clear direction to owners of these properties.

As best as I can understand it, where the situation involves an individual property titleholder who has a pontoon or a jetty, its worth is included as part of the property valuation and that flows through to the council for rating purposes. If the jetty or pontoon adds $10,000 to the value of the property, that might attract an extra $25 in council rates. It has been put to me that with shared pontoons and jetties, where the name on the Crown lease is different from the name on the land title because it involves more than one property holder, the Valuer-General must issue a separate valuation and the council then issues a separate rates notice. Instead of the person with the individual property and jetty paying perhaps an extra $25 a year in rates, the council levies a minimum amount—which is a business amount even though this involves residential properties—of about $450. The levy is imposed at the business rate because if it were imposed at the residential rate, it would also attract stormwater and domestic waste charges amounting to more than $300.

The property owners have tried to resolve this impasse by going to the Land and Property Management Authority and to the council. However, both parties say the other authority must deal with it and that computers cannot divide the pontoon between the properties. Apparently the Land and Property Management Authority suggested that the titleholders concerned contact their local member to sort out this anomaly. To rub salt into the wound, different councils may have been implementing the charge at different rates and times and, as you have explained, from time to time the Valuer-General re-evaluates

areas to ensure that the valuations are within the market range. Some of this may have come to light only when those new valuations were issued and perhaps for the first time councils have responded in this way. I am putting two and two together. The property owners received a letter from the council containing good news about a revaluation undertaken by the Valuer-General and informing them that their property rates would be reduced. However, because they have a shared jetty or pontoon, the council will now charge the minimum business rate, which can be shared, but might mean an impost of $200 each instead of perhaps $25 if the levy had been part of their individual property council rates calculation. I am not sure whether you can assist with this. It seems to be an anomaly and that different levels of government are telling these people different things and they are caught in the middle.

Mr WESTERN: I understand the question. I also appreciate that it is an extremely complex issue involving pontoons and—

Mr MICHAEL RICHARDSON: Let the pontoons flow free!

Mr WESTERN: —both valuation and rating. I will take the question on notice and provide a written response.

Ms ALISON MEGARRITY: But please tell me that it is not simply that the computers cannot divide the pontoon.

Mr WESTERN: No. I am happy to say that that would be a new one to me. There is no way that it would be anything to do with computers.

CHAIR: It probably relates to my electorate as well.

Ms ALISON MEGARRITY: One of the councils said that it also applies to shared car parks in a tenanted building. I do not know that for a fact, but I have been told that where a piece of property is in more than one name that creates a separate valuation and therefore a separate rate. I am sure councils are pleased about that because they want those rates.

CHAIR: Following on from that question, my electorate also has a number of waterfronts. Gosford City Council, in its wisdom, has issued many section 149 certificates that include information about the impact of rising sea levels. I have had people protesting outside my office about this, but that is beside the point. The main concern is property values declining. It is claimed that property owners are having trouble selling properties. This has happened only in the past six months or so. I am probably answering my own question, but do those certificates affect the valuation of a property?

Mr WESTERN: Our role and the role of our rating and taxing contractors is to interpret the market. The issuing of these certificates or even what is reported in the media can sometimes impact upon what people are prepared to pay for a property. It must be remembered that our valuers are experts in valuation for rating and taxing purposes and that they are extremely knowledgeable about

what is happening in the area. If values are changing, they would reflect that in their valuations. That is the way I would expect the process to work.

CHAIR: Is your office made aware of councils issuing such certificates?

Mr PARKER: The contractors in that local area would be aware of all of those circumstances. They generate media reports, inquiries and so on. We would certainly want them to be aware of that.

CHAIR: But there is no requirement in law for councils to advise you of that situation?

Mr WESTERN: No.

Mr MICHAEL RICHARDSON: This is an interesting issue. You would be aware of the work that I have done with regard to the radioactive waste dump at Nelson Parade, Hunters Hill. This situation involves very valuable waterfront properties that have been contaminated to the extent that they are pretty well unsaleable. One family has had their house on the market for a couple of years and cannot sell it because of the contamination. They are not living there, so they are subject to land tax as well. How would the contamination affect the valuation of that property?

Mr WESTERN: That is a similar situation to what we would expect with the coastal scenario. We would expect the valuers to examine that. It is obviously a major issue, not necessarily their—

Mr MICHAEL RICHARDSON: There is industrial pollution elsewhere.

Mr WESTERN: Underground petroleum tanks in service stations come to mind. The valuer would be expected to pick up on those issues by making appropriate inquiries of the relevant agencies. That is the same thing that would happen if they were undertaking a normal valuation in respect of a mortgage or to establish current market value. There is nothing different from that point of view. If we did not pick it up for any reason, it could be examined through the objection process. There would be an expectation once we were notified that inquiries would be made about the surrounding land.

Mr MICHAEL RICHARDSON: There is always the possibility that the landowner would not want to see the value of his property falling, is there not?

Mr WESTERN: Yes, I believe so. Is that is correct Mr Parker?

Mr PARKER: Yes, I think the Nelson Parade properties probably only have a dollar on them. I am not sure, but there are properties around the State that due to contamination only have a dollar. It would depend on the cost and what the market would dictate someone would pay for that site. I know the properties that you speak to and I am pretty sure that there would be very low land values on those properties.

The Hon. KAYEE GRIFFIN: Talking about remediation, and particularly sites like former service station sites, how would it work if the remediation work has not been done and the tanks have not been taken out and all those sorts of things, how do you know the difference in terms of say the value of those sites before and after?

Mr PARKER: There are two sections of the Act. Firstly, under 6A(1) we assume that the site is vacant. That is one valuation, but we also have section 6A(2) which has regard to the improvements. If the service station is currently operating and there is no reason to suspect major contamination, it would be valued on the basis of a service station site. Once we were aware that perhaps there was major contamination and the site was not going to be used as a service station, then the contamination would be taken into account. It is all part of the valuation process, but section 6A(2) does change the concept a little bit in that we are looking at a site that is used as a service station and obviously generates income. That site would be valued on the fact that it is an existing service station site.

CHAIR: Mr Western, in the Ombudsman's report on improving the quality of land valuations issued by the Valuer-General, October 2005, the Ombudsman recommended that the date for land valuations be changed to 1 March to allow contractors more time for data integrity and other quality checks. Why have those recommendations not been implemented? Contractors have reported that the current time frame increases costs. Is there any reason to think that these increased costs will not be passed on to the cost of the services that your office purchases? What other options might address the inefficiencies caused by the current time difficulties experienced by contractors?

Mr WESTERN: I might just bring the Committee up-to-date in respect of the original Ombudsman's recommendation which was made to the Minister. As a result of that recommendation I undertook a large amount of consultation with various organisations, namely New South Wales Treasury, the Office of State Revenue, the Department of Local Government, the Local Government and Shires Association, who are representing various councils, and also I sought input from the Land Value Advisory Group, which, as you are aware, has a number of participants from throughout the property industry as well as local government.

Rather than just put one date to them, I proposed to them three dates: either looking at maintaining the status quo, which is 1 July; the 1 March date which was proposed by the Ombudsman; and then an intermediary one, which was 1 May. The feedback from that consultation was mixed. Predominantly the feedback was that they were indifferent to changing the date from their perspective. The other side of the coin was the impact that those dates have as far as both the valuers who are undertaking the work goes and also Mr Parker's team in respect of auditing that valuation work. It is not actually the date itself that causes the issue. It is more the relationship between that date and when we issue or have to have these final values available to issue to either the Office of State Revenue, in particular, or to landowners which causes or did cause the issues.

Since that recommendation we have undertaken a large amount of work to improve the valuation system, which has been brought to the attention of the Committee, but what we have also ensured has happened is that we have spread the work that is undertaken not just down to a few months when we are due to issue the valuations, but across 12 months of the year. Just as an example, there are some contractors who would rest on their laurels, to put it bluntly, for most of the year—this is not all the contractors but some of them—and then undertake all the sales analyses in the last couple of months leading up to the date of valuation, and hence the works have cascaded up into one particular area. So one of the areas we have worked on is to ensure that that sales analysis has been undertaken over 12 months of the year to spread that burden. Also what it ensures is that the contractors are more up-to-date in terms of what is happening with the market. So they know where the market is going and what impacts on various categories, so that when they get to 1 July it is not all happening at once, they have actually got a very good idea before it happens. That is one aspect.

The other aspect is that Land and Property Information Valuation Services now undertake audits throughout the year to assist in that process as well. We also now have an agreement with the Office of State Revenue where we receive through from them a list of effectively provisional sales that are occurring where a document has had to be lodged with the Office of State Revenue in regard to stamp duty. So we have got an early indication there of what is happening in respect of values. Also, now we have improved technology, both the capability within ValNet itself, that is the database used by Land and Property Information Valuation Services, but also as far as examining values and the spread of values spatially through things like Val Map, which is available to contractors as well.

One of the issues is: do you look at changing the dates when the Office of State Revenue and local government require valuations—as I said before, there are specific reasons at this stage as to why they need them and at those times—or do you look potentially to alter the valuation date? The major issue that I have always had, and every time I talk about this to various groups, is that the wider the gap is between the valuation date and the date that we issue the valuations to landowners, the greater the issue is in respect of landowners being able to understand their land value. Generally, landowners are only aware of what is happening in the market today. They are actively reading media, there are always property sections in news print, there are things happening on radio and television which indicate where the market is at. So their perception is all about today. To suddenly have to ask them—at this stage we are only talking about six months difference—to reflect in terms of what the market was back then is a difficult circumstance. To widen that gap further to nine months where you can have significant value movements or market changes, is even more difficult to do. I am very keen to try and keep that gap as narrow as I possibly can.

Having said that, the last review that we undertook on that was back in 2005 when the Ombudsman undertook his investigation. From my point my point of view, I think it would be timely to have another look at that valuation date to see if there is any need to look at altering either, one, the valuation date itself or, secondly, in terms of when information is provided to our major stakeholders.

The Hon. KAYEE GRIFFIN: Mr Western, the Committee has received conflicting views on the impact of the exclusion of works of irrigation from the definition of land improvements under the Act. One council suggested that the removal of any provision in the Act that exempts irrigation improvements from being excluded from the valuation for rating purposes could be beneficial. However, another submission argues that the development of irrigation infrastructure does nothing in itself to enhance the productive value of the land, as it is useless without access to water. Would there be any benefit in removing the exemption for works of irrigation from the Act?

Mr WESTERN: It might assist the Committee if I go through the process that was undertaken when those changes occurred. The changes that occurred in 2005 were a result of the original Act, which was the Water Management Act 2000. There are a number of instruments associated with water and land. They include an instrument called an access licence, which effectively entitles the owner of that licence to a share of the water resource. That particular instrument is tradable—in other words, it is not part of the land—and therefore from our perspective we do not value that. The second instrument is what is called a water use approval, which gives the person who is on the land the right to be able to use the water. The third instrument is the works approval, which gives them the ability to construct works on the land to assist with the water supply—for example, it might be border dykes or things like that. As I said, the access licence itself is tradable, so the water use and works approval is something that we do value.

In 2005 we were the first State to take account, in our land values, of the removal of water. That was a long and involved process affecting a large number of rural local government areas. We worked very closely in respect of that with the Department of Local Government. They were active in terms of recognising that for a lot of councils the removal of the water would mean a reduction in their rating base that they would be able to utilise. They were also very much aware that it would potentially result in a redistribution of the rates, with those farms that previously had irrigation works being more valuable than dryland farming. However, with the removal of the water it would mean that a lot of the irrigation farms would then be comparable to dryland farms effectively. So there was the rates redistribution issue as well.

In undertaking that work in removing the water from the land value, we advised all affected councils by letter, the process that we would use to do that, and the timing as far as achieving that result. We also made the offer in that letter that, should they require assistance in terms of understanding it, or assistance in terms of using that valuation base for rating purposes or integrating rates into the values we were issuing, we were quite happy to assist. A number of councils took up that offer, which was pleasing.

However, a number of councils preferred, to put it bluntly, to sit back and watch others to see what was going to happen and what results would be achieved. But I think more importantly there was an attitude of some of them to sit back and wait to see how things worked with other councils and how they might be able to be implemented into their system. There were also a number of

what I would call innovative councils who decided that maybe if we were to include the works—in other words, those landforms in dams and things like that—in the land value, that would assist in terms of raising the value of those properties and hence potentially alter the rating distribution. I have to say that many councils were reluctant to put in place any form of differential between the dryland farmers and the irrigation farmers, simply because they saw it as politically unpalatable to do so.

As a result of those submissions, the Local Government and Shires Associations at one of their annual conferences put up a submission to the Minister for Lands for the Value-General to examine the inclusion of works in the land value. As a result of that, the Local Government and Shires Associations put in place a working group which contained some representatives of affected members, being councils with irrigation properties in them, and we were asked to provide expert advisory services for that group as well. That group had a number of meetings. But gradually as time went on, simply with the passage of time individual councils ended up resolving many of their issues. As time progressed, the working group disestablished itself. In fact, at a Land Value Advisory Group meeting I had last week I talked to the Local Government and Shires Associations representative who was involved in that original working group, and he said that to his knowledge no councils were now touting for the inclusion of the improvements.

Mr MICHAEL RICHARDSON: There is one: we have got it.

Mr WESTERN: There has to be one there. But certainly to his knowledge there were none. It provides lots of issues for us in terms of doing that. It would increase the cost of undertaking the valuations, because we would have to inspect those properties and we would have to source information correctly. In the end, it is a rating issue. As I said, the majority of councils have ended up resolving many of their issues. We are simply putting the valuations in place. That is the situation as it stands at the moment.

Mr MICHAEL RICHARDSON: In the same vein is the issue of mining. Some councils are concerned that the Act does not permit annual variations where there are rapid increases in production within an existing mining lease, and this prevents them from leasing at a fair and equitable rate. What capacity exists under the Act for councils to have land revalued in those circumstances?

Mr PARKER: The Act currently allows for valuations to made in circumstances where there is a change, under section 14A. Generally what is meant by "circumstances of change" is things like change in zoning, change in size of the property, or change in dimensions. Obviously, during a program you will have properties that split and change circumstances. That allows the Value-General to redetermine those valuations on a yearly basis, or as they occur. In the case of the expansion of the mines, if there were a change to the lease area that would trigger one of these actions, under section 14A. I think the submission is referring to where perhaps within a lease the mining operator manages to expand their operations—

Mr MICHAEL RICHARDSON: If you have an open-cut mine, it is suddenly doubled in size?

Mr PARKER: Yes. So, instead of getting 400,000 tonnes or whatever, they are getting 800,000 tonnes. That is not something that we have in the past actually accounted for on a progressive basis. The valuation would take the circumstances into account as at the date the valuation was made, when we delivered the values to the councils, every three or four years. I am not so sure that if we were advised of such an expansion that the Valuer-General would not have discretion to be able to review that value. But that would be based on the circumstances and we would need to see the submission and so forth as to what actually occurred.

Mr MICHAEL RICHARDSON: So we could actually advise the councils that made these submissions that it is open to them to write to the Valuer-General asking for a revaluation of that property?

Mr WESTERN: Under section 60A councils have the ability to be able to ask the Valuer-General to provide a fresh valuation but there are certain restrictions around that. It normally refers to a planning instrument, a water right being acquired or going somewhere else, where there is damage, for example, through slip or erosion or things like that, and we can account for that, or where it has been affected by a coastal hazard or something. There is opportunity within the existing Act for the Valuer-General to be able to make a fresh valuation but the council would need to let us know the circumstances in which they are looking for this amended valuation.

I have a close relationship with the Mining Related Councils, which represents large local government areas that have got significant mining interest. This issue has been raised through that in the past and I have worked closely with them in respect of the particular issues. We have made similar comment there; that they need to put a submission into us to have a look at to make a decision as to whether we can revalue or not under the current requirements of the Act.

Mr MICHAEL RICHARDSON: I thought this was interesting, but it is a much broader question than I think we would have time to consider right now. The suggestion was made in a submission to the Committee by NSW Revenue Professions that councils should have the option of using improved capital value or unimproved capital value depending on the council's requirements for determining valuations, stating that this option was already available in other States. I do not know whether that is the case or not. I gather it used to be but it may not be now. But that is a really big issue that goes right to the heart of valuation for land tax and council rating purposes in this State. Do you have any view on that matter?

Mr WESTERN: Just to give you some background. Again, you are correct that within different States different there are different systems of valuation. As you are aware here in New South Wales we use land value. Queensland up until two months ago used what they used to call an unimproved land value, which

was a true unimproved value back to its original state as opposed to what it might be today. They have since amended their Act to effectively mirror what the New South Wales definition of land value is. Within Victoria, councils have the option of using what is called an improved capital value, a land value or an annual rental value. Those various scenarios apply to other States as well.

Mr MICHAEL RICHARDSON: Councils have the option?

Mr WESTERN: Councils have the option to make that decision.

Mr MICHAEL RICHARDSON: But they would go to their Valuer-General and ask him?

Mr WESTERN: And they would ask him to do that.

Mr MICHAEL RICHARDSON: To do the valuation—

Mr WESTERN: Or whoever is doing it. In the case of Victoria, it is the councils who are responsible for doing the valuations and the Valuer-General simply oversees them. New Zealand, for example, has got exactly the same provisions, in terms of an annual rental value, a capital value or a land value. Up until, and I stand corrected, I think the mid 1990s there was information collected in respect of capital value or held on our files—is that right?

Mr PARKER: Well we had all the old records but I am not sure they were updated in the 1990s.

Mr WESTERN: As Mr Parker pointed out, they have not been updated since that time and some of them have probably been archived. There are effectively a number of options that could be looked at here for New South Wales but I would point out two things. One is the cost associated in terms of doing that. To update the valuation system in the case of a capital value system would mean being able to get on to our system all the improvements. Understanding that that a large amount of role maintenance would need to be undertaken to update that as building permits are issued and things like that. So a capital value system would come at a significant cost over and above what the existing system is currently costing as far as producing land values. I think the other thing that would need to be considered is that we have got the current valuation system in such a position now where it is widely accepted by the public and therefore to change it could really, I guess, throw the cat amongst the pigeons in terms of putting the whole system on its ear in the understanding of the system. That has downstream ramifications for councils as well, having to change their rating systems and the administration of it and all those things. That was a long answer—

Mr MICHAEL RICHARDSON: It is a big question.

Mr WESTERN: —but to put it succinctly, the option is there.

CHAIR: Mr Western and Mr Parker I thank you for appearing before the Committee today. As I said at the outset, if the Committee has any other questions they will be forwarded to you. The Committee also congratulations you on the very efficient way in which you are carrying out your office.

(The witnesses withdrew)

(The Committee adjourned at 11.55 a.m.)

Appendix Two – Answers to questions on notice

SEVENTH MEETING WITH THE VALUER-GENERAL
22 OCTOBER 2010

QUESTION ONE: DIFFERENT DATES OF APPLICATION USED BY RATING AND TAXATION AUTHORITIES (transcript pp. 3-4)

Mr MICHAEL RICHARDSON: One of the issues that was raised by a number of those making submissions was that the different dates of application used by the rating and taxing authorities create inconsistency and complexity that serve no obvious purpose. The Property Management Authority, of course, was one organisation that took issue with the way things are done at the moment. What would be the cost of moving the taxing date to 30 June or, alternatively, moving the rating date to 31 December? Are there any practical issues or problems associated with that change?

RESPONSE:

Both Office of State Revenue and Local Government Councils have specific reasons for maintaining the current dates. The potential implications of aligning the major two valuation stakeholders would be significant.

Moving the 'rating year' from 30 June to 31 December to align with the 'land tax year.'

Moving the 'rating year' from 1 July to the prior 31 December would mean land values were being used for rating purposes prior to Notices of Valuation being issued to landowners and there would have been no opportunity for objections to be lodged or reviewed prior to Councils' rates notices being issued.

There would be other major implications for Councils. Moving the rating year to the prior 31 December would shift Councils operating year to a calendar year basis. This would have a significant impact on Councils in the interim as well as long term. There would be additional resource requirements and one off cash flow implications. Importantly moving the 'rating year' in NSW to this date would mean NSW was out of alignment with other States and territories. This would have implications for Council reporting cycles at a National level.

Moving the 'land tax year' from 31 December to 30 June to align with the 'rating year'.

If the 'land tax year' was moved to 30 June, this would result in the issued land values being at least 12 months old before they were issued on land tax assessments. Currently they are approximately six months old when issued. The main implication is that the greater the interval between when the values 'as at' and the date of issue the more likely it is for landowners to contest the land value. Most people are only aware of what they are reading and hearing within the media today rather than what was happening at least 12 months ago.

A further complication is land tax assessments are based upon a three year average. This means that even where Council rates are based on a current general valuation, the land tax assessment value will not be the same. Even if the two dates were aligned, the final year land value used for compiling the three year average for the land tax assessment and rating purposes would only be the same value for approximately one-third of all land tax properties. There would only be 100% alignment if either Councils adopted annual land values or land tax reverted to using general valuations instead of annual valuations.

If land values were issued annually for all properties there would be substantially higher costs to the valuation system. This would be comprised of for example increased costs of issuing preparing valuations, posting of additional Notices of Valuation, and a likely increase in the number of objections received each year, many of which may relate to land which is not subject to land tax or be in force as a council rating value..

There could also be potential cash flow issues for land tax revenues with the 'land tax year' being adjusted by an initial six month period.

QUESTION TWO: OBJECTIONS (transcript p. 5)

The Hon. KAYEE GRIFFIN: Mr Western, councils have expressed concern that valuations they have been using for some time for rating purposes may be the subject of an objection when those valuations are used for the first time by the Office of State Revenue and that this could have an effect going back two to three years, given the council cycles. Do similar provisions apply in other Australian jurisdictions that permit a ratepayer to have two opportunities to lodge an objection, and what would be the consequence of limiting objections to 60 days after an owner is first notified of a valuation?

RESPONSE:

Attached at Table 1 is a chart summarising the objection provisions in other States/Territories and New Zealand.

The majority of other States/Territories and New Zealand have the ability for landowners to object more than once, and to object outside the legislated objection period. The only jurisdictions that have an objection provision limited to the first time a valuation is notified to a landowner are Queensland and Tasmania, however there still remains a right of review outside of the official objection period. Within the Northern Territory there is no land tax, hence landowners can only object to a land value on the Valuation Notice.

Currently within the NSW valuation system there are 'checks and balances' which limit the opportunity to object to a land value more than once. A second objection is only valid if there is fresh evidence provided to demonstrate that the land value may be incorrect.

Although difficult to quantify it is likely that putting in place the right to object to a land value only once would lead to a greater number of objections, increased

costs and a likely increase in the timeframes to resolve objections. As a result it is reasonable to assume that a greater number of value changes would be required to be notified to Office of State Revenue and local councils. This would also extend the time for the rating and taxing databases of our principle customers to become stable.

Such a change from current procedures could also be seen to undermine the improved public confidence in the NSW valuation system as well as being seen to decrease transparency, equity and fairness.

QUESTION THREE: RATING AND TAXATION OF COMMON ASSETS (transcript p.7)

Ms ALISON MEGARRITY: This will be a very long and complex question because I must provide some background. My constituents are confronting a very confusing situation. I am sure that it is not unique to my electorate; any member who has riverfront properties in his or her electorate would know of similar cases. Please bear with me as I work my way through it.

This question pertains to the situation where property titleholders have a common asset. In this case it involves riverfront properties with jetties and pontoons. The waterways authorities strongly encourage people to enter into joint arrangements to install pontoons in an attempt to reduce building on rivers. In some cases the construction of these facilities has been approved only if it involves a joint asset. Accordingly, each year a Crown land rental must be paid to the waterway authority for the ground underneath the jetty or pontoon. A concession is applied for river or water-access-only properties. That is the clear direction to owners of these properties.

As best as I can understand it, where the situation involves an individual property titleholder who has a pontoon or a jetty, its worth is included as part of the property valuation and that flows through to the council for rating purposes. If the jetty or pontoon adds $10,000 to the value of the property, that might attract an extra $25 in council rates. It has been put to me that with shared pontoons and jetties, where the name on the Crown lease is different from the name on the land title because it involves more than one property holder, the Valuer-General must issue a separate valuation and the council then issues a separate rates notice. Instead of the person with the individual property and jetty paying perhaps an extra $25 a year in rates, the council levies a minimum amount—which is a business amount even though this involves residential properties—of about $450. The levy is imposed at the business rate because if it were imposed at the residential rate, it would also attract stormwater and domestic waste charges amounting to more than $300.

Table 1: Jurisdictional comparison of objection periods

Jurisdiction	Objection Instrument	Objection Period	Comments
New South Wales	Notice of Valuation Land Tax Assessment	60 days from the date of issue of Notice of Valuation and Land Tax Assessment.	Valuer General has the discretion to accept objections outside of the 60 days (must be an acceptable reason).
New Zealand	Notice of Valuation	30 working days – revaluation. 20 working days – roll maintenance.	Landowners may request new valuation during currency of valuation roll New valuation must preserve uniformity with comparable roll parcels not sales. Councils can charge a fee for this service.
Queensland	Notice of Valuation	60 days after valuation is issued.	Late objections may be accepted due to specific circumstances. Cannot object to land tax assessment. Objection period may be extended where owner requests to have their land classified as rural.
Western Australia	Rate Assessment Land Tax Assessment	60 days from the making of the general valuation within the gazette.	Valuer General may extend objection period if reasonable cause – on a case by case basis. There is no continuous right of objection.
Tasmania	Notice of Valuation	60 days from the receipt of a Notice.	Landowners can request a review outside of the 60 day period of receiving a Notice of Valuation. However this is called 'section correspondence' (not an objection). The valuation may be reviewed however the objector has no right to take the matter to the Land Valuation Court. This also applies to Land Tax Notices.
South Australia	Land Tax Assessment Rates Notice Emergency Services Notice SA Water Rates Notice	60 days from the date of service of each Notice.	Landowner can object. Valuer General has the discretion to extend the 60 day period (must be 'reasonable' cause). There is no continuous right of objection.
Northern Territory	Valuation Notice	30 days to object.	There is no opportunity to object outside of this period. No land tax in Northern Territory.
ACT	Land Tax Assessment Valuation Notice	60 days upon issue of the Valuation Notice.	No right to objection outside of 60 day period.
Victoria	Rates Notice Land Tax Notice	Within two months of the issue of a Rates Notice and/or Land Tax Notice.	There is no option of a late objection or continuous right of objection.

The property owners have tried to resolve this impasse by going to the Land and Property Management Authority and to the council. However, both parties say the other authority must deal with it and that computers cannot divide the pontoon between the properties. Apparently the Land and Property Management Authority suggested that the titleholders concerned contact their local member to sort out this anomaly. To rub salt into the wound, different councils may have been implementing the charge at different rates and times and, as you have explained, from time to time the Valuer-General re-evaluates areas to ensure that the valuations are within the market range. Some of this may have come to light only when those new valuations were issued and perhaps for the first time councils have responded in this way. I am putting two and two together. The property owners received a letter from the council containing good news about a revaluation undertaken by the Valuer-General and informing them that their property rates would be reduced. However, because they have a shared jetty or pontoon, the council will now charge the minimum business rate, which can be shared, but might mean an impost of $200 each instead of perhaps $25 if the levy had been part of their individual property council rates calculation. I am not sure whether you can assist with this. It seems to be an anomaly and that different levels of government are telling these people different things and they are caught in the middle.

Mr WESTERN: I understand the question. I also appreciate that it is an extremely complex issue involving pontoons and—

Mr MICHAEL RICHARDSON: Let the pontoons flow free!

Mr WESTERN: —both valuation and rating. I will take the question on notice and provide a written response.

Ms ALISON MEGARRITY: But please tell me that it is not simply that the computers cannot divide the pontoon.

Mr WESTERN: No. I am happy to say that that would be a new one to me. There is no way that it would be anything to do with computers.

CHAIR: It probably relates to my electorate as well.

Ms ALISON MEGARRITY: One of the councils said that it also applies to shared car parks in a tenanted building. I do not know that for a fact, but I have been told that where a piece of property is in more than one name that creates a separate valuation and therefore a separate rate. I am sure councils are pleased about that because they want those rates.

RESPONSE:

I am advised that Crown Lands published its Domestic Waterfront Facility Policy in 2009 and that a key policy objective is that shared domestic waterfront facilities are encouraged where it is appropriate.

The *Valuation of Land Act 1916* (the Act) provides the statutory basis for determining land values that are used for levying of rates and taxes. Section 14I

of the Act specifies that land that is *Crown lease restricted* is to have its land value determined taking into account the restrictions on the disposition or manner of use that apply to the land by reason of its being the subject of the lease concerned.

Section 26 of the Act allows for parcels of adjoining land, owned by the same person/persons, to be included in one valuation. Parcels of land with different zonings can be amalgamated provided that there are not separate buildings on each parcel.

Section 27 (2) of the Act states that lands which do not adjoin or which are separated by a road, or are separately owned, shall be separately valued, therefore if Crown Lands issue a licence for a jetty in a name or names different to the ownership details on the Certificate of Title for the adjoining land the Valuer General is unable include the lands in one valuation.
However, I am advised that where a shared facility is identified, landowners are now offered the choice of a joint licence or separate licences, before any processing action to implement the licence/s is undertaken.

Where the landowner chooses a separate licence, and that licence is issued in the same name as the owner detailed on the Certificate of Title of the adjoining land, the Valuer General, under section 26 of the Act can include the lands in one valuation.

Appendix Three – List of witnesses and submissions

List of witnesses appearing at the public hearing held on 22 October 2010

Philip John Western, New South Wales Valuer-General
Michael James Parker, Acting Program Manager, Valuation Services.

List of submissions

No.	Author	Organisation
1.	Ms Hylda Rolfe	Individual
2.	Mr Richard Sharpe	Individual
3.	Mr R.A. Macpherson	Macpherson Property & Management
4.	Mr C.J. Danzey	Individual
5.	Mr Alfred Goding	Individual
6.	Mr Murray Edmondson	Southern Alliance Valuation Services Pty Ltd
7.	Mr Joe Gilles	Giles Payne & Co
8.	Mrs Margaret MacDonald-Hill	Association of Mining Related Councils
9.	Mr Warwick Watkins AM	Land and Property Management Authority (LPMA)
10.	Mr John Towers	NSW Revenue Professionals Inc
11.	Mr Collin Jennings	Royal Institution of Chartered Surveyors (RICS)
12.	Mr Aaron Jones	Blayney Shire Council
13.	Ms Carolynne James	Northern Sydney Regional Organisation of Councils (NSROC)
14.	Mr Lachlan Robertson	Robertson & Robertson Consulting Valuers
15.	Mr Col Coupland	Individual
16.	Mr Greg Murdoch	Murray Shire Council
17.	Mr Peter Fitzgerald	City of Botany Bay Council
18.	Mr Phillip Lyons	Australian Property Institute
19.	Mr Ross Earl	Moree Plains Shire Council
20.	Mr Michael Murray	Gwydir Valley Irrigators Association

Appendix Four – Committee minutes

Minutes of Proceedings of the Joint Committee on the Office of the Valuer-General (No 14)

Tuesday, 22 June 2010 at 5.40 pm

Parliament House – Room 1254

Members Present:

Ms Marie Andrews MP (Chair)

The Hon Kayee Griffin MLC

The Hon Matthew Mason-Cox MLC

Ms Alison Megarrity MP

Mr Michael Richardson MP

1. Minutes

Resolved, on the motion of Ms Megarrity:

That the minutes of the meeting held on 8 June 2010 be confirmed and published.

2. The Committee discussed possible inquiry topics

Resolved, on the motion of Mr Richardson:

That the Committee inquire into the provisions of the Valuation of Land Act 1916 with particular reference to:

(1) The efficiency and effectiveness of the current provisions of the Act;

(2) Its application to stakeholders; and

(3) Any related matter.

Resolved, on the motion of Ms Griffin:

That the Committee announce the commencement of the Inquiry by: issuing a newspaper advertisement publicising the terms of reference and seeking submissions; contacting relevant stakeholder groups and writing to other appropriate organisations and individuals requesting submissions; and publishing the terms of reference and submission requirements on the Committee's Parliamentary website.

3. Next meeting

The meeting adjourned at 5.57 pm until 31 August 2010 at 5:30 pm.

Minutes of Proceedings of the Joint Committee on the Office of the Valuer-General (No 15)

Tuesday, 31 August 2010 at 5.33 pm

Parliament House – Room 1254

Members Present:

Ms Marie Andrews MP (Chair)
The Hon Kayee Griffin MLC
The Hon Matthew Mason-Cox MLC
Ms Alison Megarrity MP
Mr Michael Richardson MP

1. Minutes Resolved, on the motion of Ms Griffin**:**
That the minutes of the meeting held on 22 June 2010 be confirmed and published.

2. Correspondence

The following correspondence was noted:

a. Rejected submission from Ms Tregeagle dated 4 July 2010 and reply from Acting Committee Manager dated 5 July 2010.
b. Letter from Kerry Hickey MP dated 26 July 2010 raising concerns regarding the valuation of a certain property.

3. Inquiry into the Provisions of the Valuation of Land Act 1916

Resolved, on motion of Mr Richardson:
That the Committee authorises the publication of the submissions received and orders that they be placed on its website.

4. The Committee requested that a list of key issues arising out of the submissions be prepared and circulated to members. Possible witnesses for a public hearing to be held in October were also discussed.

5. Next meeting

The meeting adjourned at 5.58pm until a date to be advised.

Minutes of Proceedings of the Joint Committee on the Office of the Valuer-General (No 16)

Tuesday, 21 September 2010 at 5.37pm

Parliament House – Room 1254

Members Present:

Ms Marie Andrews MP (Chair)
The Hon Kayee Griffin MLC
The Hon Matthew Mason-Cox MLC
Ms Alison Megarrity MP
Mr Michael Richardson MP

1. Minutes

Resolved, on the motion of Ms Griffin:
That the minutes of the meeting held on 31 August 2010 be confirmed and published.

2. Inquiry into the Provisions of the Valuation of Land Act 1916

The Committee discussed the Key Issues briefing paper.

Resolved, on motion of Ms Megarrity:
That the Committee asks the Chair to arrange a general meeting with the Valuer General to discuss issues raised in the submissions.

3. Next meeting

The meeting adjourned at 5.53 pm until a date to be advised.

Minutes of Proceedings of the Joint Committee on the Office of the Valuer General (No 17)

Friday 22 October 2010
Parliament House – Room 814/815 at 10.30 am

Members Present:

Ms Marie Andrews MP (Chair)
The Hon Kayee Griffin MLC
Ms Alison Megarrity MP
Mr Michael Richardson MP

Apology:
The Hon Matthew Mason-Cox MLC

1. Public Hearing – Seventh General Meeting with Valuer General incorporating the Inquiry into the Provisions of the Valuation of Land Act 1916

The Public was admitted at 10:30am.

Mr Philip Western, Valuer General was sworn and examined.

Mr Michael Parker, Acting Program Manager, Valuation Services, Land and Property Management Authority was sworn and examined.

Evidence completed witnesses withdrew.

The Committee adjourned the hearing at 11:55 am and reconvened at 11:56 am for a deliberative meeting.

2. Minutes

Resolved, on the motion of Ms Megarrity:
That the minutes of the meeting held on 21 September 2010 be confirmed and published.

3. Inquiry into the Provisions of the Valuation of Land Act 1916

Resolved, on the motion of Mr Richardson:
That the Committee authorises the publication of submission no 20 from Gwydir Valley Irrigators and orders that it be placed on its website.

Resolved, on the motion of Ms Griffin:
That the transcript of the witnesses' evidence be published on the Committee's website, after making corrections for recording inaccuracy, along with the answers to any questions taken on notice in the course of today's hearing.

4. Next meeting

The meeting adjourned at 12.05 pm until Tuesday 23 November 2010 at 5.30 pm.

Minutes of Proceedings of the Joint Committee on the Office of the Valuer- General (No 18)

Tuesday 23 November 2010
Parliament House – Room 1254 at 5.35 pm

Members Present:

Ms Marie Andrews MP (Chair)
The Hon Kayee Griffin MLC
The Hon Matthew Mason-Cox MLC
Ms Alison Megarrity MP
Mr Michael Richardson MP

1. **Resolved**, on the motion of Ms Griffin:
That the minutes of the meeting held on 22 October 2010 be confirmed and published.

2. Report of the Inquiry into the provisions of the *Valuation of Land Act 1916*
Consideration of Chair's Draft Report

Resolved: 'That the draft report be considered Chapter by Chapter'.
Moved: Ms Griffin.

Chapter One – The Inquiry
Resolved: 'That Chapter One be agreed to without amendment'.
Moved: Ms Griffin.

Chapter Two – The Act
Resolved: 'That Chapter Two be agreed to without amendment'.
Moved: Mr Richardson.

Chapter Three – Summary of key issues
Resolved: 'That Chapter Three be agreed to without amendment'.
Moved: Ms Megarrity.

Chapter Four – The efficiency and effectiveness of the current provisions of the Act

Paragraph 4.11:
Delete "cost over and above what the existing system is currently costing" and insert "additional cost".

Paragraph 4.76:
Delete "under particular sites" and insert "at particular sites".

Resolved: 'That Chapter Four be agreed to as amended'.
Moved: Mr Mason-Cox.

Chapter Five – Committee Findings
Paragraph 5.15:
Insert after "These include" "a review by the Valuer-General of:"
Delete "A review of" wherever occurring

Recommendation 1:
Insert after "as part of that review", "by the Valuer-General".
Delete "A review of" wherever occurring.

Resolved: 'That Chapter Five be agreed to as amended'.
Moved: Mr Richardson.

Appendices One to Four
Resolved: 'That Appendices One to Four be agreed without amendment'.
Moved: Mr Mason-Cox.

Recommendation 1

Resolved: 'That Recommendation 1 be agreed to as amended'.
Moved: Mr Richardson.

Adoption of Report

Resolved: 'That the Committee adopts the report on the Inquiry into the provisions of the *Valuation of Land Act 1916*, as amended and authorises the Secretariat to make appropriate final editing and stylistic changes, as required'.
Moved: Ms Griffin.

Publication of the Report

Resolved: 'That, once tabled, the Report be placed on the Committee's website'.
Moved: Ms Megarrity.

3. General Business

There being no general business, the Committee adjourned at 6.20 pm (sine die).