

## **INQUIRY INTO LAND VALUATION SYSTEM**

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# **Inquiry into the Land Valuation System by the Parliament of New South Wales Joint Standing Committee on the Office of the Valuer General**

Submission by the  
New South Wales Valuer General

**28 March 2013**



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## **1. Executive Summary**

The NSW Valuation system is generally regarded as being sound, and has been found through a number of inquiries to be both cost effective and equitable. Land values are considered to provide an equitable base for the setting of land based rates and taxes and is seen as having the least impact on markets and capital. The application of modern mass valuation techniques and quality assurance combined with a drive for continuous improvement has led to the development of a system that is seen as a leader in the mass valuation field. This is supported by a well- established system for the rectification and realignment of valuation errors and anomalies.

Recently, a number of court decisions have changed values causing concern among stakeholders about the volatility and predictability of land values. A number of these cases have been determined based on new interpretations of unclear provisions in the Act. A clearer and more modern legislative framework would minimise the risk of these occurrences and be a welcome outcome for stakeholders and administrators alike.

Valuation can be a complex exercise requiring appropriately skilled professionals, particularly for the valuation of complex property types which often require specific knowledge and expertise. This complexity places an onus on administrators to clearly and openly communicate valuation processes and outcomes to landowners. Significant efforts have been made in recent years to improve the provision of information to landowners. However, ongoing improvement will remain the cornerstone of the valuation system to ensure it meets the needs of stakeholders and the community and continues to be seen as a benchmark system within the industry.

The NSW Valuer General welcomes the work of the Joint Standing Committee on the Office of the Valuer General and looks forward to continuing to work with the Committee in the ongoing development of the NSW valuation system.

### **Jurisdictional Context**

Property valuations of various types are currently used as a mechanism for the distribution of property based taxes across a number of jurisdictions in Asia, America and Europe, and in every Australian state. The efficiency of using land values as a tax base was noted in various reviews such as the 2010 *Australia's Future Tax System Review* (Henry Tax Review), which concluded that because of the clear efficiencies, well-structured taxes based on property should continue to be used to raise revenue and that "the future Australian tax system should increasingly rely on land values as a tax base."<sup>1</sup>

Value based property taxes are significant sources of government revenue across Australia. Similarly, in New South Wales (NSW) land tax generates approximately 11.2% of total government revenue<sup>2</sup>, demonstrating its significance as a source of funding for government. Each state in Australia has legislation providing the framework for the valuation of land for

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<sup>1</sup> Commonwealth Attorney General's Department, *Australia's Future Tax System: Report to the Treasurer*, December 2009, Chapter C Part 2, p 264

<sup>2</sup> Taxation Revenue, Australia 2010-11, Australian Bureau of Statistics website:

<http://www.abs.gov.au/AUSSTATS/abs@.nsf/DetailsPage/5506.02010-11?OpenDocument>, accessed 4 March 2013.



rating and taxing purposes to ensure their quality and integrity. Each state has also established the position of Valuer General as the central authority responsible for these valuations and the overall management of the system underpinning the valuations.

There are three primary bases for the levying of property based rates and taxes, which are all used in some form across Australia. These are the improved (capital) value of land, being the amount a property would likely be sold on the market; the annual value, based on the property's rental value; and the land (or site or unimproved) value, being the value of the property if assumed to be vacant. While valuation bases used for council rates vary in each state, all jurisdictions across Australia use some form of land value basis to determine land tax liabilities. Due to the associated cost benefits, all states in Australia use mass valuation processes to determine values for rating and taxing purposes.

### **New South Wales Valuation System**

In NSW, the *Valuation of Land Act 1916* (the Act) establishes the Valuer General as the independent statutory authority responsible for the overall management of the valuation system and for ensuring the integrity of land valuations. Currently, the Valuer General delegates operational responsibilities under the Act to Land and Property Information (LPI), a self-funded land information agency within the Department of Finance and Services. The Valuer General regulates these functions to ensure LPI complies with the requirements of the Act as well as standards and policies set by the Valuer General. LPI outsources the provision of valuation services, enabling LPI to focus its resources on ensuring valuations provided by independent contract valuers comply with the requirements of the Act and the standards set by the Valuer General. This outsourcing arrangement has reduced the cost of valuations in real terms over time.

In NSW, only land value is used as the basis for rating and taxing valuations. The costs associated with collecting property improvement information needed to use improved or assessed annual values would be considerable, making the use of land values the more cost effective option for the state. Furthermore, land value is considered to be a more stable base due to the relatively unchanging nature of the underlying land compared to structural improvements, which are subject to ongoing change. The continued use of land value as the basis for rating and taxing valuations is endorsed as being the most appropriate for NSW given its history and the difficulty in establishing an alternate base.

Properties in NSW are valued annually using the component method of mass valuation, where properties are valued in groups called components. The properties in each component are similar to each other or are expected to reflect changes in value in a similar way. Land values are required to reflect the property market conditions as at 1 July in the valuing year so valuers analyse relevant property sales and other market evidence in determining new valuations. Representative properties from each component are individually valued as at 1 July each year to determine how much the land value has changed from the previous year, with the rate of change being applied to the majority of properties in that component. Not all properties are suited to mass valuation; therefore some are individually valued based on market evidence.



Quality assurance of valuations in NSW is conducted through:

- Use of internationally recognised statistical measures aimed at ensuring consistency and uniformity in valuation outcomes
- Review and verification of individual land values and the structure of components
- Use of spatial data and systems enhanced with high-resolution imagery
- Implementation of a structured program to review the quality of valuations before their issue to landowners and rating and taxing authorities
- Establishment of strategic partnerships, targeted reviews, and a more robust framework to manage issues in the valuation system

The NSW valuation system has been reviewed on a number of occasions over the past 15 years and found to be generally sound. However, recommendations have been made to further improve the system. These recommendations have prompted the implementation of a number of initiatives focusing on improving the quality assurance of valuations and improving the objection process.

Part 3 of the Act provides landowners with the right to object to valuations of their land. A number of changes have been made in recent years to increase the quality and transparency of information provided to landowners, including provision of more informative publications, creation of a specialist call centre, and improved access to sales information used to inform valuations. Average turnaround times for objections have also fallen from an average of 169 days in 2006/2007 to 58 days in 2011/2012. While the objection process has been enhanced, opportunities for improvement remain by implementing a simpler and more economic appeals mechanism for landowners of less complex property types who are not satisfied with the objection decision and leveraging the detailed local knowledge of the contract valuer that made the initial valuation, which could increase consistency in valuation outcomes.

### **Volatility and Predictability of Land Values**

This Submission considered three key indicators to gauge volatility in the valuation system:

1. Volatility in the market
2. Volatility of land values in the Register of Land Values
3. Volatility of individual valuations

Volatility in the market was observed by comparing movements in median residential land values with movements in median prices of all residential sales (including vacant and improved properties). The median sale price for residential properties increased significantly between 2000 and 2004, with the median land values reflecting a similar movement. However, fluctuations in the median sale price do not always impact the median land value as these may be caused by short term factors affecting one segment of the market such as an increase in the proportion of sales of high value properties whereas median land values reflect the trend across the market as a whole.

The overall change to the Register equates to an annual average of approximately 0.12% for the valuing years from 2001 to 2011, indicating that amendments as a result of objections, appeals and reascertainments have had a minimal impact on the overall value of the Register. Peaks in objections occurred in 2004 and 2005, largely due to a combination of





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changes in the land tax regime and the increase in market prices between 2000 and 2004. However, even in the period where the greatest number of changes were made to the Register, the change to the overall Register was approximately 0.26%, still considerably lower than comparable jurisdictions. More recently, the average change in value of the Register for the valuing years from 2009 to 2011 was 0.093%. Residential properties are proportionately underrepresented in this data, suggesting that most changes occur to properties that are of a more complex nature, such as commercial, industrial and non-urban (rural) zoned properties. The minimal average change to the Register demonstrates that overall values are stable and provide predictability of the revenue base for rating and taxing authorities.

However, value volatility may still be experienced at an individual property level. New information may become available in between valuing years, or be discovered in the review and verification of an individual land value, resulting in significant changes to land values. Local economic factors, such as changes in development or local business activity, also play a role in driving the volatility of individual or groups of valuations. High value properties are often subject to higher objection volumes and appeal rates as they incur more rates or land tax.

Volatility in the valuation system is generally considered to be limited to individual properties or more broadly to properties of a particular type and complexity. Many of the issues that have unsettled values in the system over recent years have occurred following decisions in the court that do not accord with the long standing practices. It is considered that outdated and unclear provisions in the Act are at least partly responsible for this situation.

## **Review of Valuation of Land Act 1916**

The Act is the oldest valuation statute in Australia, having not undergone a complete review since its introduction in 1916. This submission includes recommendations relating to aspects of the Act contributing to inefficiencies and complexities within the valuation system, and identifies possible amendments to improve transparency and reduce inequity. Recommendations in areas requiring further significant consultation or potential impact to landowners have been noted below. Less significant amendments are also contained in the body of this submission.

### **Reducing Inequity**

There are some perceived inequities in the valuation system around objections to land values and the application of land values to rates and taxes that can be addressed through amendments to the Act. The Valuer General makes the following recommendations to address equity in the system:

<b>Recommendations</b>	<b>Section in Act</b>	<b>Section in Document</b>
1. It is recommended that an additional streamlined appeals process be established for less complex matters, such as objections against residential properties.	n/a	8.1.1



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2. It is recommended that the requirement 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” be removed to address efficiency and effectiveness of the objection process.	35B(2)	8.1.2
3. It is recommended that consideration be given to extending the right to object to land values to anyone who is directly liable for the payment of any rate, tax or charge based on the land value of a property.	29	8.1.3
4. It is recommended that consideration be given to addressing concerns of local councils and others on the stability and predictability of the rating and taxing base to limit the number of opportunities that landowners have to object to the same land value issued for council rating or land tax purposes. This may be achieved by allowing landowners to only object once, when the land value is issued for the first time. A further possibility would be to allow landowners to object only once when either a notice of valuation or land tax assessment is issued.	n/a	8.1.4
5. It is recommended that provisions relating to the application of valuations for rating and taxing purposes should be removed from the Act and transferred to relevant rating and taxing legislation to improve transparency and equity.	62(2)	8.1.5

**Complexities in the Valuation System**

The complex nature of certain types of properties contributes to the difficulties associated with their valuation. This is often exacerbated by outdated or unclear provision in the Act. It is recommended that the following sections of the Act be considered for review to reduce the degree of complexity:

<b>Recommendations</b>	<b>Section in Act</b>	<b>Section in Document</b>
6. It is recommended that sections of the Act that determine how land subject to Crown and Western Lands Leases are to be valued be reviewed to clarify the valuation requirements.	14I, 14C	8.2.1



<b>Recommendations</b>	<b>Section in Act</b>	<b>Section in Document</b>
7. It is recommended that a complete review of the mining related provisions within the Act be undertaken through stakeholder consultation to reduce complexity of these valuation types.	14F	8.2.2
8. It is recommended that provisions in the Act detailing when lands are to be included in a single valuation or are to be separately valued be reviewed to simplify requirements and define key words.	26- 27B	8.2.3
9. It is recommended that concessions and allowances and their application be reviewed, in particular provisions around the allowance not to exceed the cost of improvements and lots which qualify for subdivision allowance to provide greater clarity and transparency.	14N, 14T	8.2.4
10. It is recommended that sections relating to apportionments in the Valuation of Land Act and the Land Tax Management Act should be reviewed and that consideration should be given making other apportionments based on the proportionate areas to reduce complexity.	14X, 14BBA, 28, 26A, 28A	8.2.5
11. It is recommended that the legislation recognises that GST is a factor in the market and forms part of the sale price of land. Land values derived from such evidence do not require further adjustment.	n/a	8.2.6

#### Drivers of Inefficiency in the Valuation System

Inefficiencies within the valuation system are largely caused by unclear and rigid provisions in the Act which create a number of interpretation issues, which if reviewed, would reduce complexity and improve transparency in the system. Efficiencies may also be achieved by amending the Act to streamline the objection process and administrative functions as well as maximising access to and use of the Register of Land Values. It is recommended that efficiency may be improved by:

<b>Recommendations</b>	<b>Section in Act</b>	<b>Section in Document</b>
12. It is recommended that the definitions in the Act be reviewed and, in particular, definitions related to “parcel of land,” “strata plan” “lands of the Crown” “mine” and Date Valuation Made” be added or amended to ensure consistent application, greater understanding and reduced complexity.	4	8.3.1



<b>Recommendations</b>	<b>Section in Act</b>	<b>Section in Document</b>
13. It is recommended that the understanding of “land value” be improved by including a definition of what constitutes “improvements”.	6A	8.3.1.2
14. It is recommended that the use of the words “ascertain,” “value” and “reascertain” be reviewed and that definitions and applications of the terms be clarified.	14A	8.3.1.3
15. It is recommended that to improve transparency, consistency and independence, all provisions relating to the Valuer General’s ability to enter or alter valuations on the Register should be within one part of the Act.	14A, 14DD	8.3.1.4
16. It is recommended that stakeholder consultation be undertaken regarding the possible alignment of the use and application of land values by rating and taxing authorities.	n/a	8.3.2
17. It is recommended that the base date be amended to 1 March in the valuing year to allow optimum time for consideration and quality assurance of land values prior to being issued to rating and taxing authorities.	14B	8.3.3
<b>Improving Administrative Efficiencies</b>		
18. It is recommended that the provisions related to the service of notices of valuation to landowners be modernised and simplified to address inefficiencies.	29	8.3.4.1
19. It is recommended that in order to best meet stakeholder requirements, that sections related to notification of amendments or alterations to values be changed to authorise the Valuer General to determine schedules for the notification of amendments or alterations to the Register by agreement with the relevant authorities.	57	8.3.4.2
20. It is recommended that provisions allowing rating authorities to make alterations to the list relating to ownership, occupancy or postal address be modernised and simplified to ensure the accuracy of information in the Register of Land Values and to provide a streamlined process for updates of information where required.	50	8.3.4.3



<b>Recommendations</b>	<b>Section in Act</b>	<b>Section in Document</b>
21. It is recommended that sections relating to the authentication and provision of valuation lists to rating and taxing authorities be amalgamated and modernised to ensure appropriate authentication of valuation lists furnished electronically.	54, 56	8.3.4.4
22. It is recommended that sections of the Act relating to the provision of information to landowners and other stakeholders be reviewed to ensure that the use of modern communication methods are properly authorised.	n/a	8.3.4.5
<b>Maximising Access and Use of the Register of Land Values</b>		
23. It is recommended that requirements for the contents of the Register should be consolidated in the Regulations of the Act.	14CC	8.3.4.1
24. It is recommended that the Act be reviewed to allow the collection of information contained in the Notice of Sale	71	8.3.5.1
25. It is recommended that the Act should be amended to authorise the Valuer General to provide information from the Register for purposes not currently specified within the Act, by agreement.	Parts 5, 6 and 6B	8.3.5.2
26. It is recommended that the Act allow the Valuer General to enter into agreements with other agencies to source information that may assist with determining land values in order to continue to improve the quality of land values and in particular, complex land values.	n/a	8.3.5.3

### Improving Transparency

The transparency of the valuation system can be improved by reviewing the Act to remove unnecessary or redundant provisions, by improving the quality of information provided to landowners and enabling broader use of information in the Register of Land Values.

<b>Recommendations</b>	<b>Section in Act</b>	<b>Section in Document</b>
27. It is recommended that options to improve the quality and accessibility of sales and land value information to landowners be investigated with consideration given to the potential impact to the commercial market for this particular information.	n/a	5.10.1



<b>Recommendations</b>	<b>Section in Act</b>	<b>Section in Document</b>
28. It is recommended that redundant sections or parts of sections be removed or amended to improve transparency and ensure application consistent with the intention of the Act. These include sections relating to improved value of land or assessed annual value, partial references to improved value of land or assessed annual value, references to Sydney Water Corporation, State Valuation Office, and contested and uncontested contracts, valuations not required for rating and taxing purposes and sections which conflict with rating and taxing legislation.	5, 7, 7C, 60, 7D, 47, 62(1), 70H, 70I, 70J, 70K, 13B, 13C, 13D, 13G, 20, 21, 22, 61, 19B, 53.	8.4.1
29. It is recommended that the Act be updated and made more flexible to allow the issue of any information from the Register of Land Values including informal extracts to improve transparency and access to land value information.	14EE	8.4.2
30. It is recommended that the Valuer General's notice of determination of the objection include reasons for all objection determinations, not only for objections that are disallowed or only allowed in part as currently provided by the Act. This amendment will improve the transparency and integrity of the objection process.	35C(2)	8.4.3.1
31. It is recommended that in order to maximise both efficiency and transparency that the Act or Regulations be amended to require objections to be supported by relevant information in order to be "duly made" in a similar way to the Queensland Land Valuation Act 2010.	33, 35B	8.4.3.2
32. It is recommended that definition of lands that are required to be valued or are not required to be valued by the Valuer General be provided in one section of the Act or alternatively the Regulations to reduce complexity and improve transparency of the system.	7D, 14A, 14I	8.4.3.3



## **2. Submission Context**

On 21 January 2013 the New South Wales Parliament Joint Standing Committee on the Office of the Valuer General (the Committee) announced an inquiry into the New South Wales (NSW) land valuation system<sup>3</sup>.

The Inquiry's Terms of Reference are:

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

This submission is the NSW Valuer General's response to the Inquiry, specifically addressing the issues outlined in Section 1 of the Terms of Reference and making recommendations with the regard to the matters listed in Section 2.

To assist the Committee and stakeholders, this submission also seeks to provide context for the review through a comprehensive overview of the NSW valuation system. In particular, the overview describes:

- An outline of rating and taxing valuation systems in other jurisdictions;
- The statutory obligations under the *Valuation of Land Act 1916* (the Act);
- The management of the NSW valuation system;
- The methodologies employed to determine valuations in NSW, and;
- Improvements that have been made to the system over the last 13 years.

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<sup>3</sup> NSW Parliament, Joint Standing Committee on the Office of the Valuer General, *Issues Paper – Inquiry into the Land Valuation System*, February 2013





### **3. Valuation of Land for Rating and Taxing Purposes**

Value based (i.e. ad valorem) property taxes have been a major source of revenue for governments since the beginning of civilization, having been used in Egypt, Babylon, Persia, and China and throughout the ancient world<sup>4</sup>.

Property valuations of various types are used as a mechanism for the distribution of property based taxes across jurisdictions not only in Australia, but also in the United States, the United Kingdom, Canada, New Zealand, South Africa, Ireland, Thailand, Vietnam, New Zealand, and many other countries. A recent, review into the valuation system in Queensland also found that “property taxation has a very long history of successful application,” and that “despite the various ways that it may be assessed...it enjoys...a simplicity, transparency and reliability.”<sup>5</sup>

### **4. Rating and Taxing Valuations in Australia**

The efficiency of using property values as a tax base for the states was highlighted in the *Inquiry into Changes in Land Tax in New South Wales (The Nile Inquiry)*<sup>6</sup> and also endorsed in the 2010 *Australia's Future Tax System Review (Henry Tax Review)*, which states:

*“Land has the potential to be an efficient tax base for the states capable of delivering significant and sustainable revenues. Land is an efficient tax base because it is immobile; unlike labour or capital, it cannot move to escape tax.”<sup>7</sup>*

The Henry Tax Review concluded that because of the clear efficiencies, well-structured taxes based on property should continue to be used to raise revenue and that “the future Australian tax system should increasingly rely on land values as a tax base.”<sup>8</sup>

Value based property taxes are significant sources of government revenue across Australia. Similarly, in New South Wales (NSW) land tax generates approximately 11.2% of total government revenue<sup>9</sup> highlighting it as a significant source of funding. As such, the property valuations underpinning the determination of land based taxes and rates are the subject of considerable community and stakeholder interest and must be transparent, consistent, accurate and reliable.

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4 R H Carlson, “A Brief History of Property Tax”, *Fair & Equitable*, (February, 2005), p 3

5 Department of Environment and Resource Management, *Queensland Statutory Valuation Reform Review*, prepared by PriceWaterhouseCoopers (2010) p 14

6 NSW Parliament, General Purpose Standing Committee No.1 *Report on the Inquiry into Changes in Land Tax in New South Wales*, July 1998 p 4

7 Commonwealth Attorney General's Department, *Australia's Future Tax System: Report to the Treasurer*, December 2009, Chapter C Part 2, p 247

8 Ibid., p 264

9 Taxation Revenue, Australia 2010-11, Australian Bureau of Statistics website:

<http://www.abs.gov.au/AUSSTATS/abs@.nsf/DetailsPage/5506.02010-11?OpenDocument>, accessed 4 March 2013.





## 4.1 Valuation Legislation

Every state in Australia utilises property valuations of various types for rating and taxing purposes. Each state has legislation underpinning the valuation of land, as outlined in Table 1.

**TABLE 1 – Valuing Land – Legislation in Australia**

<b>New South Wales</b>	Valuation of Land Act 1916
<b>Victoria</b>	Valuation of Land Act 1960
<b>South Australia</b>	Valuation of Land Act 1971
<b>Western Australia</b>	Valuation of Land Act 1978
<b>Queensland</b>	Land Valuation Act 2010
<b>Tasmania</b>	Valuation of Land Act 2001
<b>ACT</b>	Valuation of Land Act 1960
<b>Northern Territory</b>	Valuation of Land Act 2012

The legislation in each state provides the framework for the valuation of land. Each has established the position of Valuer General as the authority responsible for these valuations and for the management of the overall valuation system. In this respect there is commonality in the overarching role of the Valuers General across Australia. This has, however, not always been the case.

On 1 May 2010 changes to the Victorian *Valuation of Land Act 1960* came into operation giving municipal councils the option to transfer to the Valuer General their responsibility for completing rating authority valuations and making the Valuer General the custodian of state-wide valuation data. This changed the Victorian valuation system to be more like the centralised systems prevalent in the other Australian jurisdictions, including NSW<sup>10</sup>. Victoria's Valuer General, Robert Marsh, described the changes as improving efficiency stating "Victoria's new approach will improve the efficiency of, and access to, rating authority valuations in Victoria."<sup>11</sup> Similarly, the Queensland *Land Valuation Act, 2010* reinstated the role of Valuer General to centrally coordinate the valuation system, and to ensure the independence of valuations made for rating and taxing purposes. This made Queensland consistent with NSW and the other Australian states<sup>12</sup>.

<sup>10</sup> The NSW Valuation system is discussed from Section 5

<sup>11</sup> Department of Sustainability and Environment, "Revaluation 2010 News," *Valuation Best Practice*, Edition 3, January 2010, p 1

<sup>12</sup> Department of Environment and Resource Management, *Queensland Statutory Valuation Reform Review*, prepared by PriceWaterhouseCoopers (2010) p 17



## **4.2 Bases of Valuation for Rating and Taxing Purposes**

There are three primary bases for the levying of property based rates and taxes, which have all been used in some form across Australia. These include the improved (capital) value of land, being the amount a property would likely be sold on the market; the annual value, based on the property's rental value; and the land (or site or unimproved) value, being the value of the property if assumed to be vacant.

### **4.2.1 Improved (Capital) Value**

Improved (or capital) value includes the values of the land and buildings. As the valuation reflects the property in the form it would be traded on the open market it is easily understood by landowners as there is little if any adjustment required to compare valuations to sales evidence. However, improved values are generally considered to tax the capital input and economic endeavour of the owner and it can be argued that this creates a level of disincentive for landowners to improve or maintain property to the highest and best use, given a higher valuation would result in a larger rating and taxing liability. As the Henry Tax Review identified, the "efficiency of council rates is likely to be reduced in councils that use improved values to assess the tax, as this discourages capital improvements."<sup>13</sup> Furthermore, there is significant investment required to establish and maintain consistent and reliable data on property improvements to support the valuation process.

### **4.2.2 Annual Value**

Annual values are based on rental returns for a property, and are generally regarded as providing similar rating and taxing outcomes as improved values.

### **4.2.3 Land Value**

Land value assesses the value of the land excluding any structures or improvements, but includes land improvements (such as drainage, filling and clearing). This is considered to minimise taxation on the owner's capital input and only reflects the underlying value of the land in its current state. Land value captures the increase in value from the range of activities that occur around the land, including investments in infrastructure and the growth of demand due to population increase and the consequential use changes or changes in land use patterns. However, the lack of evidence of vacant land sales in developed areas means that land values may not be readily understood by landowners.

### **4.2.4 Use of Valuation Bases for Rating and Taxing in Australia**

Table 2 compares the valuation bases used for council rating and land tax across Australia. It illustrates that while valuation bases for council rating vary, all jurisdictions across Australia use some form of land value basis to determine land tax liabilities.

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<sup>13</sup> Commonwealth Attorney General's Department, *Australia's Future Tax System: Report to the Treasurer*, December 2009, Chapter C Part 2, p 258



**TABLE 2 – Valuation Bases for Council Rates and Land Tax – Australia<sup>14</sup>**

	NSW	VIC	QLD	WA	SA	TAS	NT	ACT
Council Rates	LV	SV, NAV, CIV	Rural : UV Non-rural: SV	Rural: UV Non-rural: GRV	CV,SV, AV	LV,CV,AVV	UCV, AV, ICV	UV
Land Tax	LV	SV	SV	UV	SV	LV	N/A	UV

**Notes:**

**Bases Excluding Improvements**

LV = Land Value

UCV = Unimproved Capital Value

UV = Unimproved Value

SV = Site Value

**Bases Including Improvements**

CV = Capital Value

CIV = Capital Improved Value

ICV = Improved Capital Value

**Bases Including Improvements (Rental Value)**

AV = Annual Value

AAV = Assessed Annual Value

GRV = Gross Rental Value

NAV = Net Annual Value

The valuation bases used for levying land tax in each jurisdiction are largely similar. Land Value, Site Value and Unimproved Capital Value follow the same concept of valuing land in terms of assuming improvements, other than those made to the actual land itself, had not been made.

Valuation bases used for council rating purposes are more varied. As an example, the state of Victoria utilises Capital Value (value of the land including the improvements), Net Annual Value (rental value of the property) as well as Site Value, depending on the type of property being valued.

### 4.3 Valuation Approach – Mass Valuation

As the numbers of properties and the frequency of revaluations have increased over time, traditional methods of valuation, where all properties are individually valued, have become impractical, inefficient and uneconomic, largely due to the number of professional valuers required to administer such a system. To realise cost efficiencies, it has been necessary to “stretch one valuer and find ways of extending a single valuation decision to all properties with similar characteristics.”<sup>15</sup> This has led to the increased application of mass valuation techniques throughout the world and in every state in Australia, particularly for valuations made for rating and taxing purposes. Mass valuation processes are based on the systematic valuation of large groups of properties using standardised procedures<sup>16</sup>. The increased application of mass valuation has been supported by the improved availability, accessibility and sophistication of information technology.

It is important to note that mass valuation methodologies rely on a degree of homogeneity in the properties being valued and are not appropriate in all circumstances or for all property

<sup>14</sup> Commonwealth Attorney General's Department, *Australia's Future Tax System: Report to the Treasurer*, December 2009, Chapter C Part 2, p 258

<sup>15</sup> J N Shonk, “Mass Appraisal Techniques”, 1982, *The Valuer*, Vol 27 No.4, p 358

<sup>16</sup> T Kauko & M d'Amato, “Mass Appraisal Methods – An International Perspective for Property Valuers”, Blackwell Publishing (2008), p 2



types. Consequently valuers must consider the most suitable methodology to use in determining valuations.

Mass valuation, in conjunction with strong quality assurance measures and individual assessments, has proven to provide an efficient and effective rating base in NSW and many other jurisdictions around the world.

## **5. NSW Valuation System**

NSW has a long established rating and taxing valuation system and is regarded as a leader in the field within Australia. The NSW Valuer General has received numerous visits from international authorities interested in the New South Wales valuation system, with delegations visiting from over 12 nations across Asia, Europe, Africa, North and South America, and the Pacific, in recent years. Delegations have also been received from other Australian jurisdictions, including Queensland and South Australia. A review into the Queensland *Valuation of Land Act 1944*<sup>17</sup> conducted in 2010 considered that “the New South Wales system...represents something of a benchmark for Queensland and indeed for other states,”<sup>18</sup> demonstrating the position of NSW as a leading authority in rating and taxing valuations.

### **5.1 Previous Reviews into the New South Wales Valuation System**

Over the past 15 years there have been a number of reviews conducted into the NSW valuation system and the land based rating and taxing system.

These reviews include:

- General Purpose Standing Committee No.1 – Report on the Inquiry into Changes in Land Tax in New South Wales, July 1998 (the “Nile Inquiry”)
- NSW Government – Report of Inquiry into Operation of Valuation of Land Act, Julie Walton, October 1999 (the “Walton Report 1999”)
- DeloitteToucheTohmatsu – Review of Competitive Tendering for Mass Valuation Services (Final Report, 2001)
- NSW Government – Inquiry into Operation of Valuation of Land Act: Supplementary Report, Julie Walton, June 2003 (the “Supplementary Walton Report 2003”)
- NSW Ombudsman – Improving the Quality of Land Valuations Issued by the Valuer General, October 2005 (the “Ombudsman’s Inquiry 2005”)
- Independent Pricing and Regulatory Tribunal (IPART) – Price Review of Rating Valuation Services Provided by the Valuer General to Local Government, July 2008
- Joint Standing Committee on the Office of the Valuer General – Inquiry into the Provisions of the Valuation of Land Act 1916, 2010

These reviews prompted a range of initiatives aimed at improving the valuation system, particularly in the areas of valuation quality and reliability, and the processes to handle concerns and complaints raised by landowners.

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<sup>17</sup> Queensland’s Valuation of Land Act 1944 was replaced with the Land Valuation Act 2010

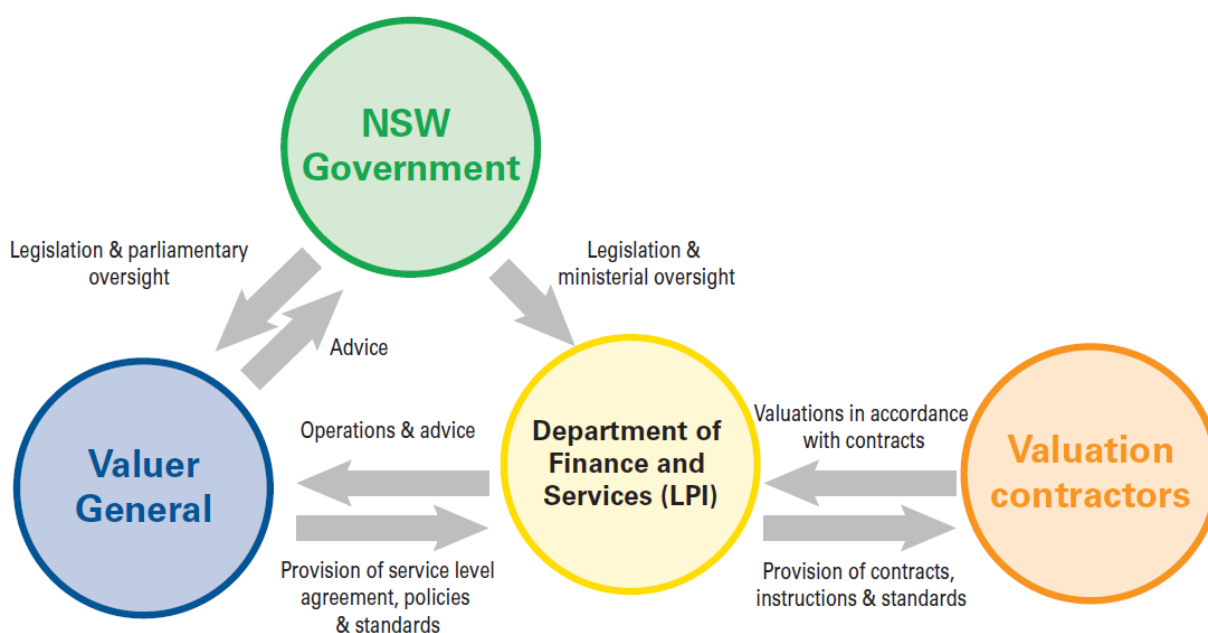
<sup>18</sup> Department of Environment and Resource Management, *Queensland Statutory Valuation Reform Review*, prepared by PriceWaterhouseCoopers (2010) p 16

Findings, recommendations and comments from the final reports of these reviews and inquiries have been referenced throughout this document.

## 5.2 Governance Framework

Figure 1 below illustrates the governance and relationships between the government, the Valuer General, Land and Property Information (LPI) and Contract Valuers. The individual roles within this framework are described in more detail below.

**FIGURE 1 – Governance Framework**



### 5.2.1 Valuation of Land Act 1916

The Act is the oldest valuation statute in Australia, and was introduced to provide for consistent, reliable and independent valuations for the purposes of levying rates and taxes in NSW. Prior to the Act, there was no uniform valuation system for rating and taxing purposes. Valuations were conducted by individual rating and taxing authorities, with the result that different values were sometimes placed on the same property. It was considered that “these valuations were unsoundly based and showed a tendency to fluctuate according to their purpose.”<sup>19</sup> The introduction of the Act sought to rectify these inequities and inconsistencies by providing for a uniform valuation system.

### 5.2.2 Role of the New South Wales Valuer General

The statutory position of the Valuer General was established by the Act to ensure independence from rating and taxing authorities and to create a single point from which all

<sup>19</sup> Parliament of New South Wales, *Report by the Committee of Inquiry on Certain Matters Arising under the Valuation of Land Act 1916-1951*, September 1960, p 6



*Submission by the NSW Valuer General*

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rating and taxing authorities could obtain valuations. Independence was considered to be critical as “the true value can only be achieved by having one centre of valuation. To get that it is necessary to ensure the independence of the valuer.”<sup>20</sup>

The NSW Valuer General is appointed by the Governor of New South Wales and is accountable to both Houses of Parliament. This is to ensure the independence of the Valuer General as the institution “can have no interest in anything except a fair valuation.”<sup>21</sup> The Valuer General is overseen by the Joint Standing Committee on the Office of the Valuer General and reports on administrative matters to the Director General for Finance and Services. A specialist advisory group consisting of representatives from valuation industry groups and stakeholders provides advice to the Valuer General on the application of mass valuation techniques and general valuation matters.

The overarching role of the NSW Valuer General is to have general administration of the Act, which includes management of the valuation system, and ensuring the integrity of the land valuations made. The specific functions of the Valuer General outlined in the Act include:

- Maintaining the Register of Land Values
- Making valuations of land under the Act
- Entering these valuations on the Register of Land Values
- Dealing with objections and appeals against valuations under this Act.
- Entering into, managing and monitoring valuation service contracts

Section 8(5) of the Act authorises the Valuer General to delegate any of their functions outlined in the Act.

The independence and governance provided by the Valuer General is considered to be fundamental to the establishment and maintenance of a fair and equitable valuation system.

### **5.2.3 Role of Land and Property Information**

Currently, the Valuer General delegates the operational functions of the Act and the overall management of the valuation system to LPI. LPI is a self-funded division of the Department of Finance and Services that provides comprehensive land information and administration services in the areas of land titling, surveying and mapping, and valuation services for New South Wales.

The Valuer General delegates operational functions to LPI including:

- Contracting valuation services from independent, professionally qualified valuers
- Issuing land valuations to relevant stakeholders
- Managing public communications
- Managing the determination of objections to valuations
- Managing appeals against valuations
- Maintaining the Register of Land Values

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<sup>20</sup> Arthur Griffith, Second Reading Speech, cited *Report by the Committee of Inquiry on certain matters arising under the Valuation of Land Act 1916-1951*, September 1960, p 6.

<sup>21</sup> Ibid.



- Quality assuring valuations

The Valuer General regulates LPI's implementation of these functions to ensure compliance with the requirements of the Act as well as standards and policies set by the Valuer General. The services and performance standards that LPI is required to deliver are detailed in a Service Level Agreement (SLA) which is reviewed and updated by the Valuer General and LPI annually. Significant enhancements were made to the SLA recently that clarified the separation of responsibilities and accountabilities between LPI and the Valuer General, and established clearer performance goals in the identification and management of risks and issues within the valuation system.

This clear separation of accountabilities between the operational functions carried out by LPI and the regulatory functions carried out by the Valuer General benefits the NSW valuation system by providing an additional level of independence and integrity for all stakeholders.

This structure will need to be considered in the context of a Strategic Review announced on 3 November 2012 by the Minister for Finance and Services, to consider the viability of expanding LPI's services through investment from the private sector. The review will consider a model where the regulatory functions of LPI, including the position of the Valuer General, Surveyor General and Registrar General would remain within government, with the operational functions including titling, surveying and mapping and land valuations to be provided by a private operator under a contractual and regulatory framework. A report with recommendations to government is expected in the second half of 2013.

#### **5.2.4 Role of Contract Valuers**

Under delegation from the Valuer General, LPI outsources the provision of valuation services for rating and taxing purposes to independent and professional valuation contractors under procurement guidelines set by the NSW Government. Outsourcing the provision of valuation services enables LPI to focus on ensuring compliance of the valuations provided by contract valuers with the requirements of the Act and the standards set by the Valuer General.

Contract valuers are responsible for providing valuation recommendations and for conducting their own quality assurance of all valuation services to ensure these recommendations and reports provided to LPI are to the required standard and are provided by the agreed delivery date. Additionally, they are also required to report on all stages of the valuation process and to provide evidence of each of the steps, as required. There are currently 18 valuation firms servicing 36 contract areas across NSW under contract periods of three years, with two one-year extension options. Contract valuers independent of the initial rating and taxing valuation are also used in the objection process, as explained in *Section 5.10 Objection and Appeals Process* below.

In 2005, the NSW Ombudsman found that since the introduction of contestable valuation services contracts, "the cost of valuations has reduced in real terms."<sup>22</sup> Furthermore, with reference specifically to the use of contract valuers, IPART considered that "43% of the Valuer General's operating expenditure, which consists of competitively tendered valuations

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22 New South Wales Ombudsman, *Improving the Quality of Land Valuations issued by the Valuer General: A special report to Parliament under s31 and 26 of the Ombudsman Act 1974*, October, 2005, p iv



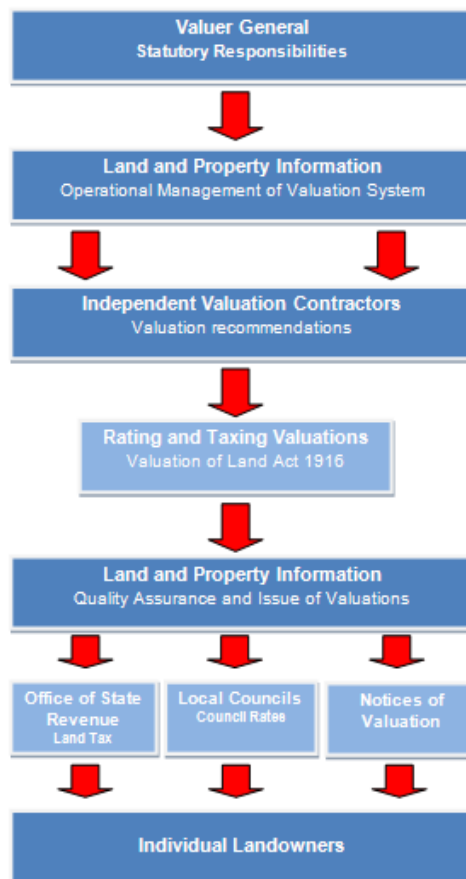
contracts, represents efficient costs.”<sup>23</sup> The view that competitively tendered valuation contracts represent an efficient cost was also supported by a key stakeholder, the Local Government Shires Association.<sup>24</sup>

The use of contract valuers is considered to offer a number of advantages to the valuation system by providing independence, access to expertise with local market knowledge, a spread of resources and cost savings to government on infrastructure and staff.

### 5.3 Valuation Framework

Figure 2 below provides an illustration of the framework for the management of the valuation system and of the valuation process in NSW, based on the roles and responsibilities outlined in *Section 5.2 Governance Framework*.

**FIGURE 2 – Valuation Framework**



<sup>23</sup> Independent Pricing and Regulatory Tribunal of New South Wales, *Price Review of Rating Valuation Services Provided by the Valuer General to Local Government*, p 15

<sup>24</sup> *Ibid.*, p 10





## **5.4 Basis of Valuations for Rating and Taxing Purposes in NSW**

Although the Act provides for the three bases of valuation outlined in *Section 4.2 Bases of Valuation for Rating and Taxing Purposes*, NSW currently utilises only land value as the basis.

Use of improved and/or assessed annual values would require accurate and reliable data on property improvements. As these bases have not been used in NSW for over 30 years, this information has not been maintained within the valuation system for an extended period. Consequently a move to use these value bases would require substantial investment to source, collate and maintain built attribute data for all properties in the state. This information is not available in a comprehensive or complete record for all properties across NSW. While information may be available in some form through local councils or commercial organisations the bulk of this information is likely to be held in hard copy or in scanned images and is unlikely to be suitable for incorporation into modern databases and computerised valuation models. Furthermore as it would need to be obtained from a variety of sources, the level of accuracy and consistency would likely be uncertain.

The land, assumed to be vacant, is valued at its “highest and best use”, Highest and best use assumes the value of the land takes into consideration the full potential that can be realised under the environmental planning instrument. Where the existing use of the land is higher than the permitted use, the existing use is considered in the valuation process. For example, if a property’s existing use is for high density residential in an area which currently allows construction of single residential homes, the existing use would be considered. The adoption of highest and best use as a core assumption in land value is economically efficient as it encourages urban renewal by providing incentive for landowners to develop vacant or underdeveloped land. It also improves the efficiency of the valuation process by only requiring the valuer to have a full understanding of the use and characteristics of individual properties where the use exceeds that permitted under the current planning scheme.

The use of land values as the basis of valuations in NSW has been considered to be the most appropriate and efficient method for providing valuations for rating and taxing purposes by various previous inquiries and reviews. NSW has developed a strong and robust methodology underpinning land values, which has been developed over a long period and has been accepted by the Ombudsman as a sound basis of valuation<sup>25</sup>.

## **5.5 Uses of Land Values in NSW**

In NSW, all land on the Register is valued under the Act on an annual basis. Land values are primarily used to determine land based rates and taxes. The Office of State Revenue uses land values to determine land tax liabilities on 31 December each year, raising approximately \$2.3 billion in 2011/12<sup>26</sup>. The Valuer General issues new land values to Local Councils every three to four years for council rates, and provides landowners in those Local Government Areas with a Notice of Valuation informing them of their new land value. Local Councils use land values to assist in the calculation of rate liabilities for local residents of nearly \$3.3 billion per annum.

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25 New South Wales Ombudsman, *Improving the Quality of Land Valuations issued by the Valuer General: A special report to Parliament under s31 and 26 of the Ombudsman Act 1974*, October, 2005, p ii

26 Department of Finance and Services Annual Report 2011/12



Land values in New South Wales also have secondary uses, such as:

- Assisting the determination of Commonwealth grants to state and Local Government
- Setting rentals for government owned property
- Establishing contributions to fire brigades cost by local councils

The Register of Land Values is a substantial NSW Government asset. It is considered that the public value of this asset may be maximised by providing access to the information contained in the Register for a wider range of purposes.

### **5.5.1 Land Value as an Equitable Base for Rates and Taxes**

Land value is considered to be an equitable base for rates and taxes as it minimises taxation on the owner's capital input while capturing the increase in value contributed by society from the range of activities that occur around the land. Furthermore there is a view that the value of land is a proxy for the capacity of the owner to pay rates and taxes because wealthier people tend to own more valuable land.

An alternate view is that the land value does not necessarily reflect the individual's wealth or ability to pay. For example wealthy owners of high valued strata units which may have a minimal land value but a substantial market value or low wealth individuals that are long-term owners of properties in areas that have experienced substantial increases in value over the years.

## **5.6 The Valuation Process**

The Act does not prescribe the methodology to be used in the valuation of land, but rather is focussed on valuation outcomes producing land values representing the market value to provide the basis for rating and taxing. This encourages greater flexibility in the method of valuation, allowing for changes in technologies and adoption of best practice valuation techniques. It also allows the valuer to apply the most suitable method of valuation for the property or land use. Irrespective of the methodology used, the overriding requirement is that each land value must be capable of being individually tested and supported against the available market evidence.

### **5.6.1 The Component Method of Mass Valuation**

Most of the 2.4 million properties in NSW are valued annually using the component method of mass valuation, where properties are valued in groups called components. The properties in each component are similar to each other or are expected to reflect changes in value in a similar way. Similar constructs, often known as sub-market groups or sales groups are used in mass valuation systems around the world.

Each component contains at least one benchmark property, which is representative of the range of properties within the component and is individually valued as at 1 July each year (also known as the "base date"), providing a base for which valuations should be made to enable accurate year on year comparisons. The rate of change between this valuation and the valuation made for the previous year is then applied to the majority of properties in the component. This multiplier is also known as the component factor.



Additional reference properties from different value quartiles within the component are also individually valued to check the reliability of the valuations based on the component factor arrived at from the benchmark valuation.

Mass valuation systems similar to the component method are utilised in many jurisdictions and are considered to provide accurate valuations for rating and taxing if used in conjunction with strong quality assurance measures, ongoing verification, and individual valuations where required.

### **5.6.2 Individually Determined Land Values**

Land values may need to be individually determined by valuers. This process is utilised to ensure that consistency and accuracy is maintained within a component and to ensure that all values are supported by the market evidence.

Land values may need to be individually determined for the following reasons:

- Not all properties are suitable to be valued using mass valuation methods
- Anomalies in the value base identified in the objection process and other quality assurance reviews
- The characteristics of some properties may change over time.

### **5.6.3 Valuation of Strata Properties**

When valuing strata properties, the Valuer General determines the land value for the site of a strata scheme. The land value for individual strata units for council rating and land tax purposes is calculated using the land value for the whole site, which is apportioned based on the unit entitlement listed in the strata plan.

### **5.6.4 The Significance of Sales Analysis**

A valuer's task is primarily to answer the hypothetical question "if this property were taken to market, what price would it fetch?"<sup>27</sup> The analysis of market evidence is central to this question and is a vital foundation of the component method of mass valuation. During the valuation process, valuers analyse sales that assist in establishing or verifying land values as at 1 July each year. Where necessary, sales transacted at dates removed from 1 July are analysed and adjusted to reflect their value at 1 July.

When comparing property sales to the land being valued, valuers consider factors such as:

- The location of and access to the land
- Constraints on use such as zoning, heritage restrictions or contamination
- Land size, shape and topographic features, such as slope and soil type
- Nearby development and infrastructure
- Views
- The highest and best use of the land

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<sup>27</sup> Whipple, R T M, "Property Valuation and Analysis", 2nd Edition, Lawbook Co, 2008 p 62



Valuers must analyse sales of both vacant land and improved properties as part of this process. As sales of vacant land are relatively uncommon in many areas, considerable reliance is placed on sales of improved properties, which require analysis to deduce the value of the land.

Approximately 30% of all sales are analysed by contract valuers each year. However, it is a requirement that all relevant sales relating to business, industrial and broad acre rural properties be analysed. LPI monitors the breadth of sales analysed and audits the sales analysis process undertaken by contract valuers to ensure compliance with contractual requirements.

It is important to note that there is always an element of uncertainty in valuations<sup>28</sup>. Market outcomes for properties of a similar nature are not always consistent, whereby, due to various factors, "the same price outcome between different participants is never attained."<sup>29</sup> Therefore, it "follows that the best a valuer can do is estimate price as falling within a range of possible outcomes."<sup>30</sup> Land values are required to be within this market range.

## **5.7 Compliance with Recognised Professional Standards**

All valuers undertaking valuations for the purposes of the Act must be qualified, registered and suitably experienced to conduct the valuations in accordance with guidance notes and the *Australian and New Zealand Valuation and Property Standards (ANZVPS)*, established by the Australian Property Institute (API) and the Property Institute of New Zealand (PINZ).

## **5.8 Quality Assurance of Land Values**

A number of quality assurance measures and tools are used by LPI to identify anomalies in land values and ensure quality and accuracy of valuation outcomes. These measures include individually reviewing land values, the use of internationally recognised statistical tests, structured audits of processes and outcomes and the use of spatial imagery.

### **5.8.1 Individual Review and Verification of Land Values and Components**

The Ombudsman identified that the integrity of valuations made using the component method of mass valuation is based on the correct allocation of properties into homogenous components and the appropriate selection of benchmark properties<sup>31</sup>. The Ombudsman highlighted that it was international best practice for individual properties to be "physically reviewed and re-valued" every 6 years, to ensure the base line valuation data used to inform the land value of each property is accurate and up-to-date<sup>32</sup>.

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<sup>28</sup> Whipple, R T M, "Property Valuation and Analysis", 2nd Edition, Lawbook Co, 2008 p 62

<sup>29</sup> Ibid, p 72

<sup>30</sup> Ibid.

<sup>31</sup> New South Wales Ombudsman, *Improving the Quality of Land Valuations issued by the Valuer General: A special report to Parliament under s31 and 26 of the Ombudsman Act 1974*, October, 2005, p v

<sup>32</sup> Ibid., p 70



In response, the Valuer General implemented a systematic program known as verification to individually review all land values and the information supporting that land value. The principal objective of this process is to 're-set' the base line valuation data used to inform valuations to ensure that valuation outcomes are of as high quality as can reasonably be achieved. The program initially required valuation contractors to review the structure and description of all components and to individually verify all values within their contract area(s), over a 5 year period. All verifications must be made with an understanding of the physical and market factors that influence the value.

From March 2012 the program was enhanced to consider the complexity and nature of each property on the basis of high, moderate and low risk. High risk properties, such as mines, shopping centres and contaminated properties, require annual verification; moderate risk properties, such as heritage properties and rural properties are to be verified every 3 years; and low risk properties, such as residential properties, every 6 years. This provides for frequent review of individual land values and components for the more complex and contentious valuations. Ongoing verification, particularly of high risk properties should lead to improved quality of the land valuations in the Register.

### **5.8.2 Statistical Measures**

The Valuer General has engaged the University of Western Sydney to provide ongoing reporting, training in, and development of, statistical tests to provide independent, system wide quality assurance. These tests are commonly used internationally and follow Australian and New Zealand valuation standards, measuring the accuracy and consistency of the valuations within a particular area, and highlight the areas that require investigation. The three primary statistical standards have been summarised in Table 3.

**TABLE 3 – Three Primary Statistical Tests in NSW**

<b>Statistical Standard</b>	<b>Purpose</b>	<b>Target</b>
Coefficient of Dispersion (COD)	The COD is used to measure the uniformity of land values relative to prices. Therefore if value levels are inconsistent the variation between those values and the sales evidence used will be outside the required parameter.	<10% (Residential zones)  <15% (Business, Industrial and Rural zones)
Mean Value Price ratio (MVP)	The MVP is the relationship between the land values and the analysed sales. It gives an overall figure showing how close the land values are to the sales used.	90% - 100%
Price Related Differential (PRD)	The PRD measures the vertical equity of valuations, i.e. the extent to which high and low valued properties are assessed uniformly relative to sales data	0.98 – 1.03



The University's involvement has led to the increased understanding and application of statistical measures of valuation quality across the system. Use of these statistical standards, widely used and accepted by rating jurisdictions around the world, has led to continual improvement in valuation quality with compliance to the standards increasing substantially since 2007, as illustrated in Figure 3.

**FIGURE 3 – (%) Percentage of Local Government Areas Meeting All Three Primary Statistical Tests (Residential Properties)**

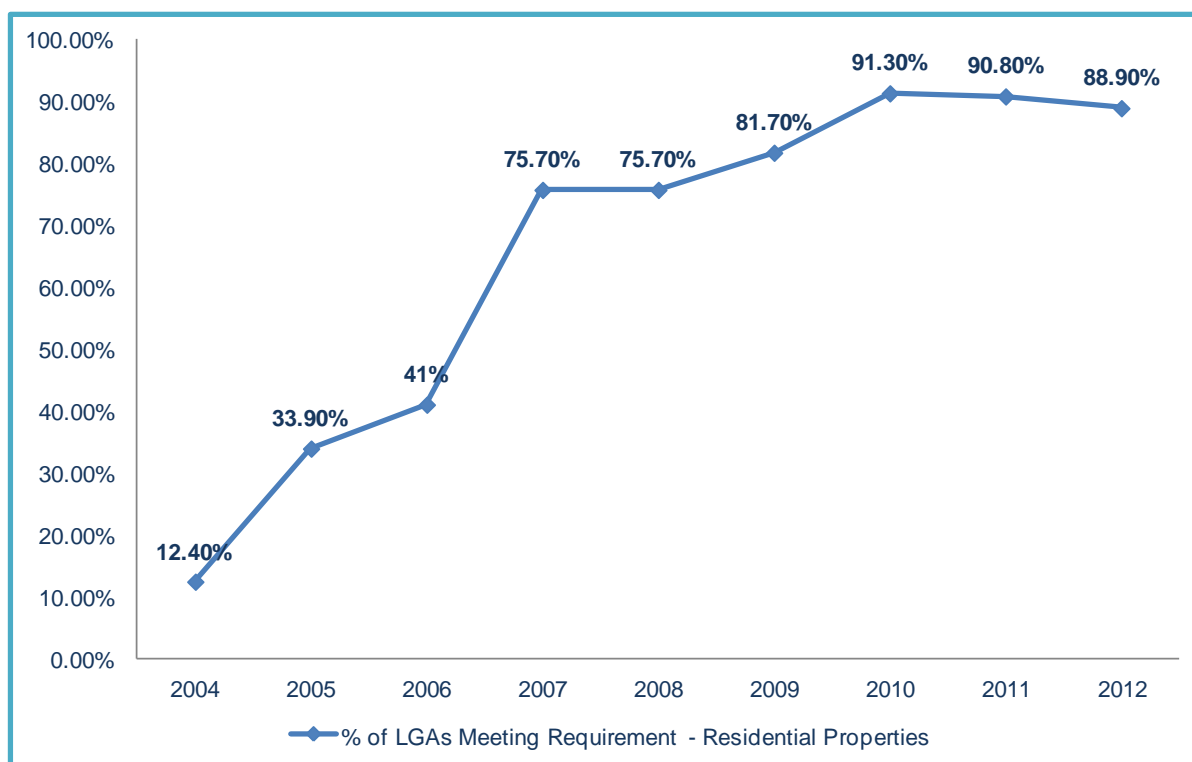


Figure 3 also shows that statistical standards are not met in all local government areas. Failure to meet a statistical requirement may occur due to the limited availability of the relevant data from which a complete statistical analysis can be made, such as a lack of sales in a particular area. Where statistical requirements are not met, the contract valuer is required to explain the alternative processes used to ensure the accuracy of the valuations.

In addition to these three primary statistical measures, LPI utilises a number of other system driven quality assurance tools, known as Valuation Analysis Tools, to highlight significant amendments to land values and any inconsistencies in valuation outcomes prior to their finalisation in the Register of Land Values.

### **5.8.3 Structured Quality Assurance Program**

Section 13F of the Act requires the Valuer General to monitor the standard of valuation services provided under valuation service contracts. This function is currently delegated to LPI which carries out this function through a structured program of auditing land values, valuation objection reports and contract valuer processes. These audits monitor compliance



with contract terms and the Act as well as helping to identify best practise for incorporation in documented procedures and instructions. Contract valuers are provided an opportunity to explain apparent anomalies in land value recommendations or process flaws. As an example, valuations provided by contract valuers are quality assured prior to their acceptance on the Register of Land Values.

#### **5.8.4 Quality Assurance Conducted by Contract Valuers**

Contract valuers have an obligation to quality assure land values made under the Act prior to them being provided to LPI. A report must be provided to LPI detailing the quality assurance undertaken before the final valuation recommendations can be accepted. This report is to contain:

- Evidence that the required statistical checks have been performed and considered
- A signed "Quality Statement", confirming the full extent of quality assurance performed by the contractor
- Explanation of any other quality assurance measures undertaken
- Explanation of any instances where standards have not been met, and the implications this may have on valuation quality

#### **5.8.5 Monitoring Performance of Contract Valuers**

In addition to the above, LPI monitors and supports the performance of contract valuers by:

- Requiring contractors to develop and provide comprehensive project plans outlining the resource requirements and the valuation methodology to be used
- Monitoring performance through formal monthly reporting requirements, with outcomes measured against project plans and contract deliverables and reported in a "scorecard"
- Formally recording all non-compliance issues in "issues registers" which form part of the considerations in tender evaluation
- Providing ongoing guidance to contract valuers through technical instructions and regular liaison to work through developing issues

LPI has also strengthened contract provisions to hold contract valuers more directly accountable for their performance. These measures help ensure the quality of valuations before their issue to landowners and rating and taxing authorities.

#### **5.8.6 Use of Mapping Applications**

LPI maintains a custom built mapping application providing a spatial representation of valuation and property information (such as sales data) contained in the Register of Land Values. The application enables valuation data to be queried, displayed on a map, and represented thematically as well as being linked to high resolution imagery. It is used by contract valuers to assist in the valuation process and provides LPI with an effective quality assurance tool to identify potential valuation errors or inconsistencies, significantly benefiting the quality of valuation outcomes. The application's reliability as a quality assurance tool is maintained through frequent updates of new data sets and layers of spatial information such as NSW state planning information.



## **5.9 Efficiency of NSW Valuation Process**

The use of mass valuation has enabled the annual valuation of all properties on the Register of Land Values at a reasonable cost. In December 2007, IPART conducted an investigation into the pricing for rating and taxing valuation services provided to local councils by the Valuer General. Through this review, IPART considered the operating expenses associated with the provision of valuation services and determined that these were provided cost effectively<sup>33</sup>. Efficiency has been maintained over the four years since this determination, with costs associated with the provision of valuation services increasing by approximately 1.013% between 2007/08 and 2011/12.

This is further supported by the results of the International Property Tax Institute (IPTI) benchmarking study which compared the cost of determining valuations for rating and taxing purposes. This study was conducted across a number of leading valuation jurisdictions around the world including England, Wales, various provinces of Canada, various jurisdictions of the United States, New Zealand, Hong Kong and most Australian states. KPMG analysed the results of the IPTI study and concluded that New South Wales is a cost effective valuation provider<sup>34</sup>.

## **5.10 Objections and Appeals Process**

Part 3 of the Act provides landowners with the right to object to valuations of their land. The objection process is central to the valuation system in NSW, enabling landowners who are dissatisfied with their land values to have them reviewed. Contract Valuers are required to review surrounding land values following successful objection decisions. Information collected in the objection process is then considered in the annual valuation process. Currently,

The valid grounds for objection are outlined in the Act, and include:

- The land value is too high or too low
- The area, dimensions or description of the land are not correctly stated
- The apportionment of the valuation is not correct
- Lands which should be included in one valuation have been valued separately
- Lands which should be valued separately have been included in one valuation
- The person named on the Notice is not the lessee or the owner of the land
- Concessions/allowances are incorrect

In lodging their objection, the landowner must indicate the ground(s) on which their objection is based, and provide evidence to support this objection. Objections are to be lodged within 60 days from the date of service of a Notice of Valuation or Land Tax Assessment.

If a landowner is not satisfied with the outcome of their objection, they are entitled to lodge an appeal to the Land and Environment Court within 60 days of the objection decision being made. The Court charges filing fees between \$291 – \$829 for individuals and \$582 – \$1658 for corporations<sup>35</sup> and each party is generally required to meet their own costs.

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<sup>33</sup> Independent Pricing and Regulatory Tribunal of New South Wales, *Price Review of Rating Valuation Services Provided by the Valuer General to Local Government*, p 16

<sup>34</sup> NSW Department of Lands, *Annual Report 2008/2009*, p 24

<sup>35</sup> Land and Environment Court website: <http://www.lec.lawlink.nsw.gov.au/lec/fees/feesschedule.html> accessed 5 March 2013





The 2005 Ombudsman Inquiry identified that the then objections process was subject to inconsistencies due to a lack of a “formalised and standardised objection procedure.”<sup>36</sup> Since 2005, LPI has addressed these concerns and significantly improved the objections program to make it more transparent and accessible for all landowners. Average objection turnaround times have improved dramatically as have customer service, access to and transparency of information.

### **5.10.1 Improved Transparency and Quality of Information**

The lack of transparency in how valuations were made and how objections were determined were the main areas of concern in both the Walton Report and the Ombudsman’s Inquiry. Following those inquiries and in consultation with stakeholders, in 2005 the Valuer General began a program of reforms to improve the transparency of the system through increasing the availability of information regarding the valuation process and the value of the landowner’s land.

Improvements included the establishment of a dedicated call centre to answer landowners’ queries and the provision of an “Objection Kit” to landowners on request or online. The kit consists of a detailed *Land Value Review Guide* which provides advice to landowners on how to lodge a valid objection and best practice examples to ensure that their concerns are addressed. An easy to follow objection form is provided which is pre-populated with the property and owner details. Sales information is also provided to landowners through the provision of a Valuation Sales Report which lists the sales that were analysed as part of the valuation process in that area.

Although there have been significant gains in improving transparency of the valuation system and the objection process, the Valuer General recognises there is scope to further improve the quality and accessibility of information to landowners. It has been identified that existing information for rural landholders should be enhanced to ensure the information and sales provided are more relevant to this type of property. It is also acknowledged that while landowners are able to easily access information regarding their land value and property sales relevant to their own value online, there may be benefit in making value and sales information about nearby properties available, potentially utilising spatial technology. It is however recognised that there is a commercial market for this type of data and the impact on industry if the Valuer General made this information freely available needs to be considered.

The transparency of the objection process has been further improved by the use of independent contract valuers in the land value review process and the issue of the valuer’s report to the landowner. A panel of independent valuation contractors was established to provide a pool of accredited valuers able to promptly and independently review objections. The procurement process provides work to a wide variety of suppliers and rewards good performance. A sample of these objection reviews are then audited by LPI to ensure quality.

The timeliness of the objection process has improved significantly since 2006 as a result of the implementation of a continuous improvement program dedicated to increasing the efficiency and effectiveness of the objection process. Figure 4 illustrates that the average

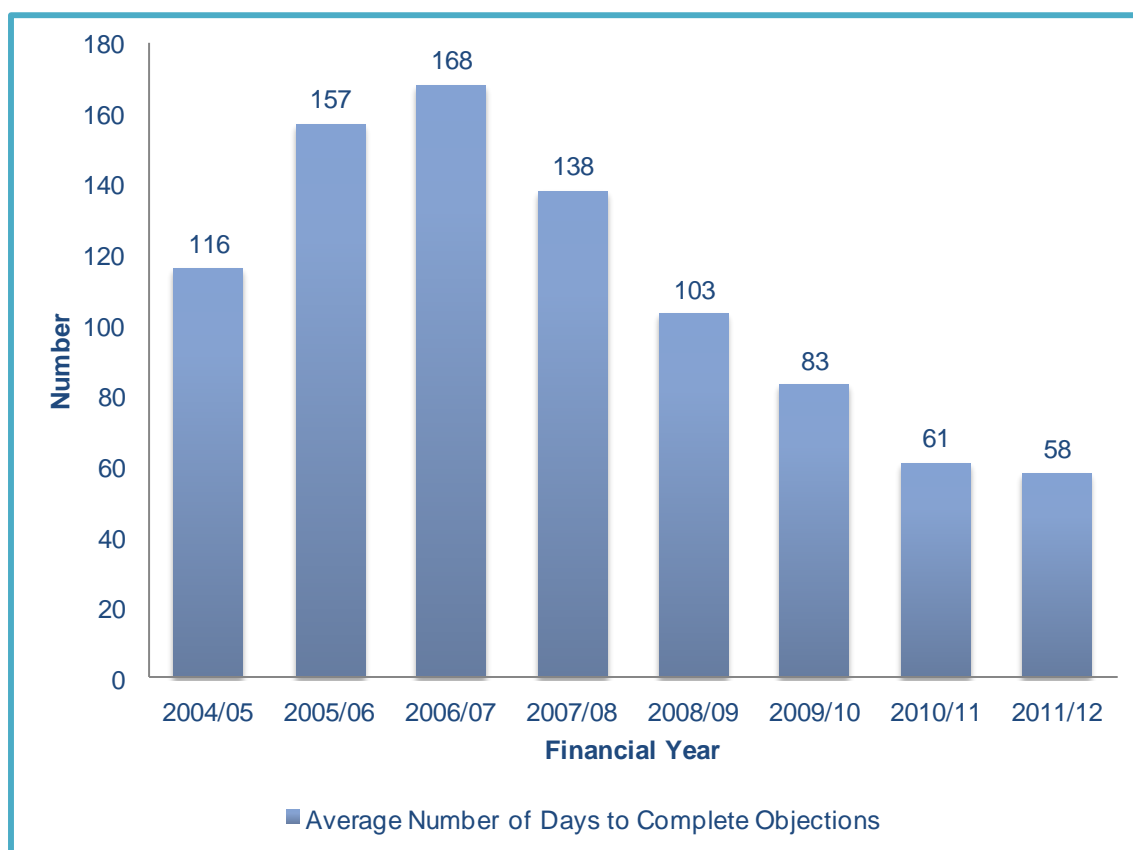
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36 New South Wales Ombudsman, *Improving the Quality of Land Valuations issued by the Valuer General: A special report to Parliament under s31 and 26 of the Ombudsman Act 1974*, October, 2005, pg 91



turnaround times for objections has reduced from an average of 169 days in 2006/2007 to 58 days in 2011/2012, comfortably within the SLA target of under 90 days.

**FIGURE 4 – Average Number of Days to Complete Objections**



The improved objection process was recognised in 2009 by the Australian Property Institute (API) in awarding the Department of Lands (of which LPI was then part) the Kemp Strang Property Industry Award. The judges stated:

*“A customer focussed approach to dealing with valuation objection reviews has provided substantial benefits for the wider community and property practitioners. The new approach has resulted in faster valuation objection processing times, improved quality and transparency, improved public confidence in the system and increased industry participation. The judges were impressed with the tangible results achieved in a relatively short period of time and believe the Department of Lands, in this project, has demonstrated leadership and vision.”*

While the objection process has been greatly enhanced, opportunities for improvement remain. The current process does not fully leverage the detailed local knowledge of the contract valuer that made the original valuations as the use of a range of valuers to review objections within a locality can lead to inconsistencies.

There are also some challenges remaining in the provision of sales information for more complex property types or where there are low volumes of transaction in a form that is clear



and useful for landowners who are not property experts. There is also a need for a simpler and more economic appeal mechanism for non-expert landowners who are not satisfied with an objection decision.

## **6. Continuous Improvement**

The NSW valuation system is regarded as one of the leading rating and taxing valuation systems in the world due to the technology utilised, strategic partnerships developed and business practices implemented. Continuous improvement has been fundamental to the Valuer General's approach with the ongoing development of information, quality assurance tools, technical instruction, information, education and training.

### **6.1 Strategic Partnerships**

In collaboration with LPI the Valuer General has a number of strategic partnerships with various stakeholders. The objective is to foster and maintain both formal and informal strategic partnerships that assist in the provision of quality valuation services and the development of a comprehensive regulatory system.

These partnerships include:

- **Land Value Advisory Group** - provides industry feedback and analysis related to rating and taxing matters and consist of members from the;
  - NSW Valuer General
  - Property Council of Australia
  - Real Estate Institute of NSW
  - Local Government and Shires Association
  - Australian Property Institute
  - Office of State Revenue (OSR)
- **Land Value Improvement Group** - a strategic planning group with representation from the Office of the Valuer General and LPI. The group's main function is to provide information and consider independent reviews and advice presented by Professor John Macfarlane of the University of Western Sydney.
- **OSR Liaison** - considers day to day operational process improvements and an Executive group which considers best practice and process improvements including legislation at a high level.
- **Local Government Liaison** - LPI currently hold Memoranda of Understanding with the majority of Councils that establish the principles for a cooperative working relationship. Valuation service delivery specifications have been developed and negotiations are continuing for their adoption by Councils. LPI maintains good working relationships with councils, attending regular meetings, providing information and support on a daily basis, and advising Councils of significant value changes between revaluations. LPI is improving the information it provides to councils through the recent introductions of a process to inform them when appeals and significant objections are lodged against a property in the Local Government Area.
- **NSW Revenue Professionals** - an organisation for Local Government employees who are engaged in rating and revenue functions. The group was formed to improve technical and general knowledge on rating and revenue functions and to distribute



information amongst its members on matters affecting rating and revenue management. The group also promotes quality services to Local Government in NSW through the dissemination of best practice.

## **6.2 Complex Land Value Improvement Program**

In November 2011, LPI commenced to a program to address the incidence of valuation error in relation to land values for more complex property and land value types.

The Complex Land Value Improvement Program addresses high risk properties, such as contaminated lands, shopping centres, and lands valued under complex sections of the Act. Examples include valuations related to Crown lease restricted land, heritage restricted land, valuation of parcels that form part of a building site, valuations required to be valued under section 6A(2) of the Act, flood prone lands, soil degradation affected lands, sea level rise and coastal erosion liable lands, and lands for which the land value appears as an outlier.

The goal of this project is to provide better risk management of land values for these types of properties and better ensure that land values ascertained for complex property and land value types are fit for the purpose of rating and taxing.

The valuation of complex properties often requires access to sensitive information. Landowners, government agencies and industry groups have often been reluctant to provide this information directly to contract valuers. One initiative of the Complex Land Value Improvement Program has been to improve access to sensitive information by centralising the information gathering process. A recent example is the further development of the relationship between the Valuer General, LPI and the Shopping Centre Council to gain improved access to information regarding shopping centres prior to the valuation being made. It is expected that an outcome of this process will be to minimise the incidence of objections and appeals against these properties.

## **6.3 Parallel Valuation Project**

A program of parallel valuations overseen by the Land Value Advisory Group is undertaken each year. These parallel valuations are determined by independent valuers from the private sector and focus on the highest value complex properties such as those in Sydney Central Business District.

LPI also undertakes a range of parallel valuations throughout the state. Where variation outside the acceptable market range occurs, clarification and rationale to support the land value is sought from the contract valuer.

## **6.4 Management Assurance Framework (MAF)**

Following a review in 2012, LPI and the Valuer General are currently implementing an enhanced Management Assurance Framework (MAF), which will provide greater assurance of the services provided by LPI to the Valuer General.

Specific initiatives under the Framework include:

- More systematic review of strategic and operational level risk registers
- Correlation of risk treatment plans with audit recommendations



- Enhanced stakeholder management through, for example, a more systematic approach to contractor relationship management
- Enhanced risk management tools
- Formalised issue reporting

## **7. Volatility and Predictability of Land Values**

Questions regarding the volatility, accuracy and uniformity of valuations used for rating and taxing formed the basis of the 2005 Ombudsman's Inquiry. However, following its investigation, the Ombudsman found that "...the methodology employed to produce land valuations in New South Wales, the component system of mass valuation, was generally sound."<sup>37</sup>

Valuations are issued to councils and land owners for rating purposes every 3 to 4 years. When these new valuations are issued, there may be a perception of volatility in land value because of the movement in the market during the period that has elapsed since receiving the previous valuation. This change may be different to current perceptions of the real estate market.

The stability of land value levels in NSW is demonstrated by comparing movements in median land values with movements in median sales prices (including vacant and improved properties) and by the very low change to the total land value on the Register of Land Values as a result of amendments through objection or reascertainment. Stability of land values has a considerable impact on the ability for rating and taxing authorities to predict and anticipate revenues generated from rates and taxes.

The use of land values for rates and taxes results in less volatile valuations than the use of improved value or assessed annual values. This is because land value is an inherently more stable base due to the relatively unchanging nature of the underlying land compared to structural improvements, which are subject to ongoing change.

It is recognised, however, that although the Register remains stable overall, value volatility is experienced at an individual property level or in small groups of properties for a range of reasons. This causes concerns for individual landowners and rating and taxing authorities and so further efforts are required to minimise the potential and incidence of this volatility, so that land values remain reliable, consistent and predictable for stakeholders.

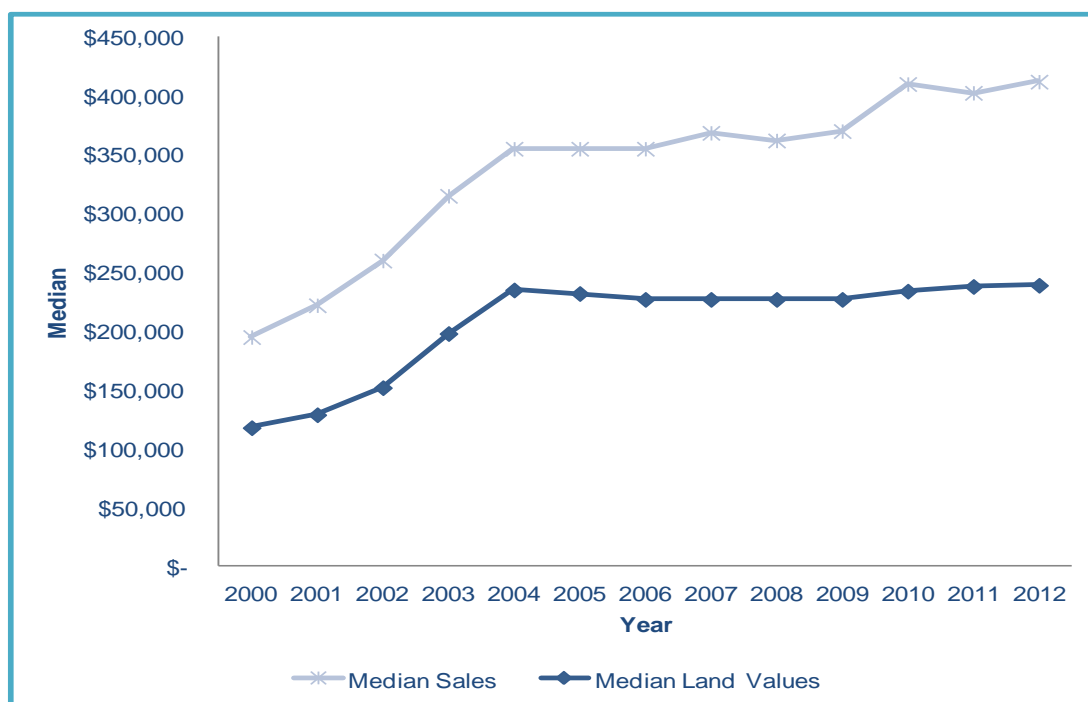
### **7.1 Volatility in the Market**

Sales evidence adjusted to 1 July of each year is paramount in determining land values using mass valuation techniques, such as the component method. Median land values for residential properties in NSW have generally moved consistently with residential median sale prices since the 1 July 2000, as shown in Figure 5.

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37 New South Wales Ombudsman, *Improving the Quality of Land Valuations issued by the Valuer General: A special report to Parliament under s31 and 26 of the Ombudsman Act 1974*, October, 2005, p ii

**FIGURE 5 – Median Residential Sales Prices Against Median Residential Land Values Whole of NSW Between 2000 and 2012**



The long term comparison of these two sets of data is useful given that the properties comprising median sale prices are a subset of the properties comprising the median land values. The median sale price for residential properties increased significantly between 2000 and 2004, with the median land values reflecting a similar movement. Between 2005 and 2012, median residential sales prices remained generally stable with a peak in 2010, which was not reflected by a similar movement in the median land values.

There are a number of factors that lead to fluctuations in the median sale price in the short term which are not reflected by similar movements in the median land value. As an example, an increase in the proportion of sales of high value properties leads to an increase in the median sale value. Median land values, however, are less impacted by these shifts between market sectors as all properties on the Register of Land Values are valued each year. This means that the proportional influence of different market sectors in the makeup of the median land values remains relatively constant. Increases in the median land value are more often a result of an overall increase in the market as a whole, leading to a general increase in the land value of properties on the Register.

## 7.2 Volatility of Land Values in the Register

Changes made to the land values contained in the Register provide a good indication of the overall stability of land values in NSW. Such changes would generally occur as a result of objections or appeals, or through the reascertainment process. Reascertainment is the process whereby land values are amended due to an error but no objection has been received. This could be due to a number of factors, such as:

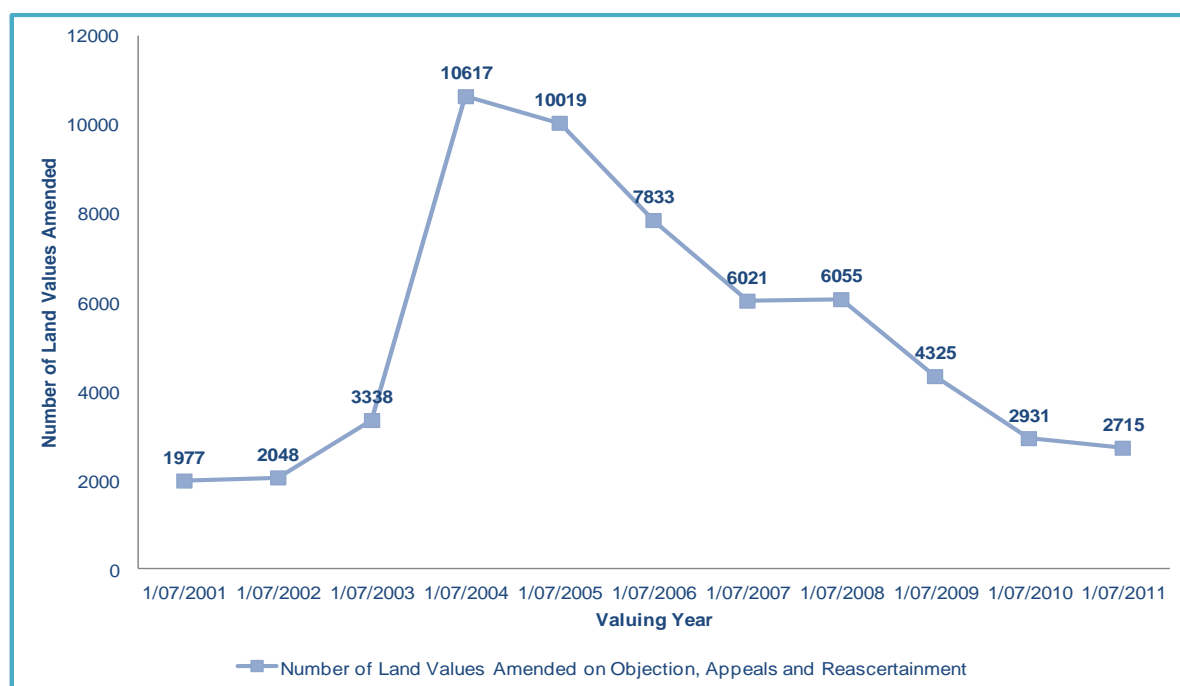
- Information not previously available at the time of making the initial valuation
- Identification of errors through LPI's quality assurance process
- Wider application of outcomes from the objections and appeals process

Once a land value has been reascertained, a fresh notice of valuation is issued to the landowner, and the same right to object applies.

Stability of the land values in the Register can be observed in terms of the total volume of land value changes as a result of objections, appeals and reascertainments, as well as the extent of the changes in the land values.

Figure 6 over demonstrates that the number of properties that were amended either on objection, appeal or reascertainment peaked in the 2004 and 2005 valuing years, representing 0.46% and 0.43% of the total number of properties on the Register, respectively.

**FIGURE 6 – Number of Land Values Amended on Objections, Appeals and Reascertainments**





The increase in the number of land values amended as at 1 July 2004 is partly attributable to a general increase in objection activity due. This increase in objection activity can be largely attributed to a combination of the removal in 1998 of a land tax exemption for owner-occupied properties over the value of \$1,000,000<sup>38</sup>, which prompted some landowners to object to values in protest at the tax, combined with a significant increase in the median sale price and median land value between 2000 and 2005, as shown in Figure 5. The land tax exemption for all principal places of residence was reintroduced in 2004, the real estate market began to stabilise from 2005 onwards and volumes of amendment to land values started to fall, as evidenced in Figure 6. This on-going trend can also be partly attributed to the improved quality of land values as more robust quality assurance processes implemented from 2005 took effect.

Table 4 summarises the impact these changes have had to the overall value of the Register.

**TABLE 4 – Impact of Changes to Register of Land Values by Valuing Year**

Valuing Year	Total No. of Properties on Register by Valuing Year	(\$ Total Land Value on Register before Amendments made in Valuing Year	(%) Change to Register due to Objections, Appeals or Reascertainties
1/07/2001	2181164	\$413,888,352,025	-0.0423%
1/07/2002	2225233	\$491,989,585,487	-0.0589%
1/07/2003	2255094	\$614,845,591,870	-0.1013%
1/07/2004	2285513	\$738,153,782,723	-0.1556%
1/07/2005	2313215	\$775,488,842,623	-0.2576%
1/07/2006	2341489	\$798,731,789,861	-0.1409%
1/07/2007	2369020	\$839,618,075,232	-0.1530%
1/07/2008	2396315	\$879,097,117,683	-0.1425%
1/07/2009	2418834	\$895,458,343,065	-0.1282%
1/07/2010	2439655	\$950,908,215,267	-0.0888%
1/07/2011	2459964	\$978,157,925,703	-0.0628%

As shown in Table 4, the overall change to the Register equates to an average of approximately 0.12% over the period between 2001 and 2011, indicating that amendments as a result of objections, appeals and reascertainties have had a minimal impact on the overall value of the Register. More recently, the average change in value of the Register for the valuing years from 2009 to 2011 was 0.093%. Even during the peak period the overall change to the Register compared favourably to other jurisdictions. The Canadian province of British Columbia, which has a target change of no more than 0.37% to its valuation roll<sup>39</sup> as

38 NSW Parliamentary Library Research Office, *Land Tax in New South Wales: Briefing Paper No 6/98* (1998), p 6

39 Valuation Roll is the equivalent of the NSW Register of Land Values





a Key Performance Indicator, had a change in 2011 of 0.36%<sup>40</sup>. Ontario reported 0.27% change to its valuation roll in the same period<sup>41</sup>.

As shown in Table 5, most changes as a result of objection, appeal or reascertainment are made to residential properties, which account for 56.25% of the total number of properties amended and 45.15% of the total value change.

**TABLE 5 – Land Values Amended by Zone Category between 1 July 2001 and 1 July 2011**

Zone Category	Total Land Values Amended in each Zone Category, as % of Total Number of Land Values Amended in all Zone Categories	Total Land Value Change in each Zone Category, as % of Total Land Value Change in all Zone Categories	Total Number of Properties on Register in 1/07/2011 Valuing Year, per Zone Category	Total Land Values Amended in each Zone Category, as % of Total Number of Land Values in each Zone on the Register in 1/07/2011 valuing year	Total Land Value Change in each Zone Category as % of the Total Land Value in each Zone Category - in 1/07/2011 valuing year
<b>Residential</b>	56.25%	45.15%	1890903	1.90%	-0.67%
<b>Business</b>	7.64%	12.91%	75515	6.46%	-1.75%
<b>Non-Urban (rural)</b>	20.96%	14.52%	280029	4.78%	-1.43%
<b>Industrial</b>	4.61%	14.81%	38673	7.62%	-4.17%
<b>Other</b>	10.55%	12.62%	174844	3.85%	-2.56%

These figures in table 5 indicate that residential properties are proportionally underrepresented in terms of both the volume and the extent of changes made to land values. This is not surprising as residential valuations are relatively straightforward and are of low value. Conversely valuations of other property types tend to be more complex and the values higher, increasing both the risk of valuation error and the incentive for the landowner to object to their valuation.

### **7.3 Volatility of Individual Valuations**

There are a number of reason why values may change from year to year or over time at levels not consistent with the general market movement of that property class. Individual properties and or localities may be subject to rezoning or changes to the environmental planning instrument that can have a significant impact on the development potential of land. Events like flooding, erosion and soil degradation or changes to surrounding development can also significantly alter the value of land.

40 BC Assessment, 2011 Annual Service Plan Report, p13 <http://www.bccassessment.ca/forms/Publications/2011%20Annual%20Report.pdf> accessed 12 March 2013

41 Municipal Property Assessment Corporation Annual Report 2011, p16 [http://www.mpac.on.ca/pdf/2011\\_Annual\\_Report.pdf](http://www.mpac.on.ca/pdf/2011_Annual_Report.pdf) accessed 12 March 2013.



Localised economic factors may also play a significant role in driving the volatility of individual or groups of valuations. For example, changes to the scale of mining operations has significant impacts on some regional towns with demand for real estate (and therefore prices and values) being substantially driven by the changing fortunes of local mining operations. Alternatively, at times there may be little or no comparable market evidence in a locality at the time valuations are being made. This may result in changes to valuation if relevant evidence becomes available after the determination of the initial valuations.

Contract valuers are required to use current information that accurately reflects the circumstances relevant to a property's land value at the date the valuation was made. At times this information may be updated between valuing years, resulting in changes to the land value of that property. As an example, satellite imagery and data sets from agencies such as the Office of the Environment and Heritage may be improved and updated between valuing years, causing land values to change. Alternatively, changes of circumstances such as new developments or changes to views may be identified through the verification process (as outlined in *Section 5.8.1 Individual Review and Verification of Land Values and Components*) which is designed to improve valuations by recognising current circumstances of a property.

Despite the introduction of significantly improved quality assurance measures, it is important to acknowledge that in the process of determining 2.4 million valuations annually, there will be instances where land values are found to be incorrect and require amendment. Valuation systems around the world benefit from objection processes as an additional quality assurance measure for the identification of changes to properties and other valuation drivers not identified in the mass valuation process. Landowners can bring potential inaccuracies with their land values to the Valuer General's attention so they can be individually reviewed, and inaccuracies corrected if appropriate. The implementation of improved quality assurance processes since 2005 has coincided with a decline in the number of changes made to land values, suggesting that valuation quality is improving.

Changes to land values made on objection are often the result of information not being made available at the time the initial valuations are made. Information relevant to the initial valuation process is at times not available to valuers, particularly where information is considered to be commercially sensitive or private in nature, such as tenancy schedules for Shopping Centres, reserves of a mine, or details in relation to a contaminated site. As a result, valuations of such properties may be made without the benefit of that knowledge, giving rise to potential inaccuracies and, therefore, larger amendments following objection. The complex nature of these types of properties also contributes to the difficulties associated with their valuation, leading to higher incidences of objections.

High value properties are often subject to higher objection and appeal rates as they incur more rates or land tax. A number of recent appeals relating to high value properties have been in relation to the technical interpretation of the Act, challenging long standing valuation practice. This has been exacerbated by the, at times, unclear wording of the Act which was originally drafted almost 100 years ago and has been subject to many amendments. Recent cases that have challenged long held interpretation of the Act, and resulted in decisions with significant value reductions include:



- In Adam Pty Ltd v Valuer General [2011] NSWLEC 55 (1 April 2011) in regard to the interpretation of heritage improvements
- New South Wales Golf Club v Valuer General New South Wales [2012] NSWLEC 137, in regard to the interpretation of Crown Land restricted lands

Improving the clarity of the Act by updating language, removing ambiguities and deleting redundant sections will likely assist in reducing this issue.

## **8. Review of Valuation of Land Act 1916**

While the existing valuation framework is relatively stable and the provisions of the Act largely support efficient and effective valuation outcomes, the Act is the oldest valuation statute in Australia that has not undergone a complete review. The following review of the Act highlights matters causing inefficiencies, inequities and complexities in the valuation system.

This submission makes recommendations relating to areas of the Act that require clarification, modernisation or enhancement, particularly in light of the increasing complexity of property markets and evolving requirements of landowners and rating and taxing authorities.

However, it is important to note that impacts on stakeholders and existing contractual arrangements will need to be considered and managed in the implementation of any changes to the Act. Reducing Inequities in the Valuation System

### **8.1.1 Alternate Appeals Process between Objection and Court Processes**

Although the Act provides for objection decisions to be appealed by the landowner to the Land and Environment Court, the Valuer General considers that this may be too onerous for the landowner, particularly in relation to the costs and time associated with making such an appeal. The Ombudsman's Inquiry found that "the costs involved mean there is little economic incentive to do this [lodge an appeal] unless the potential savings in land tax are substantial"<sup>42</sup>. It is recommended that an additional streamlined appeals process be established for less complex matters, such as objections against residential properties.

As an example, in Ontario Canada, appeals are made to the Assessment Review Board, an independent adjudicative tribunal whose main function is to hear appeals from people who believe that their properties had been incorrectly assessed or classified<sup>43</sup>. A decision of the Board may be appealed to Ontario's Superior Court of Justice, though only on a question of law.

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<sup>42</sup> New South Wales Ombudsman, *Improving the Quality of Land Valuations issued by the Valuer General: A special report to Parliament under s31 and 26 of the Ombudsman Act 1974*, October, 2005, p 72

<sup>43</sup> Assessment Review Board (ARB) website: <http://www.arb.gov.on.ca/english/AbouttheARB/abouttheARB.html> accessed 27 February 2013



### **8.1.2 Independence of Objection Decisions**

The Walton Report considered that there was a perceived lack of independence in the objection decision making process. Section 35B(2) of the Act was then amended to require 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.”

Since that time, there have been significant changes to the valuation system including many initiatives to improve the transparency, equity and independence of the objection process. This includes the use of independent contractors, detailed objection reports for landholders and a robust quality assurance process by LPI.

It is now considered that the requirements of section 35B(2) are inefficient and have the potential to reduce quality outcomes, as the valuers who have the greatest knowledge of land values in an area are not involved in the determination of the objection. This is consistent with the approach in all other Australian jurisdictions, New Zealand and in valuation systems across the world. Furthermore, the NSW Ombudsman stated in 2005 that the improvements made to the objection process had achieved sufficient independence and that the separation required by the Act was “an unrealistic and ... unnecessary requirement.”<sup>44</sup>

It is considered that this requirement is no longer necessary and that the independence and transparency of objection reviews can be adequately managed by the Valuer General and quality assurance processes. The introduction of an alternate appeals process as suggested in *Section 8.1.1 Alternate Appeals Process between the Objection and Court Processes* would further minimise the need of this requirement in the Act. While the Valuer General supports provisions being included in the Act which maintain the independence of the objection process, it is considered that these provisions need to be flexible and not be process based to ensure that the efficiency and effectiveness of the objection process is not unnecessarily compromised.

It is recommended that the requirement in section 35B(2) requiring 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” be removed. It is recognised that in implementing this proposal changes to existing independence and quality assurance processes will be required to ensure that objection determinations are of the appropriate standard and that conflicts of interest are appropriately managed.

### **8.1.3 Expanding Objection Rights**

The right to object to a land value issued by the Valuer General is defined in Section 29 of the Act. However, there are currently a number of situations where a person is affected by a land value, but has no right to object under the Act. The objection process is fundamental to the fairness of the valuation system, so the right to object to the value must ensure equitable access to all those that are impacted by the values. This will also be relevant where land values may be used by other agencies for a range of purposes in the future. It is not

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<sup>44</sup> New South Wales Ombudsman, *Improving the Quality of Land Valuations issued by the Valuer General: A special report to Parliament under s31 and 26 of the Ombudsman Act 1974*, October, 2005, p 77



*Submission by the NSW Valuer General*

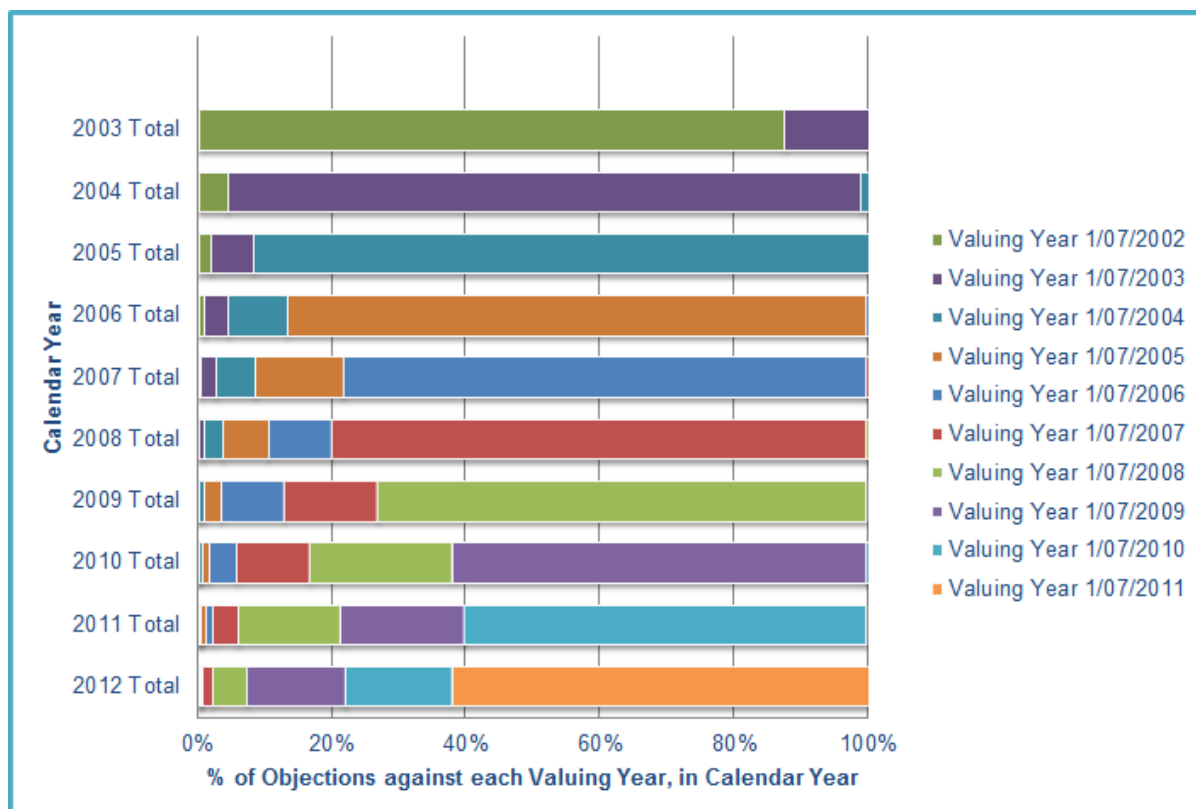
expected that these rights should extend to land values where they are used in bulk as part of an averaging calculation such as in the calculation of precinct rates for the determination of waterfront rentals.

It is recommended that consideration be given to extending the right to object to land values to anyone who is directly liable for the payment of any rate, tax or charge based on the land value of a property.

#### **8.1.4 Determination of Older Objections – Impact on Land Tax and Rating Base**

While section 29(3A) specifically gives a person who has received a notice of valuation the right to object to that valuation, the Act does not specifically provide the same right to the recipient of a land tax assessment. However, section 35 requires that an objection must be lodged within 60 days of the service of a notice of valuation or a land tax assessment. This has been interpreted as providing a right of objection to a valuation included on a land tax assessment which, as assessments are based on the average of the last three values, provides the opportunity to object to up to three valuations. Figure 7 demonstrates that the proportion of objection to prior years' values has increased significantly since the implementation of the averaging of land values for land tax purposes in 2007.

**FIGURE 7 – Objections against Valuing Year, Registered per Calendar Year**





As prior years' values that are objected to may be used for council rating and be well outside the normal time for lodging objections to those values, this can cause problems for local councils if land values are changed on objection or appeal. While section 35AA imposes special restrictions on objections to land tax valuations to prevent multiple objections against the same land value it does not address this impact on local councils where their rating base may be unsettled well after the issue of that series of valuations to the council.

The Valuer General has undertaken an informal survey of all Australian jurisdictions as well as New Zealand, Hong Kong, England, Wales, British Columbia, Ontario and Northern Ireland. Of these only Western Australia and Northern Ireland offer multiple opportunities to object to a valuation indicating that most western jurisdictions recognise the importance to principal rating and taxing authorities of ensuring the stability of the revenue base for rating and taxing purposes is confirmed as promptly as possible.

It is recommended that consideration be given to addressing concerns of local councils and others on the stability and predictability of the rating and taxing base to limit the number of opportunities that landowners have to object to the same land value issued for council rating or land tax purposes. This may be achieved by allowing landowners to only object once, when the land value is issued for the first time.

As an example, a landowner may have received a notice of valuation three years ago (and have had the opportunity to consider objecting on a number of occasions but has not). Then if the landowner decides to lodge an objection where the land value is reviewed, and adjusted as a result, this effectively means that the council will have to refund three years rates, which provides instability in council's rating revenue. This has an adverse effect on the predictability of the rating and taxing revenue base for Local Councils and the Office of State Revenue, as there is no certainty in when adjustments could be made to land values.

Consideration could be given to legislating to allow land owners to only object once, when the land value is issued for the first time. An alternate option would be to allow landowners to object only once when either a notice of valuation or land tax assessment is issued. The exception would be where the land value is issued a second time for a different purpose and new evidence is provided to support the landowner's contention for a change in value

### **8.1.5 Impact of Amendments to the Register on Rates and Taxes**

Provisions of the Act that allow amendments to land values on the Register, particularly regarding how they are applied by rating and taxing authorities are unclear. Section 62(2) of the Act requires that the amount of rates or taxes payable will not be affected by alterations to land values made other than as a reascertainment under section 14A(6) or on objection under section 35C. This means that landholders rating and taxing liability may be different depending on the method, or authority used to alter the land value under the Act. For instance, land values amended on objection because the land should have been valued separately, are effective retrospectively. That is, if rates were paid based on the land value that was amended on 1 July in the year, council would provide a refund on their rates and future rates notices within that year would be issued with the new value determined on objection. However, if the land value was amended under section 27 of the Act, the new land value would not be able to be applied by council and therefore not have an impact on their rates liability until the 1 July the following year. Issues regarding the application of valuations



for rating and taxing purposes are considered to more appropriately be the responsibility of rating and taxing authorities.

It is recommended that provisions relating to the application of valuations for rating and taxing purposes should be removed from the Act and transferred to relevant rating and taxing legislation.

## **8.2 Complexities in the Valuation System**

### **8.2.1 Valuation of Crown Leasehold Land**

Sections 14I and 14C determine how land subject to Crown and Western Lands Leases are to be valued. These sections have very similar wording which was recently examined in the Land and Environment Court in *NSW Golf Club v The Valuer General*.<sup>45</sup> Although an appeal decision confirmed the Valuer General's approach, the interpretation of parts of the section remains complex and open to further litigation. In particular, reference to restrictions on the "disposition of the land" was a cause of contention. The Appeal court decision still leaves some uncertainty as to the correct application of the sections and, although it affirmed the Valuer General's position, it is considered that the provisions remain difficult to understand (particularly for landholders) which reduces transparency and increases the risk of further litigation.

There are also practical difficulties in the valuation of land below the high water mark as there is limited market evidence. Consideration should be given to a prescriptive approach to the determination of this land. The approach recommended by IPART's review of the determination of rents for domestic waterfront tenancies in NSW<sup>46</sup> provides an example of a prescriptive approach for this type of complex valuation.

It is recommended that sections 14I and 14C be reviewed to clarify the valuation requirements, and consideration be given to a prescriptive approach to the valuation of land below the high water mark.

### **8.2.2 Valuation of Mines**

Mining is a significant contributor to the NSW economy and the rating base of many regional councils. The valuation of these properties is complex under the current legislation. Furthermore, valuation principles require the application of market evidence, which is difficult in the context of valuing mines as there is limited suitable market evidence available. The valuer is therefore left to determine a figure that is based on the estimated returns of the mine which is reliant on information from the mine operator and is an area that requires specialist expertise.

A recent decision in the Land and Environment Court has reduced the land value of a mine in Broken Hill from \$20,900,000 to \$4,900,000. Although now under appeal the decision highlights the issues of complexity that are currently faced by those trying to apply the legislation.

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<sup>45</sup> New South Wales Golf Club v Valuer General New South Wales [2012] NSWLEC 137

<sup>46</sup> Independent Pricing and Regulatory Tribunal of New South Wales, *Review of Method for Determining Rents for Domestic Waterfront Tenancies in NSW* (December 2011)



Consideration needs to be given to prescribing a suitable approach in NSW. Queensland's *Land Valuation Act 2010* prescribes that the value of land leased under resource Acts is based on the lesser value of the surface area or 20 times the yearly rent payable for the lease. This approach and the calculation basis is varied depending on whether the lease area is surface area, part surface area or includes no surface area. Alternatively, it can be argued that the owner's interest in the mine is best represented by applying a multiplier to the annual royalty payable by the lessee.

Either of these approaches would have the benefit of reducing uncertainty in the determination of land values for mines and would improve predictability for mine operators and rating and taxing authorities as well as reducing the potential for litigation.

Local councils have also requested the ability to have a valuation for a mine reviewed where the potential income from the mine is known to have changed. This can be a substantial issue where a new lease is granted or a new resource body within an existing lease is proven. However, the Valuer General already has the power to make a new valuation at any time and this is therefore not considered to be a significant issue. It is understood that the main concern of councils is whether the changes to the valuation may be applied retrospectively for rating purposes. It is considered that the timing of changes to liability for rates should more appropriately be dealt with in the Local Government Act.

It is recommended that a complete review of the mining related provisions within the Act be undertaken through stakeholder consultation.

### **8.2.3 Valuation of Separate Parcels, Community Schemes, Neighbourhood Schemes and Certain Strata Schemes**

Provisions in the Act detailing when lands are to be included in a single valuation or are to be separately valued are complex and may benefit from further clarification including definition of words that are not defined by the Act or their common usage. For example section 26 requires that consideration be given to where separate parcels of land adjoin but does not define what a parcel is or what might constitute adjoining land. Consideration should also be given to whether the land is adapted for separate occupation but this is also not defined and has been the subject of successful appeals in the Land and Environment Court.

Section 26A is also unclear in terms of the assumptions to be made when the land is subdivided horizontally by more than one deposited plan and strata plan. The Act specifically addresses "one" deposited plan and "two or more" strata plans but not situations where there is more than one deposited plan or when part lots are involved. These situations are becoming increasingly common as the complexity of land development increases. These issues are most likely to affect high value properties.

It is recommended that these sections should be reviewed. It is expected that as the primary purpose of these amendments is to clarify existing requirements generally they will have limited impact on landowners and so widespread consultation should not be required. However, while the impact of clarifications to section 26A will be limited to a relatively small number of properties many of these properties have significant numbers of individual owners that may be affected and therefore some consultation will likely be required.





### **8.2.4 Concessions and Allowances**

A number of sections of the Act prescribe concessions and allowances that are provided to encourage or support various activities or to recognise the contribution made by the land owner. Some of these sections require review to provide greater clarity and transparency. These include:

<b>Section</b>	<b>Description</b>	<b>Issue</b>
<b>14N</b>	Allowance not to exceed cost of improvements	This section in conjunction with section 14B limits the allowance for profitable expenditure to be no higher than the costs of the improvements at 1 July in the valuing year. However as many years may have passed since the expenditure occurred the requirement to determine the current costs falls to the valuer who is not a quantity surveyor and no longer has reference to the actual expenditure. An alternate approach would be that once an allowance is determined it be adjusted annually by CPI. This will simplify the valuation process, remove a significant source of contention and improve predictability for landowners and rating and taxing authorities.
<b>14T</b>	Lots which qualify for subdivision allowance	This section provides an allowance to developers who have subdivided land but have not yet sold the land. The allowance is calculated as a discount on the sale of the parcels in one line. There is generally limited market evidence to support the determination of the discount at each valuing year and these allowances are often the subject of objections. The discount factor tends to be relatively consistent so it is recommended that a standard discount rate could be specified by regulation rather than calculated each time a valuation is made.

It is recommended that sections 14N and 14T be reviewed. As amendments may impact on how some allowances and concessions are determined, stakeholder consultation will be required.

### **8.2.5 Apportionment of Land Values**

There are a number of sections of the Act that provide for the apportionment of land values to address issues of partial liability for rates or taxes. This is further confused by the fact that these apportionments are required to be made on a variety of bases including apportioning the land value based on the relative value of different parts of the land, apportioning the land value based on rentals, and apportioning the land value based on land areas. Evidence is rarely available to support the apportionment of values based on the relative value of different parts of the land, and apportionments based on rentals may require significant additional analysis for a small number of valuations. Similarly, the apportionments determined are sometimes land values, and in other circumstances, are factors that represent the proportion that one use represents of the overall value. These varying



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provisions are inefficient, increase complexity and the risk of valuation error, as well as reducing the ability of landowners to understand the system.

For example, section 14X provides an allowance for mixed development land and section 14BBA is an allowance for mixed use land. Sections 26A and 28A of the Act as well as Section 21C of the Land Tax Management Act also describe a process for the determination of a part of land. These sections aim to provide similar outcomes but conflict in their construction and requirements for a determination. This may require the valuer to determine apportionments that will have no supporting evidence as no possible legal arrangement could have occurred that will match the valuation requirement.

Section 28 provides for land values to be apportioned when a parcel of land is severed by a local government boundary. In these cases it is unlikely that market evidence will be available to accurately apportion a value between the two parts to be valued. The Act requires these apportionments to be based on the respective areas in each local government area. This makes any dispute over the apportionment of the value to be a standard objection matter considering the land value of the overall parcel and then a simple matter of fact in apportioning that value. It is considered that this process provides a simple and pragmatic solution to a complex valuation issue.

It is recommended that sections relating to apportionments in the Valuation of Land Act and the Land Tax Management Act be reviewed and that consideration should be given making other apportionments based on the proportionate areas. As this may impact the application of allowances and concessions, stakeholder consultation will be required.

### **8.2.6 Goods and Services Tax (GST)**

Currently the Act is silent on the inclusion or otherwise of the GST in land value. The current policy of the Valuer General, is that GST is a factor in the market place and is imbedded in the market transactions that are relied upon to determine land values. The Valuer General's approach is consistent with:

- Application of Stamp Duty in NSW, which is payable on the whole of the purchase price including GST<sup>47</sup>
- Decisions in court cases<sup>48</sup>, such as *Tomago Aluminium Company Pty Ltd v Valuer General*, where Justice Pepper held that GST "...logically forms part of the market price of the land and so becomes evidence of its value."<sup>49</sup>

There is, however, an alternative view that the GST is a significant impost that is not part of the market but a government tax quite separate from any market considerations. Its inclusion in land value would lead to further rates and taxes being levied against an amount that has already been paid to government.

None of the valuation statutes around Australia specifically deal with GST and jurisdictions have adopted various responses to the issue. Tasmania and South Australia have adopted a position where sales are analysed to exclude GST in certain instances. NSW and Western

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<sup>47</sup> Revenue Ruling No. DUT 33, Office of State Revenue website: <http://www.osr.nsw.gov.au/lib/doc/rulings/rrdut33.pdf>, accessed 6 March 2013

<sup>48</sup> See also: *CSR Ltd v Chief Commissioner of State Revenue* [2006] NSWSC 1380 (14 December 2006)

<sup>49</sup> *Tomago Aluminium Company Pty Ltd v Valuer General* [2010] NSWLEC 4 (22 January 2010)



Australia treat GST as being imbedded in market transactions. Victoria does not have a firm policy at this stage.

It is recommended that the legislation recognises that GST is a factor in the market and forms part of the sale price of land. Land values derived from such evidence do not require further adjustment.

## **8.3 Drivers of Inefficiency in the Valuation System**

### **8.3.1 Unclear Provisions and Definitions**

As the Act was written in 1916, the language is out-dated and often complex causing significant interpretation issues. Since its introduction, there have been numerous amendments to the Act, many of which have been ad hoc to address specific issues. No complete review of the Act has occurred. As a result the Act is somewhat disjointed and some amendments to the Act appear to conflict with other existing provisions. A number of recent court decisions have also demonstrated the difficulty in interpreting the requirements of the Act.

#### **8.3.1.1 Definitions Required**

There are a number of provisions of the Act that are made unnecessarily complex by unclear language. Many commonly relied upon words are not defined which can result in inconsistent application, misunderstanding and unnecessary complexity in the system. For instance:

<b>Terms</b>	<b>Issue</b>
<b>Strata Plan</b>	Although the term strata plan is used in the Act, it is not defined, despite including a definition of deposited plan. This has potential to cause confusion with reference to the definition in the Act of stratum, which defines strata as the plural of stratum.
<b>Parcel of Land</b>	In Section 14A(1) the Valuer General is to ascertain the land value of each parcel of land each year with certain defined exceptions. However a parcel of land is not clearly defined and there have been instances where insignificant surveying errors leave undefined residues of land where it has been unclear where these are defined as parcels of land and therefore whether a land value should be ascertained.
<b>Lands of the Crown</b>	The Valuer General is required to ascertain the land value of each parcel of land in New South Wales other than 'lands of the Crown' (Section 14A(1)). 'Lands of the Crown' is not defined in the Act. This is made complex due to reference in 14I on valuing crown lease restricted land suggesting that leased and managed crown lands are to be valued, despite these lands being what the layperson may consider 'lands of the Crown'.



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<b>Terms</b>	<b>Issue</b>
<b>Mines</b>	Section 14F defines how mines and minerals are to be valued, however the Act does not contain a definition of mine. To be able to determine whether section 14F is applicable and land is 'used or held for a mining purpose' a definition of mine is required. Section 14F(4) defines a colliery holding as the meaning within the <i>Mining Act 1992</i> and a similar provision may be appropriate to define 'mine' within the Act.
<b>Date Valuation Made</b>	Two dates are of significance in the Act, and include the "Valuing Year" (1 July) and the "date on which the valuation is made". The Valuing Year is defined in Section 4 of the Act, and requires that the valuation reflects the property market at 1 July of each year. However "the date on which the valuation is made" is not defined. The "Date Valuation Made" is advised to landowners on Notices of Valuation and sent to rating and taxing authorities in valuation lists. Definition will assist landowners to understand what is considered when a valuation of their property is made and the actual value used to determine their rating and taxing liabilities.

It is recommended that the definitions in the Act be reviewed and in particular that the preceding definitions be added or amended.

### **8.3.1.2 Land Value**

Land value is well understood in NSW and affirmed by the courts. It does not include the added value of improvements other than "Land Improvements" which are defined by the Act and include works such as filling, grading, levelling and excavation. However, what constitutes "improvements" is less clear and has been recently challenged by a decision of the NSW Court of Appeal<sup>50</sup> that has added considerable practical difficulty in interpreting what is considered an improvement. In that case it was ruled that "only alterations which increase the value of the land can be notionally removed when determining land value". The result is any alterations which decrease the value of land cannot be notionally removed and therefore must be included in the land value. This greatly increases the complexity in determining land values as structures or works which would normally have been disregarded in the valuation process will need to be considered as to whether or not they add value and so constitute an improvement. This is likely to be inefficient as owners who damage their land through neglect, by poor management, contamination or misuse may be rewarded by obtaining a lesser land value and therefore lower rates and taxes.

There is also a lack of clarity concerning the impact that development approvals have on land value. Currently the value of development approvals is not taken into consideration and is therefore removed from any sales used to determine a land value. The value of development approvals is removed on the basis that they are an improvement made by the efforts of man and not part of the land in its raw state.

<sup>50</sup> Trust Company of Australia Ltd v The Valuer General [2007] NSWCA 181 (26 July 2007)



It is recommended that definition of what constitutes an “improvement” be added to the Act to resolve this issue, give clarity to landowners and stakeholders and remove a potential cause of litigation.

#### **8.3.1.3 Right of the Valuer General to Make and Alter Valuations**

A principal section of the Act is Section 14A, which enables the Valuer General to ascertain and reascertain land values and allowances when circumstances require a fresh valuation to be made. Normally values are ascertained every 3 to 4 years for Council areas and annually for land tax. However, the Valuer General may at his or her discretion review a land value or allowance. This section is poorly worded and it is difficult to interpret as to when the Valuer General is entitled to review valuations. Property owners’ understanding of the valuation process is sometimes diminished by inconsistent application of amended valuations by rating and taxing authorities. This section uses the terms “ascertain”, “value” and “reascertain”, although it is not clear what the difference in these actions is.

It is recommended that this section should be reviewed and that definitions and applications of the terms be clarified.

#### **8.3.1.4 Alteration of the Register**

Section 14DD authorises the Valuer General to alter the register to give effect to reascertainments, objections or appeals as well as to correct clerical errors or misdescriptions. With respect to reascertainments (under section 14A(6)) the authority to enter the value on the Register is duplicated in section 14A(5). This duplication of authority to alter the Register leads to inefficiencies and may be applied inconsistently.

Section 14DD(2) requires where “under any other Act, any amount is payable,” based on a valuation entered on the Register under this section, “any overpayment is refundable, and any underpayment is recoverable”. These provisions are not always consistent with rating and taxing requirements and can lead to inconsistencies in the impact of changes to valuations and confusion for landowners and rating and taxing authorities. In effect this places some onus on the Valuer General to consider the impact of amending valuations in the levying of rates, taxes or charges which is considered to be inconsistent with the objective of the Valuer General being independent from these processes. It is considered that provisions relating to the application of valuations for rating and taxing more appropriately belong in the rating and taxing legislation.

It is recommended that to improve transparency, consistency and independence all provisions relating to the Valuer General’s ability to enter or alter valuations on the Register should be within one part of the Act and that provisions relating to the application of valuations for levying rates, taxes or other charges should be contained in the statutes that authorise those uses of valuations.

### **8.3.2 Alignment of Land Tax Assessments and Council Rates**

Some inefficiency in the valuation system is driven by the confusion of landowners as to the use of the land values by both the Office of State Revenue and the Local Councils at different times and with a different date of application. The 2013 land tax year and rates for the 2013/14 financial year both use land values made as at 1 July 2012. In this example, the Office of State Revenue refers only to the Land Tax Year of 2013, without reference to the



valuing year. Confusion regarding the valuing year used to levy rates and taxes is common and can result in objections to the incorrect valuing year. This creates unnecessary delays in the objection process, which can have a significant impact on rating and taxing authorities and landowners.

Further confusion arises due to the date of application of the land values by different authorities. Land values used for land tax purposes are applied from 31 December, whereas the value for rating purposes is applied as at 30 June the following year. This leads to inconsistency in the application and effect of the same valuation by different rating and taxing authorities, despite both valuations being made at the 1 July in the valuing year. This is particularly relevant in the application of concessions and allowances which may be required at 31 December for land tax purposes but no longer be valid at 30 June for council rating purposes. This can create confusion and lead to additional enquiries and objections from landowners.

Efficiencies may be achieved if the use and application of the land values by rating and taxing authorities were aligned. It is recognised that that this change would require substantial consultation with local government and the Office of State Revenue and changes would need to be made to the relevant legislation.

### **8.3.3 Timing of Valuations**

Section 14B requires valuations to be made as at 1 July in the current valuing year (also referred to as the “base date”, as noted in *Section 5.6.1 The Component Method of Mass Valuation*). In 2005, the NSW Ombudsman recommended that a change be made to the base date so that valuations are made at 1 March in the valuing year, however following consultation within Government at that time, it was determined that the 1 July should be maintained.

The main disadvantage in making the date of valuation earlier in the year is that it extends the period between when the value is determined and when it is used for rates and taxes. One view is that lengthening this period causes some confusion for land owners as there is more chance that the market conditions may have changed. The NSW Ombudsman said “It is understandable why people would feel uncomfortable about paying rates and land taxes based on land valuations struck at a remote date. The proximity of the valuation base date to the time rating and taxing assessments are struck, however, needs to be balanced by the consideration of how that proximity affects the accuracy of the valuations.”

The main advantage of an earlier base date is that it allows more time for the valuation process. This means more market evidence close to the actual base date is available for analysis. The Ombudsman noted that “Especially in volatile property markets...clarity about actual market movement increases with distance from the base date because of the greater availability of relevant sales data. The more precise the market movement that can be identified, the greater the likelihood of accurate valuations of benchmark properties, the greater the likelihood of accurate component factors and the greater the likelihood of accurate valuations.”<sup>51</sup>

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51 New South Wales Ombudsman, *Improving the Quality of Land Valuations issued by the Valuer General: A special report to Parliament under s31 and 26 of the Ombudsman Act 1974*, October, 2005, p 88



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As sales generally take about 6 weeks to finalise and documents may not be lodged with Land and Property Information for some time after that, details of sales transacted close to the base date are often not available to the valuer until 2 months later. While National electronic conveyancing is expected to improve this situation, this will be effective dependent on the rate of industry take-up<sup>52</sup>.

The current valuing date of 1 July and the timeframe for access to sales information means that the time for consideration of the evidence, production of values and proper quality assurance before the valuations are required to determine the land tax threshold for the coming year and for delivery to the Office of State Revenue and local councils is less than optimum, given that the land tax threshold for the coming year is to be published by 15 October.

There are also possibilities to improve the efficiency of the objection process and stability of the Register by having an earlier date. While the main advantages of providing more time to compile data and undertake quality assurance should not be compromised, moving the delivery date of the valuations forward slightly may allow valuations to be issued to landowners earlier and objections to be completed before they are utilised by rating and taxing authorities.

It is recommended that the base date be amended to 1 March in the valuing year.

### **8.3.4 Improving Administrative Efficiencies**

#### **8.3.4.1 Notice of Valuations to Owners**

A significant administration cost imposed by the current legislation is associated with service of notices of valuation to land owners. Section 29 requires the Valuer General to provide notice of valuation to all land owners and other interested parties whenever a new valuation list has been provided to council.

Within the current structure of the valuation process the notices play an important role. Receipt of the notice gives the recipient the right to lodge an objection to the valuation. The time within which an objection can be lodged starts to run from the date of service of the notices. For those reasons it is suggested that notices continue to be provided. There are, however, efficiencies that could be introduced.

Notices are required to be sent in writing to all land owners. The Valuation of Land Regulations allows written notice to be sent electronically to landholders who have requested notices to be sent in this manner. It may be appropriate to add some flexibility into the Act which would allow landholders to elect not to receive notices at all.

Section 29(1) requires notice to be sent to

- the owner, and
- certain lessees who are required to pay the whole or any part of a rate or tax, and

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52 Land and Property Information, *Economic Appraisal of CT Solutions – Electronic & Paper-based Conveyancing*, prepared by PriceWaterhouseCoopers, June 2012, p 32



- mortgagees in possession

Notice can only be served on lessees and mortgagees in possession if the Valuer General is aware of their interest. The section should be amended to clarify that the Valuer General is to serve those people whose interest has been recorded in the Register of Land Values.

A person's right to object to a valuation is tied to service of the notice. A lessee or mortgagee in possession should be entitled to object to a valuation even though they may not have been served with a notice.

The section is complex and outdated and requires simplification.

#### **8.3.4.2 Notification of Amendments or Alterations**

The requirements for notifying amendments or alterations to the Register for rating and taxing authorities vary by agency. The Office of State Revenue requires nightly updates of the Register. However, there are currently 152 Local Government Areas in NSW that have a range of requirements for their valuation records to be updated. Councils within the metropolitan or rapidly developing areas tend to request more frequent updates compared to some regional councils. However, section 57 of the Act requires that the Valuer General provide notice of any amendment or alteration to the Register "as soon as practicable" after the amendment. Although the Valuer General can currently provide this information on a daily basis, many rating authorities do not have the resources or the need to receive updates this frequently and to do so would lead to inefficiencies.

It is recommended that to meet stakeholder requirements, these provisions be changed to authorise the Valuer General determine schedules for the notification of amendments or alterations to the Register by agreement with the relevant authorities.

#### **8.3.4.3 Valuations Lists – No Alteration by Rating and Taxing Authorities**

Valuations lists will require updating from time to time. Ownership details will change and the occupancy may be altered over time. More significantly, values may be reascertained by the Valuer General.

Section 50 currently allows rating authorities to make alterations to the list relating to ownership, occupancy or postal address. Any other changes can only be made with the written consent of the Valuer General.

The section does not properly cater for valuation lists being held in electronic form nor does it provide for two way exchange of information.

Information in the valuation lists should mirror information on the Register of Land Values. Where updates to ownership of address are made by a rating authority, the authority should be required to provide that information to the Valuer General.

Section 50 requires modernisation and simplification to ensure the accuracy of information in the Register of Land Values and to provide a streamlined process for updates of information where required.





#### **8.3.4.4 Form and Authentication of Lists**

Section 54 requires that valuation lists that are furnished to rating and taxing authorities must be stamped with the official stamp or signed by the Valuer General. The section has not been amended to keep up with changes in practice and technology. Considerable duplication and cost is incurred by the Valuer General in complying with the section when authenticating lists that are furnished electronically.

Section 56 currently allows valuation lists to be furnished in a form arranged between the authority and the Valuer General. A similar flexibility should be introduced into section 54.

It is proposed that section 54 and 56 be amalgamated and modernised to ensure appropriate authentication of valuation lists furnished electronically.

#### **8.3.4.5 Allowing the Use of Modern Communication Methods**

In the interest of improving the transparency of the valuation system the Valuer General is increasingly making more information available to the public in a variety of ways. For example land value searches and valuation sales reports are now available to be viewed online, notices of valuation may be delivered to landholders electronically by consent, requests for information are received via email and objections are able to be lodged online. It is envisaged that the way that the Valuer General interacts with and shares information with the public will become increasingly electronic to be more responsive to public demand. The public is increasingly interested in spatial enablement of information, and land values are no exception.

Users of valuations including rating and taxing authorities are increasingly using electronic communication methods to send and receive information. In order to ensure that the Valuer General can continue to communicate with the public and stakeholders effectively, the Act must be flexible when referencing methods for communication or transmission of information.

It is recommended that sections of the Act relating to the provision of information to landowners and other stakeholders be reviewed to ensure that the use of modern communication methods are properly authorised.

### **8.3.5 Maximising Access and Use of Register of Land Values**

#### **8.3.5.1 Defining the Contents of the Register of Land Values as a Public Register**

The Valuer General is required to keep a Register of Lands Values as defined in Section 14CC of the Act. While sections 14CC(2)(a) – (f) provide specific requirements for what is to be recorded on the Register, section 14CC(2)(g) is a broad provision including such other kinds of information as is permitted or required to be entered or is authorised in the Regulations to the Act. This could be taken to mean sales data or addresses for service of Notices which, if considered part of the Register may have implications for privacy concerns. Having provisions regarding the make-up of the Register in different parts of the Act reduces transparency and increases the risk of omission of required details.



It is recommended that requirements for the contents of the Register should be consolidated in the Regulations of the Act.

#### **8.3.5.2 Notice of Sale**

Section 71 requires a purchaser to provide certain information to the Valuer General on a sale of land. The information is provided in the form of the Notice of Sale. Information in the Notice of Sale form includes a lot more than is currently envisaged by Section 71.

It is recommended that the section be reviewed to ensure that all relevant information is being provided in the current Notice of Sale form and also to ensure that the Act specifically allows for the collection of the Notice of Sale information.

#### **8.3.5.3 Greater Flexibility for the Valuer General to Provide Information for Other Purposes by Agreement**

Parts 5, 6 and 6B of the Act provide for supply of valuations to various agencies for a range of specific purposes. These provisions have developed over time in an ad-hoc fashion and are considered to be overly restrictive in enabling the Valuer General to provide valuations. Furthermore, other agencies currently use land values contained in the Register. These include the Crown Lands Office and Roads and Maritime Services to determine rentals for domestic waterfront leases following an IPART determination and NSW Treasury for provision to the Commonwealth Grants Commission.

The Register of Land Values is a significant public asset and it is considered that public value will be maximised by allowing the wider and more flexible use of information on the Register by other agencies, business and the community. This is considered to be consistent with the principal of better information sharing outlined in the NSW Government ICT Strategy 2012.

It is recommended that the Act should be amended to authorise the Valuer General to provide information from the Register for purposes not currently specified within the Act, by agreement.

#### **8.3.5.4 Exchange of Information with other Agencies**

In recent years, the Valuer General has found that complex valuations are increasingly reliant on valuable information held by other government agencies. Access to such information contributes to improving the quality of land values, particularly for complex property types. For instance, the Office of Environment and Heritage holds valuable information on contaminated or potentially contaminated sites that is of great assistance to identify and more accurately value lands subject to contamination. Further information about heritage or waterfront properties has also assisted the valuation of complex property types through the provision of information not readily available in the public domain.

In order to continue to improve the quality of land values and in particularly complex land values, it is recommended that the Act allow the Valuer General to enter into agreements with other agencies to source information that may assist with determining land values. It is not proposed that the legislation compel an agency to provide the information, however it is



considered that the statutory authority to enter into agreements will further support and facilitate the exchange of this valuable data.

## **8.4 Improving Transparency**

### **8.4.1 Redundant Sections or Parts of Sections**

Throughout the Act there are sections and parts of sections that have been made redundant through changes to the requirements of rating and taxing authorities or because of changes in Government administration. Redundant provisions may cause conflict when used to assist in the interpretation of operational sections leading to consequences not intended by the Act.

#### **8.4.1.1 Improved Value of Land or Assessed Annual Value**

A number of sections refer to improved value of land or assessed annual value, both of which are no longer used as valuation bases by rating and taxing authorities in NSW.

It is recommended that the following sections should be removed from the Act:

<b>Section</b>	<b>Description</b>
<b>5</b>	Improved value of land
<b>7</b>	Assessed annual value
<b>7C</b>	Assessed annual value of strata
<b>60</b>	Assessed annual value for purposes of other acts

#### **8.4.1.2 Partial References to Improved Value of Land or Assessed Annual Value**

In a number of sections only part of the section refers to improved value of land or assessed annual value.

It is recommended that the following sections should be amended to remove any reference to improved value and assessed annual value for the same reasons outlined above:

<b>Section</b>	<b>Description</b>
<b>7D</b>	Valuer General not required to determine certain valuations
<b>47</b>	Rating and taxing authorities
<b>62(1)</b>	Taxes and rates under any authority

#### **8.4.1.3 Sydney Water Corporation**

A number of sections refer specifically to Sydney Water Corporation which formerly utilised assessed annual values for the assessment of water rates. Sydney Water now uses a user pays system and no longer requires assessed annual values.



It is recommended that the following sections should be removed from the Act;

Section	Description
70H	Application of Part (as the corporation)
70I	Special arrangements
70J	Nature of valuations
70K	Relationship with other Act

#### **8.4.1.4 State Valuation Office and Contested and Uncontested Contracts**

A number of sections in the Act refer to the State Valuation Office, which closed in 2007, and to the approach taken to award contracts to that Office. Providing contested and uncontested contracts allowed the Valuer General to award contracts directly to the State Valuation Office without the need for an open tender. All valuation services contracts are now awarded in accordance with NSW Government procurement policy and guidelines.<sup>53</sup>

It is recommended that the following sections should be removed from the Act:

Section	Description
13B	Kinds of contracts
13C	Contested contracts
13D	Uncontested contracts
13G	Provisions relating to State Valuation Office

#### **8.4.1.5 Valuations not Required for Rating and Taxing Purposes**

The Valuation of Land Act was first established in 1916 and for a long period of time the Valuer Generals Department was the most significant holder of valuation expertise in NSW. In more recent times an active commercial market has developed for valuation services while valuation capacity within government has been steadily declining. A number of sections within the Act require the Valuer General to undertake valuations which are not required for rating or taxing purposes. These are basically commercial services and are more suited to provision by the private sector.

It is recommended that the sections requiring the Valuer General to undertake valuations of interests in land, interests of lessors and lessees and valuations on application should be removed from the Act.

Section	Description
20	Valuation on Application
21	Total value of interest in land
22	Interest of lessors and lessees

<sup>53</sup> NSW Treasury Policy and Guidelines Paper (TPP04-1) [http://www.treasury.nsw.gov.au/\\_data/assets/pdf\\_file/0004/3955/tpp04-1.pdf](http://www.treasury.nsw.gov.au/_data/assets/pdf_file/0004/3955/tpp04-1.pdf)  
accessed 15 March 2013



Section 20 of the Act requires the Valuer General to make a valuation of the land, estate or interest therein as at any date on or before the date of valuation on application. When performed they are to be recorded as part of the Register of Land Values. This is impractical because they are primarily improved values, whereas values held on the Register are unimproved land values made at the valuation date of 1 July. If the requirement for the Valuer General to provide section 20 valuations on application is retained, the provision should be revised so that the valuation is not required to be entered onto the Register or for the Register to be altered to reflect the section 20 valuation made (sections 20(4)- (5)).

#### **8.4.1.6 Duplication of Other Provisions which may Conflict with Other Rating and Taxing Legislation**

Section 61 prescribes how rating and taxing authorities are to use valuation and supplementary valuation lists as the basis for their rates and taxes. The section does not assist in determining a valuation or reviewing a valuation. Use of a valuation should be up to the rating and taxing authority responsible. The section may be in conflict with other legislation and therefore should be removed from the Act. It is recommended that s61 should be removed from the Act:

Section	Description
61	Valuations to be used as basis of rates taxes and duties

#### **8.4.1.7 Overlapping Accountabilities within Legislation – Conflict with Requirements of Rating and Taxing Authorities**

The Act makes several references to rateable land, including the requirement in section 19B to value land that was not previously rateable when it becomes rateable. Whether land is considered rateable is not a decision for the Valuer General, and is a function of Local Government. This provision within the Act blurs the lines of accountability between the independent valuation process and rating and taxing functions. Reference to rateable land within the Act should be removed and replaced with a reference to lands that should be valued as defined within the Act. Likewise, references to valuation in the legislation governing rating and taxing authorities should also be removed. For example, section 123 of the Heritage Act 1977 prescribes the assumptions required for making a heritage valuation.

#### **8.4.1.8 Lists to be Valuation Book of Authority**

Section 53 of the Act refers to “valuation roll, or valuation book or assessment book” of the authorities however, these terms are outdated and do not currently appear in relevant legislation.

### **8.4.2 Valuation Information Supplied by the Valuer General**

Section 14EE of the Act provides for the Valuer General to issue a certificate to any person certifying the details of an entry on the Register of Land Values. In addition, informal extracts from the Register, known as a land value searches and including the information on Certificate of Land Value other than ownership, have been made available via the internet or



LPI's information broker network. This is considered to be consistent with the NSW Government's policies for open access to information<sup>54</sup> and it is expected that more information held on the Register will become available over time, so provisions relating to providing information contained on the register should be flexible.

While section 14EE is flexible in its approach to the provision of certified details from the Register, it is recommended that provision should also be made for the Valuer General to issue any information from the Register of Land Values including informal extracts.

### **8.4.3 Improving the Transparency of Objection Processes**

#### **8.4.3.1 Notice of Determination of Objections**

Transparency of the objection process has improved significantly over the last 8 years. Landowners now receive a detailed objection report and letter providing reason why their objection was allowed or disallowed and this has contributed to improved public confidence in the independence and equity of the objection process. It is recommended that the Valuer General's notice of determination of the objection include reasons for all objection determinations, not only for objections that are disallowed or only allowed in part as currently provided by the Act. This amendment will improve the transparency and integrity of the objection process. This is consistent with provisions in the Queensland *Land Valuation Act, 2010*. More general provisions requiring reasons for objection decisions to be transparent to all stakeholders would continue to improve confidence in the objection process.

#### **8.4.3.2 Form and Content of Objections**

To improve efficiency and transparency and to ensure that landowners' concerns were being adequately addressed through the objection process, in 2005 the Valuer General introduced a form for objections to be lodged that required information to support the landowner's claims. The landowner's ability to provide information to the Valuer General that was not known or available in the mass valuation process is of great assistance in ensuring the quality of valuations. To assist landowners the "Land Value Review Guide" describes information useful to support objections to valuations. Similarly, the Queensland *Land Valuation Act 2010* defines the elements of a properly made objection and describes the required contents of a properly made objection (sections 41, 112 and 113). These requirements are considered to offer substantial efficiency and transparency benefits in the objection process.

Although section 33 of the Act currently requires that objections be made in a form approved by the Valuer General and that the Valuer General must consider an objection that has been "duly made" in section 35B(1), the Court found in *Cornish Group Spring Farm Pty Ltd v Valuer General* [2009] NSWLEC 205, that an absence of relevant supporting information for an objection cannot be the basis of determining that the objection was not "duly made."

It is recommended that in order to maximise both efficiency and transparency that the Act or Regulations be amended to require objections to be supported by relevant information in order to be "duly made" in a similar way to the Queensland *Land Valuation Act 2010*.

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<sup>54</sup> For example, the NSW Government ICT Strategy 2012

[http://www.services.nsw.gov.au/ict/sites/default/files/NSW%20Government%20ICT%20Strategy%202012\\_1.pdf](http://www.services.nsw.gov.au/ict/sites/default/files/NSW%20Government%20ICT%20Strategy%202012_1.pdf) accessed 15 March 2013.



### **8.4.3.3 Consolidating Provisions Relating to Lands to be Valued**

The Valuation of Land Act provides guidance on lands that are to be valued and lands that are not to be valued in a number of sections, for example, sections 7D, 14A and 14I. Defining lands that are required to be valued is fundamental to the function of the Valuer General and has significant implications for rating and taxing authorities if not applied correctly. It is also fundamental in assisting landowners to understand the valuation system. In order to reduce complexity and improve transparency in the system, it is recommended that definition of lands that are required to be valued or are not required to be valued by the Valuer General be provided in one section of the Act or alternatively the Regulations.

## **9. Conclusion**

The NSW Valuation system is generally regarded as being sound, and has been found through a number of inquiries to be both cost effective and equitable. Land values are considered to provide an equitable base for the setting of land based rates and taxes and is seen as having the least impact on markets and capital. The application of modern mass valuation techniques and quality assurance combined with a drive for continuous improvement has led to the development of a system that is seen as a leader in the mass valuation field. This is supported by a well- established system for the rectification and realignment of valuation errors and anomalies.

Recently, a number of court decisions have changed values causing concern among stakeholders about the volatility and predictability of land values. A number of these cases have been determined based on new interpretations of unclear provisions in the Act. A clearer and more modern legislative framework would minimise the risk of these occurrences and be a welcome outcome for stakeholders and administrators alike.

Valuation can be a complex exercise requiring appropriately skilled professionals, particularly for the valuation of complex property types which often require specific knowledge and expertise. This complexity places an onus on administrators to clearly and openly communicate valuation processes and outcomes to landowners. Significant efforts have been made in recent years to improve the provision of information to landowners. However, ongoing improvement will remain the cornerstone of the valuation system to ensure it meets the needs of stakeholders and the community and continues to be seen as a benchmark system within the industry.

The NSW Valuer General welcomes the work of the Joint Standing Committee on the Office of the Valuer General and looks forward to continuing to work with the Committee in the ongoing development of the NSW valuation system.