

**Submission
No 46**

INQUIRY INTO LAND VALUATION SYSTEM

Name: Jason & Esther Voorwinden

Date Received: 1/03/2013

TO: PARLIAMENT OF NEW SOUTH WALES

JOINT STANDING COMMITTEE ON THE OFFICE OF THE VALUER GENERAL

SUBMISSION TO: INQUIRY INTO THE LAND VALUATION SYSTEM IN NSW

SUBMISSION BY: JASON AND ESTHER VOORWINDEN

[REDACTED]

[REDACTED]

WOODLANDS NSW 2575

Ph: [REDACTED] Mob: [REDACTED] (away until 5th April 2013)

E: [REDACTED]

28th February, 2013

The Chairman, Mr Matt Kean MP

We are commenting on the way that the land valuation system has applied to our situation.

The property concerned is [REDACTED] Calderwood NSW 2527,

Property number [REDACTED]

This land is in the Illawarra Escarpment and currently zoned E2 Special Conservation.

We believe that an injustice has been perpetrated upon us by the Valuer General's Department, thereby allowing the Office of State Revenue and the Wollongong Council to overcharge us with our taxes and rates.

Valuations went as follows:

2001 -\$210,000

2004 – \$410,000

2007 - \$450,000

2008 - \$450,000

2009 - \$473,000 (after objection \$150,000) We can live with this valuation.

2010 - \$50,500

And I have just logged on to the LPI website to find a valuation of \$25,000!!!!

This land has not changed in any way since purchasing it in the late 1970s.

How are these valuations credible? Council will not allow us to build a dwelling on this property even though we have an existing use right to do so. Our property has been previously logged and that right exists also, but try that and go to jail! It is existing use rights that give property its value.

Land tax (5yrs) of \$8055.95 was paid by us in 2009. After lodging a valuation objection that year, we received a revised valuation of \$150,000 and a refund of \$1534.00.

We did not receive a refund for the four years prior to 2009. This is immoral on the part of the Office of State Revenue, and the valuations accepted by the OSR resulted in us paying council land rates (the land rates already paid since July 2003 of \$12,000 and those to be paid in future years, will soon overtake the VG) on land which obviously has been improperly valued by the Valuer Generals Dept. To our knowledge, there has never been land sold in our area that was comparable to ours.

Viewing the breadth of the real estate market to establish land values, may be the normal valuation practice, but it is not a fair and just method when land is zoned 'special conservation' and the land owner is precluded from using it for any domestic activity while paying residential land rates.

We believe that it should be mandated that Council, or the relevant Govt. Dept purchase any land zoned E2 Special Conservation at a fair and just price.

Should our land be acquired by a Govt body, would it be at the current VG which has halved since the last valuation and which decreased by a third on the valuation before that? Or would it be at a fair and just price considering its valuation history and the prior payment of land rates and land taxes?

Enormous stress is placed on landowners who cannot afford to go to the Land and Environment Court, when a dispute or objection with the Valuer General or a Council cannot be settled. Government bodies rely on this fact, and purposefully disregard their duty of care to a very vulnerable section of the community.

ACQUISITION AND LAND VALUATIONS

The right of Councils to rezone land is not disputed, but this right should, and must be exercised legally in accordance with established legal principles.

Where one of the objectives of rezoning land is to impose restrictions, and thus cause a devaluation of its price so that a government body, may at a subsequent date acquire such land at the deflated price, then such a scheme taints both the rezoning and acquisition, as such action was based upon improper and ulterior motives. (See attachment – an extract of minutes of the Illawarra Escarpment Working Party of 14.12.1990 which were accepted by Wollongong City Council, in which their then town planner, Mr David Winterbottom 'focused on key issues'. Part of which reads:

'Options exist for control by way of zoning, policies or ownership'

'The existing mature forest should be considered for rezoning from Environmental Protection 7(b) to Environmental Protection 7(a) under LEP 1990 to give the fullest protection available. This land, because of the development restrictions, will be the cheapest to acquire.'

All land or property acquired by the Commonwealth, the States and Government, local and statutory bodies from owners, must be made on fair and just terms (words which are enshrined in the Commonwealth Constitution).

Therefore, all land proposed to be acquired, should be acquired prior to any rezoning or devaluation, which would give full effect to the INTENTIONS of the acquiring authority in the proper carrying out of its duties.

Land owners are deprived of their just proprietary rights, if a lower rezoning and therefore devaluation takes place prior to acquisition, if land is purchased later at a deflated price.

LAND VALUATIONS RE FAIR TRADING IN THE ILLAWARRA ESCARPMENT – Wollongong City Council

This arrangement was accepted by Wollongong Council in order to bring core escarpment land into public ownership without having to pay for it.

Inflated and unfair valuations occurred when land was 'traded' for a building entitlement on land elsewhere on the same property. The usual 'trade' was 20 acres for 1 building entitlement.

For instance, a land owner could donate, say.. 20 acres of his escarpment property which was zoned for environmental protection, and in return receive a building entitlement elsewhere (subdivision) on his property. When this piece of land was sold, the price would then be set for the Valuer General to value neighbouring properties. But the value of the 20 acres 'traded' or 'given away' was not taken into consideration.

Example: The 5 acres may have been sold for \$500,000.00 (\$100,000.00 per acre). The Valuer General then valued surrounding properties at \$100,000.00 per acre. However, he should have valued 25 acres at \$500,000.00. This would enable the landowner to keep his equity and surrounding properties to be realistically valued. Even this may be an aberration as the next or adjoining acreages may not have a building entitlement.

It is possible that there was never any communication between the Valuer General's office and Wollongong Council regarding 'Fair Trading'. The Wollongong City Council had a duty of care to advise the Valuer General of this 'fair trading mechanism'.

Councils everywhere would have land parcels under their jurisdiction, which, when it comes to valuation by the Valuer General, would be out of the 'normal'. Councils should advise the Valuer General's Department of any land parcels (such as those zoned E2) which fall into this category.

In any case, we believe there is real justification for land zoned 'special conservation' not to have land tax applied to it at all.

This inquiry must bring justice to all of those in the community who have overpaid land rates and taxes. We trust that the Committee will direct Councils and the Office of State Revenue to refund to land owners all overpaid land rates and land taxes with the same compound interest that they charge on payments which are overdue to them.

This inquiry must bring about a fairer and a more just system for all property owners.

Yours faithfully

Jason and Esther Voorwinden

Attachment – extract from minutes of the Illawarra Escarpment
Working Party (accepted by Wollongong Council)
14.12.90

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The Illawarra Escarpment Coalition was formed at a public meeting at Byron Park, Mt Keira on 22 July. The Coalition had a deputation to Council on 22 October, proposing that the IEWP be formed and presented a model for its operation.

David Broyd then explained the aims of the working party and emphasised the difficult balance which needs to be struck between environmental protection, valid expectations of development entitlement because of the way land has been zoned for substantial periods of time and also securing dedication of land into public ownership.

David Winterbottom then focused upon the key issues:

- a There are areas of established forest that nobody would deny must be protected in full.
- b There are sporadic houses and the question arises of how to deal with these and there is the land zoned Residential on the fringe areas of the escarpment.
- c The principles should be that mature forest is sacrosanct; that "gaps should be bridged" between the mature forest and thereby revegetating clear areas and 'to establish as much public ownership of escarpment land as possible.
- d Options exist for control by way of zoning, policies or ownership.
- e The existing mature forest should be considered for rezoning from Environmental Protection 7(b) to Environmental Protection 7(a) under LEP 1990 to give the fullest protection available. This land, because of the development restrictions, will be the cheapest to acquire.
- f The question arises of rezoning areas where there are existing houses from 7(b) to 7(a). This could dilute the intention of the zone because of the implication of existing uses within that area ie, even cleared land would gain existing use rights.