

INQUIRY INTO THE PROVISIONS OF THE VALUATION OF LAND ACT 1916

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Ms Marie Andrews MP
Chair
Joint Standing Committee on the Office of the Valuer General
Parliament of New South Wales
Macquarie Street

Dear Ms Andrews

In response to the notification of the Joint Standing Committee on the Office of the Valuer General's Inquiry into the provisions of the *Valuation of Land Act 1916* please find enclosed Land and Property Management Authority's submission. Land and Property Management Authority appreciate the opportunity to put forward this submission.

If further information is required about this submission, please contact Acting Chief Valuer, Land and Property Information, Bruce Helman on (02) 4925 9985.

Yours sincerely

Warwick Watkins AM

Chief Executive

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Inquiry into the Provisions of the Valuation of Land Act 1916

**Submission by the Land and
Property Management Authority**

**For the Joint Standing Committee on the Office of
the Valuer General**

30 July 2010



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1. Introduction

This submission has been prepared by the Land and Property Management Authority (LPMA) in response to notification by the Joint Standing Committee on the Office of the Valuer General of the Inquiry into the Provisions of the *Valuation of Land Act 1916* (the Act). LPMA provides New South Wales with integrated land and property products and services and provides operational support for the role of the Valuer General through its Land and Property Information (LPI) division.

This response primarily focuses on provisions relating to the core objects of the Act which support valuations for rating and taxing purposes. The response excludes other provisions which are appropriately dealt with elsewhere, such as the provisions relating to Land Acquisition. The submission addresses the efficiency and effectiveness of the current provisions of the Act and its application to stakeholders.

The Better Regulation Principles as articulated in the *Guide to Better Regulation*¹ have been considered in the preparation of this submission and it is believed that the recommendations put forward are reasonable, responsive and would minimise red tape in line with the government's policy.

¹ NSW Department of Premier and Cabinet, Better Regulation Office, *Guide to Better Regulation*, November 2009.

2. Background

2.1 Purpose of the Act

The purpose of the Act is primarily to provide consistent, reliable and independent valuations for the purposes of levying rates and taxes. The Act provides for a custodian for these valuations to ensure the purposes of the Act are met and that valuation outcomes are equitable and meet the needs of all stakeholders.

2.2 Valuation for Rating and Taxing Purposes

The use of property as a base to raise revenue and taxes has been used since the early 1600's when Queen Elizabeth I used a levy on property to raise a poverty tax.² Since that time, a number of reviews have endorsed rating and taxing systems based on property values as these systems are considered to be relatively simple to understand, land is easily identifiable and fixed, the yield is predictable and evasion is difficult.³

The efficiency of using land 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)⁴ and more recently endorsed in the 2010 *Australia's Future Tax System Review* (Henry Tax Review) which stated:

*"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."*⁵

Following the analysis of the efficiency of using land values as a tax base, 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."⁶

² P Meeking and F Blackwell, "Rating and Taxing," *Valuation Principles and Practice*, 1st Ed., p 419

³ Ibid., p 419

⁴ 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

⁵ Commonwealth Attorney General's Department, *Australia's Future Tax System: Report to the Treasurer*, December 2009, Chapter C Part 2, p 247

⁶ Ibid., p 264

2.3 Land Valuation in New South Wales

2.3.1 History

Prior to the introduction of 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 may be placed on the same property. It was considered that “these valuations were unsoundly based and showed a tendency to fluctuate according to their purpose.”⁷

The introduction of the Act sought to rectify this inequity and inconsistency by creating the statutory office of the Valuer General to ensure independence from the rating and taxing authorities and to create a single point from which all rating and taxing authorities could obtain the valuations. The purpose of the Act was “to secure as perfect and reliable a valuation as possible for the whole of the land in this State...[to meet] a very real and increasing necessity that we should have continuity and stability in the valuations of the State.”⁸ It was clear from the second reading speech that the other key purpose for the Act was independence; “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.”⁹ For this reason, the Valuer General was established as a statutory officer appointed by Parliament.

2.3.2 Current Structure

In 2010, while there have been changes to organisational structures over the lifetime of the Act the notion of the Valuer General ensuring consistency and independence as a central authoritative figure on land values for the state remains. A significant change was in 1996 with the ability for the Valuer General to enter into contracts with private valuation firms to provide rating and taxing valuation services. The Valuer General’s Department was split into a regulator and service provider, with the Valuer General retaining the policy, regulatory and contract management role and the State Valuation Office as a commercial service provider. The Valuer General also retained responsibility for maintaining the Register of Land Values (the Register) as a core element of the State’s land information network.

Currently, the operational responsibilities under the Act are carried out by Land and Property Information (LPI) on behalf of the Valuer General. LPI, a Government Business Enterprise, is part of the Land and Property Management Authority, which brings together all of the State’s most valuable land records, most notably the Register of Land Titles, the Register and the State’s major spatial systems to provide a comprehensive “one stop shop” for land administration and spatial information in New South Wales. LPI’s access to other

⁷ 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

⁸ 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.

⁹ Ibid.

valuable property information provides significant efficiencies and allows for completeness of property records in New South Wales.

The Valuer General sets standards and develops policies and is independent from the operations of LPI. The Valuer General develops a Service Level Agreement with LPI each year that defines the services and performance levels that LPI is required to deliver to the Valuer General. LPI then maintains and improves the Register, contracts valuation firms to undertake the valuations and ensures the quality and integrity of the valuation process.

The New South Wales valuation system is regarded as a leader in rating and taxing valuations in Australia. LPI receives numerous visits from similar international authorities interested in the New South Wales valuation system, with delegations visiting from a range of Asian, European, Pacific and South American jurisdictions in recent years. LPI has also received delegations from other Australian jurisdictions including Queensland and South Australia.

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 statewide valuation data. This was previously the responsibility of each individual council. This indicates a shift to a rating and taxing valuation system that is more like New South Wales' centralised system. Victoria's Valuer General, Robert Marsh, describes the changes as improving efficiency stating "Victoria's new approach will improve the efficiency of and access to rating authority valuations in Victoria."¹⁰ Similarly, from 30 June 2011, Queensland will be changing its land value basis from unimproved value to site value. This brings Queensland into line with New South Wales and other Australian jurisdictions.

2.3.3 Key Functions under the Act

Valuations conducted under the Act are used to raise approximately \$2.6 billion in local government rating revenue and approximately \$2.0 billion in land tax revenue annually. Each valuation is the market value of the land assuming it was vacant and is based on the most valuable permissible use of the property.

The Act also provides for a range of concessions and allowances in determining the value of land to provide relief from rates and taxes in recognition of the efforts of landowners to improve their land and restrictions to the use of the land.

On behalf of the Valuer General, LPI keeps and maintains the Register which contains information about the location, ownership and value of the land and issue valuation lists to each local council every three to four years for rating purposes and the Office of State Revenue annually for land tax purposes.

¹⁰ Department of Sustainability and Environment, "Revaluation 2010 News," *Valuation Best Practice*, Edition 3, January 2010, p 1

LPI also issues the landowner with a Notice of Valuation at the time a Valuation List is issued to the local council. The issue of a Notice of Valuation triggers a statutory right of objection to the valuation and subsequent right of appeal to the Land and Environment Court. The same statutory right to object and appeal is provided when a landowner is issued with a land value on a Notice of Assessment for land tax under the *Land Tax Management Act 1956*.

2.3.4 Methodology

The Act requires that land values are to be ‘market values’ but does not specify the methodology by which they must be determined. Currently there are over 2.4 million properties on the Register and as the numbers of properties and the frequency of revaluations has increased, traditional methods of valuation, that is individual valuations, became impractical and uneconomic. As Mr J Shonk, a former Senior Valuer with the Valuer General’s Department, acknowledged the major cost of the system was professional valuation staff and in order to do more with less “we have to stretch one valuer and find ways of extending a single valuation decision to all properties with similar characteristics.”¹¹ Combined with the increasing availability and sophistication of information technology this has led to the application of mass valuation techniques as has occurred throughout the world.

The primary methodology for mass valuation used in New South Wales is the component method. Implementation of this methodology enabled the annual valuation of all properties on the Register at reasonable cost. However, questions about the accuracy and uniformity of valuations used for rating and taxing in New South Wales ultimately led to an investigation by the New South Wales Ombudsman. The investigation found that “...the methodology employed to produce land valuations in NSW, the component system of mass valuation, was generally sound,”¹² despite some quality control issues. After the introduction of improvements to valuation quality control measures, in 2008 the Independent Pricing and Regulatory Tribunal (IPART) stated that as “...the valuation methodology has been reviewed by both the New South Wales Parliament’s Joint Committee on the Office of the Valuer General and the New South Wales Ombudsman, IPART is satisfied as to the quality of the valuation services provided by the Valuer General.”¹³

¹¹ J N Shonk, “Mass Appraisal Techniques”, 1982, *The Valuer*, Vol 27 No.4, p 358

¹² 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

¹³ Independent Pricing and Regulatory Tribunal of New South Wales, *Price Review of Rating Valuation Services Provided by the Valuer General to Local Government*, Final Determination No. 2, 2008, reference No 08/56, p 16

3. Efficiency and Effectiveness of the Current Provisions of the Act

To a large extent the Act has stood the test of time and proved itself to be both efficient and effective in supporting land based taxation in NSW. The Act has been able to support on-going system improvements as well as numerous changes to government policy over the years while maintaining the independence of the Valuer General. Examples of these strengths are described in the following sections.

3.1 Flexibility to Accommodate Government Changes

Over the years the valuation system has changed substantially, and the current provisions of the Act have largely catered for changes in government priorities, policies and structures.

The functions of the Valuer General have undergone significant structural changes in the past 15 years, which have been easily accommodated by the Act, due to the flexibility in the current provisions.

Currently, under delegated authority, LPI undertakes a large proportion of the Valuer General's functions under the Act. The work of LPI in letting and managing valuation contracts, quality control and integrity of the valuations, managing the objections and appeals process and maintaining the Register has created substantial efficiencies in the system.

The Act has also been able to accommodate changes to the taxation base with the transition from improved values to land values in the 1970's and has had the flexibility to accommodate shifts in environmental policies from the earlier encouragement for the clearing of land to the recognition of the increasing public value of conservation in more recent years.

3.2 Valuation Methodology

The Act does not specify the method by which land values are determined, which means that land values can be produced efficiently but also to a high standard. The most commonly used method of valuation in New South Wales is mass valuation using the component method of valuation, however this is not the only method being used to determine land values in New South Wales. The flexibility in the Act has allowed for some innovation in the development of new mass valuation methodologies, a stated aim when the first contestable contracts were tendered in 1996.¹⁴ This process of innovation is continuing with LPI recently issuing an Expression of Interest for proponents to trial alternate valuation methodologies in a pilot program to gauge the opportunities for further improvements in efficiency and effectiveness.

¹⁴ New South Wales Ombudsman, *Improving the Quality of Land Valuations issued by the Valuer General*, p 13

Flexibility in the method of valuation allows for changes in technologies and adoption of world's best practice valuation techniques. It also allows the valuer to apply the most suitable method of valuation for the property or land use. It also highlights that the Act is focussed on valuation outcomes rather than process, producing land values that represent the market value to provide the basis for rating and taxing.

3.3 Independence of the Valuer General

The Act establishes the Valuer General as a Statutory Officer reporting to Parliament. The intention of this provision was to ensure the independence of the Valuer General as the institution "can have no interest in anything except a fair valuation"¹⁵. These provisions are still relevant today and are considered to be essential to the effective operation of the valuation system in New South Wales by enabling the Valuer General to maintain public confidence in the valuation system through transparency and clear accountability of roles.

The Act also provides for independence in the use of valuation contractors to make rating and taxing valuations, with LPI monitoring the process and quality of the valuations. A further element of independence was introduced when LPI began using valuation contractors independent of the original valuation to report on the majority of objections.

The New South Wales valuation system also benefits from the separation between the Valuer General and LPI. The current arrangement of the Valuer General in a policy oversight role and LPI undertaking the operational functions of the Act provides an additional level of independence and quality assurance for all stakeholders.

3.4 Operating Cost Efficiency and Effectiveness

The valuation system is currently operating at efficient cost levels. In December 2007, IPART was requested by the Premier of New South Wales to conduct an investigation into the pricing for rating and taxing valuation services provided to local councils by the Valuer General.

In examining the pricing of valuation services to local government IPART determined that valuation services were provided cost effectively.

With reference specifically to the use of valuation contractors, IPART considered that "43% of the Valuer General's operating expenditure, which consists of competitively tendered valuations contracts, represents efficient costs."¹⁶ The view that competitively tendered valuation contracts represent an efficient cost was also supported by a key stakeholder, the Local Government Shires Association.¹⁷

15 Arthur Griffith, Second Reading Speech, cited *Report by the Committee of Inquiry on Certain Matters Arising under the Valuation of Land Act*, p 6

16 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

17 Ibid, p 10

With regard to the remainder of the Valuer General's operating costs IPART agreed that the Valuer General's benchmark against comparable jurisdictions demonstrated efficiency with most of the remaining non contractual costs stating that "IPART considers that the operating expenditure...approximates the efficient level."¹⁸ IPART also stated that as well as being satisfied as to the cost efficiency of the valuation services provided by the Valuer General, it was also satisfied as to the quality of the services provided.¹⁹

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.²⁰

3.5 Flexibility to Allow for System Improvements

A range of public inquiries from the late 1990s to 2005 highlighted the need for more transparency, greater independence and faster responses in the objection process as well as easier access to increased, simplified information to enable landowners to better understand valuations and objections.

The *Report into the Operation of the Valuation of Land Act* (Walton Report)²¹ in 1999 made 22 recommendations for improving valuation processes, simplifying legislation and improving communications between the rating and taxing systems and the property owning community. There were also substantial amendments to the Act following the Walton Report that ensured provisions were primarily valuation related and avoided duplication of provisions with the *Land Tax Management Act 1956*.

In 2005 an inquiry by the New South Wales Ombudsman *Improving the Quality of Land Valuations issued by the Valuer General*²² (Ombudsman's Inquiry) checked progress on the reforms instigated following the Walton Report and made a further 38 recommendations.

These inquiries into the operations of the Act have resulted in improved valuation system efficiency and effectiveness, through improved transparency and quality of information, a more customer focused objection process and improved quality of valuations. These

¹⁸ Ibid, p 16

¹⁹ Ibid, p 16

²⁰ NSW Department of Lands, *Annual Report 2008/2009*, p 24

²¹ J Walton, *Report of Inquiry into the Operation of the Valuation of Land Act*, October 2005.

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.

improvements to the system have been made largely within the existing provisions of the Act which demonstrates existing flexibility in the Act.

3.5.1 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.

Property owners, objectors and people making enquiries are now provided with an improved service with the establishment of a dedicated customer service group which provides prompt consistent responses to enquiries.

The information provided to landowners was reviewed with more information now being provided on the Land and Property Management Authority website, on the Notice of Valuation and in the accompanying brochures.

Simplified, relevant sales information is also provided through the provision of a General Valuation Sales Report which lists the sales that were used in the valuation process in that area.

3.5.2 Customer Focused and Efficient Objection Determinations

The objection and appeals processes were refined to ensure that issues raised by the landowner were properly addressed and that there was a clear level of independence in the process.

To meet the customer service requirements of landowners, LPI established a specialist team, to answer telephone, mail, internet and email enquiries relating to land values and provide information to assist landowners to lodge valid land value objections.

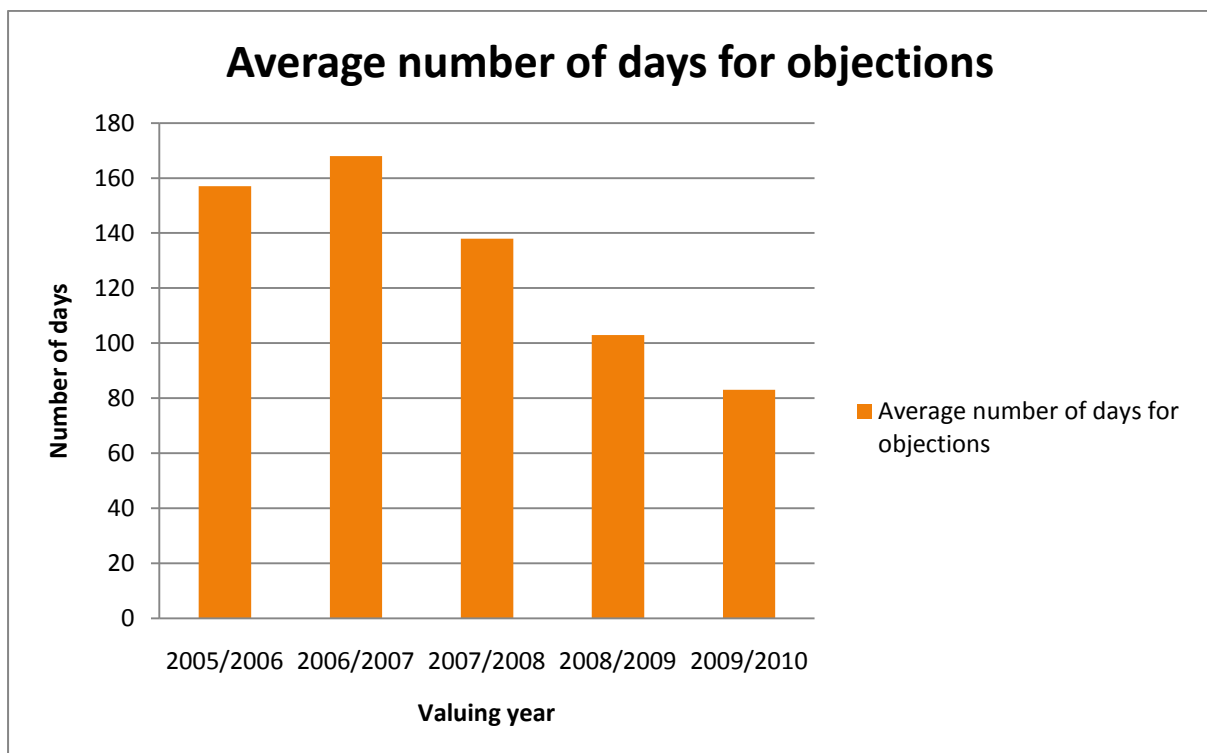
The valuation and objection processes were further refined following the Ombudsman's Inquiry. Improvements included the enhancement of the valuation objection documentation with the provision of an Objection kit to landowners wanting to object to the issued land value. The kit consists of a detailed *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 also provided which is pre-populated with the property and owner details.

Improved information is also provided to landowners at the end of the objection process with the issue of a detailed property report prepared by the reviewing valuer.

The integrity of the objection process has been improved by the use of independent contract valuers in the land value review process. A panel of independent valuation contractors was established to provide a pool of valuers able to promptly and independently

review objections. The procurement policy that was developed for the panel 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. The average turnaround times for objections has reduced from an average of 169 days in 2006/2007 to 83 days in 2009/2010.



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

“A customer focused approach to dealing with valuation objection reviews has provided substantial benefits for both 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.”

3.5.3 Improved Quality of Valuations

The quality of valuations produced was an issue raised in the Walton Report and the Ombudsman's Inquiry. Many of the quality control issues were related to a lack of dedicated resources to valuation quality, with senior valuers previously responsible for the management of contracts as well as the quality of valuations.

Following the Ombudsman's recommendation and originally recommended by Walton, in 2006, the Valuer General implemented an ongoing and systematic review of land values consistent with international best practice. LPI monitors the quality of valuation contractors and identifies ongoing improvements to the valuation system by undertaking a formal program of documented audits of land values, valuation objection reports and valuation contractor processes.

There is now a more rigorous and consistent application of contract management processes. A team of dedicated contract managers, who are separate from the valuation process, manage procurement, contract issues and the follow-up and resolution of issues raised through the audit process.

Professor John McFarlane from the University of Western Sydney has been engaged by the Valuer General to provide ongoing training in and development of statistical standards used in the mass valuation process. Professor MacFarlane's involvement has lead to an increasing understanding and application of statistical measures of valuation quality across the system. The adoption of these standards which are widely used and accepted by rating jurisdictions around the world has lead to continual improvement in valuation quality with compliance to the standards improving every year since their introduction.

Improved Statistics for Key Quality Standards

Quality Statistical Standard	Zone	2004	2009	% of Local Government Areas Meeting Required Standards
COD	Residential	23.8	4.6	97
	Business	29	6.7	94
MVP	Residential	87	95.6	97
	Business	78	92.9	89
PRD	Residential	1.15	1.02	85
	Business	1.22	1.09	75

Note: The Coefficient of Dispersion (COD) measures the uniformity of values relative to the adjusted land values at the base date. The standard required is less than 15 for all zonings except residential which is less than 10.

The Mean Value Price Ratio (MVP) measures the accuracy of values relative to the adjusted land values at the base date. The standard required is 85 to 100.

The Price Related Differential (PRD) measures the extent to which high and low valued properties are assessed uniformly relative to the sales data. The standard required is 0.98 to 1.03.

4. Property Based Valuation Methods

The Act current provides for three methods of valuation. These methods are briefly described below.

4.1 Land Value

Land value rating uses a common basis assessing the value of the land excluding any improvements. This is considered to remove the element of taxation on the owner's capital input and only reflects the underlying value of the land. A land value captures the increase in value from the range of activities that occur around the land including the growth of demand due to population increase and consequential use changes or changes in land use patterns; this has been described as the "unearned increment".

The attributes of land are relatively constant and therefore land values can readily adapt to a mass appraisal methodology and be available within a short time after the valuation date. They can be issued and applied within or close to the current market conditions. However, the lack of evidence of land sales in areas that have been built on for many years means that they are sometimes not readily understood by landowners. Land values are not readily usable for any purpose other than rating and taxing.

New South Wales has a strong and robust methodology of land valuation producing 2.4m valuations annually. It has been developed over a long period and is generally accepted as an equitable and reasonable basis of valuation.

4.2 Improved Values

Improved value rating values the land and buildings. This is generally considered to tax the capital input and economic endeavour of the owner. It is more easily understood by landowners as there is no element of adjustment to hypothetically remove improvements. Improved values produced for rating and taxing can be used for a wider range of market value purposes and are more readily understood by property owners. The valuation reflects the entity that is traded on the market, including any improvements, however, it provides a level of disincentive to landowners to improve or maintain property to the highest and best use.

In New South Wales improved values for the whole state were last made in 1973. Since then little data has been kept on improved property attributes. This information may be available in some form through local councils or commercial organisations but is not available in a comprehensive or complete record for all properties across the whole of New South Wales.

Improvements on land are subject to more frequent changes than the underlying land and therefore improved values require a significantly higher annual maintenance input.

Improved values in most jurisdictions are not made annually and even where produced with mass appraisal techniques require significant maintenance input.

The collection and creation of the base data to implement an improved value system would add considerable initial establishment cost. The introduction of an improved value system would involve significant variations in rates and taxes.

4.3 Assessed Annual Value

Assessed annual values are based on rental returns for a property. They are generally regarded as providing a similar rating and taxing effect as improved values. The use of rents as a basis and the activity of the rental market modifies or compresses the incidence in rating due to the generally compressed nature of this market.

The assessment of rental values requires a similar amount of data to be collected as the capital value and maintained throughout New South Wales. Currently this data is not available in a whole of state or comprehensive manner.

The collection and creation of the base data to implement an improved value system would add considerable initial cost to establishing an assessed annual value system. The introduction of an assessed annual value system would lead to significant variations in rates and taxes.

4.4. Appropriate Basis of Valuation in NSW

Land value has been considered by various previous inquiries and reviews to be the most appropriate method for providing rating and taxing valuation in New South Wales.

However, as highlighted in the brief overview of each valuation method above, each has different strengths and weaknesses. Any consideration of a change to the valuation base used in New South Wales should be considered in the light of a detailed cost benefit analysis.

5. Potential for Improvement to the Valuation of Land Act

Whilst the Act largely supports efficient and effective valuation outcomes, LPMA considers that there are aspects of the Act that require further clarification or consideration. The issues that LPMA believes need to be considered when examining the efficiency and effectiveness of the Act and its application to stakeholders are set out below.

5.1 Public Benefit of the Register of Land Values and Use by Government Departments

The Act requires the Valuer General to maintain the Register for Rating and Taxing Purposes. This Register is currently used principally for local government rating and the assessment of land tax by the Office of State Revenue.

However there are an increasing number of other government agencies that use the values or are interested in using the values contained in the Register.

Currently the provisions of the Act do not cover the whole range of agencies that use the values nor does it specifically state that the Valuer General may provide values to agencies other than rating and taxing authorities, Sydney Water Corporation and the New South Wales Fire Brigades.

Some additional Government Agencies that currently use values contained in the Register that are not provided for in the Act are:-

- Crown Lands - to determined rentals for domestic waterfront leases
- New South Wales Maritime - to determined rentals for waterfront leases
- New South Wales Treasury - used to determine Commonwealth Grants
- Department of Local Government - to determine Local Government Grants
- Various other Government Agencies - to determine land leasing based on the value contained in the Register.

The provision of land values for these agencies are not specified in the Act, however there is significant benefit and cost effectiveness in providing greater structure around the provision of land values to other government agencies. It is recommended that a review of the Act include a more flexible provision for the Valuer General to provide valuations for the use by various agencies as determined by the Valuer General.

The Register contains a whole of state valuation record and is an important part of the property information fabric of New South Wales. As well as land values, the Register is currently one of the most important sources of property addressing and sales information in New South Wales.

Valuation information on the Register is increasingly being used by a wider range of government agencies for a wide range of information or commercial purposes. There has been an increasing desire by government agencies to adopt the valuations from the Register as a base for land rental determinations, market movement indicators and the apportionment or application of grants and levies.

Currently the Act is restrictive as to the way that valuations can be obtained, applied and used by other agencies. There is considerable scope for increased access by other government agencies to obtain and use the valuations for a variety of purposes which would improve the cost effectiveness of the annual valuations produced by realising the maximum benefit from this significant public asset and result in efficiency gains for New South Wales.

5.2 Defining the Register of Land Values as a Public Record

The Valuer General's objectives of providing a more transparent valuation system requires an increasing amount of information to be made available to New South Wales landowners. The increased level of transparency in the valuation process potentially leads to conflicts surrounding the provision of information, versus privacy concerns.

Clearer definition of what information comprises the public Register of Land Values would improve efficiency and resolve issues surrounding privacy and access to the data held within the Register. This would also ensure that the Valuer General was not providing information to the public that conflicts with obligations under the *Privacy and Personal Information Protection Act 1998* and the *Government Information (Public Access) Act 2009*.

5.3 Concessions and Allowances

There are a wide range of concessions and allowances within the Act. These concessions and allowances have been developed over time to meet specific needs and requirements for rating and taxing relief that is consistent with government objectives, for example to encourage development of land for a higher level of use or to protect heritage properties.

The nature of the introduction of these concessions and allowances over a long period of time and to meet specific objectives has meant that their application and determination is often inconsistent and does not follow a clear line of methodology. The application of these concessions and allowances is often inflexible and prescriptive and doesn't achieve the intended objectives for either the rating or taxing authority or the government.

It is recommended that a complete review of the concession and allowance provision within the Act be undertaken in order to simplify the provisions and provide for a more transparent and consistent outcome.

Key areas of concern where particular inefficiencies in the application of concessions and allowances exist are:

- Heritage Restrictions (Section 14G)
- Allowance for Profitable Expenditure (Sections 14L to 14R)
- Allowances for Subdivision (Sections 14S to 14W)
- Mines and Minerals (Section 14F)
- Rent Controlled Land (Section 14H)
- Protected areas under the *National Parks and Wildlife Act 1974* (Section 14D).

5.4 Timing of Valuations

The Act currently provides for all valuations to be made as at 1 July each year. This is the market value or dollar value of the property at that date. The valuation is determined at the 'Date Valuation Made' which takes into account all of the circumstances applying to the property at this date. This is a practical and effective way of providing consistent valuations for the whole of New South Wales.

These valuations are then applied by the Office of State Revenue on 31 December following the valuation. Notices of Valuation are issued to landowners during January following the valuation and applied by councils for local government rating purposes as at the following 30 June. LPI considers that this timing provides valuations that are as near as possible to reflect the market conditions at the valuation date to the time they are applied.

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

There are also potential benefits and efficiencies relating to aligning the land tax year with the rating year to provide a uniform date of effectiveness of the valuations. This would provide better clarity and reduce landowner confusion between the differing dates the valuations have effect.

5.5 Use of Valuations by Rating and Taxing Authorities

The operation of the provisions in the Act relating to mixed development apportionment factors,²³ mixed use apportionment factors²⁴ and Land of which part only is rateable or taxable²⁵ are not currently achieving their objective of providing flexibility and availability of intended rating outcomes to rating and taxing authorities. The Act is currently inconsistent and prescriptive in the nature of the valuation consideration and so is not able to fulfil the range of circumstances which are now facing rating and taxing authorities. Likewise the requirements of rating and taxing authorities are not being met in a number of circumstances relating to part or beneficial owners. The definition of “owner” does not adequately provide sufficient flexibility for rating and taxing authorities to meet modern land ownership situations, such as beneficial owners of superannuation trusts.

It is recommended that the provisions be reviewed in consultation with rating and taxing authorities to ensure an outcome that is appropriate for all stakeholders.

5.6 Right of the Valuer General to Make and Alter Valuations

Section 14A of the Act includes a number of instances where the Valuer General can make and change valuations. However, the provisions relating to the right of the Valuer General to make and change valuations and the impact of those changes on rating and taxing authorities are not clear and lead to inconsistencies in application.

In broad terms, LPI believes the Act should clearly state that the Valuer General has the power to:

1. make valuations,
2. to amend existing valuations with retrospective effect for rating and taxing purposes in the case of an error, and
3. to make a new valuation at any time where material circumstances have changed to take effect from the next time rates and taxes are levied.

This will provide better clarity and certainty to rating and taxing authorities as to the application of valuations made by the Valuer General and provide improved transparency of process and outcomes for stakeholders.

²³ Sections 14X – 14BB, *Valuation of Land Act 1916*

²⁴ Sections 14BBA – 14BBE, *Valuation of Land Act 1916*

²⁵ Section 28A, *Valuation of Land Act 1916*

5.7 Improving the Efficiency and Independence of the Objection Process

5.7.1 Supporting Information for Objections

The Act provides for objections to be made in a form approved by the Valuer General and for the Valuer General to provide reasons for disallowing or allowing an objection.²⁶

LPI introduced a process in 2005 to reject objections that did not adequately explain the reasons contended by the landowner as to why the land value was incorrect. To enable objections to be properly considered by the Valuer General, these objections were returned to the objector to give them the opportunity to lodge appropriate supporting evidence to enable a proper review of the land value. This screening process was introduced to create a more efficient and effective objection process and to improve the quality of the response to the landowner.

Consideration should be given to including a provision in the Act that prescribes what constitutes the appropriate level of information to allow the Valuer General to properly consider an objection. Queensland's Valuation of Land Act has recently been amended to include such a provision.²⁷

5.7.2 Timeframe for Lodging an Objection

Section 35 of the Act provides for the lodgement of an objection within 60 days of a Notice of Valuation or Land Tax Assessment. Notices of Valuation are currently issued progressively from mid January to late February and the majority of Land Tax Assessments are issued during the same period. LPI has significantly reduced the processing time for objections, which is currently at an average of 83 days. For the maximum efficiency and benefit to be obtained, particularly in local government areas, the majority of objections should be completed by the 30 June rating commencement date, to avoid re-levying and recalculation of rates by rating authorities. Similarly, the determination of an objection prior to the completion of the Office of State Revenue instalment process would also improve the efficiency of the tax collection system and reduce the recalculation and revision of taxable amounts.

To continue to improve the turnaround of objection determinations prior to critical rating and taxing dates, LPI recommends the reduction of the time allowed for an objection to be lodged. LPI has introduced a range of improved communication strategies including a call centre and the provision of sales information relevant to the locality of the property to enable the owner to determine the reasonableness of the valuation as well as an online objection facility. For these reasons, LPI considers that considerable time and efficiency gains with no resulting loss in the public's right to object will be achieved with a reduction in the objection lodgement period. This has been done in other Australian Jurisdictions, with

²⁶ Section 35C, *Valuation of Land Act 1916*

²⁷ Section 52AA, *Valuation of Land Act, 1944*

Queensland reducing its timeframe for lodging an objection to 45 days. Therefore, it is recommended that consideration be given to the reduction in the time limit for lodging an objection.

5.7.3 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 the Walton Report and the amendment to the Act, there have been significant changes to the valuation system and LPI objection processes. There is greater independence achieved by the use of valuation contractors for both the recommendation of the new land values that are made each year and the quality assurance of the valuations by LPI.

Furthermore, the Ombudsman’s Inquiry stated that sufficient separation from the original valuer had been achieved by improved LPI processes and was no longer required, stating that “this is an unrealistic and...unnecessary requirement.”²⁸

LPI considers that this requirement is no longer necessary and that the independence and transparency of objection reviews can be adequately managed by the Valuer General.

5.8 Contracting for Valuation Services – Market Failure

The Act currently does not recognise situations where there is market failure and is therefore silent on situations that require the Valuer General to enter into special arrangements for the provision of valuation services. Such situations include services which do not attract market competition or when a contract valuer fails in the delivery of contracted services.

As part of a review into the Competitive Tendering for Mass Valuation Services in 2001²⁹, Deloitte’s recommended the consolidation of government valuation capacity into a single entity, should the private sector provision of services prove successful. Private sector provision of services has proved successful, with 19 valuation firms providing rating and taxing valuation services across all of the 36 contract areas and over 90 private firms on a contractor panel providing objection and miscellaneous valuation services in 2010. The consolidation of valuation expertise within LPI has also been achieved, with Property Valuation Services, formerly the State Valuation Office, being absorbed by LPI in March 2007. Consolidating all public sector valuation expertise has equipped LPI to act as the “valuer of last resort,” should a contract valuer fail or for services that do not attract market competition.

²⁸ NSW Ombudsman, *Improving the Quality of Land Valuations issued by the Valuer General*, p 77

²⁹ Deloitte Touche Tohmatsu, *Review of Competitive Tendering for Mass Valuation Services: Final Report*, October 2001.

Whilst the Act currently provides for the Valuer General to enter into ‘uncontested contracts’ with the State Valuation Office, an entity that no longer exists, it does not currently provide the Valuer General with sufficient scope or flexibility to enter into contracts in the event of contractor or market failure. It is recommended that any review of the Act considers the introduction of such provisions.

5.9 Delegation to Public Officials

The provisions relating to the requirement to supply information to the Valuer General and the power of access by authorised persons in Sections 15, 15A, 74 and 75 of the Act have not been updated to meet the current situation or requirements of the Valuer General, contractors or public sector staff. LPI recommends that the Act be reviewed to ensure that the Valuer General has sufficient authority to undertake the functions required under the Act and be able to delegate the authority to undertake the functions of the Act to contractors or public officials regardless of whether they are directly employed by the Valuer General.

5.10 Outdated Language and Unclear Provisions

As the Act was written in 1916, the language is outdated and often complex which causes significant interpretation issues. Anecdotal evidence suggests that this leads to confusion for landowners and results in increased objections and litigation. The New South Wales Valuation of Land Act is the oldest valuation statute across all Australian Jurisdictions, with the majority of other states using legislation drafted in the 1960’s and 1970’s and as recent as 2001 in Tasmania. Since its original proclamation there have been numerous amendments to the Act, many of which have been largely ad hoc to address specific issues, rather than reviewing the instrument as a whole. As a result the Act is somewhat disjointed and some amendments to the Act appear to conflict with existing provisions. Similarly redundant provisions may cause conflict when used to assist in interpretation of operational sections leading to consequences not intended by the Act.

Examples of outdated language and unclear provisions that cause inefficiency and ineffectiveness in the Act include:

- The provisions and wording of “Land Value” and “Land Improvements” are outdated as it contains amendments that have been added on various occasions and does not provide a clear and comprehensive definition of “Land Value” and “Land Improvements.”
- There are a number of terms used within the Act that are not commonly used in modern English and require review. For example the word “disposition” is used in relation to Crown Leasehold land which has caused interpretation and application issues.
- Sections 26 and 27 relating to the amalgamation and separation of valuations are poorly written and provide little clarity for the application of these provisions.

- The provisions relating to the valuation of Mines and Minerals may not currently meet the requirements to value land within the expanded mining sector of New South Wales, for example gas leases.
- There are a number of sections that are outdated due to references to organisations that no longer exist for example the reference to State Valuation Office.
- Section 20 currently requires the Valuer General to make valuations to satisfy the requirements of the *Duties Act 1997*. These provisions may need to be updated to ensure that the Valuer General has discretion to make a valuation for the purposes outlined in Section 20.
- Section 62 of the Act is an example of an original section of the Act which now appears to conflict with the current intention of subsequent amendments that have been made and the current rating and taxing applications and use of the Act.

6. Recommendations

The Land and Property Management Authority commends its submission to the Joint Committee in relation to the current efficiencies and effectiveness of the Act and its application to stakeholders and in doing so recommends the following:

1. That land based rating and taxing provides an efficient and effective source of revenue for government in New South Wales and should be retained.
2. That land values are an efficient and effective basis for land based rating and taxing in New South Wales and should not be changed without careful cost / benefit consideration of the alternative value bases.
3. The Act currently requires a comprehensive review to address many of the issues that arise from its outdated language, unclear or inconsistent provisions and numerous amendments to the Act.
4. Any review of the Act should be conducted in consultation with key stakeholders, including rating and taxing authorities, to ensure all needs are met.