

REPORT OF PROCEEDINGS BEFORE

JOINT STANDING COMMITTEE ON THE OFFICE OF THE
VALUER-GENERAL

INQUIRY INTO LAND VALUATION SYSTEM

At Sydney on Friday 15 March 2013

The Committee met at 11.00 a.m.

PRESENT

Mr M. J. Kean (Chair)

Legislative Council

The Hon. S. MacDonald
The Hon. A. Searle

Legislative Assembly

Mr C. G. Barr
Mrs L. G. Williams

MILTON ROY COCKBURN, Executive Director, Shopping Centre Council of Australia,

ANGUS NARDI, Deputy Director, Shopping Centre Council of Australia, and

MARCUS CONABERE, Director, Urbis Pty Ltd, sworn and examined:

CHAIR: Thank you for appearing before the Committee. First, I thank you for your level of interest in these issues. I think all Committee members agree that you made an excellent submission which is beneficial for all of us and provides us with a lot of helpful background information when we are making our recommendations to the Government. We are particularly grateful for your contribution comparing jurisdictions and best practice in Australia, and that is what we are trying to achieve here: a valuation system which is fair, transparent and looks after the interests of those who will be affected by it. This is a bipartisan committee looking at issues around our valuation system. In particular, in this inquiry we are focussed on issues of governance and how the system is working across the State.

I need to confirm that you have been issued with the Committee's terms of reference and information relating to the examination of witnesses.

Mr COCKBURN: Yes.

Mr NARDI: Yes.

Mr CONABERE: Yes.

CHAIR: I remind you that while you are protected for any evidence that you give before the Committee while you are participating as a witness in this hearing, you will not have the same protection if you repeat, publish or refer to any of your evidence outside these proceedings. As I said, the Committee's role is to monitor and review the exercise of the Valuer-General's functions in respect to land valuations. It cannot investigate the valuation of a specific parcel of land. In keeping with Parliament's recognition of the role of the courts, the Committee will not be considering any question currently before the courts for determination in respect of land valuations by the Valuer-General. You should have careful regard to this position when giving your evidence. If you wish to raise any particularly sensitive or confidential matters with the Committee, you may request that part of your evidence be heard in private. If you would like to do that, let me know and we will move the proceedings in camera. Do you have any questions regarding these procedures?

Mr COCKBURN: No.

CHAIR: In what capacity are you appearing before the Committee today?

Mr COCKBURN: I am the executive director of the Shopping Centre Council of Australia.

Mr NARDI: I am the Deputy Director of the Shopping Centre Council of Australia.

Mr CONABERE: I am a Director of Urbis, acting on behalf of the Shopping Centre Council of Australia.

CHAIR: I note that you have made a submission to the Committee. Would you like that submission to form part of your formal evidence?

Mr COCKBURN: Yes.

CHAIR: Before we go to questions you have an opportunity to make a formal opening statement.

Mr COCKBURN: I do not think that is necessary, unless you particularly want one. We have included an executive summary in our submission so we are happy to go straight to questions.

CHAIR: I note that in your submission—an excellent submission—you say that you thought the site value system should be maintained. A lot of academic writing suggests that the benefit of land values is that there is no disincentive on construction. Do you think it would be a relevant consideration for your members?

Mr COCKBURN: I might pass that question over to Mr Conabere to answer. Mr Conabere is the valuation adviser both to our council and to a number of our individual members. In that role, he has had experience in the valuation methodologies, particularly in Queensland, New South Wales and Victoria. With your permission, I will direct that to Mr Conabere.

CHAIR: Absolutely.

Mr CONABERE: In the context of the submission we have put together, land value has been the long-established rating system in New South Wales. It is universally applied in all States for the purpose of land tax. Certainly, from the perspective of development and an equitable system, it is seen as the most equitable basis of rating that is prevailing. One issue that we touched on in the submission was that what becomes problematic is moving from a particular rating base to an alternate rating base. It creates substantial complexities. It also creates substantial inequities, particularly when you are moving from what we call an unimproved system or a land system to, basically, a capital-based system or improved system. To give an example of that, that obviously transpired in Queensland recently just on a land basis where they went from unimproved land to site value. Effectively, the unimproved assessment is going back to the original status of the land.

If any site works have been put on the land they are deducted off that for the purpose of assessing the unimproved value. So the move that was made in Queensland was that that becomes quite a complex valuation. It is not as simple as going through and saying, "What is the underlying land value?" You have to assess the value and then the added value of the site works on top of that which have to be deducted. The reason for raising that is that when they have gone from unimproved value to site value they had to put in transitional provisions over a 12-year period to phase in that move because obviously you have certain property in that equation that gets substantially adversely affected by that move from unimproved value to site value. When you go from site value to capital value the magnitude of that differential is substantially magnified.

We have had that situation in other States. In Victoria local governments can choose to either rate on site value, net annual value or capital improved value. Ninety-nine per cent of them actually rate on capital improved value but when we have had circumstances where a local government area has moved from site value to capital value there is this incredibly inequitable and disproportionate shift in the rate burden to highly valued properties. The other point we would make is that with the land system local government is in a position to assess its own assessment of the equity between land classifications because effectively at the end of the day it has the ability to apply differential rating and does so. So the primary concern, certainly from a valuation perspective, land is the purest assessment that you have to make and when you move to an improved basis it becomes increasingly complex and creates inequity.

Mr NARDI: I might just add to that. You mentioned construction. In our submission we gave a bit of an indication of our members' development pipeline in the State, which is about \$5.3 billion; all those companies have substantial concerns. If there were a transition to an improved valuation basis that would have quite an impact on the feasibility of those projects. We gave some details of those, everywhere from the GPT Group's Wollongong Central project, to the Westfield Miranda project and AMP's Macquarie Centre project—some fairly substantial investments. A shift to improved valuation would be a substantial concern for the feasibility of those major projects.

CHAIR: The current system encourages you to develop underutilised land. Is that still relevant today? It encourages you to develop greenfield sites and things like that. Do you have any comment on that in terms of the current system and how it operates?

Mr CONABERE: It does.

CHAIR: I will phrase it this way. If you move to an improved capital value system would that be a disincentive to develop greenfield sites?

Mr CONABERE: Yes is the simple answer to that, but what it comes back to is local government ultimately—what we are talking about here in an equity sense is council rates. We all know that land tax is levied on the basis of site value in any event. Putting that to one side, what typically transpires when you see a move from a land base to a capital improved base is that the equity or the apportionment of the rate burden under the land system substantially changes when you move to a capital value system because all of a sudden you go from having a land value down here for a highly improved property and the original rating value

jumping up to here. If local government was to maintain the same apportionment among land classification in that application, what would happen is that the rate in the dollar—the ad valorem rate that gets applied for council rates—basically would have to come down substantially to maintain that same distribution of the rate burden. That causes a problem for local government in the sense that effectively you may find that your commercial ad valorem rate actually comes down below your residential ad valorem rate.

We see that again and again where effectively they are not in a position to maintain the same rate burden apportionment that they have had under a land system. That is a concern for the owners. We have seen that happen again and again in other States. The reality is that council rate charges on these major properties are very significant and if we do see substantial shifts in that tax burden, as Angus said, they can be sufficient to prevent development from going ahead.

CHAIR: One of the areas the inquiry has focused on is the transparency of the system. We have had over 100 submissions so far and many talk about how we can improve transparency. Do you think published valuation methodologies would help your members understand the valuation system and predict their liabilities—the Valuer-General making clear what the methodology is that he is going to apply to shopping centres, for example?

Mr CONABERE: Yes. Clearly the more background as to the rating valuation for the ratepayer the better the transparency and understanding of what is taking place.

CHAIR: Does that happen now?

Mr CONABERE: I imagine the Valuer-General here will have valuation guidelines that they would put in place and that would be publicly available.

CHAIR: Are they publicly available?

Mr CONABERE: I would have to check that.

Mr COCKBURN: I think from memory they are. It is some time since I have gone onto the website but I think they are available on the website. Speaking as a private ratepayer for the moment, I think also when the notice comes around from the Valuer-General my recollection is there is a reasonable amount of information in that notice about how the valuations take place.

Mr CONABERE: The issue is, though, that that will be very generic information. When you start talking about specialised properties that information will not deal with those types of properties. Other States certainly publish that detail. One of the points I imagine we will get onto later in the process is that for these specialised properties there is now a formal consultation process that occurs.

The Hon. SCOT MacDONALD: Interstate, not here?

Mr CONABERE: Interstate. Not here. Effectively there is a return phase process that is administered interstate. It is fair to say, though, we have raised that with the Valuer-General here and we have been working with the Valuer-General and his internal staff. We have administered that process in part but it is not a formal process like it is in other States.

CHAIR: Let us move to that process. I refer to page 11 of your submission where you have provided a table outlining the consultation process. Could you talk us through the process that occurs in Queensland and Victoria?

Mr CONABERE: The table on page 11 deals with the objection process. That is the process once the ratepayer has received the rate notice and what transpires from that point. The point I was making earlier about the return phase process, which we can come back to, is that that is a process that occurs prior to the formal valuation being returned. This is where transparency issues do occur. I will go through the three States.

The Hon. SCOT MacDONALD: I want to be really clear in my mind about this. Does the return phase happen before any objection is triggered?

Mr CONABERE: Are you happy for me to talk about the return phase first and then get into the objection process?

The Hon. SCOT MacDONALD: That is up to the Chair.

Mrs LESLIE WILLIAMS: Can I suggest that we go back to the return phase afterwards because there are some specific recommendations about that.

CHAIR: Let us focus on the objection process first.

Mr CONABERE: In answer to your question, the return phase occurs before the objection process and before the Valuer-General certifies the valuation for issue. With the objection process, there are very similar notification systems between the three States. There are different forms of notification but what we mean by notification is the notice the ratepayer receives that specifies the valuation. If there has been no return phase, that is the first time that the ratepayer will sight the statutory assessment that has been returned, or the land value in the case of New South Wales. All the States have a prescribed objection period of 60 days. Victoria has a nuance in the sense that it refers to two months, but effectively that means that upon receiving that notice the ratepayer has a 60-day period to object to or challenge that valuation through a formal process. In all States if you do not adhere to that time line you would have to make application to the Valuer-General to lodge a late objection. Invariably, unless there are very unusual circumstances, that is not accepted. So you must object within a 60-day period and that is consistent in all States.

There is a prescribed form of objection in each State. It does vary and effectively what that seeks to do from the authority's perspective is to understand the objector's position. We have had situations going back in time where people just object and do not provide any detail. It makes it extremely difficult for the authority to make an assessment as to what the objector's case is. Those forms have developed over time and become more detailed but at the same time they have had to be kept at a level where the standard resident who does not have the property expertise can complete the form. In some States there is a different form of objection for the type of property. For residential it is a more simplistic form and for a commercial and industrial property it is more sophisticated form and the ratepayer who is more sophisticated therefore has the obligation to provide more detailed information.

Where New South Wales is different from Queensland and Victoria is where it goes from there. You lodge your objection in New South Wales through the appropriate channels and effectively there is no consultation process that is prescribed in the legislation. I will deal with Victoria first and then Queensland, because that is the latest iteration. In Victoria once the objector has completed a valid objection form there is then an obligation on the authority to respond to that objection form providing prescribed information, effectively telling the objector how they have valued their property. That has been quite successful—not fully, because the definition of prescribed information is not overly exhaustive. There is some discretion as to what prescribed information means. That information has to be provided within 30 days of the objector lodging their objection. The objector then has the opportunity to provide a response report, which is effectively further to the original objection document commenting on the authority's position, potentially revising their position but going back to them and saying, "This is our position in response to what you have provided." The objector has 30 days to do that from the date that the authority provides its report. It is mandatory for the authority to provide the prescribed information.

The objector can choose not to provide a response report but the legislation makes the objector accountable in the sense that if they do not provide that response report they are not necessarily entitled to a conference, which is a good thing because at the end of the day there has to be accountability on both sides of the table. In the event that both reports are provided there is a mandatory conference. The objector gets to sit down with the valuer who has completed the valuation and discuss their respective positions. The idea behind the conference is that the matter gets resolved without the need for litigation. The transparency around that process is very good because the objector understands the authority's position and how they have valued the property and, equally, the authority understands all the points the objector is putting across.

In Queensland they took that a step further. The background to that was seven years of just incredible litigation around the Government wanting to change the way they value shopping centres. There was a lot of background to their legislative changes and they wanted to get this process absolutely right because they wanted to put an end to litigation in the sense that these matters should have been resolved without being litigated.

They operate on site value. It is basically the same definition that you have here—land value. It is called land value here, site value over there. They are basically the same definition at the end of the day. What the Government did was to say that there must be a mandatory conference that must take place in the event that the valuation is above \$5 million. It has to be a dollar above \$5 million. If it is 5 million, you do not get one. If it is above \$5 million, there is a mandatory conference. Effectively, the way that process works is that an independent chairperson is appointed to the process. You do not have that in Victoria, you just meet with the valuer. Depending on the valuer's position, it can be a quick meeting or a beneficial meeting and the matter gets resolved.

Queensland officials have basically said, "We want to take that to the next step. We want an independent chairperson to 'mediate' the objection discussion." That chairperson obviously has the necessary valuation experience. A list of chair people is selected by the Valuer-General and the Valuer-General appoints that chairperson to that process. The benefit of the Queensland process is that there is a formal disclosure requirement on both parties, so the chairperson will write to both parties and set out what their disclosure requirements are. The information must be provided to the chairperson, the chairperson will make an assessment as to whether or not the parties have complied with their disclosure requirements, and in the event that they have, the information will be exchanged between the two parties. Once that has occurred, there is a mandatory conference.

The objector in those circumstances—and I cannot imagine where this would happen—they could choose to say, "We don't want to go to the mandatory conference." I have been involved in a number of them in Queensland and once you are going down that process, you would naturally attend the conference. The chairperson in Queensland cannot provide legal advice. Effectively, their role is to try and get the parties to agree on whatever points they can and ultimately try to resolve the issue. The whole purpose behind that is to prevent litigation. On our side of the table with our owners, the last thing we want to be doing with these matters is litigating. It is time consuming, it is costly, it is uncertain, and, at the end of the day, we need to be in a position to go back to our tenants—this gets driven by our tenants who, under their net leases, will pay the council rates.

It is not just an owner thing; it is a tenant thing as well. The owner needs to be in a position to say to the tenant, "The valuation is fair and reasonable. It is properly based, therefore, the payment should be made." Effectively, that process takes place and if the matter cannot be resolved, you obviously have the ability to take that further through your litigation channels. From the perspective of a ratepayer, you have then got full knowledge. So, in New South Wales, you can lodge an objection, you can get a decision and that can be the end of the story. That is not to prevent a ratepayer saying, "We would like to meet and have a discussion", but there is no formal process or framework around that like there is in Victoria and Queensland.

The reality is that that has gone into both the Victorian and Queensland legislation to provide accountability on both sides of the table. Historically, some objectors have just objected and provided no detail. Then, equally, some of the authorities in Victoria—the local government is the rating authority as distinct from the Valuer-General—may not provide any detail. So the process was necessary to get transparency and a proper mechanism so that these matters can be resolved. That is probably it.

CHAIR: On that point, do the objection discussions actually work, or does the Valuer-General stick to his values?

Mr CONABERE: They work.

CHAIR: It is a collaborative approach. Would that be the way to describe it?

Mr CONABERE: Yes. The key point on that, Mr Chairman, is the difference between Victoria and Queensland is the independent chairperson. In Victoria, you can turn up to one of these conferences and the valuer on the authority side, or even the objector, may have no intention of resolving the matter whatsoever. They will turn up, just do what they have got to do and go, whereas in Queensland you are held accountable by the chairperson. If you have not provided correct disclosure, you will not be given the conference. In Victoria, you could not necessarily meet the prescribed requirement with respect to information, but the conference would still proceed. Our experience in Queensland has been that we have gone from having litigation constantly—we had a process with 40 shopping centres. They do an annual revaluation. Not one of those, at 2010 levels of value, was litigated. There was the return phase process that sat at the front of that as well. We will come to that,

because that is also beneficial. The process does work. It is important in this process to have accountability on both sides.

CHAIR: Does the chairman determine the value?

Mr CONABERE: No.

Mrs LESLIE WILLIAMS: He is just a mediator?

Mr CONABERE: Correct. They do not use the term "mediator" and it is not a mediation per se. The chairperson cannot give legal advice or make a decision. It is important that they do not do that, because you then have the next avenue, which is the court process. Effectively, part of the challenge is getting the right chairperson. You have got to have somebody who has the requisite experience to handle the matter, understand the matter. I do not know the exact number in Queensland. At a guess, there might have been a dozen chairpeople who were nominated and it would be up to the Valuer-General to make an assessment as to who was appropriate to convene particular conferences. I am not sure if it was a formal process, but I certainly know that, informally, we, as objectors, were asked if we saw any conflicts or had any issue with a particular chairperson, which is important as well. You want to have that ability within any improved legislation that if there was a conflict with a chairperson, naturally that could be addressed in the process.

CHAIR: With regard to the chairperson's skills and qualifications, what skills and qualifications do they need to have in order to fulfil this role?

Mr CONABERE: There are two chairpersons in Queensland—this is your ideal person—who are both valuers by profession and ex-members of the Land Court. Certainly when we looked at it as an objector with our specialised property, our preference was someone who understood the valuation side of things. There is no point having someone who does not understand the valuation side of things. If you can have someone who has both valuation and legal, perfect.

CHAIR: How well is the process working in Queensland?

Mr CONABERE: Very well, very well.

CHAIR: Is that the gold standard around the country in the objection process?

Mr CONABERE: The only comment I would make on that from the perspective of New South Wales is that there could be a perception that setting a cap at \$5 million does not facilitate a process below that for other people. There is certainly a process in Queensland if your valuation is below 5 million to go through a similar channel. You do not get the mandatory conference, but you can still go through a discussion and have that process. That is very important. We cannot be saying, "There is cut-off at 5 million. We don't talk to anyone below it, but we'll talk to the people above it." The criterion in Queensland was that it was necessary to have the formal disclosure scenario for the higher valued properties.

Equally, from an objector who is objecting to the residential property, they do not want to have a requirement to provide disclosure and go through that formal process. The system has to cater for both scenarios. We obviously deal above the \$5 million range, so I do not have any expertise at that lower level. Again, there is a limit in Victoria, but it is \$750,000 compared with \$5 million. If your site value in Victoria is higher than \$750,000, you are entitled to that meeting with local government.

Mr COCKBURN: With regard to Queensland, it was a very consultative process in devising the objection system that we now have in place. The Valuer General established a valuation advisory committee comprising a number of representative bodies. We were on it as were the Law Society, Australian Property Institute, the Property Council and the Local Government Association of Queensland. I think it is probably fair to say that not everyone got what they wanted. However, I do not think you would find that any of the bodies would have complained about the level of consultation. The fact that we were able to sit around a table and say what we thought would and would not work was good. Whether we have ended up with a gold-plated objection process, I do not know. Certainly, the market says it works and the number of objections is now significantly lower. It is very difficult to make comparisons because you have to take into account whether land values are rising or falling. Most parties would say the objection is processes working well.

Mr CONABERE: We are certainly not saying that in New South Wales you do not have the ability to make application to have those discussions. We are saying that it has been formalised in the other States; that is, it has been legislated. As a ratepayer you can look at that and say, "I have a right to that process as long as I adhere to what I have to do." That is important.

CHAIR: Do you think there should be time limits for the objection process?

Mr CONABERE: I think there has to be. From a practical point of view, local governments use these valuations to set their rates. It is not reasonable that you could lodge an objection a year after the event and then seek a reduction backwards. That is almost unworkable from a council perspective. There is a triennial cycle here for council rates and an annual cycle for land tax. Different local government areas are revalued on a three-yearly basis at different intervals even though the State still returns a land value every year for land tax purposes. There is an equity position where if someone buys a property post that window of opportunity and they say it is improperly based they should have the opportunity to challenge that. However, from an equity position, that should be at the point that they are involved in the property, not going back in time. That certainly operates in Victoria, which has a biennial system. When your notification comes out in the following financial year, assuming you did not object to the previous year's valuation or you are a new owner, you can object and go through that process.

CHAIR: Conversely, do you think there should be time limits on the Valuer General providing his objection assessments?

Mr CONABERE: In terms of responding?

CHAIR: Yes.

Mr CONABERE: Yes. However, it all has to be constrained by time, otherwise the whole process will just expand. One of the problems with the rating, taxing and objection process and litigation is that it is so protracted. From the authority's perspective, it has done the valuation, it has the information and it should be a fairly straightforward process then to provide that data. The objector has his 60-day period and he should have his data. It is pretty easy then to respond to that data. There is certainly a positive here in New South Wales in terms of transparency. This is a very good thing and it does not happen in the other States. When you get your notice in New South Wales, you get a code and you can get online and see the sales that the Valuer General has relied upon. That is really smart. Effectively, that allows somebody who thinks a valuation is wrong to get online and look at sales they were not aware of and then accept that it is fair and reasonable and to be comfortable. That is a big tick; it is a really good thing to do and it is not done in the other States. Having a formalised process around the objection phase would give you a very good system.

The Hon. SCOT MacDONALD: I echo the Chair's comments; you have provided a very helpful submission. I take you back to the return phase. Can you walk us through that?

Mr CONABERE: We are dealing with specialised properties. As we all know, the State has to return a valuation of every property every year. Here it is obviously just a land value figure; it is a mass valuation. We are not going to have a situation where a valuer looks at every property and gets it 100 per cent right. It does not work that way. In a residential application, it is much easier to do a mass valuation. There is a lot more continuity of assets and the like, particularly with an underlying land value—that makes it very workable when land value is the rating base.

With complex properties, whether they be shopping centres, refineries or whatever, there is no standard marketplace that will allow you roll it out across a range of properties. You will run into difficulties with a mass valuation. Effectively, the contractors are appointed. Again, I do not know precisely how it works here, but the contractors in Victoria are not paid a lot more to do a shopping centre than they are to do a house. We have people valuing houses and shopping centres. That is the way the system has to work under a mass approach. As I said, there is no benefit to the owners in litigating. You pay the lawyers and you can be awarded costs in certain cases, but it still costs a lot of money. That is not the primary focus for these owners. As part of the Queensland process we asked why we were not all getting together and exchanging relevant data.

The Hon. SCOT MacDONALD: How do you know when that process has kick off?

Mr CONABERE: It is pretty straightforward. Here there is obviously an annual cycle. Setting aside that you have the three-year scenario with council rates, every property is revalued every year for land tax purposes. I understand that the relevant date is 1 July and valuations are issued to ratepayers in January and are then applied in the following financial year. What we have been doing here with the Valuer General is basically meeting in the return phase. I call the return phase anywhere from, say, July to November/December. That is when the valuers are putting their numbers on things and issuing numbers. We then say that these shopping centres—

The Hon. SCOT MacDONALD: They are complex.

Mr CONABERE: They are very complex. Every one is almost a market in its own right. When the valuer assesses land value, he says that the improvements are not there and they have never been there—it is a vacant site. The first thing the valuer has to do is to determine what is the highest and best use of the site. He has to go to the planning scheme and determine what that is. Invariably in the case of a shopping centre, that is going to be the highest and best use of the site. The government valuers will come back to us and say that there is limited sales evidence so it is difficult to come up with a value. Our response to that is that this is a national market. These owners are developing shopping centres all around Australia and it is a national market.

There are land sales in other States that can be equally applied here taking into account the right benchmarks and relativities. Effectively what we agreed in Queensland was that it had to be a co-operative approach so the owners had to sit down with government and say, "These are the key drivers of this shopping centre". It is either fully mature, you are not going to achieve any more gross lettable area retail space or there might be some more to come. We also sit there and say, "These are the sales". We analyse the sales back to a gross lettable area of retail. We do not say, "That sold for \$10 million, 10,000 metres of land is \$1,000 a metre." We actually look at what can you put on the site in retail space? And that is the correct way to proceed with these.

The whole idea of that process is to actually put a framework around what these values should be. We do not agree the values in the return phase but we have an exchange which is very similar to the exchange that we are talking about here as an objection, but it is actually run in a return phase. It is not chaired by anyone. In Queensland they said, "We will grab the 40 biggest shopping centres in the State". They went and appointed a specialist independent contractor for the first time to value those 40 shopping centres. Basically they needed our help because we obviously have the intelligence around what drives these shopping centres, what drives the land values, what makes it all works.

The Hon. SCOT MacDONALD: Businesses.

Mr CONABERE: Effectively we convened workshops over a two-week period and we set every relatively in Queensland through that process for those 40 shopping centres. The Valuer-General then took that away and rated the balance of all its shopping centres in the State off those relativities. The critical thing with any property in rating is to make sure that you have your relativities right.

The Hon. SCOT MacDONALD: Was there a good level of confidence and trust at the table there?

Mr CONABERE: Absolutely. We had gone from a point of, as I said, constant litigation.

The Hon. SCOT MacDONALD: War.

Mr CONABERE: War, is probably a good way to put it. They reinstated a Valuer-General. They did not have a Valuer-General. Valuer-Generals are just paramount in this process. Queensland had a director-general who was a surveyor. When we were going through all this litigation, it was very difficult for him to have the expertise to say we are going down the wrong path. The Valuer-General to come back was integral in Queensland because he is the one with the expertise to say how these should be done. Really good process up there and the reality is that you will always have some outlying issues, but the days of litigation, whilst this process runs, are pretty much gone.

The Hon. SCOT MacDONALD: Do the other stakeholders, the councils who are getting the rates and the State Government that is getting the land tax, believe they are getting a fair deal?

Mr CONABERE: The issue with the return phase is that I think the problem for government and local government is variations after the event. You lodge an objection, the value goes down, local government is aggrieved because it has budgeted on the basis of this.

The Hon. SCOT MacDONALD: We sure have. We have got to refund potentially.

Mr CONABERE: You have got this process whereas this process is if we can, as owners, we will seek to actually agree the figures. We will never be told categorically that is what will be returned but there was a level of confidence on our side of the table that what we put in front of the Government up there would be treated the right way, it had the expertise to handle it. We actually provided what we thought the figures should be and the reality is that in 95 per cent of the cases they came back on that basis. From our perspective it is completed: it is fair and equitable. We have got appropriate equity in the valuations.

One of the problems is that there are retailers who occupy a number of these shopping centres. You can have a retailer who gets his council rate bill and says, "Why is this one so high and this other one is so low?" There can be an explanation for that. You can have local governments applying differential rates. That is the big problem for major property holders now that effectively some of these local governments look at these valuations and really just ignore them and set a rate in the dollar at enormously high levels.

The Hon. SCOT MacDONALD: To meet their budget.

Mr CONABERE: That is a separate process, we understand that. Certainly the return phase for specialised property has absolute merit. I think it is absolutely essential to get a transparent and equitable system.

The Hon. SCOT MacDONALD: Does that happen in the second half of the calendar year, all wrapped up by Christmas, or something like that, and then the Valuer-General puts out a statutory valuation early in the New Year?

Mr CONABERE: Correct. To the credit of the Valuer-General here, we have gone through that process up here because we have rolled that from Queensland to here. It does not have to be formalised in legislation. It is not legislated in Queensland that this process must occur but as part of their policy up there for the Valuer-General that is what they do. It is not something that sits inside legislation but it is a process.

The Hon. ADAM SEARLE: The Valuer-General is doing it here with you?

Mr CONABERE: Yes. We have done that process for the 2011 land values that applied in 2012-13. It was not the full process because we all came to it a little bit late but certainly our understanding is that the Valuer-General would support that, and it is logical for everyone to support it because at the end of the day it will provide people with greater certainty and transparency.

CHAIR: Would it be better to put it in legislation?

Mr CONABERE: The only problem with putting it in legislation would be where do you draw the line as to what centre is in, and what centre is not in? Therefore, I think it is better that it sits as a policy with the Valuer-General having the ability to make that assessment as what is in and what is out. It is certainly not legislated anywhere else. It happens in Victoria but Victoria is a little bit disjointed because you have got local government being the valuation authority. They actually are the ones who engage with the contract valuer and tell the contract valuer—

The Hon. ADAM SEARLE: So there are many valuer-generals?

Mr CONABERE: There are many valuer-generals but the Valuer-General has still got that overarching role of certifying the valuations. The Valuer-General in Victoria still certifies everything as true and correct and that is obviously essential. I guess what we were saying to the Valuer-General here was that in that process—we are not suggesting that you need to go out and get a private contractor to do this—the Valuer-General has to set up a brief within its organisation that has the expertise to look at this sample of shopping centres and make sure that when the numbers come in from the contractors, they are sitting where they should be. What happens elsewhere is that that framework is set for the contractors. So it is set, it then goes to the

contractors and they do their valuations. It really is an important function of the audit role of the Valuer-General to get those relativities right.

In the main, we are not sitting here saying we have got big problems with our valuations of the shopping centres in New South Wales. We have got a handful that we are working through with the New South Wales Valuer General but just moving forward, to have, I guess, a process that everyone is working to it will ensure that we do not have issues moving forward.

CHAIR: I refer to page 10 of your submission. You mentioned that there have been cases where it is clear that some valuers have no experience in valuing shopping centres. Are any of those cases in New South Wales?

Mr CONABERE: Not specifically in New South Wales. The reality is that it is a fairly confined marketplace to have an expert who can assess the land value or the capital value of a shopping centre. It is very different to valuing a house, completely different. We have been dealing with two of the officers of the New South Wales Valuer-General who do have that ability. Therefore, it comes back to making sure that that audit process does overcome a situation where you have got a contractor who has not valued shopping centre land before, and as part of that return phase, the Valuer-General is actually saying, "Here is the framework around where these numbers should be". You are always going to face that issue.

CHAIR: Would your members benefit from using specialist valuers? You have said it should be treated as a specialist valuation group, requiring formal return phase.

Mr CONABERE: The whole system would benefit from the Valuer-General within his internal team having specialist groups that deal with specialist properties as part of the audit process. When the valuations come in from the contractors, he has a team in there that has the ability to say, "Yes, these are true and correct." As distinct from saying, "Let's pull all the shopping centre valuations out of the general process and get someone to come and do them." That has the ability to create more problems. What we have found in the other States that the most important thing is what the Valuer-General is certifying is true and correct, is relative between the centres, and the values are correct. As I have said, we have run through a process with them where we are satisfied that is working, we would just like to see that be part of their policy and formalised moving forward.

CHAIR: We talked a bit earlier about the difference in timing between land tax valuations and valuations for council rates. Do you think we should streamline those two processes?

Mr CONABERE: Council rates are a different scenario because at the end of the day, as I have said, they have differential rating whereas with land tax there is a premium for company land tax and there are obviously allowances in there. With council rates I guess one of the problems would be if you went to an annual cycle. When you do a re-evaluation obviously the rating base changes. Within a year you might have land that has been subdivided and therefore has a higher value, you might have market movement up or down, or whatever the case may be. I guess one of the difficulties for local government if it was an annual cycle would be that they constantly would be working out what their budgets have got to be. In Victoria it is two-yearly, so there is some respite there in terms of saying, "We know what our rating base is going to be." What they have to do in the second year of that—because it is invariably the same rating base other than supplementary valuations that have been done—they are just adjusting their rate in the dollar by whatever proportion they consider appropriate.

The land tax valuation and the council rate valuation are the same valuation—the reality is that local government is just picking one up every three years. Whether that is confusing for the ratepayer in the sense of getting a land tax notice and then a council rate notice and having two different numbers because the council rate notice was done two years ago and this is the current one—I look at it in the sense of the bigger issue for the ratepayer being the actual rates they are paying. It probably gives more certainty to the ratepayer having that broader cycle around council rates because you are not getting the valuation fluctuations every year, in the sense that the only fluctuation is going to be the rate in the dollar that gets applied. I do not really have an issue with the one and three years. Queensland is different. They do a single valuation every year. Local Government picks it up and the Office of State Revenue picks it up. That is their system. Victoria, as I have said, basically does one every two years, which is for both land tax and council rates, so they are the same value.

Mr COCKBURN: Queensland often does announce that certain local government areas will not be valued this year.

Mr CONABERE: Yes, the Valuer-General has the ability to say, "There has been no market change therefore we will not revalue it." I do not think the New South Wales system is necessarily a problem but if there is uncertainty around difference in valuations the only comment I would make is that it becomes a much more labour-intensive scenario for a local government to deal with a new revaluation every year in terms of their budget.

CHAIR: I am interested in your compliance costs in self-assessing your land tax liability. Can you give me an idea of those costs?

Mr CONABERE: In terms of self-assessing it or do you mean—

CHAIR: Self-assessing your land tax liability.

Mr CONABERE: —or looking at the valuation that has been returned and assessing whether it is true and correct?

CHAIR: Yes.

Mr CONABERE: Invariably what would happen in a shopping centre sense is that that task would be issued to an expert firm like ours—that is what we do—to assess whether or not that figure is appropriate. Rating and taxing is a huge issue because it is such an enormous component of the outgoings budget. I think we had an example in here of clients paying \$1 million. There are shopping centres paying in excess of \$2 million a year in land tax, and very significant figures in council rates. As I have said, it is twofold—and some leases make the owner responsible for confirming that that valuation is true and correct because that has been passed onto a tenant to pay the rates. Then equally from the owners perspective they have to make sure—I mean you have got aspects where you are not recovering land tax or you are not recovering council rates—that it is properly based as well. So the compliance cost for that specialised property can be reasonably significant but from I guess a residential perspective it is a much more simplistic process to look at it and say, "That is the land value. I think that is correct and/or not correct."

CHAIR: When I talked about streamlining the land tax and council rating process, you talked about how it would be more labour-intensive if it was all moved onto an annual basis. What if the land tax was moved to a three-yearly basis? The valuation is done for land tax and rating every three years, an index—

Mr CONABERE: We have had indexes previously. Victoria had indexing and it was an absolute disaster. The reason it was a disaster is that you then have an equity argument around what the appropriate index is. Victoria abolished it, I am guessing, maybe seven or eight years ago. Tasmania brought it in about three or four years ago and it just does not work. The problem with it is that you are just not going to get an equitable index. You cannot create enough indexes to make it equitable amongst all the variations in property. Indexation does not work from a land value perspective. Victoria runs on a two-year cycle for both. The problem with holding the land tax and the valuation the same for three years is the inability around your rate in the dollar. Invariably land tax rates stay—they have come down over time but it is a fairly stagnant tax rate, whereas council can change their tax rate whenever they like. I actually think the system here is quite good in terms of a three- and one-year cycle. I do not see any issue with that but there are options obviously.

CHAIR: When you have got market value how do you get to land value if there are not a lot of vacant land properties around?

Mr CONABERE: The courts will tell you—you have got to analyse either lightly improved properties or you have got to try and find land sales that are out there and for some marketplaces that is extremely difficult. There is also a scenario where you can analyse improved sales to work back to a land factor. Residential obviously being a big broad base, it is not an issue in that respect. You will always find land sales and you will always have the ability to analyse an improved sale back to a land sale to get that base.

With the shopping centres—a point I was making earlier—we are not going to find a sale in every geographic location so that a particular valuer can go there and say it is worth \$400 per square metre of land. This is where the return phase and the expertise become very important and the fact that it is a national market.

There are sales out there and owners value shopping centre sites when they buy them to develop them. Effectively the equation that we deal with universally throughout Australia—with site values obviously in every State in the sense of land tax—is getting those sales. There are sales where shopping centre owners buy extension land, and it is the proper analysis of that that becomes particularly important. It is not a scenario where you cannot find land sales. As I said, land is the purest form and at the end of the day you can always come up with a land value.

One of the complications we have in Victoria is that you have to value these shopping centres. You do the land as well for land tax. Then you do your annual value, which is your rental value, and then you do your capital value and you have to assess that capital value assuming—you do not value it as a going concern. You come in there and you have to assess at the relevant date of the valuation what would every shop in there lease up for, value them all individually. In terms of complexity, compliance costs, it is fundamentally different to what we deal with here. It is a huge system in Victoria where the owners pay significant money to go through that process. The Valuer-General and the contractors, an enormous structure compared to here because you are returning three separate valuations, two of which are improved. It becomes an enormous exercise. When you value the shopping centre—in the case of something like Chadstone, there are 554 tenancies to value and that is what they have to do. The concept of not being able to find land sales and therefore it all being too difficult just does not apply. There are land sales out there and the land can be valued.

CHAIR: With residential property, how do you deduce back from improve value to land value?

Mr CONABERE: I am not a residential expert. My thought process on that would be that invariably you will find land sales in residential locations. If you find a house that is dilapidated in a certain area that gives you a land sale. I know that from my own personal experience where I live. You will always find land sales. You obviously had the Maurici case here that looked at the component around the improved aspect as well. So it is not as if you can ignore improved sales but you will always find a series of sales from which to derive a land value for property because the common denominator in every property is the land and the market will never go away for that scenario. In certain cases obviously you have to look wider and find it but the reality is that it will always have to be assessed and you have to have the expertise to be doing it.

The Hon. ADAM SEARLE: This may not be a practical question for your organisations but in terms of the challenge process we have heard some evidence where valuations have been challenged over a number of years and this has created a consequential problem for councils. What do you think of the notion that any successful challenge should only apply, say, from the date the challenge is launched onwards rather than being retrospective?

Mr CONABERE: You have a unique set of circumstances here where land tax is charged on a rolling average. So land tax in New South Wales is on a rolling average of your previous three valuations. That is not the case in Victoria. It is basically assessed on the current valuation. In Queensland it is the lesser of the three-year rolling average or the current valuation. My understanding—again I put on the record that this is my understanding; I am not saying that it is definitive—is that you can lodge an objection to any of the valuations shown in your land tax notice so they could be historical and that obviously causes operational issues.

The Hon. ADAM SEARLE: Potential uncertainty.

Mr CONABERE: Yes. The reality from an owner's perspective of what is equitable is if a valuation has been returned they have an objection right. If that is used for the purpose of assessing something, current or going back in time, I think that is equitable. As to looking at something that was returned three years ago when they may have owned a property and chose not to object, I think that is probably a different scenario. I think you could look interstate and you probably will not find a scenario where you can object to a valuation that is no longer current and there is a more current one.

CHAIR: Thank you for your time today and thank you for your interest in these issues. Your testimony has been excellent and very helpful for the purpose of what we are trying to achieve. If we have further questions would you mind if we sent them to you and get a response in writing, which may be made public?

Mr NARDI: Absolutely.

*CORRECTED PROOF TRANSCRIPT

(The witnesses withdrew)

(The Committee adjourned at 12.04 p.m.)