

REPORT OF PROCEEDINGS BEFORE

JOINT STANDING COMMITTEE ON THE OFFICE OF THE
VALUER-GENERAL

EIGHTH GENERAL MEETING
WITH THE NSW VALUER-GENERAL

At Sydney on Monday 19 November 2012

The Committee met at 10.00 a.m.

PRESENT

Mr M. J. Kean (Chair)

Legislative Council
The Hon. S. MacDonald (Deputy Chair)

Legislative Assembly
Mr C. G. Barr

MICHAEL JOHN CARR, former Senior Valuer, Land and Property Information, sworn and examined:

CHAIR: Welcome to this hearing of the Joint Standing Committee on the Office of the Valuer-General. I understand that you have recently retired and the Committee appreciates you giving up your personal time. Members would like to talk to you about your role prior to your retirement as a valuer with the Office of the Valuer-General. The Committee monitors and reviews the exercise of the Valuer-General's function in respect of land valuations. In particular, it can monitor valuation methodologies, the arrangements under which valuation contracts are negotiated and entered into and the standard of valuation services provided under such contracts. I declare this hearing open. Mr Carr, I believe you were a senior valuer with Land and Property Information.

Mr CARR: That is correct.

CHAIR: Do you have any questions about the procedural information sent to you in relation to witnesses and the hearing process?

Mr CARR: I received a copy of the guidelines, which seem to focus on policies and procedures.

CHAIR: Would you like to ask any questions?

Mr CARR: No.

CHAIR: Would you like to make an opening statement?

Mr CARR: Not really. I am here to help the Committee in any way I can. You can ask me what you would like to know.

CHAIR: What was your role at Land and Property Information?

Mr CARR: I was a senior valuer. I was under the supervision of a district valuer. My role was to do any valuations that needed to be done. I was assigned those valuations and I went ahead and did them.

CHAIR: And you worked under a district valuer?

Mr CARR: Yes.

CHAIR: Who was that?

Mr CARR: In the Campbelltown-Liverpool district it was Marco Grezar. When I did these reports he was acting in a higher position and someone was acting in his position. I reported to the person acting in his position.

CHAIR: Who was that?

Mr CARR: That was Devendra Chandra.

CHAIR: What was the nature of the work you did in your role at Land and Property Information?

Mr CARR: I did all asset valuations for government departments. Part of it involved auditing contractors when they had completed objection reports. I also did audit reports on contractors and valuations for rental by government departments where they were seeking to renew a lease and they asked for valuation advice. I did all classes of valuation.

CHAIR: Did you do rating and taxing valuations?

Mr CARR: No, we did not do that; that was contracted out.

CHAIR: What about compulsory acquisition valuations?

Mr CARR: Sometimes. Sometimes they are done in-house and sometimes they are contracted out. If I was asked to do them I would do them.

CHAIR: And you were given your work plan by the district manager?

Mr CARR: Yes.

CHAIR: Did you do private valuations?

Mr CARR: No, we worked only for government authorities.

CHAIR: Did you ever complete valuations of properties for the purposes of providing compensation to people who had properties compulsorily acquired by the Government?

Mr CARR: Yes, many times over the years.

CHAIR: Do you think a person's house would be a significant asset to them?

Mr CARR: Definitely.

CHAIR: And that people often hold a large portion of their wealth in their residential property?

Mr CARR: Yes, certainly.

CHAIR: Do you think people can build up a sentimental attachment to their house?

Mr CARR: Yes, I believe they can.

CHAIR: It is where they watch their children grow up and take their first steps and so on.

Mr CARR: Of course.

CHAIR: Do you take those things into account when doing a valuation for a compulsory acquisition?

Mr CARR: It is done according to the provisions of the Land Acquisition (Just Terms Compensation) Act 1991. The heads of consultation under the Act cover all those things.

CHAIR: So sentimental attachment to a property is covered by the Act?

Mr CARR: The solatium clause covers that.

CHAIR: Can you explain that?

Mr CARR: It is an extra payment given over and above market valuation because the acquisition is taking place against the property owner's wishes.

CHAIR: What would you consider when attaching a price to the solatium component of the valuation?

Mr CARR: It is a set maximum rate. In fact, you could choose any amount between nothing and the full amount. Given the court cases it appears that the full amount is justified in every case, so we virtually give that every time.

CHAIR: Is the full amount codified in the Act?

Mr CARR: Yes.

CHAIR: How much is it?

Mr CARR: It is an exact amount and it is indexed. I cannot provide the exact figure, but it may be around \$20,000 or \$21,000.

CHAIR: Is the compensation provided under that Act the major source of recompense a person gets for a property compulsorily acquired?

Mr CARR: Yes, all the heads of compensation are covered and addressed.

CHAIR: Is the role of the valuer in determining the compensation under the Just Terms Compensation Act important?

Mr CARR: It has been legislated as just terms and that is the manner under which acquisitions are done.

CHAIR: Do you think the role of a valuer in getting the valuation right under the Just Terms Compensation Act, considering that it is dealing with the financial wellbeing and livelihood of people, is important?

Mr CARR: It is very important, yes.

CHAIR: Do you think it is important to get accurately valued land?

Mr CARR: Yes, very important.

CHAIR: In that context do you think it is appropriate to take care and show diligence when doing valuations?

Mr CARR: Yes, I do.

The Hon. SCOT MacDONALD: I refer to an earlier public hearing when I asked a question about the valuation of rentals. I was thinking of some rentals closer to the city of Sydney. I must have misunderstood the Valuer-General when he told me the Land and Property Information was not involved in the valuation of rentals, in particular, rentals of properties at Circular Quay, and it was not the business of the Valuer-General or Land and Property Information. Have I misunderstood you, when you said you gave some government agencies some advice on valuation of rentals?

Mr CARR: There is an occasional lease, and part of the lease requirement, in renewal terms, does ask that the Valuer-General assess the renewal of rental. There are not many of them and they could be from a private company so there is an odd one that has come up like that.

The Hon. SCOT MacDONALD: It is not consistent across all government property that is rented out that it is necessarily automatically at the start of renewal valued by Land and Property Information or the Valuer-General?

Mr CARR: No, they are free to get any consultant valuers they wish.

The Hon. SCOT MacDONALD: Or none at all?

Mr CARR: Perhaps, yes.

CHAIR: When valuations are done by yourself or other valuers, are reports written to explain the valuations?

Mr CARR: Well, that is the idea of it, yes—normally, yes.

CHAIR: A report is prepared?

Mr CARR: Yes, a report is prepared, including the basis of the valuation, sales evidence and commentary on whatever matters are relevant to that acquisition.

CHAIR: I assume that provides an audit trail so any valuer could pick it up and understand how a valuer came to a valuation?

Mr CARR: Yes.

CHAIR: Are those reports stored anywhere in Land and Property Information?

Mr CARR: They used to be stored as hard copies on the files. I believe now they are electronically stored on a hard drive.

CHAIR: When did they start to be electronically stored?

Mr CARR: It would be a few years now, probably four or five years.

CHAIR: If you were to do a valuation, and a valuation was done on the same property prior to your valuation, you could go back and get the original valuation report?

Mr CARR: If there was one completed, yes.

CHAIR: Who can access previous valuation reports in Land and Property Information?

Mr CARR: Probably any staff member.

CHAIR: Anyone?

Mr CARR: I would think so, yes.

CHAIR: Do you have a password?

Mr CARR: We do all have passwords, and user identifications, so anyone who accessed that file would be identified.

CHAIR: The Committee has discussed with the Valuer-General that there are some private contractors who can do work on behalf of Land and Property Information and on behalf of the Valuer-General. Could they access previous valuation reports?

Mr CARR: Not as far as I know. I do not believe they have that access.

CHAIR: Could you have accessed previous reports?

Mr CARR: Yes, I could.

CHAIR: On what basis is land valued for compulsory acquisitions? Is it market value?

Mr CARR: As I mentioned earlier, it is made up of a number of heads of compensation. The first one is the market value and then it goes on from there.

CHAIR: Market value is the underlying basis?

Mr CARR: That is the start and then there are other heads of compensation that follow.

CHAIR: Will you name those other heads of compensation that would follow?

Mr CARR: I did not think this was a memory test.

CHAIR: No.

Mr CARR: If you have a copy of one of the reports it will have them listed on there.

CHAIR: But market value is critical?

Mr CARR: That is the market value of the property, and then other matters that might have affected it would also be addressed.

CHAIR: When doing a valuation under the Just Terms Compensation Act what factors are considered when assessing the value of land for compulsory acquisition?

Mr CARR: Well, you are looking at the market value of the land just as if anyone who was buying land in that area would look at that. You would look at what current sales had taken place, zoning, any constraints that might be on the land because of that zoning, or you look at its physical features, whether it is flood liable, all aspects of normal valuation practice.

CHAIR: The zoning of the land is considered?

Mr CARR: Of course, yes.

CHAIR: Is the state of repair of the building on the land considered?

Mr CARR: If that is part of the acquisition, yes it is.

CHAIR: What about any chemical disturbances of the land?

Mr CARR: You would probably have to get a specialist report.

CHAIR: But it would be considered?

Mr CARR: It would be considered, yes.

CHAIR: What about access to infrastructure, like roads, rail, schools?

Mr CARR: As I said, it is just the same as a typical person buying a property would look at.

CHAIR: Is that a yes?

Mr CARR: Yes.

CHAIR: If there were access to a rail line, would that be considered as part of the valuation or compulsory acquisition?

Mr CARR: It depends. If you are talking about compulsory in a before situation the works are ignored. It is only in the after valuation that you consider that the works are in place and the railway line exists. Quite often when part land is taken it is a method called the before and after method of valuation, which looks at the value of the whole property prior to the acquisition, and the after situation looks at the residue land and it assumes that the construction works have already taken place, and you have to then have the effect of what impact that has. If it were a railway line running through the back of it, you have to assume that is already there with the train running past at that same acquisition date. It has nothing to do with speculation as to when it would be built or start construction; that has nothing to do with it.

CHAIR: Can the factors that you consider when determining a value change over time?

Mr CARR: Yes, all the time.

CHAIR: If they change, would they affect the value of people's property?

Mr CARR: They can. It may remain static, it may go up or it may go down just depending on market conditions and—

CHAIR: But it could hypothetically change drastically if there was a change in zoning, for example?

Mr CARR: It could if there was a change in zoning, yes.

CHAIR: Are some of the factors that are considered when doing a compulsory acquisition also considered when doing a rating and taxing valuation?

Mr CARR: No, they are separate things.

CHAIR: But if you were doing a valuation for the purpose of rating and taxing would you consider zoning changes—

Mr CARR: Yes.

CHAIR: How frequently are land tax valuations made?

Mr CARR: That is not under my role as a valuer to be involved in that. I believe every year.

CHAIR: Every year?

Mr CARR: So I believe but, as I said, it is not my function to speak about that.

CHAIR: I might take this up in later hearings but I want to know why we do not do land valuations every four years or every 10 years, for example?

Mr CARR: That is a political thing. It is not controlled by my role at Land and Property Information so I cannot really answer that.

CHAIR: So it would not be because the factors that are considered change quite frequently?

Mr CARR: It is a political decision and that is not a government decision.

CHAIR: When you do compulsory acquisition valuations is there a review or audit of the valuations?

Mr CARR: Yes, if I was asked to do one as a senior valuer that would then be reviewed by the district valuer.

CHAIR: Who is the person that you report to?

Mr CARR: That is correct, yes. He might pick up a few matters that might need to be discussed or altered or whatever and that could be done. It proceeds then to the valuation manager for compensation valuations, who would then further check it and, if he was satisfied with it, would issue it or he may suggest some alteration or something before he was prepared to issue it. So, yes, it undergoes two checks from my level.

CHAIR: So if a property is valued for compulsory acquisition and is revalued again five years later, would it be necessary to recomplete the valuation?

Mr CARR: That would not happen because if the valuation is done for acquisition purposes it would actually be acquired, so in five year's time it cannot be acquired again—it would already be in the ownership of the Government.

CHAIR: But if the event that it was not acquired would it be necessary to redo the valuation?

Mr CARR: If it was not acquired there would never have been a report at a stage to be issued. There would be work in process perhaps, which would be retained on file.

CHAIR: But would you be required to start the valuation from scratch if there was a work in process done and five years later the Government changed its decision and decided to compulsorily acquire the land again? Would you do a new valuation?

Mr CARR: You would start a fresh report but if you had information that had not changed, for instance, the buildings on the land that you may have inspected with the owner internally and measured up and you went and reinspected them and they appeared to be the same, you would not then start measuring up again. You are billing out on an hourly basis to the authority acquiring, which is to the public purse eventually. So

anything like that that can reduce the time, you would use that same information. Anything to do with the valuation process, of course, you would have to look at the fresh market. You would not use the same sales to come up with your basis, and the zoning and future potential of the site would all vary.

CHAIR: So you would reconsider all that?

Mr CARR: You would look at it fresh. You would not be using the other one as your basis and then adjusting it to a new one. You would start with a new one and anything you could retrieve from the old one, just to save typing time, you would use that.

CHAIR: We had some testimony from your colleague John Miller a week or two ago. He said that five years would be quite a long time or quite a long gap between valuations. In his opinion you would start the valuation again from scratch. Do you share that view?

Mr CARR: As I said, you would but if you did have information where you personally inspected the property previously it would be pointless to remeasure improvements and redescribe improvements and retype that when you already had the information available.

CHAIR: I think what you are saying is that if the factors vary from the original valuation to the next that you would have to do a new valuation? Is that correct?

Mr CARR: You would start a new valuation report, yes.

CHAIR: I wish to bring some documents to your attention. I direct your attention to a report on the South West Rail Link when it was first announced—for the benefit of Committee members I am referring to page 16. At the top of the page it says "5". Can you see that?

Mr CARR: I am sorry, page 16?

CHAIR: Are you on page 16?

Mr CARR: Yes.

Mr CLAYTON BARR: No. Two of the documents are stapled together. It is the first document that you should be looking at.

CHAIR: Do you see the top heading "Costs"?

Mr CARR: Yes.

CHAIR: The next heading is "When will the rail link be built?"?

Mr CARR: Yes.

CHAIR: Will you please read the first sentence of the second paragraph beginning "The rail link could be constructed ..."?

Mr CARR: "The Rail Link could be constructed and in operation as early as 2012 following completion of the Rail Clearways Program."

CHAIR: Will you now turn to the very front page. Can you see where it says "status"?

Mr CARR: Yes.

CHAIR: Will you please read the last sentence beginning "Major construction ..."?

Mr CARR: "Major construction of the Glenfield to Leppington Rail Line component commenced at the beginning of 2012, works are on schedule for the commencement of revenue services in 2016."

CHAIR: I refer you now to the final valuation report attached for Vumbaca?

Mr CARR: Yes, I have that.

CHAIR: Can you tell me who completed that valuation?

Mr CARR: For 2010 that would have been myself.

CHAIR: Whereabouts does it say that?

Mr CARR: On page 28, is it?

CHAIR: Are you aware of an earlier valuation having been done for this property?

Mr CARR: Not a valuation; there was an inspection and some draft works in progress had taken place and the whole matter was cancelled, so, yes, I was involved in that.

CHAIR: Were you involved in the original valuation for—

Mr CARR: Yes I was.

CHAIR: I refer you to page 12 of that valuation where it says "New South Wales Government website project profile" and the final sentence starting, "Work will begin ..." Could you read that?

Mr CARR: Yes. "Work will begin on stage 2 by mid-2010 and is due for completion by 2016. Most of the planning has already been done for stage 2, which will allow it to go out with the environmental assessment very quickly."

CHAIR: I take it that it accords with the current completion date of the railway?

Mr CARR: Yes, that was the website's view, for completion by 2016.

CHAIR: I refer you to page 26 of the valuation and the third bullet point.

Mr CARR: "It is proposed the railway line will be built by 2012."

CHAIR: I take it that that accords with the first railway construction time line?

Mr CARR: No. What occurred in the part under "New South Wales Government website" was their prediction as to when the works would commence, suggesting it was by mid-2010. As you might be aware, the acquisition date of these properties was July 2010. So it was obvious that was never going to happen and there would be no building works in 2010 because they were not to that stage, and in my opinion nothing would take place within 2011 as well. What I have put in there, and I have put it very briefly in that "After Valuation" in point form, firstly, I did not expand on that as to why because that has absolutely nothing to do with the basis of valuation.

When the works commenced or were completed, whether it was 2010 or 2050, has no relevance to the basis of valuation because, as I have said before, in the "After Valuation" it is already assumed that all the works have been completed at the date of acquisition. That was just a brief thing; as I said, I did not expand on it because I did not want to be highlighted that that was just my opinion as to when the works would commence, if they were to be completed by 2016. I have used the words "be built" as we would say if they were building a new *Queen Mary* and they said, "It will be built next year." That certainly does not refer to the completion date. It means under construction by that date. It was just to address the website because the website was actually inaccurate by saying works would commence then. You could take that line out and it would not have any effect on the valuation basis whatsoever.

CHAIR: Earlier I asked a question about access to infrastructure like roads or rail being considered as part of the valuation. Are you saying that you would not consider it now?

Mr CARR: Can you repeat that?

CHAIR: An earlier question I put to you was that you would consider, like any other property owner, access to rail, road or schools when undertaking a valuation.

Mr CARR: Yes.

CHAIR: My understanding is that you have considered that a rail line will be built there in 2012.

Mr CARR: Well, be under construction by 2012, yes. It set out clearly the completion date was 2016, so obviously a major project would not be done within two years.

CHAIR: So would it be incorrect to say that the valuation done for the prior acquisition was not used as the basis for this acquisition? Is that your testimony?

Mr CARR: No. I do not have a copy of it. If you had a copy of the 2008 report you could look under the heading of "After Valuation" and see if any of those bullet statements were there. If so, perhaps, but I doubt whether that would happen because it is a fresh valuation. Do you have a copy of those?

CHAIR: No, we do not have a copy.

Mr CARR: I doubt it.

CHAIR: How could we get a copy of that original 2008 report?

Mr CARR: I do not think they are available because they were not valuations that were at a stage to be issued. They were just works in progress.

CHAIR: Would they have been destroyed? Would you have kept no records of prior valuations?

Mr CARR: They probably would have been held because the acquiring authority receives quite a large invoice for the work that was done and when their auditor came along and said, "Where's the product?" they would have nothing to show.

CHAIR: So we could get a copy of the 2008 valuation?

Mr CARR: I do not know about that.

CHAIR: Who would know about that?

Mr CARR: I have not worked there for a while. I do not really know.

Mr CLAYTON BARR: I have some questions because this before-and-after concept is pretty critical to what we are talking about.

Mr CARR: It is.

Mr CLAYTON BARR: You have spoken about the fact that if there was a full and proper valuation done—correct me if I am wrong because this is what I think I have heard—and determination of compensation five years prior, if it had gone that far then the land would have been acquired.

Mr CARR: If it had.

Mr CLAYTON BARR: But in instances where we start going down that path but do not go all the way, you called that a draft work or works—

Mr CARR: It is just a work in progress.

Mr CLAYTON BARR: When the Chair asked you a question earlier you referred to the ability to not entirely start from scratch but of course you start a new document and where there is the opportunity with some basic logistics like the square metreage or the lot number or the DP number you would transfer that across rather than going back and starting entirely from scratch.

Mr CARR: If it is the same. You would check it was the same as it was previously.

Mr CLAYTON BARR: To have the opportunity to transfer some information the earlier document, the work in progress or the draft works, must be kept and available.

Mr CARR: I would have had that on my personal USB, so I could just refer to that.

Mr CLAYTON BARR: Because it was a draft?

Mr CARR: I would not have a copy of other people's previous reports. I just had my own. If it was a property I had previously inspected and I re-inspected it and said yes, the improvements are exactly the same as when I was last here, I would use that. If someone else had been there I would probably go and re-check them.

Mr CLAYTON BARR: So because it was in that draft works-in-progress format it is not then a document of Land and Property Information [LPI], it is a document of your personal—

Mr CARR: Virtually, yes, but as I said, for auditing purposes if someone has had to pay a fee for that work they may or may not request that there be something to say that that is what they have paid for, and that was the work that was done.

Mr CLAYTON BARR: That is an excellent point. Earlier when the Chair was asking about how to determine compensation and the factors that were involved I think you said at the time—it is not necessarily a memory test—but on this page, which is the determination of compensation cut-off sheet, it refers to market value, special value, severance, disturbance, and solatium. Are they the entirety of the types of headings that you would assess when making that determination?

Mr CARR: Under the Act they are the headings to be addressed, yes.

Mr CLAYTON BARR: I just wanted to clarify that for my understanding of what you have been saying today.

CHAIR: Following on from that question, something has jumped out at me from the cover sheet on the Vumbaca valuation. We talked about solatium being attachment to land and other factors considered. Why would it not be applicable, for example, in this case?

Mr CARR: Because it was only a part acquisition of the land and they were not forced to move to another area, re-establish in another area. The solatium only comes into account when you actually have to relocate to a different property.

CHAIR: Just on Mr Barr's questioning, would you still have the memory stick with the original 2008 report?

Mr CARR: No. I deleted all of that when I left LPI.

CHAIR: Thank you very much for your time. We appreciate it. I hope that was not too painful.

Mr CARR: I hope I have assisted in some way.

CHAIR: You have been of great assistance. Again, this is about trying to understand processes—

Mr CARR: Yes, I understand that.

CHAIR: —for high valuations, just so we can make sure the public can have confidence in what has been going on. Your testimony has been very helpful. We appreciate you coming back from your retirement. We wish you every success in your post-valuation life.

Mr CARR: Thank you.

(The witness withdrew)

(Short adjournment)

PHILIP JOHN WESTERN, New South Wales Valuer General,

SIMON JOHN GILKES, Deputy General Manager, Land and Property Information, and

MICHAEL JAMES PARKER, Chief Valuer, Land and Property Information, affirmed and examined, and

MARK GREGORY GLANVILLE, Acting Valuation Manager for Compensation, Land and Property Information, and

NEVILLE ALEXANDER HIND, Acting Financial Controller, Land and Property Information, sworn and examined:

CHAIR: There should be two parts to the day. We will try to get through most of the administrative questions before lunch and the privacy matter, the legal advice you have given us, might take a little longer, so we will use the afternoon for that.

Mr WESTERN: That is fine.

CHAIR: Thank you for appearing before the Committee to give evidence. Do you have any questions concerning the procedural information sent to you in relation to witnesses and the hearing process?

Mr WESTERN: No.

Mr GILKES: No.

Mr PARKER: No.

Mr HIND: No.

Mr GLANVILLE: No, I do not.

CHAIR: I would like you to note that two Committee members are unavailable today. Mrs Leslie Williams is chairing the Health Care Complaints Committee hearing and the Hon. Eric Roozendaal has another engagement, so it is just the three of us. We are definitely outnumbered today. Before we proceed to questioning, would any or each of you like to make an opening statement before the Committee?

Mr WESTERN: I would like to make an opening statement, please. Can I state at the outset how I welcome the opportunity to provide information to the Committee about the valuation system and the work that we are doing. I note the comments of several committee members in the Legislative Assembly last Thursday regarding the Interim Report of the Eighth General Meeting. I am encouraged by the comments of members that they are looking forward to working with the Valuer-General to improve the valuation system. I wish to assure this Committee that I too want to work collaboratively with the Committee to further improve the New South Wales valuation system. I am currently working on implementing the Committee's recommendations from the Interim Report and am pleased to provide the Committee with an update on progress made as part of my statement this morning. My philosophy as Valuer-General has always been to ensure that there is continuous improvement within the valuation system.

That includes improved customer service and ensuring that we understand our customer's concerns whether in respect of rating, tax and valuations, or for just terms. To this end, I can see that the interaction with dispossessed owners and understanding their issues and concerns with just terms can be improved. The Office of the Valuer General will be working with Land and Property Information to further improve information and communication to landowners about the just terms process. Earlier this year, the Office of the Valuer General produced a fact sheet and added information to the website for just terms determinations. This is only a small step. More information needs to be made available together with formalised procedures for contact with dispossessed owners. The rating and taxing process was recently reviewed by independent consultants. The review found the objection process to be of a high standard, based on a reasonable valuation requirement and standards such as transparency and procedural fairness through the disclosure of information. The just terms service standards must also reflect this level.

The New South Wales valuation system is well regarded in many Australian and overseas jurisdictions. An independent review of valuation services conducted earlier this year found in general that land valuations in New South Wales appear to be reliable, consistent and fair. This is supported by independently assessed qualitative statistics which show that the New South Wales valuation system overall is producing fair and accurate land values. That review found no evidence to question the integrity of the majority of the 2.4 million land valuations produced for delivering rates and taxes. However, as noted in the review of valuation services and also raised in this Committee, there is work to be done. My role and that of Land and Property Information is to ensure that the opportunity for errors to occur within the valuation system are minimised. Through working with this Committee and gaining your input, thoughts and ideas, I know that we can continue to improve the system. We need to consider the past, but importantly we must focus on the future and what continued enhancements we can make.

It is important for me to report to the Committee on some of the significant changes to the valuation system that have been instigated since the last meeting. An example of learning from the past and moving to the future is a project that I have commissioned to develop a management assurance framework to contribute to improved risk management that will assist in improving the quality of land values. The framework will provide a robust structure and increased accountability for identifying and managing risk and will commence in early 2013. Central to this project is the establishment of a new position within the Office of the Valuer General to manage the implementation of the management assurance process. This will bring the number of full-time staff equivalence in the Office of the Valuer General to 4.4. In addition, the service level agreement between the Valuer General and Land and Property Information for 2013 will include key performance indicators for the risk and issues management, to set expectations and measure performance. These key performance indicators are being developed by an independent expert. A number of other risk-based initiatives were introduced for the 1 July 2012 valuation program.

Financial reporting: Another area to address is budgeting and financial reporting arrangements for the Office of the Valuer General and Land and Property Information. I am aware of the shortcomings of the existing financial reporting systems highlighted by the Committee's recent questions and the recommendation which have been helpful in forming my request to the general manager of the Land and Property Information concerning financial reporting. I have asked them to examine the current SAP financial system to ascertain if it is suitable to further develop reporting capabilities to meet the Valuer General's financial reporting requirements or, if it is more appropriate and efficient, to develop a separate financial reporting system. Any financial reporting system must be able to monitor costs at both the rating and taxing contract level and at a holistic level. Should the Committee wish to provide advice on this matter, I would welcome their input. The Auditor General, at my request, has undertaken to view the Land and Property Information's financial systems as part of the 2013 financial audit program. The 1 July 2012 service level agreement was enhanced to formally include the Valuer General in the preparation and agreement of the annual budget for Land and Property Information valuation services. The 1 July 2013 service level agreement will contain financial reporting requirements, developed by an independent expert.

Management of issues: We have been involved in a number of matters that have attracted public interest, including broadacre rural land values in the mid-west and regional local government area and some high profile court cases. I acknowledge the need to improve the management of these issues involving the valuation system. A more proactive, efficient and effective approach is needed. I am presently examining options for change. I have initiated an independent review that will consider Land and Property Information's issues management in the Mid-Western Regional local government area as well as examining the contractors' involvement in the Mid-Western issues. The review has been undertaken by a professor of property and development who has specialist knowledge in most valuation systems. The findings of this review will be considered in the development of a framework to guide issues management for the future. The development of a system to guide the management of issues, together with improved practices in managing risk will further improve the valuation system.

Recommendations: I am pleased to report to the Committee that in response to their first recommendation that work has commenced on the independent review of quality control processes. The Auditor-General has advised that Ernst and Young may extend their existing project of developing the management assurance framework to include the review of quality control procedures. The Auditor-General has agreed to further follow-up on the Committee's recommendation in the second half of the 2013 financial year. In response to the Committee's fourth recommendation concerning the development for appropriate reporting tools, as I advised earlier, I have requested the general manager of Land and Property Information to examine the current SAP financial system in regard to reporting requirements. In particular, future reports must be able to

allocate the cost of Land and Property Information labour inputs, land and property operations costs, land and property overhead allocation, and contractor cost to various valuation activities. As already reported, the Auditor-General has agreed to review Land and Property Information systems as part of the 2013 annual financial audit program.

I now refer to the interim findings. Finding 7 states:

Despite repeated requests, the Valuer-General failed to provide information regarding one of his office's main areas of expenditure between 2002 and 2007.

This concerns me because not only is it my duty to assist the Committee in its inquiry but I also have a strong personal commitment to do so. This information was provided to the Committee with the final data provided on 11 July 2012. There was a delay in the provision of this information due to the forensic analysis being undertaken by the Auditor-General according to information previously provided. I table copies of the letters to the Committee, which show that the progress updates were provided, together with the final delivery of this information.

Documents tabled.

CHAIR: I start by thanking you, Valuer General, for that very candid response and commitment to working with the Committee to ensure that the public can have confidence in our valuation system. I also personally thank you for the efforts that you have made in providing the information the Committee requested last Friday. It was a significant improvement in delivery and data provided. We greatly welcome it and are thankful for it. I am sure I speak for all members of the Committee in saying that we are grateful for your opening statement, your commitment to ensuring best practice in the Office of the Valuer General and to ensuring that people can have confidence in valuations that will affect their financial wellbeing. We welcome it, thank you for it and look forward to working with you to ensure that our valuation system remains the best valuation system in the Commonwealth.

Mr WESTERN: Land and Property Information obviously made a significant contribution in providing that information to the Committee in the form it was presented and in the detail provided. I put on the record my thanks to Land and Property Information for the way it has now responded by providing that information. I refer in particular to the quality assurance processes that have been put in place to ensure that the Committee gets accurate and timely information.

CHAIR: I also place on the record my thanks to the staff and executive of Land and Property Information. I am glad that we are all taking this process seriously. It is important to ensure public confidence in the valuation system. The questions we are asking go to the heart of processes and concerns raised with the Committee by people affected by valuations. The information the Committee is seeking will help it to satisfy those concerns and to ensure that if there are deficiencies in the system they are corrected. I place on the record my thanks to the staff at Land and Property Information.

As I suggested, the Committee would like to split up the day. Members have a number of questions about information that is still to be provided. You have provided legal advice from the Crown Solicitor, and I thank you for that. We will deal with that later because it is very technical. One of the issues I would like to explore now relates to the tendering process; that is, the appointment of private contractors. In light of obviously heightened scrutiny of public officials and awarding of contracts, I would like more detail about the tender evaluation process. I will start by examining the processes relating to the appointment of private contractors for rating and taxation purposes. Can you explain the processes associated with the awarding of tenders for private contract valuations?

Mr WESTERN: I will provide an overview of my impression of it and how it works, and then, with your permission, I will defer to an expert in this area.

CHAIR: Of course.

Mr WESTERN: We obviously take the tender evaluation process very seriously. As I have outlined previously to the Committee, the probity framework that surrounds that is extremely important. It is absolutely central to ensuring not only that we get the right people to do the work but also, and more importantly, that the process is seen to be transparent and that any possible conflicts are brought to the attention of the Evaluation Committee as early as possible. The process generally starts off with decisions within Land and Property

Information from an operational point of view as to which contracts will come up for tender and in any particular year. A number of issues are examined in regard to that. There will be contracts on the basis of three years plus two one-year rights of renewal. In looking at that in conjunction with other individuals, Land and Property Information will first look at those contracts that are due for completion. They will generally be the contracts that have been in train for three years plus the two one-year options. They will automatically come up for tender.

The second process relates to examining those contracts which have completed the three years but which have two one-year options still available. Those contracts are looked at in a number of regards. My fellow attendees might be able to assist with the detail of that. However, they are looked at first and examined with regard to how the contractors rated against their score cards. They will also look at value for money; in other words, if the option is to be extended what is the contractor proposing will be the fee going forward. That must be considered in terms of value for money. Land and Property Information will also examine how the existing contracts fit into the overall tendering process over a number of years. We do not want a whole lot of contracts finishing at once; we want them reasonably dispersed over a number of years.

CHAIR: You said Land and Property Information looks at it, or do you look at it?

Mr WESTERN: No, Land Property Information looks at it. Once those decisions are made, a tender document will be developed. There is a standard tender document template which is used which will obviously vary from year to year as new attributes are put into that and considered going forward. That will include, for example, there may be a new version of the rating and taxing procedures manual, so that would be included in that. So the tenderers who are looking at it know what is involved in terms of actually providing those services. The sign-off, in terms of which contracts are going to go up for tender, is signed off by the general manager of Land and Property Information. That authority is provided through the service level agreement that I have with the general manager of Land and Property Information.

CHAIR: Who is that?

Mr WESTERN: Mr Des Mooney. The tenders are advertised through a number of mediums including website but also through the Australian Property Institute in New South Wales as well as being available to other States and it is up to them to make a decision as to whether they want to put it onto their website as well. Tenders come in at the end of a specific period. Prior to them being received a number of committees are put together which is obviously a very important part of the whole probity process. The first one put together is the tender evaluation committee. Really the role of that committee is to have overall governance of the tender process. Generally it will comprise obviously a chair, and in the past that has been Mr Simon Gilkes, the Deputy General Manager, Land and Property Information. It will include senior personnel from Land and Property Information, as well as key representatives from stakeholder groups, including the Local Government and Shires Associations, the New South Wales Rating Professionals and also importantly, for probity, there are two independent people assigned to that committee. One is assigned from the DPSU within Land and Property Information which oversees the procurement process within Land and Property Information for all tenders—

CHAIR: What is DPSU?

Mr GILKES: It is the Development Program Support Unit and within Land and Property Information it is the area that manages our procurement functions and contracting.

Mr WESTERN: It will also include an independent probity person. I need to point out that both those people are non-voting members. They are there to provide advice and give guidance in terms of the probity process. There is also set up an advisory team which, it would be fair to say, is more hands on. They are the ones who actually undertake the tender evaluations themselves. Once again the two non-voting members from the tender evaluation committee are also on that group to oversee probity of the process. That committee is charged with going through evaluating the tenders. During that process any conflicts of interest, confidentiality, all those normal issues that would be associated with a tendering process are gone through with that committee, and also a code of conduct as to how the committee and the members will operate.

The tender evaluation process is reasonably complicated. There are a number of criteria that the tenders are evaluated against. They would include the tender's capability of actually being able to provide the rating and taxing valuation service, the quality and the availability of resource that they are proposing to undertake the

work, and I understand the weighting that has been placed on the last tender, I stand corrected if I have this wrong, has been 15 per cent.

CHAIR: On the quality and availability—

Mr WESTERN: That is on the tenderer's capability of the quality and the availability of resources: so an important criteria. They also have to complete a contract management plan which is project plan explaining to the tender advisory group as to how they are actually going to undertake the work, the rating taxing valuations and, in particular, what are the important milestones and how they are going to ensure that they meet them—once again an integral part of the tender evaluation process, and in the past that has contributed a weighting of 12 per cent to the total. The other part that is evaluated is the valuation methodology that we are going to use. It is really up to the tenderer to propose what methodology they are going to use to arrive at the values but most tenderers would use what is called the component method of valuation. Do you want an explanation of the component method of valuation?

CHAIR: Yes.

Mr WESTERN: You are going to get it at a reasonably high level from me. The component method of valuation basically means that groups of properties which are expected to change in value at a similar rate within the market will generally be grouped together. Say, for example, you might have an area like Blacktown where there are a lot of homogenous properties when valuing land. You might have a reasonably large number of valuations being involved in terms of one component because the market is operating in a similar way. In other situations, for example, on the coast, those who have got waterfront views will operate in the market differently to properties that might be one or two roads back from the coast. So they will be put in different components. Each of those components will have at least once benchmark property in there. So they are a property which sits close to the median of the range of values in that particular area. So it is a representative of around the middle of the value spectrum that is in that particular area.

The contractor is also required to have a number of what we call representative properties. If you can imagine the bell-shape curve sits there with the normal curve distribution. You have your benchmark property in the middle, but importantly what you have got is representative properties on either side. So you are getting a reasonable range of the value spectrum within that particular component. When contractors undertake the valuations they will value the benchmark on an individual basis, based on their sales analysis in the particular location, and apply that knowledge in terms of where the market is going to the benchmark. As a result of that, they come up with what we call a component factor. So there is a value on the benchmark property from last year and then it is just a question of looking, okay, in terms of that sales analysis that I have undertaken, what is that showing?

It is applying that sales analysis to the benchmark property and it comes up with a component factor. So it says that from the valuation last year, we are going to adjust the valuation up for this 12 month period to this amount, or whatever that figure that they have deduced. It might be, for example, 20 per cent. They have done a sales analysis, applied that sales analysis to the benchmark property and that is showing that over that 12 month period that particular property has increased by, say, 20 per cent. They will then apply that factor to the balance of the properties in that component. The 20 per cent is then applied to the rest of the properties. Importantly, though, because of that distribution they now need to go back and make sure that it is actually right. They stand back and have a feel if it looks correct. They will actually apply that knowledge to the representative properties too, to get a feel for how that is applied and that might require, as a result of that, making some adjustment. That, in a nutshell, is how the component methodology works.

CHAIR: Returning to the tendering process, you said the tenderer can choose which methodology they will apply?

Mr WESTERN: If they chose a methodology which was different to the component methodology, which is a tried and true method, they would need to be able to prove to Land and Property Information that that one meets the test in terms of being a satisfactory methodology. We have in the past tried to encourage contractors to look at alternative methodologies but, to be fair to the contractors, they really have not got time to be looking at alternative methodologies; they have really got to get on and do the job. We want them applying their knowledge to the job to make sure we are getting the best quality coming out.

CHAIR: I digress for a moment to the methodology and the options available, before we go back to the tendering panel process. Is it possible that different contractors in different components—is that right?

Mr WESTERN: Yes.

CHAIR: —could use different methodologies? And would different methodologies lead to different results?

Mr WESTERN: No. That is what I am saying—the test is whether that methodology is still producing the end result. I guess from my point of view I am interested in the end result, in terms of what the outcomes actually are. But, importantly, there are a number of key, I guess, iterations that they need to go through to make sure that they are complying with in terms of actually how they arrive at it. Have they done the sales analysis correctly? How have they applied that? How is that applied over the whole of the component area? How is that reflected in terms of different components? I will just defer to the Chief Valuer, Michael Parker, if I might, in terms of the methodologies that are used.

Mr PARKER: Currently, the component system is adopted pretty much universally by all the contractors. We have in the past had firms that have used what is called an attribute system, which looks at the property broken into its parts—the view, location as far as busy road, things like that—but at the moment the component system is the dominant system for the mass valuation process. So by using the single valuation of a primary benchmark to adjust the other values obviously you can do a broader number of properties in a cost-effective manner. But we do have a lot of checks and balances around that. We have a verification process that requires individual valuations of properties at certain points and we have a lot of parameters around the way they actually analyse sales evidence and apply those valuations.

CHAIR: Thank you for that, Mr Parker. I would like to go back to the tendering. I think we left off that as part of the advisory team they will look at the different methodologies available to see whether it is appropriate. Can we keep going from there?

Mr WESTERN: Okay. The valuation methodology applies as a 9 per cent weighting to the total amount of a valuation. The other area that will be looked at will be their experience in terms of actually being involved in, for example, rating and taxing evaluations or similar type work. What is their experience in doing that? Obviously one of the advantages of those who have already undertaken the work is that they have had some experience there but also, importantly, that they have had—what we talked about—this performance scorecard has been applied to them as well. Land and Property Information has some very good knowledge, for example, in terms if there are any issues that have popped up with this particular contractor. How does that impact? Were they significant issues or minor things that you would expect with a mass valuation process? So that can be put into a contract evaluation process as well. There is a weighting on that of 11 per cent.

CHAIR: Is that 11 per cent weighting for the contract firm as a whole or for the staff who are allocated to the individual contract?

Mr WESTERN: No. That is looking at the contract firm as a whole in terms of evaluating the whole tender for that particular contract.

CHAIR: So you would look at the experience of Crown Valuation Services, for example, in a component area?

Mr WESTERN: That is absolutely right. The second last component is their capacity to undertake the work. Obviously we need to absolutely ensure that they have got the ability to be able to actually do the work—that they are not undertaking other activities which will divert their attention—and that they actually have enough resource and the capability to be able to undertake the work. That is absolutely critical. That has a 7 per cent weighting. The final part of the evaluation criteria is actually having a look at how they are going to make use of computer technology? What computer technology have they got to work with? They have got access to ValNet, which is the valuation database, and all the information in there in regard to that particular contract but how are they going to use it internally to actually be able to produce the valuations? So Land and Property Information in undertaking the evaluation process needs to have an understanding of that and some trust in terms of going forward as to how that is actually going to work.

The other important part of it is the quality assurance process. What quality assurance processes have the contractors got internally? How are they going to ensure that the quality of work that they are producing is up to the requirements of those required under the rating and taxing procedures manual? That has a 12 per cent weighting. Obviously it is slightly higher than a lot of the others as quality assurance is obviously important. The other area is compliance with NSW Procurement procedures, and that is either a pass or a fail. Basically if they do not comply they are not going to go any further in regard to the tender process. Then the final component is the cost of doing it. That has a 30 per cent weighting. So all those other attributes that I talked about have got a 70 per cent weighting; price has got a 30 per cent weighting. What we have found is that that split of weightings between the qualitative and the cost side of things is about right. If you have it any higher—in other words contributing above 30 per cent—then you can get cost starting to play ahead of those qualitative issues, and we clearly do not want that.

When I first came into the role we had, from memory. I think it was a 60:40 split in regard to it, which was swinging it too much in terms of cost becoming not the correct component of the valuation procedure. Following on from that, the evaluation procedure itself, as I have said, will first of all involve the completeness of the tenderers. Have they actually put into the tenders everything they needed to? Is there anything missing? There will be an initial cull undertaken. We talked about those complying issues in terms of NSW Procurement, and if those are not there they automatically cull, for example. It then goes through the evaluation process as to the qualitative side of things. We do not look at price initially; it is just looking at the qualitative side of things. But price will come in after that in terms of actually being looked at.

CHAIR: So that evaluation that you are talking about is done by the advisory team, is that correct?

Mr WESTERN: That is correct.

CHAIR: So this is all done prior to it coming to the tender evaluation committee?

Mr WESTERN: Absolutely correct. Then I said there will be an evaluation based on the tender pricing. Those results are then obviously consolidated up and there is a value-for-money assessment to go through. For example, where you might have a number of outcomes that are quite close together in terms of where they sit on the score. There might be, for example, an existing provider who let us say for argument sake scored 96, but a new tenderer has come in and they have scored 97. Land and Property Information needs to go through and have a look at that and then weigh up that there is a new tenderer coming in. What is the cost of actually putting that new tenderer in place—where there is a cost in terms of putting them in—as opposed to the existing tenderer? If there is only one point in difference then is that value for money? That proposition needs to come up as well. Once that is completed and that work has been undertaken, there is a report produced, as I understand it—I stand to be corrected on this—which is then produced to go up to the evaluation group. That in a nutshell is how the process works. I do not know if you want to ask any of the other witnesses if they have got anything to add?

CHAIR: I have some specific questions but certainly if any of you would like to add to your testimony?

Mr GILKES: I would like to add a couple of things. In relation to the structure of the two committees—the tender evaluation committee, which is where the ultimate decision is made, versus the advisory committee—the tender evaluation committee as Mr Western described has a number of stakeholder representatives on it who are not specialists in the valuation industry. The feedback we received from some of those members over a period of time was that they did not always feel confident in being able to assess the whole of the tender process. Previously we just had a single committee that evaluated the whole of the tenders. It was because of that concern of those stakeholder representatives that we established the process of having a separate technical advisory committee so that they could provide advice to the stakeholder representatives in areas that they were not confident about.

CHAIR: When was the specialist advisory committee brought into being to advise the evaluation committee?

Mr GILKES: I am speaking from memory but I think that was probably three years ago.

CHAIR: In 2009?

Mr GILKES: I think so, but I stress I am only speaking from memory, so I would need to check.

CHAIR: For the record can I clarify that it was from 2009 or thereabouts and before that there was only one committee that evaluated tenders, which was the tender evaluation committee?

Mr GILKES: That is right. The other key point I would like to pick up from what the Valuer General was saying is around the consideration where there are two tenders that are very close together in the scoring. The reason that goes to further, more detailed consideration is that one of the risks in this kind of tender evaluation process where what in the end are relatively subjective issues converted into numerical scores is that that has the risk of appearing to be more scientific than it is. So when you wind up with a numerical answer at the end it is important for the evaluation committee to remember that it is not science to get to that point, it is really the culmination of a number of decisions that have been made to apply scores and they are weighted. What those scores are really telling you if you reach the point where they are very close is that you need to look more closely at them. Naturally, if the answer is very clear-cut that gives you a reasonable level of confidence but when the scores are very close you need to provide some further consideration.

There is also the issue the Valuer General talked about of the cost of changeover where there is an existing contractor and a new tenderer tenders and scores marginally higher. The other important element the evaluation committee will discuss is the risk of change in that you are taking a contractor of known quality and standard and potentially replacing it with an unknown, so there is an element of risk to be balanced in the equation.

CHAIR: That is very helpful. I would like to go into some specific questions about the advisory process and the tender evaluation process. If you are not able to answer these questions now I would certainly like to put the questions on notice. When we ask for the tender evaluation committee minutes every name in it has been redacted, so I am unable to see the names of the people who have attended those meetings. I would like to go through the composition of the tendering committee in detail for each year. I am particularly looking for job titles and names. If we could start with 2011, for example, can you give me the names of people who sat on the tender evaluation committee and their job titles?

Mr WESTERN: Not available to me here, Chair, no. I do not have here the information of who the individuals were.

CHAIR: Is there a set of people each year who have been selected and will appear on the tender evaluation committee?

Mr GILKES: Broadly. There are a series of stakeholder representatives, as the Valuer General pointed out, representatives from the New South Wales Revenue Professionals, the Local Government and Shires Association, the Office of State Revenue. For the last few years I have chaired it as Deputy General Manager. The Chief Valuer also sits on the evaluation panel. The technical advisory panel has a series of specialists from across Land and Property Information [LPI] who deal directly with contractors. I am sorry I do not have with me the details of exactly who those people are or their positions.

CHAIR: You said you chair the tender evaluation panel?

Mr GILKES: Generally, yes. There have been some years I have not been available to do it, but generally for the last few years I have.

CHAIR: Which years did you chair the tender evaluation panel?

Mr GILKES: I cannot remember off the top of my head. I can provide you with that information later on.

CHAIR: I am hoping we can get the list of names and job titles of people who sat on the tender evaluation panel each year from 2003 to 2011.

Mr WESTERN: Obviously I will have to see if there are any issues in regard to releasing that information. Can I just make clear at this stage that I am not trying to be obstructive in this regard? I think you have quite clearly pointed out that the Committee has a responsibility to the people of New South Wales, as I have as well. That includes privacy and personal information. I definitely want to be able to assist the

Committee in any way I can. However, if there are matters like that where they need to be considered in camera—

CHAIR: We are happy to negotiate those things in camera. We will move to deal with some of these privacy issues after lunch. I ask you to take this on notice: I am seeking the names and positions of people who appeared on the tender evaluation committee from 2003 to 2011. Have the people who constituted the tender evaluation committee remained the same between 2003 and 2011? Have there been changes in personnel?

Mr GILKES: There have been changes in personnel. The stakeholder groups are broadly the same but the representatives of those stakeholder groups change from year to year and indeed the make-up of the committee has changed over that time. Once again, I do not have before me the details of the particular positions versus the years, but there has been some change over that time. In broad, the committee is of the same structure.

Mr WESTERN: One of those changes was obviously, as you are aware, that I was previously chair of that committee, the single group that was overseeing that. I stepped aside from that. Once again, I cannot be precise about the year that but I think it was about 2006-07. I could be wrong.

CHAIR: That you were no longer the chair?

Mr WESTERN: In fact, I was no longer on the committee.

CHAIR: So, from 2006 you were not on the committee?

Mr WESTERN: I might take that question on notice and confirm what year I stepped off the committee.

CHAIR: What was the process for tendering in 2003?

Mr WESTERN: The first year that I was involved in it was 2003. I think the Committee has received papers that you requested in regard to what my role was. You will remember that I was previously a general manager for a private company that was providing rating and taxing valuations to the Valuer General. I questioned whether I should be involved in a tender process, just as Mr Gilkes did. Mr Gilkes was previously with Property Valuation Services, which also provided a major component of the valuations in 2003.

CHAIR: Who are Property Valuation Services?

Mr WESTERN: Property Valuation Services was a division within, at that stage—

Mr GILKES: I think the Department of Public Works and Services and Department of Commerce. It was a commercial valuation unit within that department.

CHAIR: But you were a government employee?

Mr GILKES: I was a government employee, that is right.

Mr WESTERN: I wrote to the director general suggesting that I should not be involved in the process.

CHAIR: In 2003?

Mr WESTERN: These would be the contracts which would have started—it will escape me in terms of exactly what the date was. It was 1 March, I think, in relationship to 2004. I started in the role of Valuer General in September 2003. When I came in the tender evaluation process was just starting. I sought to step aside from that process but the advice came back from I think the Deputy General Manager of State Procurement that my role was critical in that process in terms of my technical expertise, as it was for the chief valuer to be involved as well.

CHAIR: Is that documented?

Mr WESTERN: We have provided that information to the Committee previously, yes.

CHAIR: I have not seen that information.

Mr WESTERN: The Committee provided some questions on notice on 19 April and part of providing that information back was an attachment E. It is labelled "Attachment E2-4TMIA". That provides the documentation in terms of that approval.

CHAIR: Can we just take a moment to grab that?

The Hon. SCOT MacDONALD: I want to follow up on some questions I think I asked you a month or so ago about the valuation of rentals. Do you recall us having a bit of a discussion about that?

Mr WESTERN: If I recall, you were asking about a valuation in the city.

The Hon. SCOT MacDONALD: Around Circular Quay.

Mr WESTERN: Yes, I do recall that.

The Hon. SCOT MacDONALD: Maybe I misunderstood where we were going there. Mr Michael Carr, who appeared just before, indicated then that there was a role for valuation of rentals. There was some role in Land and Property Information [LPI] or the Valuer General in the valuation of rentals.

Mr WESTERN: I think, from memory, the question you asked was about a specific property.

The Hon. SCOT MacDONALD: It was and then you rightly stayed away from that.

Mr WESTERN: If I recall, we also took a recess at lunch time and I went away and checked and it was around some media activity that had been in there in regard to the rental on that particular property. I went away and sought advice from Land and Property Information as to whether LPI had been involved in that and I was told that they had not provided a valuation in that regard.

The Hon. SCOT MacDONALD: I am unclear in my mind. Mr Carr said it is not automatic that LPI has a role in assisting in valuation of rentals either at the start or renewal. I guess where I am trying to go is if you were trying to assist the Government and you wanted to give advice to the Government about valuation rentals, it does not seem to be a blanket policy is what I am getting at about government property. When it is leased out it is not automatic—

Mr WESTERN: Correct.

The Hon. SCOT MacDONALD: —that the Valuer General or LPI steps in and gives advice about valuation of rentals. Do you think that is appropriate?

Mr WESTERN: I guess I would go from the point of view that while I am there to provide independent advice to government in respect to valuation issues, it is up to the individual departments or whatever to decide where they want that advice from. Remembering, as I think I stated last time, that we only tend to operate where the Valuer-General is mentioned within leases and things like that in terms of providing that direct advice. If it was to go beyond that and providing general advice to government, that would be, in the framework of the existing role of the Valuer-General, a role we could play. However, I would have to clearly point out that we would not have sufficient resources to be able to cover that off.

The Hon. SCOT MacDONALD: What you are saying, if I understood that right, is at the moment the Valuer General or LPI does not have the resources to step in on every rental situation; it just does not have the capacity to do it.

Mr WESTERN: No. That is correct. We could seek consultants to assist in terms of doing that. That would be one way around it. But if it was asking directly for the Valuer General through LPI to provide that information, as I said, the resources would not be available internally to do all that work.

The Hon. SCOT MacDONALD: I guess where I am coming from is this. If you are a member of the public and you have been hearing for months and months about Circular Quay properties or The Rocks

properties and the ports authority—what you are saying is that it is their domain whether they think they are getting proper lease valuations. Is that what you are saying?

Mr WESTERN: Correct, and it is entirely up to them. Free market principles are operating in terms of where they get that advice from. I am aware of some other jurisdictions in Australia where a lot of the advice provided to government in respect of where they are looking to dispose of or purchase or rental is sought directly from the Valuer General but in those cases generally there is a large resource component within the Valuer General's Office which provided that information or advice.

The Hon. SCOT MacDONALD: I guess from what I am hearing, when the tenders are put out there is quite an extensive process about probity or whatever but it strikes me if you are a member of the public there is not that same probity about rental of The Rocks properties or around Circular Quay. Should this Committee be making recommendations to the Minister about how we can improve the probity there?

Mr WESTERN: Are you asking me to tell the Committee what to do?

The Hon. SCOT MacDONALD: The role of this Committee is how we can protect the ratepayer, how we can protect Treasury, and there seems to be gaps about where government leases are gone for, whether they are a new lease or renewal of leases.

Mr WESTERN: As I said, it would be up to the Committee to make that recommendation. However, if that recommendation was made, we would certainly look at it in terms of how we might be able to contribute to a solution to that.

CHAIR: I think this is a pet issue for the Hon. Scot MacDonald. We might continue on with the tender evaluation process. With regard to the advisory committee that was set up as well, would we be able to get the names and the jobs titles of the people who were on that advisory committee from 2009 to 2011?

Mr GILKES: Yes, subject to the same right that the Valuer General said previously.

CHAIR: That is fine, and we will deal with those things a bit later in the day. I will put that on notice for the time being and we will come back to that negotiation later. I would like to continue with the tender evaluation. The committee staff are trying to find the document that you referred to, so I will be able to read that during the lunch break.

Mr WESTERN: If you are happy to read it now, I have a copy of it here if you would like it.

CHAIR: Would you like to read it?

Mr WESTERN: It is quite lengthy.

CHAIR: I will read it during the lunch break then, but that is very helpful. I will just confirm my understanding that in 2003, or thereabouts, for the 1 March 2004 tender evaluation year you had written to the director general?

Mr WESTERN: I do not know if it was the Director General, but it was certainly the State Contracts Control Board.

CHAIR: And who was the person?

Mr WESTERN: I cannot tell you. I am sorry, the recommendation for that went out from State Contracts Control Board within the Department of Commerce and it was made by the Acting Deputy Director General, Office of Government Procurement.

CHAIR: And there was advice as to whether it was appropriate for you to sit on the tender evaluation committee.

Mr WESTERN: Yes. As a result of that, the recommendation was that there was a letter they prepared and they said should be sent to the Director General of the Department of Lands.

CHAIR: Advising of your previous role, is that right?

Mr WESTERN: Advising them that the Chief Valuer and I should remain as part of the evaluation process for the 1 March 2004 contracts tender process.

CHAIR: Are we able to get a copy of your letter to the director general or to the board?

Mr WESTERN: I would have thought that we provided that, but if we have not I am happy to provide it.

CHAIR: Thank you. As I said, I will read that in the lunch break. Continuing on with the tenders and focusing between 2003 and 2006 when you were the chair, during that time when a tender was received or a tender was called for, who did the assessment of the different criteria that now the advisory panel does?

Mr WESTERN: As Mr Gilkes pointed out before, there was only one group involved in the tender process, so it was that group that undertook the tender evaluation process in the presence of a probity officer from state procurement.

CHAIR: Could we talk hypothetically about someone who submitted a tender. How many meetings would it ordinarily take for the tender evaluation committee to make an assessment of the tender or the tenderer?

Mr WESTERN: That would obviously vary from year to year, dependent upon the standard of the tenders that were put in.

CHAIR: Let us focus on the first year.

Mr WESTERN: I cannot recall precisely how many meetings. I can assure you it was definitely more than one or two, but I cannot give a precise number. We could go back and check how many there were, if you would like that information?

CHAIR: That would be fabulous. Let us focus on one local government area, or is it a contract for one local government area?

Mr GILKES: Contract areas comprise either one local government area, in the case of the city of Sydney, or many local government areas, particularly in the western part of the State. There would be a number of small local government areas that make up a contract area.

CHAIR: If we have a contract up for tender for one local government area or one tender area—the city of Sydney, for example—you would have a number of meetings to assess that?

Mr WESTERN: Not necessarily that one on its own, but we would be looking at all the tenders that have come in for a number of different contract areas, not just that one on its own.

CHAIR: So if there were a number before you, you would approve them all at once?

Mr WESTERN: Once again, it could vary. What would happen is that importantly each of the individual members of that committee would score, in their own right, against specific criteria, each of the tenderers against the evaluation criteria, so they would come up with their own scores. Then the probity officer who was involved, from memory, would see if there were any issues in terms of understanding about things, or whatever, or "Do you know what they meant here", or "I did not quite understand what they were getting at here, there might be some conflicts in terms of resourcing—were they only going to put five or were they going to put seven", and we would go through some work looking at how many full-time equivalents, for example, might actually be involved in the contract. Does that make sense? How many hours are they going to put into that?

CHAIR: Let us focus on one local government area as an example, say, the city of Sydney. If that was up for consideration in 2004, would there be a number of meetings to finalise the tender?

Mr WESTERN: Yes, there would be.

CHAIR: What was the purpose of each of the meetings that was held?

Mr WESTERN: I cannot specifically remember what they might have been, but basically, as I said, the initial meeting would be all about making sure everyone is on the same page in terms of what is required as far as undertaking the evaluation process, understanding the weighting, and we probably would have gone through having a look at how people had scored them at that meeting. As a result of that there could have been a situation where there were some issues associated with that that we would need to go back and have another look at. The probity officer from state procurement would have gone through that and may have had to contact the tenderer for something they had written, or the way they had written it, to get clarification. That might result in another meeting having to be called in terms of discussing those issues. Eventually you would get to the situation where all the evaluation criteria scores are in, but there are differences between people. We need to work through why people are different, "Why did you score that as an 8 and I scored it as a 9", or whatever, going through to get some consensus in terms of moving forward to arrive at an overall score for each of the evaluation criteria.

CHAIR: Can I confirm that the scores of the different people on the panel were shared in the committee?

Mr WESTERN: They were shared once they had gone through individually how they had scored them. From memory, the probity officer had a whiteboard—and Mr Gilkes might be able to assist in terms of that—which had the criteria, the tenderers and each of the individuals who were involved in the evaluation process and the scores, and then we talked through why people had different scores.

Mr GILKES: If I might add to that?

CHAIR: Yes. Were you at these meetings between 2003 and 2006?

Mr GILKES: Yes, I was in 2003. The Valuer General previously referred to the letter he sent where it was suggested that both he and the Chief Valuer should be on the panel. I was at that time the Chief Valuer. The purpose of those discussions was to arrive at consensus scores, not simply take a range of different numbers and average them, to make sure that all the members of the panel had the same understanding of the quality of each response, so where there were differences in the numbers people would talk through their rationale in arriving at their number and debate that within the committee to arrive at a consensus.

CHAIR: I think you mentioned getting everyone on the same page. Who would lead that discussion?

Mr GILKES: That was led by the probity officer from state procurement.

CHAIR: If I were to get the unredacted minutes, could I see that process?

Mr WESTERN: I do not think it went down to the extent of saying what the opinions of individuals were. I stand to be corrected if that is not the case. I do not think that debate was in it; it was actually the decisions that came out.

CHAIR: So the probity officers would lead the discussions on each occasion?

Mr WESTERN: Yes, most definitely.

CHAIR: Did deliberation only happen inside these meetings?

Mr GILKES: Yes. Apart from the initial scoring, each individual panel member would have their pack of tender responses, which they would go through individually and evaluate, and then when the Committee came together any discussions around those evaluations always happened in the committee.

CHAIR: There would never be any email discussions about tenderers?

Mr WESTERN: Not about tenderers, no. There might have been some email discussion, or not discussion but, for example, the probity officer might have gone away to find out some points of clarification with regard to one of the tenders. They would have distributed that information to the other members of the panel.

CHAIR: There were no phone calls amongst panel members outside of the panel?

Mr PARKER: No. Not that I am aware of, no.

CHAIR: No corridor discussions or by the water cooler?

Mr GILKES: It was always made very clear as part of the process and, indeed, this was the role of the probity officer from State procurement that the valuation discussions had to occur within the committee, within the proper structure and under his supervision.

CHAIR: How many valuation regions are there in New South Wales?

Mr PARKER: In terms of contract areas?

CHAIR: Yes.

Mr PARKER: Thirty-six contract areas.

CHAIR: In 2003, for example's sake, did the tendering committee receive updates on the quality of the valuations performed?

Mr WESTERN: I can remember now. We are talking a long time ago. I am trying to jog the memory. From memory—and once again I stand to be corrected but I think I have got this right—in the initial evaluations that we undertook, we relied to some extent on the views of the district valuers who were responsible for those particular contract areas as to their opinion as to how the contractor was performing, but we altered that. I am not certain when we altered it, but I think it would be probably one or two years further on from that when we started to develop the score card. Rather than a subjective assessment of one particular individual, we had something on paper and something that the contractor was aware of as well. The performance score card would be provided to the contractor for their comment as well during the contract period, so it became a far more clear process in terms of how the contractor was performing, rather than what I would have considered to have been a subjective opinion of a particular district value.

CHAIR: Let us stay around 2004. How regularly did you get updates or opinions from your district valuers?

Mr WESTERN: We would only have sought that at the stage when we were doing the evaluation when the contracts were coming up for review? If there had been any major issues that had cropped up with contractors, Land and Property Information would have provided me with advice regarding that.

CHAIR: You said that the district valuers provided you with an opinion when the contract came up for renewal. What information would they include in that opinion?

Mr WESTERN: I am trying to think. Mr Gilkes, you might be able to help me in terms of how we went through the process. From memory, it was how the contractor was performing; are there any key issues that we should be aware of in regards to looking at the tender for this particular area so, from memory, there were a number of questions we asked the district valuer. We had commonality in respect of what was being asked for each individual tender area. The difficulty was that some of the information that was coming back might be a wee bit subjective.

Mr GILKES: If I might add something here, Chair, some of the answers we are giving are not particularly clear on this. Part of the reason for that is that the tender process evolved over a period of time. From each year at the end of the process, we would sit down and review the tender process: what worked well and what could be improved upon. It is not easy to pinpoint ten years ago exactly what point in that cycle we were at.

CHAIR: I understand that. From the Committee's perspective in awarding contracts to private enterprise using public moneys, we need to be absolutely confident that the processes and systems in place will ensure that the public interest is protected. That is why we are going down this line of inquiry, to satisfy ourselves to that fact. We talked a bit about what factors are considered in awarding a contract. I have got a

good overview of the factors that the advisory team will consider before referring to the tender evaluation committee after 2009. We talked about quality and availability of resources, contract management plan, milestones, et cetera. What about before 2009? What factors were considered when deciding who wins contracts before 2009?

Mr WESTERN: The criteria for the evaluation of tenders would have been similar in terms of the specific criteria, looking at resource, looking at the quality, looking at what IT systems they have got in place, et cetera; their capacity to be able to do it. What would have altered over time, as I pointed out earlier, would have been the weighting on each of those. As Mr Gilkes pointed out, one of the things we looked at each time was to re-evaluate where we needed to go with things. Over time, certainly from early on when I became involved, for example, the emphasis on quality came up compared with where it was early on. Once again, I cannot give you specifics in terms of how they altered over time, but generally it would be fair to say that the criteria pretty much stayed the same as the weightings that altered.

CHAIR: How did you determine the quality of the work or the likely quality of the work when you were awarding a tender in 2003?

Mr WESTERN: I will have to go back to what the criteria were.

Mr GILKES: Chair, while the Valuer General is looking for that paper, perhaps I could talk about this. There was a series of evaluation criteria, and the tenders were structured in such a way to require the tenderers to provide responses that would address those issues, and so the evaluation was done, firstly, by looking at the tender that was submitted and, from reading the tender, providing a score against each of the criteria based on the information.

CHAIR: By the people on the tender evaluation?

Mr GILKES: By the tender evaluation committee, yes.

Mr WESTERN: In respect of the quality, what we are talking about there is the quality assurance processes we have got in place. The quality of the work, to a large extent, if they are an existing contractor, will have come out, and by looking at the score cards and things like that. We did not have them in place in 2003, but the district valuer might have assisted in that. It was more looking at the quality assurance processes that they had in place. We needed to be able to clearly see they were not just turning up with values without ensuring there was not some rigour around how they were being turned out. That is what was important very early on. At that stage, Land and Property Information did not have in place a sophisticated audit process to look at what was happening. That is almost where the change started to occur and Land and Property Information taking more of an audit role in the evaluation process.

CHAIR: What year was that?

Mr WESTERN: That would have been around the time I came back. It might have started to occur slightly earlier, but around about 2003-04 Land and Property Information took a far more rigorous approach to auditing work of the contractors.

CHAIR: The Committee met and considered the score cards that you and Mr Gilkes referred to between 2003 and 2006. When there was a difference in opinion, what would be the process for resolving the differences in opinion? Obviously some of these matters are subjective. For example, the weighting for quality, 60 per cent. If there are differences amongst members of the tender evaluation committee, how would those differences be resolved?

Mr WESTERN: You mentioned the score card. It is provided to the committee.

CHAIR: Was that in place between 2003 and 2006?

Mr WESTERN: No, it came in later. However, you mentioned looking at the score card. I wanted to clarify that that was not part of that process. When it was further down the track, it was a finite document that was presented to the committee. We had no say in terms of overturning it or anything like that. Going back to 2003, there were times when there were differences because we are all individuals and we have different opinions. The probity officer would have led that discussion. For example, in terms of what they were proposing

for the quality assurance program, there might have been one individual with an opinion about how that was structured and someone else might have had another opinion. We would discuss it to gain an understanding through consensus about what was meant.

As I pointed out, if some points of clarification were required from the tenderer, the probity officer would seek that clarification. We also had situations on a number of occasions where we brought the tenderers in and interviewed them to clarify some issue or the way they had structured the tender. We thought the information was there, but we needed to talk to them to ensure we had the correct interpretation. That was an important part of the process. In terms of individual discussions within the group, eventually consensus would be reached but, importantly, that would be driven by the probity officer.

CHAIR: Would there have been debate among members?

Mr WESTERN: Most definitely.

CHAIR: Would you as the Valuer General have an opinion and participate in that debate?

Mr WESTERN: Yes. However, I make it clear that I was one of a number of individuals on the committee and the weighting I placed on the issues and my thoughts were equal to anyone else's.

CHAIR: How many times would there be debate to reach consensus?

Mr WESTERN: I cannot recall. There would have been times when we had debate. As I said, we were all individuals and the chance of everyone getting exactly the same score for exactly the same criteria is slim.

CHAIR: How many times would the opinion change?

Mr GILKES: The consensus score would often be different from the first score provided by at least some of the members. The purpose of the consensus meeting was to take the range of scores and agree on the score that best represented that tender response. That would be a common occurrence and, as I said, that was the purpose of those meetings. We started off with half a dozen individual scores and they needed to be resolved to a single score for each criterion.

Mr WESTERN: It must be remembered that every tender document is completely different, written differently and so on. Even though there are specific headlines, they are all completely different. It is only natural that there will be differences of opinion.

CHAIR: How many times would your opinion change as a result of that consensus group's discussions?

Mr WESTERN: I cannot remember, but I do recall that I changed my mind on a number of occasions.

CHAIR: Are there large labour costs associated with performing valuations?

Mr WESTERN: When you say "labour costs", do you mean in totality or for private contracts?

CHAIR: For the contractor.

Mr WESTERN: Labour costs would represent the highest proportion of the cost of undertaking a valuation. If we were to audit them and we found out otherwise I would be very disappointed.

CHAIR: Would the number of people allocated to perform the valuations make a difference?

Mr WESTERN: It must be remembered that as part of the probity process it is important to clarify what resources will be applied to the contract and the expertise associated with it. As we said, it is also important to determine the firm's capacity to perform the contract and to apply the appropriate resources. Put simply, the theory would be that the more resources there were available to complete the valuations the more accurate the valuations would be. That is a general principle.

CHAIR: Do the contractors state how many valuers they will have as part of the contract?

Mr WESTERN: Yes. Many represent that as a number of hours, and they include the expertise of the valuers.

CHAIR: Is the information about the number of hours allocated given significant weight when assessing these valuations?

Mr GILKES: Yes, it is. The quality of the staffing plan is the way it is scored. It is a combination of the skills of the staff and the time they will be allocated.

CHAIR: Does the experience and expertise of the valuers working on the contract make a difference?

Mr WESTERN: Obviously most of the tenderers include the names of the people who will be assigned to the contract. The valuation profession is reasonably small. I do not know them all because I am new to Australia, but most of the people in Land and Property Information would know them. However, more important than the names of the valuers is the skills, knowledge and expertise they offer.

CHAIR: Are those skills and that knowledge and expertise represented in the tender?

Mr WESTERN: Yes.

Mr GILKES: Curriculum vitae are provided for all the staff.

CHAIR: Does that include the names of the valuers who will work on the contract?

Mr GILKES: Yes. There is a provision for firms that may need to expand their business and employ more people. Through the evaluation process we have had to balance that need for firms to be able to take on new people and having confidence in the quality of the staffing plan. Where a tenderer employs new staff, we require them to provide a profile of the quality of the staff employed for a particular role. If that tenderer is successful, it will receive a conditional offer subject to employing staff to fulfil the staffing plan as outlined in the tender.

Mr WESTERN: That is one of the strengths of the New South Wales valuation system. As members know, I was involved in the rating and taxing system in New Zealand. The tender process there was not strong in identifying the skills and expertise of individuals assigned to particular contracts.

The Hon. SCOT MacDONALD: Do they ever state that resources will be deployed on a full-time or part-time basis?

Mr WESTERN: We require that to be stated in the tender documentation. They might say, for example, that the person who will lead the contract and oversee it might spend 40 per cent of their time being a director of the organisation and on this contract. Details will be provided about what that person will do. Others will be involved on a full-time basis or for 80 per cent of their time and so on. If that were not stipulated in the tender it would be a point of clarification. We would go back to the tenderer to establish that. As I said, that is critical in terms of knowing whether they can perform the contract.

Mr GILKES: One of the other strategies that some tenderers use is, for example, to employ specialists to value certain classes of properties. They may be needed for only a small amount of time, but because of their expertise they are most qualified to do certain valuations. The staffing plan is examined in its entirety and it is recognised that a balance of different skills across the organisation may well serve the purpose.

The Hon. SCOT MacDONALD: Is it of concern that they are there on a specific basis?

Mr GILKES: That may be fine. It depends on how the contractor proposes to bring that whole team together to provide the services.

Mr WESTERN: For example, in regional situations it might well be that the vast majority of property is rural so they have valuers to do that but there might be a small commercial component in there. They might bring someone in and, say, this person has expertise in this particular area, experience here, they can spend 5 per

cent of the total time looking at the central business district. We would evaluate that in terms of the number of hours that that actually means and how that transpires in terms of them being able to do the work.

CHAIR: Is the skill and expertise of valuers a major factor in the accuracy of the valuations?

Mr WESTERN: Most definitely.

CHAIR: Is that factor at the heart of whether a bid is successful?

Mr WESTERN: It is a key component of it, as we said, in terms of the evaluation criteria and the weighting that that is given would reflect the importance of that.

CHAIR: Does Land and Property Information ever review whether people who have been nominated to perform those functions are actually used as part of the quality assurance process or the audit process?

Mr PARKER: There are steps along the way that would make that fairly obvious so staff that are required to attend to a contract, deliver a lot of material with their name on it, the sale analysis, they are engaged in monthly meetings with our contract managers and our district valuers, and there is a fair bit of communication between the groups on a pretty regular basis about issues that come along.

CHAIR: It happens informally that you see the people who have been nominated to fulfil the contract obligations. It is an informal process that you will see them?

Mr PARKER: Basically, yes.

CHAIR: If certain valuers who have been nominated to undertake a contract in a particular area are not being used or do not do the valuations, how will that be flagged to you?

Mr PARKER: We do not actually require the contractors to provide a timesheet. They submit their tenders on the basis that certain staff will do a number of hours, and they provide us with a monthly report telling us what has been administered in that area but it is not on the basis that John Smith did 40 hours. We do not control it.

CHAIR: There is no recording of it?

Mr PARKER: No.

Mr GILKES: However, as Mr Parker pointed out previously there is quite close contact between our district valuers and the contract firms and so they know who is actively working on the contract. The names of the valuers specified in the tenders are actually inserted into the contract. There is a link there: it is not done through the formal process of signing off time sheets but there is a link there to know that the staff that have been put forward in the tender are actually working on the contract. Indeed, there is a process where contractors have to request permission basically to change the staff on a contract. Is that correct?

Mr PARKER: Yes.

The Hon. SCOT MacDONALD: I want to be cautious because the Valuer General has indicated that you are looking at mid western review. I think the Committee thinks it might look into that down the track. It leads on to the capacity of a contractor and whether you are satisfied that that contractor is bringing the right amount of resources or people to do that work. In the mid western circumstance, at what point would you have looked at that contractor to satisfy yourselves that they are bringing the right people to do that job, whether it be in terms of time, expertise, their past or skills?

Mr PARKER: That is the whole regulatory framework, is it not? We are talking right back at the start when the tenders are delivered, we require that they have competent, professional staff, and that is part of it. The instructions that we have and the technical advice that we provide, that is part of it. In the case of mid western they provided us with data at the time in 2011 that did show some anomalies in the material. We started some preliminary investigations and went back to the contractor and we were assured that all the values were correct. That did not necessarily prove to be the case down the line but certainly our systems did pick that up in the beginning that there were some minor issues with the quality of that work. The contractor assured us that the

valuations were correct and that developed from there. We monitored all the objections that were coming through and how those objections were being viewed by the independent contractors. The council obviously got involved and NSW Farmers so the investigation that we applied to that increased with our knowledge of the issue.

The Hon. SCOT MacDONALD: If there were some questions that arose later on, does that make you think that the contractor should have been looked at more carefully at the front end and that company's capacity to do that work?

Mr WESTERN: Chair, I would like to ask a question of you. I mentioned earlier that I have an independent review being undertaken in regards to this. I will be happy to present the report. I do not want to see this public debate steering the review in a direction or whatever.

CHAIR: No, I think that is entirely appropriate. Mr Parker, in relation to staffing that is allocated to contracts, how often does the district valuer touch base with the valuation firm providing the contract services?

Mr PARKER: More formally it is at a monthly meeting.

CHAIR: Is that written into the contract?

Mr PARKER: No, it is a process we go through. It is part of our contract management process that we have a monthly meeting, and the district valuer will attend that meeting. But basically they have regular contact because there are always issues arising and queries. We go back to them and ask what is happening in a particular instance. To address ministerial or public concerns about different valuations we are always seeking information from the contractor. It is a fairly constant path between the two.

CHAIR: Does that process occur at the contractor's office or at the district valuer's office?

Mr PARKER: There are various arrangements. It is statewide obviously so there are contractors who are remotely located. Most of them are probably done by teleconference but some will be done in their offices and some in ours.

CHAIR: Is it done at senior levels? Will it be done with a senior level from the contract side? Is it only the district valuer that sits in on these meetings?

Mr PARKER: It is usually the contract services manager for the other side, so usually a senior party from the firm. Our contract managers attend and our district valuers are fairly senior in the valuation chain as well.

CHAIR: Does the district valuer actually do any work on the valuations?

Mr PARKER: I am not sure the context of the question, but we require the contractor to provide the valuation, and we rely them to provide that valuation.

Mr WESTERN: I see what you are getting at, Mr Chair—namely, is the district valuer involved in the day-to-day operation of the contract?

CHAIR: That is right.

Mr PARKER: No.

CHAIR: Land and Property Information undertake a review of the valuations provided by the contractors?

Mr PARKER: Yes, we have some quality assurance steps along the way. So on delivery there are a number of quality tools that check the data to see whether they are within certain parameters. There are some statistical checks that the contractors have to comply with, which have been developed by Land and Property Information in consultation with Professor MacFarlane from the University of Western Sydney. There are a number of quality assurance steps that they are required to do and we also instigate.

CHAIR: Following those quality assurance steps that are taken, do Land and Property Information ever vary the valuations provided by contractors prior to providing people with their valuations for rating and taxing purposes?

Mr PARKER: If we find there is an error the general process is that we will go back to the contractor and discuss it with the contractor to try to come to an agreement with them about what the actual valuation will be. So we will point out to them that there is perhaps some other issue they should have looked at or some further sales evidence that they may have considered. But we try not to interfere at the actual valuation level. The valuation level is supplied by them and it is their expertise that we are relying upon.

CHAIR: How will you find an error?

Mr WESTERN: Can I very quickly say that it is probably not an error. They have run some statistical checks and they have found there is a query there—there is something that does not look quite right. They will go back to the contractor then and discuss that with the contractor and work through finding out if it is right or if it is wrong and then it could become an error.

CHAIR: So you will only pick up whether it is an area or an item that needs to be looked at again through a statistical review of all the valuations in the component area?

Mr PARKER: Our regulatory framework allows us—there are 2.4 million valuations all delivered in a quite short time frame, so we rely reasonably heavily on statistics and parameters within that process to determine where there is possibility of error. A lot of the things that we pick up, as Mr Western was saying, are things that just need to be qualified. Although they might stand outside a parameter, we could go back to the contractor and say, "This parameter shows that these properties are outside that. Can you explain to us what has occurred?" Often the case will be that they come back to us with a reasonable position as to why the value should sit at that level.

Mr WESTERN: Can I add something there, Mr Chair?

CHAIR: Yes, of course.

Mr WESTERN: One of the concerns that I have at the moment, and Mr Parker pointed this out, is that all these valuations are coming in at once—there are 2.4 million of them. To be able to go through and do the detailed checks that are required and for when we have to hand the valuations across to Office of State Revenue for its purposes it is a reasonably short time frame. What I want to look at going forward is to have Land and Property Information more involved with the contractors from the point of view of being able to better understand the valuations. Remember that Land and Property Information is already running a lot of audits at the same time in regard to the valuations so that individual district valuers can actually go out and have some understanding of how the contractor has undertaken their sales analysis—once again, I said that there are some audits that run in that regard too. More importantly, when it comes to the final audit, called the provisional values coming into the system, they have actually got some foresight in terms of what the valuations want to look at, and if there have been any issues there on a more holistic basis then they have been able to address them early on. It probably has not been happening as well as it should have. I think this is an area that we can definitely improve on going forward, not in terms of riding gunshot over the contractors but more in terms of working with them to better understand how they have arrived at valuations.

CHAIR: Would it be possible for a person to work different hours to those specified in the contract? For example, would it be possible for one of the staff nominated to perform valuation work on behalf of the contractor to work different hours to those set out in the terms of the contract? So less hours than—

Mr PARKER: As I have said, we do not require timesheets.

Mr WESTERN: It could be possible.

CHAIR: Valuer General, I turn now to a new line of questioning around your involvement in the tendering committee process. We talked about how we form a consensus. You said a consensus was formed after being led by the probity officer and that that has been the same practice since 2003 through until today, is that correct?

Mr WESTERN: Certainly while I was involved with the committee it was. Is that the same now?

Mr GILKES: It is slightly different now in that Land and Property runs the tender process itself. Some few years ago we obtained approval from the State Contracts Control Board to run the tender process itself rather than having it run by State Procurement. We have replaced the role of the probity officer from State Procurement with a contracted probity officer who observes the process and may not necessarily lead all those discussions but certainly observes them closely and will provide advice if there is any areas in those discussions that cause probity concerns. In the times when I have chaired that committee I would frequently before asking a question of the committee ask the probity advisor if it was reasonable for me to ask the question.

CHAIR: I am interested in forming the consensus and how we get to that point. Does someone lead the discussion? Does someone voice an opinion that a contractor is the preferred contractor?

Mr GILKES: It does not tend to work that way; it tends to be dealt with issue by issue or criteria by criteria. I guess my experience over recent years, particularly where a number of members of the evaluation committee have been on the committee for a period of time and are reasonably comfortable with the operation of it, is that different people will lead the discussion on different criteria. Typically the way that conversation would be started would be to say, "Okay, we have got a number of scores here that are quite tightly grouped and we have one outlying. Your score was the outlying score. Can you rationalise why you arrived at that?" That kind of process is used.

CHAIR: Does someone usually suggest a view on who was the best tenderer in a certain criteria, for example?

Mr GILKES: The way it tends to be done is to agree on the score for each tenderer against each criterion and then, yes, they will generally at the end of the process look at the tenderers in comparison with each other and say, "These are the scores we wound up with. Does that actually fit with the view of the committee about how those tenderers compared?"

CHAIR: Before the scorecard was in place—it came into place in 2009, was it?

Mr GILKES: No, it would have been some years before that. Mr Chair, I think there may be some confusion here because of the use of the term "scoring" in the tender context and the scorecard. The scorecard is not actually to do with the tender process; it is a contract management tool that is maintained by the Land and Property Information contract managers in an ongoing fashion as to how the contractor is performing against a range of specific criteria in terms of timeliness and those kinds of things. It is compiled into a document which is called the scorecard; it is not actually about the scoring of the tenders.

CHAIR: So there is no formal scorecard used when evaluating the tenders? Is my understanding correct?

Mr GILKES: The scores are formally recorded in a single sheet—

CHAIR: Does each member of the panel record their scores?

Mr GILKES: Yes, they do to start with but what goes forward in the minutes is the agreed consensus score for each criterion.

Mr WESTERN: Against each criterion.

CHAIR: Let us use the term "scorecard" for assessing the different criteria. Was there a similar document in place between 2003 and—?

Mr WESTERN: That is what I was saying, there was not. Remember that we talked about needing to go to the district valuer?

CHAIR: Can we focus on the period between 2003 and 2006? I am interested to know how the consensus was formed.

Mr GILKES: I think we might be having that same confusion about the terms. I think you are referring to the scorecard as being the scores for the tender.

CHAIR: Yes.

Mr GILKES: Yes, there was at the time, 2003 to 2006; for each contract area a single table was developed of all of the criteria and all of the tenders with their scores against each criterion.

CHAIR: Before an assessment was made to award the tender?

Mr GILKES: Before an assessment was made to award the tender. I believe those tables would be in the evaluation report, although I do not have that before me.

Mr WESTERN: I am fairly certain they would be.

CHAIR: Excellent. The people on the tender evaluation panel used this scorecard between 2003 and 2006, for example, and then there would be a discussion—I am just confirming my understanding—and a consensus was formed on each item of criteria.

Mr GILKES: That is right.

CHAIR: How was that consensus formed, Valuer-General, in those days?

Mr WESTERN: As I said, that discussion would be led by the probity officer, and that for obvious reasons is really important. As Mr Gilkes pointed out, the operation of that was no different then from what it is today. Where there was a particular person who scored well outside the others they would be asked to explain why they had got that score. That may or may not result in other people changing their opinion: "Didn't think about that. Didn't see it that way, but I can see what you are saying." Once again, that may have required the probity officer to go back to the tenderer to get some confirmation of what was going on. Importantly, everyone in the committee had equal weighting. My weighting was exactly the same in terms of my say as someone coming from outside without the technical expertise. I think that is a really important process. The good thing about it was that the environment was such that you could express your opinion very freely and there was really open discussion about different points of view. I can recall a circumstance where that debate might go on for an hour to work through the process until everyone was happy.

CHAIR: We talked last time about the Committee's issue of concern that one firm, Quotable Value Australia, had seemingly on the information we were provided won a large share of work, and we had some questions about that. I want to go into that a bit further. Valuer-General, can you explain your current relationship with Quotable Value Australia?

Mr WESTERN: I have no direct relationship with Quotable Value Australia. Sorry, that is not quite right. The only relationship I have with them is that I am Valuer-General of New South Wales and they are a contractor providing valuation services to me through LPI. As I said last time, other than knowing some individuals within Quotable Value with whom I went to university, the nature of the valuation profession is such that the people you went to university with—I am sure you are the same—tend to remain friends for life. Other than that I have no relationship with Quotable Value whatsoever.

CHAIR: Do the people you went to university with still work there?

Mr WESTERN: Some of them do, some of them do not.

CHAIR: Who are they and what are their positions?

Mr WESTERN: I cannot tell you exactly what their positions are now because I have not talked to them for 12 months or so. One of them is Brendan Bodger, who I think is South Island Manager in New Zealand. The only other one I know, and I think I pointed this out to the Committee at our last meeting, is Jacqui Witham, who is the operations manager; in fact, I think she is now called the chief operating officer. I employed her originally as a graduate when I was the district manager for Wellington in New Zealand.

CHAIR: Do you meet with them regularly?

Mr WESTERN: No. The last time I caught up with or even talked to Brendan Bodger would be at least 12 months ago and last time I spoke to Jacquie Witham was at the Commonwealth Heads of Valuation Agencies [CHOVA] conference here in March in Sydney.

CHAIR: Did you meet in a formal capacity?

Mr WESTERN: No, absolutely not.

CHAIR: Have you ever spoken to any Quotable Value representative about a tender they have submitted?

Mr WESTERN: No, absolutely not.

CHAIR: What about any matter arising out of a tender such as making comments about the performance in a particular region?

Mr WESTERN: No, absolutely not.

CHAIR: Last time we spoke about your relationship with Quotable Value Australia your testimony was that whilst people knew you had a relationship with Quotable Value Australia you did not formally disclose the relationship to the tender committee.

Mr WESTERN: That is not correct.

CHAIR: Can you clarify that for the benefit of the Committee?

Mr WESTERN: As I said, when I first came to the role of Valuer-General I was appointed to chair the tender evaluation committee for the 1 March 2004—I may have the date wrong—tender process. As a result I perceived I had a conflict of interest because I had previously been employed by Quotable Value. From memory, I wrote directly to the Director General of Lands, at that stage—it may have been an email as opposed to a formal letter—and he approached State Procurement suggesting maybe I should stand aside. State Procurement came back saying that both Mr Gilkes and I had been employed with a contractor and should still be part of the tender evaluation process. However, I stood aside as chair for the first year.

CHAIR: To your knowledge, and I will ask this of Mr Gilkes, have any other members of the tender committee worked in senior roles or had an interest in contract valuation firms?

Mr GILKES: At the moment Mr Parker as the Chief Valuer would be on the evaluation committee and he was formerly employed by Property Valuation Services, as was I. Other than that, as the committee is now structured—once again I am speaking from memory; I do not have a list in front of me—we are the only two valuers on the committee. The other stakeholder representatives obviously have not worked for valuation firms. It is a simple fact that the valuation industry in New South Wales is relatively small and to be able to have people with expertise on the tender evaluation committee who understand rating and taxing valuations it is almost inevitable they will have at some point worked for a valuation contractor.

Mr WESTERN: I point out again, and I am sure the Committee is aware it is probity. Having the independent probity officer, or two in this case, ensures integrity in the process.

CHAIR: To your knowledge, between 2003 and 2011 have other members of the tendering committee worked in senior roles or had an interest in contract valuation firms?

Mr WESTERN: I am trying to remember who had been on the panels. Not that I am aware of.

CHAIR: Mr Gilkes?

Mr GILKES: I cannot recall any. Once again, I will have to check.

Mr WESTERN: I am not trying to be evasive. It has changed over some time.

CHAIR: But you are not aware that anyone has disclosed such an interest.

Mr GILKES: It would not be necessary, to be honest, for them to disclose such an interest for me to be aware of it. As I said, I just need to see the list of names to be sure that I am thinking of everyone who has been involved. If someone who had been on the evaluation committee had been involved with a valuation firm, from their name I would know.

CHAIR: Approximately what proportion of contracts has Quotable Value Australia tendered for?

Mr WESTERN: I do not know. I am not part of the evaluation process. I am not sure what they tendered for. Can you answer that?

Mr PARKER: Not as a statistic. "Tendered for" means to apply for, not necessarily win. I do not have those figures, no.

CHAIR: Could they be obtained?

Mr WESTERN: Yes, they could be because we would be able to go back to the minutes, which would tell us who tendered for what. Obviously you are going to ask that as a question on notice.

CHAIR: If you could take that on notice that would be greatly appreciated.

Mr WESTERN: Yes, okay. I am just concerned once again about the amount of time it takes. How far do you want us to go back?

CHAIR: I would like to know from 2002 how many contracts QVA has tendered for, if that is okay. I want to further explore the issue about the probity officer. The probity officer has been present at every tender evaluation meeting?

Mr GILKES: Yes.

Mr WESTERN: And certainly while I was involved, yes.

CHAIR: So since 2003?

Mr WESTERN: Yes.

Mr GILKES: The probity officer though has changed over that time and has changed from being a representative of State Procurement to being a contracted probity officer now.

CHAIR: And the advisory team, has a probity officer attended each of those meetings?

Mr PARKER: The ones I have been involved in.

CHAIR: Have you attended each of the meetings?

Mr PARKER: I have only been on I think one or two panels.

Mr WESTERN: And that is three years.

CHAIR: So could we ask on notice confirmation of whether or not a probity officer has sat on the advisory team for each of the three years?

Mr WESTERN: Yes.

The Hon. SCOT MacDONALD: Would the probity officer be aware of what you have said a number of times that the industry is relatively small and the pool of people is relatively small? Would he be aware of all those sorts of difficulties and challenges?

Mr GILKES: I believe so. That would be one of the discussions we would have. Indeed, while I said the probity officer has changed over time, there have been a comparatively small number of them so they are quite familiar with the tenders and contracts.

Mr PARKER: The advisory committees that I have sat on, people have pointed out to him that this is a small industry and that we know many of the applicants personally.

Mr WESTERN: And certainly when I was involved with the tender evaluations we had the same probity officer the whole way through who had been involved in the tender process prior to my coming on board as well and he was very much aware of the size of the industry.

CHAIR: Who was he?

Mr WESTERN: Mark van Epen.

CHAIR: Who did he work for?

Mr WESTERN: State Procurement—no, State Contracts. No, sorry.

The Hon. SCOT MacDONALD: Commerce?

Mr WESTERN: No, he was in commerce. I was trying to think of a number of iterations.

Mr GILKES: I think it was State Procurement at that time.

CHAIR: Who asked for their appointment?

Mr WESTERN: Can you clarify that?

CHAIR: With regard to the tender evaluation meetings that were held, was it your role or was it the role of LPI to ask for the appointment of a probity officer to attend those meetings, or was that something just in place?

Mr WESTERN: Certainly while I was on the evaluation committee and chairing it, at that stage everything had to go through State Procurement. So it was organised as an automatic requirement in terms of that from a year-to-year basis. That has obviously changed in more recent times but my understanding is that LPI each year, even though they had the ability to be able to undertake their own tender evaluation and publish a tender, they still seek the approval on a yearly basis for that to occur. Is that correct?

Mr GILKES: Yes.

CHAIR: Sorry, to go to tender—

Mr GILKES: Yes, from State Procurement or NSW Procurement.

Mr WESTERN: Yes, still happy for LPI to continue that process in their own right but you would stipulate in there that you are getting presumably an independent probity officer involved with that.

Mr PARKER: We outline some of the details around the process, how big the tender is, what sort of process we will go through to get their written consent.

CHAIR: Can you stipulate who the probity officer will be? Can you request a particular probity officer?

Mr GILKES: The probity officer we have now and have used for the last few years is contracted through a private firm so essentially that is LPI contracting him.

CHAIR: Who is that probity officer?

Mr GILKES: I am sorry, the name escapes me at the moment but I can find out.

CHAIR: Do you know which firm they worked for?

Mr GILKES: Once again the name escapes me at the moment but I can find out.

CHAIR: Could you take that on notice for us?

Mr GILKES: Yes.

CHAIR: Have there ever been terms of reference written for the probity officer?

Mr GILKES: I am not sure but I will take that on notice as well if you would like.

Mr WESTERN: Certainly no terms of reference in place when I was chairing but I would be surprised if there were not some obligations that the probity officer had in regard to their employment through the State Contracts Control Board as to what they needed to do.

CHAIR: In 2003 when there was a probity officer were they given any instructions on their role?

Mr WESTERN: They were not given instructions but I do recall the probity officer explaining to us what their role was in the process.

CHAIR: But not who had given them any instructions.

Mr WESTERN: No.

CHAIR: Are you aware of any instructions that were given to probity officers?

Mr GILKES: At that time when the probity officer was provided by State Procurement, State Procurement was effectively running the process for us so the probity officer role was part of that service. As the Valuer General said, the probity officer explained their role in the process and essentially they were running the tender process so there was no need for anyone to give instructions. It was part of the service that they were providing.

CHAIR: During your time on that tender evaluation committee has the probity officer ever objected to any issues?

Mr WESTERN: Can you expand that for me?

CHAIR: Has the probity officer ever objected to any issues around the awarding of contracts? That can include conflicts of interest, anything to do with probity.

Mr WESTERN: Not that I can recall.

Mr GILKES: I do not recall any objections. Certainly there would have been times when the probity officer would have provided advice of some sort on a question. I would stress that both the Valuer General and I, and we have been running the processes, have been very conscious of probity issues. Where we had any concerns that something may have been arising we would ask the probity officer rather than carry on and wait for them to say that there is a problem. We would say, "I'm interested about a certain thing. Is that a reasonable

CHAIR: For the record, the Committee is not suggesting that the Valuer General or yourself or anyone involved would, but we just want some assurance around the process.

Mr GILKES: Yes, I understand that and I was not taking that view.

CHAIR: Please know where we are coming from as well. Could you explain or give me some context about any clarifications that the probity officer has given you? Could you give me an example?

Mr GILKES: I cannot think of any specific examples at the moment, but I am certain that there have been cases where we have sought clarification.

CHAIR: So he has intervened with suggestions?

Mr GILKES: Yes, or responded to queries about, "Is this an appropriate way to ask that question or should we do it in a different way"—that kind of thing.

Mr WESTERN: I can recall one example of that where we brought in a tenderer for interview and I do recall asking the procurement officer in regard to what questions were appropriate to be asked, and as a result of that he constructed the questions.

CHAIR: Valuer General, have you or anyone else on the committee ever raised the issue of your previous employment with the probity officer?

Mr WESTERN: I have raised it, yes. He was aware of my previous employment.

CHAIR: That was the original probity officer?

Mr WESTERN: That was the original probity officer.

CHAIR: What about subsequent probity officers?

Mr WESTERN: He is the only one that I have ever been involved with while I was on the tender evaluation committee.

CHAIR: So it has been the same probity officer since 2003?

Mr WESTERN: Yes, from when I came off the evaluation committee, which I think was in 2005-06, he was the probity officer right through.

CHAIR: So you are no longer on the tender evaluation committee?

Mr WESTERN: No, I stepped aside.

CHAIR: Do contractors usually have an option associated with their contract?

Mr WESTERN: Yes, they do.

CHAIR: That is an option to extend the contract, is it?

Mr GILKES: Yes, the standard term of the contracts now for rating and taxing services is a three-year initial term and then two one-year options. The options are exercisable at the sole discretion of the General Manager, Land and Property Information.

CHAIR: Has that always been the case?

Mr GILKES: I think it was probably 2006 when the Valuer General delegated the authority for contracting to Land and Property Information. Prior to that, the Valuer General was the principal in the contracts, but since that time the General Manager, Land and Property Information, has been the principal for the contracts.

CHAIR: Did the tendering committee have any determination whether or not the option was granted?

Mr GILKES: No, the option process is done through internal review within Land and Property Information, which then makes a recommendation to the general manager whether or not to extend the options and through that process it is determined what contracts will be put to tender each year.

CHAIR: Between 2003 and 2006 what was the process?

Mr WESTERN: Certainly in the first year, which would be 1 March 2004, there were no options to extend the contract. That was one of the major issues that I encountered when I first came in, that the contracts

were only for a three-year period, and at the same time I was trying to encourage more people to get involved, more firms to get involved in the rating and taxing process. Particularly around that time there were a lot of issues about the Government being involved and undertaking some of the contracts through the State Valuation Office, so I was looking to try to encourage more and more of the valuation profession to get involved in that. What we did in that regard was to encourage them to get involved through the objection process initially and, as a result of that, they became more confident, but the three-year contract effectively meant that they had a large up-front investment in terms of getting on board. For some of them, they would have to invest in information technology [IT] equipment and things like that, and there was always the risk that come the end of the three-year period they were going to lose the contract, so there was no surety around that—and nor should there be, to a large extent. One of the ways that we saw through that was to have the three-year contract plus two one-year options.

CHAIR: So you instituted the options?

Mr WESTERN: I did, yes.

CHAIR: What probity controls were used when exercising the option?

Mr WESTERN: At that stage I would have gone through with Land and Property Information. There would have been no independent probity person involved in that because it is a management issue in terms of the contracts themselves that are in place with the options already there. We would have gone through and looked at how that contractor was actually performing. From memory, it was 2005 or it might have been 2006 that we introduced the score card where we were evaluating them on their performance in terms of the contract, but we would have early on once again talked with the district valuer and we strengthened that up by actually having a formal process in place. We would also look at it on the basis that one of the things we wanted to do was to try to ensure we had this regular turnover of contracts each year so we were not flooding the market with a whole lot of contracts and potentially not getting good coverage, ensuring that the public was getting value for money.

CHAIR: So between 2003 and 2006, when extending the option, there was no probity officer involved?

Mr WESTERN: There was no probity officer, no.

CHAIR: Mr Gilkes, between 2006 and today is there a probity officer involved in extending the option?

Mr GILKES: Not in the consideration of the options, but those considerations are from memory described in the evaluation report of the whole process.

CHAIR: So that is documented?

Mr GILKES: Yes, I believe so. Once again, I do not have one of the reports in front of me to be absolutely sure but—

CHAIR: To extend the option, do you have to justify that?

Mr GILKES: Yes. The report we put to the general manager would describe the rationale.

CHAIR: Between 2003 and 2006, because it seems there were different processes in place—

Mr GILKES: Yes, there were.

CHAIR: Between 2003 and 2006, before deciding whether or not to extend the option, would you liaise or take advice from Land and Property Information?

Mr WESTERN: Yes, Land and Property Information were obviously looking after the operational side of things, so they had direct contact with the contractor, so yes, I would take advice. That advice would come to me in the form of a recommendation which I would look at, and if I had any questions I would go back to them.

CHAIR: Would you have any discussions with the relevant firm?

Mr WESTERN: No. If there were any discussions to be had at all, it would be Land and Property Information that were doing that from an operational basis.

CHAIR: Did you have to provide any reasoning or rationale for making a decision on the option?

Mr WESTERN: Good question. I certainly recall advising the Minister of the decision, but he clearly was of the view that in my statutory role it was my role to do that, to ensure that the process was okay and provide advice directly to the Minister.

CHAIR: How would you provide that advice to the Minister?

Mr WESTERN: It would be through a briefing note.

CHAIR: Have you ever discussed an options contract with an associate?

Mr WESTERN: Can you explain "associate"?

CHAIR: One of your colleagues, apart from Land and Property Information?

Mr WESTERN: No, certainly not. That is what I was trying to get at, whether you were talking about Land and Property Information or not.

CHAIR: Are there any probity controls in place for options currently?

Mr GILKES: As I said, the decision making is documented in a report that goes to the general manager for consideration before he approves the recommendations.

Mr CLAYTON BARR: I want to go back to something that Mr Gilkes said earlier about the committee process. Did I hear correctly that participants on the committee would have no obligation to declare their background or work history?

Mr GILKES: That is not what I meant. I think what I said was that they would not need for me to know that they had previous history. That is because of the size of the valuation industry and I have been involved in it for 30 years. If I saw their name, I would know if they have been involved.

Mr CLAYTON BARR: But they would declare that for the sake of probity?

Mr GILKES: Yes, they would. At the start of the evaluation process when the committee meets, the question is formally asked whether anyone has any potential or actual conflicts of interest that they should disclose.

CHAIR: We will take a lunch break.

Mr WESTERN: I have two senior managers here, are you going to require them at all?

CHAIR: I would not have thought so. They are here on your recommendation. I do not have any questions of them. Thank you for your time today, Mr Hind and Mr Glanville, I appreciate it. We will reconvene at two o'clock.

(Luncheon adjournment)

CHAIR: Mr Valuer General, I want to say at the outset for the record that your performance and that of your colleagues from Land and Property Information have been excellent today. I will make sure that is noted in our report. It is a great credit to you and your team. Thank you for coming to the Committee so prepared and for being so candid in all of your answers. It is greatly helpful and will be appreciated not just by the Committee but also by all those people relying on the work that it does.

Mr WESTERN: I want to make a couple of points of clarification. Before lunch I was asked whether I had any involvement with QV in regard to the tender process or its performance. I want to make it quite clear that where there was any involvement it would have been through the formalised process. If there had been an issue in terms of their performance or what it is providing under a particular contract that would have been done through Land and Property Information. There would not have been any direct contact that I would have had with QVA. If there would have been involvement in performance or whatever it would have been through Land and Property Information. I want to make that quite clear at the outset. I was also asked about my involvement in the options of contracts going forward. I said that I may have been involved in it. I cannot recollect exactly when the year was. I might take that question on notice I will provide that information to you.

CHAIR: Mr Gilkes, I want to understand the process when Land and Property Information review valuations done by contractors for the purpose of rating and taxation. When you identify whether it be an error or an adjustment that is require, how do you make that adjustment to someone's valuation before they get a rating notice?

Mr GILKES: If you do not mind I might refer this question to Mr Parker as Chief Valuer who is probably better qualified to answer how the current processes work.

Mr PARKER: Do you mean in the case of Land and Property Information may come across an error in valuations and not in the case when someone has lodged an objection?

CHAIR: Yes.

Mr PARKER: There is a re-ascertainment system under the Act so the Valuer General can ascertain and re-ascertain under the Act. We would document the process of changing the value from obviously what it was to the new figure. It is a process under the Act that we document along the way.

CHAIR: Who arrives at the new value? Is it Land and Property Information or is it a contractor?

Mr PARKER: It can be either, but the normal process is that if there is a situation that we feel there may be the possibility of an error we will investigate that. That is usually done in conjunction with the contractor, and the most usual path is that we ask the contractor to tell us what the actual value should be. So if there is an agreement that there is an aspect of the property that has not been taken into account, or there is a change of circumstances, such as a rezoning or something like this that comes to light, we will ask the contractor to supply us with the new valuation and then we enter that on the role as a re-ascertainment.

CHAIR: If someone puts in an objection to a valuation they have, and it is determined by Land and Property Information that a change is required, does that happen often?

Mr PARKER: Land and Property Information does some objections in-house. There are two ways in which an objection can be treated: one is to be outsourced to independent valuers and the other is Land and Property Information will perform some of those objections by in-house valuers.

CHAIR: Following the review by the contractor or by Land and Property Information why is it automatically assumed that the review valuation stands?

Mr PARKER: It is a right of appeal under the Valuation of Land Act. The right of objection is there against the original valuation that stands on the roll. The valuation that is developed originally is possibly part of the mass valuation process, and as we explained, with the component structure and so forth. It is developed possibly over a period of time, and a lot of properties involved. What happens with an objection is that it is a single property where a valuer is given the task of coming up with the value for that property. So they are given the time and opportunity and scope to really consider all aspects of the property, and the market evidence, to come up with the correct decision. So it is a much more stringent process to develop the valuation that is issuing from the objection process than it is in the general mass valuation of the roll.

CHAIR: You said the contractor can also change their original valuation?

Mr PARKER: Not the rating and taxing contractor, it is another contractor who was not involved in the original valuation.

CHAIR: In all circumstances when there is an objection, or that Land and Property Information identifies a change is required, a new set of eyes, a new contractor, will perform and assessment of that valuation?

Mr WESTERN: No, that is not correct.

Mr PARKER: The rating and taxing contractor will provide the original valuation, and then someone objects and, as I said, there are two processes that that can then follow: one is that a valuer from Land and Property Information will provide objection report and look at the valuation, and the other is that an independent contractor, who was not involved in the original valuation, is used to come up with a recommendation for the change, or possible change. It could be that the objection is allowed or disallowed.

Mr WESTERN: In the situation where Land and Property Information picks up on what it perceives to be an error, that query would go back to the rating and taxing contractor with that query. They would be asked to review that value and generally the protocol would provide evidence that if it is correct, why is it correct. If it is wrong, why is it wrong? What is the evidence to support that? What is the new value?

Mr CLAYTON BARR: Mr Parker, my question relates to something you mentioned earlier. I understand the concept that if a person objects a review is done. But you also referred to some statistical analysis that might pick up some anomalies or something you want to investigate or ask some questions about a little bit further because there has been a bit of a spike or something and you might not be statistically content with the valuation. What types of statistics do you use to pick up an anomaly? Is it a margin of error around the consumer price index?

Mr PARKER: There are a number of statistics that we have developed: the COD—coefficient of dispersion—operates on looking at the analysed sale compared with the land value, and we have PRD and MVP. These are all statistics that are commonly used around the world and they look at different aspects of the data. The MVP is a broad measure of where the values sit in line with market evidence so you want that to sit in a certain parameter. Some of the other statistics we look at are the actual sales ratios themselves. When a contractor analyses a sale they come up with an analysed and adjusted land value and we can see how that sits against the actual land value that is proposed—obviously you want that to be quite close. There are statistics we look at just on movement if we want to see if there has been an unsettling of the role in a way. So if there has been lots of variation in the valuations, we will check for overs and unders to see if noughts have been left off or if it could be clerical error, things like that. You can narrow all these fields down to get a feeling of what has happened in a location as to what the movements are.

Mr CLAYTON BARR: Please forgive my ignorance but does every single property that is sold every day of every week get registered in some central database that is accessible to Land and Property Information that obviously feeds into some of the statistical analysis that you have mentioned?

Mr PARKER: Yes.

Mr WESTERN: A point of clarification, not every single sale that is registered is actually analysed. Do you understand that?

Mr CLAYTON BARR: Yes.

Mr WESTERN: It is dependent upon how many sales are in a particular area. For example, if there are very few sales then most of them will be analysed and if there are a lot of sales then they all will not be analysed but representative samples will be.

CHAIR: Can Land and Property Information change valuations?

Mr PARKER: Yes, they can.

CHAIR: So contractors provide a valuation and Land and Property Information can change it?

Mr PARKER: If we believe that the valuation is in error and we have discussed it with the contractor and for whatever reason we cannot come to agreement, the authority would lie with Land and Property Information to put the correct value in.

CHAIR: Will Land and Property Information change it or will the contractor change it?

Mr PARKER: No, Land and Property Information.

Mr WESTERN: But in changing that value Land and Property Information would have to give justification as to why it has changed it and some supporting evidence around it. Just quickly in response to what Mr Barr was asking, you will be aware that I also utilise the services of Professor John MacFarlane from the University of Western Sydney. He does a lot of analytical work for me. He is continually running analysis over the valuation system at quite a deep level and that picks up any ambiguity or issues there that we can look at to see if there are any issues going forward or any issues with existing valuations as well.

CHAIR: I turn now to the actual valuation process. I was hoping you could explain how properties are valued for rating and taxing purposes?

Mr PARKER: Well, we explained this morning about the mass valuation process and the use of the component method, which is principally the identification of property that is in the middle range of all the properties within the component. That property is then valued individually and whether it goes up or down that market movement is then applied to the other properties within that component. The component itself is a group of homogenous properties that react to the market forces in a similar fashion, so the identification of a property in the midpoint allows you to be able to move the other properties in a similar fashion. That is a simplistic view of it. There are obviously a lot of controls around that. There are reference benchmarks, which is what Mr Western was saying, at different quartiles in the component range. They also have to be individually valued to see whether the result from the componentisation method actually delivered you with accurate valuations. We also have a verification process in which individual properties have to be valued individually. By that I mean the valuer has to understand all the circumstances that affect that property—the zoning, the location, the size, all the elements that go to make a market value—when he determines those valuations under the verification process.

CHAIR: How are properties identified as being similar for the purposes of determining a component?

Mr PARKER: Homogenous usually relates to the fact that they are all single residential properties in a certain location with similar aspects. For example, in Blacktown the components can be much larger because the street layout and everything is very consistent—most of the properties are very similar and most of the aspects that impact upon the market are very similar—whereas components in the Blue Mountains would obviously have a lot more differences, they have to be a smaller component subset perhaps.

CHAIR: How regularly are these components reclassified?

Mr PARKER: As part of a verification process the contractor is required to review the component structure. When we initially started the verification process 20 per cent of all values had to be verified and likewise 20 per cent of the components had to be verified. So they do it in conjunction with that process.

CHAIR: Who does the reclassification? Is it the individual contractor?

Mr PARKER: Yes, in consultation. If they want to change drastically the component structure of a local area they would need to provide information to Land and Property Information as to why that was required and how they were going to ensure that that gave us the correct outcomes.

CHAIR: Is there a database of the components of the properties within that?

Mr PARKER: Yes, we have a database that has all the property records, which includes their components, and we also have a spatial system that allows us to look at components on a map that are colour coded so it stands out as to where the component lies

CHAIR: What is the database called?

Mr PARKER: That is ValNet. ValMap is the spatial system.

Mr GILKES: The current component structure is really the evolution of a set of structures that have been in place for many years. I was involved in a pilot program to test the first of the systems preceding

componentisation in about 1980. The component method is an evolution of a series of mass valuation systems that have been developed by the Valuer General over that period. Many of the component boundaries are well established and the vast majority do not change much over time because the fundamental nature of the land is not changing. Most of the changes occur in developing areas or where there has been some change in circumstances around an area.

CHAIR: Is the ValNet database which has the component properties linked to council planning?

Mr PARKER: It also records the zone of the property at a generic level. It is not directly linked to the council but the information is sourced from council planning files or the Department of Planning and that information is published on the notice of valuation to landowners.

CHAIR: With regard to the valuation process, why do you use contract valuers rather than LPI valuers?

Mr GILKES: The previous Government made a decision to essentially outsource those services. In 1996, I think it was from memory, the then Valuer General's Department, which made all the valuations in-house, was split into two organisations. There was the Valuer General's Office, which retained a regulatory role and which has now become essentially the Valuer General's Office and the Land and Property Information element and the other half of the organisation, which was the operational arms where the valuations were made, was established as the State Valuation Office, which was a government-owned commercial operator to provide services to the Valuer General in competition with the private sector.

There was a process over a period of years of gradually commercialising the market. It started with market testing within the metropolitan area—what was described then as the contestable area, which was basically the Wollongong-Sydney-Newcastle conurbation. Over a period of three or four years the market testing in the metropolitan area proved there was a viable market for rating and taxing valuation services. From there the outsourcing of the work gradually spread across the rest of the State to the point where the State Valuation Office subsequently became Property Valuation Services within the Department of Commerce. I think in about 2006 Commerce decided that it was no longer viable to keep Property Valuation Services running because the private market had matured to a level where private firms could provide all the services and Commerce withdrew from the market. Since then all services have been provided by private valuers.

CHAIR: Is another reason you use contract valuers that they have specialist local knowledge or expertise?

Mr GILKES: Certainly that is the way the system operates now. Once upon a time that specialised knowledge would have been held in the Valuer-General's department because it had 30-odd offices around the State. We do not have that spread of offices now so we contract local experts through private valuation firms. Many of the private valuation firms have been formed by people who formerly worked for the Valuer-General's Department. As the commercialisation process moved forward people left to set up businesses that provide these services.

Mr WESTERN: When I came to the role of Valuer General there was a perception that Government was seen to be producing the valuations to be used by Government for rating and taxing. I understand that was one of the ideologies around its being outsourced—to utilise the private sector to get that clear separation.

CHAIR: Can we turn to valuation reports that are provided and their storage when it comes to compulsory acquisition? Are reports always stored when they are completed?

Mr PARKER: Yes.

CHAIR: How far back does that storage or database go? Has that always been practised?

Mr PARKER: Storage of the documents would always have been practised. The method has changed. The organisation is broken up into offices around the State and many years ago a lot of those records would have been held in hard copy in those offices. Modern times are that we scan the documents and store them electronically. There have been various stages between those two steps.

CHAIR: Are reports only stored when they are completed?

Mr PARKER: It would be mandatory on our part to store files that have been completed. Whether they are stored would in part be up to the valuer involved and how far they had got along the process.

CHAIR: Is there no requirement to store a partially completed document?

Mr PARKER: I do not run the process for the just terms but I would suggest there is no compulsory process. It would depend on what stage the development of the valuation got to. We can get advice from an agency that they have negotiated the acquisition and no longer need our report and all we have done is a cover page or created the file. There are other times when the valuer may have gone a long way towards development of the valuation and developed the report a lot further. I am not sure we have an actual rule as to which point we keep or do not keep those files.

CHAIR: You do not have a rule?

Mr PARKER: I am not sure.

Mr WESTERN: We will take that question on notice.

CHAIR: That would be fantastic. If reports are given to a client are they stored?

Mr PARKER: Yes.

CHAIR: Are hard drives backed up?

Mr PARKER: Yes.

CHAIR: Are reports stored by LPI and not the Valuer General?

Mr PARKER: Yes, LPI.

CHAIR: Are all the emails backed up?

Mr GILKES: Yes, naturally enough the emails are stored, backed up and archived and all those kinds of things through our network system.

CHAIR: How long are they kept?

Mr GILKES: I do not know exactly, but many years.

Mr WESTERN: I think I have records on my computer going back to at least 2005.

Mr CLAYTON BARR: One of the documents you sent to us is the Valuer General Department's records disposal schedule. Is that still relevant?

Mr WESTERN: There was a former document, which related, I think—

Mr CLAYTON BARR: This was approved on 12 April 1991.

Mr WESTERN: That document will not still be in place. There may be a new one. There are certainly requirements about what has to be archived, which is a Government requirement.

Mr CLAYTON BARR: I think there is some delegation of authority around who has that responsibility. Different documents for different times.

CHAIR: Regarding the testimony of Mr Carr this morning, would the valuation report that was partially completed by Mr Carr in 2008 be available on the system you have?

Mr PARKER: Yes, I believe it is available.

CHAIR: I understand from the correspondence we have received you have declined to provide valuations reports on properties in Leppington because of privacy concerns. I have here the consent forms for valuation reports from two of the landowners there and I would appreciate it if you would provide the reports to the Committee including the 2008 report by Mr Carr. Can we table those consent forms?

Documents tabled.

CHAIR: I would like to take you back to your testimony before the Committee in the March hearings. You will recall that there was a line of questioning regarding the compulsory acquisitions at Leppington, which has been the subject of some of our inquiries. Do you recall those questions?

Mr WESTERN: I recall having the conversation.

CHAIR: And specifically the issue of similar characteristics being valued for different values per metre square even though they were in the same area. Since then you have personally reviewed the valuations of the properties?

Mr WESTERN: No, I have not. No.

CHAIR: Have you instructed anyone to review the valuations?

Mr WESTERN: I instructed LPI to have a look at them, yes.

CHAIR: And have they responded to you yet?

Mr WESTERN: They did, yes.

CHAIR: What was their response?

Mr WESTERN: I do not have the response here with me but basically, if I recall, there were a number of valuations which had a similar rate per square metre and then there was one valuation which was substantively higher than that.

CHAIR: Yes.

Mr WESTERN: My understanding is that the one that was substantively higher was located in an area where the main transit hub was to be developed in the area. So that, in terms of them looking at the valuation and the other evidence that is available to support that, they put a higher rate per square metre on that compared to the other ones, which were outside that transit hub.

CHAIR: Have they formally written to you, formally give you advice?

Mr WESTERN: I cannot remember whether it was formal or whether they provided me with some notes but they certainly provided me with some information, yes.

CHAIR: I would like now to deal with some of the issues regarding the legality of questions that our Committee has asked you. That is with regard to Mr Carr's testimony, the valuation reports prepared by Mr Carr in 2008. You have made some claims on four issues that you cannot provide questions in full because of privacy concerns. I will detail the claims you have made: A, in relation to the names of employees who have done Valuer-General work; B, the names of parties for whom you have done valuations and one side of the transaction was government; C, the details of the tendering minutes, which were redacted in full; and, D the addresses of properties which were anonymised in the memory stick you submitted to the Committee. I just want to go through some of the claims and I will read the relevant provisions of the legislation concerned so that we can try to resolve the matter. First, I draw your attention to section 11 (1) of the Parliamentary Evidence Act.

Mr WESTERN: I have that.

CHAIR: The section states:

Except as provided by section 127 (Religious confessions) of the *Evidence Act 1995*, if any witness refuses to answer any lawful question during the witness's examination, the witness shall be deemed guilty of a contempt of Parliament, and may be forthwith

committed for such offence into the custody of the usher of the black rod or serjeant-at-arms, and, if the House so order, to gaol, for any period not exceeding one calendar month, by warrant under the hand of the President or Speaker, as the case may be.

The issue is whether the question is lawful. That goes to the heart of the advice you have been provided by the Crown Solicitor.

Mr WESTERN: Yes.

CHAIR: I want to be clear that it is your submission that the question is not lawful because it breaches the Privacy Act.

Mr WESTERN: My understanding in terms of the legal advice that I have received from the Crown Solicitor that a number of the questions on notice that were asked did breach the requirements of either the Privacy and Personal Information Protection Act and I think in one circumstance section 11 of the Valuation of Land Act but it is principally the Privacy and Personal Information Protection Act. The other area was the advice that I received was that it was outside the terms of reference for the Committee.

CHAIR: With regard to the A, B, C, and D I read out earlier, those claims that you made were all about breaching section 18 of the Privacy and Personal Information Protection Act.

Mr WESTERN: I think that is correct.

CHAIR: There were some other ones with regard to being outside the terms of reference of the Committee and what not. But the four I have named specifically relate to claims you have made around breaching the Privacy and Personal Information Protection Act. With regard to each of those four, would you like me to read them again? I want to confirm that the question is not lawful because it breaches the Privacy and Personal Information Protection Act.

Mr WESTERN: That is my understanding of the legal advice that I have received.

CHAIR: Can we go through that legal advice now? The first thing I want to draw your attention to is that there is nothing that makes the question regarding private valuations you performed where one party to the transaction is government and another party is a corporation. I say that because neither a corporation nor government is an individual. I take you to section 18 of the Privacy and Personal Information Protection Act, which states:

A public sector agency that holds personal information must not disclose the information to a person (other than the individual to whom the information relates) or other body, whether or not such other person or body is a public sector agency ...

Given in the first instance that we have asked for corporations—so trusts, companies—where you have provided valuations, that would fall outside the Privacy and Personal Information Protection Act. Do you agree with that?

Mr WESTERN: I would have to take your word for that. As far as I can read it here, I think you are correct. But as I said I need to confirm that through experts who are better at it than I am.

CHAIR: The Privacy Act relates to individuals, not valuations done where corporations are involved.

Mr WESTERN: Sure, I understand.

CHAIR: In that case, can we get all valuations done where government was on one side of the transaction where it relates to a corporation?

Mr WESTERN: Where both parties are either government or—

CHAIR: Where one side of the transaction is a government agency and the other side is a corporation.

Mr WESTERN: I am happy to take that question on notice and I will have to take some advice on that. If it falls outside of that, we definitely will provide it, I can absolutely assure you.

CHAIR: I will take you to the Crown Solicitor's advice. In advice to question 3—

Mr WESTERN: Can you just tell me what date the Crown Solicitor provided that advice? It should be on the front cover, down the bottom.

CHAIR: No, there are a number of advices.

Mr WESTERN: Do you know what committee meeting that was in relationship to?

CHAIR: This is the advice provided on 15 May.

Mr WESTERN: Yes.

CHAIR: I refer you to 7.3. Questions A and B seek personal information insofar as the landowner or former landowner is a natural person. Information relating to a landowner which is an artificial legal entity, such as a corporation, is not personal information.

Mr WESTERN: I accept that.

CHAIR: So we should be able to get all the valuations where government was one side of the transaction and a corporation was the other side.

Mr WESTERN: Yes.

CHAIR: Can we get a timeframe as to when we might be able to get that information?

Mr WESTERN: Can I come back to you on that in the next couple of days? I have to find out what is involved in extracting that. When was it back to—was it 2000?

CHAIR: We can go back to 2000.

Mr WESTERN: I think it was in the question on notice.

CHAIR: I think it was 2000 in the question on notice.

Mr WESTERN: Part of that will be dependent upon how far you want to go back.

CHAIR: Could we go back to 1995?

Mr GILKES: I am speaking from memory, naturally enough. I believe we would hold or have access to records for acquisition matters back that far where there was compulsory acquisition because they need to be kept as part of the State archives. However, accessing those will be problematic and will take some time because they will be stored in State archives and I am not sure how they are indexed. Whether we have to get everything that is stored there and go through it to find particular ones, or whether we can go straight to them, I am not aware.

CHAIR: What about private valuations which fall under the Valuation of Land Act section 9A, where Government was one side of the transaction?

Mr GILKES: I think there would be a series of records, depending on who actually made the valuation. Some of the valuations would have been made in that kind of circumstance by what was then the State Valuation Office, not under the auspices of the Valuer General, and we would not necessarily have access to those. Where valuations were made by the Valuer General or Land and Property Information, we should be able to access those, but once again I am not sure as to how the indexing and filing of that has occurred to know how difficult it will be to retrieve them.

Mr WESTERN: Can we commit to come back to you by Friday as to a timeframe for that?

CHAIR: That would be fantastic, thank you. For the purposes of Hansard, section 4.1 states that "personal information" means information or an opinion, including information or an opinion forming part of a database and whether or not recorded in a material form, about an individual whose identity is apparent or can

reasonably be ascertained from the information or opinion. In my view, it does not include corporation, and that is also the view of the Crown Solicitor, and we ask that you provide a list of all properties that have been valued where government was one party to the transaction and a corporation was the other party. We were hoping that you could provide the addresses of the properties, the name of the corporation and the copy of the valuation report. I think that would be sufficient for the Committee's purposes.

The second point I want to raise on the privacy objection is in section 18, which you rely on in the Crown Solicitor's advice as well. I want to take you specifically to section 25 (b) of the Privacy Act, which reads as follows:

Exemptions where non-compliance is lawfully authorised or required

A public sector agency is not required to comply with section 9, 10, 13, 14, 15, 17, 18 or 19 if:

- (a) the agency is lawfully authorised or required not to comply with the principle concerned, or
- (b) non-compliance is otherwise permitted (or is necessarily implied or reasonably contemplated) under an Act or any other law (including the *State Records Act 1998*).

I now return to the Crown Solicitor's advice provided to you by Sarah-Jane Morris on 10 April 2012 and specifically take you to section 4.9, which states that parliamentary privilege will have the effect of protecting the Valuer-General from a court or tribunal hearing or any action that could otherwise arise out of the Valuer-General breaching section 18 of the Privacy and Personal Information Protection [PPIP] Act. I would also like to take you to section 4.2 where the Crown Solicitor quotes *Prebble v Television New Zealand* and states that the concept underlying article 9, that is parliamentary privilege, is the need to ensure so far as possible that a member of the Legislature and witnesses before a committee of the House can speak freely. If parliamentary privilege prevents the prosecution of a witness so that they can speak freely before the Committee, I think at the very least it reasonably contemplates non-compliance with section 18. The whole purpose of parliamentary privilege is to allow witnesses or those who come before parliamentary committees to speak freely without any threat of legal action. By its very nature, parliamentary privilege reasonably contemplates non-compliance with a secrecy provision as set out in section 18. If that is the case, parliamentary privilege has the effect of enlivening section 25(b), which means that the relevant provisions of the Privacy Act do not apply. The same logic applies to section 11 of the Valuation of Land Act, which is the secrecy provision of that Act, which you have also relied on. Section 11.1 states:

(1) A person shall not disclose any information obtained in connection with the administration or execution of this Act unless that disclosure is made:

...

(e) with other lawful excuse.

Again, the other lawful excuse is parliamentary privilege. I note that neither section 25 nor section 11 were considered by the Crown Solicitor in its advice that you have provided to the Committee. That is quite unfortunate, but given that the Committee must rule on the lawfulness of the question I think it is appropriate to ask you to provide the Committee with the names of employees who have done Valuer-General work, the names of parties for whom you have done valuations, one side of the transaction being government, and the details of the tendering minutes.

Mr WESTERN: My recollection of that question is that that would involve going back some considerable time. I cannot remember exactly when you requested that information from.

CHAIR: I think we said 2000.

Mr WESTERN: Once again, we would have to check in terms of those records and the ability to get them. I am happy to take this, but I would still prefer, with your permission—and I am trying to work with you here—to seek legal advice in regard to the statement you have made.

CHAIR: That is fine, Valuer General. We have the option to move to a deliberative meeting to resolve that you go away and get legal advice to the secrecy provisions under section 25 and we will get our own legal advice. We also have the option available to us to go in camera and to take the information you can provide us. We will talk about that after the hearing is completed. Valuer General, will you confirm one way or the other that you are still declining to provide the information that the Committee asked for on the basis of privacy?

Mr WESTERN: No, all I am doing is I have referenced what you have said. With your approval, I would like for you to allow me some time to take some legal advice in regard to that.

CHAIR: We will adjourn into a deliberative meeting temporarily so I can discuss this with my two Committee members. We will come back at three o'clock.

(Short adjournment)

CHAIR: The Committee has resolved to allow you to go away and get that advice. We have asked that you come back to us in two weeks with some clarification around the points that have been raised, which will be in the *Hansard* for you. I should also refer you to the advice that has been provided to the Legislative Council by Mr Bret Walker, SC, who is a suitably qualified person in this area, "Parliamentary Privilege and Witnesses", before General Purpose Standing Committee No. 4. Perhaps you could seek clarification from the Crown solicitor on section 31 to section 33 of his advice. Again, without getting legal advice, there are other options for yourself and the Committee to try to resolve the matter. After the meeting, we will go in camera and see if we can negotiate a way through it to see if we can get some of the documents confidentially.

Mr WESTERN: Can I just say, please be aware that I am not trying to put up barriers at all. I really do want to work with the Committee moving forward. I want to make sure that everyone is protected who needs to be protected, simple as that.

CHAIR: Absolutely. We appreciate that as well. I want to go back to the information that we had requested. Putting aside my view on the application of the secrecy provision in section 18 and the secrecy provision in section 11 of the Valuation of Land Act, the information that you provided on the USB disc which did not have people's names or addresses, you have not provided that information because of privacy reasons, is that correct?

Mr WESTERN: That is correct. That was also in relation to when the Committee provided the question on notice it gave us the information to use a unique identifier.

CHAIR: You used a unique identifier because of your concerns about the Privacy Act?

Mr WESTERN: Correct.

CHAIR: We talked about parliamentary privilege applying and you are going to get advice as to whether or not that would cover you, but I take it that up until this point you were acting off the advice of the Crown Solicitor, which says that you would be breaching the law by providing us with that information on the basis of the Privacy Act, is that correct?

Mr WESTERN: Absolutely.

CHAIR: If a member of the public, and not a Parliamentary Committee, asked you for that information, would they be able to get it from you?

Mr WESTERN: Those applications would normally come through the former Government Information (Public Access) Act, and it would be looked at on that basis. If there was an individual in respect to that, if they had an interest in that property, the information would obviously be provided. If it was outside of that, then we would need to look at what it was being used for and most of the information would be requested through, as I said, the provision of information under the former Government Information (Public Access) Act.

CHAIR: Valuer General, can I take it that if a member of the public had made the request that the Committee has made to you for all the names and addresses—

Mr WESTERN: We would have to go through and look at the reasonableness of providing that. We simply would not be able to provide it. We have the same concerns in respect of the personal information and privacy provisions as we have here, simple as that.

CHAIR: Where the addresses would be identifiable, it is your testimony that it would be in breach of your legal obligations to provide those valuations with names and addresses?

Mr WESTERN: The advice that I received from the Crown Solicitor would affirm that, yes.

CHAIR: That advice is that the Privacy Act would prevent you from providing that information?

Mr WESTERN: Being able to identify the property or the owner.

CHAIR: If I visit the Land and Property Information website, click on Land Value Search, click on Land Values, and enter my credit card details I can purchase for \$11.90 the valuation of any property in this State.

Mr WESTERN: A single valuation, yes.

CHAIR: I can purchase for \$11.90 a valuation of any property regardless of my relationship with the owner. I could get a valuation of a property owned by Michael Clarke or Kyle Sandilands or yours, Valuer-General. You were not able to provide the Committee with information requested by it because you were worried about breaching the privacy Act but I can get information on line. In fact, even if Elmer Fudd applies on the owner's site he can get information on any property in New South Wales. Why cannot a parliamentary Committee get information it requested about individual properties but anyone can by going on the website?

Mr WESTERN: My understanding is that it is more that the information is being provided in bulk as opposed to individual values. On the website you are accessing one particular valuation. If you put through 2.3 million valuations in, my understanding is, and I might have to defer to Mr Gilkes in terms of Land and Property Information, that there would be some checks and balances in the system which would indicate if people were getting repeated information coming through using the same credit card or a number of different credit cards.

CHAIR: Isn't privacy a personal matter anyway, regardless of whether I asked about a single property or many, it is still a breach of privacy.

Mr GILKES: I think part of the point is that this facility is not searchable by owner, it is searchable by address. If we were to provide large supplies of data containing owners then it becomes searchable by owner. The purpose of the Land Values Search is to address the requirement of Valuation of Land Act for the Valuer-General to make available an extract from the register, and this is the form it is done, the same as a title search is done. But it is only searchable by property details, not by owner details. It is not provided in a form that then makes it suitable for compilation into that kind of record.

CHAIR: I could max my credit card and get as many properties as I wish to. How is that not a breach of the Privacy and Personal Information Act whereas the information that was withheld from the Committee is?

Mr WESTERN: I would have to take that question on notice and have a look at that for you.

CHAIR: I note for the record that a fictitious character, Elmer Fudd, was able to get a whole range of information of people's properties and my understanding of the Privacy and Personal Information Act is that Elmer Fudd was able to breach the privacy and secrecy provisions in the Act. The Crown Solicitor's advice was that you could decline to provide addresses, and its legal advice to you said that providing the properties would make it unlawful and make it a breach of the privacy Act. How does what is available to me on the website accord to the advice you got from the Crown Solicitor?

Mr WESTERN: That is simply legal advice and I cannot interpret how it would couch its advice. Certainly it was quite clear in a number of instances where it believed that was a breach or we needed to come back to the Committee and ask for further clarification as to how the information was going to be used.

CHAIR: I am trying to understand how the information that has been withheld from the Parliamentary Committee for privacy reasons is available on a website?

Mr WESTERN: I will have to take that question on notice and provide you with an answer to that. I cannot provide the answer to you here and now. I wish I could, but I cannot.

CHAIR: I take you to section 4 (3) (b) of the Privacy and Personal Information Protection Act, which states:

(3) Personal information does not include any of the following:

(b) information about an individual that is contained in a publicly available publication.

All that information up there is publically available; I would suggest that it is no longer personal. I think it also says in the Crown Solicitor's advice that the properties could reveal the names. Section 7.5 of the Crown Solicitor's advice given in May states:

Although the identity of the property owner is not requested, the identity can be readily ascertained from the property addresses through undertaking property searches.

So the Crown Solicitor's advice to you would suggest that the website is actually breaching the Privacy and Personal Information Protection Act?

Mr WESTERN: They have not specifically said that, Mr Chair, but it could be inferred that that is what they were saying.

CHAIR: But if I get the identity of the owner or the property—

Mr WESTERN: I understand what you are saying. As I said, I will commit to find out whether we can provide that information. As I said, I am more than happy to provide it if legally we have got to—I have got no problems with that at all.

CHAIR: I am sure that is the case.

Mr WESTERN: I can see where you are coming from.

CHAIR: The information I can get. It is going to cost me a bit of money—in fact, it probably will not cost me money because there is a section for owners to be able to access as many properties as they want to on there as well.

Mr WESTERN: That is only up to a certain number of properties.

CHAIR: Well numerous fictitious owners could obtain a number of properties should they wish to?

Mr GILKES: There is some monitoring around that site though to know against IP address requests and those kinds of things. That is something we monitor.

CHAIR: But that does not make it lawful—

Mr GILKES: No.

CHAIR: —whether or not there is monitoring after the event?

Mr GILKES: That is right.

Mr CLAYTON BARR: Valuer General, I refer you to attachment K—the profit and loss statements that were sent through for each financial year from 2001 to 2012.

Mr WESTERN: That is correct.

Mr CLAYTON BARR: I have noted from my cursory look at them that the total revenue varies quite significantly, as does the contractor and consultants. I am assuming that the contractor and consultants in this instance certainly does not include all valuations because that would come under a profit and loss statement of the Land and Property Information as opposed to your department.

Mr WESTERN: It depends on when you are actually looking at it. From—was it 1998?

Mr GILKES: Perhaps if I could broadly answer the question. During the period we are talking about there have been a number of different administrative arrangements in terms of Land and Property Information being part of different departments and a number of different financial controllers et cetera who have had somewhat different views about the way—

Mr CLAYTON BARR: What we count and what we do not count, what we include and what we do not include?

Mr GILKES: Or where it should be allocated. We count all of it somewhere.

Mr CLAYTON BARR: I am sorry, that was a bad choice of words on my part.

Mr GILKES: It is how it should be allocated. I am sorry I confess upfront that I am not fully across the fine detail of all of those allocations but from my discussions with Mr Hind before this hearing, yes, there have been a range of different administrative arrangements and a range of different financial controllers and different policies over the period of 10 or 12 years that those statements provide for. That has meant that similar items were allocated in different ways over that time. Part of it was also to do with the revenue; one of the significant elements there is how the Government grants were treated. Following the Walton report around about 1999, 2000 there was a grant of \$900,000 per annum made for a Community Services obligation payment to the Valuer General. Initially I think that was recorded against the Valuer General's accounts but then it was decided later to record that in the accounts of Land and Property Information to better match the revenue against the expenditure. So there is a range of those kinds of decisions over the period.

Mr WESTERN: And there are obviously changes in terms of accounting conventions as well over that time.

Mr CLAYTON BARR: Could you explain that?

Mr WESTERN: In terms of accounting conventions and what was required by the Government. For example, we are now in the Department of Finance and Services and there is a new, different accounting convention for that as opposed to what was under the previous one for management of accounts. So you will see within here that there is quite a variety of different places where things have gone and revenue, as you rightly point out, has altered considerably over that time—it has gone up and down. There is virtually no revenue attributable to the office of the Valuer General now compared with what there was earlier on because of those accounting conventions, et cetera.

Mr CLAYTON BARR: That makes sense but it makes these documents useless.

The Hon. SCOT MacDONALD: I have a couple of questions on valuations and rentals. Mr Michael Carr was saying that there were some valuations on rentals. Can you give the Committee some examples of that? For example, office blocks, cafes, railway stations—

Mr WESTERN: In terms of rentals?

The Hon. SCOT MacDONALD: Anything?

Mr WESTERN: It would be highly variable in terms of what sort of properties they might be. The Valuer General is written into a number of leases associated with the Sydney Foreshore Authority, for example. As you would be aware, a lot of those properties have got buildings on them and some of those leases will have the Valuer General in them.

The Hon. SCOT MacDONALD: So it has to be statute?

Mr WESTERN: It might specifically mention the Valuer General but there are different iterations of that that have occurred over the time. Gradually the Valuer General, since it has become more of a commercial-type operation in terms of seeking independent advice, has been written out of a lot of those contracts.

The Hon. SCOT MacDONALD: I am trying to understand why some are in and some are not. You have explained that.

Mr WESTERN: I believe that historically the Valuer General probably would have been written into the vast majority of government leases.

The Hon. SCOT MacDONALD: You are saying it is now the Minister's discretion or it is up to the Minister of the day?

Mr WESTERN: I have also been of the view that there is a commercial market out there in regard to being able to provide that work. It is a question, I guess, of whether government should be involved in that.

The Hon. SCOT MacDONALD: That gets to the gist of what I am endeavouring to understand: how does the taxpayer get some assurance that they are getting a fair rental? Where is the check?

Mr WESTERN: I guess the check in most of those leases would normally be—this goes to the rental situation—a valuation provided for rental purposes in regard to the lessee and one in respect of the lessor. In the vast majority of leases there is an ability to be able to go to arbitration or seek mediation or whatever to work through in terms of establishing what a fair and reasonable rent is for a place—the parties coming together and making a decision in terms of what a fair and reasonable rental will be. That is actually based on market evidence out there as well.

The Hon. SCOT MacDONALD: But if there is a non-vigilant Minister, let us say, who did not take a lot of notice, there is no check and the taxpayer could possibly be missing out on money, like with those very valuable leases on the foreshore. If the lessee came along and said, "I am happy to pay \$200,000 a year and here is my valuation from a private commercial valuation company", is the Minister of the day then obliged every time to get a commercial valuation or can he just say, "That sounds good to me"?

Mr WESTERN: I am not trying to pre-empt what the Minister would do but he would be taking advice on that anyway. They would not necessarily go and get an individual valuation undertaken on it.

The Hon. SCOT MacDONALD: So there is a lot of discretion at ministerial level?

Mr WESTERN: That would vary widely between the portfolios according to how the structure of the department administering it is set up.

The Hon. SCOT MacDONALD: So it can vary?

Mr WESTERN: It would vary. A lot of that property now is held by State Property. They have strict protocols in place as to how it is administered from the lessor's point of view. My personal view is that there would be some surety in that process. It is like anything. There are going to be variations at times between what the lessee thinks and what the lessor thinks, and that is just part of the market. That is the way the market works.

The Hon. SCOT MacDONALD: So outside that property agency there is possibly a little more discretion?

Mr WESTERN: I cannot comment on particular departments because I have not looked into it, but it may vary.

CHAIR: I want to clarify why there is a difference between a free web search—I can go to a web site and get information about individual properties that will give me their valuation but when a parliamentary committee has asked using parliamentary privilege—and I understand media outlets have asked and made similar inquiries about property valuations—the information has been redacted? We are talking about being able to access information about high-profile people. For example, in the Madeleine Pulver case an individual could have accessed the net worth of the Pulver family and that could have been the basis of what subsequently transpired. I can get the information about celebrities, high-profile people, my colleagues; you could have neighbours prying and telemarketers calling from overseas on the basis of information that is publicly available. Given we have been asking for this information since March this year and given it is already publicly available, can you explain why request one is a breach of the Privacy Act whilst another under parliamentary privilege for a properly constituted parliamentary committee is not?

Mr WESTERN: I cannot give you an answer here and now. I wish I could. I want to make it quite clear once again that I want to work with the Committee and I will provide that information if I am legally

required to. I need to satisfy myself on that. I thank the Committee for giving me the opportunity to seek that advice.

CHAIR: Mr Gilkes, how come the information is able to be accessed on a public website but cannot be provided to a parliamentary committee from Land and Property Information?

Mr GILKES: I am not in a position to answer the second part of the question, as the Valuer General has just said. As to why the land value search is available on the public website, it was created in response to a requirement in the Valuation of Land Act for the Valuer General to make available an extract from the Register of Land Values. That has been available in one form or another for I do not know how long—more years than my contact with the valuation system. Previously there was a hard copy extract from the Register of Land Values or the valuation roll which was typed up on request. This is the modern-day response to that requirement in the Act. The differentiator between that availability and providing a list, as I said before, is that you can only access these one at a time. Whilst you are right and someone could max out their credit card and obtain the entire register for the State if they had that much money available to them, in a practical sense that is most unlikely, whereas once the information is provided in a consolidated list form it becomes much more accessible electronically because you can use search and filtering systems.

That is the rationale that has been applied in determining requests for information. I am not speaking specifically about the parliamentary committee but as a general policy within LPI when we deal with requests for information in bulk we have regard to the facilities that that makes available which are not available through individual requests where the information is provided in a PDF format that is not suited to use in databases.

CHAIR: Given that the legal advice you have and which you have relied on not to provide the information to the Committee from LPI and given that it does not say whether information provided in bulk or on an individual basis is a determinant of whether you have breached the Privacy Act or not, this could be the biggest breach of the Privacy Act we have seen in this State.

Mr GILKES: I cannot comment on that, I am sorry.

CHAIR: Thank you for your time and your professionalism in answering those questions. It has been a long day but a lot of these questions go to the heart of the integrity of the valuation system and I think we have gone some way to ensuring the Committee can have confidence in the systems and processes that are in place. That said, I think we still have some issues to resolve in terms of provision of information to the Committee. I now ask members of the public in the gallery to leave and we will go in camera to talk about provision of that information.

(Evidence continued in camera)

(Witnesses withdrew)

(The Committee adjourned at 4.12 p.m)