

**REPORT OF PROCEEDINGS BEFORE**

**JOINT STANDING COMMITTEE ON THE OFFICE OF THE**  
**VALUER-GENERAL**

**INQUIRY INTO LAND VALUATION SYSTEM**

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**At Sydney on Friday 5 April 2013**

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**The Committee met at 11.00 a.m.**

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**PRESENT**

Mr M. J. Kean (Chair)

**Legislative Council**

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

**Legislative Assembly**

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

**PHILIP JOHN WESTERN**, Valuer-General, Office of the Valuer-General,

**MICHAEL PARKER**, Chief Valuer, Office of the Valuer-General, and

**SIMON GILKES**, Deputy General Manager, Land and Property Information, on former oath, and

**PAUL ALISTAIR KNIGHT**, Assistant Director, Valuation Operations, Land and Property Information, sworn and examined:

**CHAIR:** Welcome, gentlemen, and thank you for your time today. Have all of you been issued with the Committee's terms of reference and information about the standing orders that relate to the examination of witnesses?

**ALL WITNESSES:** Yes.

**CHAIR:** Valuer-General, the Committee has received your submission made to the Committee. Thank you very much for that submission. It is a great contribution to what the Committee is trying to achieve. We very much appreciate your efforts and those of your team in pulling that together and meeting the deadline set by the Committee. Do you want the submission to form part of your formal evidence here today?

**Mr WESTERN:** I am happy for that to occur.

**CHAIR:** Before we proceed, do any of you have any questions regarding the procedural information sent to you in relation to witnesses and the hearing process?

**ALL WITNESSES:** No.

**CHAIR:** Would anyone like to make an opening statement before the commencement of questions?

**Mr WESTERN:** I might take the opportunity to do that, Chair, if I may.

**CHAIR:** Yes.

**Mr WESTERN:** I would like to say at the outset that I continue to be encouraged by the comments of members of this Committee that they are looking forward to working with the Valuer-General to improve the valuation system. As I reiterated at our last meeting, I wish to assure the Committee that I too want to work collaboratively with the Committee to further improve the valuation system. Since I last appeared before this Committee there have been a number of key initiatives that the Office of the Valuer-General and Land and Property Information have been focussing on to improve the valuation system.

Management Assurance: In my last address to the Committee, I advised that I had commissioned advice to improve the management of risk across the valuation system and in doing so improve the quality of land values. The outcome of this advice has been the development of a Management Assurance Framework which provides a structure for the management of risk and a certification system to provide stakeholders with assurance that Land and Property Information Valuation Services is managing risk appropriately. As mentioned at our last meeting a position has been established in the Office of the Valuer-General to oversee and implement the Management Assurance Framework across Valuation Services. This position has been filled and work commenced. Risk policies and an implementation plan have been developed and workshops applying the framework are commencing during April.

A committee has been established in Land and Property Information Valuation Services to provide oversight and coordination of the Management Assurance Framework. The Management Assurance Framework divides the functions of Valuation Services into a number of sub processes with clear responsibilities and accountabilities for managers across Valuation Services. A fundamental part of the Management Assurance Framework is the embedding of a risk management culture throughout Valuation Services so managing risk becomes an everyday function for officers.

Quality Assurance: In response to recommendation 1 in the Committee's interim report, with the Auditor-General's approval, Ernst and Young were engaged to review the quality assurance practices for

administrative processes in the Office of the Valuer-General and Valuation Services. To date Ernst and Young have provided a draft report containing a number of recommendations that have been considered in detail by both the Valuer-General and Valuation Services. Although still in draft, work has already commenced on the implementation of the key recommendations including: the introduction of a quality assurance checklist, to be signed by staff providing advice; a structured peer or independent review of advice being provided for ministerial or parliamentary responses; and the introduction of a document tracking system. Ernst and Young has advised that they expect to be able to provide their final report within the next few weeks. On receipt of the report the Committee's recommendations 2 and 3 will be addressed.

**Just Terms Communications:** As outlined to the Committee at our last meeting, the Office of the Valuer-General is currently working with Land and Property Information Valuation Services to develop further information for landowners about the compulsory acquisition of land process. This information will provide clarity on the roles of the acquiring authority and the Valuer-General, the steps in the compulsory acquisition process as well as include contact information for landowners if they have further questions about the process.

**Service Level Agreement:** A new Service Level Agreement between the Valuer-General and the General Manager, Land and Property Information has been established for the period January to June 2013. This comprehensive document defines the services and performance levels that Land and Property Information is required to deliver to the Valuer-General. Additionally the Service Level Agreement addresses the responsibilities of the parties, delegation of authority from the Valuer-General and communication protocols. The restructure of the management of Land and Property Information Valuation Services has been addressed in this Service Level Agreement with regard to responsibilities, delegations and communication. The Service Level Agreement has been prepared via a consultative process between Land and Property Information and the Valuer-General, with input from the Director General and other senior staff within Department of Finance and Services.

**Structural Enhancements:** As members of the Committee will appreciate, there needs to be a clear separation of the roles and responsibilities of both the Office of the Valuer-General and Land and Property Information. There have been recent enhancements to the structures of both the Office of the Valuer-General and Land and Property Information Valuation Services. These changes will: provide clear separation of regulatory and governance and operational responsibilities; provide clear direction and surety around the implementation of a management assurance framework; improve the skill and resource base within the Office of the Valuer-General to provide improved customer service to key stakeholders; and to provide a clear regulatory and governance structure should the current strategic review of Land and Property Information recommend an alternative model for the provision of valuation services be implemented.

The changes in structure include: The position of Chief Valuer has been transferred from Land and Property Information Valuation Services to the Office of the Valuer-General. The role will focus on policy, governance, quality and audit. The Chief Valuer is the principal advisor to the Valuer-General providing high level expert advice on all matters relevant to the accountabilities of the Valuer-General. The position will be responsible for the quality assurance of valuation advice from the Valuer-General to stakeholders. The position will oversee audit and quality control at a system wide level, setting standards and policy as well as developing strategic, best practice policy for the New South Wales valuation system. The position will also audit and monitor the performance of Land and Property Information in managing the valuation system on behalf of the Valuer-General.

As I briefly mentioned earlier, the position of Senior Project Manager, Risk Management has been established. This position is responsible for working with Land and Property Information Valuation Services and is integral to the implementation of the Valuer-General's new Management Assurance Framework which is intended to improve governance and risk management within the valuation system. The role will monitor and report on the progress of the system's implementation and its effectiveness. This position has been filled on a contract basis for 12 months. The longer term role requirements will be considered as part of the implementation of the management assurance framework.

Within LPI-Valuation Services a restructure and refocus of key management positions has also been undertaken. A new defined role of Assistant Director—Valuation Operations has been instigated. This role reports directly to the Director of Valuation Services. The position is responsible for all the valuation-related and contractor-performance activities within LPI-Valuation Services. The communications and objections administration elements previously undertaken by the Valuation Objections Customer Service group have been added to the existing land data management responsibilities, and a leadership role of Assistant Director—

Valuation Customer and Information Services has been created. This key role will coordinate and manage all of the customer and information services within Valuation Services and will also report to the Director of Valuation Services. These changes will assist greatly in addressing a number of the concerns raised by the previous reviews into LPI-Valuation Services and issues raised by this Committee.

**Inquiry:** The Committee has recently received from the Valuer General a comprehensive submission to assist in the Committee's deliberations in respect of the inquiry into the land valuation system. I hope that the Committee has found the submission of assistance in providing some context around the integrated workings of the current system, as well as providing for possible opportunities and recommendations on how, in our view, the system can be further improved. Similar to the members of this Committee, I see this inquiry as an opportunity to further improve the New South Wales valuation system to deliver efficient, equitable and consistent outcomes for all stakeholders. By achieving these outcomes, landowners in New South Wales will have improved confidence in what is already regarded by many other valuation jurisdictions as a benchmark mass valuation system. In particular, our submission has focussed on reducing, whether perceived or real, the complexity, inefficiencies and inequity within the valuation system through a combination of recommended improved processes and key amendments to the Valuation of Land Act and associated regulation. In closing, I look forward to continuing to work closely with the Committee to improve the New South Wales valuation system.

**CHAIR:** Valuer-General, the Committee appreciates your efforts and the recommendations that have been made. We also acknowledge the changes you have outlined that have been made to your office in line with some of the concerns raised by the Committee around governance, the objection process, making the system fairer, the valuations having more integrity and the system being more efficient. The Committee recognises your efforts in that regard and thanks you and your team for the work done to date. I will now outline the way today will work.

The Committee is preparing a report for the Minister for Finance and Services and the Treasurer and the deadline for that report is May. We would like some further detail in relation to a number of the recommendations in your submission and to clarify how valuations are done. We would like also to talk about our site visits to Broken Hill, Hornsby and Mudgee. We will finish with issues raised in some of the submissions received by the Committee. At this stage it is proposed to break for lunch at 12.30 p.m.—the length of that break is to be confirmed—and I envisage we will be finished around 2.30 p.m. I will flag the topics that we will be discussing today. Once I have finished my questioning on each topic the other Committee members will ask questions. We will then move to the next topic. To begin I would like to confirm a few questions in my mind about the valuation process. We have seen that you use market evidence to ascertain the values of properties but how do you go from market value to land value?

**Mr WESTERN:** Paul, do you want to answer that?

**Mr KNIGHT:** The process is under the statute: the Valuation of Land Act. Land value is the principal value that we produce. So the starting point is for staff and contractors to understand the requirements of the Act, and what is defined by section 6 in particular of the Valuation of Land Act. The emphasis of that section is to do just that—provide a land value that is market at a particular date. Values are always very specific that price and date run together. The requirement is to value as at 1 July every year. Therefore the process starts with valuers, be them our rating and taxing contractors who look after multiple districts in each contract across the State of New South Wales, be provided by LPI the market evidence or the sales that are occurring, and those sales in particular relate to, as I have said, the market around 1 July of each year. Their task is to analysis the sales for each local government area, taking into account many attributes for each of those sales.

What is the simplest sale to look at is a vacant parcel of land that relates directly to the requirements of section 6—that is, we are valuing a vacant parcel of land hypothetically under the Act. So the best sale is a vacant parcel of land that is sold. However, in built-up areas particularly and/or in commercial-industrial areas there can be a lack of vacant land sales, so the contract valuers are required to analyse those transactions. They interview the parties, find out the bona fides of the sale, they inspect the properties to understand what improvements went with the sale, they then under the requirements of policy and the Act take the added value of those improvements away to deduce a vacant land price and then through the established system that we have discussed in our submission—what is called the component system of mass valuation we have adopted throughout New South Wales—they use the sales that they have analysed to value benchmarks for each of the required components and apply a factor where that is deduced to extrapolate to properties across the component

to provide recommended land values for each of those components for each of those local government areas, which are then serviced to the Valuer General by the September-October period.

**CHAIR:** In areas where there are no vacant land sales to use, the market sales are taken and your valuers look at land improvements on that representative sample and remove them, is that correct?

**Mr KNIGHT:** Correct.

**Mr GILKES:** Could I clarify one point?

**CHAIR:** Yes.

**Mr GILKES:** As Mr Knight was going through he said that the contractor will interview the parties to the sale, I should make it clear that that does not necessarily happen in every case; it is done on an as needed basis. Naturally enough if there are significant numbers of sales of relatively similar properties in an area it is pretty easy to see what the ruling market level is, so it is not necessarily needed to go and interview the parties to each of those sales. However, where the evidence is somewhat thinner, if you like, you need to analyse each one more carefully to make sure that it is genuinely representing market value, that it has been transacted between unrelated parties, neither of whom were acting under duress and that kind of thing. Some of those inquiries will also happen through discussions with agents involved in the sale process.

**CHAIR:** How do you quantify land improvements on the site to be removed?

**Mr GILKES:** There is a little bit of confusion here with the Act in that the improvements that we remove are actually not the land improvements—the land improvements are embedded in the land value—it is the other improvements on the property that are removed.

**The Hon. ADAM SEARLE:** Like buildings?

**Mr GILKES:** Buildings, fencing, those kinds of things are.

**The Hon. ADAM SEARLE:** What do you mean by land improvements—the ones that are embedded?

**Mrs LESLIE WILLIAMS:** Drainage and so on.

**Mr GILKES:** Drainage, the clearing of timber, the picking up and removal of stone in rural areas—things that once done absolutely merge with the land. The rationale around that, if it might help the Committee to understand, came from—many years ago it was the unimproved value which was determined, which was the land in its virgin state. As you can imagine, as the State has become more developed it is increasingly difficult; in many places there is no-one alive anymore who knows what the land looked like in its virgin state. There were also some inequities around that and a good example is in the Monaro in south-eastern New South Wales where there are large areas of naturally treeless plain adjoining land that was formerly timbered but now cleared. The two areas are of a similar productive capacity but under an unimproved value system the naturally treeless land was valued far higher than the land where the trees had had to be removed. Changing to land value recognised the reality of the land as it sits today.

**CHAIR:** How do you quantify the built improvements?

**Mr GILKES:** There are a few ways of doing that. Once again it depends on the particular evidence that is available. Within our procedures manual for our contract valuers we have a detailed methodology that they should follow. The preferred method is by the use of paired sales analysis, that is, where there might be a sale of vacant land and a very comparable parcel nearby that has improvements. From that you can deduce the value that those improvements add to the land because you have evidence of what the land value underlying is. Where that sort of evidence is not available, valuers would use a depreciated cost method to come back to the land value from the improved value of the sale.

**Mr WESTERN:** The important thing here is to ensure that the contractor has some consistency in terms of the way they go about analysing all those sales. So everything is brought back on the same basis to ensure that you will get some uniformity in terms of the results that are coming out of it.

**CHAIR:** With regard to the contractors and getting that consistency, you talked about a procedures manual. Are there guidelines that direct valuers on how to value certain types of properties?

**Mr PARKER:** In the procedure manual, for instance, for heritage properties, there are guidelines on how to deal with heritage properties. Mines are specifically addressed in the procedure manual. The process for dealing with the paired sales approach is detailed in the procedure manual about the sort of evidence they need to use. Even if there are no vacant land sales there will still be generally sales of properties with very poor improvements—they could be run down, fibro cottages or whatever. All that sort of information is utilised to establish what the added value of the improvements would be.

**CHAIR:** Are those procedure manuals binding on contract valuers?

**Mr PARKER:** The contract requires that the contractor apply the procedure manuals.

**Mr WESTERN:** I might point out that you are aware that LPI also undertakes audit activities across the valuation systems. Part of those audit activities could involve having a look at how the contractors have gone about analysing sales to ensure there is some consistency in terms of the approach.

**CHAIR:** Do those guidelines apply to the objection process as well? Do those procedure manuals apply to the contractors who review objections?

**Mr PARKER:** There is a separate instruction for objections. There is an objection and reascertainment procedure manual I think it is called.

**Mr KNIGHT:** There is an objection manual but also those contractors who undertake the objection reporting process are provided with all the same technical information and notes as the rating and taxing mass valuation contractors are provided with.

**CHAIR:** Is the objection manual binding on contractors who do objections?

**Mr KNIGHT:** They work under a contract and the objection manual is provided to the contractors and the audit process that follows on objections causes the valuation staff of LPI to peer review those objection reports, taking into account the guidelines and the same technical instructions as we provide to the rating and taxing valuation method.

**Mr PARKER:** The objection contractors also have to be accredited. They go through a process to gain accreditation before they can undertake the valuations.

**Mrs LESLIE WILLIAMS:** How many of the reports done by the contractors are audited? Every one of them?

**Mr PARKER:** The objection reports?

**Mrs LESLIE WILLIAMS:** No, just the normal report on the valuation of the land.

**Mr WESTERN:** The initial valuations that are undertaken?

**Mrs LESLIE WILLIAMS:** Yes, the initial valuation. How many of those are audited?

**Mr PARKER:** At the initial delivery point we run a review over the data they provide for all of the deliveries. So each contractor's delivery would be assessed within certain parameters. That is documented in an audit report that outlines these sort of areas that we look at.

**Mr WESTERN:** If, as a result of that, that raised any concerns for the LPI audit valuer, they would go back to the contractor and discuss those issues with them because they need to be satisfied that it has met the requirements of both the interpretation of the Valuation of Land Act and the procedures manual.

**Mr GILKES:** It is also important to point out that there is not an individual report done for every valuation. As you will appreciate, 2.4 million valuations made each year but the reports are done. There is a market report done for each local government area.

**CHAIR:** With regard specifically to the objection process, if I as a landholder do not think that a certain methodology should apply to my property, can I successfully make an argument to that effect or would the valuers have to follow the guidelines?

**Mr PARKER:** As part of your objection you would raise that issue and we would deal with that in the objection process. There would actually be a response to the owner as to whether the proposed method that they were against, why it was adopted or was not adopted, so there would be an explanation as to why we accepted it or did not accept it. So they can raise that.

**CHAIR:** I guess my question is: If there are guidelines that the contract valuers will follow in valuing my property and I do not agree with those guidelines or the application can I successfully argue it or does the contract valuer have to stick to the guidelines?

**Mr GILKES:** It is important to make clear that the overriding guideline, if you like—I think the opening statement is still in the procedures manual—is that the contract valuer has to choose the most appropriate methodology to make that particular valuation. Mass valuation methodology is not appropriate for all classes of property and the overriding requirement is that the Act requires it to be a market value of the land. So the contract valuer needs to apply an appropriate methodology to arrive at that result. As you are probably aware, the Valuation of Land Act does not actually define any methodology for the valuations. It simply defines in terms of outcomes that the values have to be market values. As to how that is arrived at, there is a degree of discretion and in terms of the objection process it is not one of the identified grounds of objection in the Act to object to the methodology. It is actually an objection to the valuation that the outcome of whatever methodology has produced an incorrect valuation.

**Mrs LESLIE WILLIAMS:** So you could not object to the appropriateness of the methodology that has been chosen by the contractor?

**Mr GILKES:** No, it is the outcome of that methodology and the valuation which has been issued, which is available to be objected to.

**Mr WESTERN:** In the end the critical point, as Mr Gilkes mentioned before, is that the land value that is arrived at must replicate what the market would be prepared to pay for that property. The point we made before is that the methodology to arrive at that has to be appropriate for that outcome to be achieved.

**CHAIR:** Are the guidelines or the procedures manual publicly available?

**Mr GILKES:** We have not published them as such. When people have asked for copies of them, we have provided them.

**CHAIR:** Why have you not published them?

**Mr WESTERN:** It is an area that we have been looking at. We are trying to make the processes that we use far more transparent. One of the areas that we are considering is in terms of, for example, the VG policies. All those other guidelines that are there, including the rating and taxing values manual, should be available publicly and we would be looking to do that through the website.

**CHAIR:** Can I ask why they have not been published to date?

**Mr WESTERN:** There is no reason as to why it has not been done; it just has not been done. But certainly, I am happy for that to occur.

**Mr CLAYTON BARR:** How do landowners appeal against the methodology when they do not know what methodology has been used because it is not publicly available?

**Mr GILKES:** As I said, the methodology is not something that is available to be appealed against in any case. All that can be appealed against is whether the land value is correct in the market.

**Mr WESTERN:** As I said before, the contract valuer has got to have used the appropriate methodology to arrive at a fair value to represent the market. Once again, that would be part of the processes that I would be using in audits—to look at that particular aspect, to ensure that the methodology is appropriate.

**Mr KNIGHT:** In the contact the public have in the first instance, they can ring the call centre. If a question of that nature is put to the call centre it is likely it will be directed to one of our senior district valuers. They can ask that question and guidance will be given as to how the valuation has been made for that particular class of property.

**Mr GILKES:** I also point out that, on the website, at a reasonably high level, there is a description of the component methodology and how that works. But it is nowhere near the level of detail, as you would imagine, that is in the procedures manual for the technician.

**Mr CLAYTON BARR:** Are we going to come back to an objections process later on?

**CHAIR:** Yes, I think so.

**Mr KNIGHT:** The majority of valuations are clearly made under section 6 of the Act. For that reason, the emphasis, following court direction for many years, has been that market value, which is the willing buyer, willing seller, approach.

**CHAIR:** So landowners could not, for example, appeal on the basis that they did not think there were enough sales available to use that approach and they therefore could use the cash flow model to value their property. Is that correct?

**Mr KNIGHT:** The principle—

**CHAIR:** They would not be able to make the argument that there were not enough sales available to value their property; therefore, their basis to do that would be to use a discounted cash flow model or something. They could not make that argument?

**Mr KNIGHT:** They can make that argument through the objection process. It is a question then, when we review their initial questions on the phone, as I say, or through the objection process and they state it in their objection. Our LPI valuers and/or the contractors will review that and review the market and, clearly, it is the breadth of the market that we look at. One of the problems people have is focusing too closely on a geographical area or on too short a time frame and they can make the argument that the market evidence is not available. But the skill of our valuers is to grasp the market in a district, in a particular land use and look in the appropriate scope to find the market and to understand the market. The tools available to a valuer in determining more difficult properties to value are, first, cash flow and, secondly, residual valuation techniques. The challenge of any valuer is not to rely on just simply one method, and so use check valuations as well, as we have discussed, principally the direct comparison method—apples to apples; vacant land sale to vacant land sale; or vacant land sale applied to the vacant property is the primary method. The other tools? As I say, cash flow is probably more preferred to be a check method of valuation.

**CHAIR:** How would landowners know what method of valuing is available to them if the guidelines are not publicly available?

**Mr WESTERN:** The short answer would be, unless they have made inquiries, they probably would not.

**Mrs LESLIE WILLIAMS:** But if they made an inquiry they would be told what methodology had been used?

**Mr WESTERN:** I would certainly expect that LPI, in discussing with the consumer, either through written correspondence or via the call centre where a valuer may have got involved, if that question were asked they would explain the methodology that would be used. I would hope that the caller would actually feel able to discuss what their preferred approach is at the same time and that the LPI valuer communicating with them would take account of that. Clearly, the point that the chair has made is absolutely correct. If there was an individual who had said that, and you gave the example where there were very few sales, that already brings into



question that you would need to look at an alternative way of arriving at the value. As Mr Knight pointed out, one of the ways to do it would be a cash flow. So it would be up to, at that stage, the caller to submit that in writing. If it is said they believed that would be an appropriate way to value the property, my expectation would be that the LPI valuer would consider that in their response to them.

**Mr GILKES:** If I might add, one of the requirements within the objection guidelines—and Mr Knight will correct me if I am wrong—is that in determining or making recommendations on objections, the valuer who reviews the valuation needs to specifically address in his or her report all the issues raised by the landowner.

**Mr KNIGHT:** That is correct. The proforma we have developed relating to the objection reporting process requires that all issues raised by the objector are reported and subsequently addressed within that report.

**Mr WESTERN:** I might point out that that is a unique situation in Australia. There is no other jurisdiction that provides that level of detail, in terms of actually answering the queries put forward by an objector or an individual querying their property value before an objection is submitted.

**Mr KNIGHT:** The question of focusing on one particular method of valuation is one that we are confronted with on a number of occasions. I must point out that the courts clearly have reported in the past that you can rely on one particular method of valuation only after you have gone through an order of preference. The focus of the courts and policy is that we look far and wide for sales information and address the market in the first instance. That may require looking interstate or, in very particular cases, overseas. As I said earlier, I think one of the tyrannies of the process is in refining the view of looking for market evidence in too small an area or too small a time frame. All our valuers work within the guidance of the Australian Property Institute requirements as well and, as I said, the court precedents that have gone before us and our own policy. Clearly, the valuers are required to look not only at the breadth of the market but also at all aspects of valuation techniques to derive—again, section 6—what is the market value.

**Mr WESTERN:** Just to clarify something, Mr Knight made the comment about going interstate or even overseas. I would not like the Committee to think that that happens on all occasions. Obviously, that is for those properties that are unique or where there is no readily available sales information here in New South Wales. An example of that might be major shopping centres. Because of the nature of the market, you would need to go interstate and get sales information from there to look at as well.

**CHAIR:** Does anyone have questions around valuation methodology?

**Mr CLAYTON BARR:** I wanted to ask about the work that is done by contractors and if that is not the correct term, forgive me. But one of the issues I think, Mr Gilkes, was that on an LGA by LGA basis, you review the outcomes of the valuers. The contractors are awarded their work on an LGA by LGA basis?

**Mr GILKES:** Contract areas are compiled in different ways. They range from one local government area, which is the contract for the City of Sydney, to many local government areas within a single contract, particularly in the western parts of the State where they are relatively small local government areas with low numbers of properties. The contract areas are put together through, I guess, a degree of art rather than science, to what is likely to achieve a competitive result in the market for the services.

**Mr CLAYTON BARR:** So when a contract is awarded and that person has a clump or section—let us say a local government area—within that area there might be mining, farmland, residential and industrial. Would one contractor do all of that work?

**Mr GILKES:** Generally speaking, yes. We have in place a separate contract for Sydney Airport, but other than that broadly the contract areas are all the properties within those geographical bounds. At times we would get independent or third-party valuations of some specialist classes of properties as part of our audit processes to monitor the quality of the work of the contractor for the area.

**Mr CLAYTON BARR:** Would one of those monitors be the number of objections that come out of that individual area?

**Mr GILKES:** It is one of a series of factors although a count of objections is, I have to say, a very blunt instrument—

**Mr CLAYTON BARR:** So is mass valuation.

**Mr GILKES:** Yes, but I suggest a count of objections is an even blunter instrument in that a way to get low levels of objections is to simply write values that are well below the market level. One of the things in thinking about objection numbers is if the numbers are significantly below what you would expect equally that should cause some concern. Naturally, one of the indicators that values are too high could be a substantial spike in objections. But I think over time—I do not have empirical evidence to support this but from having been involved in the valuation system for many years I suggest one of the greatest drivers of objections tends to be activity in the media rather than related to the actual valuations.

**Mr CLAYTON BARR:** Whether it is because of an absence of objections, which might indicate that they are pushing the boundary a bit at the bottom end, or the number of objections, which might indicate they are pushing the boundary at the top end, would it be fair to say the number of objections could play a part in ringing some alarm bells in terms of your processes and cause you to go, "Wow, there are 300 objections for that one little area. How do we double-check the work that has been done there?"

**Mr GILKES:** That is certainly true. The point I was trying to make was that objection counts should not be used uncritically. Yes, they are a flag, but you need to dig below to find out what is going on.

**Mr WESTERN:** To follow up on that, the point you have made is significant. Some of the independent analysis that we run through the University of Western Sydney, who analyse a lot of the contractor work that is undertaken and drill down to quite a sophisticated level—one of the things they would be looking at in the analysis is, for example, the number of objections that have been received to specific classes of property, but more particularly if there is a trend in terms of one particular contractor who has a higher or lower number of objections compared to the average. It is to have a look at that on a holistic basis rather than being specific.

**Mr CLAYTON BARR:** I guess you could have a large number of objections from an LGA done by an individual, but that individual might do six or seven LGAs and all of those might have a large number of objections.

**Mr WESTERN:** That is what I was saying.

**Mr GILKES:** That is the sort of pattern we would look for.

**Mr CLAYTON BARR:** Going back to the concept of one valuer doing farmland, mining et cetera, on page 46 of your submission, Valuer-General, in 8.2.2, it specifically says with regard to the valuation of mines that it requires specialist expertise. We have just said that one person does residential, farmland and mines. How do you make sure that that specific expertise is being utilised in relation to, in particular, mining or farmland when you are using one valuer for a whole area?

**Mr PARKER:** One of the things we look for in the tender process is the property types in that locality that have to be dealt with, so we would be looking for a contractor that has demonstrated some experience in those sorts of valuations. Normally someone that is contracting for an area in Newcastle has had fairly extensive experience in mines as opposed to someone that is contracting in Burwood. That is the sort of thing that would be addressed in the tender process.

**Mr WESTERN:** Mr Gilkes made the point about Sydney Airport, which is obviously a specialist property and we have a single firm undertaking that. Another area we have looked at is major shopping centres. We have brought that in-house in terms of coordinating that, so while there are individual contractors involved in that we are also coordinating it to make sure there is uniformity across that and working closely with the Shopping Centre Council. That is to make sure we have consistency and uniformity and the same sort of approach is being used across the board. We are also examining the possibility of undertaking that for other types of properties, and mines would obviously be one of those, to involve one specialist valuer to do that. Part of the difficulty for us is endeavouring to match up the fact that we are dealing with a mass valuation system but recognising that there are complex and unique properties involved in that system which need to be more individually valued.

We then have to weigh that up against the cost of undertaking that. I guess you will appreciate that if a single contractor were to undertake all the valuation of mines rather than the cost being maybe \$10 an assessment it could well mount up into the thousands of dollars for an assessment. Having said that, you would

hope that you would have an outcome that was extremely consistent across the State and you would get some surety around that. If I might coin the phrase, there is more than one way to skin a cat, and I think the shopping centres are a perfect example of how we manage to coordinate that across the State and ensure we get uniformity to the satisfaction of landowners.

**CHAIR:** Can I just clarify this: The reason you do not use specialist valuers for mines, shopping centres, farmland et cetera is because of cost?

**Mr WESTERN:** That would be one factor in doing that.

**CHAIR:** What are the other factors? Why do you not use specialist valuers for specific or unique property types?

**Mr WESTERN:** The point that Mr Parker made before in respect of the tender process to ensure that the contractor undertaking the work has some ability, knowledge and skills in undertaking valuations in those particular classes of property is a factor that comes into it. That is probably one of the reasons we have gone with that. Having said that, we have also made sure through the complex property valuation procedures we now have in place that those individual properties are looked at more closely on an annual basis than they would have been previously. That provides me with some surety around getting that consistency between the various property classes. That is an area we are still looking at in terms of whether we should have specialist valuers undertaking valuations on certain classes of property. Other jurisdictions have not moved that way other than, to my knowledge, Queensland, where a single valuation firm undertakes all their major shopping centres. I think they have approximately 42 centres in that. It is an area that we definitely could look at in future but is a question of weighing up partly the cost and secondly the skills that are already there with the existing contractors that are undertaking the work.

**Mr CLAYTON BARR:** On page 30 of your submission where you talk about quality assurance of the contract valuers and monitoring the performance of the contract valuers I cannot see any reference to the skill set, background, knowledge base, expertise and experience in doing, for example, a mine valuation or a farmland valuation, in terms of monitoring the performance of the contract valuers. I do not know whether that is an omission or whether my literacy levels are really low, but I understand you have given that testimony here today. The reason for my line of questioning about the specialist expertise in the valuation of mines was that I could not see it there. I do not know about that.

**Mr KNIGHT:** It is written there.

**Mr CLAYTON BARR:** I do not know about that.

**Mr PARKER:** It is not something we have specifically looked at, other than the Land and Property Information at the moment is trying to provide as much support as possible to the contractors in these complex land valuations, so we are providing extra material from any agencies as far as spatial information where mines occur or heritage properties occur. We are also looking at our own technical directions to ensure they are as strong as possible to make sure there is guidance for the contractors. As I said, in the tender process—and I cannot remember the exact weightings—there are weightings for experience that the awarding of a contract is given, and experience is very high in the allocation there because that is obviously an important aspect, quality, rather than price, which is one of the lower ratings.

**Mr CLAYTON BARR:** In Muswellbrook, for example, there are lots and lots of mines. Would you go out of your way to find a valuer who has more mining experience for, say, Newcastle, which is basically residential and business?

**Mr PARKER:** As I said, it is not something we have specifically addressed and thought, "Right, mines. We have got to make sure there is a good mines valuer in this location." It is a general concept that people operating in that area have a strong background in the valuations that occur in that area.

**Mrs LESLIE WILLIAMS:** This is just my own observation, but I would have thought that each Local Government Association would have increasing complexities when it comes to land valuations. For example, I live on the mid North Coast. It is not the small coastal town that it was, say, 20 years ago. Now we do have major shopping centres. There is a much more complex mixture of land usage. I would have thought that that

would be a reason to start looking at specialists. The situation that someone who could have gone into an area 20 years ago and said it was a small town and most of the blocks were the same is now decreasing.

**Mr WESTERN:** Absolutely correct. Indeed, the contract valuers who work for us have been working out on the market as well. Often those valuers have got wide experience or the skill set within that particular firm to be able to handle different types of properties. I can see this is probably moving on to somewhere else. What I would want to say before that occurs is that we have obviously acknowledged that we need to undertake more work, particularly with specialist property. As I talked about before, the concern for me is ensuring that consistent methodology is applied to each of those properties. In other words, the less variables you are able to put into the valuation, the more certainty you have got in respect of the likely outcomes that would come from that.

You will notice that we have flagged in our submission, for example, for mines, one of the areas that we want to have a look at is to have a set methodology, and in fact to look to have that regulated to provide some certainty around that. Indeed other States do that. One of the examples is Western Australia where they base their valuation of mines on a multiplier of 20 times the annual rent, and they are able to source the annual rent directly through the department of mines in Western Australia, as an authoritative source. That is one of the avenues we are looking at here for specialist properties, as to how we might be able to do that.

**Mrs LESLIE WILLIAMS:** The other one that comes to mind—I know it is termed a specialist property—but now that we have indicators of sea level rise, for example, I am guessing there are probably more and more objections about land value, and that has a whole new complexity to it.

**Mr WESTERN:** Absolutely.

**Mr GILKES:** While it is significantly in the news at the moment, it is not a particularly new issue on the coast. I remember in 1984, I think it was, I valued the Wamberal beachfront where those issues were occurring: dunes were being washed away and houses were being washed into the sea. A lot of these problems, whilst they might be newly occurring in particular areas within the valuation world, are not unheard of it.

**Mrs LESLIE WILLIAMS:** What I am referring to is not necessarily dunes washing away, but where there is now an overriding threat, let us say because of 149s, to particular properties because of prediction of the sea level rise in 50 or 100 years. I am not talking about ones where, clearly, a house is about to wash into the sea.

**Mr GILKES:** The important point there, if we go back to the beginning of Mr Knight's testimony, is where the fundamental requirement in the Act is to determine the market value. In considering those issues, the concern is how does the market view those particular issues that it has been faced with? Indeed, regarding the issue of coastal erosion and sea level rise, we undertook an audit of valuations of properties in those areas just in the last few months. The valuation manager who managed that audit spoke to all of our contractors who made valuations in those coastal areas and asked them about their processes for identifying areas at risk and identifying what the impact of that was in the market and how they went about bringing that to account in their values. It is an issue we are conscious of. My point before was that part of the training and the skill of valuers is to understand that the market is many-faceted and in making valuations in any area, you have to address whatever the particular issues in that area are.

**CHAIR:** To clarify, you do not look to see that valuers have specific skills, you assume that because they are operating in a certain Local Government Association, they have all those skills. Is that correct?

**Mr GILKES:** Part of the tender process requires the tenderers to provide staffing plans for their contract and how they will apply detailed contract management plans and how they will apply those staff. Within any firm, as I am sure you can imagine, there is a balance of skills and experience. One of the highest weighted criteria in evaluating tenders is the quality of the staff and their contract management plan as to how they are going to apply them. We certainly do look at who are the staff that are going to be applied to this and what are their skills. We have curriculum vitae for each individual valuer. We look at those and balance them up between the various tenderers.

**CHAIR:** When you awarded the tender to the Broken Hill City Council, did you check to see whether the valuer had specific experience in valuing mines?

**Mr GILKES:** I cannot answer that question with that level of detail.

**The Hon. ADAM SEARLE:** You can take it on notice.

**Mr GILKES:** I can certainly take it on notice. I do not know if I was involved in that tender evaluation or not.

**The Hon. ADAM SEARLE:** You get to sight the qualifications and experience of the individual staff who will be working on the contract?

**Mr GILKES:** That is right.

**The Hon. ADAM SEARLE:** Obviously this reflects my lack of knowledge, so I apologise. Are we talking about substantial companies with 20, 30 or 50 employees, or are we talking about half a dozen or less, or are we talking about a valuer trading through his own personal company?

**Mr GILKES:** Not the last one. For the main contracts, certainly in the case of dealing with objections, some of those firms would be sole traders. For the main contracts to make the original valuations, there are a range of firms.

**The Hon. ADAM SEARLE:** Looking at page 22, I am talking about the 18 valuation firms.

**Mr GILKES:** Yes, there is a range from very substantial businesses, to smaller operations that work in a local area.

**The Hon. ADAM SEARLE:** For example, when a tender is awarded on the basis of all of the factors, including the skill set of the individual staff who will be performing the work, how does turnover in staff or people leaving firms affect the contract? If having two or three key people was the difference between candidate A and candidate B and 18 months into the contract those people leave the firm, for good and valid reasons, how does that affect the contract? Is it reviewed?

**Mr GILKES:** There are a couple of things. There are provisions where any changes to the key personnel, as they are described, have to be made by negotiation with the Land and Property Information as the contract holder. We recognise that we cannot stop people from seeking work elsewhere. That is a fact of any arrangement. We would though in those cases require the contractor to demonstrate to us how they are going to continue to effectively manage their contract without whoever it is that left. The other things built into contracts are that contracts are awarded for a three-year period plus two one-year options. Naturally enough, at the point where we consider whether to grant options, that is one of the key considerations: Does this firm still look like it did at the point we considered it was appropriate?

**Mrs LESLIE WILLIAMS:** Along the way, are they obliged to inform you if they have any major changes in staff?

**Mr GILKES:** Yes.

**The Hon. ADAM SEARLE:** Have you had circumstances where they have not?

**Mr GILKES:** Yes. Within the valuation industry there is a degree of churn between firms; and yes, we have had cases where people have left a valuation firm and that firm has gone and sought other replacements, and then they come to us and say, "We have lost this person; we are planning on replacing the person with this person or with this group of people, or rearranging our work in certain ways."

**The Hon. ADAM SEARLE:** My question actually was whether you have had circumstances in which you were not informed and you found that out subsequently.

**Mr GILKES:** Well, I do not know what I do not know.

**The Hon. ADAM SEARLE:** To the best of your current knowledge, have you in the past had circumstances where firms did not keep you informed in a timely way of key personnel changes?

**Mr GILKES:** No, not to my knowledge. One of the important things to note is that our staff work quite closely with these firms; they deal with them on a daily basis. It would be difficult for firms to make any significant changes without our staff being aware of that.

**Mrs LESLIE WILLIAMS:** I apologise if I missed the answer, but I think you asked before about the number of staff in these firms.

**The Hon. ADAM SEARLE:** I did not; that was going to be my next question.

**Mrs LESLIE WILLIAMS:** I am sorry, but I thought you had.

**CHAIR:** We will let Mr Searle finish his line of questioning.

**The Hon. ADAM SEARLE:** In relation to the A-team valuation firms, how many individual people are performing the work?

**Mr GILKES:** In each firm?

**The Hon. ADAM SEARLE:** No; in aggregate.

**Mr GILKES:** I do not know off the top of my head.

**The Hon. ADAM SEARLE:** I am happy for you to take these on notice. Are you able to tell the Committee, by the A-team firms, by name, what are the skill sets of those people? Obviously, we have heard some evidence about inconsistencies in the system. One of the things I would be interested in is, not necessarily whether it was through anyone's fault, but whether that occurred in part due to a skills gap, for example. If a firm had responsibility for doing valuations in a certain area and there were certain particularities about those properties, but the skills that might be required were not reflected in those firms at the time they did those valuations, that might be a factor that explains some of the volatility.

**Mr WESTERN:** It is a reasonably detailed question what you have asked.

**The Hon. ADAM SEARLE:** Of course it is.

**Mr WESTERN:** I am wondering whether it might be possible to narrow that down to specific contracts or local government areas that you might want us to have a look at.

**The Hon. ADAM SEARLE:** Let us start with Broken Hill, because the Chair has already asked you that question about the Mid Western Regional Council. That would be a good starting point. If I have further questions, I will put them on notice.

**Mr WESTERN:** Thank you.

**CHAIR:** I will move on to your submission, Valuer-General, so we will change the topic a bit. I want to refer you to section 8.2.6 of the report, with regard GST. Valuer-General, you submitted that the legislation should be changed so that GST is included in the valuation. Could you please explain to the Committee why you made that submission?

**Mr WESTERN:** I might give an overview, then leave it to people who are closer to the operations than I am. Effectively, we have adopted the approach in New South Wales that the market is the market; and whatever taxation provisions apply to individuals, whether that be the vendor or the purchaser, are from the valuation perspective irrelevant to the point that the market itself will determine what the price is, and the buyer and purchaser will come to some agreement. That, in a very fundamental way—and, as I said, the other witnesses here might be able to assist in terms of giving the Committee more detail on that—but conceptually that is the approach that we have adopted here in New South Wales. I might just add that GST is an issue that has been debated for a number of years, and how that should be interpreted against valuations. When I worked as a valuer in New Zealand, where GST was introduced quite some time before it was here in Australia, I still remember the debate on whether valuations were GST inclusive or exclusive. Indeed, that is still being debated today, as to its appropriateness or otherwise or how it should be interpreted.

**Mr PARKER:** Basically, what we mean by embedded in the sale price is that it is a factor in the marketplace. Everyone who is bidding for the property possibly will be affected in a different way. So it is not just about the circumstances of the purchaser; it is also about the circumstances of the vendor and what price he wants to achieve. Each individual purchaser will have different circumstances. Some may be able to get finance at 5 per cent and some may need to get finance at 8 per cent. All those sorts of things become a factor in what the purchaser will pay for the land. But ultimately that sale price is an agreement between the two parties as to what that property is worth on the day. We have a couple of court cases that supports that assumption, and that is the current policy that we have applied.

**CHAIR:** So your submission is that GST is part of the market. Do you deduct GST to get land value?

**Mr PARKER:** No. What we are determining is the market value of the land.

**The Hon. ADAM SEARLE:** And that includes GST?

**Mr PARKER:** And that includes GST.

**CHAIR:** So you currently do not deduct GST to get to land value?

**Mr PARKER:** No.

**CHAIR:** Is GST included in the sale of all land types?

**Mr PARKER:** No. Residential land is not subject to GST. Going concerns—

**Mr KNIGHT:** Rural lands. There are a whole plethora of variations.

**Mr WESTERN:** Indeed, in my experience in past times as a valuer, often where GST is mentioned in a sale and purchase agreement my research has found out that the amount that has been disclosed is not necessarily what it was in reality. The total purchase price might have been, but there are other amounts that are put on there. So quite often it is very difficult to try to actually work out what the GST component of a sale actually is.

**CHAIR:** Can I put a scenario to you, Valuer-General, and to the other witnesses? I want to understand the impact that GST has on valuations. Take as scenario one where a property is a four-bedroom property that is newly built, and it sells for \$1 million, so it is subject to GST. There are three houses next to that property, all of which are about ten years old, and not subject to GST, but in the same condition and the same in every other way as the new property that sells for \$1 million—except that GST is not applied to them. In this scenario you have a set of properties that are in the same market, and only one is subject to GST. Do you follow my logic there?

**Mr WESTERN:** Yes.

**CHAIR:** What "market forces" would mean is that GST would not affect the sale price?

**Mr WESTERN:** Would not affect the sale price, did you say?

**CHAIR:** Because there is one new property and GST applies to that, and there are three property that are ten years old but otherwise exactly the same and to which GST does not apply, so GST would not affect the sale price there.

**Mr WESTERN:** It does not affect the interpretation of the sales evidence, I think is what you are getting at; that there are three sales that do not include GST and there is one that does.

**CHAIR:** But if you are a seller and all of those properties are for sale—

**Mr WESTERN:** Yes, the market is the market.

**CHAIR:** —the GST will not affect the sale price.

**Mr GILKES:** Looking at it from the other end: the purchaser is not going to pay you more because you have a GST liability.

**CHAIR:** Correct, absolutely. Let me put to you another scenario. The same four houses have GST applied, and they all sell for \$1.1 million. In that scenario, GST would be part of the general cost base, and therefore it has caused a price to change, compared to what otherwise would have been the case.

**Mr GILKES:** Could I say there: it may or may not have. The only way to determine that would be to look at the market more broadly, as to whether that \$1.1 million was just the ruling price for properties of that kind.

**CHAIR:** I guess the difference is that in one market there is one property where GST is applicable and the others are not, and there is another market where GST is applicable to all properties, which is therefore inflating the price of that market, in which case I would submit that you would deduct the GST to get back to the land value. That said, what I want to know is will properties that are subject to GST usually be in the same market or will they usually be mixed with properties that are not subject to GST?

**Mr PARKER:** There are obviously certain properties that are excluded from GST altogether. A property that is sold as a going concern is excluded from GST but that has to be followed through, so the going concern actually has to pass.

**CHAIR:** So there is a mix in the market?

**Mr PARKER:** Yes.

**CHAIR:** Is it your expectation that for those properties with GST the price will be different where it is mixed in the market?

**Mr GILKES:** It may or may not be. I think the point is that in arriving at the market value you need to analyse the breadth of the market and look at: We have this pool of evidence here. The prices will vary up and down for a range of reasons and, as Mr Knight said in his evidence, the first step in the valuation process is for the valuer to go and analyse the market and understand what the market is doing.

**CHAIR:** For example, will the sale of all shopping centres be subject to GST?

**Mr PARKER:** Quite possibly—going concern, yes.

**Mr WESTERN:** I would have thought the majority of sales for shopping centres would be a going concern and therefore GST exempt.

**Mr PARKER:** But I am not exactly sure on the limitations.

**CHAIR:** Therefore all shopping centres or all businesses will be subject to GST, so GST will inflate the sale price?

**Mr WESTERN:** You would have to look at the individual circumstances.

**CHAIR:** But if all shopping centres are subject to GST—

**Mr GILKES:** Not if they are a going concern, I think is the point that Mr Parker was making.

**Mr PARKER:** That is what I was saying. They might not be.

**Mr KNIGHT:** A going concern is exempt and then there is a margin scheme. As I said, there is a perverse situation and you have to look at the details of the site. The other thing was the vendor and the purchaser would in those markets be trading entities and they would have the ability to have tax input credits as well. So the environment that they are working in most likely would be exclusive of GST.

**CHAIR:** Are there any markets where all properties in that market would have GST applied to them?



**Mr KNIGHT:** I cannot answer that.

**Mr WESTERN:** Not that I am aware of.

**CHAIR:** For example, the sale of a business attracts GST.

**Mr PARKER:** They could be going concerns.

**Mr WESTERN:** It would depend on how they have been classified through the ATO.

**CHAIR:** If there are certain markets where all properties in that market are going to attract GST it will inflate the sale price.

**Mr WESTERN:** I guess what we are saying is the market is the market, in that the vendor and the purchaser will come to some agreement as to what the market price is.

**CHAIR:** Yes but the tax artificially inflates the market—the GST—in a market where the tax is applicable to every sale in that market.

**Mr PARKER:** In a lot of instances the developer is able to offset that GST with his credits. These are all factors that both parties have to weigh up when deciding what the final price is. What we are suggesting is that all of these considerations are how market value is developed in that sale scenario. Everyone will have their own different ways of dealing with GST and the sorts of elements that go to make them determine what they should pay.

**CHAIR:** Let me put a hypothetical scenario to you. If every property in the one market is subject to GST of 10 per cent, that 10 per cent will inflate that market.

**Mr GILKES:** That would depend on whether any purchaser was prepared to pay—

**CHAIR:** They have to pay because the GST is applied to that market; they do not have a choice.

**Mr GILKES:** The GST is the liability of the vendor. The purchaser will still only pay as much as is appropriate to get the return that they require in owning that property.

**CHAIR:** Correct, but the sale will not occur if someone is not going to pay that tax.

**Mr GILKES:** There is a point at which the market meets, as I think Mr Parker was trying to say. It is one of the factors in the market and in negotiating any sale the parties to that sale weigh up a whole raft of considerations—GST may be one of them where it applies. But, as Mr Knight I think said, different players in the market can achieve finance at different rates. There is a whole raft of factors that influence what their particular circumstances will be.

**CHAIR:** I understand that, but if 10 per cent GST is applicable on every property within that market and that GST rate went to 15 per cent that would artificially inflate the value of every property in that market, is that not correct?

**Mr GILKES:** I do not believe so unless the purchasers believed that they could still generate the return they required after paying that additional amount.

**CHAIR:** So an increase in GST would not affect the market where every property had a GST applied to it, for example?

**Mr WESTERN:** No, I think what Mr Gilkes is saying is that it may or may not depending on the individual circumstance. Because in the end, as he rightly points out, the purchaser—depending on their individual circumstances and their financial arrangements—is presumably only going to be able to get to a certain price in terms of being able to spend on that property. Then it is up to the negotiations between the purchaser and the vendor as to actually what the price might be. I mean the expectations of the vendor might be in excess of that; they will come to some agreement.

**CHAIR:** My concern is that by including GST in the sale price we would then be applying a tax on a tax?

**Mr GILKES:** I understand the concern.

**The Hon. ADAM SEARLE:** Does it happen? Does it have that effect?

**Mr GILKES:** As I said, I think the difficulty is identifying that part of the purchase price that is or is not made up of the GST when it comes down to it. If we look at it the other way, would a purchaser be prepared to pay any more for a property because the vendor has a tax liability? I would suggest not. They will want to buy the property for the lowest amount they can buy it and for an amount that will return their appropriate return. The tax situation of the vendor is not really a concern for the purchaser.

**The Hon. ADAM SEARLE:** It may not be a concern for the purchaser but I guess if the vendor has to make provision for that tax then obviously the vendor might have to insist on a higher price than the vendor might be able to take if there was no GST.

**Mr GILKES:** The other side of the coin though is—for example, if the purchaser is prepared to pay \$1 million and if the vendor happens not to be liable for GST, are they going to sell it for \$900,000? I do not believe so. They will still require the \$1 million because just as the purchaser is trying to minimise their expenditure, the vendor is trying to maximise the price they achieve.

**CHAIR:** It is basic economics that if you increase the tax, the supply curve shifts up and the equilibrium price shifts up as well. Why would you not be taxing your tax in that case?

**Mr GILKES:** As I said, I understand that concern. The point is whether you can actually identify that in the market is debatable.

**Mr PARKER:** What we are trying to determine is the market price. If you go to a shop and buy a television—that has got GST—and you ask for the market price, you pay for the product with the GST; property in this aspect is no different.

**The Hon. ADAM SEARLE:** The market price will vary depend on whether GST is applicable or not.

**Mr PARKER:** It may have an impact like a lot of other things but what you are trying to realise is the market price.

**Mr KNIGHT:** Justice Pepper, as we quote in our document, says it logically forms part of the market price of the land and so becomes evidence in its value. As to your earlier question about if it went to 15 per cent, there is clearly a push back in any market if you change the tax regime. But then it becomes normal. If you go and buy a packet of cigarettes in Macquarie Street today you buy it at that price. You do not consider if there is a changed margin of tax on that last week. It is just the price you would pay at the shop.

**Mr WESTERN:** I think part of our submission and understand where the dilemma is, to some extent, is that, as I said before, this has been debated long and hard. If you look around the valuation jurisdictions in Australia it is reasonably evenly divided as to how GST is treated in valuations.

**CHAIR:** We might move on to the objection processes.

**Mr KNIGHT:** One point with that, the Valuer-General established a policy on GST for consistency across New South Wales. I think the main point to be made in the mass valuation process is our concern in maintaining consistency and a clear manner of approach on these aspects of dealing with market analysis. As to operations we need a clear and defined direction on how to deal with these many and varied parts of the market and GST correctly in recent times which have caused concern. The policy assists us in an operational sense because we can give contractors a clear direction on how to treat the GST.

**CHAIR:** Turning to the objection process, once an objection is accepted, is that successful objection considered in the following year's valuations as they flow through?

**Mr PARKER:** I can address that. Yes, it is. It is a requirement of the procedure manual for the contract valuer to take those decisions into account. In fact in the quality statement that they provide us at the end of the program they have to affirm that they have taken those into account and also in their final report they provide us with some detail as to how they have addressed that issue.

**CHAIR:** To clarify, if one landowner objects successfully, is that objection then applied across the street, across the neighbourhood, across the component?

**Mr GILKES:** It may or may not be, depending on the circumstances of the objection. As I am sure you can imagine, there are a number of reasons why valuations could be changed on objection. One could be a simple valuation error in terms of the overall market level. All the values are too high. Another could be that there is some specific feature of that property which has not been adequately reflected in the value, so the objection may be a one-off effect.

**CHAIR:** So when a person makes an objection, you said in your submission that they will only receive reasons if their objection was unsuccessful. Why is that?

**Mr GILKES:** It is actually the requirement in the Act that the Valuer-General provide reasons where an objection is either disallowed or only allowed in part. I guess the rationale for that when it was written was probably that if the objection is allowed the chances are it is because of the reasons that the owner has raised anyway.

**CHAIR:** Does the Act say that you can only provide an explanation if the objection is unsuccessful?

**Mr GILKES:** No, it does not say that but it says—

**The Hon. ADAM SEARLE:** It is the other way round.

**Mr GILKES:** It is the other way round. It says it is required to in those circumstances, not required to in others. We do actually though in all cases provide the landowner with the report of the valuer recommending the decision on the objection so in fact the practice is that we provide those reasons anyway. It is not a requirement of the Act.

**CHAIR:** So you get the valuation report whether you are successful or unsuccessful in your objection.

**Mr GILKES:** That is correct.

**Mr WESTERN:** And another important aspect of that is that, as was mentioned earlier, in that report also the contractor undertaking that objection review is required to answer all the questions put forward by the objector as well.

**CHAIR:** You also said in your submission that there were inefficiencies associated with requiring that an objection valuer be different from the original valuer. Can you describe the system as you would envisage it in your recommendations?

**Mr WESTERN:** If I may once again talk generally about this, the original requirement for a valuer other than that who had undertaken the original valuation to undertake the objection arose out of the Walton report of some years ago, and rightly so. I believe that the checks and balances that were in the system at that stage were inadequate in terms of being able to give some surety at that point around the setting up of the land valuation system to undertake the objection work. Over a number of years, and particularly over the past eight or nine years, we have worked very hard in terms of ensuring that there are now adequate checks and balances in the system within LPI and mechanisms to be able to provide some surety around the quality of the objection work that is undertaken to now look at potentially involving the original rating and taxing contractor in having a look at that objection.

You will appreciate that, because that particular contractor is the best placed valuer to have a look at it—they have knowledge of the area; they know how they went about preparing the valuations. They can have first-hand knowledge in terms of having a look at that land value. To ensure that the way they undertake that review is adequate, as I said before, LPI have a number of processes in place, including effectively an audit

review of objections to make sure that the way the review is undertaken is transparent and the decisions that are arrived at are reasoned.

**CHAIR:** Is the proposed model in your submission that the person who does the assessment for the purposes of rating and taxing be the same person who considers the objection to that assessment?

**Mr WESTERN:** Certainly the firm that undertook the original valuation is best placed in the first instance to have a look at that objection.

**CHAIR:** Okay, so the same person to do the initial assessment and then review the objection.

**Mr GILKES:** If I might add, the submission is not that it be a requirement that it be the same person but that the requirement that it not be the same person be removed. If we go back to the discussion we had earlier around complex properties, that is a particular issue where the person who has made the valuation is most likely to be in a position to understand and determine the objection appropriately.

**Mrs LESLIE WILLIAMS:** But surely there are other people who have those specialist skills and expertise to come in and do a review independently?

**CHAIR:** If they are all following the same guidelines.

**Mrs LESLIE WILLIAMS:** We do not have just one specialist who does a particular type of property across the State.

**Mr GILKES:** No. One issue with specialist properties is quite often the pool of owners of those properties is relatively small and many of the experts work for the owners, so are reluctant to be involved in dealing with objections or contesting their objections. That is one of the issues we faced in that. The point though I think that Mr Western was trying to make is that the valuer who makes the valuations in an area has already undertaken a huge amount of research into land values in that vicinity.

**The Hon. ADAM SEARLE:** But that would already form part of his original decision, would it not?

**Mr GILKES:** Certainly.

**The Hon. ADAM SEARLE:** And that would be information available to a reviewer in any case.

**Mr GILKES:** Yes it is. However, for any reviewer to come in and get to that same level of understanding of the market, it takes a level of work. There is a potential inefficiency issue there in some cases. As I said, the valuer who made the original valuation has investigated the market in quite some detail and is familiar with it. In terms of where there is an issue that they simply were not aware of around that property, they are then in the best position to be able to determine that: Okay, with this new piece of information I know about this property and my understanding of the market, if I had been aware of that, what is the value that I would have written previously?

**The Hon. ADAM SEARLE:** Are there not two key problems with this approach? The first is, if it is as simple as a new piece of information not previously had or the relevance of something not fully understood, that is easy to deal with. Particularly when dealing with professionals operating at a high level of complexity, where they have done their job thoroughly in the first place, although they may have made an error, when you invite them to reconsider their view, even if they apply themselves assiduously, it is just human nature that it is not often going to be the case that someone is going to look at exactly the same material and say: Blow me down, didn't I make a mess up of that?

The second problem—and if I were an objector, this would be a big problem—is that, even if what you say is accurate, having the person or firm that did the original valuation do the objection review, if I didn't get satisfaction, I would feel short changed and that there was something wrong with the system, that the same person who did the job got to review it. That is no reflection on the professionalism of the original valuer, it is like Caesar's wife—justice must be seen to be done and to be above reproach. It seems to me that it is an obvious requirement of transparency and fairness that you do have a fresh set of eyes looking at the same material to see whether something material was overlooked or some methodological error was made. It is just not right to get the same person or the same firm to do it again.

**Mr GILKES:** A key point to remember is that we are dealing with a mass valuation system and in the majority of valuations the valuer will not have individually considered the value. So one of the questions they will be asking themselves, in reviewing that objection is: Does this value adequately or appropriately represent my understanding of the market as I developed it through the analysis process? I do not actually believe that valuers are so precious as to say: Well, I have written that value and it is just going to sit. They will consider whether that matches their understanding of the market. I think the other issue around transparency is also addressed by the fact that they actually have to rationalise their individual decision and that rationalised decision is provided to the landowner, in the form of a reasonably detailed valuation report to explain how they have come to that recommendation.

**The Hon. ADAM SEARLE:** I am really not persuaded by that argument.

**Mr WESTERN:** New South Wales is unique in that we are the only jurisdiction that has an independent review. I concur with the Committee from the point of view that there are pluses and minuses for it. In terms of working with stakeholders and knowing that there are adequate checks and balances in the system to be able to ensure that some of the things that were talked about before may or may not occur, we can be pretty certain that the decisions that are made are being carefully analysed and checked. The other important factor as far as stakeholders go is that an independent review can slow up the process in terms of being able to resolve objections and get the rating and taxing base bedded down for other authorities to use. That is a consideration as well. As I said, from my own perspective as Valuer General the system as it works now, in terms of independence, is excellent. I feel that there is an opportunity, with the other checks and balances that are in place, to look at maybe providing more efficiencies.

**CHAIR:** Why would we compromise that excellent independence and the perception that there is objectivity and impartiality in the system?

**Mr WESTERN:** As I said, it relates to being able to ensure that we are meeting the needs of stakeholders in terms of timeliness in getting information out and in terms of making more adequate use of the market knowledge and the work that the original rating and taxing contractor has done—nothing more.

**CHAIR:** In your opinion, is that trade-off worth compromising the objectivity and integrity of the valuation system?

**Mr WESTERN:** Open and honestly? No.

**Mr KNIGHT:** But as a management tool, I must make the point that, for much of the time, the objection process deals with issues raised by the owners which are not necessarily related directly to the value. So, that innate knowledge that the rating and taxing valuer has from the work they have done in the preceding months is far better than bringing independents in at that period some months later.

**The Hon. ADAM SEARLE:** So by "efficiency", what do you mean?

**Mr KNIGHT:** Well, for example, the call centre each year, when the notices of valuation and land tax assessments go out, some 900,000 of those, we get upwards of 30,000 calls. That is, inquiries of all nature on delivery of these notices, resulting in 7,000 objections. So you can see that the need of inquiry relates to, who are the valuers who made these decisions? Why did they make these values? What basis did they make these values on, on the market evidence we spoke of earlier? Operationally, those rating and taxing valuers have that knowledge. We are not saying we will use those entirely, because we have built a system now where we have a separate group of contract valuers who can be called on and are called on now, into the system, to do the majority of the objection work. But there are times where the efficiency would be to engage the rating and taxing contractors to assist in that process.

**The Hon. ADAM SEARLE:** By "efficiency" you mean timeliness and the knowledge already had by the taxing and rating agency—

**Mr KNIGHT:** Correct.

**The Hon. ADAM SEARLE:** —as opposed to a new party getting themselves up to speed on that?

**Mr KNIGHT:** These contracts run for three years and there is an option period and some contractors have been successful to pick up the subsequent contracts. So they are building up an innate knowledge of these areas. As we said earlier, we have drawn on their experience in taking them up as contractors in the first instance. The problem we have then is setting them aside after Christmas and basically drawing in a whole group of new contractors to make another set of valuations.

**The Hon. ADAM SEARLE:** In terms of this efficiency, I think the chief one of which is time because that is the most reliable measure, I guess is what you are saying. What time frames would be saved or contracted by this proposal you have identified?

**Mr WESTERN:** To my knowledge, we have not done a detailed analysis on that. It is a feeling that that would be the case.

**CHAIR:** So making a submission to compromise the objectivity and impartiality of the system when you have not quantified the potential savings to the Committee, we are about to make a recommendation to the Government that will undermine the public's confidence in the system and you have not quantified what the saving would be. Why?

**Mr WESTERN:** That is a fair comment. We did not go into that level of detail. As I said, it was just a feeling that we had that there would be definitive savings. I think what we have to do, in my view, is to make more adequate use of the original rating and taxing contractor and there is more than one way to do that, without taking away their independence. For example, you can put the objection to the rating and taxing contractor and if they said, "Yes, there is an error here" or "Because of what has been presented we will change the value", that has to go through a review process anyway, through LPI. The other thing is, if they said, "No, we are not going to alter it", then there needs to be another check in the system to either get another independent review undertaken of that or, through the LPI process, to have a look at it to make sure that it is a reasoned decision.

**CHAIR:** Is this where 8.1.1 comes in, on page 42? You mention there is a court review but obviously it is found to be onerous and expensive. You mention some assessment review board used in Ontario, Canada. Is that the sort of idea you have?

**Mr WESTERN:** That is once an objection decision is made. In current circumstances the landowner's only avenue beyond that is to go to the Land and Environment Court. We have talked about having an intermediate process, an alternative dispute resolution process, which would be less costly than having to go through the court process.

**Mr KNIGHT:** This process would be before that. We have a system now where all objection material is scanned on receipt and then batched into local government area land use zonings. That material can then be sent electronically very efficiently to our contractors or our rating and taxing contractors for viewing. There is potential viewing of the material by the rating and taxing contractors, as Philip described, as a first-cut look at whether there are issues here, yes or no. Then if there is an adjustment to be made at that first-cut viewing by the rating and taxing contractor that could be referred or sent back to the owner. If the rating and taxing contractor says, "No, I am not going to change that value," we could make that decision with our valuers to forward it on to an independent to make a final call through the objection report process.

**The Hon. ADAM SEARLE:** How does the assessment review board work in Canada? Is it just a paper review or do they have a hearing?

**Mr PARKER:** It is a tribunal and you present your evidence. It is just a more relaxed forum than the Land and Environment Court.

**The Hon. ADAM SEARLE:** More like the Consumer, Trader and Tenancy Tribunal.

**CHAIR:** I want to stay on this point. Do you mind if we keep going and break for lunch later?

**Mr WESTERN:** That is fine.

**Mr GILKES:** It is also important to remember that the contractor that makes the original valuation has a contract that runs for some years. It is actually in their interests for the values in their territory to be as good as those values can be. They have an interest in getting the values right because that creates less work for them

down the track. It also works well for them in terms of future tender processes because one of the key measures is performance in previous contracts, not necessarily just these contracts. Naturally enough, a contractor that has a strong record of high quality performance in an area has a very good start in their tender. Within LPI we have a process; as I said, there are a few checks and balances. The objection report will be provided first of all to the landowner, but also within LPI we have an audit process where we review samples of these reports.

Going back to the measurement of the quality of the work the contractor is doing, if we were to find a contractor that consistently does not, in our view, genuinely consider the issues raised in the objections and treat them with genuine review and respect, firstly we would take some action immediately to counsel that contractor and make it very clear that that is not a satisfactory way to operate. That would go on that contractor's record as something that we would consider in future tender processes. When Mr Western opened the discussion on this point he said that since the recommendation was originally made in the Walton report in 1999 there have been substantial changes in the objection process around introducing greater transparency and improved checks and balances to now make it, in our view, feasible to consider doing this.

**CHAIR:** Would you concede those changes were made for the better?

**Mr GILKES:** At the time that would be right, but times are quite different now. We have implemented many processes that simply did not exist back then.

**The Hon. ADAM SEARLE:** So that I understand the different proposals, if you were to remove the independence of the objection review, you are really suggesting that that be replaced by the independent assessment board so that the rating contractor gets to reconsider the individualisation of the mass valuation to see whether there was an error. If satisfaction is not gained at that level you still have the independent review but it is called something different and is at a different level. Do you think there will be some efficiencies because of those incentives, as you might have put it, for valuers to solve most of the problems at that level?

**Mr GILKES:** I believe there certainly will be efficiencies because, as I said, the contractor that made the original valuation has undertaken a huge amount of analysis to get to this point. To rebuild that knowledge takes the objection contractors a significant amount of time and, not surprisingly, that goes into the contract fee for those services. The review of objections is quite an expensive process.

**CHAIR:** Can I put a scenario to you? In the case of Mudgee, if the person who did the original valuations then did the objection process I think the community there would be quite upset about that judging by the testimony we had on our sight visit/

**Mr GILKES:** I guess that may or may not be the case. It depends, I would suggest, on how well they did that.

**CHAIR:** Is not the point that it was fixed because a separate set of eyes looked at it and adjusted the process?

**Mr GILKES:** In that case that is how the process worked, that is correct. I do not think it necessarily follows that had we—

**CHAIR:** That original valuer today still maintains that he followed the correct process. Had that second set of eyes not done what they did you would have a whole pile of disaffected landowners who the Valuer-General concedes had their land incorrectly valued.

**Mr WESTERN:** The fact is that that independent set of eyes was actually the LPI, which was able to pick that up through its processes. It was not through a review by another independent contractor. As part of those checks and balances we were able to pick that up.

**CHAIR:** Let us get back to the tribunal. That will still be very onerous and expensive for landowners to access. Is that not the case?

**Mr WESTERN:** Are you talking about the alternative dispute resolution process?

**CHAIR:** Yes.

**Mr WESTERN:** I think it would depend on how it was set up. The Queensland situation is modelled differently from what we are proposing here, it is more for the higher end market whereas we are proposing it for those of a lesser value, the lower end of the market, to have adequate access to a reasoned process for reviewing the objection decision. There would certainly be costs associated with it, I do not think there is any question about that.

**CHAIR:** Do we not want to make it easier for people to object, not harder?

**Mr WESTERN:** I agree that we want to ensure that people have an adequate opportunity to object and that they have adequate information or explanation provided to them as to how their valuation has been arrived at.

**CHAIR:** It will still take time. People may still need to get legal advice before they enter that tribunal stage. It will still make the barriers to entry into the objection process and getting a fair valuation more difficult.

**Mr WESTERN:** But this is after the decision has been made. It is the review process once the determination has been made and the objection has either been allowed or disallowed. If the landowner then still feels unhappy about that process their current avenue is they can proceed to the Land and Environment Court. What we are looking at is the potential to have some intermediary process on a far less formal basis where they could come before an independent appointed valuer and both sides present their cases and the landowner can be fairly heard. At that stage they may or may not decide to have some expert advice with them. In our view there would be no need for them to have that advice if they did not want to have it. It would provide them with an opportunity to have their case heard by an independent party before considering going to the Land and Environment Court.

**CHAIR:** Let us stay on this issue of removing independence in the objection process. I want to read some quotes. One is from the Inspector-General of Taxation with regard to the Australian Tax Office. The other is from a submission that the Committee has received from a stakeholder who has been through the objection process. With regard to the Inspector-General of Taxation, he considers that separating the objections and litigation functions from the investigative arm of the Australian Tax Office will assist in enhancing both the actual and perceived independence of review of original Australian Tax Office decisions. A submission that we received from a stakeholder that went through the objection process stated:

Where a contract valuer is engaged to consider the objection, that valuer does not carry out the valuation afresh and appears to start with a predetermined outcome of upholding the Valuer-General's valuation.

In that case, do you think that this person is worried about the level of objectivity as it stands already? Do you think it is appropriate to undermine that further?

**Mr WESTERN:** From my point of view it is important that the objection process is seen as being fair and transparent. The objection contractor in terms of undertaking the objection review is required to examine the market evidence in respect of the valuation that is being made and determine from that whether or not it is appropriate. From that point of view, the original valuation is the starting point, but it has to be aligned—and that is the important point—with the market evidence.

**CHAIR:** Is not the whole issue about getting the objection system working better, not undermining it further, not creating new tribunals. We want to make it easier for people to object. That is the lowest barrier of entry. I am not convinced that by getting the same body to do the rating and taxing work, to assess the objection, which they have already done, is going to improve the perceived independence of the objection process, an objection process that you say is excellent.

**Mr WESTERN:** It is certainly a good objection process. What I have said is that I believe there are more efficiencies that can be brought to the system without undermining it. I think that is the key. That is the recommendation obviously that we have put forward.

**CHAIR:** Are you able to quantify those efficiencies before this Committee?

**Mr WESTERN:** Not today, no.

**Mr CLAYTON BARR:** Valuer-General, am I right in recollecting that if we go back to when this Committee was set up, one of the performance targets for you was about how quickly the objection process is



delivered within the 60-day time frame and that you operate that at 97 per cent or thereabouts. I certainly mean no offence in this, sir, but do you not have a vested interest in this process being quick and easy as opposed to fantastic and fair for people?

**Mr WESTERN:** I would refute that. My role is to ensure that the decisions that are delivered out of the valuation system are fair and transparent. I personally have no vested interest in speeding up the process for the sake of speeding up the process. We have only made those enhancements in respect of the amount of time that it has taken to undertake objections, and there have been substantial improvements there. That has only come through improved processes. At no stage have I endorsed the application of particular processes if I have not been certain in my own mind that they can still provide outcomes that appear transparent and that people can continue to have confidence in the system.

**Mr CLAYTON BARR:** Indeed, in respect of the improvements, there are a couple of graphs and tables in here, certainly figure 4 and figure 6, that both show significant improvements on those grounds. I draw your attention specifically to figure 6 on page 38. In the year 2004 something happened and we started heading in a really terrific direction by way of the land values amended based on objections and appeals. What happened between 2003 and 2004 when it went upwards and then what happened after that?

**Mr KNIGHT:** There was a change of the land tax regime to do with GST funding and State governments. Subsequently it was argued that—

**Mr CLAYTON BARR:** The GST was introduced in 2000, was it not?

**Mr KNIGHT:** No, it was to do with the share of GST funding to the States. What happened there was that there was a change of the land tax regime to cast a wider net, and basically what they did was reduced or dropped the threshold on property values.

**CHAIR:** For the primary place of abode.

**Mr KNIGHT:** If you did not live in the property you were subject to land tax, and it picked up a significant number of mums and dads investors—particularly holiday homes around the south coast of New South Wales—and the like that were brought into the net, and that caused a reaction which related to objections.

**Mr GILKES:** If I could add to that, there was also a point that the market had been quite strong for a period leading up to that, which tends to generate objection activity, anyway. There was also the premium land tax, which was levied on principle places of residence with a land value of over \$1 million. That was removed in 2004 or 2005.

**Mr CLAYTON BARR:** I will stick with you, Mr Knight. You quoted some figures earlier that when the 900,000 valuations go out, you get 30,000 calls and end up with 7,000 objections. At the point that you get 30,000 calls, what type of information is shared with the caller who is clearly concerned about the objection at that point?

**Mr KNIGHT:** The call is taken and we have a contracted call centre to deal with the volume. They have frequently asked questions that they can deal with as a first-cut response.

**Mr CLAYTON BARR:** Those answers would be generic as opposed to Local Government Association specific?

**Mr KNIGHT:** Yes, that is correct. That is the first cut. If that call cannot be resolved, it is forwarded to our Bathurst call centre where we have a group of people who will look at it and see if they either can deal with the question as a second-tier inquiry, or they will transfer that to a third tier with a turnaround of three to five days to a qualified valuer within Land and Property Information who will ring or is required to ring the owner and address the questions raised.

**Mr CLAYTON BARR:** This all happens by phone call prior to the 7,000 objections? This is all about trying to get the number down?

**Mr KNIGHT:** Yes, that is correct. That information source does not stop at that process of contact through a phone. At the first tier at the call centre, the owner may request an objection kit. That objection kit is a

pre-populated objection form, plus the information booklet that takes the caller through the process of how to object, and also sales information is provided. That is packaged in hard form and sent from Bathurst.

**Mr WESTERN:** One of the great things from my point of view about the call centre when it was introduced is that what was happening previously was that the majority of those calls would have been picked up by way of a valuer, who is effectively sitting at a desk. They are not necessarily skilled in that particular area—

**Mr CLAYTON BARR:** Like people skills?

**Mr WESTERN:** No, not people skills. What it actually means is that of those 30,000 calls that come through—and Paul correct me if I am wrong—86 per cent are resolved at that stage in terms of the owner's concerns. So there is a limited number that need to go on to the next tier to be handled by a concern in respect of the valuer, and some of those will not resolve in objections. That is why you are seeing some of the reduction that you have seen since then.

**Mr CLAYTON BARR:** With 30,000 calls and 7,000 objections, you are talking about 86 per cent of that 23,000 gap?

**Mr WESTERN:** Of the 30,000 calls that come in there, on average 86 per cent are resolved at that stage, without the need—

**Mr CLAYTON BARR:** It could not be, because 23 per cent go through to object.

**Mr WESTERN:** Yes. But what I am saying is that that is the percentage of that number.

**Mr GILKES:** Not necessarily all of those objectors have spoken to the call centre, it would be worth noting.

**Mrs LESLIE WILLIAMS:** I see.

**Mr GILKES:** Some lodge objections online, or they can find information in other ways.

**Mr KNIGHT:** Or they take the material, as I have said, posted to them—that is, the sales information, together with the booklet—and they may not object. The process of call and material may have resolved their inquiry.

**Mr CLAYTON BARR:** Valuer-General, you said that a priority for you was that the process was seen to be fair and transparent. How do you measure whether or not people see it as fair and transparent?

**Mr WESTERN:** I guess one of the key measures for me would be monitoring the number, for example, of ministerials that come in, the amount of correspondence that comes across my desk—remembering that there is the ability for individuals, which we freely advertise, who have got concerns to contact me directly at the Office of the Valuer-General. What we have seen over the past six to eight years is a substantive fall-off in the number of complaints that we have actually had, and an increase in the number of positive comments that have come through. That is one aspect.

**Mr CLAYTON BARR:** That is good.

**Mr WESTERN:** In another area we have undertaken a number of customer surveys, looking at people who have contacted the call centre or gone through the objection process and finding out what their rating is in terms of the service that they received, recognising that you need to try to divorce from that that some people might be unhappy with the decision but are happy with the process they had gone through and with the information that had been provided. So there are a number of ways, and those are probably the key ways I would cover in terms of looking at transparency and people's confidence in a decision. The other side of it would be the number of objections that you would actually receive; but I do not use that as a major measure, simply as an indicator.

**Mr CLAYTON BARR:** Can I put to you—again at the risk of being offensive, because I am probably already in that territory, and I apologise for that—but there are a couple of people round this table right now,

and certainly people have made it clear to us, who think that the idea of going back to the same referee who made the ruling in order to appeal the ruling is not necessarily seen as being particularly fair and transparent. I take on board all that you people have said about this: the skill set, the knowledge they have worked up, why they got there, why it makes sense, the effectiveness, the efficiency of doing that. I take that on board, and I see that from a very holistic perspective. But if I am sitting in the boat and I want to go back to the referee and say, "I am not happy with that," I do not know that that could be deemed fair and transparent.

**CHAIR:** I want to continue on with this point. Valuer-General, with regard to objections that are lodged, you have a key performance indicator that says how quickly you have to deal with those objections, is that correct?

**Mr WESTERN:** There are key performance indicators within the service level agreement.

**CHAIR:** What is the key performance indicator in dealing with objections? Do objections have to be dealt with within a certain timeframe?

**Mr WESTERN:** I would prefer to take that question on notice, because I cannot say definitively what the key performance indicator is; but it is around the number of days to resolve percentages of objections.

**CHAIR:** So if I put in an objection, do you have to deal with that within 60 days, for example?

**Mr WESTERN:** Within the Valuation of Land Act there is provision that a person who has lodged an objection, and it has not been resolved within 90 days, has the ability to be able to go directly to the Land and Environment Court.

**CHAIR:** Is it a key performance indicator that you try to clear all objections within 90 days, or is it a key performance indicator to deal with objections?

**Mr GILKES:** It is a key performance indicator re dealing with objections.

**CHAIR:** Can you tell me what the key performance indicator of Land and Property Information is in terms of dealing with objections?

**Mr GILKES:** As Mr Western said, it works at a number of levels. There is one around the percentage of objections dealt with within 90 days. Naturally enough, the ideal would be that all are. But that is simply not—

**CHAIR:** What percentage of objections is dealt with within 90 days?

**Mr GILKES:** I am sorry, I cannot tell you the number off the top of my head. It is somewhere between 80 and 90 per cent.

**Mr CLAYTON BARR:** I think it is incredibly high.

**Mr GILKES:** Around 90.

**CHAIR:** So it is very high?

**Mr GILKES:** Yes, it is very high.

**CHAIR:** So it is quite an efficient system in dealing with objections, is what you are telling me, is that correct?

**Mr GILKES:** We spend significant effort to try to get them done within that time; that's absolutely true.

**CHAIR:** But we are dealing with the majority of objections at the moment; it is not as if we cannot deal with the bulk of objections?

**Mr WESTERN:** The vast majority is based on the numbers that are received today and dealt with within the 90-day period.

**Mr GILKES:** There is then—

**CHAIR:** So the objection process is quite efficient, is what you are telling me?

**Mr GILKES:** In terms of timeliness, yes.

**CHAIR:** Yes.

**Mr GILKES:** I am not sure it is necessarily that efficient in terms of cost.

**The Hon. ADAM SEARLE:** But it is handled expeditiously?

**Mr GILKES:** It is handled expeditiously, that is correct.

**CHAIR:** So we have a system that appears to be both efficient in terms of time, and that appears to be objective and impartial or have those principles built into it, but we want to change it. I am still unconvinced as to why when it appears to be working. Your testimony is that it is efficient, and that it is working, and the perception is that there is objectivity and impartiality.

**Mr GILKES:** If I might, Chair: my testimony was actually that it was efficient in terms of timeliness, not necessarily in terms of cost.

**The Hon. ADAM SEARLE:** But cutting to the chase: Without us understanding what time you would save by changing the system, or what money or resources you might save, frankly I would be wholly unconvinced of the need for change absent some kind of empirical data about the tangible benefits that could be brought to the system from such a change. It seems to me that it would be potentially a step backwards in terms of transparency and fairness, if I could put it in that sharpish way to you.

**CHAIR:** It is unclear to me why a recommendation would be made without providing evidence to support the recommendation in terms of the efficiencies or cost savings that would be made available by change.

**Mr WESTERN:** Part of the reason for that, Chair, was the amount of time we had to prepare that. We have obviously tried to provide as much detail as we could in the time available. I appreciate it would have been far better if we had had the data there.

**Mr GILKES:** Can I suggest, Chair, that we take on notice to provide you with that kind of analysis?

**CHAIR:** Yes, that is fine. But I certainly will not be making any recommendations along the lines of the proposal in its current form. I would feel uncomfortable doing that. The Committee will consider what you have put forward in the report.

**The Hon. ADAM SEARLE:** I am happy to see anything you want to put to us.

**CHAIR:** Absolutely.

**The Hon. ADAM SEARLE:** With an open mind.

**CHAIR:** I want to finish off on the objection process before we break for lunch. Currently landowners are not able to object on the grounds of their neighbours' valuations. So if a landowner's valuation has changed significantly, or if their valuations are different from their neighbours', they are not actually able to use that as a basis of objection. Is that correct?

**Mr GILKES:** That is not one of the grounds of objection that are in the Act.

**CHAIR:** Do you think people should be able to object if their value increases by 100 per cent or 50 per cent more than their neighbours', if they have got the same property type?

**Mr GILKES:** It does raise the question of which valuation is correct, or whether indeed they are both correct. The automatic assumption is, "Mine is the one that is wrong because it is the one that has gone up." It might actually be that the neighbour's is too low.

**CHAIR:** My question is: Do you think you should be able to object if there is a significant difference between the values of yours and your neighbours' properties?

**Mr GILKES:** The consideration still has to come back to: Is the value correct? The consideration is not: Is the amount of change since the previous valuation consistent—

**CHAIR:** That is an appropriate consideration. But do you think you should be able to use your next-door neighbour's property as the basis of putting in an objection?

**Mr GILKES:** How can I say this?

**CHAIR:** Well, a yes or a no would be sufficient.

**Mr GILKES:** Okay. Well, yes, I think that it is a consideration to look at.

**CHAIR:** Valuer-General, do you have a view on this?

**Mr WESTERN:** My view is that the important thing in consideration of whether a land value is correct or not is for that individual to be able to demonstrate to us an actual fact, or have evidence that there is something wrong with their particular valuation. Therefore my whole argument around this is that it should relate back to the sales evidence. I would expect—and I think it was Mr Parker, who said this before—that where these particular matters are raised, where people are talking about a particular relativity or something, that that is not a ground for objection.

My expectation would be that where these matters are raised they are looked at by Land and Property Information and consideration given to whether the surrounding values are correct. If there is an issue there, then there is a re-ascertainment process which can be undertaken to correct those. I have reiterated since I became Valuer-General that if there is an error there, or if there is a problem there, I want it fixed today; I do not want it to wait. That is important for transparency, and it is obviously important from a rating and taxing point of view that there is consistency and that the application of sales evidence to land values is done correctly.

**CHAIR:** If there is 100 per cent change to your value last year do you think it would be appropriate to consider a review?

**Mr WESTERN:** Are you saying that a value last year was \$100,000—

**CHAIR:** Let us say there is a 100 per cent change in your valuation year-on-year—

**Mr WESTERN:** Is this for one property?

**CHAIR:** Yes. Do you think that should trigger review?

**Mr WESTERN:** My understanding is that—I will leave it to the other witnesses in terms of the detail—there are tools within the quality analysis process used by LPI that would indicate to the valuer who is undertaking the audit of the valuations when they come in, that would trigger circumstances where these particular circumstances had occurred and further inquiry would be made of the valuation contractor as to the circumstances behind that. As you will appreciate, there could be numerous reasons as to why that change in value might have occurred and they would be seeking to find a reasoned response from the contractor to justify why that change might have occurred.

**CHAIR:** But it does not necessarily give you a right to an objection. So a large amount of volatility from year-on-year does not automatically give you a right to object.

**Mr WESTERN:** No because, as you will appreciate, the market can change dramatically in a particular period of time for a number of reasons. I make the analogy of situations, for example, in regional areas where new mining operations might have opened in between intervening valuations, that can have a huge

impact in terms of the base circle of value changing within a particular town as a result of new infrastructure, new accommodation and a whole lot of activity happening. You would need to look at the individual circumstances but once again it needs to be related back to the market evidence and the land value being able to be justified on the basis of reflecting that market evidence.

**CHAIR:** Would that not undermine the people's confidence in the valuation, given that if there is large volatility the valuer involved in the original valuation is then the person doing the objection?

**Mr WESTERN:** You are referring to objections now as opposed to the original—

**CHAIR:** I am saying with regard to volatility. You cannot use the basis of a huge swing in your evaluation or indeed a comparison with your next door neighbour's evaluation as the basis to object, but if you did under your proposed model it would be the same valuer doing both?

**Mr WESTERN:** That is what we were looking at. Obviously once again it needs to run through a quality assurance process, which can give us some satisfaction that the level of value that has been ascribed is correct. I think the other area that we can improve on is providing more information to the community at the time of providing the valuations. You are aware that we currently put out media releases for each of the new areas in which valuations are released. There is probably some more work we could do around that in terms of better informing the community of the value changes—in particular I refer here to the mid-western situation.

There were a number of spikes that occurred in that market for various reasons. We could have better informed the community of those spikes, which I think would have assisted in terms of giving them a greater degree of understanding—not necessarily satisfaction because obviously if values increase it can impact upon people's rates and taxes—of what the market is actually doing. That is partly what we have tried to do through the Valuer General's newsletter, which we put out on a twice-yearly basis. The difficulty with that, of course, is that it is at a more generic level rather than LGA-specific. I think there are some areas we could probably look at and, as I said, better inform the community about.

#### **(Luncheon adjournment)**

**CHAIR:** I would like to continue on from where we left off before lunch and that was around the objection process. I want to focus on a particular area of the objection process and that is around the issue of procedural fairness. I want to discuss further some issues that we raised last time. Currently, a landowner only gets one opportunity to make submissions in an objection valuation or for a compulsory acquisition valuation and that is when they lodge their objection. Is that correct?

**Mr WESTERN:** They have the one opportunity initially, for example, if a rating and taxing valuation was issued they would have the opportunity to object to that. If that same value was issued for land tax purposes they would have the opportunity to object to that. If they had already objected to the rating and taxing valuation and that was dealt with and they objected again to a land tax assessment which was issued at some later date to the same value but they did not raise any matters that had not already been considered in the original valuation, then they would not have the opportunity to have that second objection.

**CHAIR:** When they are lodging an objection a disaffected landowner only gets one opportunity to have their say. So they make an objection, once the decision is made on that objection do they have the opportunity to see or respond to information which was used to determine the objection or uphold the objection?

**Mr KNIGHT:** They have a right of response after that objection report has gone back to them. They are able to literally approach LPI valuers and staff and make a point as to their concerns around the approach that the sales used or any other content of that report. We take that and we go back to the original objection contractor and raise those concerns with them and have a response, which we forward. It could lead to a rethink of the conclusions in the first instance.

**CHAIR:** Can I just play out the scenario? I put in my objection, the objection is assessed, sustained or revoked. I can then go back and challenge the objection if I want to?

**Mr KNIGHT:** Challenge the content of the report and subsequently the outcome.

**CHAIR:** Is that part of a formal process?

**Mr KNIGHT:** No, it is an informal process. It is a procedure within LPI.

**CHAIR:** How would you know about that process if you are a landowner who objects to their valuation?

**Mr KNIGHT:** The covering letter—I would have to check that—states that the decision has been made and directs them to the next step to the court, but it also has contact details back to LPI.

**CHAIR:** So it directs them to the court and has contacts back to LPI but it does not say that should you disagree with the valuation—

**Mr WESTERN:** It does not say specifically.

**Mr KNIGHT:** No, it does not say specifically.

**CHAIR:** For the purposes of compulsory acquisition, if you object to your compulsory acquisition and that objection is not upheld do you have the opportunity to respond?

**Mr GILKES:** No. It is a quite separate process to a compulsory acquisition. The Valuer-General's role in a compulsory acquisition is where the parties have not reached agreement and acquisition is gazetted to determine compensation, and that is the end of the Valuer-General's role.

**CHAIR:** So there is no opportunity for a landowner who does not agree with the valuation; there is no formal requirement for the Valuer-General to respond to a landowner who is disaffected with their valuation after the objection has been upheld?

**Mr WESTERN:** There is no objection right.

**Mr PARKER:** The legislation has objections against the amount of compensation offered and the parties are required to lodge that with the Land and Environment Court within 90 days.

**CHAIR:** Effectively you would have no opportunity to respond to adverse information that comes to light after you make your submission.

**Mr WESTERN:** I would hope through the processes that LPI has implemented—I think we have talked about this before at a previous hearing—LPI is instructed that it must ensure that when it is undertaking the determination of compensation it allows the opportunity for both the dispossessed owner and the inquiring authority to present information which might assist the Valuer-General in arriving at a determination. I would hope that that process was sufficient and they felt at ease in terms of presenting that information to ensure a fair and just determination was made.

**CHAIR:** So the opportunity is afforded to both the disaffected party and the acquiring authority to make submissions, is that correct?

**Mr PARKER:** Under the legislation, anyone who has an interest in the land that is being acquired must lodge a claim. Often the agency or authority will also supply information, professional reports or whatever they have in relation to the acquisition.

**CHAIR:** Can you talk me through a person's experience in the compulsory acquisition process from start to finish when they lodge an objection to the valuation that you provide or when you are doing the valuation perhaps?

**Mr PARKER:** What happens is no authority can acquire land unless they first provide a proposed notice of acquisition. That is the first step. The agency will identify everyone who has an interest in the land. They will send them the proposed acquisition notice. Then the person will lodge a claim under section 39. This is all done with the authority at this point. Even prior to that, the agency may have entered into negotiations with the owner. They know the land they want to acquire and they can negotiate with them without going through the formal steps. Once they think the process is not going to work or they could even keep negotiating right up until the end. They provide the notice of acquisition, the Valuer-General must be informed of that notice and then the

Valuer-General provides the determination to the valuation but it is the agency that does the acquiring. The agency is dealing with the owner.

**CHAIR:** When the Valuer-General provides the determination, do landowners get the opportunity to submit information as part of that process?

**Mr PARKER:** Yes.

**CHAIR:** Does the acquiring authority get to submit information as part of that process?

**Mr PARKER:** Yes.

**CHAIR:** Is there a process which ensures that landowners can put forward their case to the Valuer-General?

**Mr PARKER:** The Act actually states that anyone who has an interest in the land must lodge a claim.

**CHAIR:** I am thinking of a specific example: If the Valuer-General receives information from a dispossessed entity are they required to also seek information from the acquiring authority?

**Mr PARKER:** The Valuer-General?

**CHAIR:** Yes. In determining the compensation payable?

**Mr PARKER:** We try to gather any information that is relevant to the valuation of the property whether that is material that the agency has or is publicly available, we try and get all the information relevant to the valuation exercise.

**CHAIR:** At that stage if the Valuer-General finds information which is adverse to the landowner is there a chance for the landowner to respond to that information?

**Mr PARKER:** I do not know what you mean by "adverse to the landowner." The information gathering exercise does not look at whether it is adverse or positive, it is about gathering all the material required to come up with an independent valuation of what the compensation should be.

**Mr WESTERN:** An informed decision.

**CHAIR:** If a dispossessed owner was putting forward information which said you could build residential development on a site and the acquiring authority was not able to respond to that information because in their view you could not build residential accommodation on that site, is there a formal process to allow the party affected by that adverse information to respond?

**Mr PARKER:** It is not for the authority to decide what the best use of the property is. It is an independent valuation by the Valuer-General. He would consider all submissions and perhaps get independent professional advice as to whether there was potential for development on a site.

**Mr WESTERN:** That often occurs.

**CHAIR:** Valuer-General, do you feel it is important to provide procedural fairness to land owners?

**Mr WESTERN:** Absolutely.

**CHAIR:** I want to read a quote in a leading court case made by a former Chief Justice:

In the ordinary case where no problem of confidentiality arises an opportunity should be given to deal with adverse information that is credible, relevant and significant to the decision to be made. It is not sufficient for the repository of the power to endeavour to shut information of that kind out of his mind and to reach a decision without reference to it. Information of that kind creates a real risk of prejudice, albeit subconscious, and it is unfair to deny a person whose interests are likely to be affected by the decision an opportunity to deal with that information.



Given Mr Parker's testimony, do you think that people are given an opportunity to respond under the current arrangements in a situation where their land is compulsorily acquired?

**Mr WESTERN:** My expectation is that—

**CHAIR:** Do you think they are currently given the opportunity under the current arrangements?

**Mr WESTERN:** They are certainly given the opportunity through the legislative requirements, as Mr Parker outlined. I do not know the exact procedures within Land and Property Information [LPI] but my expectation would be, as Mr Parker pointed out, that we would be endeavouring to source as much information as possible to make an informed decision in arriving at the determination of compensation. That, to me, would mean that we would be looking to provide the opportunity to the affected landowner and the acquiring authority to present information that they have. It is up to the valuer to make an informed decision as to what weighting they place on any of that information that is provided or to seek further independent advice, for example town planning, to assist them in terms of making that decision.

**CHAIR:** The onus is on the Valuer-General rather than on parties to respond to information?

**Mr WESTERN:** We should be making that process as easy as possible. In my opening comments I spoke of some information we are looking to put out to people who are having land acquired. Part of that information package would be clearly outlining to them what the process is and what the opportunities are in terms of providing information to the valuer who is undertaking the determination on behalf of the Valuer-General.

**The Hon. SCOT MacDONALD:** If I understand where the Chair is going I think he is talking about transparency, discovery and sharing of information. The Committee's job is to make recommendations. Has anything occurred to Land and Property Information or the Valuer-General as to how that process could be improved? Presently the person who is going to have their property resumed has full access to information and the Valuer-General is made aware of all circumstances of the property, will you take on notice how we can improve that exchange of information?

**Mr WESTERN:** I will take that question on notice. I believe there is a number of ways to improve it. I have spoken of the information packages as being one of them: As soon as we get advice that we are required to activate the determination process to send out the information packages. But there are a number of other ways that we could improve that exchange of information. If I could come back to the Committee I would appreciate it.

**The Hon. SCOT MacDONALD:** We are on a journey at looking at some historical issues but the value of these committees is to make recommendations so all stakeholders get something out of it.

**Mr WESTERN:** I agree.

**CHAIR:** I wanted to continue on the point that I was making previously. When a person makes a claim for compensation and it is received by the valuer, the valuer considers all the evidence that comes in from the acquiring authority and the dispossessed land owner. They will consider that evidence but in considering that evidence they may find new evidence such as a contaminated site or new sales. If that evidence leads to a lower valuation than they might otherwise expect will they go back to the landowner for a response?

**Mr WESTERN:** I am a little confused by your use of the term "lower valuation".

**CHAIR:** Let us say they find the site is unstable or contaminated, will they go back and give the landowner an opportunity to respond to that?

**Mr PARKER:** I cannot categorically say if they would or not.

**CHAIR:** Why not?

**Mr PARKER:** There is no valuation to lower at this stage because there is no valuation determined. What the valuer is doing at that point is researching the property to its fullest extent so he can understand the attributes that go into determining that valuation of compensation.

**CHAIR:** In that research he weighs up all the options available to him and if new evidence comes to light that might adversely affect a landowner would the Valuer-General go back to that landowner and say this information has come to light to test the veracity of the claim or is the Valuer-General the sole arbiter?

**Mr PARKER:** It is a determination under the legislation. Sole arbiter is probably a correct interpretation. That does not mean he is not open to receive opinions and advice from other people and certainly the claim process allows the owner to put everything forward that they can. There are a lot of situations where the owner will make fairly solid claims for the level of compensation. The situation where the valuer would determine much less than the owner's possible conclusions would occur probably quite regularly.

**CHAIR:** Given that as the Valuer-General you talked about the importance of providing landowners with procedural fairness, how do you meet that requirement if a determination is made, the Valuer-General is the sole arbiter and you do not give the disaffected landowners the opportunity to respond to claims that adversely affect them?

**Mr WESTERN:** I think it is important here that the valuer undertaking the determination is not just reflecting on the information which has been provided by the various parties. He or she is also making their own independent inquiries as to the market, as to the circumstances which are affecting that property and, as I said before, they may well take further advice, whether legal or town planning, in respect of the property. They will be talking to council to ensure that in arriving at the determination—

**CHAIR:** Yes, but the Chief Justice, in the quote that I read before, said that people should have the right to respond to information that would adversely affect them.

**Mr WESTERN:** For me, it would be a question of where does that actually stop? I guess you could argue the other way that, if there is a situation where information has come to hand which is impacting upon the value level or the expectations of the landowner, equally that opportunity should be provided to the acquiring authority as well. Indeed, that is part of the initial process to make sure we collect all the information.

One of the things for me—and I have just taken a question on notice while you were out of the room—is to look at how we might be able to improve procedural fairness and transparency in the determination process to assist both parties but particularly the landowner, who would generally have far less knowledge of how that process works and what their rights are, to ensure we enhance the whole process.

**CHAIR:** Do you think there needs to be reform to fix this to afford landowners procedural fairness?

**Mr WESTERN:** As I said before, we clearly need to be more proactive, in terms of notifying what the requirements of the Valuer General are under the Land Acquisition (Just Terms Compensation) Act 1991. We also need to afford the opportunity to provide information if they wish to. We could also inform them—not just through various information pamphlets or information channels—through formal letters once we were required to undertake the determination itself.

**CHAIR:** That is right but is the action you provided, given that compulsory acquisitions are such a coercive power—don't you think that is important, that it should be provided?

**Mr WESTERN:** It is important to me that the valuers have available to them all the information that they need to make an informed decision. It is also important that the various parties involved are also afforded that opportunity, in terms of providing information.

**CHAIR:** To respond to information?

**Mr WESTERN:** In the end, it is a question of it being provided independently and how long is a piece of string? How long do you keep going back to the landowner, or whoever, to seek more information or to tell them that you are making a determination and the basis upon which you have made it? One could argue that that process is currently afforded through the next step which is the Land and Environment Court. As I said, I fundamentally agree that they need to have the opportunity to be able to provide information and knowledge they have at hand.

**The Hon. ADAM SEARLE:** More fundamentally, is it not the case that this is just a basic point of fairness in all administrative decision-making, that the person affected should have the right to comment on all the information relied upon by the decision-maker? That should be the test, shouldn't it? It is not a question of an open-ended, never-ending process, before the decision-maker makes the decision, as long as the affected landowner has had the opportunity of seeing and commenting on the information that is going to be the input to the decision and therefore, has had a fair hearing and the right to be heard.

**Mr WESTERN:** Can I ask a question back? Where do you see that process, if that happens? If the valuer makes a decision based on the information he has got and the further correspondence they have had and the landowner or the acquiring authority is not happy with that, do you see the next step as the Land and Environment Court or is there another process whereby debate would continue? I am trying to get a feel for it.

**The Hon. ADAM SEARLE:** My imperfect understanding is that, once your office gets the valuation, you then make a decision, presumably based on the valuation.

**CHAIR:** On the evidence.

**The Hon. ADAM SEARLE:** On the evidence. If both parties say, "Okay, we have nothing further to add", then obviously the way is clear for you to make a decision. But if one or other of the parties wants to put something further, the other party needs to be put on notice. Don't they need to have that right before you make a final decision? Do they or don't they? I don't know. Tell me how it works now.

**Mr PARKER:** Certainly, in the case of the current legislation the Valuer-General is providing a determination in similar fashion to a judicial determination, based on his knowledge of the site. So it has not been administered in the way that you are suggesting where, although the claimant obviously has every opportunity to provide all the material, there is no negotiation or mediation. That is not to say that the valuer cannot talk to the owner and I would expect that the valuers would be talking to the owner and discussing with them their views on different things. But I cannot tell the Committee that that is what happens every time. Certainly, in my own experience, I generally spoke to the owner when doing a compensation matter.

**CHAIR:** Offering procedural fairness to people when people are making administrative decisions is a right and there is no option the respondent will get under the current situation. So, for example, in a case that we have recently seen, a geotechnical report which had an adverse impact on an acquiring authority, that acquiring authority had no opportunity to respond to that geotechnical report, one just made a determination. I want to come back to my point that offering procedural fairness in this process is a right.

**The Hon. ADAM SEARLE:** That should be afforded.

**CHAIR:** That should be afforded, yes.

**The Hon. ADAM SEARLE:** There is a difference, is there not, between the valuation and the determination, even if the valuation is the basis of the decision.

**Mr PARKER:** The determination just includes all the other heads of consideration, whereas the valuation is generally related to the market value.

**CHAIR:** Just to end this area, I want to understand, when talking about the compulsory acquisition process, I want to ask you what information is provided to people whose land is compulsorily acquired?

**Mr PARKER:** It is the agency that acquires the land, so that authority will seek approval from the Governor and have the acquisition gazetted in the Government Gazette. The owner will receive the pre-acquisition notice, which details a number of things about the property and the interest in that land. Each agency, I am sure, would have different policies about the sort of material and process they go through and I am not privy to what those policies are.

**CHAIR:** Does the Valuer-General have to provide any information to landowners when doing compulsory acquisition?

**Mr PARKER:** The Land Acquisition Act requires the Valuer-General to provide the determination. That is what he is required to do.

**CHAIR:** If there are no other questions relating to procedural fairness, I will move on. The Committee has recently been on a series of site visits, one of which was to Broken Hill, which has been topical recently. I want to turn to a couple of issues that we identified at Broken Hill. I would appreciate it if you could give the Committee a chronology of the Perilya issue.

**Mr WESTERN:** I am aware that this matter is currently before the court. I would have some concerns about discussing that before this Committee, certainly in a public forum.

**CHAIR:** I do not want to know anything that is in the realm of the court. I just want to understand the chronology of the issue itself, a blow-by-blow description of what happened over a period of time.

**Mr KNIGHT:** Firstly, your question is related to the Perilya property which is the main mine, North mine, Potosi mine in the centre of Broken Hill.

**CHAIR:** That is correct.

**Mr KNIGHT:** We could start at the making of the annual valuation, the 2007 valuation. As you would appreciate, we make a valuation every year. The 2007 valuation was the one that was challenged before the Land and Environment Court. The rating and taxing contractor, as required and as discussed today, has made a valuation of that property of some 2,000 hectares, with knowledge of the mineral in the ground, which is silver, lead and zinc. The history of the mine: It has not been operational and then, in more recent times, had become operational again. It is a very old mine so clearly it has been valued annually, taking into account the mineral as required under section 14F of the Valuation of Land Act.

Progressing through that, that valuation of 2007 would have been issued and used by council the subsequent rating year, which would be 1 July 2008 onwards, and then that was subsequently used for 2009 and onwards by council for a rating base. There was a minor change of boundary to the property, in 2009-10, which caused what we call a supplementary valuation to be reissued and that was done because of that boundary change and that would have been done by the rating and taxing valuer, which was issued early 2010 and relied on by council again for its rating base.

There was an objection lodged to that value and may I keep reiterating the value that was challenged then was the 2007 year. The objection was lodged in the later part of 2010 I think to our officers in Bathurst where they process the State's objections and from that the normal process proceeds to appoint a contract valuer to look at the objection and go through the objection process so the objection report would be undertaken. The decision was to disallow the objection. It would have been returned to the agents for the owner or the owners and then they subsequently proceeded to the Land and Environment Court.

**CHAIR:** When was that?

**Mr KNIGHT:** The hearing would have been commenced in a normal manner in 2011. Again I can take it on notice if you need the actual dates; they are all logged. I cannot be specific.

**CHAIR:** When were you made aware of the court case?

**Mr KNIGHT:** Once the matter is registered before the court an electronic process proceeds and we are notified in the normal manner and that matter then involves the Crown Solicitor's Office being asked to attend to the matter on behalf of the Valuer-General. They take up the matter, go through the normal process of appointing an experienced lawyer to review what has gone before in all the valuation process and then the court and the Crown Solicitor work through the normal section 34 conferencing, hearing dates and the like which led up to the hearing of Justice Lloyd.

**CHAIR:** So Perilya submitted to the court that they would challenge the valuation. Do you know when that was? When were you notified that Perilya was taking legal action?

**Mr WESTERN:** We might have to take that question on notice.

**Mr KNIGHT:** It did not stand out as anything extraordinary as to the normal process.

**CHAIR:** When did the court pass down its decision?

**Mr KNIGHT:** The court passed down its decision in the later part of last year.

**CHAIR:** Okay, 2012, so there was a period of a year and a half?

**Mr KNIGHT:** Again, that is why I wish to take that on notice.

**Mr WESTERN:** We will take that on notice.

**CHAIR:** That would be great. We met with the council up there and they submitted to the Committee that they were not informed of the issue by your office, is that correct, Valuer-General?

**Mr WESTERN:** When you say "were not informed of the issue" you mean in regard to the objection?

**CHAIR:** The decision of the court?

**Mr KNIGHT:** The normal process for local government authorities is that at least a fortnightly supplementary list is furnished to them with all the changes that go on in any local government area and as part of that advice there is notification of court activity.

**CHAIR:** Do you know when they were informed that Perilya was taking legal action against your valuation?

**Mr KNIGHT:** Again, I cannot answer that. It would be a normal process of advising through this supplementary process at the time.

**CHAIR:** Was council informed of the decision of the court by your office, Valuer-General?

**Mr KNIGHT:** I can answer that. Yes, I personally made that call.

**Mr WESTERN:** Chair, if I might just reiterate here, Mr Knight has pointed out that up until now the process has been that the notification of any objection to the court matters have occurred through the provision of the supplementary information. What we have instigated now, we have asked the LPI to instigate now, is a more formal process in relationship to that to make sure that particularly where there is likely to be or are more controversial type objections which could impact fundamentally on revenue streams, they are to be formally advised by letter. Mr Gilkes might want to add to that.

**Mr GILKES:** Only to say that in terms of court matters, it has been implemented in terms of all court matters rather than trying to make some judgement as to whether they are particularly contentious or not.

**CHAIR:** When was that system implemented?

**Mr GILKES:** Only in the last few months. I cannot tell you the exact date.

**CHAIR:** Could you come back to us with that?

**Mr WESTERN:** Yes, we can take that on notice.

**CHAIR:** I am not too interested in what the court is considering but I am interested in whether you can explain to the Committee the discrepancy between the original valuation and the Land and Environment Court decision?

**Mr WESTERN:** I think that might go to the matter as it sits before the court because that is part of the primary issue that is being discussed.

**CHAIR:** One valuation was \$20.9 million and the other was \$4.9 million. What were the reasons the court gave in its public judgement as to the difference between the two valuations?

**Mr KNIGHT:** I have read the public judgment and there were numerous points of agreement throughout the case and I can only quote what I have read there. Clearly you are correct; there was a significant change in value based on the judge's approach by looking at the cashflow that arrives from the mine in its operational sense, and the judgment has a cashflow attached to it and in that cashflow there is a clear indication of how the cashflow has been used to calculate the end value, the \$4.9 million, as you state. There are clearly points there in that cash flow relating to tax on income and how that has been used in the calculation— or points of difference, I should say, as to how other inputs into that cashflow have been used and where they have been used.

**CHAIR:** What were the inputs that made a material difference?

**Mr KNIGHT:** From memory, how the environmental bond is used up front as a cost in that calculation rather than amortised throughout the cash flow, and how in particular the main income, that is the royalty stream from mining the minerals, is calculated into the cash flow—

**CHAIR:** The difference between the spot rate and the average rate?

**Mr KNIGHT:** Spot rates and average rates were decided but it is more to do with where that cash flow was brought into the calculation, on the basis that it was delayed until the mine started up, and all I can say at this stage is how that type of cash flow was managed in that spreadsheet.

**CHAIR:** They talked about the land improvements being considered in that cash flow—the improvements that were required to get the mine operational to extract those profits. That was a major point of difference as well, was it not?

**Mr KNIGHT:** There were price differences there, yes. Certainly that was quite an issue in the case. There was that type of thing. I have not read the case for some time and I am not familiar with all those specific items.

**CHAIR:** Can anyone else shed any light on the differences?

**Mr WESTERN:** No. We can take some of those questions on notice if required. We are happy to do that.

**CHAIR:** That would be great.

**The Hon. SCOT MacDONALD:** Mine valuation is obviously pretty complex. I had no knowledge of it prior to going to Broken Hill and later Mudgee. What kept occurring to me is that you had a contract valuer, in Dubbo I think, and he is obviously pretty experienced in valuing houses and maybe commercial properties but in the next breath he was asked to value a very significant piece of business in the mine. How does a valuer do that? Can you be across all the complexities of residential, commercial, mine, high-rise building or whatever it may be? I think that valuer came from Dubbo, from my recollection.

**Mr KNIGHT:** Your question leads me back to where I was. I was asked specifically about the judgement and the cash flow that related to the judgement. Stepping aside from that cash flow and that judgement, the valuer making the initial valuation used guidance from our technical notes and their experience in working in that area with a number of mines of similar nature.

**The Hon. SCOT MacDONALD:** So he goes out there and does the basics?

**Mr KNIGHT:** He goes out there and obtains written information from the mine as to the royalty stream, known reserves of mineral and extraction rates. He also has the ability to contact the Department of Mines and check that information. They rely entirely on the cash flow of the royalty stream, 4 per cent of the mineral, and apply a discount rate. That has been done from guidance notes and their skill and knowledge of that area and that type of mine, and they have applied their value. It is the case we have dealt with and the complexity of the cash flow attached to that case that has caused some of the concern.

**The Hon. SCOT MacDONALD:** So that Dubbo valuer, whoever it was, gets a lot of back-up from your office to plug in all those things and think about the variables, think about the market, challenge his own thinking, if you like, and challenge some of the figures that might have been presented to him. I guess what I am

leading to is that he is not expected to be a full-blown expert on mining. Does your office back him up with everything he needs to work out the wonderful world of mining valuation, which is obviously changing almost on a daily basis with markets and all sorts of things? I am trying to get a sense of competency.

**Mr KNIGHT:** As I said earlier, when we select the contractors for all these areas we rely on their experience. This area has had Broken Hill, Cobar, Orange-Cadia and other mines of that type operating for some time, so there is a skill base in the area. We have Land and Property Information people who have that knowledge as well and we have opened the door to the Department of Mines for their information. The checks and balances are putting the right valuers with local experience together with Land and Property Information people who are skilled in interpreting the Valuation of Land Act section 6 and section 14F, which deal with mines, to try to ensure consistency in approach and what would arguably be correctness of the valuation each year.

**CHAIR:** We covered some of this this morning. I will move on to another site visit, Mid-Western Regional Council. Valuer-General, given that a lot of media attention has been given to that case and you went there and met with stakeholders, can you describe what occurred when you met with the Mid-Western Regional Council?

**Mr WESTERN:** I will defer to Mr Parker who was involved in that.

**Mr PARKER:** We accepted the values as usual in October 2011—we are dealing with 1 July 2011—and we do a general review of the data to see whether there are any anomalies. I guess some red lights were flashing and we went to the contractor and raised those issues with them and were assured that any variations that were outside the norm had basically occurred because of verification and regrading exercises. A normal process for us is to visit the council and advise them what happened in their local government area. I think that was done around February. We met with council and explained what had happened. The contractor met with them as well and explained the verification process and where there had been changes and why perhaps there had been changes in the land values. From what we understood at that point people were assured that the values were correct.

We found out later that council still had some concerns so we decided to do a further review by considering the objections that had started coming in. At that point a number of objections had been received and we looked at the results of those objections to see whether there was anything untoward and what the outcomes of the findings were by those independent valuers. It is sort of a progressive thing. We started to get advice from the media and so forth that groups like the Farmers Association were also concerned and we did a review of the values with the contractor concerned. We still had some concerns about the level of the values that were attributed mainly to broadacre rural properties and the Bylong Valley principally. The Farmers Association asked us to review broadacre properties that had moved by more than 20 per cent. We put a review in place to consider those Broadacre properties and found that a number of properties required reassessment and changed those valuations. One of the major issues that we understand people were concerned about was the use of sales to mining companies and they felt that that was being extrapolated to the other properties.

**The Hon. SCOT MacDONALD:** A distortion?

**Mr PARKER:** Yes. We did assure them that those sales are removed and not considered where they are just principally possibly an adjoining owner paying above average to acquire the site.

**CHAIR:** Properties that were revalued, were they subject to an objection?

**Mr PARKER:** There were a number of properties that already had received objections and we kept receiving any other objections. A letter also went out from council to all the landholders asking them to object, but we reviewed properties irrespective of whether people had objected or not based on the risk we saw for a possible inaccuracy in a particular property class.

**CHAIR:** Did you change their valuations if a property owner did not object?

**Mr PARKER:** I believe we did, yes. Where we found there was an error, as I said, it was irrespective of whether the party objected or not.

**CHAIR:** And where a change was made to the valuation, did the council have to repay rates in those instances?

**Mr PARKER:** Obviously where the objections go through the normal objection process there is reassessment of the rates and so forth. I am not sure about the reascertainments. That is one of the things that we were discussing as to the impact to council of the reascertainments, which are done under a separate section of the Act. Maybe someone might be able to flush that out better.

**CHAIR:** To explain the difference between reascertainments and objection changes?

**Mr PARKER:** Yes, it is just a different section of the Act. Section 35, I think it is, deals with the objections and 14A (2) or (6) deals with the reascertainment process.

**CHAIR:** And are they treated differently?

**Mr PARKER:** For us, we are just determining valuations, so the Valuer-General has the authority to ascertain and reascertain. The difficulty is for local government as to what the implications are for them and that is partly a response to their legislation and partly ours.

**Mr WESTERN:** It is impacted by the Local Government Act where the provision in terms of whether they can claim any lost rates or have to repay in that particular year is through the Local Government Act, not through the Valuation of Land Act.

**CHAIR:** Would it stand to reason that an objection or a reascertainment would have a different impact on that council's rate base?

**Mr PARKER:** Possibly so.

**Mr WESTERN:** I understand that is the case.

**Mr GILKES:** The three sections are each somewhat different. Section 14A (2) is a general power for the Valuer-General to make a new valuation at any time. That valuation is made on the date that it is made. It goes on the register, but it would only have effect for rating and taxing prospectively—that is, the next time the councils levy rates. A valuation made under section 14A (6), which is the one specifically referred to as a reascertainment, brings into action the provisions of section 14DD, I think it is, which refers to the adjustment of rates and taxes based on that valuation. It has effect from the date that the original valuation was made and effectively expunges that original valuation from the register and replaces it as if the other one had not existed.

An objection is quite similar to that in its action; however, there is a difference. I am not sure whether this is a Local Government Act provision of a policy of the Department of Local Government, I am sorry, I am not an expert on that part of it, but there is a difference in the way that is treated in terms of the council being able to rebalance their rate revenue through the notional value process or whatever it is they do annually to reset their rates, which effectively allows them to recover the losses from objections. But I do not believe that applies in the same way with section 14A (6).

**CHAIR:** How do you determine whether you ascertain, reascertain or classify it as an objection, given they have materially different impacts on the council and landowners?

**Mr PARKER:** We cannot make someone object. The council wrote to all property owners asking them to object. Where they objected we applied the objection process; where they did not it was still incumbent on us to rectify the error so we did so through reascertainment.

**CHAIR:** Why would you use reascertainment as opposed to ascertainment?

**The Hon. ADAM SEARLE:** Because it has already been done.

**CHAIR:** So it is a reascertainment because it has already been done?

**Mr PARKER:** Yes.



**CHAIR:** And an ascertainment would be a brand new valuation?

**Mr GILKES:** Could we perhaps take this on notice to give you the finer detail of exactly what form of valuation was issued? It is quite technical.

**CHAIR:** That would be great.

**The Hon. ADAM SEARLE:** If there are technical defects between the processes I think we need to understand them and the principles that would underpin them.

**CHAIR:** Were you requested by the council to either reascertain or object, to choose one method over the other?

**Mr WESTERN:** No. We met with council and talked through with them the best way of moving this whole thing forward in terms of arriving at the correct values and then that went through a specific process in terms of council writing to individual landowners subsequently and effectively affording them the opportunity to object, because there was going to be a change to their values. But we can provide that in more formal detail to you as part of a question on notice if we can.

**CHAIR:** Thank you.

**The Hon. SCOT MacDONALD:** Can I just ask a question about those farms purchased by the mines. I understand that you try to wash that out if you have had farm purchases, and I think the mines told us they are roughly 20-odd per cent above the market value. What I want to try to understand is the people out there were telling us that the impact does not finish there. Someone gets bought out, they have been paid a premium, roughly 20 per cent or something like that, but the issue for a lot of farmers was that lucky family then go elsewhere in the district and quite often pay above the market. It is not related to wool values or land values or cattle values or whatever. Do you think about that? Do you try to respond or allow for that in your valuations? We were told they went elsewhere, quite often did not go very far, they went down the road or to the other side of the shire and bought in but they probably paid a little bit more money, again distorting the market and potentially distorting valuation. Is that just the way the market works?

**Mr PARKER:** Lots of markets are influenced by various factors. A mining operation that brings in lots of people and lots of demand will change the economy in that locality. That is basically what you are seeing there. We are often surprised what people pay for rural properties that do not seem to reflect the income that you can get off a rural property but the market is the market. Our only option is to try to determine it as best we can, excluding those sorts of properties where we know that there—

**The Hon. SCOT MacDONALD:** In the first instance where the mine has purchased it.

**Mr GILKES:** Where there has been a clear premium paid. Perhaps a bit of historical narrative here: I used to work in Mudgee as a valuer many years ago now, in the early 1980s. At that time the Mudgee shire was being subdivided into small hobby farms. There was a similar sort of issue in that people used to argue that people coming from Sydney would pay above the market value and distort the prices.

**The Hon. SCOT MacDONALD:** No relation to agricultural productivity.

**Mr GILKES:** No relation to agricultural activity, but that in fact was the market. There is in many rural and regional markets this disconnect between the productive capacity of the land and what the ruling level of the market value is because there are so many people in the market prepared to pay that level. Does that make sense?

**The Hon. SCOT MacDONALD:** If the mines finish in 20, 30 or 40 years time and there is another readjustment where it comes back to closer agricultural values that will get reflected at the time?

**Mr WESTERN:** Yes.

**The Hon. SCOT MacDONALD:** I think at Mudgee and Broken Hill it was put to us by both councils that they pay an annual fee, I think \$40,000 or \$80,000, whatever it was, but there was no service agreement. I am sorry if you have already touched on this this morning.

**Mr GILKES:** No, we have not.

**The Hon. SCOT MacDONALD:** That struck me as odd. There is an annual payment of whatever it was, and I assume that is the same across the State; every council pays something?

**Mr WESTERN:** Correct.

**The Hon. SCOT MacDONALD:** But there is no service agreement to say, "We will do this for you at this time and you can expect this"?

**Mr GILKES:** In a sense there is a service agreement in that the requirements are detailed in the Valuation of Land Act as to what services the Valuer-General will provide. I take the point you are saying that it is not a service level agreement, as such. Land and Property Information does, however, have a process of establishing a memorandum of understanding with council and, at the current time, somewhere around 130-odd councils have signed up to those memorandums of understanding. At the top level that is a broad agreement to work together. Then underneath that, the next level is a more specific products and services agreement and specifications for particular services.

There is a specification for valuations, which was developed jointly between Land and Property Information and in consultation with the revenue professionals group and other local government stakeholders. About 30 to 40 councils have gone to the second step of taking up the products and services agreement, but mostly that has been around services in respect of spatial information, which Land and Property Information also provides. In respect of the service specification for valuations, currently North Sydney Council is the only one that has taken that up. I suspect that part of the reason is that councils generally have not seen much need to do this because, as I said, the services are basically specified by statute.

**The Hon. SCOT MacDONALD:** From the observation of seeing Broken Hill and Mudgee, you have got a lot of different levels of skill compared with the city of Sydney that has a lot of staff that are very competent and are dealing with you all the time. Other councils might have staff that are changing all the time, they might not be trained or as experienced as others. That might be something on which you can provide a response to the Committee in terms of how they can be improved in respect of a template or something to assist councils. I hear what you say about the memorandum of understanding and I can well believe that would suit some of the better councils, but I do wonder about those councils that are less well resourced.

**Mr GILKES:** I would say that the process of negotiating has been going on for some years and at all levels of local government.

**The Hon. SCOT MacDONALD:** Do you talk to the Local Government and Shire Association?

**Mr GILKES:** Yes, we have close relationships with them and with the Local Government Managers Association. Indeed, we have had a person dedicated to working on these memorandums of understanding for some three or four years who has promoted them through the Local Government Management Association. They have also been promoted through the revenue professionals and at individual councils.

**CHAIR:** I will move on to my next line of inquiry. This will come back to your opening statement about some changes that you have made to the structure in your office. I want to look at the independence of the office of the Valuer-General. I want to confirm a couple of elements of testimony that we have had over the past 12 months that specifically relate to the role of Land and Property Information. Land and Property Information exercise the one-year options to renew contracts. Is that correct?

**Mr WESTERN:** There is a three-year contract term for the rating and taxing contractor and two one-year options available on satisfaction of performance.

**CHAIR:** Land and Property Information exercises that function?

**Mr WESTERN:** Yes.

**Mr GILKES:** The delegation for all of the contracts is with the general manager of Land and Property Information.

**CHAIR:** Land and Property Information is responsible for overseeing the execution of the valuation contracts. Is that still the case?

**Mr GILKES:** That is correct.

**CHAIR:** Land and Property Information is involved in the awarding of tenders?

**Mr GILKES:** Yes.

**CHAIR:** Land and Property Information will, on occasion, change the valuation that the contractor provides?

**Mr GILKES:** On occasions, yes.

**CHAIR:** On occasion, Land and Property Information can also perform a compulsory acquisition or an objection valuation. Is that correct?

**Mr GILKES:** Yes, that is correct. Essentially, the operational activities within the valuation system are carried out by Land and Property Information or carried out by contractors contracted by Land and Property Information.

**CHAIR:** With regard to the Valuer-General's role, you no longer sit on the tender panel?

**Mr WESTERN:** No.

**CHAIR:** Do you make any valuations yourself?

**Mr WESTERN:** I have in prior years, yes, not for the purposes regarding rating and taxing, but specifically in terms of some specific properties where the Valuer-General has been required to value them I have been involved in doing them, yes.

**CHAIR:** Would that be one or two properties per annum?

**Mr WESTERN:** Over a short time I probably undertook—I am guessing—six to eight valuations.

**CHAIR:** Over your term?

**Mr WESTERN:** The whole time I have been there.

**CHAIR:** The majority of the 2.4 million valuations every year is done by Land and Property Information?

**Mr WESTERN:** Yes.

**The Hon. ADAM SEARLE:** He would be a very busy man otherwise.

**CHAIR:** Do you monitor the specific valuation contracts?

**Mr WESTERN:** I do not directly monitor them; that is the role of Land and Property Information. Land and Property Information keeps me informed of what is happening with those specific contracts regarding whether the contracts have been entered into, who they have been entered into with, and they would raise with me—either through a formal briefing note or through our regular weekly liaison meetings—whether there are any particular issues. We have a standing item in regard to procurement and other issues associated with contracting. If there are major issues, I am fully aware of those, recognising that there will be day-to-day operational issues that do not necessarily concern me. That is where there are major issues that have an impact.

**CHAIR:** As you said, Mr Gilkes, the majority of the administrative work in the valuation system is done by Land and Property Information?

**Mr GILKES:** That is correct.

**CHAIR:** Valuer-General, in your submission to the Committee, you said that the structural independence between the rating and taxing authority is important. You said that was because people need to know that their valuations are fair and have integrity.

**Mr WESTERN:** What is happening from a government perspective is that there is some oversight of them, correct.

**CHAIR:** Your role is established so that you are separate from government and you are protected by tenure to preserve that independence?

**Mr WESTERN:** Yes.

**CHAIR:** Valuer-General, I wanted to get your opinion. Do you not think that the independence is undermined by giving Land and Property Information, a government agency, the responsibility for managing the valuation system that does not breach the separation that you have said is necessary to protect the public's confidence in the system?

**Mr WESTERN:** No, I do not believe that it does. First, the Office of the Valuer-General has a statutory position, as you rightly pointed out. The office is separate to the operations of Land and Property Information in respect of valuation services. There is a service level agreement specifically in place that clearly binds Land and Property Information as an independent statutory officer in respect of what requirements I have of them performing their operations and required duties on behalf of all stakeholders, so both landholders and the Government.

My personal view, particularly now we have strengthened that through so that the chief valuer role is now in my office as well to provide—as I said in my opening submission—direct oversight of the quality assurance and audit processes within Land and Property Information. Plus, we are required to provide some further independent analysis of that specifically through audit provisions by independent authorities to look at what Land and Property Information are doing and to ensure that I am satisfied that they are meeting the requirements both of the Valuation of Land Act and my requirements in respect of the service level agreement.

**CHAIR:** Before I go to my final item of business I just wanted to know how much money the Office of the Valuer-General spends in fighting valuations in the Land and Environment Court—defending the position of the Valuer-General in the Land and Environment Court.

**Mr GILKES:** I think you will have received a submission provided within the last few weeks by the Valuer General, which details those costs or the allocation of the costs. I think one of the inclusions in that are details from the Crown Solicitor's office of their expenditure in managing court cases on behalf of the Valuer General and there are also details going back many years of the amount of time and resources directed. I am sorry I cannot tell you the numbers off the top of my head.

**CHAIR:** Are those numbers in that submission?

**Mr GILKES:** Yes, those numbers are in the submission. It will take me a while to find them and read them out to you.

**Mr WESTERN:** I can assure you, Chair, they are definitely there.

**CHAIR:** I might move on to our final item of business, and that is with regard to some valuations that occurred for the purposes of acquiring land for the South West Rail Link corridor. The Leppington valuations, I just wanted to remind you that about 12 months ago you said you would do an investigation into the reasons why there were discrepancies in valuations. You did that investigation and you reported back to the Committee. Just to jog your memory: There are a number of properties on Byron Road and Rickard Road, Leppington; they all received a certain dollar amount and there was one property that received an amount about 30 per cent higher. You said you would investigate why that was.

You came back to the Committee and said, "My understanding is that the one that was substantially higher was located in an area where the main transport hub was to be developed in that 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 component to the other ones, which were outside that transit hub". I just want to focus on that for a second. When you talk about "transit hub" do you mean the railway station?

**Mr WESTERN:** The information I got, I do not know the detail, but they were talking about a transport hub. Whether that was a railway station or a bus I am not certain.

**CHAIR:** What steps were taken as part of the investigation?

**Mr WESTERN:** I requested LPI valuation services to provide me with narrative in relation to why there was a difference in valuation between the bulk of the properties that you raised the issue in regard to and this particular one. They provided that narrative, that the value relativity was more to find out why there was a substantive difference between those properties and value levels.

**CHAIR:** Sorry, could you just repeat that, Valuer-General?

**Mr WESTERN:** I am saying that the investigation was more to see why there was a variation in value levels between the bulk of properties that we discussed at the hearing and this one in particular which was substantively different.

**CHAIR:** When did that investigation report back to you?

**Mr WESTERN:** I cannot remember specifically when that was but I can take that question on notice.

**CHAIR:** That would be great. Who did the investigation?

**Mr WESTERN:** I would have requested the information from John Miller, who was then the manager of compensation valuations.

**CHAIR:** Have you followed up the investigation since then?

**Mr WESTERN:** No, I have not.

**CHAIR:** Were you happy with the investigation that was undertaken at the time?

**Mr WESTERN:** I was happy in regard to the information that I had sought as to why there was a discrepancy between the bulk of the properties and that single property.

**CHAIR:** I would like to take you through a number of the valuations. In front of you are two folders; they relate to valuations that occurred in Leppington in 2008 and in 2010. You have all got the same information and it is marked so it is in the same order. I just want to walk you through a number of valuations, except for the one at the bottom with regard to Rickard Road. Have both files out side by side because one lot is from 2008 and one lot is from 2010. There are a number of things I want you to identify with the properties.

The first valuation we have got here is 210 Byron Road, Leppington, for 2008. Can I just put this in context for you? These valuations relate to the compulsory acquisition of land for the purposes of building the South West Rail Link. In 2008 the Government decided that it would go ahead with the South West Rail Link; a change in the Premier at the time took that off the agenda; and then another change in Premier put it back on the agenda in 2010. So valuations were initially prepared in 2008 for the purposes of compulsory acquisition. Those houses were not compulsorily acquired. Then in 2010 those valuations were reviewed and the houses were subsequently compulsorily acquired. The first property is 210 Byron Road and for both 2010 and 2008—you have those?

**Mr WESTERN:** Yes.

**CHAIR:** I draw your attention to page 20 of 26 for 2008 and for 2010, 26 of 32. I just want you to compare the rate per square metre in the before valuation, \$85.00 and in 2010, \$85.00?

**Mr WESTERN:** Yes.

**CHAIR:** I just want to make sure that we are on the same page with these. I will move you to 242 Byron Road, Leppington, and page 18 of 26 in 2008, and for 2010 I will move you to page 26 of 32. Firstly, we are comparing like with like: 242 Byron Road, Leppington, you agree, 2008 and 2010. On page 18 of 26 for the 2008 version it is \$85.00 per square metre.

**Mr WESTERN:** Correct.

**CHAIR:** On page 26 of 32 for 2010 you have got \$85.00 per square metre.

**Mr WESTERN:** Yes.

**CHAIR:** I will move you to 250 Byron Road, Leppington, and if I could refer you to page 19 of 27; for 2010 I will move you to page 27 of 33. For 2008 you see \$85.00 per square metre?

**Mr WESTERN:** Yes.

**CHAIR:** And in 2010 you see \$85.00 per square metre?

**Mr WESTERN:** Yes.

**CHAIR:** For all those four valuations that we looked at you agree that the values have not changed over the two years?

**Mr WESTERN:** The base rate?

**CHAIR:** Yes.

**Mr WESTERN:** Yes.

**CHAIR:** What I would like to do now is take you through some similarities in the reports between 2008 and 2010. So we are going to read through the reports together; I have highlighted down the side some similarities. I just want to give you the opportunity to confirm that you agree the 2008 report is the same as the 2010 report. Why not start with 210 Byron Road, Leppington? For page 1, 2 of 26 in 2008, and 23 July 2010: can you compare the two?

**Mr WESTERN:** I am sorry, what was the one for 2010?

**CHAIR:** Page 2 of 32 for 2010. Do you agree that is the same?

**Mr WESTERN:** Yes, I do.

**CHAIR:** If we keep flicking through, and go to page 4 in 2008 and 4 in 2010: Is that exactly the same?

**Mr WESTERN:** It appears to be, yes.

**CHAIR:** And the next page, page 5 in both: It appears to be exactly the same?

**Mr WESTERN:** Yes, it does.

**CHAIR:** And page 6 on both.

**Mr WESTERN:** Yes, it does.

**CHAIR:** Page 7 on both, "Town planning"?

**Mr WESTERN:** Yes. I am sorry, Chair, there is a slight difference in regard the explanation of the town planning, at the top, between the two.

**CHAIR:** Yes. But the rest of it?

**Mr WESTERN:** The rest of it is the same. It is the same information, but entered differently.

**CHAIR:** I flick forward to page 17 of 26 in 2008 titled "Effect of railway line"; and it is 23 of 32 in 2010, "Effect of railway line".

**Mr WESTERN:** Yes, it appears to be the same.

**CHAIR:** The next page: 18 of 26, and 24 of 32.

**Mr WESTERN:** Yes.

**CHAIR:** And the next page, 19 of 26 and 25 of 32.

**Mr WESTERN:** Yes.

**CHAIR:** And the next page, 20 of 26 and 26 of 32.

**Mr WESTERN:** Yes.

**CHAIR:** And the final page, 21 of 26 and 27 of 32.

**Mr WESTERN:** Yes.

**CHAIR:** So do you agree with me that these reports are verbatim, the same, for like sections of the reports?

**Mr WESTERN:** That appears to be correct, yes.

**CHAIR:** That was 2010. Can we move to 226, and we will do the same exercise? For 2008, page 2, and for 2010 it is page 2.

**Mr WESTERN:** Yes.

**CHAIR:** It is the same?

**Mr WESTERN:** Yes.

**CHAIR:** And the next page, 3 of 28 and 3 of 32.

**The Hon. SCOT MacDONALD:** They are different.

**Mr WESTERN:** Yes, they are different.

**CHAIR:** "Details of the claim"; yes.

**The Hon. SCOT MacDONALD:** Yes, they are.

**CHAIR:** We will just note the details of the claim there. Location?

**Mr WESTERN:** They appear to be the same.

**CHAIR:** And the next page.

**Mr WESTERN:** They are different.

**CHAIR:** Yes, the description of the land.

**Mr WESTERN:** The land retained is different, the lots are different, and the area is different, as well as before acquisition, the descriptions are different.

**CHAIR:** So it is one square metre out?

**Mr WESTERN:** Yes.

**CHAIR:** Is there anything else different?

**Mr WESTERN:** The lot numbers are different as well.

**The Hon. ADAM SEARLE:** Twenty-five versus 27.

**Mr WESTERN:** One has got 26 and one has got 27.

**The Hon. ADAM SEARLE:** But it is the same DP number.

**CHAIR:** Yes, it is the same DP number?

**Mr WESTERN:** Yes.

**CHAIR:** So it is ostensibly the same?

**Mr WESTERN:** Yes, other than the description.

**CHAIR:** We might break to allow the Committee members to deliberate. It is just a procedural matter. We will go outside. It is just a procedural thing that we need to consider.

**(Short adjournment)**

**CHAIR:** We will now move across to page 7 of 28 for the valuation of 226 Byron Road, Leppington in 2008 and page 7 of 32 in 2010.

**Mr WESTERN:** The typing at the top of that drawing there is the only difference.

**CHAIR:** It is basically the same thing?

**Mrs LESLIE WILLIAMS:** It is just set out differently.

**Mr WESTERN:** Hold on; it is different.

**Mr PARKER:** There is some additional material under development consent.

**The Hon. ADAM SEARLE:** The other parties.

**Mr WESTERN:** The other side, yes.

**CHAIR:** But for page 7 of 28 it is the same.

**Mrs LESLIE WILLIAMS:** It goes over the page.

**CHAIR:** And there is a difference in—

**Mr WESTERN:** There appears to be certainly in 2008 that the key planning issues are noted—

**The Hon. ADAM SEARLE:** They are not noted—

**Mr WESTERN:** —they do not appear to be noted in 2010.

**CHAIR:** Keep flicking through in 2008. We will move to page 16 of 28 in 2008, which is effect of the railway line.

**Mr WESTERN:** Yes.



**CHAIR:** And page 23 of 32 in 2008.

**Mr WESTERN:** You are saying it is page 16 of 28 in 2008?

**CHAIR:** Yes.

**Mr WESTERN:** And 23 of 32, that appears to be fundamentally the same.

**CHAIR:** The next page—page 17 of 28 and 24 of 32.

**Mr WESTERN:** Yes.

**CHAIR:** There are some changes in the bullet points that I point out.

**Mr WESTERN:** Yes, there are some additions in here.

**CHAIR:** And then to page 18 of 28 and page 26 of 32, the determination of calculations.

**Mr WESTERN:** There is a difference in the figures there.

**CHAIR:** Whereabouts?

**Mr WESTERN:** If you come down to the net figure—do you see where it has got the after valuation?

**CHAIR:** Yes.

**Mr WESTERN:** The bottom figure there says \$574,969; in 2010 it is \$574,899.

**CHAIR:** So a difference of \$200 or thereabouts.

**Mr WESTERN:** Yes.

**CHAIR:** We have done 226 Byron Road and 210 Bryon Road. We will now move to 242 Byron Road but before doing that do you agree that large sections of these reports on 226 Bryon Road are verbatim in some sections?

**Mr WESTERN:** They appear to be the same.

**CHAIR:** We will move to 242 Byron Road Leppington. Page 2 of 26 and page 2 of 32.

**Mr WESTERN:** Yes. Obviously there is a date difference in those.

**CHAIR:** But other than the date?

**Mr WESTERN:** They are the same, yes.

**CHAIR:** Page 3 of 26 and 3 of 32?

**Mr WESTERN:** That is slightly different, in terms of the details of the claim are actually mentioned in 2010.

**CHAIR:** But everything else is the same bar the date?

**Mr WESTERN:** It appears to be the same, yes.

**CHAIR:** And location, page 4 of 26 and page 4 of 32 are the same?

**Mr WESTERN:** Yes.

**CHAIR:** Page 5 of 26 and page 5 of 32 are the same?

**Mr WESTERN:** Yes.

**CHAIR:** Page 6 of 26 and page 6 of 32, improvements?

**Mr WESTERN:** They appear to be the same.

**CHAIR:** And plans, page 7 of 26 and page 7 of 32?

**Mr WESTERN:** The heading of the title and the key planning issues as noted earlier.

**CHAIR:** Moving forward again to the after valuation on page 16 of 26.

**Mr WESTERN:** Sorry?

**CHAIR:** Page 16 of 26 for 2008?

**Mr WESTERN:** Sorry, just let me look back here. Going back to page 7 of 26 from 2008 and comparing it with page 7 and page 8 for 2010, there is an addition in here on page 8 in respect of the wording of the paragraph at the top of that page. It is different from what I have got here for the 2008 valuation.

**CHAIR:** In the prohibited section, the preparation of a draft LEP?

**Mr PARKER:** That is one of the other reports.

**CHAIR:** They were both the same so that extra paragraph is the only change there.

**Mr PARKER:** Yes.

**CHAIR:** If we move to the after valuation, I think it was 16 of 26 in 2008 and 23 of 32 in 2010.

**Mr WESTERN:** For 2008, it is page 18 of 26.

**CHAIR:** Sixteen and 23.

**Mr WESTERN:** Sorry, okay. They appear to be the same.

**CHAIR:** And the next page, the basis of determination, 17 and 24.

**Mr WESTERN:** That is set out differently.

**Mrs LESLIE WILLIAMS:** There are some more dot points.

**Mr WESTERN:** There are more dot points in there for the before valuation.

**CHAIR:** Yes. There are some additional dot points in 2010?

**Mr WESTERN:** Yes, correct. I am sorry, Chair. The text is different between the after valuation and the way it is worded as well.

**CHAIR:** So there is a different dot point?

**Mr WESTERN:** And some changes there as well.

**CHAIR:** But largely it is the same?

**Mrs LESLIE WILLIAMS:** The after valuation is quite different.

**The Hon. ADAM SEARLE:** It is quite different.

**Mr WESTERN:** There appear to be a number of differences in this.

**CHAIR:** And 18 of 26 and 26 of 32?

**Mr WESTERN:** That is fine.

**CHAIR:** And the final determination in 19 of 26 and 27 of 32?

**Mr WESTERN:** There are the date differences again.

**CHAIR:** The same?

**Mr WESTERN:** Other than that, they are the same.

**CHAIR:** And the final one is 250 Byron Road. You agree that is 2008 and 2010. Do you have them there, Valuer-General?

**Mr WESTERN:** It is a determination for—

**CHAIR:** Page 2 of 27 in 2008 is the same as two of 33.

**Mr WESTERN:** Yes.

**CHAIR:** So that is the determination summary?

**Mr WESTERN:** Yes.

**CHAIR:** Page 4 of 27 is the same as page four of 33?

**Mr WESTERN:** Yes.

**CHAIR:** And page 5 of 27 is the same as page five of 33?

**Mr WESTERN:** Other than different lot numbers.

**CHAIR:** Yes, but it is the same DP number.

**Mr WESTERN:** Yes. That appears to be the same, yes.

**CHAIR:** Land improvements six of 27 versus six of 33.

**Mr WESTERN:** Yes, that appears to be the same.

**CHAIR:** And page 7 of 27 and seven of 33?

**Mr WESTERN:** Yes.

**CHAIR:** Okay. Town planning, page eight of 27 and eight of 33.

**Mr WESTERN:** Yes, other than the noted title difference again. And once again, the key planning issue is noted on page nine in 2008.

**CHAIR:** Yes. And again for the after valuation on 17 of 27.

**Mr WESTERN:** Chair, there are differences in respect of—

**The Hon. ADAM SEARLE:** Page nine of 33 of 2010?

**Mr WESTERN:** Page 10 of 27 for 2008, the way that is worded there. They have got there "urban growth".

**CHAIR:** Yes, that is fine. The effect of the railway line, 17 of 27 for 2008 and 24 of 33 for 2010.

**Mr WESTERN:** Yes.

**The Hon. ADAM SEARLE:** And the blacked-out bits.

**CHAIR:** I think that was us. And 18 of 27 and 25 of 33 begin the same as the other ones, with some changes in the bullet points.

**Mr WESTERN:** Yes.

**CHAIR:** And 19 of 27 versus 27 of 33, the determination of the calculations for 250 Byron Road.

**Mr WESTERN:** Yes. There are differences in the figures arrived at before valuation.

**CHAIR:** Yes, and that difference is the hectares, one being 1.951—

**Mr WESTERN:** Yes, the difference is that the hectares enhances the final figure.

**CHAIR:** There is a thousand-dollar difference.

**Mr WESTERN:** Yes, and there is a \$2,000 difference at the summary of before and after valuations. Other than that, they are the same.

**CHAIR:** And the determination being \$2,000 is different as well?

**Mr WESTERN:** Correct.

**CHAIR:** Great. Do you agree that those four valuations are largely the same between 2008 and 2012?

**Mr WESTERN:** Certainly, from what we have observed, large components of them are the same, yes.

**CHAIR:** I just want to highlight something else with one of the reports, and that is the 250 Byron Road, Leppington, valuation.

**Mr WESTERN:** Right.

**CHAIR:** Can you compare the valuation on page 2 of 28?

**Mr WESTERN:** I assessed number 250 Byron Road.

**CHAIR:** Yes.

**The Hon. ADAM SEARLE:** Two of 27.

**CHAIR:** Of 2010.

**Mr WESTERN:** This is page 2 of 33?

**CHAIR:** Two of 33 in 2010. The total is \$1.254 million.

**Mr PARKER:** Yes.

**CHAIR:** And on page 28 of 33, the total being \$1.256 million?

**Mr WESTERN:** Was that \$1.254 million? I am sorry: that was \$1.256 million in total, yes.

**CHAIR:** And there is a \$2,000 difference between the front of the report and the back of the report?

**Mr WESTERN:** Right. Yes, there is.

**CHAIR:** Can we now just take the same valuation for 250 Byron Road, Leppington, for 2008?

**Mr WESTERN:** Yes.

**CHAIR:** Two of 27?

**Mr WESTERN:** Yes.

**CHAIR:** The front being \$1.254 million?

**Mr WESTERN:** Correct.

**CHAIR:** And the back being \$1.254 million?

**Mr WESTERN:** When you say the back, what are you referring to?

**CHAIR:** Sorry, it is 20 of 27.

**Mr WESTERN:** Twenty of 27, \$1.254 million, yes.

**CHAIR:** For 2008, the determination on the front matches the determination on the back, but in 2010 the determination on the back, \$1,256 million has been changed for a change in the size of the land, or a rounding difference?

**Mr WESTERN:** Yes.

**CHAIR:** That change in the determination for 2010 has not been carried through onto the front page, the determination being \$1.254 million. Do you agree with that?

**Mr WESTERN:** There is certainly a difference in figures between the front and the back.

**CHAIR:** Okay. The valuation at the front of the report was the same as the 2008 valuation; 2010 for 250 Byron Road, Leppington, is the same as the determination at the front of the report for 2008, \$1.254 million.

**Mr WESTERN:** Yes, that is correct.

**CHAIR:** Well, the valuation at the back for 2010 was different, \$1.256 million.

**Mr WESTERN:** That is what it is saying in the report, yes.

**CHAIR:** What is your response to the proposition that the valuation report in 2010 for 250 Byron Road, Leppington, has inconsistent valuations within the report because large sections of the report have been copied and pasted from the 2008 valuation? Do you think that is a reasonable conclusion?

**Mr WESTERN:** I do not know. I am not trying to be obstructive, Chair, but I did not write the report. I have no idea whether they were cut and pasted. There are certainly large components of the reports which are similar. There is no question about that.

**CHAIR:** But you did an investigation into these issues.

**Mr WESTERN:** I did an investigation in regard to why there was a difference between the value levels on the bulk of the properties where determinations were made, and on the property which had the higher rate per square metre, to ascertain why that difference might have been.

**CHAIR:** Let us go to the Rickard Road valuation which had a higher rate per square metre. One thing we have not done in each of these valuations—I just flick through 210 Byron Road, Leppington, the valuer for that—

**Mr WESTERN:** Sorry, in 2008 or 2010?

**CHAIR:** We will just go through the 2008 valuation first. It has been blacked out. Let us go to the Rickard Road valuation, which is 187 Rickard Road, which is the property that has a valuation 30 per cent higher. It is marked with the yellow section divider. Can I take you to the back of that valuation in 2008?

**Mr WESTERN:** Yes.

**CHAIR:** Being page 17 of 24. Can you read me the rate per metre square that was determined for this valuation?

**Mr WESTERN:** This is the 2008, it is \$85 per square metre.

**CHAIR:** Yes, and for 2010 we go to the front for 187 Rickard Road, Leppington. Can we go to page 23 of 30? Can you read me the rate per square metre there?

**Mr WESTERN:** The rate per square metre there is \$110 per square metre.

**CHAIR:** You agree that the valuation changed from \$85 per square metre in 2008 to \$110 per square metre in 2010?

**Mr WESTERN:** There is certainly a difference in the rate per square metre, yes.

**CHAIR:** These properties are all on the same street. They are all broadly next door to each other. The four properties being 215 Byron Road, Leppington, 242 Byron Road, Leppington, 226 Byron Road and 210 Byron Road, Leppington received \$85 per square metre in 2008 and they received \$85 per square metre in 2010. The only property that did not receive \$85 per square metre in 2010 was 187 Rickard Road. Do you agree with that?

**Mr WESTERN:** There is a difference between these.

**CHAIR:** I now want to show you a gazettal of land released for development. I am not sure that I have that. I do. I refer you to this gazettal by the Department of Planning.

**Mr WESTERN:** Sorry?

**CHAIR:** It is on 23 October 2009 and it is an official notice from the Department of Planning, the Environmental Planning and Assessment Act.

**Mr WESTERN:** I do not appear to have that. Sorry, my apologies.

**CHAIR:** This document states that the Minister for Planning under clause 276 of the Environmental Planning and Assessment Act 2000 declared that the precincts referred to in this schedule be released for urban development. The precincts included South-West Growth Centre Leppington North precinct.

**Mr WESTERN:** Yes.

**CHAIR:** On 23 October 2009.

**Mr WESTERN:** Yes.

**CHAIR:** That is the interim period between the valuations undertaken in 2008 and the valuations undertaken in 2010.

**Mr WESTERN:** Yes.

**CHAIR:** I refer you to the map attached which accompanies that gazettal.

**Mr WESTERN:** Yes.

**CHAIR:** The properties for all these valuations are in the middle of that circle, so the proposed Leppington town centre.

**Mr WESTERN:** When you say the middle of the circle, that is that small circle where it has "Leppington" down below it and this is sitting in the dark.

**CHAIR:** Yes. Do you agree that this land has been released for development on 23 October 2009?

**Mr WESTERN:** Sorry, just go back a step. The gazettal was dated 17 October 2009, is that correct?

**CHAIR:** I have 23 October 2009.

**Mr WESTERN:** On mine, the special notice is dated 17 October 2009.

**CHAIR:** Yes, sorry, I am looking at the wrong date. The 17 October 2009 is correct. Do you agree that that land has been released for development?

**Mr WESTERN:** That is what it says in the gazette, correct.

**CHAIR:** I want to be very clear. In your opinion does the releasing of land for development materially change the probability of the land being rezoned in the landholder's favour?

**Mr WESTERN:** That possibility would certainly exist. There is no question about that.

**CHAIR:** Your own valuers refer to that. I go to the valuation for 250 Byron Road, Leppington. Sorry, the 2008 valuation for 250 Byron Road, Leppington and I refer you to page 10.

**Mr WESTERN:** That is the page headed "Growth Centres Commission: future urban potential"?

**CHAIR:** Yes. I will read you a paragraph, "The GCC advised that the New South Wales Government has not yet released the precinct for urban development." The time frame for release is complete speculation with a number of influencing factors such as demand for new housing, general real estate market conditions, et cetera, government funding, government policy and the take-up of newly released areas such as Emerson Park. The GCC advised Cabinet to decide the release. The GCC advised after Cabinet decided to release an area the following steps must occur: detailed planning study for approximately 18 months, draft zoning plan is exhibited for approximately two to three months and a new local environment plan is gazetted.

However, prior to the area being suitable for urban development the relevant authorities must provide services such as water, sewer, electricity, et cetera. It is also understood a new sewerage treatment plan is required before this area can be serviced. At this stage the GCC advised that a detailed planning study has not been undertaken for this precinct and again will only commence once Cabinet decides to release an area. It appears as though your valuer thought it was a relevant consideration as well, the release of that parcel of land. Do you agree with that?

**Mr WESTERN:** I cannot get into the mind of the valuer but it certainly would appear in terms of the narrative that is what it says.

**CHAIR:** Do you agree that the gazettal or the release of this land occurred between the two valuations in 2008 and 2010?

**Mr WESTERN:** Yes, that is right.

**CHAIR:** I want to turn to the issue regarding the discrepancy of the transport hub, which was the initial reason that you gave or LPI gave you as to the difference in valuations between the valuation of 187 Rickard Road and the valuations for Byron Road, where you said this: "My understanding is that the one that was substantially higher was located in an area where the main transit hub was to be developed in the area. 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 the transit hub." With that in mind, can you read me the second sentence on page 23 of the 2010 Rickard Road valuation?

**Mr WESTERN:** Rickard Road, did you say?

**CHAIR:** Yes.

**Mr WESTERN:** Page 23, we are talking about the second sentence?

**CHAIR:** Yes.

**Mr WESTERN:** Second sentence in the first paragraph?

**CHAIR:** Yes.

**Mr WESTERN:** "The purpose of the acquisition is for the construction of the south west rail corridor which will ultimately support urban development."

**CHAIR:** Can you I get you to read the Valuation of Land Act; I have given you a copy. I want you to read section 56.

**Mr WESTERN:** You are referring to the Land Acquisition Act not the Valuation of Land Act?

**CHAIR:** Correct. "Market value of land at any time means the amount," could you read that?

**Mr WESTERN:** "The market value of land at any time means the amount that would have been paid for the land if it had been sold at that time by a willing but not anxious seller to a willing but not anxious buyer, disregarding (for the purpose of determining the amount that would have been paid)".

**CHAIR:** "Any increase or decrease in the value"?

**Mr WESTERN:** Do you want me to read that as well?

**CHAIR:** Yes.

**Mr WESTERN:** "(a) any increase or decrease in the value of the land caused by the carrying out or the proposal to carry out the public purpose for which the land was acquired."

**CHAIR:** That will do. My question goes to that point. Why would the transport hub be the cause of discrepancy between the properties?

**Mr WESTERN:** I cannot answer that question directly, I did not undertake the valuation.

**Mr PARKER:** The valuation acquisition, what was the purpose of that? What you have to establish is the actual public purpose for which the land is being acquired and under the legislation you have to disregard any increase that has been caused by that scheme. There are a number of court cases, it is quite a complex area, that consider the scheme of arrangement that has caused the acquisition, what that actually entails. In this case the land was taken for the rail line specifically.

**CHAIR:** Correct. The construction of the south west rail corridor.

**Mr PARKER:** So the rezoning of the land as a growth centre is a not a step in that resumption process, it is not part of the scheme. It would not be required to be removed from the valuer's consideration.

**CHAIR:** Correct, but we are focussing on the explanation that the Valuer-General, through Land and Property Information, gave us; that the reason for the difference in the valuation of 187 Rickard Road compared to the other properties was that it was closer to the transport hub. My understanding is that the one that was substantially higher was located in an area where the main transit hub was to be developed. If you are not



allowed to take into account the public purpose for which the land was acquired why would that be a consideration?

**Mr PARKER:** You are not allowed to take into account the railway line. The hub may not be part of the scheme of arrangement that is applicable. It is a really complicated area of just terms. It is called the Pointe Gourde principle, which is a leading case that the legislation takes its meaning from. It is about removing the actual purpose of the acquisition and there are other schemes of arrangement that may follow but it is a grey area and not as simple as saying remove the whole of anything that is happening in that location.

**CHAIR:** The railway station is not part of the railway corridor?

**Mr PARKER:** I am not sure what "hub" means. We would have to take that on notice.

**The Hon. ADAM SEARLE:** I am inexpert in this area but you have all these properties that seem to be very close together and one has significantly increased in value for a stated reason. I am trying to understand why that reason did not extend to the other properties because they are proximate to the same thing?

**Mr WESTERN:** Clearly there is a difference there. I did not prepare the valuation personally so I have difficulty in answering the precise reason and rationale behind it.

**The Hon. ADAM SEARLE:** I would appreciate a better understanding of how the differential for that one parcel was arrived at and why it extended to this one in the first place.

**CHAIR:** Further to your point, Mr Parker, you are saying that the transport hub should not be taken into account?

**Mr PARKER:** I would have to know all the details of which I am not aware.

**CHAIR:** Let me shed some light on the details. I will go to the 2008 valuation of 187 Rickard Road. If I go to page 17 of 24, why wasn't the proximity of the transport hub considered in that valuation which said that they would get \$85 per square metre and it is in the same spot?

**Mr PARKER:** The only person that could answer that question would be the valuer.

**CHAIR:** Valuer-General, you did an investigation of this?

**Mr WESTERN:** No. I inquired as to why there was a difference between the two levels of value. As I explained in my testimony the reason for that was in relation to the proximity to the railway station or transport hub that was being built in that particular area.

**CHAIR:** Valuer-General, I would submit to you that the valuations for all the properties in 2008 were done by the same valuer and the valuations for all the properties in 2010 were done by the same valuer, except for 187 Rickard Road that had a different valuer?

**Mr WESTERN:** I do not know if that is the case, I will have to take your word for that.

**CHAIR:** It is in the valuation reports who did the valuations.

**Mr WESTERN:** It is redacted in the copy I have.

**CHAIR:** The only change in the valuations was a different person doing the valuation in the first place.

**Mr WESTERN:** You would have to ask that question of the valuer.

**CHAIR:** You did an investigation.

**Mr WESTERN:** No, I inquired as to why there was a difference and I have provided the explanation I received to the Committee. I am happy to take it on notice and do some further investigation into this and provide the Committee with a response.

**CHAIR:** I think we need to do some investigations into this because clearly there is a discrepancy between valuations and one landowner in a parcel of land has materially benefited from a change in valuation and the rest of the landowners have been penalised.

**Mr WESTERN:** I do not know the rationale behind it. we will have to have a closer look at that. I would not like to give you an answer now because I do not know the facts behind it.

**CHAIR:** I want to sum up the evidence here today: There were a series of properties valued in 2008 and valued again in 2010; all but one of the properties did not have their value changed in the 2010 valuation; the land was released for development between 2008 and 2010, and that releasing of land for development materially changes the probability that the land will be rezoned; those 2010 valuations, for large sections, are verbatim from the 2008 valuations; the 187 Rickard Road property appeared to increase 30 per cent in that time period while other properties did not; and in at least one 2010 valuation report the original 2008 aggregate valuation survived and the valuation was different to the more accurate valuation at the back of the report, being the 250 Byron Road, Leppington, valuation. My question to you is do you still have confidence in the compensation awarded to these land owners in Leppington?

**Mr WESTERN:** I would need to undertake a more detailed investigation in regard to that and find out the facts behind it.

**CHAIR:** With all due respect Valuer-General we did ask questions relating to this matter over 12 months ago?

**Mr WESTERN:** If I recall, Chair, it was more asking why there was a difference between the valuations. You are now asking me to have a look more specifically in regard to the rationale behind why there has been a substantive valuation change itself, which I am happy to do and present back to the Committee as a question on notice.

**CHAIR:** We did ask for the difference between the valuations and the answer we were given was the transport hub was the reason that one property received a 30 per cent higher valuation.

**Mr WESTERN:** That was the explanation I was given.

**CHAIR:** Are you happy with that explanation in light of the evidence?

**Mr WESTERN:** It is like anything, I was given an explanation as to why that was and we are talking here to professional competent valuers who are experienced in the area of just terms compensation valuations, far more experienced than I am. I rely often on advice given to me by those experts and that is the information that I was given.

**CHAIR:** Can I ask your opinion: Do you believe that your office has served the landowners of Leppington well, given that the valuations between 2008 and 2010 appear to be copied and pasted and out-of-date?

**Mr WESTERN:** I cannot provide an answer to that without doing a more thorough investigation and getting down and looking at the facts behind each of these valuations individually.

**CHAIR:** Do you not think a more thorough investigation should have been done before compensation was awarded to landowners in Leppington that was likely to adversely affect their financial wellbeing?

**Mr WESTERN:** As I said, I would certainly expect that the valuers involved in undertaking this work, are competent valuers and experienced in undertaking just terms compensation determinations. They would have made the required enquiries to establish what the level of determination should be.

**CHAIR:** Were any of these issues raised during the course of the investigation into this matter?

**Mr WESTERN:** Not that I can recall, no.

**CHAIR:** You said that you relied on an experienced valuer to do these valuations. Is it your expectation that an experienced valuer would copy and paste valuations two years apart without considering material information that would potentially affect those valuations?

**Mr WESTERN:** I would certainly expect that, at times, valuers will undertake a replication of an earlier report if the circumstances have not changed. However, I would also expect that the valuer would make investigations to ensure that the facts that are presented in the report are correct.

**CHAIR:** For the benefit of landowners from Leppington, some of whom are here today, what undertaking will you give to review this and get to the bottom of it and when will you report back to the Committee?

**Mr WESTERN:** I will certainly go away and investigate it. You have raised some concerns which I am unable to answer without investigating it further.

**CHAIR:** But you signed off on the valuations.

**Mr WESTERN:** They were signed off on my behalf, that is correct. As I said, I have to have faith in the individuals who undertake this work. Clearly, there are a number of protocols in place to ensure that quality assurance for these reports is met. Whether those quality assurance processes formed the basis of these reports, I do not know. I will need to go and have a look at that. You can be assured that I will find out exactly what went on and the rationale behind why there was a value difference and report back to the Committee.

**CHAIR:** When will you do that?

**Mr WESTERN:** One of the people we need to talk to is the valuer who undertook this work but he has retired. We would need to be able to obtain his services, in terms of talking to him. I would hope that we would be able to get back to the Committee within three weeks.

**CHAIR:** Thank you.

**Mr WESTERN:** I can assure you that I will have a very close look at this for you.

**CHAIR:** I think it is important. This is an issue that has occurred across a number of properties. It has hurt vulnerable people and the explanation following the previous investigation that we asked you to undertake in this matter does not seem to be appropriate. It does not explain the difference in the valuations between 187 Rickard Road in 2008-10 and all the other properties. I think the landowners of Leppington deserve an explanation for something that has materially affected their financial well-being.

**Mr WESTERN:** I absolutely agree.

**CHAIR:** I know this has been a long and gruelling day. We have raised some very sensitive issues. We appreciate your candour and the respect which you showed the committee process and the time you have taken to make the submission and contribute to improving our valuation system in New South Wales. We appreciate you looking into the issue relating to the Leppington valuations and we look forward to your reporting back so that we can report back to the community that has been affected by this.

**(The witnesses withdrew)**

**(The Committee adjourned at 4.14 p.m.)**