



The Hon. Andrew Constance MP
Minister for Finance and Services



Ms Ronda Miller
Clerk of the Legislative Assembly
Parliament House
Macquarie Street
SYDNEY NSW 2000

**Joint Standing Committee on the Office of the Valuer General
Inquiry into Land Valuation System**

Dear Ms Miller

I attach the NSW Government's response to the report arising out of the above Inquiry.

The Government thanks the Joint Standing Committee for the detailed examination of the NSW land valuation system undertaken by the Committee. The Committee has raised a range of issues and made a series of findings that will help the Government improve the valuation system.

The Government notes the Committee's finding that the existing valuation framework is stable and the provisions of the *Valuation Act 1916* largely support efficient and effective valuation outcomes. The institutions that support the valuation system are long standing. The Valuer General is an independent official, whose functions and powers are generally well understood. The independence of the position is enshrined in the Act, and the position is accountable to the Parliament.

The Government will commence work on a range of measures suggested by the Committee to improve transparency, fairness and accountability, while maintain a focus on minimising costs wherever possible to avoid any impacts on local councils or other parties.

Yours sincerely



Andrew Constance MP

<p>Recommendation 1 That the NSW Government establish a Valuation Commission, headed by a Chief Valuation Commissioner, responsible for the land valuation functions which are currently undertaken by the Office of the Valuer General and Land and Property Information.</p> <p>This Commission will also support the implementation of the rules-based approach to valuation methodologies and new valuation review and compulsory acquisition systems.</p>	<p>The Government acknowledges the Committee’s findings and believes that further work needs to be undertaken, including consultation with impacted stakeholders before it can determine support or otherwise for this recommendation.</p>
<p>Recommendation 2 That the Chief Valuation Commissioner issue public guidelines for the valuation of land in NSW, including land tax and council rate valuations and compulsory acquisition valuations. The guidelines should clearly state:</p> <ol style="list-style-type: none"> 1. The methodologies for valuing land; and 2. The circumstances in which those methodologies are applied. <p>That the guidelines be recognised by legislation, though their formulation should not be contained in the legislation to allow the flexible development of the methodologies.</p>	<p>The Government agrees with the Committee’s findings and supports the recommendation.</p>
<p>Recommendation 3 That the public guidelines for the valuation of land be binding on valuers, except:</p> <ol style="list-style-type: none"> 1. For original rating and taxing valuations, where there has previously been a successful valuation review 	<p>The Government supports the broad thrust of the Committee’s recommendation.</p>

<p>and the reason for departing from the original valuation is still current;</p> <p>2. For compulsory acquisition valuations and for valuation review, where a landholder requests to apply an alternate methodology.</p> <p>That the guidelines do not apply to the Land and Environment Court in any way, but that judges be required to identify where they depart from the guidelines, so that the guidelines may be amended appropriately.</p>	
<p>Recommendation 4 That the Chief Valuation Commissioner review the public guidelines for the valuation of land in NSW annually.</p>	<p>The Government agrees with the Committee’s findings and supports the recommendation.</p>
<p>Recommendation 5 That the NSW Government introduce a mechanism whereby council rates are determined on the average of the last three years’ land valuations.</p>	<p>The Government acknowledges the Committee’s findings and believes that further work needs to be undertaken, including consultation with impacted stakeholders before it can determine support or otherwise for this recommendation.</p>
<p>Recommendation 6 That the NSW Government ensure that:</p> <p>1. Landholders are entitled to a valuation review if the application for review is lodged within three months of, the latest of either: the Valuation Notice, Rates Notice or Land Tax Assessment that refers to the valuation. But that right should not accrue again if the valuation is used for a future Rates Notice or Land Tax Assessment.</p> <p>2. Landholders who do not seek a valuation review within the three month</p>	<p>The Government acknowledges the Committee’s findings and believes that further work needs to be undertaken, including consultation with impacted stakeholders before it can determine support or otherwise for this recommendation.</p>

<p>limit may nonetheless apply to the relevant Valuation Commissioner for a review, who shall have the discretion to grant the application.</p>	
<p>Recommendation 7 That the Minister for Finance and Services introduce amendments to section 14B of the <i>Valuation of Land Act 1916</i> to change the base date for general valuations from 1 July to 1 March in the valuing year.</p>	<p>The Government agrees with the Committee’s findings and supports the recommendation.</p>
<p>Recommendation 8 That the Minister for Finance and Services review the valuation of land below the high water mark.</p>	<p>The Government agrees with the Committee’s findings and supports the recommendation.</p>
<p>Recommendation 9 That the Minister for Finance and Services introduce amendments to section 14I of the <i>Valuation of Land Act 1916</i> to clarify the valuation requirements for valuing Crown Lease restricted land.</p>	<p>The Government agrees with the Committee’s findings and supports the recommendation.</p>
<p>Recommendation 10 That the Minister for Finance and Services review whether or not GST should be included in land valuations. The review should take into account the views of relevant stakeholders and the approaches adopted by other States and Territories of Australia.</p>	<p>The Government agrees with the Committee’s findings and supports the recommendation.</p>
<p>Recommendation 11 That the NSW Government introduce a new valuation review mechanism and compulsory acquisition process to replace the current objection system and compulsory acquisition valuation process, and includes the following</p>	<p>The Government acknowledges the Committee’s findings and believes that further work needs to be undertaken, including consultation with impacted stakeholders before it can determine support or otherwise for this recommendation.</p>

<p>minimum standards:</p> <ol style="list-style-type: none"> 1. Landholders are entitled to make submissions to the review; 2. Landholders are entitled to a conference after they make their submission to the review; 3. Landholders are provided with a preliminary valuation review report, along with any other adverse and credible information relevant to the decision; 4. Landholders should be given 30 days to make any further submissions, and if they make further submissions they are entitled to a conference to discuss those submissions; 5. If a landholder makes further submissions on any material in the preliminary valuation report, the submissions should be considered and the landholder should be provided with written reasons for accepting or rejecting the submissions after the conference. <p>A conference is defined as an oral conversation between the landholder and the valuer in person, on the telephone or via some form of online oral communication system.</p>	
<p>Recommendation 12 That, in the case of compulsory acquisitions, acquiring authorities be afforded the same entitlements as landholders to make submissions, be provided with information and attend conferences, such that:</p> <ol style="list-style-type: none"> 1. Where this right is 	<p>The Government acknowledges the Committee’s findings and believes that further work needs to be undertaken, including consultation with impacted stakeholders before it can determine support or otherwise for this recommendation.</p>

<p>exercised, all submissions to the valuer should be shared between the acquiring authority and the landholder, prior to any conference;</p> <ol style="list-style-type: none"> 2. Both parties should be granted the opportunity to respond in writing and orally to any adverse information raised by the other party which they have not addressed; and 3. There is an opportunity for some form of joint conference, if required. <p>That these recommendations be legislated.</p>	
<p>Recommendation 13 That landholders be entitled to a valuation review based on the comparison of statutory land values of surrounding properties or the rate of change of the land value for their own property, in addition to the existing grounds for objection.</p>	<p>The Government acknowledges the Committee’s findings and believes that further work needs to be undertaken, including consultation with impacted stakeholders before it can determine support or otherwise for this recommendation.</p>
<p>Recommendation 14 That the NSW Government establish a dispute resolution system to supplement the processes outlined in recommendations 11 and 12. The dispute resolution system should remain flexible, with the capacity to identify and execute the appropriate mechanism to resolve a dispute, including, but not limited to:</p> <ul style="list-style-type: none"> • adding more conferences to the process; • adding an independent chairperson to a conference; • having some form of case manager separate to the valuer; and • having some form of 	<p>The Government agrees with the Committee’s findings and supports the recommendation.</p>

<p>stakeholder statements focused on the key issues, which landholders and valuers agree to at the beginning of the process.</p>	
<p>Recommendation 15 That the Valuation Commission build a strong dispute resolution capability for the land valuation system in New South Wales, by:</p> <ul style="list-style-type: none"> • training all relevant personnel in the techniques to handle disputes effectively; • providing adequate resources to implement and operate the system – including adequate staffing, facilities, equipment and training for specialist dispute handling staff and for all staff; • keeping records to ensure that the system can be evaluated and to enable strategies to be developed to minimise problems arising; and • establishing clear policy and objectives and procedural guidelines for the conduct of dispute resolution processes, which are well documented and publicised to make the system accessible to all. 	<p>The Government agrees with the Committee’s findings and supports the recommendation.</p>
<p>Recommendation 16 That landholders be permitted to seek a merits review of their land valuation. If an objection to the Valuation Commissioner is refused, a claim can be pursued through the Administrative Decisions Tribunal (to become the NSW Civil and Administrative Tribunal on the 1st January 2014) or directly to the NSW</p>	<p>The Government does not support this recommendation.</p>

<p>Land and Environment Court. Further rights of appeal to other superior courts on errors of law remain as they are now.</p>	
<p>Recommendation 17 That, in light of the case of <i>Trust Company Limited ATF Opera House Car Park Infrastructure Trust No 1 v The Valuer-General (No 2)</i> [2011] NSWLEC 34, the Attorney General review the jurisdiction of the Land and Environment Court in Class 3 land valuation matters. The review should consider:</p> <ul style="list-style-type: none"> • whether there would be any legal, procedural or administrative barriers to vesting the Land and Environment Court with jurisdiction to deal with administrative errors and grant administrative remedies; • whether there are any further changes to the Land and Environment Court's jurisdiction that would result in additional legal efficiencies in Class 3 land valuation matters. 	<p>The Government agrees with the Committee's findings and supports the recommendation.</p>
<p>Recommendation 18 That the Valuation Commission be headed by a Chief Valuation Commissioner (who replaces the current Valuer General) and two subordinate Valuation Commissioners, and that all three Commissioners be independent statutory appointments.</p>	<p>The Government acknowledges the Committee's findings and believes that further work needs to be undertaken, including consultation with impacted stakeholders before it can determine support or otherwise for this recommendation.</p>
<p>Recommendation 19 That the Chief Valuation Commissioner be responsible for setting valuation guidelines, leading the valuation system, and administrative and</p>	<p>The Government agrees with the Committee's findings and supports the recommendation.</p>

<p>resourcing/investment decisions.</p>	
<p>Recommendation 20 That one Valuation Commissioner be responsible for the management of original land valuations for rating and taxing purposes, and other valuations under the <i>Valuation of Land Act 1916</i>; and another Valuation Commissioner be responsible for the management of valuation reviews and compulsory acquisition valuations, under the <i>Land Acquisition (Just Terms Compensation) Act 1991</i>.</p>	<p>The Government acknowledges the Committee’s findings and believes that further work needs to be undertaken, including consultation with impacted stakeholders before it can determine support or otherwise for this recommendation.</p>
<p>Recommendation 21 That the Chief Valuation Commissioner have powers to quash valuations where there has been an error of substance or procedure; and to order new valuations by either of the Valuation Commissioners.</p>	<p>The Government agrees with the Committee’s findings and supports the recommendation.</p>
<p>Recommendation 22 That the Chief Valuation Commissioner be party to any litigation in the same manner the Valuer General is now.</p>	<p>The Government agrees with the Committee’s findings and supports the recommendation.</p>
<p>Recommendation 23 That the role of Ombudsman be extended to oversee the Valuation Commission and its administration of the valuation system;</p> <p>That the functions of the Ombudsman include inquiring into specific complaints against the Valuation Commission, and a macro assessment of the valuation system;</p> <p>That the Ombudsman be afforded sufficient powers to obtain information necessary to</p>	<p>The Government does not support this recommendation.</p>

<p>fulfil his or her functions, (though not the power to alter valuations); and</p> <p>That the Ombudsman be required to table a report to the Parliament every two years, providing a systemic review of the land valuation system.</p> <p>That these requirements be legislated.</p>	
<p>Recommendation 24 That the Joint Standing Committee on the Office of the Valuer General be reconstituted to oversight the Valuation Commission once established.</p>	<p>The Government agrees with the Committee's findings and supports the recommendation.</p>
<p>Recommendation 25 That the Valuation Commission produce a separate and detailed annual performance report that reflects state, national and international best practice reporting standards and that this annual performance report be tabled in NSW Parliament.</p>	<p>The Government agrees with the Committee's findings and supports the recommendation.</p>
<p>Recommendation 26 That practicable and appropriate key performance indicators be developed, relating to the following areas of performance, and be published in the annual performance report tabled in Parliament:</p> <ul style="list-style-type: none"> a. stakeholder satisfaction and engagement; b. the consistency and accuracy of land valuations across NSW and how the Valuation Commission's land valuations track against property valuations in the marketplace over time; 	<p>The Government agrees with the Committee's findings and supports the recommendation.</p>

<ul style="list-style-type: none"> c. the major sources of land valuation objections including (depending on the associated insight) land value, geography, cause of objection (such as inappropriate methodology, inappropriate sales comparison), etc; d. outcomes of land valuation objections, particularly outcomes that result in changes to land value; e. outcomes of proceedings arising from land valuation objections, particularly outcomes that result in changes to land value; f. key procedural fairness metrics including, but not limited to: <ul style="list-style-type: none"> i. the effectiveness of different types of conferences/the number of conferences; ii. the time between each conference; iii. landholder satisfaction surveys; and iv. flow through rates to appeal. 	
<p>Recommendation 27 That the annual report includes some key financial information and areas of spending including money spent on:</p> <ul style="list-style-type: none"> a. first instance rating and taxing valuations; b. objection valuations; c. litigation. <p>This financial information should be consistent with activity based costing provided to this Committee.</p>	<p>The Government agrees with the Committee’s findings and supports the recommendation.</p>
<p>Recommendation 28 That the Valuation Commission</p>	<p>The Government acknowledges the Committee’s findings and believes that further work needs to be undertaken, including</p>

<p>have adequate resources and appropriate systems in place from its inception to carry out its functions and activities in a timely and efficient manner.</p>	<p>consultation with impacted stakeholders before it can determine support or otherwise for this recommendation.</p>
<p>Recommendation 29 That the Valuation Commission ensures that key information concerning the land subject to a non-mass valuation determination is captured, stored and centralised electronically. The information should include:</p> <ul style="list-style-type: none"> • the landholder’s name, • the size of the land, • the purpose of the valuation (valuation review/compulsory acquisition, etc.), • the valuer’s name, • the valuing firm, • the valuer(s) responsible for quality control, • the land’s use, • the reason for objection (where applicable), • the client (where applicable), • the size of any alteration in land value (where applicable), and • customer satisfaction, determined from surveys (especially after compulsory acquisition or valuation review determinations). <p>That the Valuation Commission conduct regular analysis on the effectiveness of the valuation system, using the data collected above, in order to identify the major areas where the valuation system is performing well and where it needs improvement.</p>	<p>The Government agrees with the Committee’s findings and supports the recommendation.</p>