



PARLIAMENT OF NEW SOUTH WALES

JOINT STANDING COMMITTEE ON THE OFFICE OF THE
VALUER GENERAL

LAND VALUATION SYSTEM -
REPORT ON THE INQUIRY INTO THE LAND VALUATION SYSTEM
AND THE EIGHTH GENERAL MEETING WITH THE VALUER
GENERAL

REPORT 2/55 –MAY 2013

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The motto of the coat of arms for the state of New South Wales is “Orta recens quam pura nites”. It is written in Latin and means “newly risen, how brightly you shine”.

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Membership

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Terms of Reference

Inquiry into the land valuation system

That the Committee inquire into and report on the following terms of reference:

1. To investigate the extent to which the current land valuation system delivers transparent, efficient, equitable and consistent outcomes for stakeholders. This includes monitoring and reviewing the exercise of the Valuer General's functions with respect to land valuations under the *Valuation of Land Act 1916* and the *Land Tax Management Act 1956*, including:

- a. Volatility in land valuations;
- b. Complexity in the valuation system;
- c. Drivers of inefficiency in the system including market distortions, and administration and compliance costs; and
- d. Any inequity in the valuation system.

2. To make recommendations on the issues above, including but not limited to:

- a. Any legislative changes required;
- b. Changes consistent with best practice in comparable jurisdictions;
- c. Measures to improve transparency within the system;
- d. Measures to achieve greater efficiency within the system;
- e. The need for possible amendments to the *Valuation of Land Act*; and
- f. A cost-benefit analysis of proposed changes to the system.

3. For the purposes of clarity, the inquiry only concerns the valuation system and is intended to be revenue neutral.

Eighth general meeting with the Valuer General

That the Committee inquire into and report to both Houses on matters concerning:

1. The financial management of the Office of the Valuer General, including but not limited to his financial control systems and reporting processes;
2. The processes associated with awarding of contracts to private valuation firms, including but not limited to the probity controls and other accountability mechanisms associated with the contract tendering system;
3. Volatility in land valuations for ratings and land tax purposes;
4. Issues related to valuations made where the government was party to land transactions;
5. Processes, systems and activities relating to the Valuer General's role in the compulsory acquisition of land;
6. The conduct of the Valuer General in relation to matters the subject of legal proceedings to which he is a party, including but not limited to processes for seeking legal advice and notifying relevant stakeholders;
7. The Land and Property Information's management of the information systems connected with the exercise of the Valuer General's statutory functions; and
8. The extent to which the reliance of the Valuer General upon the provision of information and services by Land and Property Information impacts on the independent and proper exercise of the Valuer-General's statutory functions.

Chair's Foreword

This is a system that has systemic issues, particularly regarding the fairness in the way landholders are treated and the transparency surrounding how land is valued. In the case of Leppington, if landholders had been afforded a fair hearing and there had been sufficient accountability many of the issues are unlikely to have arisen. Similar comments can be made about the Hornsby Quarry, where the valuation was completed on a development proposal which was not disclosed to the council and which it now disputes. Likewise, the opacity of valuation methodologies used to value the Perilya mine in Broken Hill materially affected the impact of a decision which could have been resolved earlier. Comprehensive reform is needed in the governance of the system and the way the Valuer General and his delegates interact with landholders and that is what has been recommended by the Committee.

I have endeavoured to outline the reforms as they tie to the systemic issues highlighted during the Inquiry: material volatility, providing key stakeholders a fair hearing and transparency in valuation methodologies.

On volatility, independent analysis highlighted material and significant yearly fluctuations in land values. Such volatility risks creating a council rate lottery for landholders. It is essential that households and business are able to predict their tax liabilities so that they can budget and plan. 3 year averaging of valuations for council rates would significantly dampen the effect of the volatility and is an approach that should be applied for taxes based on the present statutory valuation regime.

Regarding procedural fairness, it is readily apparent that landholders are not currently afforded a fair hearing. A fair hearing not only increases the quality and integrity of decision making by ensuring all the facts are before valuers, it also ensures that people are treated with the dignity and respect to which they are entitled. The Courts usually require that individuals are afforded the right to respond to adverse information where a decision is being made that directly impacts a person's rights and interests. Unfortunately, such procedural protections are not afforded to landholders in this state. For this reason, the State needs a new approach to objection valuations and the compulsory acquisition process. That new approach should include legislated minimum procedural protections – including the right to respond to adverse information; it should encourage co-operation between landholder and valuer – through a process of at least two conferences; and should be supported by dispute resolution and case management training and tools.

In many ways, it is surprising that these reforms have not been instituted earlier, as the Valuer General could, as a matter of policy, have required LPI to afford these protections. The law moved in this direction decades ago. Indeed, the lack of attention paid to this important element of public administration is symptomatic of my concerns associated with this Valuer General's approach to landholders.

Those concerns are also manifest in the lack of transparency surrounding the valuation methodologies. It is almost trite to say that landholders should be able to see and dispute the methodologies applied to value their land. Certainly, if there had been more transparency surrounding the methodologies, I think that is much more likely that the Perilya issue would have been resolved earlier. For this reason, we have recommended a set of public

methodologies that are binding on valuers except where landholders have applied for a different methodology apply.

The fairness of the system is also undermined by the significant costs associated with litigating matters in the Land and Environment Court. A number of submissions were received on this point, with landholders explaining that they would have pursued matters further had costs not been so high. Perilya and Hornsby Council are clear examples of those costs, with the latter's fees currently totally \$1M, and expected to escalate. For this reason, the Committee recommends that landholders should be entitled to elect to have their Valuation of Land Act or compulsory acquisition valuation resolved in the newly legislated NSW Civil and Administrative Tribunal instead of the Land and Environment Court. That is, landholders should be able to choose the forum given their financial means.

To support these recommendations the Committee has recommended a Valuation Commission to replace the Office of the Valuer General. This Commission will be comprised of a Chief Valuation Commissioner who is responsible for publishing and determining guidelines and the general administration of the system. The Chief Valuation Commissioner should also have the power to quash and order new valuations (similar to the Valuer General's powers now). It will also include a Valuation Commissioner (Valuation Review/Compulsory Acquisitions) and a Valuation Commissioner (Mass Valuations). The purpose of these positions is to ensure that there is adequate separation of the original valuation and review functions. It also supports the building of appropriate capabilities. Above the Commission will sit the Ombudsman who will provide regular reports on the valuation system. This is a much needed mechanism to provide the accountability that has been absent for too long.

Finally, many of the reforms recommended here require legislative change, but most could have been significantly furthered by the Valuer General. It is extremely disappointing that action has not been taken over the last 10 years, particularly in the areas of transparency and the provision of a fair hearing. This is a valuation system that is in need of a paradigm shift. Public confidence in the system has been undermined by the Valuer General's failure to systemically afford landholders a fair hearing and provide transparency on valuation methodologies.

On a more personal note, I want to thank the Committee staff, my Committee colleagues – the Hon Scot MacDonald, Leslie Williams, the Hon Adam Searle, Clayton Barr and the Hon Eric Roozendaal – and those who made submissions to this inquiry. This was a collaborative bipartisan inquiry and I want to recognize all those on the Committee for their constructive contributions. It was also an inquiry where over 130 people lodged submissions or gave evidence. Those contributions very much formed the basis of our recommendations and we have tried to reflect the re-current problems in the case-studies reported here and solve those problems with practical comprehensive reform. This has also been an Inquiry run to very tight deadlines, and I want to recognize the work of all the Committee staff in keeping this Inquiry on track and delivering within an ambitious timeline. In particular I would like to thank and acknowledge the efforts of Helen Minnican, Rachel Simpson, John Miller, Jessica Falvey and Jenny Whight. Finally, I would like to thank my personal staff Christine Chalker, Mrithula Shanker and Ben Coles for their significant efforts. Without their support and hard work this report would not have been possible. I would particularly like to acknowledge Ben Coles, who has been my primary advisor on this issue, and has played a pivotal role helping me investigate and reform these issues.

I strongly believe that these reforms go a long way to improving the fairness, transparency, predictability and accountability of this system and for these reasons I commend this report to the House.

Matt Kean MP

Chair

Executive summary

Introduction

The Committee has identified significant concerns surrounding the volatility of land values, the transparency surrounding valuation methodologies, the procedural fairness currently afforded to landholders and the governance framework of the valuation system. Instances of rolled forward valuation reports regarding compulsory acquisitions in Leppington, inadequate engagement with Hornsby Council regarding the acquisition of Hornsby Quarry and undisclosed methodologies for the valuation of the Perilya Mine in Broken Hill have raised significant issues to do with the valuation system. Likewise, what is strongly felt by many who made submissions to the Committee is a systemic failure to afford landholders a fair hearing, to provide transparency surrounding the valuation methodologies and to treat landholders with the respect, dignity and fairness, to which they are entitled, has significantly and detrimentally impacted landholders.

This is a system in need of paradigm shift, so that treating landholders fairly and respectfully is seen as a complementary, indeed a necessary, element of an effective and impartial valuation system. Accordingly, the Committee recommends a new process for objections and compulsory acquisitions that affords landholders procedural fairness; a clearer approach to valuation methodologies based on objective criteria or rules (a rules-based approach); and a new governance framework that replaces the Valuer General with a Valuation Commission. The Committee also recommends three year averaging of council rate valuations to dampen the material and significant volatility in the valuation system.

This report addresses the terms of reference for the Committee's Inquiry into the land valuation system, as well as those for the Committee's eighth general meeting with the Valuer General. The report is structured across three sections. The first summarises a set of case studies that have arisen during the course of the Inquiry. The second outlines the diagnostic of the valuation system undertaken as part of this Inquiry. The third outlines the reforms required. Those sections are summarised below.

Case studies

The Committee has recorded four case studies arising during the Inquiry, the Leppington Compulsory Acquisitions, the Hornsby Quarry valuation, the Mid-Western regional valuations and the Perilya Mines litigation. The case studies highlight issues associated with both compulsory acquisition valuations and rating and taxing valuations. The Leppington and Hornsby Quarry case studies raise concerns regarding transparency, procedural fairness, landholder engagement, dispute resolution, and the costs associated with the appeal process. The Perilya Mine and Mid-Western Regional Council case studies relate to rating and taxing valuations, and raise concerns about valuation integrity and quality control mechanisms, as well as demonstrating the significant impact that valuation decisions can have on local communities.

Diagnostic of the valuation system

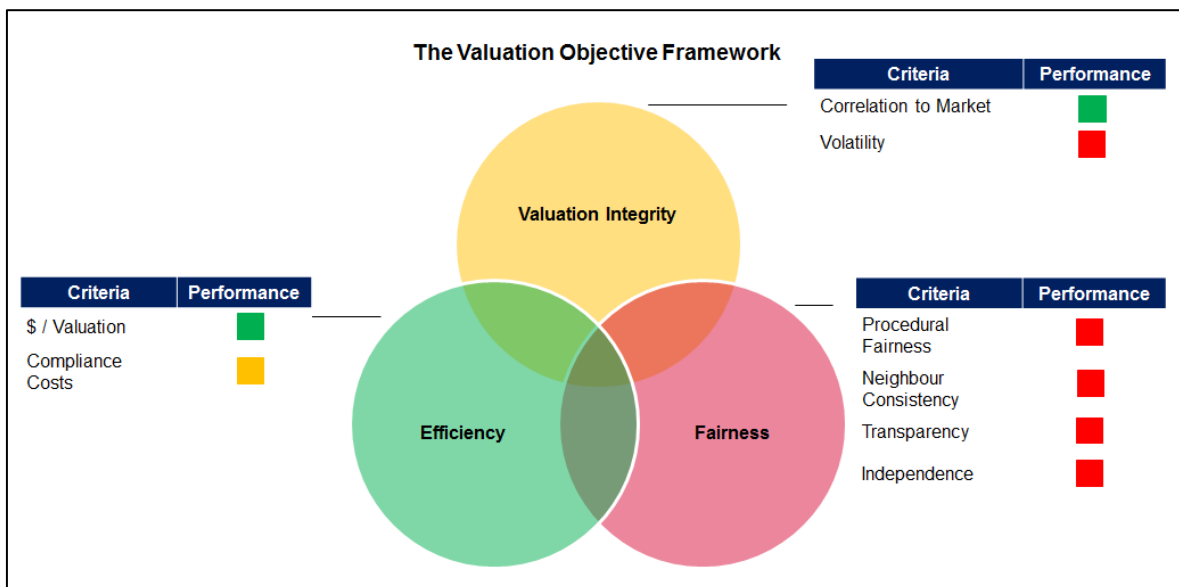
The Committee assessed the valuation system according to three performance objectives:

1. Valuation Integrity,
2. Fairness, and
3. Efficiency.

To test the extent to which the valuation system is delivering on its performance objectives, the Committee considered a range of criteria, to determine the system’s integrity, fairness and efficiency. The criteria are summarised in the table below:

Objective	Criteria
1. Valuation Integrity	1. Volatility in Valuations
	2. Correlation to Market
2. Fairness	1. Procedural Fairness
	2. Consistency in valuations amongst similar properties
	3. Transparency
	4. Independence
3. Efficiency	1. \$ / Valuation
	2. Compliance Costs

The Committee’s high-level assessment is that while the system is broadly efficient, the system is not treating landholders with the fairness to which they are entitled and that volatility in valuations is significantly undermining its integrity.



The full reasoning for this assessment is contained in the table below:

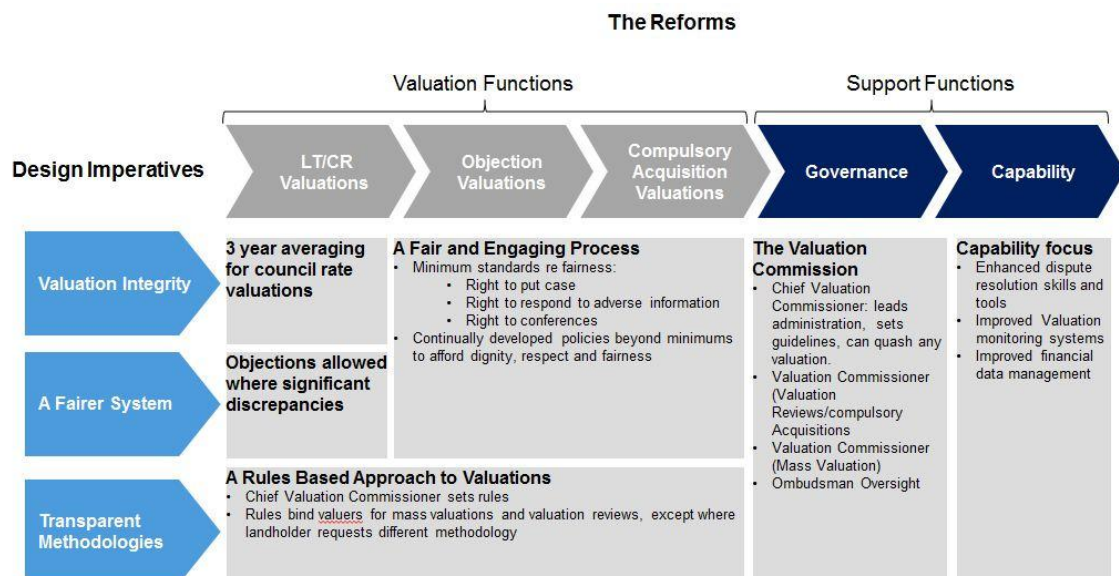
Criteria	Assessment	Reasoning
Volatility in Valuations	Red	There is material volatility in the valuations, with a number of cases of extreme volatility

Correlation to Market	■	The valuations currently show a strong correlation to the market
Procedural Fairness	■	Procedural fairness is not accorded at the objection stage or in the compulsory acquisition process
Consistency in valuations amongst similar properties	■	There are a number of submissions that have been received showing material inconsistency between property valuations. This is compounded by the inability to seek remedy on this basis.
Transparency	■	Valuation guidelines are not published, leaving the methodologies extremely opaque.
Independence	■	The independence of the valuation function from executive government has been undermined through LPI performing functions that should be performed by the Valuer General. The public's perception of objection valuers also raises independence concerns.
\$ / Valuation	■	The Valuation system is currently extremely cost effective.
Compliance Costs	■	Compliance costs are low, until a person seeks remedy, at which point they escalate rapidly.

The Committee's reforms

The reforms outlined in this report are designed to remedy the most significant problems identified in Part 2. In developing its recommendations, the Committee took into consideration three design imperatives: increased valuation integrity, fairness and transparent methodologies.

The application of the design imperatives is depicted in the diagram below. The chart shows the major functions associated with the administration of the valuation system, and how the principles have been applied to those fields to develop meaningful reform:



These initiatives interlink, with the governance framework aligning to the new fields of expertise required. It does this by creating centralised teams under Valuation Commissioners. These teams allow the development of the necessary capability to effectively resolve disputes and develop well understood and accurate methodologies. Disaggregating the Valuer General’s function in this way also allows for the structural separation of the valuation review and original valuation stages, which is consistent with international best practice.

The central reforms are discussed in more detail below:

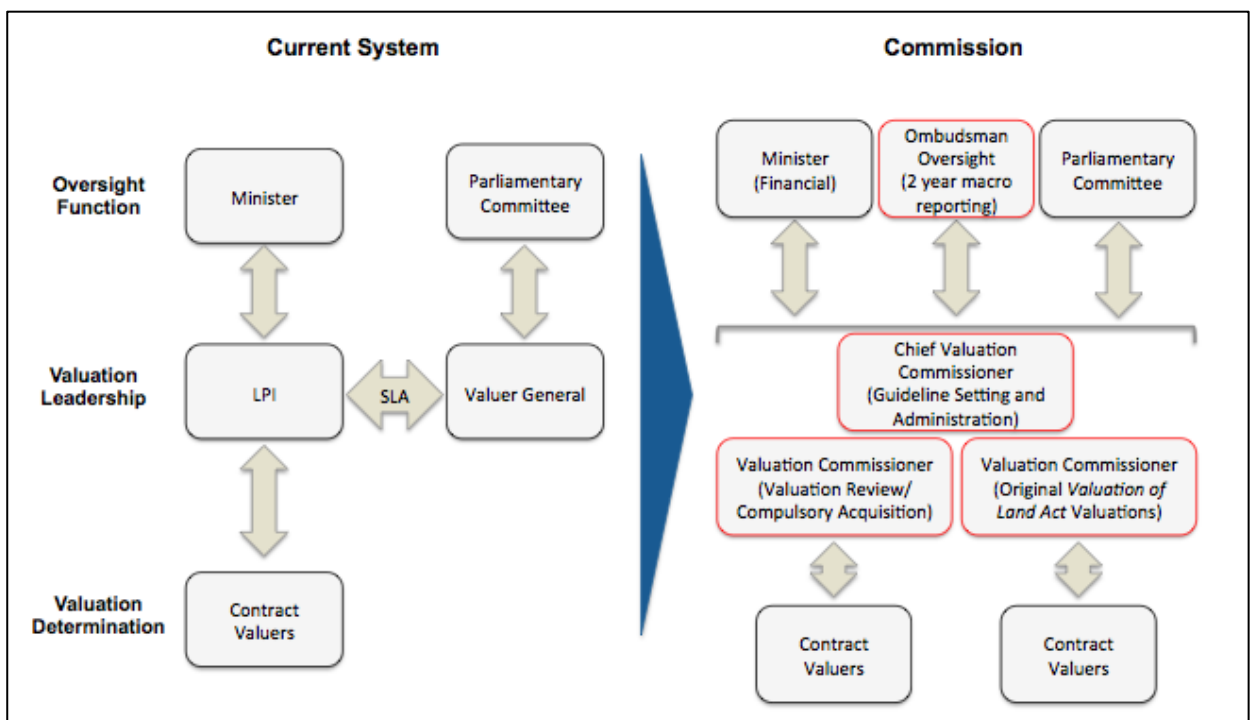
The governance framework

The Committee recommends a Valuation Commission be established. The Commission model involves two Valuation Commissioners and a Chief Valuation Commissioner. All Commissioners should be independent statutory appointments.

The Chief Valuation Commissioner would be responsible for setting valuation guidelines, leading the valuation system, administrative and resourcing/investment decisions required to run a broad system and have powers to order new valuations by either of the other Commissioners. The Chief Valuation Commissioner would also be party to any litigation in the same way the Valuer General is now.

One Valuation Commissioner would be responsible for the original *Valuation of Land Act* valuations, the other for valuation reviews and compulsory acquisition valuations. This structure ensures the separation of the original valuation process and valuation reviews, this represents best practice and is in place in Internal Revenue Services (IRS) in the United States.

The system also involves Ombudsman oversight, including a macro review every two years to provide accountability. The structure is summarised below:



A rules-based approach

The Committee recommends that the Chief Valuation Commissioner issue Public Guidelines for the valuation of land in NSW. Those guidelines will clearly state:

1. The methodologies; and
2. The circumstances in which they are applied.

The guidelines will be binding on valuers in certain circumstances. Those circumstances are described below.

Stage	Effect
Initial-Valuation for Land tax and Council Rates	Binding on valuers except where there has been a successful application to apply a different valuation.
Initial-Valuation for Compulsory Acquisition and Valuation Reviews	Binding on valuers, except where a landholder makes an application to apply an alternate methodology.
Land and Environment Court	Guidelines do not apply in any way, but judges required to identify where they depart from the guideline, why and in what way. That is so that the guidelines may be amended appropriately

Objections and compulsory acquisition valuations

The Committee recommends the present objection system be replaced with a Valuation Review mechanism. A similar system will also apply to compulsory acquisition valuations. It shall provide for minimum protections for landholders. Such threshold protections include the right to make submissions, to see all adverse material and to respond. Those entitlements should be statutorily protected. The Committee also recommends a statutory right to a conference after the original submission and after any response to the preliminary valuation report.

Beyond these entitlements, it is necessary that a strong dispute resolution capability be developed. That is, valuers and others who interact with landholders should have the skills, temperament and tools to engage with landholders in a way that shows respect, dignity, and fairness to landholders.

Other reforms

Other reforms recommended by the Committee include:

- Valuation integrity:
 - changed timing of valuations and
 - recommendations regarding water front properties and GST.

- Valuation reviews
 - new grounds for valuation review/objections,
- Courts, tribunals and appeals:
 - allowing landholders to appeal to the Administrative Decisions Tribunal or the Land and Environment Court and
 - expanding the jurisdiction of the Land and Environment Court to consider administrative errors.
- Public reporting – improved reporting of Key Performance Indicators.
- Technology – improving the IT systems required to maintain sufficient financial and operational data required to audit, monitor and improve the valuation system.

Valuation criterion

The Committee considered the valuation criterion for land valuations conducted for rating and taxing purposes and found that the current definition of Land Value is the most appropriate.

List of Findings and Recommendations

VALUATION COMMISSION _____	68
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RECOMMENDATION 1 _____	68
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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. This Commission will also support the implementation of the rules-based approach to valuation methodologies and new valuation review and compulsory acquisition systems.

VALUATION INTEGRITY _____	73
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RECOMMENDATION 2 _____	73
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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:

1. The methodologies for valuing land; and
2. The circumstances in which those methodologies are applied.

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.

RECOMMENDATION 3 _____	73
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That the public guidelines for the valuation of land be binding on valuers, except:

1. For original rating and taxing valuations, where there has previously been a successful valuation review and the reason for departing from the original valuation is still current;
2. For compulsory acquisition valuations and for valuation review, where a landholder requests to apply an alternate methodology;

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.

RECOMMENDATION 4 _____	74
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That the Chief Valuation Commissioner review the public guidelines for the valuation of land in NSW annually.

RECOMMENDATION 5 _____	75
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That the NSW Government introduce a mechanism whereby council rates are determined on the average of the last three year's land valuations.

RECOMMENDATION 6 _____	75
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That the NSW Government ensure that:

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.

2. Landholders who do not seek a valuation review within the three month limit may nonetheless apply to the relevant Valuation Commissioner for a review, who shall have the discretion to grant the application.

RECOMMENDATION 7 _____ 77

That the Minister for Finance and Services introduce amendments to section 14B of the *Valuation of Land Act 1916* to change the base date for general valuations from 1 July to 1 March in the valuing year.

RECOMMENDATION 8 _____ 79

That the Minister for Finance and Services review the valuation of land below the high water mark.

RECOMMENDATION 9 _____ 79

That the Minister for Finance and Services introduce amendments to section 14I of the *Valuation of Land Act 1916* to clarify the valuation requirements for valuing Crown Lease restricted land.

RECOMMENDATION 10 _____ 81

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.

VALUATION REVIEWS AND COMPULSORY ACQUISITIONS _____ 91

RECOMMENDATION 11 _____ 91

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 minimum standards:

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.

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.

That these recommendations be legislated, but until then be adopted as far as possible by the Valuer General as a matter of policy.

RECOMMENDATION 12 _____ 92

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:

1. Where this right is exercised, all submissions to the valuer should be shared between the acquiring authority and the landholder, prior to any conference;
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.

That these recommendations be legislated.

RECOMMENDATION 13 _____ 92

That landholders be entitled to a valuation review based on the comparison of statutory 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.

DISPUTE RESOLUTION _____ 92

RECOMMENDATION 14 _____ 92

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:

- 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 stakeholder statements focused on the key issues, which landholders and valuers agree to at the beginning of the process.

RECOMMENDATION 15 _____ 92

That the Valuation Commission build a strong dispute resolution capability for the land valuation system in New South Wales, by:

- 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.

COURTS, TRIBUNALS AND APPEALS _____ 95

RECOMMENDATION 16 _____ 95

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 Land and Environment Court. Further rights of appeal to other superior courts on errors of law remain as they are now.

RECOMMENDATION 17 _____ 97

That, in light of the case of *Trust Company Limited ATF Opera House Car Park Infrastructure Trust No 1 v The Valuer-General (No 2)* [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:

- 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.

GOVERNANCE FRAMEWORK _____ 110

RECOMMENDATION 18 _____ 110

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.

RECOMMENDATION 19 _____ 110

That the Chief Valuation Commissioner be responsible for setting valuation guidelines, leading the valuation system, and administrative and resourcing/investment decisions.

RECOMMENDATION 20 _____ 110

That one Valuation Commissioner be responsible for the management of original land valuations for rating and taxing purposes, and other valuations under the *Valuation of Land Act 1916*; and another Valuation Commissioner be responsible for the management of valuation reviews and compulsory acquisition valuations, under the *Land Acquisition (Just Terms Compensation) Act 1991*.

RECOMMENDATION 21 _____ 110

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.

RECOMMENDATION 22 _____ 110

That the Chief Valuation Commissioner be party to any litigation in the same manner the Valuer General is now.

RECOMMENDATION 23 _____ 110

That the role of Ombudsman be extended to oversee the Valuation Commission and its administration of the valuation system;

That the functions of the Ombudsman include inquiring into specific complaints against the Valuation Commission, and a macro assessment of the valuation system;

That the Ombudsman be afforded sufficient powers to obtain information necessary to fulfil his or her functions, (though not the power to alter valuations); and

That the Ombudsman be required to table a report to the Parliament every two years, providing a systemic review of the land valuation system.

That these requirements be legislated.

RECOMMENDATION 24 _____ 111

That the Joint Standing Committee on the Office of the Valuer General be reconstituted to oversight the Valuation Commission once established.

REPORTING _____ 116

RECOMMENDATION 25 _____ 116

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.

RECOMMENDATION 26 _____ 116

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:

- (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;
- (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:

- (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.

RECOMMENDATION 27 _____ 117

That the annual report includes some key financial information and areas of spending including money spent on:

- (a) first instance rating and taxing valuations;
- (b) objection valuations;
- (c) litigation.

This financial information should be consistent with activity based costing provided to this Committee.

CAPABILITY _____ 123

RECOMMENDATION 28 _____ 123

That the Valuation Commission have adequate resources and appropriate systems in place from its inception to carry out its functions and activities in a timely and efficient manner.

RECOMMENDATION 29 _____ 124

That the Valuation Commission ensure that key information concerning the land subject to a non-mass valuation determination is captured, stored and centralised electronically. The information should include:

- 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);

And 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.

VALUATION CRITERION _____ 129

FINDING 1 _____ 129

That land value is the appropriate basis of valuation for rating and taxing purposes.

Part One – Background

Chapter One – The valuation system

INTRODUCTION

1.1 The Valuer General is an independent statutory officer appointed by the Governor of New South Wales to oversee the land valuation system. This section outlines the roles and powers of the Valuer General as prescribed in the *Valuation of Land Act 1916* and the *Land Acquisition (Just Terms Compensation) Act 1991*. Further, this section will examine the methodology employed by the Valuer General in the execution of his role.

THE POSITION OF THE VALUER GENERAL

1.2 Sections 8 and 9 of the *Valuation of Land Act* outline the general role of the Valuer General as:

- (a) Exercising functions with respect to the valuation of land in the State, and
- (b) Ensuring the integrity of valuations under this Act, and
- (c) Being the custodian of the Register of Land Values.

1.3 These valuations are used for two main purposes:

- (a) The determination of land tax and council rates, and
- (b) Compulsory acquisition.

Independence and integrity

1.4 The Valuer General is appointed by the Governor,¹ and serves a fixed term of seven years.² Further, the Valuer General may only be removed from office through the following process:

- (a) The Governor suspends the Valuer General from office for misbehaviour or incompetence,
- (b) The Minister, within 7 sitting days, provides both Houses of Parliament with a full statement on the grounds of suspension,
- (c) Each House of Parliament, within 21 sitting days, declares by resolution that the Valuer General ought to be removed from office,
- (d) If both Houses do so declare, the Governor shall remove the Valuer General.³

1.5 These protections establish the structural separation of the valuation and rating/taxing functions of government. In so doing, they protect the independence and impartiality of valuations of land in this jurisdiction. The strength of these protections is highlighted

¹ *Valuation of Land Act 1916* (NSW) s 8.

² *Valuation of Land Act 1916* (NSW) Schedule 1, s 2.

³ *Valuation of Land Act 1916* (NSW) Schedule 1, s 8.

by their similarity to other independent officers including judicial officers⁴ and the Commissioner for the Independent Commission Against Corruption⁵. This is consistent with the Valuer General's role. Levying tax and compulsorily acquiring property are significant powers that may impact upon individuals. The Valuer General's role plays an important function in the performance of those tasks in a way that balances the conflicted interests of landholders and government. The independence of such an office operates to uphold the integrity of the land valuations system in NSW.⁶

- 1.6 The Office of the Valuer General is overseen by the Joint Standing Committee on the Office of the Valuer General and reports administratively to the Minister for Finance and Services.⁷ This Committee was first established in 2003 as a statutory committee, but was re-established in 2008 as a joint standing committee.

Valuation of land for council rates and land tax

- 1.7 The Valuer General is charged with making independent valuations of land value, as opposed to capital value. According to s14A, these land valuations must be ascertained annually, and are to be made as at 1 July of the current valuing year.⁸
- 1.8 Pursuant to s6A(1) of the Act, the land value is defined as follows:

The land value of land is the capital sum which the fee-simple of the land might be expected to realise if offered for sale on such reasonable terms and conditions as a bona-fide seller would require, assuming that the improvements, if any, thereon or appertaining thereto, other than land improvements, and made or acquired by the owner or the owner's predecessor in title had not been made.

- 1.9 Land valuation is based upon the 'best use' of the land that the current zoning allows, whether or not the land is used for that purpose at the time of the valuation. The Act further allows for consideration of other factors such as heritage listings, wildlife districts, and various other restrictions.
- 1.10 The valuation of land function can be contracted to any other person or organisation as deemed appropriate by the Valuer General.⁹ Currently, Land and Property Information (LPI) manages the valuation system on behalf of the Valuer General.¹⁰

Register of Land Values

- 1.11 The Valuer General is also tasked with the responsibility of maintaining the Register of Land Values.¹¹ This register contains the following information in relation to land:

⁴ See *Supreme Court Act 1970*; *District Court Act 1973*; *Local Court Act 2007*.

⁵ *Independent Commission Against Corruption Act 1988* (NSW) s 5, s 103.

⁶ Mr Philip Western, Valuer General, Office of the Valuer General, transcript of evidence, 26 March 2012, pp 3, 48, 50.

⁷ NSW Land and Property Information, viewed 17 April 2013, <http://www.lpi.nsw.gov.au/valuation/role_of_the_valuer_general>

⁸ *Valuation of Land Act 1916* (NSW) s 14B.

⁹ *Valuation of Land Act 1916* (NSW) s 8(5).

¹⁰ NSW Land and Property Information, viewed 17 April 2013, <www.lpi.nsw.gov.au/valuation/role_of_the_valuer_general>; Mr Philip Western, Valuer General, Office of the Valuer General, transcript of evidence, 26 March 2012, p 5.

¹¹ *Valuation of Land Act 1916* (NSW) s 8(4)(c).

- (a) The ownership of the land,
- (b) The occupation of the land,
- (c) The value of the land,
- (d) Reference to the title of the land,
- (e) The location or description of the land, and
- (f) The area of the land.¹²

1.12 This Register is used to determine land tax and council rates.

How valuations are used for land tax and council rates

- 1.13 The principal purpose for assessing and recording values of land is to enable the levying of taxes, rates, and duties by the state and local government.
- 1.14 The Valuer General issues land values to local governments for council rating at least every three to four years. These values are used to assist in the calculation of rates for local residents, and are fixed for rating until new land values are issued to council.¹³ Further, the Act requires that the Valuer General issue a Notice of Valuation to the landowner or any person liable to pay a rate or tax in respect of the land.¹⁴
- 1.15 Land values are also provided to the Office of State Revenue for the calculation of land tax on an annual basis under the *Land Tax Management Act 1956*. The land tax assessments are issued based on a three-year average.¹⁵
- 1.16 Those who receive a Notice of Valuation have a right of objection to the valuation by the Valuer General.¹⁶ They further have the right to appeal to the Land and Environment Court if they are dissatisfied with the results of the objections process, subject to a review on the merits.¹⁷

Private valuations

- 1.17 Pursuant to section 9A of the Act, the Valuer General may make a valuation of land at the request of any person for the purpose of any agreement or other arrangement between parties. This is a private agreement between the Valuer General and the party. However, the terms of such an agreement do not preclude the Valuer General from delegating the making of the valuation. Typical circumstances include the rental of Government property.

¹² *Valuation of Land Act 1916* (NSW) s 14CC(2).

¹³ NSW Land and Property Information, viewed 17 April 2013,
< [http:// www.lpi.nsw.gov.au/valuation/land_values_and_council_rating](http://www.lpi.nsw.gov.au/valuation/land_values_and_council_rating)>

¹⁴ *Valuation of Land Act 1916* (NSW) s 29.

¹⁵ Mr Philip Western, Valuer General, Office of the Valuer General, transcript of evidence, 26 March 2012, p 2.

¹⁶ *Valuation of Land Act 1916* (NSW) ss 33-36.

¹⁷ *Valuation of Land Act 1916* (NSW) s 37.

Compulsory acquisition

- 1.18 State and Local government agencies may acquire land through a compulsory process for a range of purposes. Where an acquiring authority cannot negotiate a settlement for land to be acquired, the land is compulsorily acquired, and the Valuer General is required to determine the amount of compensation to be offered to a dispossessed owner.
- 1.19 The compulsory acquisition process is regulated by the *Land Acquisition (Just Terms Compensation) Act*, and requires that the Valuer General determine the amount of compensation provided to dispossessed landholders. LPI manages this process under delegated authority from the Valuer General.¹⁸
- 1.20 Section 54 of the Act requires compensation at such an amount as will justly compensate the person for the acquisition of the land, having regard to the following factors;
- Market value,
 - Any special value to the former owner,
 - Any losses attributable to severance or disturbance,
 - Solatium,
 - Any increase or decrease in the value of any other land owned by the former owner at the date of acquisition, which adjoins or is severed from the acquired land by reason of the carrying out of, or the proposal to carry out, the public purpose for which the land was acquired.¹⁹

COMMON VALUATION METHODOLOGIES

- 1.21 Valuations undertaken by LPI on behalf of the Valuer General for rating and taxing purposes are made under the *Valuation of Land Act*.

Valuation methodology – the component method

- 1.22 Most land in NSW is valued using a mass valuation technique, where properties are valued in groups called components. This method involves grouping properties that are similar, or likely to change in value at a similar rate within the market.²⁰ The size of each component varies depending upon the homogeneity of the area. Each component has at least one 'benchmark property', which sits at the median of the range of values in that area.²¹ Further, there are a number of representative properties within the component. Mr Philip Western, the current Valuer General, explains the role of benchmark and representative properties in the following way:²²

¹⁸ NSW Land and Property Information, viewed 16 April 2013, <www.lpi.nsw.gov.au/valuation/compulsory_acquisition_of_land>

¹⁹ *Land Acquisition (Just Terms Compensation) Act 1991* (NSW) s 55.

²⁰ NSW Land and Property Information, viewed 16 April 2013, <www.lpi.nsw.gov.au/valuation/land_valuation_process>

²¹ Mr Philip Western, Valuer General, Office of the Valuer General, transcript of evidence, 19 November 2012, p 16.

²² Mr Philip Western, Valuer General, Office of the Valuer General, transcript of evidence, 19 November 2012, p 16.

Mr Western: If you can imagine the bell-shape curve sits there with the normal curve distribution. You have your benchmark property in the middle, but importantly what you have got is representative properties on either side. So you are getting a reasonable range of the value spectrum within that particular component. When contractors undertake the valuations they will value the benchmark on an individual basis, based on their sales analysis in the particular location, and apply that knowledge in terms of where the market is going to the benchmark.

- 1.23 Through sales analysis on the benchmark property, a 'component factor' is determined. This component factor is utilised to adjust the valuation for the properties within the component. This knowledge is also applied and tested on the representative properties, to determine whether the result from the componentisation method delivered accurate valuations.²³
- 1.24 Further, a verification process requires individual valuations of properties at certain points in the spectrum. The valuer must understand all the circumstances that affect that property when he determines the valuations under the verification process.²⁴ When necessary, individual properties within a component will be adjusted to give a result closer to the market value.
- 1.25 The component method is an evolution of mass valuation systems that have been developed since 1980. As such, many of the component boundaries are well established, and rarely change because the fundamental nature of the land remains unchanged. As part of a verification process, the contractor is required to review the component structure, such that 20 per cent of the components must be verified.²⁵ LPI also audits the valuations prior to lodging them on the Valuation Register and may vary valuations. During the Audit process, LPI retains the power to alter valuations. As stated by Mr Parker, 'if [LPI] believe that the valuation is in error and we have discussed it with the contractor and for whatever reason we cannot come to agreement, the authority would lie with Land and Property Information to put the correct value in.'²⁶

The objections process

- 1.26 The *Valuation of Land Act* allows property owners to object to land valuations following receipt of a Notice of Valuation or a Land Tax Assessment.²⁷ Section 34(1) of the Act stipulates the grounds for objection to a land valuation:
- That the values assigned are too high or too low,
 - That the area, dimensions or description of the land are not correctly stated,
 - That the interests held by various persons in the land have not been correctly apportioned,
 - That the apportionment of the valuations is not correct,

²³ NSW Ombudsman, *Improving the quality of land valuations issued by the Valuer General*, 2005, Section 3.

²⁴ Mr Michael Parker, Chief Valuer, Office of the Valuer General, transcript of evidence, 19 November 2012, p 43.

²⁵ Mr Michael Parker, Chief Valuer, Office of the Valuer General, transcript of evidence, 19 November 2012, p 43.

²⁶ Mr Michael Parker, Chief Valuer, Office of the Valuer General, transcript of evidence, 19 November 2012, p 42.

²⁷ *Valuation of Land Act 1916* (NSW) s 29(3A).

- That lands which should be included in one valuation have been valued separately,
 - That lands which should be valued separately have been included in one valuation, and
 - That the person named in the notice is not the lessee or owner of the land.²⁸
- 1.27 The Act specifies the format in which an objection must be lodged,²⁹ and those that are based on valid grounds and comply with the minimum required supporting information are registered and acknowledged by LPI staff within 7 days.³⁰ When dealing with objections, the Valuer General must ensure that objections are reviewed by a valuer different from, and not subordinate to, the person who made the decision against which the objection is lodged.³¹
- 1.28 The majority of objections are processed external to the Valuer General's office and LPI.³² The objection valuer will revalue the property and make a recommendation to LPI accompanied by their reasoning.³³ LPI has the ability to change valuations on the basis of the recommendation.
- 1.29 The objector must be notified in writing of the outcome of the objection, the Register of Land Values must be updated, and a new notice of valuation is issued where necessary.³⁴ LPI presently provides objection valuation reports to landholders.³⁵
- 1.30 If an individual is dissatisfied with the Valuer General's determination, they have the right to appeal to the Land and Environment Court.³⁶ The Court may then make a determination on the land valuation on a merit review. Currently the Court does not have jurisdiction to consider administrative law errors.³⁷
- 1.31 An objections process is also utilised for land valuations under the *Land Acquisition (Just Terms) Compensation Act*, though that process is more analogous to an appeal under the *Valuation of Land Act* than its namesake. Section 66 of the Act provides for the dispossessed owner to lodge with the Land and Environment Court an objection to the amount of compensation awarded by the authority of the State. Further, as per section 67 of the Act, a person who has not been given a compensation notice and whose claim for compensation is rejected (or taken to be rejected) may appeal to the Land and Environment Court against the rejection of the claim.

²⁸ *Valuation of Land Act 1916* (NSW) s 34(1).

²⁹ *Valuation of Land Act 1916* (NSW) s 33.

³⁰ NSW Ombudsman, *Improving the quality of land valuations issued by the Valuer General*, 2005, Section 4.7.6.

³¹ *Valuation of Land Act 1916* (NSW) s 35B(2).

³² Mr Philip Western, Valuer General, Office of the Valuer General, transcript of evidence, 26 March 2012, p 13.

³³ Mr Philip Western, Valuer General, Office of the Valuer General, transcript of evidence, 26 March 2012, p 33.

³⁴ *Valuation of Land Act 1916* (NSW) s 35C.

³⁵ Mr Simon Gilkes, Deputy General Manager, NSW Land and Property Information, transcript of evidence, 5 April 2013, p 18.

³⁶ *Valuation of Land Act 1916* (NSW) s 37.

³⁷ Submission 62, Colin Biggers and Paisley, p 9.

THE ROLE OF CONTRACT VALUERS AND HOW THEY ARE APPOINTED

- 1.32 The *Valuation of Land Act* stipulates that the Valuer General may negotiate and enter into 'valuation service contracts' for the provision of any valuation service for which the Valuer General is responsible.³⁸ This includes land valuations for the purposes of land tax and council rates, compulsory acquisition, and objections. Section 13A of the Act provides that the contracts can regulate the manner in which valuation services are to be carried out, and lists the provisions that such contracts may contain.
- 1.33 The Valuer General can enter into two types of contracts: contestable and uncontested contracts. The former are subject to open tender procedures.

The previous system

- 1.34 Prior to 2009, successful tenderers were chosen by a panel tasked with evaluating tenders for contracts for rating and taxing purposes. The panel would form a list of criteria with which to assess the tenderers, and this was used by the panel to determine whether the tenderer was compliant.³⁹ This panel was comprised of various stakeholders, including the Valuer General, Deputy General Manager for LPI, the Chief Valuer, Local Government representatives, and a representative from the Office of State Revenue.⁴⁰
- 1.35 Mr Western describes the process by which the panel would determine the list of successful tenderers:

Valuer General: Each of the attributes in regard to the tenders have a specific weighting and each panel member then would go through individually and evaluate the tender documentation on the basis of each of those attributes. They would reach a conclusion based on that. As I said before, they would do that independently. It would come to the evaluation group as a whole to work through those in terms of the individual considerations. That part of the tender process was conducted by the contracts officer from Department of Commerce and we would go through and look at where the difference is in terms of the score that they had allocated based on the weightings. Then we would talk through until we could get some form of consensus as to what the appropriate weighting for that was.⁴¹

Current system for contested contracts

- 1.36 Pursuant to s13C, the Minister may direct the Valuer General to invite tenders for contested contracts for the provision of valuation services. Currently, LPI runs the tender process.⁴² However, any valuation that arises as a result of a contestable contract must be made by the Valuer General on the recommendation of the contract valuer.⁴³ Further, s13H(3)(b) allows the Valuer General to make the valuation on the basis of the recommendation 'without independently assessing the accuracy of the recommendation.'

³⁸ *Valuation of Land Act 1916* (NSW) s 9(2).

³⁹ Mr Philip Western, Valuer General, Office of the Valuer General, transcript of evidence, 2 April 2012, p 6.

⁴⁰ Mr Philip Western, Valuer General, Office of the Valuer General, transcript of evidence, 2 April 2012, p 5.

⁴¹ Mr Philip Western, Valuer General, Office of the Valuer General, transcript of evidence, 2 April 2012, p 7.

⁴² Mr Simon Gilkes, Deputy General Manager, NSW Land and Property Information, transcript of evidence, 19 November 2012, p 32.

⁴³ *Valuation of Land Act 1916* (NSW) s 13H(1).

- 1.37 Consequently, the vast majority of valuations are made by contract valuers, and are issued under the statutory authority of the Valuer General.⁴⁴
- 1.38 Valuation contracts are for three years, each accompanied by two one-year rights of renewal. Contracts due for completion are released to tender. Those contracts with one-year options still available are examined by LPI, which determines whether the options will be exercised. Once the decisions have been made, a tender document is developed, and the General Manager for LPI signs off on which contracts are going up for tender.⁴⁵
- 1.39 Initially, the tenders appear before an advisory committee, which actually undertakes the tender valuations.⁴⁶ Two non-voting members of the Tender Evaluation Committee sit on this Committee in order to oversee the probity of the process. The advisory committee comprises a series of specialists across LPI who deal directly with contractors.⁴⁷ Currently, the Valuer General sits on neither committee.
- 1.40 Mr Western describes the tender evaluation process undertaken by the advisory team:⁴⁸
- Mr Western:** The tender evaluation process is reasonably complicated. There are a number of criteria that the tenders are evaluated against...They also have to complete a contract management plan which is project plan explaining to the tender advisory group as to how they are actually going to undertake the work, the rating taxing valuations and, in particular, what are the important milestones and how they are going to ensure that they meet them—once again an integral part of the tender evaluation process, and in the past that has contributed a weighting of 12 per cent to the total. The other part that is evaluated is the valuation methodology that we are going to use.
- 1.41 The advisory committee considers criteria such as capability, quality, the availability of resources, and capacity.⁴⁹
- 1.42 Advice is then given to the Tender Evaluation Committee, which makes the final decision. It includes stakeholder representatives and an independent probity officer. The probity officer observes the tender process, and provides advice on issues of concern.⁵⁰ They also play a significant facilitative role.
- 1.43 Each member of the Committee evaluates the tenderers, and scores them against the criteria. The panel then reconvenes to discuss their scores, where any outlying scores are considered and consensus amongst committee members is achieved.⁵¹ Once the Committee approves a tender, it is signed off by the General Manager of LPI, and the

⁴⁴ NSW Ombudsman, *Improving the quality of land valuations issued by the Valuer General*, 2005, Section 1.2.

⁴⁵ Mr Philip Western, Valuer General, Office of the Valuer General, transcript of evidence, 19 November 2012, p 15.

⁴⁶ Mr Philip Western, Valuer General, Office of the Valuer General, transcript of evidence, 19 November 2012, p 15.

⁴⁷ Mr Simon Gilkes, Deputy General Manager, NSW Land and Property Information, transcript of evidence, 19 November 2012, p 19.

⁴⁸ Mr Philip Western, Valuer General, Office of the Valuer General, transcript of evidence, 19 November 2012, p 15.

⁴⁹ Mr Philip Western, Valuer General, Office of the Valuer General, transcript of evidence, 19 November 2012, p 16.

⁵⁰ Mr Philip Western, Valuer General, Office of the Valuer General, transcript of evidence, 19 November 2012, p 15.

⁵¹ Mr Simon Gilkes, Deputy General Manager, NSW Land and Property Information, and Mr Philip Western, Valuer General, Office of the Valuer-General, transcript of evidence, 19 November 2012, p 24.

letter of offer would go out through the contracts and administration division within LPI Valuation Services.⁵²

- 1.44 A similar process of appointing private valuers is used for objections and just terms compensation contracts.
- 1.45 LPI manages the process of contested contracts, and monitors the performance of contract valuers.

Uncontested contracts

- 1.46 Section 13D outlines that the Valuer General may enter into an uncontested contract under the following circumstances:
- Valuation services not covered by a direction under s13C, and
 - Valuation services for which there are no successful tenderers under s13C.

The Service Level Agreement with LPI

- 1.47 LPI conducts a significant portion of the Valuer General's responsibilities. LPI manages the valuation system on behalf of the Valuer General, providing a range of services. Each year, the Valuer General enters into a service level agreement with LPI which defines the services that they are required to deliver.⁵³ Principally, the services include:
- Maintenance of the Register of Land Values,
 - Issuing valuation lists and notices of valuation,
 - Determining objections against valuations and managing the objections and appeals process,
 - Managing mass valuations contracts,
 - Customer service,
 - Providing and maintaining information systems for valuation data, and
 - Providing reporting services to the Valuer General.⁵⁴

⁵² Mr Philip Western, Valuer General, Office of the Valuer General, transcript of evidence, 26 March 2012, p 15.

⁵³ NSW Ombudsman, *Improving the quality of land valuations issued by the Valuer General*, 2005, Section 4.3.

⁵⁴ NSW Ombudsman, *Improving the quality of land valuations issued by the Valuer General*, 2005, Section 4.3.

Chapter Two – Case studies

INTRODUCTION

- 2.1 The Committee has examined four case studies: the Perilya Mine valuation, the Hornsby Quarry acquisition, Leppington compulsory acquisition and the values in the Mid-Western Regional Council. They raise a number of concerns:
- i) Perilya – the lack of transparency around valuation methodologies, the costs associated with litigation and the community impact associated with the inaccurate valuations.
 - ii) Hornsby Quarry Acquisition – the lack of parties’ procedural fairness in the compulsory acquisition undermines the perceived accuracy of valuations and the high legal costs shows the high barriers to enforcement of legal rights.
 - iii) The Leppington Valuations – the lack of procedural fairness and human contact undermines the perceived legitimacy of valuations, while the lack of accountability led to the verbatim use of a 2008 report in the 2010 valuation.
 - iv) The Values in the Mid-Western Regional Council – highlighted the community impact of inaccurate valuations.

PERILYA MINE VALUATION

- 2.2 The Committee considered the Perilya Mine matter as a case study demonstrating the significant impact that valuation decisions can have on local communities. The Committee visited the mine on 6 March 2013 and met with representatives of Perilya Broken Hill Limited (Perilya). The Committee also held a public hearing attended by representatives of Broken Hill City Council and other local stakeholders. On 15 March 2013, the Committee held a public hearing in Sydney which was attended by representatives of Perilya.
- 2.3 Perilya owns land with mining leases which consists of North, South and Potosi Mines and other land at Broken Hill (Perilya Mine). The land is used to produce lead, zinc and silver.⁵⁵
- 2.4 On 13 September 2007, the Valuer General determined the value of the Perilya Mine at \$20.9 million for the valuing year commencing 1 July 2007. Broken Hill City Council relied on this valuation to levy rates on Perilya. Perilya lodged an objection with the Valuer General against the valuation, which the Valuer General disallowed. Perilya then appealed to the Land and Environment Court.⁵⁶
- 2.5 The Land and Environment Court allowed Perilya’s appeal and ordered that the Valuer General’s valuation be revoked and that, instead, the value of the Perilya Mine be determined at \$4.9 million.⁵⁷ The Valuer General gave effect to this decision by altering

⁵⁵ *Perilya Broken Hill Limited v Valuer-General* [2012] NSWLEC 235, paragraphs 1 and 2.

⁵⁶ *Perilya Broken Hill Limited v Valuer-General* [2012] NSWLEC 235, paragraph 2.

⁵⁷ *Perilya Broken Hill Limited v Valuer-General* [2012] NSWLEC 235, paragraph 35.

- its Register of Land Values so that the value of the Perilya Mine was \$4.9 million and providing Broken Hill City Council with this amended land value.⁵⁸
- 2.6 The Valuer General has appealed the Land and Environment Court's decision to the Court of Appeal and the matter is set down for a hearing in July 2013.⁵⁹
- 2.7 The Valuer General submitted to the Committee that the valuation of mining properties is complex under the current legislation and that the Perilya decision highlights these complexities.⁶⁰
- 2.8 Perilya told the Committee that it had paid Council rates between 2007 and 2010 by reference to the land value originally determined by the Valuer General. However, Perilya explained that since the Land and Environment Court decision, the Council has indicated that it is not currently in a financial position to refund the overpaid rates.⁶¹
- 2.9 Perilya also advised the Committee that the Land and Environment Court case took two years and seven months to complete and cost Perilya over \$200,000.⁶² Perilya highlighted concerns regarding the valuation methodologies, explaining that during the objection process the methodology was not available and that this hampered their capacity resolve the issue.⁶³
- 2.10 Broken Hill City Council explained that mining operations represent approximately 26% of the Council's income from rates and that the result of the Perilya decision is that the Council is liable to repay overpaid rates of \$6.9 million. The Council said that this may have to be paid by all other ratepayers in the area, depending on the outcome of the Court of Appeal matter. The Council told the Committee that if it is required to repay this money to Perilya, then it may have to take out a loan to do so.⁶⁴
- 2.11 The Council's submission also stated that the Perilya decision has affected the Council's ability to enter into important contracts, its cash flow and the Council's programs, policies and services.⁶⁵ The Council has also put a freeze on recruiting new staff.⁶⁶
- 2.12 The Council explained to the Committee that the retrospective nature of the objection process, which allows individuals and companies such as Perilya to object to a property valuation well after the event, puts the Council in a really uncertain position with respect to the future. The Council said that it cannot necessarily determine rates with confidence given that there could be an objection or appeal against an earlier valuation that later impact upon those rates.⁶⁷

⁵⁸ *Perilya Broken Hill Limited v Valuer-General (No 2)* [2012] NSWLEC 276, paragraph 2.

⁵⁹ *Valuer General v Perilya Broken Hill Limited* [2013] NSWCA 16, paragraph 5.

⁶⁰ Submission 129, Office of the Valuer-General, p 46.

⁶¹ Submission 100, confidential, p 4.

⁶² Submission 100, confidential, p 7.

⁶³ Transcript of evidence, 15 March 2013, pp 2-3.

⁶⁴ Mr Timothy Drew, Chief Financial Officer, Broken Hill City Council, transcript of evidence, 6 March 2013, pp 6, 8.

⁶⁵ Submission 67, Broken Hill City Council, p 9.

⁶⁶ Mr Timothy Drew, Chief Financial Officer, Broken Hill City Council, transcript of evidence, 6 March 2013, p 6.

⁶⁷ Mr Timothy Drew, Chief Financial Officer, Broken Hill City Council, transcript of evidence, 6 March 2013, pp 6-7.

- 2.13 Mr Cuy, the Mayor of Broken Hill City Council, told the Committee that the general public in the Broken Hill area are 'extremely upset, extremely concerned' about the effect of the Perilya decision. He said that in the space of one day, there was a petition against rate increases with 400 signatures. He said that people are dissatisfied with their rates going up due to someone else's mistake.⁶⁸
- 2.14 Broken Hill Chamber of Commerce described the impact of the Perilya decision on the Broken Hill community as follows:
- The financial uncertainty caused by this appeal and the flow on effects is already having an impact to businesses, especially small businesses. It has seriously undermined business confidence. Rate increases would significantly impact on the viability of a number of small businesses. This would have a flow on effect to employment in Broken Hill.⁶⁹
- 2.15 In its submission to the Committee, Broken Hill Chamber of Commerce also said that the uncertainty in the community is exacerbated by the potential for other land owners to appeal valuations, particularly other mine operators in the region.⁷⁰
- 2.16 Mr Steer, a ratepayer in the Broken Hill area, told the Committee that the other ratepayers in the area that he has been speaking to are very upset about the impacts of the Perilya decision and are worried about their rate bills.⁷¹ He said that rate increases are particularly difficult for pensioners or others who have fluctuating incomes.⁷² He said that his rates have gone up by \$60 per quarter.⁷³

HORNSBY QUARRY COMPULSORY ACQUISITION

- 2.17 The Committee considered Hornsby Quarry as a case study of the need for transparency in valuation process and affording parties the opportunity to comment on information that will materially affect them. The Committee visited the quarry site on 7 March 2013 and met with local councillors and staff of Hornsby Shire Council.
- 2.18 The Committee did not receive a submission from Hornsby Shire Council or CSR Limited - the former owner of the quarry, the information presented in this case study is based on the Committee's site visit to the quarry and information on Hornsby Shire Council's website.
- 2.19 Hornsby Quarry operated as a hard rock quarry from the early 1900s until recently, when it became unviable due to the poor quality of excavated material. The quarry was zoned 'Local Open Space' in 1994. This zoning carried with it an obligation for Council to acquire the property following receipt of a notice from the owner to do so.⁷⁴
- 2.20 In 2001 the quarry was owned and operated by CSR, who served notice on Council on 22 March to acquire the site. Council was legally required to acquire the property

⁶⁸ Mr Wincen Cuy, Mayor, Broken Hill City Council, transcript of evidence, 6 March 2013, pp 15-16.

⁶⁹ Submission 99, Broken Hill Chamber of Commerce, p 2.

⁷⁰ Submission 99, Broken Hill Chamber of Commerce, p 2.

⁷¹ Mr Ray Steer, transcript of evidence, 6 March 2013, p 27.

⁷² Mr Ray Steer, transcript of evidence, 6 March 2013, p 25.

⁷³ Mr Ray Steer, transcript of evidence, 6 March 2013, p 24.

⁷⁴ Hornsby Shire Council, viewed 2 April 2013, <www.hornsby.nsw.gov.au/planning-and-building/hornsby-quarry/hornsby-quarry-frequently-asked-questions>

because of its zoning as 'Local Open Space'. After first seeking legal advice regarding Council's obligation to acquire the site, notice of Council's acquisition was published in the Government Gazette on 25 October 2002.

- 2.21 Upon taking ownership of the property, Council requested the Valuer General to determine the compensation payable to CSR for the compulsory acquisition of the quarry. The Valuer General determined that Council pay \$25 million to CSR for the market value of the land and \$99,500 for disturbances associated with the compulsory acquisition.⁷⁵
- 2.22 CSR accepted the determination. Hornsby Shire Council, as the acquiring authority, did not have a right to appeal the Valuer General's determination of the amount of compensation.⁷⁶
- 2.23 According to the Council's website, Council is currently "taking legal action in the Supreme Court of NSW against the Valuer General, contract valuer and against the former owner of the quarry, CSR. Council is seeking damages in relation to the amount paid for the acquisition of the Quarry."⁷⁷
- 2.24 Legal advice from Mr Tim Robertson SC, published on the Council's website, contends that the contract valuer valued the site on the basis that the underlying zoning was for multi-unit residential development. The contract valuer thus analysed comparable sales of residential-zoned *en globo* land. Council, on the other hand, had considered that the land's use would be restricted to passive recreation and environmental protection, and zoning would preclude development of the site for urban purposes. Mr Robertson explained how the different zoning assumptions made by Council and the contract valuer led to vastly different valuations:

I have earlier stressed the significance of identifying the underlying zoning of the property because that will then yield the highest and best use of the land. The dispossessed owner is entitled to the value of the land, having regard to its highest and best use. Once that use is identified, the land can be valued on that hypothesis, removing the major area of uncertainty in the valuation. The highest and best use of the site dictates the nature of comparable sales which are analysed by valuers who use the comparable sales method. In this case, CSR and the contract valuer analysed development sites, whereas Council's valuer analysed sites with little or no development prospects. The valuations submitted by Council on the one hand, and by CSR and the contract valuer on the other, passed like ships in the night.⁷⁸

- 2.25 Since the site was acquired and compensation determined, Council has conducted a land use study on the quarry site, which included an assessment of the potential for high density residential development. The Council was advised in 2005, at the

⁷⁵ Hornsby Shire Council, viewed 2 April 2013, <www.hornsby.nsw.gov.au/planning-and-building/hornsby-quarry/hornsby-quarry-frequently-asked-questions>

⁷⁶ Hornsby Shire Council, viewed 2 April 2013, <www.hornsby.nsw.gov.au/planning-and-building/hornsby-quarry/legal-advice>

⁷⁷ Hornsby Shire Council, viewed 2 April 2013, <www.hornsby.nsw.gov.au/planning-and-building/hornsby-quarry>

⁷⁸ Hornsby Shire Council, viewed 2 April 2013, <www.hornsby.nsw.gov.au/planning-and-building/hornsby-quarry/legal-advice>

conclusion of the study, that the cost of development would exceed any realisable profit;⁷⁹ therefore making the site unviable for a residential development.

- 2.26 Mr Robertson's advice to Council states that the Valuer General did not notify Council of the reports provided by CSR during the valuation process:

At no time did the Valuer-General or his contract valuer contact Council, Abbott Tout or Mr Drummond to inform them that CSR had made submissions and provided reports which concluded that the underlying zoning of the land was part residential and had proposed a hypothetical development of over 400 residential units as the highest and best use of the land.⁸⁰

- 2.27 As a result, Mr Robertson contends that the Council was denied procedural fairness:

In my opinion, the Valuer-General denied Council procedural fairness by failing to disclose to Council CSR's reports which had been considered by his delegate Mr Miller and relied upon by the contract valuer, or at the least by failing to disclose to Council that he proposed to determine the value of the subject land on the assumption that it was zoned Residential 2(c). The Valuer-General knew that Council had proceeded to value the land on a completely different assumption. The difference in assumptions produced remarkably different valuations.⁸¹

- 2.28 Mr Robertson's advice conceded that in cases of compulsory acquisition it was Parliament's intention to deny public authorities the right to challenge the Valuer General's determination on its merits, noting that "this was clearly a conscious decision taken in the interest of dispossessed owners."⁸²

- 2.29 However, Mr Robertson considered that this ought not include denying procedural fairness to the Council:

Notwithstanding that policy, there is no indication in the legislative scheme that government officers are free to deny procedural fairness to persons affected by their decisions.⁸³

- 2.30 Finally the Committee notes the extraordinarily high legal costs associated with the appeal. Currently Hornsby Council has spent \$1 million and is expecting, if the matter runs to completion, that their costs will amount to \$2.5 million. Those costs represent a significant barrier to Council, let alone small business or residential landholders.

LEPPINGTON COMPULSORY ACQUISITIONS

- 2.31 In 2008, the NSW Government decided that it would go ahead with the South West Rail Link project. As part of this project, various properties in Leppington were to be

⁷⁹ Hornsby Shire Council, viewed 2 April 2013, <www.hornsby.nsw.gov.au/planning-and-building/hornsby-quarry/legal-advice>

⁸⁰ Hornsby Shire Council, viewed 2 April 2013, <www.hornsby.nsw.gov.au/planning-and-building/hornsby-quarry/legal-advice>

⁸¹ Hornsby Shire Council, viewed 2 April 2013, <www.hornsby.nsw.gov.au/planning-and-building/hornsby-quarry/legal-advice>

⁸² Hornsby Shire Council, viewed 2 April 2013, <www.hornsby.nsw.gov.au/planning-and-building/hornsby-quarry/legal-advice>

⁸³ Hornsby Shire Council, viewed 2 April 2013, <www.hornsby.nsw.gov.au/planning-and-building/hornsby-quarry/legal-advice>

compulsorily acquired, including four properties on Byron Road and one on Rickard Road. The Valuer General valued these properties in 2008. However, the project was then taken off the agenda so those properties were not compulsorily acquired at that time.⁸⁴

2.32 The South West Rail Link project was put on the agenda again in 2010. This led to the Valuer General valuing the properties again and they were then compulsorily acquired.⁸⁵

2.33 In between the 2008 and 2010 valuations, the Minister for Planning released land in the South-West Growth Centre Leppington North for urban development.⁸⁶ The properties listed above were within this area.⁸⁷ The Chair of the Committee and the Valuer General discussed the possible effect of releasing this land:

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.⁸⁸

2.34 Despite the release of land for urban development between 2008 and 2010, the Valuer General's valuations for the four properties on Byron Road did not change. They all received valuations of \$85 per square metre in 2008 and in 2010. However, a property on Rickard Road opposite the Byron Road properties received a valuation of \$85 per square metre in 2008 and \$110 per square metre in 2010.⁸⁹ Rickard Road runs past one side of Byron Road to form a T-intersection.

2.35 In 2012, at the request of the Committee, the Valuer General asked LPI to investigate why there was a higher value assigned to the Rickard Road property in the 2010 valuation given the proximity of this property to the Byron Road properties.⁹⁰ The Valuer General's explanation to the Committee was as follows:

My understanding is that the one that was substantively higher was located in an area where the main transit hub was to be developed in the area. So that, in terms of them looking at the valuation and the other evidence that is available to support that, they put a higher rate per square metre on that compared to the other ones, which were outside that transit hub.⁹¹

⁸⁴ Mr Matt Kean MP, Chair, and Mr Philip Western, Valuer General, Office of NSW Valuer General, transcript of evidence, 5 April 2013, p 44.

⁸⁵ Mr Matt Kean MP, Chair, and Mr Philip Western, Valuer General, Office of NSW Valuer General, transcript of evidence, 5 April 2013, p 44.

⁸⁶ *NSW Government Gazette No 152*, 23 October 2009, p 5479.

⁸⁷ Mr Matt Kean MP, Chair, and Mr Philip Western, Valuer General, Office of the Valuer General, transcript of evidence, 5 April 2013, pp. 53-54.

⁸⁸ Mr Matt Kean MP, Chair, and Mr Philip Western, Valuer General, Office of the Valuer General, transcript of evidence, 5 April 2013, p 54.

⁸⁹ Mr Matt Kean MP, Chair, and Mr Philip Western, Valuer General, Office of the Valuer General, transcript of evidence, 5 April 2013, p 53.

⁹⁰ Mr Matt Kean MP, Chair, and Mr Philip Western, Valuer General, Office of the Valuer General, transcript of evidence, 26 March 2012, p 63.

⁹¹ Mr Philip Western, Valuer General, Office of the Valuer General, transcript of evidence, 19 November 2012, p 46.

- 2.36 At the public hearing on 5 April 2013, the Chair of the Committee raised some further concerns with the Valuer General about the differences in the 2008 and 2010 valuations for the Byron Road properties compared to the property on Rickard Road:

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.⁹²

- 2.37 During the hearing, the Valuer General agreed with the Committee that large sections of the valuation reports for the four properties on Byron Road from 2008 and 2010 were the same.⁹³

- 2.38 The Valuer General committed to undertaking an investigation into the rationale as to why there was a substantive change in the valuation given to the property on Rickard Road between 2008 and 2010, compared to the neighbouring properties on Byron Road. He agreed to report the findings to the Committee.⁹⁴

- 2.39 The Committee received evidence from stakeholders from Leppington whose land was compulsorily acquired. One such stakeholder told the Committee that she did not feel that she was given the opportunity to negotiate with the Valuer General about the value determined for her property. She said:

I felt forced because we were not given the opportunity to negotiate. If you do not take the Valuer General's offer, then you have to go to court. That is the only means that I had left to try and get proper compensation.⁹⁵

- 2.40 She told the Committee that she felt that Land and Property Information and the acquiring body were trying to scare people into taking the compensation offer.⁹⁶

- 2.41 She told the Committee that she appealed to the Land and Environment Court and paid \$150,000 in legal fees just to get to mediation.⁹⁷ She explained the following to the Committee:

When you receive a valuation and your property is compulsorily acquired you have 90 days to file. When you file in court you get 90 per cent within a month and you have to wait for the rest. Just to file in court was nearly \$5,000. That is before you even get a penny. Elderly people on pensions do not have that sort of money, so how are you going to file? That puts extra stress on people.⁹⁸

⁹² Mr Matt Kean MP, Chair, and Mr Philip Western, Valuer General, Office of the Valuer General, transcript of evidence, 5 April 2013, p 56.

⁹³ Mr Philip Western, Valuer General, Office of the Valuer General, transcript of evidence, 5 April 2013, pp. 45-53.

⁹⁴ Mr Philip Western, Valuer General, Office of the Valuer General, transcript of evidence, 5 April 2013, pp 56-58.

⁹⁵ Transcript of evidence, 11 March 2013, p 3.

⁹⁶ Transcript of evidence, 11 March 2013, p 3.

⁹⁷ Transcript of evidence, 11 March 2013, p 7.

⁹⁸ Transcript of evidence, 11 March 2013, p 20.

- 2.42 The Committee heard very traumatic evidence about the impact of these decisions on landholders' emotional and physical health and financial wellbeing. The Committee noted the vulnerability of landholders, particularly those who have English as a second language and their lack of experience in dealing with government.
- 2.43 Landowners have the opportunity to submit relevant information to the acquiring authority as part of the compulsory acquisition of land process.⁹⁹ However, ultimately, if the landowner disagrees with the amount of compensation to be offered, they have to appeal to the Land and Environment Court.¹⁰⁰
- 2.44 At this stage, the Committee does not make any findings regarding the accuracy of the valuations given to the properties at Byron Road and Rickard Road Leppington between 2008 and 2010. The Committee will report to Parliament the findings of the Valuer General's investigation into the discrepancies between the valuations given to neighbouring properties in Leppington, once the Valuer General has completed his investigation.
- 2.45 However, the Committee considers that the 2010 valuation were significantly based on the 2008 valuations. That is apparent from the verbatim consistency. Further, the experience of landholders could have been improved if there was more engagement with affected landholders and also if there was a more cost effective and informal mechanism for those landholders to raise their concerns, apart from the Land and Environment Court processes. These issues will be considered further in Chapter Nine.

LAND VALUES IN THE MID-WESTERN REGIONAL COUNCIL AREA

- 2.46 Land values were determined in the Mid-Western Regional Council area as at 1 July 2011. The Valuer General issued Notices of Valuation to landowners during January 2012. Landowners in the area raised concerns about the new valuations, which lead to LPI carrying out quality assurance checks for all 12,900 properties in that region.¹⁰¹
- 2.47 While the quality assurance checks identified that movements in many of the valuations in the area were within the acceptable market range, they also identified that some rural-zoned properties required a more in-depth review. This led to the Valuer General commencing a review of the accuracy and consistency of all the 1 July 2011 land values for rural properties over 100 hectares where there was a change in land value of more than 20%.¹⁰² The review found that:
- (a) 310 properties from the 672 reviewed needed to be amended as the 1 July 2011 land values were considered to be outside the acceptable market range
 - (b) 91 of the 128 objections reviewed needed to be amended because the 1 July 2011 land value was not supported by sales evidence

⁹⁹ *Land Acquisition (Just Terms Compensation) Act 1991* (NSW) s 39(1).

¹⁰⁰ *Land Acquisition (Just Terms Compensation) Act 1991* (NSW) s 66(1).

¹⁰¹ NSW Land and Property Information, *Review of rural land values for 1 July 2011 Mid-Western Regional Council*, 19 October 2012, p. 1.

¹⁰² NSW Land and Property Information, *Review of rural land values for 1 July 2011 Mid-Western Regional Council*, 2012, p 1.

- (c) two benchmark properties were outside the acceptable market range and therefore required amendment.¹⁰³

2.48 The reasons for the amendments included:

- (a) inconsistent sales analysis for rural properties
- (b) inconsistent application of sales analysis across the various rural components
- (c) insufficient consideration of all available sales evidence.¹⁰⁴

2.49 Landowners who were concerned about their 1 July 2011 land valuation were invited to lodge a late objection so that the valuation could be reviewed. Late objections were accepted until 7 December 2012.¹⁰⁵

2.50 Mid-Western Regional Council told the Committee about the impact of the Valuer General's errors:

The cost to Council in terms of staff time, legal costs and other resources, outside of the actual income loss of \$169,895, would be in the tens of thousands of dollars. Additionally, Council's credibility, landowner relationships and efficiency have been tainted by this series of events that were totally out of Council's control.¹⁰⁶

2.51 Mid-Western Regional Council also told the Committee that Council will be able to recoup the income it lost as a result of successful objections by levying 2013/2014 rates at \$169,895 above the prescribed rate cap. However, the Council said that the immediate effect is that the Farmland rate percentage increase will be greater than the other rating categories for 2013/2014.¹⁰⁷

2.52 Following the review, LPI has enhanced existing, and introduced new, quality assurance checks for the review of future land values including introducing an audit program to review land values and the valuation processes in council areas with significant movements in land values.¹⁰⁸

2.53 Despite the quality assurance improvements introduced by LPI, the Committee considers that this case study is an example of serious lapses in the quality control mechanisms within the Office of the Valuer General and LPI.

RELEVANCE OF CASE STUDIES

2.54 The above case studies highlight some of the issues in the valuation system that the Committee considers need to be reformed.

¹⁰³ NSW Land and Property Information, *Review of rural land values for 1 July 2011 Mid-Western Regional Council*, 2012, p 2.

¹⁰⁴ NSW Land and Property Information, *Review of rural land values for 1 July 2011 Mid-Western Regional Council*, October 2012, p 2.

¹⁰⁵ NSW Land and Property Information, *Review of rural land values for 1 July 2011 Mid-Western Regional Council*, 2012, p 2.

¹⁰⁶ Submission 109, Mid-Western Regional Council, p 3.

¹⁰⁷ Submission 109, Mid-Western Regional Council, p 2.

¹⁰⁸ NSW Land and Property Information, *Review of rural land values for 1 July 2011 Mid-Western Regional Council*, 2012, p 3.

- 2.55 In particular, the case studies provide examples of the complexities associated with valuing certain types of properties; issues surrounding procedural fairness in the valuation system; the lack of transparency of valuation methodologies; the costs associated with pursuing the Land and Environment Court appeal process; issues with landholder engagement and dispute resolution; as well as issues associated with valuation integrity and quality control mechanisms.
- 2.56 They also highlight how single valuations can have significant consequences beyond just the individual or organisation directly affected by the valuation, including impacts on the community, local councils and other businesses and organisations.

Part 2: The need for reform

Chapter Three – A diagnostic of the valuation system

INTRODUCTION

- 3.1 The Committee assessed the valuation system according to three performance objectives:
- valuation integrity,
 - fairness, and
 - efficiency.
- 3.2 These performance objectives are consistent with the criteria outlined in the Issues Paper.¹⁰⁹ The Committee has however adjusted the terminology to reflect the matters raised during the Inquiry. Concerns associated with transparency and predictability are captured in this new framework.
- 3.3 It is the Committee's opinion that while the system is broadly efficient, valuation integrity is undermined by material volatility, while some landholders were not treated fairly. The former view is supported by independent analysis performed on the Committee's behalf, which shows significant year on year fluctuations in land values. The latter is illustrated by a number of case studies (discussed above)¹¹⁰ and stems from a lack of procedural fairness and governance controls in the system.

METHODOLOGY

- 3.4 To test the extent to which the valuation system is delivering on its performance objectives, the Committee considered a range of indicia, to determine the system's integrity, fairness and efficiency.

Valuation integrity

- 3.5 Valuation integrity goes to the quality of the valuations themselves. The Committee considered valuation volatility and land value correlation to the market. Both are relevant given that they can significantly erode the public's confidence in the system.

Fairness

- 3.6 Here the Committee considered four factors. First, procedural fairness; that is the extent to which individuals are afforded the opportunity to put their case forward and respond to adverse information. Second, the degree of consistency between valuations of similar properties in the same neighbourhood. This is relevant not only for equity reasons, but also because if there are significant discrepancies between similar properties, the public's confidence may be materially undermined. Third is transparency. Transparency has equity implications because it is unfair to levy a tax off

¹⁰⁹ Joint Standing Committee on the Office of the Valuer General, *Issues paper – Inquiry into the land valuation system*, February 2013.

¹¹⁰ See Hornsby Quarry example in chapter 2.

a base if the base is not understood or verifiable by the public. Fourth is independence. That applies to both the independence of objection valuers and the Valuer General from Government. Independence is significant here because of its connection to perceptions of impartiality.

Efficiency

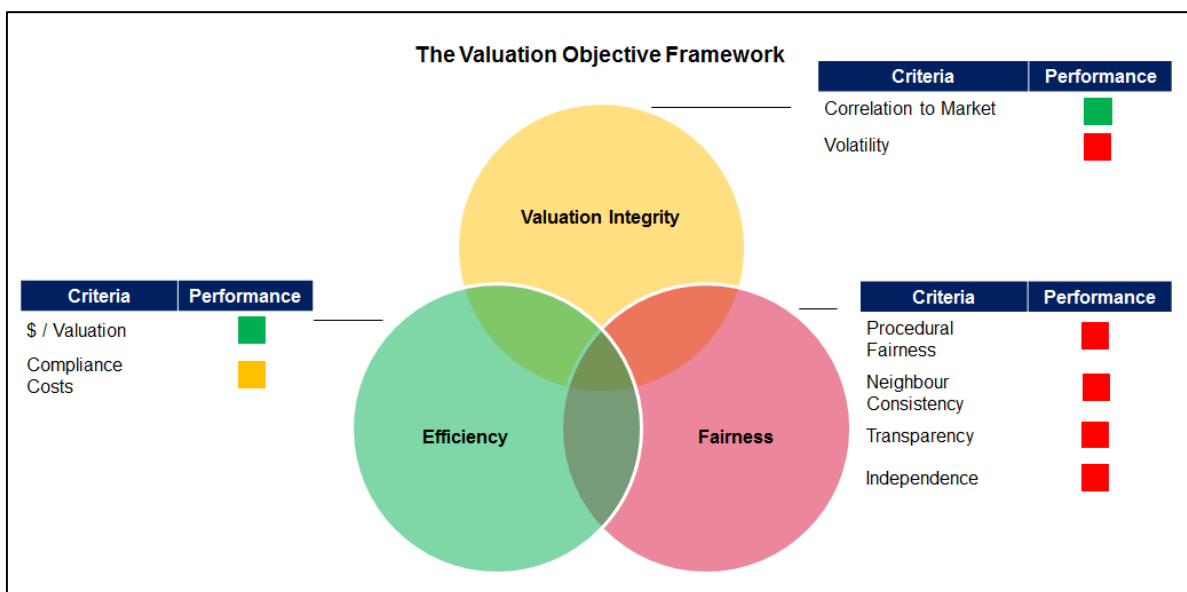
3.7 The Committee assessed the efficiency of the system by its \$/valuation and the compliance costs.

3.8 These results are summarised in the table below:









Objective	Criteria
1. Valuation Integrity	1. Volatility in Valuations
	2. Correlation to Market
2. Fairness	1. Procedural Fairness
	2. Consistency in valuations amongst similar properties
	3. Transparency
	4. Independence
3. Efficiency	1. \$ / Valuation
	2. Compliance Costs

ASSESSMENT

3.9 The Committee’s high-level assessment is that while the system is broadly efficient, the system is not treating landholders with the fairness to which they are entitled and that volatility in valuations is significantly undermining its integrity. This is reflected in the diagram below:



3.10 The full reasoning for this assessment is contained in the table below:

Criteria	Assessment	Reasoning
Volatility in Valuations		There is material volatility in the valuations, with a number of cases of extreme volatility
Correlation to Market		The Valuations currently show a strong correlation to the market
Procedural Fairness		Procedural fairness is not accorded at the objection stage or in the compulsory acquisition process
Consistency in valuations amongst similar properties		There are a number of submissions that have been received showing material inconsistency between property valuations ¹¹¹ . This is compounded by the inability to seek remedy on this basis. ¹¹²
Transparency		Valuation guidelines are not published, leaving the methodologies extremely opaque.
Independence		The independence of the valuation function from executive government has been undermined through LPI performing functions that should be performed by the Valuer General. The public's perception of objection valuers also raises independence concerns.
\$ / Valuation		The Valuation system is currently extremely cost effective.
Compliance Costs		Compliance costs are low, until a person seeks remedy, at which point they escalate rapidly.

THE REST OF THIS PART

3.11 The rest of this part of outlines specific issues associated with the themes of this report. Those issues concern the integrity of the valuation system, procedural fairness, the independence of the Office of the Valuer General and certain transparency concerns.

¹¹¹ See for example, Submission 3, name suppressed; Submission 16, Mr Madden; Submission 21, The Monarch Investments Group of Companies; Submission 27, Professor Wilcken; Submission 32, Mr Newton.

¹¹² See *Valuation of Land Act 1916* (NSW) s 34.

Chapter Four – The integrity of the valuation system

INTRODUCTION

- 4.1 The Committee assessed the integrity of valuations based on the volatility of land values and the correlation to the market. To this end the Committee commissioned an independent consultant, Crowe Horwath, to provide analysis of market data and land values. The consultant concluded 1) that there is material volatility in land values and 2) that the land values over time highly correlate to the market. The Committee adopts those conclusions and has recited those findings below.
- 4.2 The Committee considers the volatility in land values concerning and has accordingly made recommendations on the issue in Part 3 of this report. It is important to note that those recommendations are consistent with a system that over the medium term is functioning well, with values reflecting the market, but has issues on a year-to-year basis.

VOLATILITY IN LAND VALUATIONS (CROWE HORWATH)

Volatility in land values

- 4.3 Volatility is the amount of uncertainty or risk about the magnitude of the change in land value from year-to-year. Statistically, volatility is measured by standard deviation, which indicates how close or far from the average, values fall in relation to the average. A high standard deviation means there is a wide range of values and therefore significant uncertainty or risk about the magnitude of the change in land values. A low standard deviation means there is a low range of values and therefore low uncertainty or risk about the magnitude of the change in land values.¹¹³
- 4.4 The table below summarises the standard deviation in the change in land values from year-to-year for the period 2001-11 by property type.

	2001	2002	2003	2004	2005	2006	2007	2008	2009	2010	2011
Residential	10%	18%	30%	27%	16%	1,807%	25%	1,007%	885%	13%	1,749%
Business	12%	19%	49%	26%	25%	5,221%	29%	21%	19%	15%	16%
Industrial	12%	19%	26%	28%	30%	27%	169,524%	23%	13%	12%	585%
Non-Urban	15%	586%	881%	65%	2,649%	2,061%	1,659%	1,942%	2,069%	1,988%	308%
Other	17%	2,665%	1,810%	561%	45%	2,239%	34%	3,449%	356%	22%	2,683%

- 4.5 *Conclusion:* The table shows that in all periods and for all property types the standard deviation is greater than 5%. Given some of the extreme standard deviations presented, further analysis was conducted to determine whether volatility still existed if some of the extreme properties were removed.

¹¹³ See Appendix 5 for the full report - Crowe Horwath, 'Statistical analysis of land valuation data', March 2013.

4.6 Specifically, we excluded any properties that had any information change about it during the period other than value. For the purposes of this analysis, it meant 500,000 records (approximately 25% of all records) were removed, and then standard deviation was re-calculated. The 500,000 were removed to reduce the number of variables involved, so that the calculation would be on records where the only variable was land value. The re-calculation resulted in the following table:

	2001	2002	2003	2004	2005	2006	2007	2008	2009	2010	2011
Residential	10%	17%	29%	24%	15%	16%	24%	10%	9%	8%	6%
Business	10%	18%	26%	20%	23%	21%	24%	16%	10%	14%	9%
Industrial	12%	16%	23%	27%	29%	26%	25%	22%	12%	11%	10%
Non Urban	15%	638%	24%	36%	23%	18%	21%	19%	21%	16%	15%
Other	16%	28%	35%	52%	41%	49%	30%	27%	32%	20%	19%

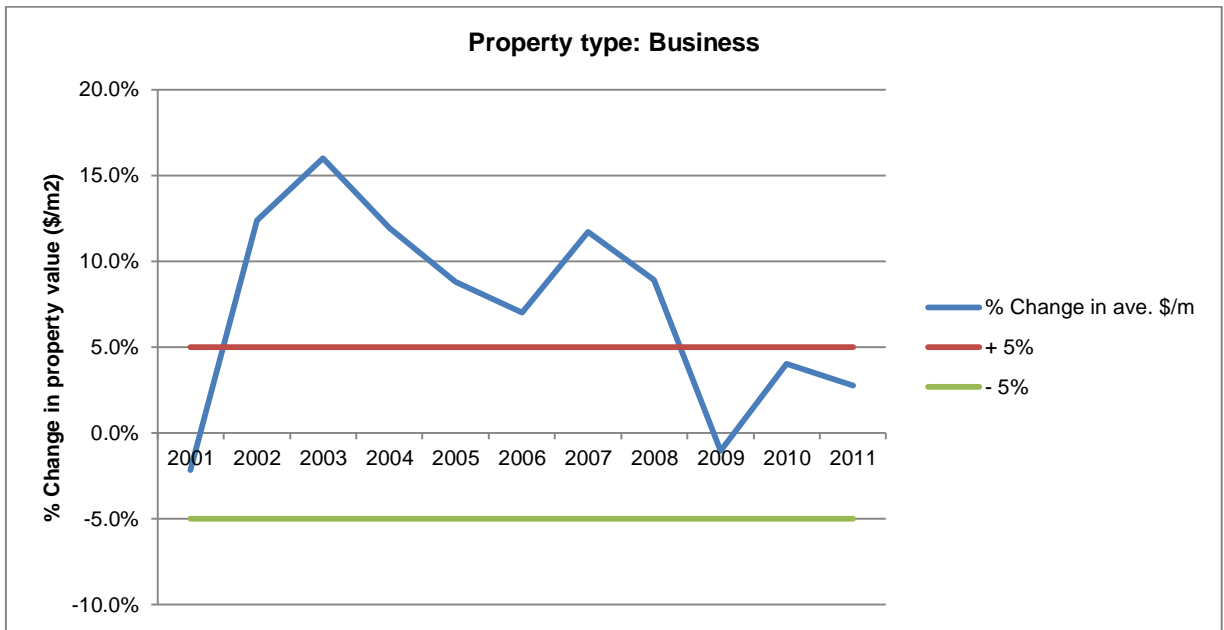
4.7 *Conclusion:* Even when all known variables were removed so that the only variable that existed in the population was land value, the standard deviations were still found to all be above 5% for all periods and property types. Based on the information available, it is not possible to attribute a potential cause(s) for this volatility. However, it is possible to conclude that there is significant volatility in the change in land values experienced by property holders. Given that this has not changed the conclusion the rest of the analysis presented with respect to Hypothesis 1 includes the 500,000 records excluded for the purposes of the above table.

Materially high levels of land value fluctuations

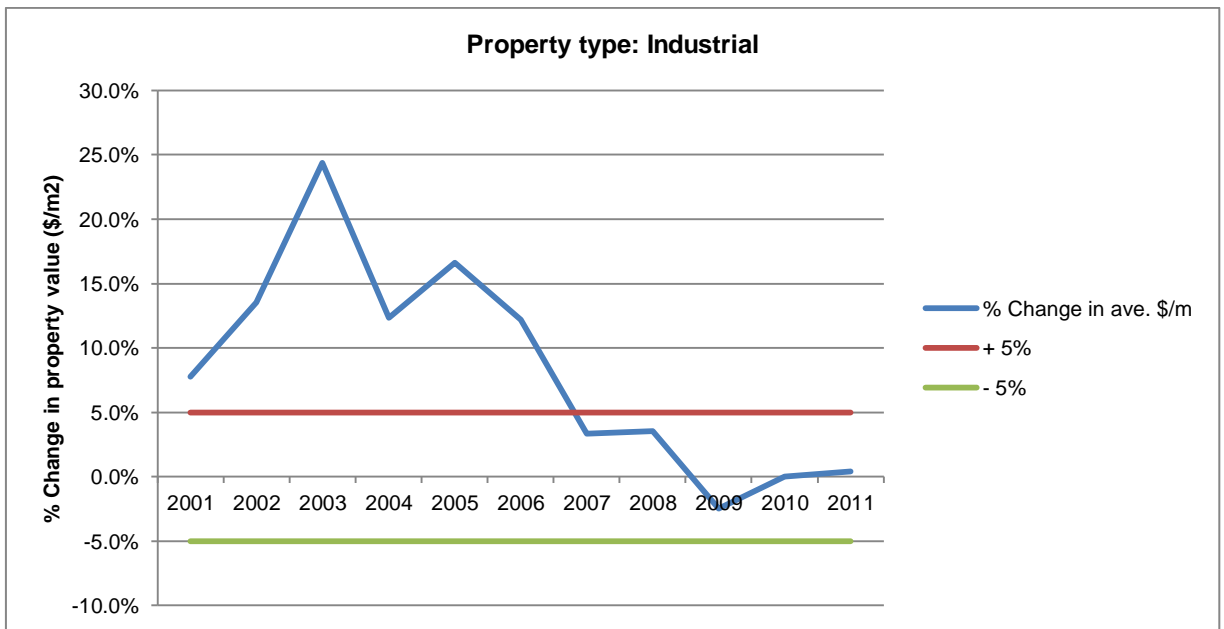
4.8 Fluctuation in land value is measured by the percentage change in average land value per square metre. The following graphs show the percentage change in average land value per square metre by property type for the period 2001-11.



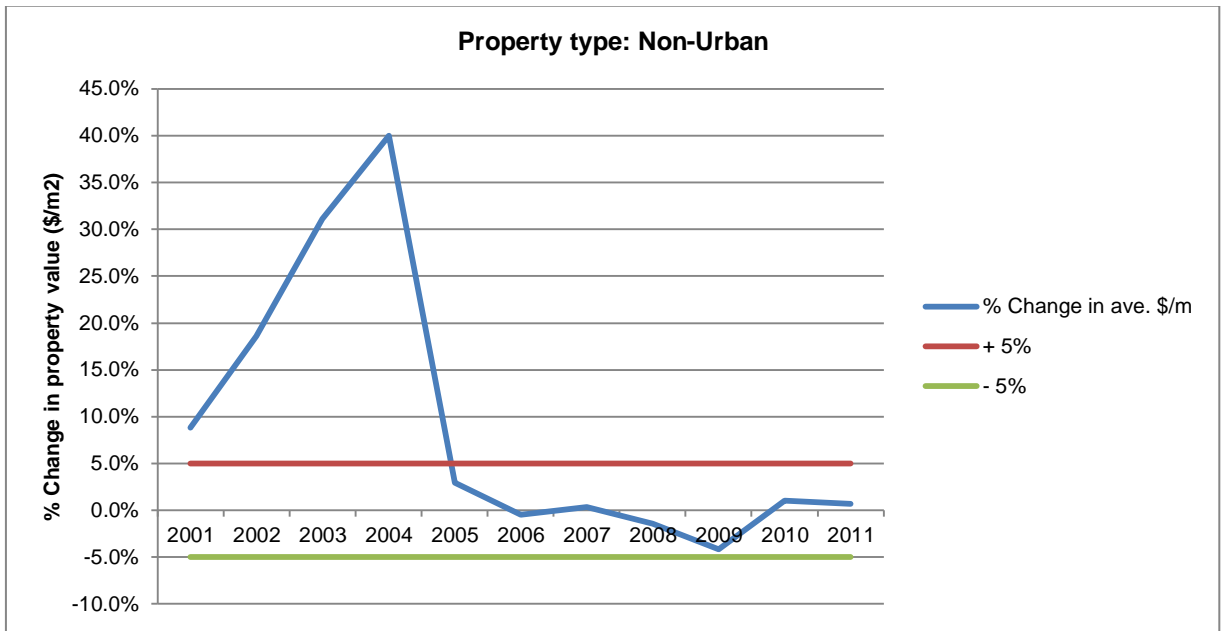
4.9 *Conclusion:* The above graph shows properties zoned as Residential experience materially high changes in value year-to-year between 2001-04 and in 2010.



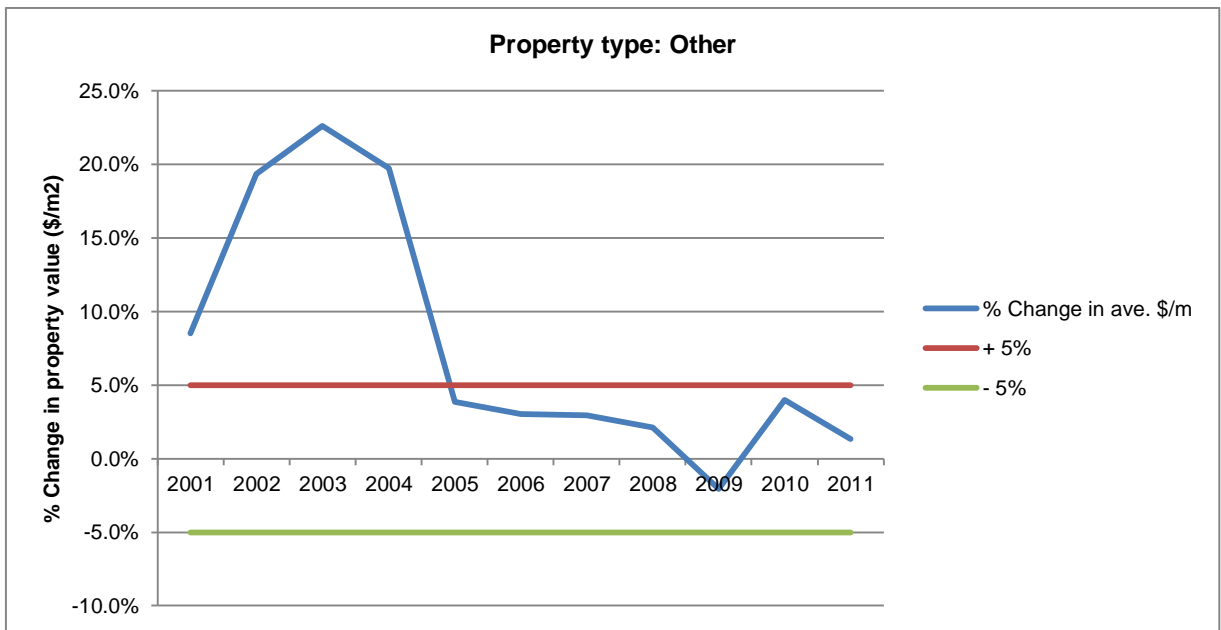
4.10 *Conclusion:* The above graph shows properties zoned as Business experience materially high changes in value year-to-year between 2002-08.



4.11 *Conclusion:* The above graph shows properties zoned as Industrial experience materially high changes in value year-to-year between 2001-06.



4.12 *Conclusion:* The above graph shows properties zoned as Non-Urban experience materially high changes in value year-to-year between 2001-04.



4.13 *Conclusion:* The above graph shows properties zoned as Other experience materially high changes in value year-to-year between 2001-04.

4.14 The above graphs for zones all indicate a material high change before 2005, and relatively low change during the more recent years. Although this is correct, recent years have still indicated high levels of material change and volatility. To illustrate this material volatility, the analysis looked at how many properties had very high growth.

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		2007		2008		2009		2010		2011	
		Count	%	Count	%	Count	%	Count	%	Count	%
Residential	50-100%	6,405	0.50%	11,207	0.90%	1,005	0.10%	1,789	0.10%	1,292	0.10%
	100-1000%	12,288	1.00%	929	0.10%	628	0.00%	1,532	0.10%	641	0.10%
	1000+%	144	0.00%	36	0.00%	67	0.00%	40	0.00%	373	0.00%
Business	50-100%	1,314	0.30%	930	0.20%	24	0.00%	345	0.10%	203	0.10%
	100-1000%	544	0.10%	258	0.10%	128	0.00%	151	0.00%	86	0.00%
	1000+%	10	0.00%	11	0.00%	8	0.00%	4	0.00%	8	0.00%
Industrial	50-100%	1,314	4.50%	787	2.70%	10	0.00%	160	0.50%	90	0.30%
	100-1000%	325	1.10%	346	1.20%	63	0.20%	82	0.30%	54	0.20%
	1000+%	8	0.00%	7	0.00%	5	0.00%	3	0.00%	16	0.10%
All zones	50-100%	17,466	0.82%	18,966	0.89%	6,323	0.30%	5,783	0.27%	3,307	0.15%
	100-1000%	16,100	0.75%	4,496	0.21%	3,190	0.15%	3,163	0.15%	2,460	0.12%
	1000+%	257	0.01%	143	0.01%	175	0.01%	121	0.01%	607	0.03%

4.15 *Conclusion:* Over the period 2007-11, a large number of records experienced very high growth.

Fluctuations are widespread

4.16 Fluctuations are considered widespread if the percentage of property holders who experience material and volatile changes in land value is greater than 5% of the total population.

4.17 The table below shows the percentage of the population that experienced material increase in land value from year-to-year for the period 2001 to 2011.

	2001	2002	2003	2004	2005	2006	2007	2008	2009	2010	2011
% of population above 5% change in value	61%	83%	91%	91%	39%	28%	31%	24%	21%	38%	24%

4.18 *Conclusion:* As shown in the table above, greater than 5% of the population experienced greater than 5% percentage change in land value throughout the period 2001-11, peaking in 2003 and 2004 when 91% of properties experienced more than 5% growth. Therefore we can conclude based on the guidance provided by the Committee that the growth experienced by property holders is material and widespread.

Conclusion from hypothesis testing

4.19 Based on the data provided, parameters agreed with the Committee and the analysis performed above, we conclude individual property holders experience material volatility in land values. However, based on the information available, it is not possible to attribute a potential cause(s) for this volatility.¹¹⁴

¹¹⁴ Crowe Horwath, 'Statistical analysis of land valuation data', 28 March 2013.

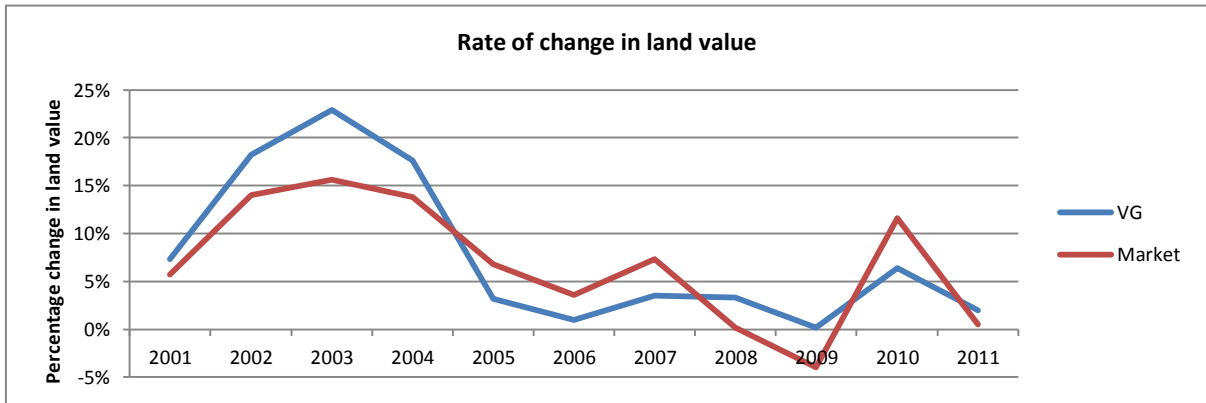
MARKET VALUE CORRELATION (CROWE HORWATH)

Correlation

- 4.20 Correlation is the measure of how closely 2 values move in respect to each other. A high correlation, indicated by a value of 1, means 2 values move together at the same rate. A low correlation, indicated by a value of -1, means 2 values move completely opposite of each other. A value of 0, indicates no correlation exists, and that the 2 values move in randomly compared to each other.
- 4.21 The table below shows the correlation between the rate of change in land value as per the Valuer General register to the rate of change in land value as per Residex market data at the NSW state level (residential only).

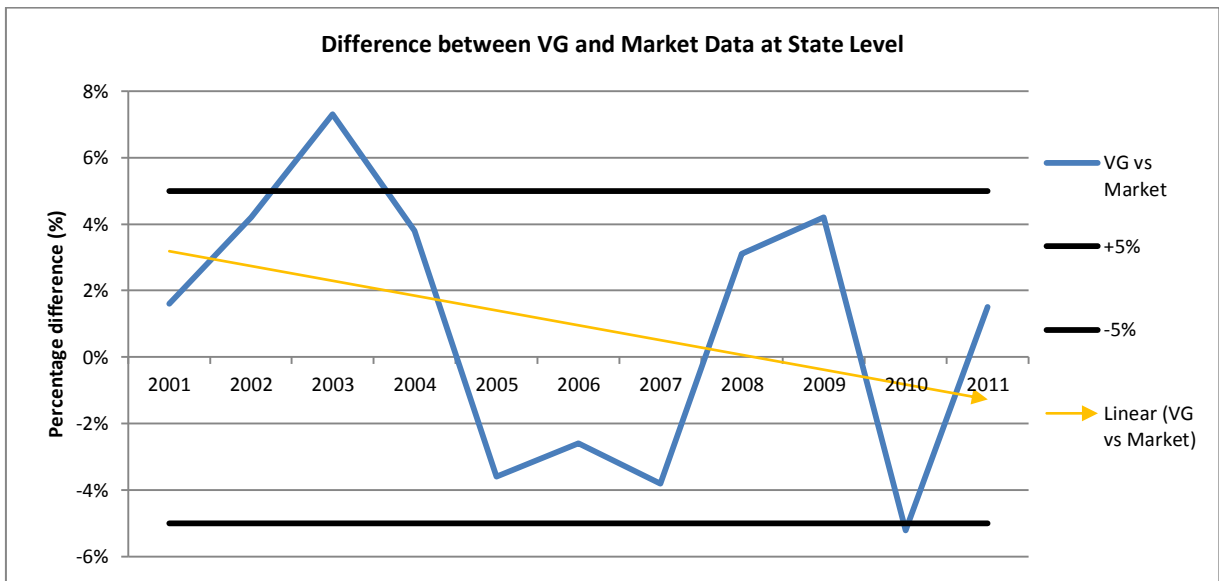
	Valuer General (\$/m ²)	Market (\$/m ²)	Valuer General	Market
2000	234	347		
2001	251	367	7.3%	5.7%
2002	297	418	18.2%	14.0%
2003	365	484	22.9%	15.6%
2004	429	550	17.6%	13.8%
2005	443	588	3.2%	6.8%
2006	447	609	1.0%	3.6%
2007	463	654	3.5%	7.3%
2008	479	655	3.3%	0.2%
2009	479	629	0.2%	-4.0%
2010	510	702	6.4%	11.6%
2011	520	705	2.0%	0.5%
2012		698		-1.1%
Correlation	0.991		0.858	

- 4.22 *Conclusion:* As shown in the table above, at a NSW state level, the correlation between the rate of change in land value as per the Valuer General register to the rate of change in land value as per Residex market data is positive and close to 1. This indicates that the two are highly correlated.
- 4.23 The following graph visually confirms the correlation and it can be seen that generally the two have moved together over the period 2001 to 2011.



Materially more than market

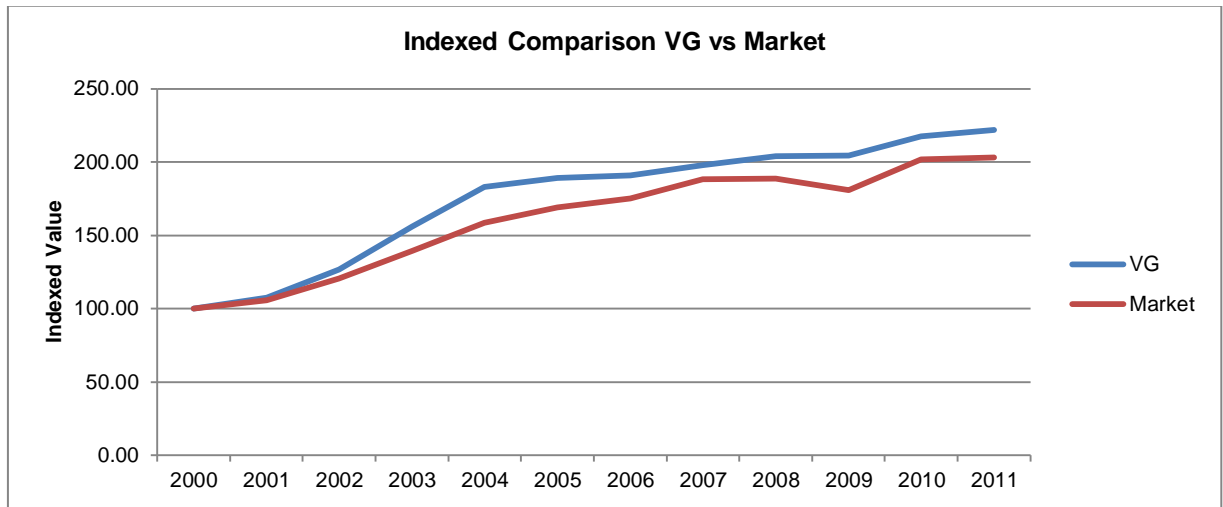
4.24 The following graph shows at a State level where the annual rate of change in land value as per the Valuer General register exceeds +/- 5% the rate of change in land value as per Residex market data.



4.25 *Conclusion:* The graph demonstrates that at State level, the difference between the rate of change in land value as per the Valuer General register and market data have not been materially different, except in 2003 and 2010. Additionally, the trend has shown a general convergence in the rate of change over time.

4.26 Although this convergence of rates has shown that Valuer General and market data has had a 'to and fro' relationship, over time, with an indexed comparison, the result is as follows.

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4.27 *Conclusion:* The graph demonstrates that at State level, during the 2000-11 period, that a \$100 residential investment in land would have resulted in a Valuer General valuation of \$222 in 2011, whereas market would have valued the land at \$203. Although this result demonstrates a difference of 19% at the end of the period, when viewed on an annual basis, represents an average difference of 1.7%, which by definition, is not a material difference.

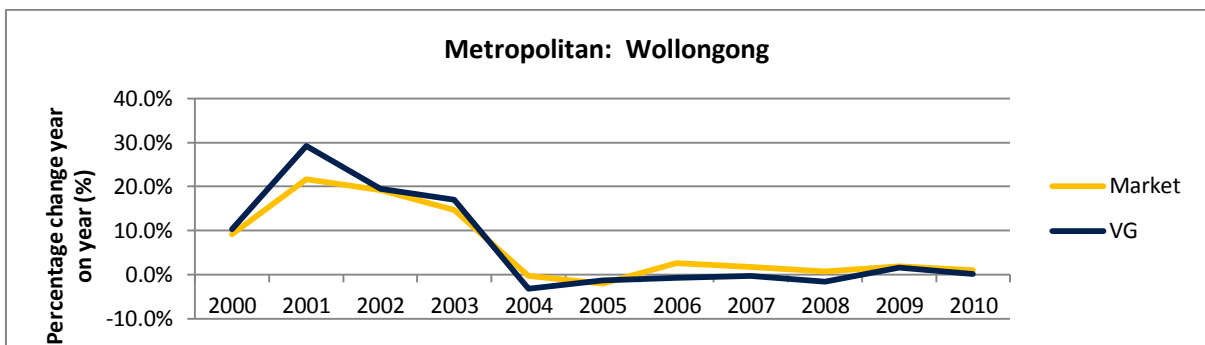
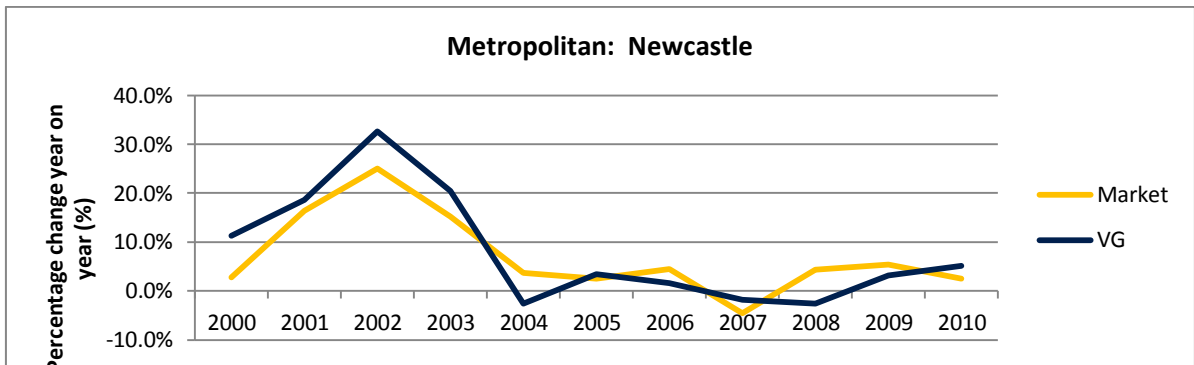
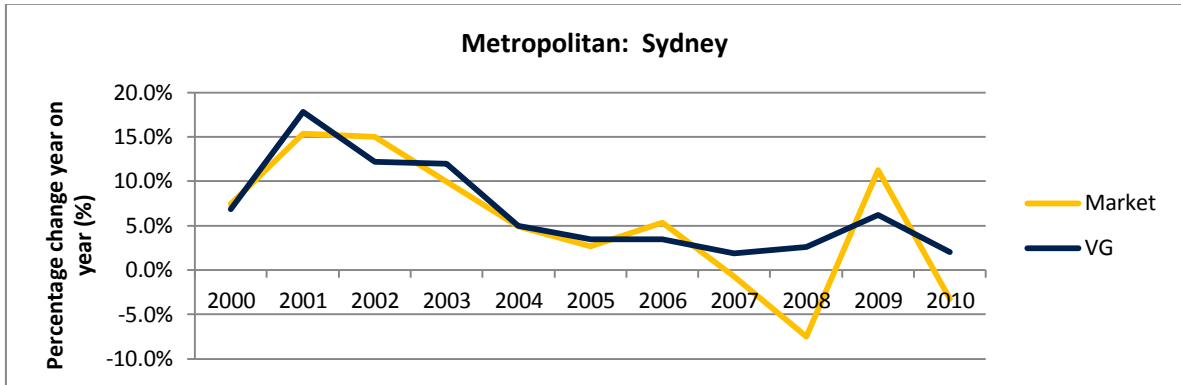
For the metropolitan areas

4.28 The analysis of the metropolitan areas began with the correlation measures.

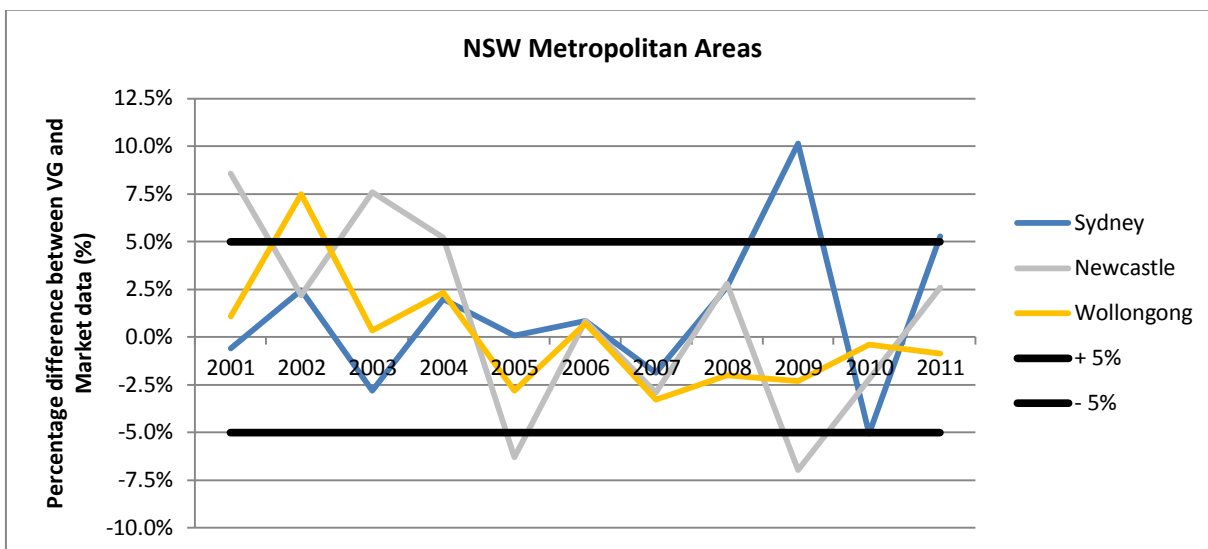
	SYDNEY				NEWCASTLE				WOLLONGONG			
	VG	Market	VG	Market	VG	Market	VG	Market	VG	Market	VG	Market
2000	410	520			128	224			177	299		
2001	440	562	6.8%	7.4%	144	230	11.3%	2.8%	198	329	10.3%	9.2%
2002	535	664	17.8%	15.4%	177	276	18.6%	16.4%	279	420	29.1%	21.6%
2003	609	781	12.2%	15.0%	262	367	32.6%	25.0%	346	519	19.4%	19.1%
2004	692	868	12.0%	10.0%	330	433	20.4%	15.2%	418	609	17.1%	14.7%
2005	728	912	5.0%	4.9%	321	450	-2.6%	3.7%	405	607	-3.2%	-0.4%
2006	755	937	3.5%	2.7%	333	461	3.4%	2.5%	399	595	-1.4%	-2.1%
2007	782	990	3.5%	5.3%	338	483	1.6%	4.5%	396	610	-0.7%	2.6%
2008	797	983	1.9%	-0.7%	332	462	-1.8%	-4.6%	395	621	-0.4%	1.7%
2009	818	914	2.6%	-7.5%	324	483	-2.6%	4.4%	389	625	-1.6%	0.7%
2010	872	1030	6.2%	11.3%	334	511	3.2%	5.4%	395	637	1.5%	1.9%
2011	891	998	2.1%	-3.2%	352	524	5.1%	2.5%	395	643	0.1%	1.0%
2012		1043		4.3%		523		-0.2%		636		-1.2%
Correlation	0.978		0.837		0.982		0.907		0.984		0.984	

4.29 *Conclusion:* As shown in the table above, at a metropolitan level, the correlation between the rate of change in land value as per the Valuer General register to the rate of change in land value as per Residex market data is positive and close to 1. This indicates that the two are highly correlated.

4.30 Visually, the representations of the metropolitan areas are as follows.



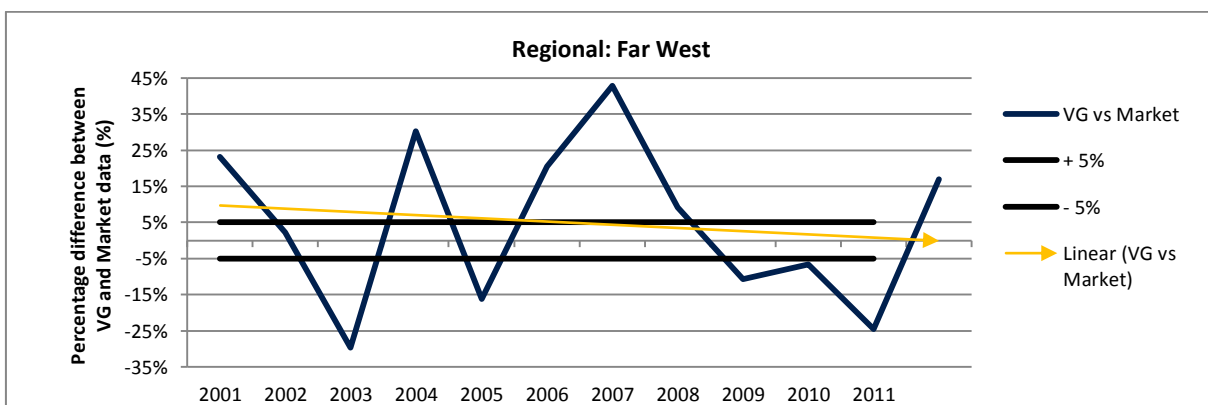
4.31 *Conclusion:* Again, from correlation and visual effect, the Valuer General and market data have trended in the same direction for most years. To better understand whether a material difference exists, the difference in values between Valuer General and market data is represented as follows:

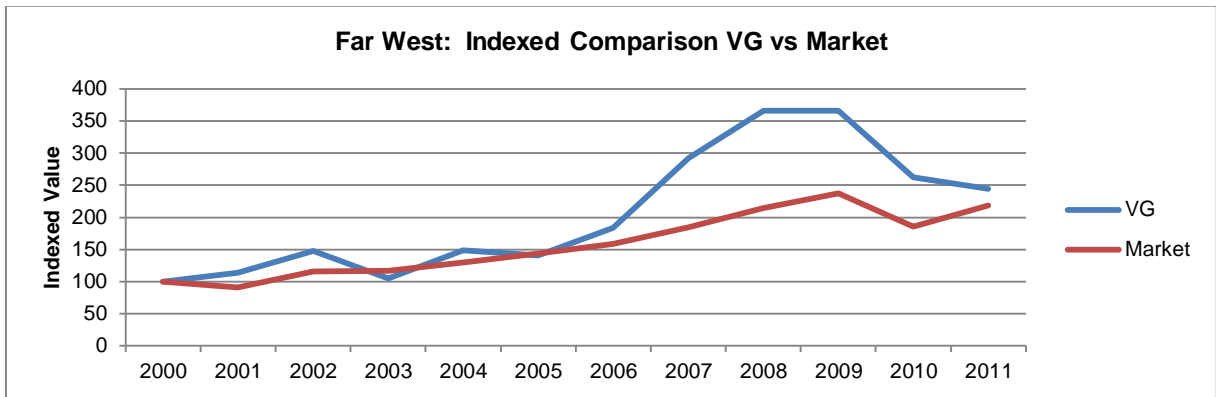


4.32 *Conclusion:* In looking at the percentage differences in metropolitan areas, Sydney and Wollongong have both experienced minimal material differences between Valuer General and market data. They have each only experienced one year of difference, 2009 and 2002 respectively. In comparison, Newcastle has experienced multiple years of material growth differences in 2001, 2003, 2005 and 2009.

For regional areas

4.33 At a regional level, we have found that material differences between Valuer General and market data exists, however it has not been possible to determine that in a particular region the land values as per the Valuer General has consistently outgrown the market or vice versa over time. This is consistent with the fact that over time, there is a strong correlation in land values. An analysis by region is included in Appendix 7, but by way of illustration, we have included the graph below for the Far West region where the correlation was lower (0.57).





4.34 *Conclusion:* In comparison on an annual basis, material differences can be found in the annual growth rates for some chosen years. However, as a general trend, and this exists for all regions, the comparison between Valuer General and market information shows that there is a balancing effect over time.

Conclusion from hypothesis testing

4.35 Based on the data provided by the Valuer General and market data sourced from Residex, we have concluded that overall at the State and Metropolitan level, the land values as per the Valuer General register have not grown materially more than the market. This has been evidenced by the generally high levels of correlation between the sets of data at this level.

4.36 At the regional level, however, we have found correlation to be lower and that material differences between the land values as per the Valuer General and market data exists on an annual basis. However, over time it has not been determined that a particular region where the land values as per the Valuer General has consistently materially outgrown the market or vice versa over the period 2001 to 2011. And so, even though the correlation is lower at regional level, Valuer General valuations still have not materially outgrown the market.¹¹⁵

¹¹⁵ Crowe Horwath, 'Statistical analysis of land valuation data', March 2013.

Chapter Five – Procedural fairness

INTRODUCTION

5.1 This section addresses whether the Valuer General’s processes sufficiently provide procedural fairness to landholders with respect to land tax and compulsory acquisition valuations. It is the Committee’s view that reform is required to provide landholders notice of information that adversely impacts their valuation and to provide them with an opportunity to respond.

5.2 The issues:

- (a) **Should the Valuer General provide procedural fairness to titleholders whose land has been compulsorily acquired or valued for the purpose of land tax?**

Yes. Procedural fairness allows a person to put their case. It provides a safety net to ensure that all relevant information is before the valuer and by involving landholders in the valuation process legitimises the final determination.

- (b) **What is sufficient to meet this requirement?**

In order to meet the policy objectives associated with procedural fairness it is necessary that there is: 1) notice of the applicable procedures and substantive criteria for valuations; 2) the real opportunity for the landholder to adequately put their case; 3) disclosure of any “adverse information that is credible, relevant, and significant to the decision to be made”¹¹⁶; and 4) the opportunity to refute such information.

- (c) **Is procedural fairness adequately incorporated into compulsory acquisition and land tax valuations?**

No, neither system meets requirements 3 or 4.

- (d) **What reforms, if any, are required to meet any deficits in the compulsory acquisition system?**

The process associated with objection valuations and compulsory acquisition valuations should be amended so that parties are given notice of adverse information and are provided with the opportunity to respond.

DOES THE VALUER GENERAL NEED TO PROVIDE PROCEDURAL FAIRNESS TO TITLEHOLDERS?

When procedural fairness is required

The policy framework

5.3 The policy basis for providing procedural fairness lies in its capacity to legitimise and improve administrative decisions. At its core, procedural fairness requires that parties

¹¹⁶ *Kioa v West* (1985) 159 CLR 550 at 629.

are given the opportunity to put their case. This will usually include the opportunity to be heard and the chance to consider and refute adverse information. Involving landholders in this way increases the transparency and integrity of the process and ensures that the decision maker has all the relevant facts before them prior to making their decision.

- 5.4 Procedural fairness also tends to increase transparency and accountability. The availability of information regarding process, substantive criteria and evidence is directly relevant to the fairness of the system. If information of this type is withheld from parties, the system risks becoming a fiction either because the costs required to access it render an application uneconomic or because, in extreme cases, the public is not even aware that a right exists.
- 5.5 As a matter of general principle, this Committee also will tend to favour reforms that increase transparency. This is because, as discussed elsewhere in this report, transparency has the effect of putting the decision maker on notice that the quality of their work will be subject to review by an independent audience. The greater the scrutiny, the greater the incentive to discharge their work with care and diligence.

The legal framework

- 5.6 At law, public officials have a duty to provide people and corporations procedural fairness where an administrative decision directly and immediately affects a person's rights or interests: *Kioa v West*¹¹⁷. The doctrine has been applied to a wide set of administrative decisions ranging from the renewal licenses¹¹⁸ to deportation orders¹¹⁹ to coronial inquests¹²⁰ and even to certain Cabinet decisions¹²¹. Indeed, so broad is the principle that in *Re Minister for Immigration and Multicultural and Indigenous Affairs; Ex parte Lam* McHugh and Gummow JJ held "that the rules of procedural fairness are presumptively applicable to administrative and similar decisions made by public tribunals and officials"¹²². Similarly, in *Kioa v West* Mason J held:

The critical question in most cases is not whether the principles of natural justice apply. It is: what does the duty to act fairly require in the circumstances of the particular case?¹²³

- 5.7 The law also recognises two limitations to the doctrine. The first limitation arises where there is a clear statutory intention to exclude procedural fairness¹²⁴. It is the Committee's view that this exception does not apply to the current inquiry. Statutory intention is an appropriate consideration in a legal forum but not in a forum where the legislation is itself subject to review.

¹¹⁷ *Kioa v West* (1985) 159 CLR 550.

¹¹⁸ *Sullivan v Department of Transport* (1978) 20 ALR 323.

¹¹⁹ *Kioa v West* (1985) 159 CLR 550.

¹²⁰ *Annetts v McCann* (1990) 170 CLR 596.

¹²¹ *State of South Australia v O'Shea* (1987) 163 CLR 378.

¹²² *Re Minister for Immigration and Multicultural and Indigenous Affairs; Ex parte Lam* (2003) 214 CLR 1, McHugh and Gummow JJ at 27.

¹²³ *Kioa v West* (1985) 159 CLR 550, Mason J at 585.

¹²⁴ *Kioa v West* (1985) 159 CLR 550, Mason J.

- 5.8 The second limitation regards decisions more adequately described as political or policy decisions. As Jacobs J noted in *Salemi (No 2)*, for the legal duty to attach, the relevant decision must be one “which directly affects the person (or corporation) individually and not simply as a member of the public or a class of the public. An executive or administrative decision of the latter kind is truly a 'policy' or 'political' decision and is not subject to judicial review.”¹²⁵ While the Committee is not bound by the constitutional restraints associated with judicial review, a similar exception is appropriate as a matter of good governance. This is because while public consultations will ordinarily further policy development, there are occasions where alternative approaches will be appropriate. Such circumstances are readily foreseeable in law enforcement and commercial contexts.
- 5.9 For these reasons, the Committee considers that as a matter of good governance, administrative decisions that directly and immediately affect a specific person’s rights or interests attract a duty to provide procedural fairness.

The Valuer General’s position

- 5.10 It is the Committee’s view that the powers exercised by the Valuer General attract an obligation to provide procedural fairness, including the provision of a fair hearing. The Valuer General’s power both to determine the value of compensation for compulsorily acquired land and to value land for the purposes of levying land tax and council rates directly and immediately impacts a person’s rights and interests. The power is not political because valuations are tied to specific properties and affect the individuals connected with those properties in a way they do not affect the public at large.
- 5.11 The view that procedural fairness is applicable is consistent with the Valuer General’s testimony:
- CHAIR:** So following on from my discussion about the need for you to follow certain administrative law rules, you need to provide under those rules unbiased values.
- Mr WESTERN:** Correct.
- CHAIR:** Procedural fairness to home owners.
- Mr WESTERN:** Absolutely.¹²⁶
- 5.12 This conclusion is also consistent with the legislation. The *Valuation of Land Act* establishes an independent officer to value land in NSW; it provides a low cost objection option for landholders; and a right of appeal to the Land and Environment Court, a right which is also available under the *Land Acquisition (Just Terms Compensation) Act*. These provisions are designed to ensure that landholder’s rights are adequately protected. That is consistent with the view that land valuations should be completed pursuant to principles of procedural fairness.

¹²⁵ *Salemi v Mackellar* (1977) 137 CLR 396, Jacobs J at 452.

¹²⁶ Mr Matt Kean MP, Chair, and Mr Philip Western, Valuer General, Office of the Valuer General, transcript of evidence, 26 March 2012, p 51; Mr Matt Kean MP, Chair, and Mr Philip Western, Valuer General, Office of the Valuer General, transcript of evidence, 5 April 2013, p 31.

WHAT IS SUFFICIENT TO MEET THE PROCEDURAL FAIRNESS REQUIREMENT?

- 5.13 The content of the obligation to provide procedural fairness depends on the circumstances, but will usually require an impartial decision maker and a fair hearing. The Committee considers impartiality in the context of the Valuer General's independence from government; this section is focused on the content of the obligation to provide a fair hearing to landholders.
- 5.14 Central to the fair hearing rule is a party's opportunity to put their case. What this entails will turn on the nature of the rights and interests involved, the circumstances in which the decision is made, the public purpose furthered by the legislation and any other legitimate matter of public policy relevant to the decision at hand.
- 5.15 Professor Sourdin, in her testimony to this Committee, commented:

Professor SOURDIN:...People will not consider that a process is fair, either procedurally fair or in terms of outcome, if they have not had a chance to say something about it [adverse information], even if they disagree with it. There is a lot in this notion about what is or is not procedurally fair because it is caught up with expectations around process and most people have an expectation that if they disagree with government the Government will listen to them and at least give them some sort of sounding or listening to in relation to it

- 5.16 Some colour can also be added to this basic principle by reference to cases that have gone before the courts. In *Kioa v West*, the High Court quashed a decision of the delegate for the Minister Immigration to deport Mr Kioa. The basis for this decision was that the applicant was not provided the opportunity to respond to the allegation that he was materially assisting others to circumvent the immigration laws of Australia. As stated by Brennan J, as he was then:

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 unfair to deny a person whose interests are likely to be affected by the decision an opportunity to deal with the information.¹²⁷

- 5.17 The principle was affirmed in *Applicant VEAL of 2002 v. Minister for Immigration and Multicultural and Indigenous Affairs*¹²⁸. In that case, the High Court held that credible prejudicial information, relevant to the issue at hand, must be disclosed even where the decision maker does not consider the information when making their decision.
- 5.18 In *Re Marine Hull and Liability Insurance Co Limited v Chris Hurford and the Insurance Commissioner*¹²⁹ the court noted that in cases of extreme urgency, the duty may be deprived of any meaningful content. As a matter of policy, the Committee agrees: it can hardly be imagined that a power to enter property to prevent the spread of fire would be accompanied by a burdensome obligation to accord a fair hearing where

¹²⁷ *Kioa v West* (1985) 159 CLR 550, per Brennan J at 629.

¹²⁸ *Applicant VEAL of 2002 v Minister for Immigration and Multicultural and Indigenous Affairs* [2005] HCA 72 at [24]–[27].

¹²⁹ *Re Marine Hull and Liability Insurance Co Limited v Chris Hurford and the Insurance Commissioner* [1985] FCA 406 at [15].

there is a real and immediate threat of significant destruction of property or loss of life. Similar imperatives are also likely to arise in times of war, law enforcement emergencies or natural disaster.

- 5.19 Given the flexible approach taken by the courts, the Committee considers it appropriate to examine the Valuer General's position from first principles. It is necessary to do this with reference to: 1) the nature of the rights and interests involved, 2) the circumstances in which the decision is made, 3) the public purpose furthered by the legislation and 4) any other legitimate matter of public policy relevant to the decision at hand:

1. The nature of the rights and interests involved

- 5.20 The Valuer General's powers are sensitive in the sense that they directly impact a person's interests. Both are closely tied to the lawful appropriation of private property. This is especially true for compulsory acquisition valuations, which have a significant impact on a person's financial wellbeing. Similarly, the power to set land tax and council ratings, while not of the same gravity as compulsory acquisitions, also directly influences an individual's financial position, especially individuals and corporations involved in property intensive businesses.

2. The circumstances in which the decision is made

- 5.21 Land valuations are not severely time restricted nor subject to emergency considerations. For this reason there will not ordinarily be facts that would tend against a fair hearing.

3. The statutory purpose

- 5.22 The *Valuation of Land Act* serves a dual purpose. The first is to facilitate the levy of land tax and council rates. The second is to ensure that those taxes are levied fairly and with integrity. The legislation goes to some length to protect peoples' interests: valuations are assessed by an independent statutory officer; landholders can object to their valuations; and they have right of appeal to the Land and Environment Court.

- 5.23 Similarly, the *Land Acquisition (Just Terms Compensation) Act* was enacted to ensure that people receive adequate compensation for when their home is acquired by government. The imperative behind the power itself is to ensure accurate compensation, land tax and council ratings assessments. A fair hearing enhances the probability of accurate determinations, protects their legitimacy and provides fairness to individuals. It does this because it both ensures that all relevant material is before the valuer and that landholders have a forum to raise their concerns.

4. Other legitimate policy considerations

- 5.24 There are no policy considerations that suggest that a fair hearing should not be provided. While it will always be preferable for valuations to be assessed in a timely and cost-effective fashion, the occasions where such factors will outweigh the need to make accurate valuations will be rare.

Conclusion

It is appropriate that landholders are accorded a full opportunity to put their case. A full opportunity to put a case will require:

1. Notice of the applicable procedures and substantive criteria;
2. The opportunity to put their case;
3. Disclosure of any “adverse information that is credible, relevant, and significant to the decision to be made”¹³⁰; and
4. The opportunity to refute such information.

The Valuer General’s response

5.25 When these standards were put to the Valuer General and representatives from LPI, three concerns were raised:

- 1) that requirements 3 and 4 would overly elongate the process;
- 2) that conceptually the decision is not a negotiated valuation, it is an impartial and objective determination; and
- 3) that the term adverse information does apply because the Valuer General is independent. The Committee rejects these submissions: The first submission because, in the Committee’s opinion, mechanisms can be established that prevent a never-ending exchange of arguments. The second, because affording landholders and acquiring authorities the right to respond to adverse information in no way displaces the Valuer General’s authority to make a final determination contrary to those parties wishes. And the third, because adverse information in this context is defined as information that would tend to change the value of the property compared to what it would otherwise be in a way that deleteriously effects the financial position of the relevant party.

Process duration

5.26 Under questioning, the Valuer General testified that:

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?¹³¹

5.27 It is the Committee’s view that this concern can be managed through the application of appropriate mechanisms. These may include some form of mediated discussion, conferencing or strict procedural guidelines. The Committee notes that administrative officials in a range of contexts are legally required to afford this opportunity¹³² and in

¹³⁰ *Kioa v West* (1985) 159 CLR 550 at 629.

¹³¹ Mr Philip Western, Valuer General, Office of the Valuer General, transcript of evidence, 5 April 2013.

¹³² See for example, *Kioa v West* (1985) 159 CLR 550; *Sullivan v Department of Transport* (1978) 20 ALR 323; *Re Minister for Immigration and Multicultural and Indigenous Affairs; Ex parte Lam* (2003) 214 CLR 1.

this context does not consider the Valuer General's concerns sufficient to render the standard defective.

Valuer General's independence

- 5.28 During the April 2013 hearing it was stressed that an accurate impartial decision was made, less emphasis was placed on the engagement with landholders:

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—

- 5.29 In the Committee's opinion it is entirely appropriate that these values are objectively determined rather than negotiated. The Committee understands why that should be emphasised. But that view is not inconsistent with an approach that affords a fair hearing. The Committee is not recommending that the valuation be determined through negotiation, or that the authority to make the decision should be contingent on the landholder's consent. The Committee is recommending that the determination should only be made once parties have been afforded an opportunity to respond to information they have not had the chance to comment on. The issue is one of process.

Applicability of the term adverse information

- 5.30 Mr Parker suggested that the term adverse information was not applicable in this context because the decision is ultimately the Valuer General's to make:

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.¹³³

- 5.31 While the Committee is of the view that this issue was later resolved during the hearing, it considers it appropriate, for the sake of clarity, to make some comments on the issue. Adverse information is assessed from the perspective of the relevant parties.

¹³³ Mr Michael Parker, Chief Valuer, Office of the Valuer General, transcript of evidence, 5 April 2013, p 31.

If the information suggests a valuation would be altered in a way that is deleterious to the interests of the relevant party, that information is adverse and should be disclosed.

IS PROCEDURAL FAIRNESS ADEQUATELY INCORPORATED INTO THE VALUATION SYSTEM?

The current valuation process

Land tax and council rating valuations

5.32 Land tax valuations occur over three phases. The first is the mass valuation or component methodology phase. The Valuer General described how the mass valuations occur:

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

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

It is applying that sales analysis to the benchmark property and it comes up with a component factor. So it says that from the valuation last year, we are going to adjust the valuation up for this 12 month period to this amount, or whatever that figure that they have deduced. It might be, for example, 20 per cent. They have done a sales analysis, applied that sales analysis to the benchmark property and that is showing that over that 12 month period that particular property has increased by, say, 20 per cent. They will then apply that factor to the balance of the properties in that component. The 20 per cent is then applied to the rest of the properties. Importantly, though, because of that distribution they now need to go back and make sure that it is actually right. They stand back and have a feel if it looks correct. They will actually apply that knowledge to the representative properties too, to get a feel for how that is applied and that might require, as a result of that, making some adjustment. That, in a nutshell, is how the component methodology works¹³⁴.

¹³⁴ Mr Philip Western, Valuer General, Office of the Valuer General, transcript of evidence, 19 November 2012, p 16.

- 5.33 This process is executed by contract valuers, whose results are reviewed by LPI. LPI may request clarifications and vary valuations. The results of this exercise are provided to landholders in the form of a s 29 valuation notice. A person or corporation will fall within the statutory definition of landholder if they are: the owner of the freehold estate, a lessee or occupier who is obligated to pay rate or tax in respect of the land value, a lessee who holds land under a written lease for a term exceeding three years who is liable to pay land tax or a mortgagee in possession of the land.¹³⁵
- 5.34 The second phase involves objections. The right to object to a valuation is afforded to any party who has received a valuation notice in respect of the property in question, rating and taxing authorities, and any Commonwealth or State department.¹³⁶ Grounds for objection include: that the valuation is incorrect; the dimensions of the property are incorrect; that the interests held by people connected with the land are incorrectly apportioned; the apportionments of the valuations are inaccurate; and certain grounds regarding whether the land should be valued separately.¹³⁷
- 5.35 Mr Parker, Chief Valuer at LPI, described the objection process:
- Mr PARKER:**... The right of objection is there against the original valuation that stands on the roll. The valuation that is developed originally is possibly part of the mass valuation process, and as we explained, with the component structure and so forth. It is developed possibly over a period of time, and a lot of properties involved. What happens with an objection is that it is a single property where a valuer is given the task of coming up with the value for that property. So they are given the time and opportunity and scope to really consider all aspects of the property, and the market evidence, to come up with the correct decision. So it is a much more stringent process to develop the valuation that is issuing from the objection process than it is in the general mass valuation of the roll.
- 5.36 The primary difference between an original valuation and an objection valuation is that the latter is a valuation of a specific property rather than an extrapolation on the valuations of other properties. When a person objects to their valuation, it is necessary that they provide information to substantiate their claim.¹³⁸
- 5.37 The third phase is an appeal to the Land and Environment Court pursuant to s 37(1). The Land and Environment Court is empowered to re-value the property: s 40(1).

Compulsory acquisitions

- 5.38 Pursuant to s 11(1) of the *Land Acquisition (Just Terms Compensation) Act 1991* landholders whose property is to be compulsorily acquired must receive notice of an intention to acquire at least 90 days prior to acquisition.¹³⁹ Acquisition gives rise to a right for compensation, which is to be offered to the owner after a maximum of 60 days after the land is compulsorily acquired.¹⁴⁰ A person entitled to compensation

¹³⁵ *Valuation of Land Act 1916* (NSW) s 29(1).

¹³⁶ *Valuation of Land Act 1916* (NSW) s 29(3A) and s 31.

¹³⁷ *Valuation of Land Act 1916* (NSW) s 34(1).

¹³⁸ Office of the Valuer General, *Your land value review guide*, January 2013, p 13.

¹³⁹ *Land Acquisition (Just Terms Compensation) Act 1991* (NSW) s 11(1).

¹⁴⁰ *Land Acquisition (Just Terms Compensation) Act 1991* (NSW) s 37 and s 42(1).

must lodge a claim.¹⁴¹ A person who is entitled to compensation will usually attach submissions regarding the quantum of compensation to their claim.¹⁴² Compulsory acquisition valuations may be completed by LPI or contractors. In either case, LPI will review the valuation before it is finalised. The valuer may ask for more information from the parties and conduct their own enquiries. In this process, it is possible that they may put adverse information to parties, although there is no process to ensure this opportunity is consistently provided¹⁴³. If a landholder disagrees with their valuation, they can object to the Land and Environment Court under s 66(1). The court has the power to re-value the property.

- 5.39 It should also be noted, that the same process applies to people who *elect* to have their land compulsorily acquired. This right accrues to landholders whose land is designated for acquisition for a public purpose¹⁴⁴ and the owner can demonstrate hardship.¹⁴⁵ Individuals whose land is acquired in this way are entitled to compensation and can object to the valuation to the Land and Environment Court. That right of appeal does not extend to the acquiring authority.

Information available on the valuation system

- 5.40 There is significant information available regarding this system. The Valuer General releases two newsletters a year. The first is voluntary, in the sense that local councils can decide whether to post it¹⁴⁶. The second is included with the valuation notices. The newsletter explains how residents can object to their valuation, outlines recent sales data and provides a range of referrals for more information¹⁴⁷.
- 5.41 Residents can access also information regarding the valuation system online including the valuation methodology and the objection system. There is an online objection form.¹⁴⁸ For those that are not online, there is also a hotline interested parties can call to receive more information¹⁴⁹. *Your land value review guide* also provides clear and actionable information on how to lodge an objection, the grounds of an objection and the steps involved. The guide includes detailed examples of submissions that should accompany an objection. It is available online.¹⁵⁰
- 5.42 In the case of compulsory acquisitions, the acquiring authority will inform landholders of their entitlement to seek compensation.
- 5.43 It is appropriate to turn to whether these processes amount to a fair hearing. As noted above, a full opportunity to put a person's case will require:

¹⁴¹ Mr Michael Parker, Chief Valuer, Office of the Valuer General, transcript of evidence, 5 April 2013, p 30, and *Land Acquisition (Just Terms Compensation) Act 1991* (NSW) s 39(1).

¹⁴² Mr Michael Parker, Chief Valuer, Office of the Valuer General, transcript of evidence, 5 April 2013, pp 30-31, and *Land Acquisition (Just Terms Compensation) Act 1991* (NSW) s 39(1).

¹⁴³ Mr Philip Western, Valuer General, Office of the Valuer General, and Mr Michael Parker, Chief Valuer, Office of the Valuer General, transcript of evidence, 5 April 2013, pp 30-33.

¹⁴⁴ *Land Acquisition (Just Terms Compensation) Act 1991* (NSW) s 23(1)(a) and s 21(1).

¹⁴⁵ *Land Acquisition (Just Terms Compensation) Act 1991* (NSW) s 23(1)(b).

¹⁴⁶ Mr Philip Western, Valuer General, Office of the Valuer General, transcript of evidence, 26 March 2012, p 47.

¹⁴⁷ Office of the Valuer General, *Newsletter from the NSW Valuer General*, January 2013.

¹⁴⁸ NSW Land and Property Information, viewed 19 April 2013, www.lpi.nsw.gov.au/objection/object.htm?jsessionid=F6BD7747590B47717B21BE9CFF0A25D6?execution=e1s1.

¹⁴⁹ Mr Philip Western, Valuer General, Office of the Valuer General, transcript of evidence, 26 March 2012, p 48.

¹⁵⁰ Office of the Valuer General, *Your land value review guide*, January 2013.

- 1 Notice of the applicable procedures and substantive criteria;
- 2 The opportunity to put their case;
- 3 Disclosure of any “adverse information that is credible, relevant, and significant to the decision to be made”¹⁵¹; and
- 4 The opportunity to refute such information.

The adequacy of the land tax valuation system

1. Notice of the applicable procedures and substantive criteria

5.44 It is the Committee’s opinion that the communication system for land tax valuations provides adequate notice of the applicable procedures and substantive criteria. The purpose of this criterion is to ensure the processes available to landholders to protect their interests are functionally accessible. This requires that all relevant information is accessible, actionable and complete. The newsletter notifies landholders of their objection rights and refers them to other sources of information. The website and the hotline are also readily accessible; retrieving the relevant information is straightforward. *Your land value review guide* clearly explains what is required to satisfy the objection process. The objection examples are especially helpful, providing a model on which individuals can base their submissions. The combination of these communication channels ensures that an interested party can adequately inform themselves such that they can avail themselves of the mechanisms designed to protect their interests.

2. The opportunity to put a case

5.45 It is the Committee’s view that the current system provides landholders with the opportunity to put their case both when they make an objection and if the matter goes to the Land and Environment Court.

3. Disclosure of any “adverse information that is credible, relevant, and significant to the decision to be made”¹⁵²

5.46 It is the Committee’s view that there is inadequate disclosure of adverse information. Adverse information in this context includes any factor that is materially relevant to the valuation. It will usually include a recent sale of land, but it may also include government planning, government comments about development in the area or any other piece of information that could reduce the value of the property.

5.47 It will of course not be sufficient that the information is merely detrimental, it must also fall outside the party’s sphere of knowledge. If the information is specifically dealt with by a party’s submission, there will be no need to disclose it. But where the information is unknown to the landholder or where the information is known, but the relevance, interpretation or materiality of the information is not apparent, then it will be necessary for it to be disclosed. The latter is required because it is possible for a landholder not to address information in their objection because they possess further material that would alter the characterisation of the evidence. It is foreseeable that a landholder may not consider a property sale in their submission because they are

¹⁵¹ *Kioa v West* (1985) 159 CLR 550 at 629.

¹⁵² *Kioa v West* (1985) 159 CLR 550 at 629.

aware of the strategic importance of that property to a development, a business, or the sentimental value attached to the buyer. In these circumstances such information helps the valuer make an accurate assessment.

- 5.48 An issue arises regarding when disclosure should occur. The system needs to be considered in its totality. In NSW, the process is designed to provide low cost valuations to the community. It does this through a mass valuation approach, complemented by an accessible and affordable objection process. The mass valuation approach is designed to provide reasonably accurate valuations at low cost. If people disagree with the results from this process, there is a readily accessible remedy. To require valuers to disclose adverse information at the mass valuation stage would defeat the economic viability of the system.
- 5.49 For this reason, the Committee considers it necessary to disclose adverse information at the objection and Land and Environment Court phases, not when the land is being mass-valued. This is because objections are the system's safety net. Landholders self-identify possible inaccuracies, which LPI then re-values more rigorously. This stage affords landholders the opportunity to cheaply and quickly have their property accurately re-assessed. There is no inequity in leaving the disclosure to the objection phase, because that stage is specifically designed to remedy the defects associated with a low cost mass-valuation approach.
- 5.50 The Valuer General suggested that the Land and Environment Court might rectify any procedural fairness defects.¹⁵³ In the Committee's opinion the costs of Land and Environment Court proceedings are material and parties should be afforded a fair process prior to appeal. If they are not, the economic barriers will prevent a significant proportion of landholders from effectively engaging the process. That is especially true for *Valuation of Land Act* valuations, where the financial benefits associated with a successful appeal are relatively small. For these reasons, the objection stage is the key point in the land tax procedural fairness issue.
- 5.51 Currently, the objection process does not provide landholders notice of adverse material that is credible, relevant and significant to the valuation. Once a person lodges their objection there is no systematic correspondence with the Valuer General's office until the determination is issued. Given the standards identified, it follows that the objection system is not sufficiently meeting its obligations because it does not provide a landholder with the opportunity to see and respond to adverse information *prior* to their valuation being issued.
- 5.52 Finally, the Committee notes that the information in question is adverse information *before the objection valuer*. It will not be sufficient to release the original mass valuation report and leave the matter there, because there will likely be further prejudicial information before the objection valuer, which is also subject to disclosure requirements.

4. The opportunity to refute adverse information

- 5.53 Given the Committee's conclusion regarding the criterion above, it necessarily follows that there is no opportunity to refute adverse information.

¹⁵³ Mr Philip Western, Valuer General, Office of the Valuer General, transcript of evidence, 2 April 2013, p 33.

The adequacy of the compulsory acquisition system

Notice of the applicable procedures and substantive criteria

Landholders are currently informed of the right to make submissions.

The opportunity to put a case

- 5.54 It is the Committee's view that the current system allows a person to put their case when they are invited to make submissions.
- 5.55 *Disclosure of any "adverse information that is credible, relevant, and significant to the decision to be made"*¹⁵⁴
- 5.56 The Committee finds that there is inadequate disclosure of adverse information. The process in place for compulsory acquisition is closely analogous to that used in land tax objections – both involve submissions from the landholder, both see a valuer make a determination based, at least partially, on their own inquiries and neither provide a standard method to disclose adverse information to parties.
- 5.57 Mr Parker noted that the process involved independent investigations on the valuer's behalf.¹⁵⁵ He also noted that "Often the agency or authority will also supply information, professional reports or whatever they have in relation to the acquisition."¹⁵⁶ Information collected through these channels should be disclosed to landholders where it would tend to reduce the value of their property. That does not presently occur, rendering the system defective.
- 5.58 As in the case of land tax valuations, the right of appeal to the Land and Environment Court does not remedy the hearing issues of a compulsory acquisition determination. This is again because of the expense associated with litigation.

The opportunity to refute adverse information

- 5.59 Given the Committee's conclusions regarding the matter above, it necessarily follows that there is not sufficient opportunity to refute adverse information.

The Hornsby Quarry – an example

- 5.60 The Hornsby Quarry is an example of a valuation that would have resulted in a materially different experience for stakeholders had procedural fairness been afforded¹⁵⁷. In that instance the Council was required to acquire the quarry pursuant to a right held by CSR, the landholder, under the *Land Acquisition (Just Terms Compensation) Act*. Information that was adverse to the Council was not disclosed prior to the valuation determination. That information supported the view that a significant residential development could have occurred. The Council was, and remains of the view, that the information was incorrect and that had they been involved in a different valuation would have been issued.¹⁵⁸

¹⁵⁴ *Kioa v West* (1985) 159 CLR 550 at 629.

¹⁵⁵ Mr Philip Western, Valuer General, Office of the Valuer General, transcript of evidence, 5 April 2013, p 31.

¹⁵⁶ Mr Philip Western, Valuer General, Office of the Valuer General, transcript of evidence, 5 April 2013, p 30.

¹⁵⁷ Note: the Committee makes no comment regarding the accuracy or otherwise of that valuation.

¹⁵⁸ Hornsby Shire Council, viewed 19 April 2013, www.hornsby.nsw.gov.au/planning-and-building/hornsby-quarry/legal-advice

5.61 Subsequent to the event, the council has had to pay \$25 million in compensation to CSR for the market value of the land and \$99,500 for disturbances.¹⁵⁹ That has resulted in a special rate levy to be paid by local residents.¹⁶⁰ Litigation is continuing, which has already cost Hornsby ratepayers \$1M and may cost them another \$1.5M. Ignoring the accuracy of council's contention, on which this Committee expresses no opinion, had the council been involved at the very least it would have: ensured that the council was afforded the opportunity to rebut the information; reduced the chances of litigation; and engaged the community, through their representatives, in the acquisition.

5.62 As an expert witness on dispute resolution put to the Committee:

Mr LANCKEN:...I think if I was the council in those circumstances and I saw a valuation I did not agree with I would be feeling pretty upset about it. Especially if I knew that the Government had been listening to CSR and does not hear from me. I am the local government, I know what is going on in my area and they have not asked me what I think about this. I can imagine notwithstanding that the valuation may have been absolutely correct the council would have had some reason to be upset. That is the thing that I focus on, because the process by which we make decisions is what makes us more or less likely to want to dispute them.¹⁶¹

CONCLUSION

5.63 For these reasons, it is the Committee's view that the systems used to value land for land tax and compulsory acquisition valuations need improvement. Specifically parties entitled to object to land valuations, landholders whose property is being compulsorily acquired and acquiring authorities should be afforded a fair hearing. This requires

- i Notice of the applicable procedures and substantive criteria;
- ii The opportunity to put their case;
- iii Disclosure of any "adverse information that is credible, relevant, and significant to the decision to be made"¹⁶²; and
- iv The opportunity to refute such information.

5.64 The practical implementation of these reforms is discussed as part of the broader issue of the objection and compulsory acquisition process.

¹⁵⁹ Hornsby Shire Council, viewed 19 April 2013, www.hornsby.nsw.gov.au/planning-and-building/hornsby-quarry/hornsby-quarry-frequently-asked-questions

¹⁶⁰ Hornsby Shire Council, viewed 19 April 2013, www2.hornsby.nsw.gov.au/ebp/ebp2005.nsf/21097a8176941d6e4a2564600016add3/cccd25d4f82be32cca25701b00221b37?OpenDocument

¹⁶¹ Mr Stephen Lancken, Director, Negocio Resolutions, transcript of evidence, 11 March 2013, pp 5-6.

¹⁶² *Kioa v West* (1985) 159 CLR 550 at 629.

Chapter Six – Transparency

INTRODUCTION

6.1 Transparency is essential in a democratic system of government. It is required to support accountability of government, fairness in the application of rules and certainty for individuals in the transaction of their daily business. The current valuation system has a range of deficiencies in the disclosure of relevant and material information. Specifically, the Committee is concerned that valuation guidelines are not published. Valuation methodologies should be readily accessible, understandable and actionable for members of the public. It may be appropriate that technical guides go into more detail, but ordinary members of the public should have sufficient information available such that they can forecast the values of their properties and substantiate objections. Similarly, the reasons for valuation determinations should be provided. The current system of property disclosure online is to be commended, as is the system of providing full reasons for objection determinations.

PRINCIPLES – TRANSPARENCY IN THE VALUATION SYSTEM

When transparency will be required

- 6.2 It is almost trite to stress the importance of transparency in government. Transparent rules provide certainty for individuals in their rights, obligations and in the transaction of their affairs. Transparent leadership structures and decision-making processes are a pre-condition to effective accountability mechanisms. Those comments apply equally to the disclosure of any reasoning associated with specific decisions that directly impact an individual's rights.
- 6.3 There will also be occasions where there are other legitimate concerns that will tend against the full disclosure of certain types of information. The examples of privacy, national security and law enforcement are readily apparent. Where such concerns arise competing interests need to be balanced to determine the appropriate policy response.
- 6.4 In the context of the valuation system, privacy is a pertinent concern. But that issue primarily arises in circumstances where the valuation of an individual property is concerned. Even in those cases, the privacy issues only attach to details concerning the landholder. There is no reason to withhold the disclosure of the reasoning for a valuation determination to the landholder themselves.

Principles regarding the scope of transparency requirements

- 6.5 The critical issue is whether a reasonable person would have sufficient information to clearly understand government policy and to enforce their rights and discharge their obligations.

THE ADEQUACY OF THE CURRENT SYSTEM

- 6.6 Three transparency issues have arisen during the course of the Committee's Inquiry.

1. Valuation guidelines

6.7 The Valuer General currently uses valuation manuals to support his processes.¹⁶³ Such manuals are circulated to valuers and detail the methodologies that should be employed to make valuation determinations.¹⁶⁴ Those manuals are not readily accessible to the public, nor are they in a form that can be readily interpreted or actioned except where the person has strong valuation skills.¹⁶⁵ For this reason the guidelines may need modification for public release. But whatever form the guidelines take, they should enable a landholder to:

1. Forecast future valuations;
2. Contribute to improving guideline integrity;
3. Substantiate their objection; and
4. Understand how their land is valued.

6.8 There are no countervailing reasons that the Committee is aware of why clear, accurate and actionable guidelines should be withheld from the public.

6.9 This view is supported by a number of submissions. One stakeholder suggested the “Valuer General should have a strict, transparent, and public methodology.”¹⁶⁶ Another noted that “Valuation methodologies and application of the various statutory valuation assumptions, concessions, allowances are foreign and opaque.”¹⁶⁷ They continued suggesting that valuation manuals and circular regarding interpretation of those statutory allowances should be published.¹⁶⁸ A number of submissions also expressed uncertainty as to the relevant valuation methodology.¹⁶⁹ This community feedback received to the Committee as part of the consultation process re-enforces the view that such guidelines and manuals should be publicly available.

6.10 The Valuer General is also of the view that guidelines should be publically available:

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?

¹⁶³ Mr Philip Western, Valuer General, Office of the Valuer General, Mr Michael Parker, Chief Valuer, Office of the Valuer General, Mr Simon Gilkes, Deputy General Manager, Land and Property Information, Mr Paul Knight, Assistant Director, Valuation Operations, Land and Property Information, transcript of evidence, 5 April 2013, pp 4-6.

¹⁶⁴ Mr Michael Parker, Chief Valuer, Office of the Valuer General, transcript of evidence, 5 April 2013, p 5.

¹⁶⁵ Mr Simon Gilkes, Deputy General Manager, Land and Property Information, transcript of evidence, 5 April 2013, pp 6-7.

¹⁶⁶ Submission 100, confidential, p 6.

¹⁶⁷ Submission 62, Colin Biggers and Paisley, p 1.

¹⁶⁸ Submission 62, Colin Biggers and Paisley, pp 1-2.

¹⁶⁹ See for example, Submission 61, Home Access Association; Submission 27, Professor Bridget Wilken; Submission 65, name suppressed.

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.¹⁷⁰

6.11 A recommendation addressing this issue is outlined in the chapter entitled *Valuation Integrity*.

2. Valuation reasoning

6.12 Given the principles discussed above, individuals should be given access to valuation reasons. The Committee recognises that presently that reasoning is made available.¹⁷¹

3. The availability of other valuations

6.13 There is a concern that valuations of other properties should not be publicly available. Indeed, the Valuer General initially declined to provide the Committee with that information on legal advice.¹⁷² This was notwithstanding that the information was available online. There is an issue regarding what is the appropriate degree of privacy that should be allowed. The benefit of publicly available property values is that it provides certainty for buyers and allows comparison between property valuations.

6.14 As such information has been publicly available for some time, with few privacy complaints raised, it is the Committee's view that this information should remain in the public domain.

CONCLUSION

6.15 For the reasons outlined in this section it is the Committee's opinion that greater transparency is required in the administration of the valuation system. The greatest area where this is required is in publishing guidelines. These suggestions are broadly consistent with the approach taken in other fields of public administration.

¹⁷⁰ Mr Philip Western, Valuer General, Office of the Valuer General, transcript of evidence, 5 April 2013, p 6.

¹⁷¹ Mr Philip Western, Valuer General, Office of the Valuer General, transcript of evidence, 5 April 2013, p 7.

¹⁷² See for example Mr Philip Western, Valuer General, Office of the Valuer General, Mr Matt Kean MP, Chair, transcript of evidence, 19 November 2012, pp 48-52.

Chapter Seven – Independence in the valuation system

INTRODUCTION

7.1 This section addresses whether the Valuer General's independence is sufficiently maintained by the current structures that oversee the administration of the valuation system. In considering this question, the committee posed four questions:

1. What is the standard of independence required of the Valuer General?

7.2 The standard of independence required of the Valuer General is such that a fair-minded member of the public would not reasonably contemplate that their valuation was influenced by some government objective other than the accurate valuation of land.

2. What is the scope of the independence required of the Valuer General?

7.3 Those matters that are directly connected with the valuation of land are required to be managed separately from government.

3. Does the current system meet the relevant standard of independence?

7.4 No the current arrangement does not meet the relevant standard of independence.

4. What reforms, if any, are necessary to remedy such independence concerns?

7.5 The functions currently performed by LPI to award tenders, to make valuations, to exercise options and to monitor the performance of contract valuers in respect of land tax and compulsory acquisition valuations should be transferred to the Valuer General's Office.

WHAT IS THE STANDARD OF INDEPENDENCE REQUIRED OF THE VALUER GENERAL?

The policy environment

7.6 There are varying standards of independence that can be required of public officials. On one extreme, both substantive decision-making and administrative management are maintained separately from Government. Few public officials operate with this degree of freedom. The judiciary operates with minimal intervention from the Department of Attorney General and Justice. On the other extreme, some statutory powers are directly exercised by Ministers or the Governor in Council. One such power is the power of the Minister responsible for the administration of the *Crown Lands Act 1989* (NSW) to sell, lease or otherwise deal with Crown Land: s34(1)(a).

7.7 Between these extremes, public officials may act pursuant to departmental policies; make decisions separately from Ministerial guidance; or maintain separate offices, though with some form of departmental or Ministerial oversight of administrative affairs. That administrative control may be limited to budgetary allocations or extend to the structure of the staff of the office.

- 7.8 In the Committee's view, the appropriate degree of independence will usually depend on the nature of the power in question and the statutory regime that grants it. Some powers exercised by independent statutory officers better serve the public when exercised in concert with government.
- 7.9 Three considerations are relevant to whether a power should be exercised separately from government. The first is the strength of any government incentive to exercise the power for a purpose other than the one for which it is granted. The second is the directness with which the power impacts an individual's rights and interests. This includes both the causal connection between the power and a person's interests, and the nexus between a particular exercise of that power and a specific individual. The third is the size and nature of any legitimate policy trade-offs associated with the decision.
- 7.10 Of these elements, the first is critical to the calculus – without some form of apparent conflict of interest, there is little justification for an independent exercise of the power. But once it is established that there may be a material conflict of interest, the size of the conflict, the directness of the connection between the power and an individual's interests and the size of any policy trade-offs are elements that need to be assessed in totality. This is because directness may aggravate the sense of prejudice the relevant party may perceive. The size of the conflict goes to the probability that an official might exercise the power for an inappropriate purpose. The magnitude of other policy trade-offs is relevant to whether electoral accountability is appropriate.
- 7.11 Central will also be whether a countervailing policy objective is a legitimate consideration in the exercise of the power. Whether a policy interest is legitimate will ordinarily turn on whether it is an appropriate consideration in the context of the relevant statutory structure and policy matrix. The importance of this characterisation is that a policy interest that should not legitimately be considered as part of a trade-off may consequently be characterised as an incentive that creates a conflict of interest. This will not always be the case and will depend on the power in question, but, if it does, then the characterisation will likely be determinative.
- 7.12 Applying these considerations to the valuation powers exercised by the Valuer General, it becomes apparent that his independence must be real and robust. The valuations set by the Valuer General immediately and deleteriously impact government finances. An official who has joint responsibility for land valuations and expenditure, in the case of compulsory acquisitions, or revenue, in the case of land tax, is clearly conflicted.
- 7.13 The powers exercised by the Valuer General directly, indeed significantly, impact a person's rights and interests. Pursuant to s 14A and s 9(1)(b) of the *Valuation of Land Act*, the Valuer General is tasked with determining land values and entering those values onto the Register of Land Values. The Register is the basis for levying land tax and council rates. The valuations set by the Valuer General are a necessary and significant step in determining an individual's land tax liability.
- 7.14 The Valuer General also has responsibility, under s 47 of the *Land Acquisition (Just Terms Compensation) Act 1991 (NSW)*, to determine the compensation received by landowners whose land is compulsorily acquired by the NSW Government. Such

valuations directly impact an individual's rights and interests; indeed, they will often significantly impact a person's financial wellbeing.

- 7.15 There are also no counter policy considerations. While it is arguable that the revenue impact of land tax valuations is a relevant policy concern, it is the Committee's view that the size of tax revenues should not be included in the valuation rubric. This is because the scheme and structure of the taxation system is such that revenue shortfalls are more appropriately managed by adjusting the tax rate, not the assessment of a valuation pursuant to a statutory definition.
- 7.16 Similarly, in the case of compulsory acquisitions, the policy considerations associated with the impact on state finances are better handled at the preliminary stage of identifying the criterion applicable to determine land values. Once a clear statutory formula is legislated, it risks legal consequences for residual matters outside the statutory criteria to be considered.
- 7.17 There is therefore a strong policy case for a firmly independent Valuer-General.

The statutory framework

- 7.18 The conclusion that the Valuer General should be independent from government is consistent with the office's legislative context. Specifically, the *Valuation of Land Act* establishes the legal framework for an independent Valuer General. That Act protects his tenure by prescribing that the Valuer General be appointed by the Governor for a term of seven years and that he can only be removed within that term after a vote of both Houses of Parliament: s 2(1) Schedule 1 and s 8 Schedule 1. This statutory scheme is similar to that of other independent public officials: Judicial Officers, the Commissioner for the Independent Commission Against Corruption and the Ombudsman may only be removed from office by the Governor on an address by both Houses of Parliament by the Governor: s 53(2) *Constitution Act 1902*; s 6(2), Schedule 1, *Independent Commission Against Corruption Act 1998* (NSW); and s 6(5) *Ombudsman Act 1974* (NSW).
- 7.19 The purpose of this framework is to limit the extent to which undue influence can be exerted on the Valuer General and the functions he performs. The public's confidence in the power to compulsorily acquire and tax land rests on the integrity of the valuations on which those powers are based. The power to levy taxation and compulsorily acquire land are highly sensitive. The effect of separating the administration of the valuation system from the management of state finances is to remove the taint that any conflict of interest might create.
- 7.20 This is consistent with the Valuer General's own testimony:

Mr WESTERN: In my role as Valuer-General I am responsible for the governance of the New South Wales valuation system. I am, effectively, appointed by the Governor of New South Wales, which ensures that I can sit in a capacity between the Government and the landowners and the public of New South Wales. It is an independent statutory position and that independence, in my view, is a principal attribute of the system here in New South Wales.

...

CHAIR: You mentioned earlier about the independence of your office being a key feature of the valuation system in New South Wales. Why is that independence important?

Mr WESTERN: It is important I think from a number of perspectives. One of the major issues that we have had here in New South Wales has been in the past the perception that, if you are too close in terms of preparing your valuations on behalf of Government, you can be seen as perhaps being influenced by Government.

...

CHAIR: Would it be fair to say that the public confidence in the valuations that your office provides is derived from that independence?

Mr WESTERN: That has been one of the principal areas in which the public can have confidence in terms of the valuation system¹⁷³

7.21 This view was also re-enforced by the submissions received by the Committee. Broken Hill City Council stated the issue in the following terms: “*Valuation and rating should continue to be recognized as separate functions*, neither of which should be manipulated for the purposes of the other” [original emphasis].¹⁷⁴

7.22 The role of the independence of the Valuer General was recently considered by the Queensland Legislature. In that jurisdiction, the *Land Valuations Act 2010* (Qld) re-established the office of the Valuer General to ensure the integrity of the valuation system. The explanatory memorandum to that legislation states:

All jurisdictions except Queensland have a statutory office of valuer-general. In those jurisdictions the valuer-general has clear statutory responsibilities and statutory independence in making decisions about rating and taxing valuations, land tax valuations, and other valuations for local government and the Crown.

The existence of the statutory office of valuer-general assists in ensuring the integrity of valuations for rating and taxing purposes, and provides governments with an independent and expert valuer¹⁷⁵

7.23 That the Queensland Government recently re-legislated to establish an independent Valuer General shows the centrality of that independence to the integrity of the system. It is also noteworthy that in this country all jurisdictions with land tax regimes now have independent statutory officers who are responsible for assessing land values.

Legal approaches to independence

7.24 The courts have also extensively considered the standard of independence required of public officials in the context of the apprehension of bias test. In *Ebner v Official Trustee in Bankruptcy* (2000) 205 CLR 337 the majority of the High Court articulated the apprehension of bias principle in relation to judges:

¹⁷³ Mr Philip Western, Valuer General, Office of the Valuer General, transcript of evidence, 26 March 2012, p 4.

¹⁷⁴ Submission 67, Broken Hill City Council, p 7. See also for example, Submission 103, Ms Frances Vumbaca, p 1; Submission 83, confidential, p 10.

¹⁷⁵ Explanatory note, Land Valuation Bill 2010 (Qld), p 6.

a judge is disqualified if a fair-minded lay observer might reasonably apprehend that the judge might not bring an impartial mind to the resolution of the question the judge is required to decide. That principle gives effect to the requirement that justice should both be done and be seen to be done, a requirement which reflects the fundamental importance of the principle that the tribunal be independent and impartial.¹⁷⁶

- 7.25 Similar remarks have been made of other public officials exercising statutory powers. Public officials exercising statutory powers that affect an individual's legal rights have a duty to provide procedural fairness. To discharge that duty it is necessary that the decision be made free from actual or apprehended disqualifying bias¹⁷⁷.
- 7.26 As can be seen from the legal tests, the role of public perception is critical. If actually influencing land values to further a government objective other than the accurate valuation of land undermines public confidence, the appearance of such influence has the same effect.

The standard applicable to the Valuer General

- 7.27 In light of the discussion above, it is Committee's view that sound public policy requires that the Valuer General's independence be maintained such that a fair-minded member of the public would not reasonably contemplate that their valuation was influenced by some government objective other than the accurate valuation of land. If the prevailing structure or culture allows for a scenario, which is neither farfetched nor fanciful, of a valuation that is influenced by a government objective other than the accurate valuation of land that will be sufficient to render the independence inadequate.
- 7.28 Any policy threshold must also be read in light of the relevant statutory scheme. This is because once it is accepted, as it is here in the context of independence, that a legislative scheme is appropriate, it becomes necessary to ensure that the detail gives full force to the core characteristics of that scheme.
- 7.29 Here, the *Valuation of Land Act* clearly establishes a structure to protect the independence of the Valuer General. It does this by protecting the Valuer General's tenure. To give that effect it is necessary that valuations are not performed by Ministers or officials whose valuations are unprotected from interference. To put the matter differently, if it is accepted that there should be impartially assessed land values and that an independent statutory officer should be appointed for that purpose, then it necessarily follows that valuations should not be performed by a person who lacks the Valuer General's structural independence. For these reasons it will be deemed sufficient for a fair-minded member of the public to reasonably contemplate that their valuation was influenced by a government objective other than the accurate valuation of land if a Minister or an official answerable to a Minister is materially involved in that valuation. Any other approach would circumvent the protections afforded by the *Valuation of Land Act*.
- 7.30 It is important to emphasise that this standard is a policy, not legal, threshold. The cases that have gone before the courts have usually involved some form of private

¹⁷⁶ *Ebner v Official Trustee in Bankruptcy* (2000) 205 CLR 337 at 6.

¹⁷⁷ *Hot Holdings Pty Ltd v Creasy* (2002) 210 CLR 438, Gleeson CJ at 21.

interest that could bias a decision maker. That is not the current issue. Legal requirements may also be less than what is required for the appropriate standard of public administration because of the consequences that accompany a breach of a legal threshold. Conversely, the Committee is only concerned with providing the people of NSW with the highest level of public administration.

THE SCOPE OF THE VALUER GENERAL'S INDEPENDENCE

- 7.31 The Valuer General's functions extend beyond valuing land – he is also ultimately responsible for awarding valuation contracts (see *Valuation of land Act* s 13A); monitoring valuations performed under those contracts (s 13F); making valuations pursuant to private contracts (s 9A(1)); and, on occasion, the management of the relevant support functions required to ensure the proper and efficient management of his office. Not all of these functions need to be administered with independence from government. Indeed, as noted above, it should be presumed that a public servant's activities will be conducted within some form of hierarchy ultimately responsible to a Minister. That is necessary and appropriate in a democracy.
- 7.32 The policy reasons for the separation of the Valuer General's office from government relate to the exercise of his valuation powers under the *Land Acquisition (Just Terms Compensation) Act* and the *Valuation of Land Act*. For reasons explained below, this includes awarding and monitoring of any valuation service contracts under s 13A or 13F of the *Valuation of Land Act*.
- 7.33 Powers not directly connected to valuations do not readily present a conflict of interest for government. They also do not readily create a scenario, which is not farfetched nor fanciful, where valuations are influenced by a government objective other than the accurate valuation of land. It would be farfetched to suggest that a Minister working with the Valuer General in the management of the administrative or strategic affairs of his office could influence the valuations set by the Valuer General. This includes activities to reduce costs, increase productivity, redesign policy, or to forecast the value of land tax revenues or compulsory acquisition expenditure.
- 7.34 The separation requirement also does not extend to private valuations under s 9A. This is because valuations made under that section are ultimately the subject of clauses in private contracts negotiated between parties.

THE INDEPENDENCE OF THE VALUER GENERAL HAS BEEN UNDERMINED

- 7.35 As will become apparent, there are a number aspects to the current valuation system that undermine the independence of the Valuer General. These pose a serious risk to the public's confidence in the valuation system and need to be remedied. Summarily breaches occur when:
- (a) Officials within LPI determine valuations for the purpose of compulsory acquisition valuations;
 - (b) LPI reviews and alters valuations for the compulsory acquisition of land;
 - (c) LPI is materially involved in the awarding of valuation service contracts for compulsory acquisitions;

- (d) LPI determines valuations for the purpose of ratings and land tax;
- (e) LPI reviews or alters valuations for the purpose of ratings and land tax;
- (f) LPI manages the objections process including managing the objections process, appointing contract valuers or alternatively undertaking the objection valuation themselves; and
- (g) LPI is materially involved in the awarding of valuation service contracts for the purpose of ratings and land tax.

LPI's involvement in land tax valuations

- 7.36 There is a service level agreement between LPI and the Valuer General. That service level agreement is a contract that outlines the tasks that LPI will perform. Pursuant to that agreement, LPI is extensively involved in the administration of the valuation system.
- 7.37 First, it is involved in the awarding of valuation service contracts. That process begins with LPI identifying contracts up for review. There are then two tender evaluation committees. The first is an advisory committee. That Committee's task is to extensively examine the tenders and provide a report and recommendations to the second committee – the Tender Evaluation Committee – which has the authority to award contracts¹⁷⁸. The advisory committee is largely comprised of officials within LPI. The Tender Evaluation Committee is comprised of a range of interested stakeholders, but is currently chaired by an LPI official. It is worth mentioning that the Valuer General sits on neither of these Committees.
- 7.38 Second, once the contracts are awarded, LPI will also conduct an audit of the valuations¹⁷⁹. If the need arises LPI will change the valuations of properties.¹⁸⁰
- 7.39 Third, when a person objects to their valuation, a new valuation will be performed. Some of these will be performed by LPI, other by contract valuers, but in all cases LPI retains a supervisory jurisdiction¹⁸¹.
- 7.40 And fourth; at the expiration of a term of a contract, there are two one year options that can be exercised by the General Manager of LPI personally.

LPI and compulsory acquisition valuations

- 7.41 LPI is also responsible for performing some compulsory acquisition valuations, while others are out-sourced.¹⁸² When the valuations are outsourced, LPI performs a review

¹⁷⁸ Mr Philip Western, Valuer General, Office of the Valuer General, transcript of evidence, 19 November 2012, p 15.

¹⁷⁹ Mr Philip Western, Valuer General, Office of the Valuer General, transcript of evidence, 19 November 2012, pp 26, 31.

¹⁸⁰ Mr Michael Parker, Chief Valuer, Land and Property Information, transcript of evidence, 19 November 2012, p 42.

¹⁸¹ Mr Michael Parker, Chief Valuer, Land and Property Information, transcript of evidence, 19 November 2012, p 41, 42.

¹⁸² Mr Michael Carr, former Senior Valuer, Land and Property Information, transcript of evidence, 19 November 2012, p 2.

of the valuation, and will alter the valuation if necessary. The Valuer General and the staff in his office are not personally involved in any valuation.

The Valuer General's independence under the current arrangements

7.42 The question is whether under this system a fair-minded member of the public would reasonably contemplate that their valuation could have been influenced by a government objective other than the accurate valuation of land. This will not be satisfied if an official answerable to a Minister is materially involved in the valuation. It is clear from the fact, outlined above, that is precisely what has been occurring. LPI is a government agency such that it cannot be considered separate from government. This was made evident in questioning:

Mr WESTERN: Land and Property Information.

CHAIR: What ministry are they under?

Mr WESTERN: They sit under Finance and Services.

CHAIR: Who is the head of LPI?

Mr WESTERN: The general manager. Specifically the name?

CHAIR: Yes, please.

Mr WESTERN: Des Mooney.

CHAIR: Who does Des Mooney report to?

Mr WESTERN: To Michael Coutts-Trotter.

CHAIR: Who does Michael Coutts-Trotter report to?

Mr WESTERN: To the Minister

CHAIR: Which Minister?

Mr WESTERN: The Minister for Finance and Services.

CHAIR: That would be Mr Pearce?

Mr WESTERN: Greg Pearce, correct.

CHAIR: So LPI is a government agency.

Mr WESTERN: That is correct.¹⁸³

7.43 It is clear that the relevant standard is therefore breached when LPI officials determine the value of land for the purposes of Land Tax Valuations or Compulsory Acquisition Compensation Determinations. The standard is also breached when LPI officials monitor the quality of valuations, award options and are involved in the awarding of

¹⁸³ Mr Philip Western, Valuer General, Office of the Valuer General, Mr Matt Kean MP, Chair, transcript of evidence, 26 March 2012, pp 66-67.

tenders. Each of these functions places LPI in a position where it can influence the processes, techniques, procedures and values employed by contract valuers. Presently, with all three functions being exercised by LPI, there is a clear commercial incentive to follow LPI requests. That is in fact the purpose of the system. Contract Valuers who are not performing are meant to be identified, have their valuations and techniques remedied and, if necessary, be replaced. These powers are appropriate, indeed necessary, for an effective oversight body operating in this context.

- 7.44 The difficulty however is that this oversight body is formed by an agency of the type that Parliament clearly intended to be separated from the administration of the valuation system. In the Committee's view a landholder would find it alarming that the government that is liable to pay them compensation for their property is also responsible for determining the amount of that compensation.
- 7.45 This is not to suggest that there is any evidence that LPI officials have actually acted unprofessionally or exercised their powers for some objective other than the accurate valuation of land. But, as has been discussed extensively, whether such events have actually occurred is not the issue. The present question is whether a fair-minded member of the public would reasonably contemplate that their valuation has been influenced by some government objective other than accurate valuation of land. Where the relevant legislation grants the original duty to an officer whose tenure is protected, it is also necessary that their delegate share that protection in order to meet that standard. This is not to suggest that the delegate needs to also be appointed by the Governor, but they do need to be answerable to the Valuer General. It is not permissible that they should owe their position to those they are supposed to be separated from. It is for this reason that the current arrangement needs reform.

The effect of the Service Level Agreement

- 7.46 It is arguable that the service level agreement preserves the Valuer General's statutory independence – if the Valuer General believes that the valuations lack integrity he can take his business elsewhere. The Valuer General made this argument during questioning:

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.¹⁸⁴

- 7.47 There are three problems with this position. The first is that the Valuer General's Office currently does not undertake, independently of LPI, sufficient reviews to determine

¹⁸⁴ Mr Philip Western, Valuer General, Office of the Valuer General, transcript of evidence, 2 April 2013, p 43.

the integrity of valuations. To do this to a standard where a fair-minded member of the public would not reasonably contemplate that their valuation was influenced by some government objective other than the accurate valuation of land would require audits similar to those currently performed by LPI. High-level systemic review does not provide sufficient insight such that an individual would have confidence that their *specific* valuation was made consistently with their entitlements. Such in depth review does not presently occur separately of LPI and, if it did, would be a waste of public money given the associated duplication.

- 7.48 Second, and in the alternative, so long as LPI is materially involved in the awarding of contracts, a fair-minded member of the public could reasonably contemplate that their valuation was influenced by some government objective other than the accurate valuation of land. This is because the mere perception by contract valuers that they could benefit commercially by providing government friendly valuations would be sufficient to undermine the valuation system. It is foreseeable that such a perception could arise completely inadvertently and unintentionally. Therefore, to remove any impression that those facts could arise it is sound policy to remove the circumstances that could give rise to such an impression.
- 7.49 Third, it is doubtful that any service level agreement could remedy the present problem. This is because the fundamental issue would remain: a government agency would continue to have ostensible responsibility for the administration of the *Valuation of Land Act* notwithstanding that that Act establishes a structure to remove government from the Valuation system. To point the issue differently, the service level agreement would not remove a landholder's legitimate concern that the government sets the compensation it itself is liable to pay for acquired land.
- 7.50 For these reasons the service level agreement does not provide sufficient protection to protect the independence of the Valuer General.

CONCLUSION

- 7.51 For the reasons outlined above it is the Committee's view:
- i That the services that LPI currently provides pursuant to the service level agreement should be reconstituted into the Valuer General's office or some other non-government agency. If this model were adopted it would be acceptable for the Valuer General to undertake valuations currently performed by LPI for other government agencies, so long as it did not interfere with any of his statutory work.
 - ii Alternatively, only LPI's functions associated with evaluating tenders, awarding of valuation service contracts, granting of options, monitoring valuation work and making land value determinations be reconstituted in the Valuer General's Office or a non-government body. While this option is not the committee's preferred solution, it would also be sufficient to remedy the independence concerns. The same allowances made above concerning dual appointments and other government work are also applicable to this recommendation.
- 7.52 These reforms are reflected in the Committee's recommendations for the new objection and compulsory acquisition process.

Part 3: The Committee's reform proposals

Chapter Eight – Overview of reforms

INTRODUCTION

8.1 The reforms outlined in this Part are designed to remedy the most significant problems identified in Part 2. In developing its recommendations the Committee took into consideration three design imperatives: increased valuation integrity, fairness and rules-based decision making. To this end the Committee will recommend: 1) a new compulsory acquisition and objection system that affords landholders procedural fairness and treats them with the respect, dignity and fairness to which they are entitled; 2) a rules-based approach to valuation methodologies which is both transparent and certain for landholders; 3) a governance framework that represents best practice, restores independence to the valuation system, increases impartiality in the objection system, supports the development of dispute resolution and rule making capability, and enshrines accountability; and 4) three year averaging of council rate valuations to reduce the volatility experienced by councils and landholders.

DESIGN IMPERATIVES

8.2 The Committee identified three design imperatives in the development of its reforms: valuation integrity, fairness and rules-based decision making. These principles stem from the issues highlighted in Part 2. The connections between the Part 2 issues and the design imperatives are explained below.

1. Valuation integrity

8.3 Integrity in the valuation system is imperative given the taxation implication for landholders. That integrity is currently undermined by significant and material volatility in *Valuation of Land Act* valuations.¹⁸⁵

2. A fairer system

8.4 The procedural fairness issues identified above are concerning. The inadequate processes apparently associated with the Leppington compulsory acquisitions of land highlight the significant need for reform. The Hornsby Quarry case illustrates the community anger that can result from poor engagement. Testimony by experts on the issue of dispute resolution re-enforce the need for adequate procedural fairness controls¹⁸⁶.

8.5 In the Committee's opinion the valuation system needs a paradigm shift away from valuations performed by an isolated valuer, to an approach that engages landholders. Such an approach is appropriate given the very direct and immediate way valuations impact landholder rights and interests. To be effective it must provide certain statutory minimums to provide base-level protections for landholders.

¹⁸⁵ See chapter 4 – The integrity of the valuation system.

¹⁸⁶ Professor Tania Sourdin, Director, Australian Centre for Justice Innovation, Monash University, Mr Steven Lancken, Director, Negocio Resolutions, transcript of evidence, 11 March 2013, pp 3-6.

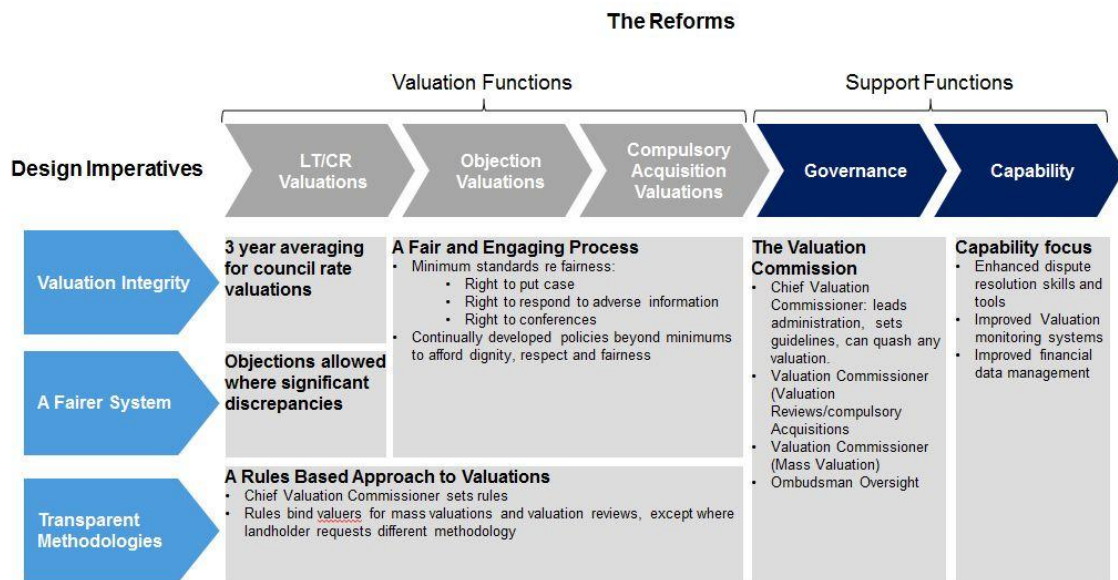
3. Transparent methodologies

8.6 The transparency issues highlighted above focused significantly on the effect and accessibility of valuation methodologies. There is no legitimate public policy reason for them to be anything other than public. Rules-based approaches are applied in other jurisdictions to great effect, especially in the field of taxation. The Commonwealth has a highly developed approach, with a system of public and private taxation rulings. Those rulings bind the Taxation Commissioner, and therefore provide significant certainty for taxpayers¹⁸⁷. A similar approach should be applied in the valuation context, through a system of published, binding guidelines.

PRINCIPLES APPLIED

8.7 The application of the design imperatives is depicted in the diagram below. The chart shows the major functions associated with the administration of the valuation system, and how the principles discussed above have been applied to those fields to develop meaningful reform, including:

1. A fair and engaging valuation review and compulsory acquisition process;
2. Published, binding methodology guidelines;
3. A Commission based governance model; and
4. Three year averaging of council rate valuations.



8.8 These reforms should be considered together. The most pressing reforms are the changes to objection/compulsory acquisition processes, the move to a rules-based approach, three year averaging for council rate valuations and the associated governance framework adjustments. These initiatives interlink, with the governance framework aligning to the new fields of expertise required. It does this by creating centralised teams under Valuation Commissioners. These teams allow the development of the necessary capability to effectively resolve disputes and develop

¹⁸⁷ Taxation Administration Act 1953 (Cth) s 357-60(1) of Schedule 1.

well understood and accurate methodologies. Disaggregating the Valuer General’s function in this way also allows for the structural separation of the Valuation Review and Original Valuation stages which is consistent with international best practice.

8.9 The major reforms are discussed in more detail below.

The governance framework

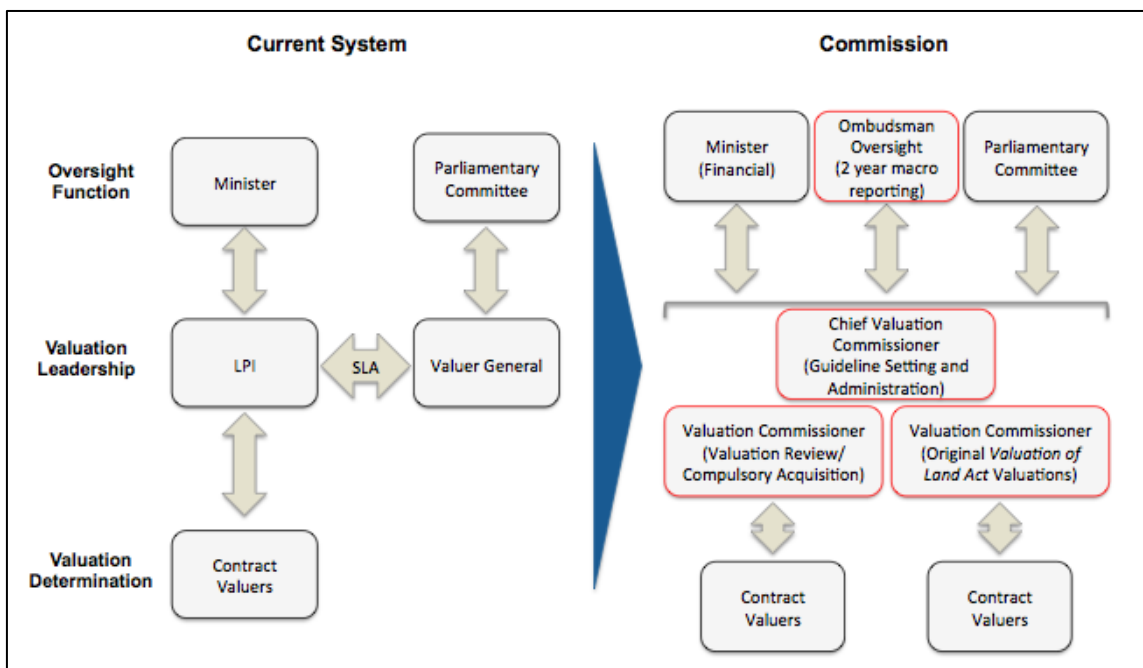
8.10 The Committee recommends a Valuation Commission be established. The Commission model involves two Valuation Commissioners and a Chief Valuation Commissioner. All Commissioners should be independent statutory appointments.

8.11 The Chief Valuation Commissioner would be responsible for setting Valuation guidelines, leading the valuation system, administrative and resourcing/investment decisions required to run a broad system and have powers to order new valuations by either of the other Commissioners. The Chief Valuation Commissioner would also be party to any litigation in the same way the Valuer General is now.

8.12 One Valuation Commissioner would be responsible for the original *Valuation of Land Act* valuations, the other for valuation reviews and compulsory acquisition valuations. This structure ensures the separation of the original valuation process and valuation reviews, this represents best practice¹⁸⁸ and is in place in Internal Revenue Service (IRS) in the United States¹⁸⁹.

8.13 The system also involves Ombudsman oversight, with two year effectiveness reporting to provide accountability.

8.14 The structure is summarised below:



¹⁸⁸ Inspector-General of Taxation, *Review into the Australian Taxation Office’s use of early and alternative dispute resolution*, May 2012, chapter 6.

¹⁸⁹ *Internal Revenue Service Restructuring and Reform Act 1998* (US) s 1001(a)(4).

A fair and engaging process

- 8.15 These reforms apply to both objection and compulsory acquisition valuations. The Committee recommends the present objection system be replaced with a valuation review mechanism. That system will also apply to compulsory acquisition valuations. It shall provide for minimum protections for landholders. Such threshold protections include the right to make submissions, to see all adverse material and to respond. Those entitlements should be statutorily protected. The Committee also recommends a statutory right to a conference after the original submission and after any response to the preliminary valuation report.
- 8.16 Beyond these entitlements, it is necessary that a strong dispute resolution capability be developed. That is valuers and others who interact with landholders should have the skills, temperament and tools to engage with landholders in a way that shows respect, dignity, and fairness to landholders.

A rules-based approach

- 8.17 The Committee recommends that the Chief Valuation Commissioner issue Public Guidelines for the valuation of land in NSW. Those guidelines will clearly state:
1. The methodologies; and
 2. The circumstances in which they are applied.
- 8.18 The guidelines will be binding on valuers in certain circumstances. Those circumstances are described below.

Stage	Effect
Initial-Valuation for Land tax and Council Rates	Binding on valuers except where there has been a successful application to apply a different valuation.
Initial-Valuation for Compulsory Acquisition and Valuation Reviews	Binding on valuers, except where a landholder makes an application to apply an alternate methodology.
Land and Environment Court	Guidelines do not apply in any way, but judges required to identify where they depart from the guideline, why and in what way. That is so that the guidelines may be amended appropriately

Three year averaging

- 8.19 Valuations will be averaged over a three year period for council rate valuations to reduce volatility.

THE REST OF THIS PART

- 8.20 The rest of Part 3 details the reforms. The structure is outlined below:

- i) Valuation integrity: 1) a rules-based approach, 2) three year averaging of council rates, 3) new grounds for valuation review/objections, 4) changed timing of valuations and 5) recommendations regarding waterfront properties and 6) GST;
- ii) Fairness in the valuation system: 1) valuation review and 2) the compulsory acquisition process: reforms to the objections and compulsory acquisition approach;
- iii) Courts, tribunals and appeals: 1) allow landholders to appeal to the Administrative Decisions Tribunal or the Land and Environment Court and 2) expand the jurisdiction of the Land and Environment Court to consider administrative errors.
- iv) Governance framework: 1) the organisational structure of the valuation system.
- v) The public reporting structure: 1) the reporting of Key Performance Indicators.
- vi) Technology: 1) the IT systems required to maintain sufficient financial and operational data required to audit, monitor and improve the valuation system.
- vii) Valuation criterion: 1) the Committee recommends that the current definition of Land Value should be maintained.

VALUATION COMMISSION

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. This Commission will also support the implementation of the rules-based approach to valuation methodologies and new valuation review and compulsory acquisition systems.

Chapter Nine – Valuation integrity

INTRODUCTION

9.1 This chapter considers the reforms necessary to improve the integrity of the valuation system. A range of issues have been highlighted in previous sections of this report. Here the Committee considers how to redress the issues associated with volatile valuations, inadequate transparency, and the consistency of the valuations. To this end the Committee recommends:

1. A transition to a rules-based approach to valuations
2. Three year averaging of valuations used for council rates
3. New grounds for valuation review/objection
4. The timing for valuations be changed
5. Changes to the *Valuation of Land Act* in relation to valuing land below the high water mark
6. Changes to the *Valuation of Land Act* in relation to whether or not to include GST in land valuations.

Of those six recommendations the first three are considered imperative.

REFORM PRINCIPLES

9.2 The reforms below are developed consistently with the following principles:

Principle	Description
Transparency	It is necessary that a reasonable person would have sufficient information to clearly understand government policy so that they can enforce their rights and discharge their obligations.
Equity	It is necessary that valuations be consistent between similar properties, so that rate and tax burdens are shared in accordance with the value of land holdings. Valuations should also reflect the peculiarities of relevant properties.
Predictability	Valuations should be sufficiently predictable such that individuals can forecast the valuations of their properties.
Capability Development	The Committee considers that to execute the relevant tasks to the highest standard, valuers and public administrators should be given the opportunity to develop the skills and tools necessary to discharge their functions.

TRANSITION TO A RULES-BASED APPROACH

- 9.3 The valuation system should move to a rules-based approach to valuing land. Such an approach would materially increase the transparency of the system and valuation predictability. It is based on the successful Commonwealth taxation model, where the Australian Taxation Office (ATO) issues binding rulings on the application of relevant taxation provisions.¹⁹⁰ An analogous model is appropriate here given the tax implications for landholders and the consistency with which valuations should be applied.
- 9.4 The Committee also recognises that, given the heterogeneity of land, some flexibility is required in the system. For this reason the Committee has incorporated a number of mechanisms to avoid the issues associated with overly rigid applications. The principle behind these mechanisms is that the guidelines should be binding on valuers until the landholder requests a different approach.

Discussion of rules-based approach

- 9.5 Any approach to valuing land should balance three objectives: transparency, flexibility and certainty. In this context, transparency and certainty require that valuation guidelines be published and that they bind statutory valuers. This is because if an undirected discretion were left to valuers to apply their preferred approach to value land, then any certainty and transparency created by publishing guidelines would be rendered illusory. In other words for the guidelines to achieve their goal, they need to have effect.
- 9.6 But such rigidity is inconsistent with the desire for flexibility to reflect the heterogeneous nature of land. For this reason the Committee considers that the guidelines should no longer bind valuers once the landholder has applied for an alternate methodology to apply to their property. This approach addresses the certainty issue, is efficient and transparent. It also retains objectivity because it is open to the *valuer* to determine the appropriate method to apply.
- 9.7 A similar system is adopted by the ATO. Pursuant to the *Taxation Administration Act 1953* (Cth), the Commissioner for Taxation may issue public rulings. The ATO describes the effect of a public ruling:
- A public ruling binds the Commissioner if the public ruling applies to the entity and the entity relies on it.¹⁹¹
- 9.8 This model has subsequently been adopted in a range of jurisdictions and circumstances. Examples include:
- *Australian Customs and Border Protection Service* – publishes public advice on the classification of various goods and provide information upon using the

¹⁹⁰ Australian Taxation Office, TR 2006/10, viewed 19 April 2013, <http://law.ato.gov.au/atolaw/view.htm?docid=txr/tr200610/nat/ato/00001#P30> at [30].

¹⁹¹ Australian Taxation Office, TR 2006/10, viewed 19 April 2013, <http://law.ato.gov.au/atolaw/view.htm?docid=txr/tr200610/nat/ato/00001#P30> at [30].

Tariff Advice System to obtain advance rulings on specific goods before importation¹⁹²

- *Internal Revenue Service (United States of America)* – issue rulings or determinations, including Technical Advice Memoranda and Chief Counsel Advice¹⁹³
- *Inland Revenue (New Zealand)* – has four types of binding rulings, including public, private, product and status ruling¹⁹⁴

9.9 For these reasons the Committee recommends the reform outlined below.

The reform

Guidelines

9.10 Yearly the Chief Valuation Commissioner should issue public guidelines on the valuation of land in NSW. Those guidelines will clearly state:

1. The methodologies for valuing land; and
2. The circumstances in which those methodologies are applied.

9.11 The guidelines shall include the valuation methodologies for *Valuation of Land Act* valuations and compulsory acquisition methodologies. The valuation guidelines will be maintained in a single document, so that landholders do not have to find the relevant ruling on a particular issue. They shall be publicly available and downloadable through the Commission's website. The guidelines will also be expressed in a form that is clearly interpretable and actionable for landholders and valuers. The guidelines shall also clearly identify whether a particular methodology is legally required such that the valuer is required to apply the methodology. If that is the case, the source of the legal requirement should be identified, as should the circumstances in which it is binding.

9.12 The guidelines should be sufficiently general to apply in a range of market circumstances, but sufficiently specific to have meaningful consequence.

Effect – Binding on valuers

9.13 The guidelines will bind valuers making original valuations, compulsory acquisition valuations and valuation reviews. Except where 1) the landholder requests that the valuer use a different methodology in a valuation review or at any stage during the compulsory acquisition process and the valuer considers it lawful and appropriate, or 2) where an original Land Tax/Council Rating valuation is made and the property has been subject to a successful valuation review, in which case the valuer has discretion on which methodology to apply.

9.14 Valuation guidelines will not be binding on the Land and Environment Court, although Land and Environment Court judges will be required to identify and explain the nature of any departure. This is because the Committee is not of the view that the Land and

¹⁹² Australian Customs and Border Protection Service, viewed 19 April 2013, www.customs.gov.au/webdata/resources/files/AdvanceRulingTariffValuationandOriginAdvice-June2012.pdf.

¹⁹³ Internal Revenue Service (USA), viewed 19 April 2013, www.irs.gov/irb/2012-01_IRB/ar07.html.

¹⁹⁴ Inland Revenue (NZ), viewed 19 April 2013, www.ird.govt.nz/technical-tax/binding-rulings/what-is-br/what-is-br-index.html.

Environment Court should be bound by administrative policies. It is important that the court remains the ultimate judge of accurate and statutorily correct methodologies. But, as decisions made by Land and Environment Court judges will ultimately lead guideline changes, Land and Environment Court judges will be required to comment on:

1. Whether they have departed from the guidelines;
2. If so, how they have departed from the guidelines; and
3. Why that departure was appropriate.

9.15 It is not required that the judge re-write the guideline, merely that they explain how they have departed from it so that it may be redrafted in light of the decision. This provision is not designed in any way to fetter a judge’s discretion to make a valuation determination following the valuation methodology they think appropriate. It is provided to ensure certainty for valuers on the correct approach to valuations and reduce the need for redrafting.

9.16 These elements are summarised in the table below:

Stage	Effect
Initial-Valuation for Land tax and Council Rates	Binding on valuers except where there has been a successful application to apply a different valuation.
Initial-Valuation for Compulsory Acquisition and Valuation Reviews	Binding on valuers, except where a landholder makes an application to apply an alternate methodology.
Land and Environment Court	Guidelines do not apply in any way, but judges required to identify where they depart from the guideline, why and in what way. That is so that the guidelines may be amended appropriately

Amendment

9.17 The Chief Valuation Commissioner will update the guidelines on an annual basis. That process should involve some element of public consultation either through an Advisory Committee or public submission period.

Recognition in legislation

9.18 There is an issue regarding the appropriate enabling legislation to effect this change. Specifically whether the guidelines should be crystallised in legislation or regulation. It is the Committee’s view that neither is appropriate because they may, depending on the drafting, undermine the Land and Environment Court’s capacity to effectively supervise the valuation system and would inappropriately fetter the Chief Valuation Commissioner’s capacity to easily evolve the methodologies.

- 9.19 Given the magnitude of the variations made by the Court in certain litigated valuations,¹⁹⁵ it is the Committee's view that relaxing judicial oversight is sub-optimal. That view is reinforced by the inadequate approach to procedural fairness afforded to landholders in recent times. The Land and Environment Court offers a sanctuary in that regard and until those administering the valuation system have a strong record of affording procedural fairness to landholders, this Committee would be extremely concerned by any attempt to undermine that Court's position.
- 9.20 The Committee's view on the central role of the Land and Environment Court is consistent with evidence heard by experts in dispute resolution:
- Mr LANCKEN:**... Lastly what protects everybody is if they do not think that they have had an independent arbiter, which is the Land and Environment Court. I am hoping nobody suggests that we should not have that independent arbiter at the end of it.¹⁹⁶
- 9.21 Further, the Committee considers that a regulated or legislated set of methodologies would deprive the system of the flexibility that accompanies a guideline approach. This is especially the case when considering something as heterogeneous as land. But even if such concerns did not arise, the Committee would nonetheless recommend a settling period during which the guidelines are stress tested prior to them having lawful effect.
- 9.22 Accordingly, the Committee recommends that the legal effect of the guidelines should be legislated, as should the regime for their determination. But that the guidelines themselves should be kept outside of the legislation.

VALUATION INTEGRITY

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:

- 1. The methodologies for valuing land; and**
- 2. The circumstances in which those methodologies are applied.**

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.

RECOMMENDATION 3

That the public guidelines for the valuation of land be binding on valuers, except:

¹⁹⁵ See, for example, *Perilya Broken Hill Limited v Valuer-General* [2012] NSWLEC 235 and also examples explained in Nicholls, Sean, 'Billions at stake as land valuation systems comes under fire', *Sydney Morning Herald*, 28 March 2012.

¹⁹⁶ Mr Stephen Lancken, Director, Negocio Resolutions, transcript of evidence, 11 March 2013, p 6.

1. For original rating and taxing valuations, where there has previously been a successful valuation review and the reason for departing from the original valuation is still current;

2. For compulsory acquisition valuations and for valuation review, where a landholder requests to apply an alternate methodology;

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.

RECOMMENDATION 4

That the Chief Valuation Commissioner review the public guidelines for the valuation of land in NSW annually.

THREE YEAR AVERAGING OF VALUATIONS FOR COUNCIL RATES

9.23 Extensive volatility has been identified in the valuation system. That volatility is a source of much community concern and has given rise to a number of submissions made to this Committee¹⁹⁷. To dampen the impact of such volatility, the Committee recommends that Council Rates be determined on the average of the last three year's property valuations. That is presently the approach for Land Tax.

9.24 The Committee is aware that this may cause some uncertainty for councils as presently any valuation issued in the last three years can give rise to an objection. This means that the council's rate base is subject to fluctuations three years after rates have been levied. The Valuer General referred to this issue in his submission to the Committee:

As prior years' values that are objected to may be used for council rating and be well outside the normal time for lodging objections to those values, this can cause problems for local councils if land values are changed on objection or appeal. While section 35AA imposes special restrictions on objections to land tax valuations to prevent multiple objections against the same land value it does not address this impact on local councils where their rating base may be unsettled well after the issue of that series of valuations to the council.

The Valuer General has undertaken an informal survey of all Australian jurisdictions as well as New Zealand, Hong Kong, England, Wales, British Columbia, Ontario and Northern Ireland. Of these only Western Australia and Northern Ireland offer multiple opportunities to object to a valuation indicating that most western jurisdictions recognise the importance to principal rating and taxing authorities of ensuring the stability of the revenue base for rating and taxing purposes is confirmed as promptly as possible.

It is recommended that consideration be given to addressing concerns of local councils and others on the stability and predictability of the rating and taxing base to limit the number of opportunities that landowners have to object to the same land value issued for council rating or land tax purposes. This may be achieved by

¹⁹⁷ See for example, Submission 3, name suppressed; Submission 16, Mr Madden; Submission 21, The Monarch Investments Group of Companies; Submission 27, Professor Wilcken; Submission 32, Mr Newton.

allowing landowners to only object once, when the land value is issued for the first time.

As an example, a landowner may have received a notice of valuation three years ago (and have had the opportunity to consider objecting on a number of occasions but has not). Then if the landowner decides to lodge an objection where the land value is reviewed, and adjusted as a result, this effectively means that the council will have to refund three years rates, which provides instability in council's rating revenue. This has an adverse effect on the predictability of the rating and taxing revenue base for Local Councils and the Office of State Revenue, as there is no certainty in when adjustments could be made to land values.¹⁹⁸

- 9.25 To remedy this issue, the Committee recommends that landholders should only be entitled to valuation review if the application for review is lodged within three months of the latest of either: the first Valuation Notice, the Rates Notice or the Land Tax Assessment that refers to the valuation. So, if A receives a valuation notice in January, a Land Tax Assessment in February and a Council Rates Notice in March, they will have three months after the Council Rates Notice to seek valuation review. But that right will not accrue again if the valuation is used in a future assessment. The Committee also recommends that landholders who do not seek review in this period may nonetheless apply to have review by the Valuation Commissioner (Valuation Review/Compulsory Acquisition Valuations), who has discretion to grant the application. These recommendations are made in the context of enhanced procedural fairness mechanisms, as part of the valuation review reforms.

RECOMMENDATION 5

That the NSW Government introduce a mechanism whereby council rates are determined on the average of the last three year's land valuations.

RECOMMENDATION 6

That the NSW Government ensure that:

- 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.**
- 2. Landholders who do not seek a valuation review within the three month limit may nonetheless apply to the relevant Valuation Commissioner for a review, who shall have the discretion to grant the application.**

TIMING OF GENERAL VALUATIONS

- 9.26 Section 14B of the *Valuation of Land Act 1916* currently requires general valuations to be made as at 1 July in the current valuing year (also referred to as the 'base date').

¹⁹⁸ Submission 129, Office of the Valuer General, p 45.

9.27 In 2005, the NSW Ombudsman recommended that this date be changed to 1 March so that valuers have adequate time to properly gather and analyse relevant market data and fine tune their valuations.¹⁹⁹ In 2010, the Committee recommended that consideration should be given to the costs and benefits of implementing the Ombudsman's recommendation to move the base date to 1 March.²⁰⁰

9.28 During the current Inquiry, the Valuer General submitted to the Committee that the base date should be changed to 1 March. Mr Western told the Committee that the main advantage of an earlier base date is that it allows more time for the valuation process so that valuers can analyse more market evidence close to the base date.²⁰¹ Mr Western explained the situation as follows:

As sales generally take about 6 weeks to finalise and documents may not be lodged with Land and Property Information for some time after that, details of sales transacted close to the base date are often not available to the valuer until 2 months later. While National electronic conveyancing is expected to improve this situation, this will be effective dependent on the rate of industry take-up.

The current valuing date of 1 July and the timeframe for access to sales information means that the time for consideration of the evidence, production of values and proper quality assurance before the valuations are required to determine the land tax threshold for the coming year and for delivery to the Office of State Revenue and local councils is less than optimum, given that the land tax threshold for the coming year is to be published by 15 October.²⁰²

9.29 Mr Western advised the Committee that the main disadvantage of moving the base date back to 1 March would be that it extends the period between when a value is determined and when it is used for rates and taxes. He said that this can cause some confusion for land owners as there is a higher chance that market conditions may have changed.²⁰³

9.30 Other stakeholders also expressed their support for moving the base date to 1 March. For example, Robertson and Robertson Consulting Valuers explained some of the advantages:

This would improve valuation outcomes by allowing contract valuers more time to prepare the valuations for delivery and the Land and Property Information (LPI) to complete satisfactory statistical checks and quality control of recommendations prepared by contractors.²⁰⁴

9.31 Another stakeholder also supported the change and told the Committee that if the base date were to be changed to 1 March or 1 April then this would give valuation

¹⁹⁹ NSW Ombudsman, *Improving the quality of land valuations issued by the Valuer General*, 2005, recommendation 6.2, pp 88, 94.

²⁰⁰ Joint Standing Committee on the Office of the Valuer General, *Report on the inquiry into the provisions of the Valuation of Land Act 1916*, Report No. 4/54, 2010, p. vii.

²⁰¹ Submission 129, Office of the Valuer General, p 53.

²⁰² Submission 129, Office of the Valuer General, p 54.

²⁰³ Submission 129, Office of the Valuer General, p 53.

²⁰⁴ Submission 73, Robertson and Robertson Consulting Valuers, p 1.

contractors a greater number of market transactions, leading to their valuations being more accurate.²⁰⁵

- 9.32 The Australian Property Institute supported changing the base date to 1 March and said that it would allow provisional values to be delivered to the Office of State Revenue (OSR) earlier and would allow the OSR to know in advance whether there would be any major impacts on their revenue bases.²⁰⁶
- 9.33 The Committee considers that there are likely to be significant advantages associated with changing to a 1 March base date as identified by stakeholders that gave evidence during the Inquiry. In particular, the Committee considers that providing more time for the preparation and quality assurance of valuations is likely to lead to more accurate valuations.
- 9.34 The Committee notes that there may be some disadvantages associated with moving to a base date of 1 March, such as potential confusion for land owners if market conditions change by the time they are notified of their valuation. However, the Committee considers that such disadvantages are outweighed by the advantages.

RECOMMENDATION 7

That the Minister for Finance and Services introduce amendments to section 14B of the *Valuation of Land Act 1916* to change the base date for general valuations from 1 July to 1 March in the valuing year.

ISSUES RELATING TO WATERFRONT PROPERTIES

- 9.35 The Committee received evidence relating to a variety of issues associated with waterfront properties, especially properties with jetties or other similar structures. In particular, the Committee heard of practical difficulties associated with valuing land below the high water mark, potential inconsistencies in valuation outcomes for waterfront properties with jetties or similar structures and concerns about valuing properties that are only accessible by water.
- 9.36 Land below the high water mark is generally classified as a type of Crown Land and can be the subject of a lease or licence in certain circumstances.²⁰⁷
- 9.37 The Valuer General told the Committee that there are practical difficulties associated with valuing land below the high water mark as there is limited market evidence available to assist with determining a value. He also noted that there is some uncertainty as to the correct application of section 14I of the *Valuation of Land Act 1916*, which sets out how land subject to Crown Land leases is to be valued. He suggested that this section be reviewed to clarify the valuation requirements. He also suggested that a prescriptive approach should be considered for valuing land below the high water mark.²⁰⁸

²⁰⁵ Submission 93, confidential, p 2.

²⁰⁶ Submission 64, Australian Property Institute, p 11.

²⁰⁷ NSW Trade and Investment, viewed 9 April 2013, < www.lpma.nsw.gov.au/crown_land/about_crown_land>

²⁰⁸ Submission 129, Office of the Valuer General, p 46.

- 9.38 The Boating Industry Association of NSW similarly raised concerns about the methodology used for valuing land below the high water mark and suggested that a percentage of revenue model be applied to determine land value for these kinds of properties.²⁰⁹
- 9.39 Some of the concerns raised by the Boating Industry Association included lack of comparable sales for valuing land below the high water mark, difficulties associated with objecting to these valuations as there does not appear to be an established valuation process and issues associated with valuing land below the high water mark according to its highest and best use given planning and operational constraints attached to such land.²¹⁰
- 9.40 Roads and Maritime Services (RMS) told the Committee that its portfolio includes approximately 1,500 leases to private residential waterfront property owners for facilities such as boatsheds, jetties and vessel berths. RMS raised the following issue about valuing these kinds of properties:
- In most cases these leaseholds are combined with the adjoining lessee's freehold parcel to create one property for which a single SLV [Statutory Land Value] is issued. In some instances the leasehold is not combined with the adjoining lessee's freehold property. In these cases separate SLV are issued for the leasehold area and the lessee's adjoining freehold property. For leasehold only SLV, RMS has noted significant inconsistencies in the values assigned to similar leaseholds.²¹¹
- 9.41 Other stakeholders also raised concerns with the Committee about possible inconsistencies in the valuations given to waterfront properties, including properties with boatsheds, jetties and similar structures.²¹²
- 9.42 The Home Access Association raised concerns with the Committees about possible inequities suffered by residents living on the Hawkesbury River and Pittwater in properties that are only accessible by water.²¹³ It explained to the Committee its understanding that driveways would not be included in land valuations, however, for water-access-only residences, the accompanying jetty is included in the valuation of the property even though it shares characteristics with a driveway in such circumstances. The Association said that, in its view, jetties are included in the land valuation for water-access-only properties because they are licensed but driveways are not.²¹⁴
- 9.43 The Committee considers that section 14I of the *Valuation of Land Act 1916* should be reviewed to clarify the valuation requirements for valuing Crown Lease restricted land (such as land below the high water mark). The Committee also considers that the current valuation approach for valuing land below the high water mark should be reconsidered in light of concerns raised by various stakeholders about difficulties associated with valuing this kind of land and possible inconsistencies in valuation outcomes.

²⁰⁹ Submission 68, Boating Industry Association of NSW, p 7.

²¹⁰ Submission 68, Boating Industry Association of NSW, pp 4-6.

²¹¹ Submission 122, Roads and Maritime Services, p 1.

²¹² See for example, Submission 55, Mr Remond; Submission 47, Waterfront Action Group.

²¹³ Submission 61, Home Access Association, p 1.

²¹⁴ Submission 61, Home Access Association, p 1.

RECOMMENDATION 8

That the Minister for Finance and Services review the valuation of land below the high water mark.

RECOMMENDATION 9

That the Minister for Finance and Services introduce amendments to section 14I of the *Valuation of Land Act 1916* to clarify the valuation requirements for valuing Crown Lease restricted land.

LAND VALUE AND GST

9.44 The Valuer General told the Committee that the *Valuation of Land Act 1916* is currently silent on whether or not to include GST in land value but that the Valuer General's policy on this issue is that GST is a factor in the marketplace and is embedded in market transactions relied on to determine land values.²¹⁵ The Valuer General recommended to the Committee that the Act should be amended to recognise that GST is a factor in the market and forms part of the sale price of land and that land values deriving from this kind of evidence do not require further adjustment.²¹⁶

9.45 Mr Parker, the Valuer General's Chief Valuer, explained the concept of GST being embedded in market transactions as follows:

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 the sale price is an agreement between the two parties as to what the property is worth on the day.²¹⁷

9.46 The Valuer General explained to the Committee that his approach to GST is consistent with the application of stamp duty in New South Wales, which is payable on the whole purchase price of a property including GST. He said that it is also consistent with various court cases.²¹⁸

9.47 The Valuer General told the Committee that none of the valuation statutes in other jurisdictions in Australia deal with GST, rather, each jurisdiction has adopted its own response to the issue. He said that Tasmania and South Australia exclude GST from land value in certain circumstances, New South Wales and Western Australia treat GST as being embedded in market transactions and Victoria does not have a firm policy at this point in time.²¹⁹

²¹⁵ Submission 129, Office of the Valuer General, p 49.

²¹⁶ Submission 129, Office of the Valuer General, p 50.

²¹⁷ Mr Michael Parker, Chief Valuer, Office of the Valuer General, transcript of evidence, 5 April 2013, pp 13-14.

²¹⁸ Submission 129, Office of the Valuer General, p 49.

²¹⁹ Submission 129, Office of the Valuer General, pp 49-50.

- 9.48 However, the Valuer General noted that an alternative view is that GST is not part of the market and is, rather, a government tax unrelated to market considerations. According to the view, including GST as part of land value would result in further rates and taxes being levied against an amount already paid to the government.²²⁰
- 9.49 In fact, several submissions to the Committee raised concerns that including GST in land valuations leads to a situation where there is a 'tax on a tax'.²²¹ Robertson and Robertson Consulting Valuers expressed this view in their submission as follows:
- Land tax and rates are being levied upon the valuation outcomes that are being determined and applied through the analysis of comparable sales evidence. When GST is included within the sales analysis, then the statutory valuations being used to levy land tax and rates are higher than they would be if the GST liability was removed (tax on tax reference). This is particularly relevant for commercial, industrial and development sites where the tax status of the parties involved in the transaction and purpose of the purchase affects GST liabilities in different ways.²²²
- 9.50 M3 Property Strategists told that Committee that GST has nothing to do with the value of land as the property owner selling the land does not keep the GST but passes it onto the government and the purchaser pays the GST but then claims an input tax credit.²²³
- 9.51 One stakeholder told the Committee that GST is a tax, not a value²²⁴ and the Australian Property Institute told the Committee that the accepted practice of its members is that market valuations are exclusive of GST.²²⁵
- 9.52 Some of the submissions to the Committee also raised issues around the transparency of including GST in land value. For example, the Australian Property Institute told the Committee that because there is no legal requirement for a property purchase price to be indicated as GST inclusive or exclusive, it can be difficult to source reliable information because the treatment of GST varies depending on the parties' circumstances.²²⁶ The Valuer General also noted that it can be difficult to actually work out what the GST component of a sale actually is.²²⁷
- 9.53 M3 Property Strategists told the Committee that the Valuer General's approach of including GST in land valuations hasn't really been a transparent approach as the Valuer General has only recently published a directive on this issue.²²⁸
- 9.54 The Committee considers that the issue of whether or not GST should be considered to be embedded in market transactions relied on to arrive at land values requires more detailed analysis. This is in light of various stakeholder concerns about this particular

²²⁰ Submission 129, Office of the Valuer General, p 49.

²²¹ See for example, Submission 73, Robertson and Robertson Consulting Valuers, p 1; Submission 64, Australian Property Institute, p 12; Submission 85, M3 Property Strategists, p 8; Submission 83, confidential, p 13

²²² Submission 73, Robertson and Robertson Consulting Valuers, p 1.

²²³ Submission 85, M3 Property Strategists, p 8.

²²⁴ Submission 83, confidential, p 13.

²²⁵ Submission 64, Australian Property Institute, p 12.

²²⁶ Submission 64, Australian Property Institute, p 12.

²²⁷ Mr Philip Western, Valuer General, Office of the Valuer General, transcript of evidence, 5 April 2013, p 14.

²²⁸ Submission 85, M3 Property Strategists, p 8.

approach and the apparent diversity between how other Australian jurisdictions deal with this issue.

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.

Chapter Ten – Fairness in the valuation system: objections & the compulsory acquisition process

INTRODUCTION

- 10.1 The Committee considers the current processes associated with objection and compulsory acquisition valuations unfair and inadequate. A full discussion of the deficiencies of the existing processes is provided above. It suffices to note that individuals are not provided an adequate opportunity to respond to information adverse to their interests, nor are they encouraged to engage in the process. Indeed, the entire approach to objection and compulsory acquisition valuations requires a paradigm shift where landholders are no longer seen as the receiver of a valuation notice, but rather as an interested party, whose views and opinions are entitled to be heard. That view is consistent with the public nature of the powers being exercised and their taxation implications.
- 10.2 The reforms outlined in this section seek to remedy these issues. They are developed consistently with six reform principles: procedural fairness, landholder engagement, capability development, cultural change, decreased litigation and objectivity.
- 10.3 These reforms apply to both objection and compulsory acquisition valuations. The Committee recommends the present objection system be replaced with a valuation review mechanism. That system would also apply to compulsory acquisition valuations. It shall provide minimum protections for landholders. Such threshold protections include the right to make submissions, to see all adverse material and to respond. Those entitlements should be statutorily protected. The Committee also recommends a statutory right to a conference after the original submission and after any response to the preliminary valuation report.
- 10.4 Beyond these entitlements, it is necessary that a strong dispute resolution capability be developed. That is, valuers and others who interact with landholders should have the skills, temperament and tools to engage with landholders in a way that shows respect, dignity, and fairness to landholders. It should be remembered that the way in which the right is afforded is nearly as important as the right itself. If a valuer seems disengaged or disinterested in the landholder opinions, or does not appear to have considered landholder concerns, that will undermine the integrity of the valuation in that landholder's eyes.
- 10.5 Further, the ideal mechanism to effectively engage the landholder will change depending on the circumstances. For this reason what is required is not a particular dispute resolution mechanism, but rather a repeatable capacity to identify and execute the appropriate mechanism to resolve a particular dispute.

Principles

- 10.6 The processes outlined in this section have been developed consistently with six principles: procedural fairness, landholder engagement, capability development,

cultural change, decreased litigation and objectivity. Those principles are defined in the table below.

Principles	Description
1. Procedural Fairness	It is appropriate that landholders are accorded a full opportunity to put their case. That requires: <ol style="list-style-type: none"> 1. Notice of the applicable procedures and substantive criteria; 2. The opportunity to put their case; 3. Disclosure of any “adverse information that is credible, relevant, and significant to the decision to be made”²²⁹; and 4. The opportunity to refute such information.
2. Landholder Engagement	Landholders should be included in the process in a way that is meaningful and that appears meaningful. This requires significantly increased collaboration with landholders during the valuation review process.
3. Capability Development	The development of the appropriate dispute resolution skills is needed to support enhanced engagement
4. Cultural Change	More generally, a change in the approach to valuations is needed, so that landholders are treated with the respect, dignity and fairness to which they are entitled.
5. Decreased litigation	Early intervention in disputes such that litigation is not required is desired.
6. Objectivity	Valuers should retain the impartiality required to make objective decisions

THE REFORM

Overview

- 10.7 The Committee’s preferred approach involves a set of minimum standards enshrined in statute, supplemented by a flexible set of guidelines executed by people trained in resolving disputes. The purpose of the minimum standards is to provide protections that should necessarily be provided in all cases to landholder.
- 10.8 The purpose of a set of policies beyond such minimums is to allow best practices to develop and to provide flexibility. The Committee recognises that the engagement required to value a complex property such as a mine, a marina or a port may need to be very different to the engagement needed to value an elderly person’s compulsorily acquired home. For this reason, what is required is not a particular dispute resolution mechanism, but rather the capacity to identify and execute the appropriate mechanism to resolve a dispute.
- 10.9 These will apply to both valuation reviews/objections and compulsory acquisitions. That is first instance compulsory acquisition valuations will have the similar procedures

²²⁹ *Kioa v West* (1985) 159 CLR 550 at 629.

as those employed for valuation reviews. For the sake of clarity, the Committee is not recommending an intermediate step between compulsory acquisition determinations and Land and Environment Court hearings. The reason why the procedures for compulsory acquisition and valuation reviews should be similar is that both involve the valuation of individual properties. Mass Valuations do not offer the opportunity to provide procedural fairness, given the extrapolative approach employed.

Discussion

10.10 In the procedural fairness section of this report, the Committee focused on the basic requirements needed to afford procedural fairness. They primarily involved the exchange of information, but that is only one half of the issue. In other states, there are also statutory entitlements to conferences and reasons for valuations. One stakeholder submitted a summary of the approach taken by other states:

Mandatory consultation is legislated in both Queensland and Victoria to encourage a full exchange of opinion between the parties including disclosure of relevant information relating to the objection for the purpose of seeking a resolution to the dispute without the need for litigation.

In Victoria, the valuation authority is required to provide the objector with prescribed information within one month of objection lodgment. The prescribed information generally sets out the methodology and basis of the authority's valuation, inclusive of the relevant evidence relied upon. The objector has one month thereafter to provide a response report to the valuation authority. Thereafter a conference is convened between the two parties to seek a resolution of the matter. In the event the objector does not provide a response report, the valuation authority is not obliged to convene the required conference. Hence, accountability applies to both parties.

The new Queensland land valuation system has taken the next step in terms of the objection consultation process. For properties with a site value in excess of \$5 million, the legislation provides the objector with the right to a mandatory conference chaired by an independent chairperson. The independent chairpersons are appointed by the Valuer-General and all have the requisite valuation experience. Formal disclosure requirements are legislated in terms of the mandatory conference.

Whilst the NSW land information system facilitates individual property searches for the purpose of identifying the sales relied upon by the Valuer-General in the assessment of land value, this is of limited benefit in the absence of a formal consultation process to discuss the relative merit of individual sales, methodology or other factors specific to the property.

We believe the NSW valuation system would benefit from the establishment of formal consultation in the objection process.²³⁰

10.11 In the Committee's opinion, the benefit of the Victorian and Queensland approaches is that they ensure minimum personal – as opposed to documentary – engagement with landholders. This is beneficial because it enhances the probability that landholders perceive that they are afforded due consideration. As noted by Professor Sourdin,

²³⁰ Submission 80, Shopping Centre Council of Australia, pp 11-12.

messages can be delivered visually, audibly and kinaesthetically.²³¹ Such channels are not fully utilised in documentary exchanges.

- 10.12 There are some elements however that the Committee is disinclined to follow. Specifically, the Committee is reluctant to set property value as the determining factor for whether an individual is entitled to a mediated conference. The value of the property is only one element in determining the appropriateness of that course. Other factors include the complexity of the valuation and the characteristics of the landholder.
- 10.13 Indeed, while the Committee is willing to accept that a conference is appropriate, it is disinclined to suggest that anything more will always be necessary or required. In various circumstances documentary exchange, telephone negotiations, face-to-face negotiations or mediated discussions will be appropriate. The view that there should be flexibility in the approach is consistent with Professor Sourdin's testimony, where she explains that ideally there will be a triage system to identify the appropriate approach:

Professor SOURDIN: ... In a perfect world, because processes are different, we would have somebody in triage, like we have in hospital. The triage nurse would say, "There is a dispute happening here. Let me have a look at it. Let me see what is going on and see if we can get the right doctor, the right facilitator, the right determination."²³²

- 10.14 For this reason, the Committee recommends a model of legislated minimum protections *that do not preclude other dispute resolution mechanisms*, coupled with the judgment of individuals who are appropriately skilled and accountable for identifying and executing the appropriate dispute resolution processes.

Minimum standards

- 10.15 Procedural fairness requires transparent and accessible processes, access to evidence, the opportunity to put a case and the chance to respond to adverse information.²³³ This should be supported by conferencing either in the form of face-to-face contact or telephone conversations. It is not envisioned that these processes will involve significant legal expenses.
- 10.16 This approach is consistent with providing valuers and other officials flexibility in the way they interact landholders. The process outlined below does not preclude alternative approaches. Valuers or other officials could engage in extra conferencing, include a mediator in the existing conferences or adopt different approaches depending on the type of landholder or property in question. The point of these reforms is to set the baseline, not describe the experience.
- 10.17 For these reasons the Committee considers that the following minimum standards should apply for all land tax and council ratings valuation reviews:

²³¹ T Sourdin, *Alternative Dispute Resolution*, Lawbook Co, Sydney, 2012, p 209.

²³² Professor Tania Sourdin, Director, Australian Centre for Justice Innovation, Monash University, transcript of evidence, 11 March 2013, p 8.

²³³ See chapter 5.

- a. When a valuation review is requested landholders should be entitled to make submissions in documentary form, as they currently do. Valuation review can either be sought for review of the methodology itself or its application;
- b. They should be entitled to conference after they make their submission;
- c. Once a preliminary valuation review report is prepared it should be sent to the landholder, along with any other adverse and credible information relevant to the decision;
- d. The landholder should be given 30 days to make any further submissions to the Valuation Commissioner (Valuation Review/Compulsory Acquisition);
- e. If they make further submissions they are entitled to a conference to discuss those submissions;
- f. If no further submissions are received, the preliminary valuation crystallises and that becomes the valuation;
- g. If the landholder makes further submissions on any material in the preliminary valuation report, the Valuation Commissioner (Valuation Review/Compulsory Acquisition) is required to consider those submissions and provide written reasons for accepting or rejecting those submissions.

10.18 For all compulsory acquisition valuations, the Committee considers that the following minimum standards should apply:

- a. Landholders should be entitled to make submissions as they currently do;
- b. They should be entitled to conference after they make their submission;
- c. Once the compulsory valuation report is prepared it should be sent to the landholder, along with any other adverse and credible information relevant to the decision;
- d. The landholder should be given 30 days to make any further submissions to the Valuation Commissioner (Valuation Review/Compulsory Acquisition);
- e. If they make further submissions they should be entitled to a conference;
- f. If no further submissions are received, the value in the compulsory acquisition valuation report crystallises;
- g. If the landholder makes further submissions on any material in the valuation report, the Valuation Commissioner (Valuation Review/Compulsory Acquisition) is required to consider those submissions

and provide written reasons for accepting or rejecting those submissions within 30 days.

- 10.19 The Committee further considers that the same entitlements should be accorded to acquiring authorities in the case of compulsory acquisitions.
- Where this right is exercised, all submissions to the valuer should be shared between the acquiring authority and the landholder, prior to any conference.
 - 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.
 - In such cases it may be necessary to have some form of joint conference.
- 10.20 Conference is defined as an oral discussion between the valuer and landholder or acquiring authority:
- The discussion may occur in person or on the telephone or on some other communication system.
 - The landholder, valuer or acquiring authority may elect to have the conference in person.
 - The Valuer is required to inform the person to whom the conference is entitled that this is a statutory conference.
- 10.21 The reason the Committee considers two conferences necessary is that it allows the landholder to express their views orally and to discuss their submissions with the valuer.

The dispute resolution capability

- 10.22 The Committee would like to see a more collaborative valuation system. Presently, the valuation system is divorced from landholders. That is perhaps appropriate for mass valuation determinations, but it is not for valuation reviews/objections and let alone compulsory acquisitions.
- 10.23 Under a collaborative approach, valuers and landholders would exchange information and debate and discuss the various issues. That process, if sufficiently inclusive, is more likely to result in a determination that is understood and accepted.
- 10.24 As noted above, what that process involves will likely change depending on the circumstances. It may involve adding conferences to the process. It may involve adding an independent chairperson to a conference. It may involve having some form of case manager separate to the valuer. It may involve some form of stakeholder statements focused on the key issues, which landholders and valuers agree to at the beginning of the process. In this sense, what is required is not a particular dispute resolution mechanism, but rather a repeatable capacity to identify and execute the appropriate mechanism to resolve a dispute.

10.25 The purpose of this structure is to provide adequate flexibility so that the system can be developed and improved over time. That is supported by the capability, governance and other recommendations outlined in other sections of this report.

10.26 To further these goals the Committee makes four further recommendations:

1. Valuation reviews

10.27 To emphasise this shift away from an adversarial process, the Committee recommends that the name of the objection process be changed to a valuation review system. As Mr Lancken testified:

Once we start talking in terms of objection we set up contests in terms of language. What you are talking about is how we make wise decisions about whether a court should decide a valuation or whether we should accept the decision of government. We make those wise decisions by a frank and open exchange of information. It seems to me common sense that that is the way people, especially business people, go about their work²³⁴.

2. The elements necessary to create a long term dispute resolution capability

10.28 With regards to building the capability to encourage landholders and valuers to engage in this approach, Professor Sourdin has cited a number of factors an organisation with a strong dispute resolution capability has:

- (a) Demonstrated commitment of the chief executive officer and all senior managers
- (b) Training of all managers (and preferably all staff) in the techniques to handle disputes effectively;
- (c) Provision of adequate resources to implement and operate the system – this includes adequate staffing, facilities, equipment and training for specialist dispute handling staff and for all staff;
- (d) Keeping of records to ensure that the system can be evaluated and to enable strategies to be developed to minimize problems arising;
- (e) Establishment of clear policy and objectives, which are well documented and publicized to make the system accessible to all.²³⁵

10.29 The Committee endorses these comments. Such elements are necessary to establish a continuously improving approach to handling valuation reviews and compulsory acquisition valuations, which contemplates different approaches depending on the circumstances.

3. Published procedural guidelines

10.30 The Committee further recommends guidelines to support the processes. Those guidelines should canvass issues such as the independence of any chairpersons used in conferences, the factors that will be considered when deciding whether more

²³⁴ Mr Stephen Lancken, Director, Negocio Resolutions, transcript of evidence, 11 March 2013, p 4.

²³⁵ T Sourdin, *Alternative Dispute Resolution*, Lawbook Co, Sydney, 2012, p 460.

conferences are required, the use of case managers and any other matter where it is appropriate. The purpose of these guidelines is to give stakeholders certainty, while not statutorily limiting the development of the system. Those guidelines should be prepared by the Valuation Commissioner (Valuation Reviews/Compulsory Acquisitions).

4. Right to request further information

10.31 Information disclosure has been a significant driver of increased integrity in Queensland valuations.²³⁶ For this reason, it is recommended that valuers have a statutory power to invite the landholders to disclose any further information. That power should not have coercive force, but should enhance the authority of such invitations to support compliance.

INTERACTION WITH OTHER REFORMS

10.32 The Committee also emphasises the connection between these reforms and the governance recommendations. The governance model suggested for the valuation system, suggests three elements that re-enforce these recommendations:

- (a) **A Commission system with a specific Valuation Commissioner (Valuation Review/Compulsory Acquisition):** it is considered that a centralised group that handles the process discussed here will likely drive process improvements, support training, and ensure the necessary focus on affording landholders the respect, dignity and fairness to which they are entitled. Indeed, it is considered a necessary first step to creating the type of capability discussed above.
- (b) **An extension of the Ombudsman's jurisdiction to include twice annual reporting on the system:** the Committee considers this accountability mechanism essential to driving the change required in the administration of the valuation system.
- (c) **The right to petition the Chief Valuation Commissioner:** This mechanism allows individuals to petition the Chief Valuation Commissioner to quash valuations where there has been an error of substance or procedure. While this mechanism ensures that where a large number of properties were valued incorrectly the Chief Valuation Commissioner can order a new set of valuations, it also provides a remedy where individuals have not been provided fairness. In both cases, it is designed to minimise litigation and the associated costs to taxpayer and landholder.

New grounds for valuation review

10.33 The current objections system does not allow people to object based on the statutory values of surrounding properties or the rate of change in their property.²³⁷ The Valuer General's *Your Land Value Review Guide* states on similar properties within a neighbourhood that:

²³⁶ Submission 80, Shopping Centre Council of Australia, pp 11-12.

²³⁷ Office of the Valuer General, *Your land value review guide*, January 2013, p18.

Comparing the land value of other properties to your property is not a valid ground for objection and is not considered in the objection review process. Valuers review the land value in relation to the sale prices of comparable properties. Your supporting evidence must be relevant to your land or land value.²³⁸

10.34 Similarly on extreme fluctuations:

Comparison of your land value with prior land values is not a valid ground for objection and is not considered during the objection review process. Valuers review the land value in relation to sale prices of comparable properties.²³⁹

10.35 That approach may well be appropriate for minor discrepancies but when a property experiences extreme volatility such that it doubles in value over a year or there are large variations in properties that are similar and on the same street, that should be sufficient to indicate that the valuation may be incorrect. This ground is especially important for property holders who do not have strong valuation skills. It is also consistent with the state's system of a statistical first instance valuation accompanied by an inexpensive review mechanism. For people to have confidence in the system they should be re-assured that where there is a significant anomaly they have the right to seek a review.

10.36 This view is consistent with a number of the submissions.²⁴⁰

10.37 An incidental question arises from this recommendation, which is why not simply include verification mechanisms as part of the valuation process? That question arises because the rate of growth and discrepancy issues relate to what are perceived to be inappropriate relativities between *statutory valuations*. In the Committee's opinion such an approach misconstrues the dual functions of a valuation review. The first is valuation integrity, which would be achieved through a pre-determination verification process. The second is procedural fairness. It is necessary that all reasonable grounds of review be allowed at the valuation review stage because it is the only point prior to appeal where procedural fairness is afforded to landholders. If the right to review did not extend to large land value fluctuations or discrepancies it would deprive landholders the opportunity to question, rebut and put forward alternative evidence for why that determination is incorrect.

IMPLEMENTATION

10.38 While the Committee notes that many of these reforms require legislative change to fully implement, given the severity of the current issues improvements should be made as soon as possible. For this reason, the Committee recommends that the Valuer General exercise his powers to implement many of these process changes to the existing objection and compulsory acquisition processes, as a matter of policy. While that will not provide the statutory protections the Committee considers necessary, it will ensure at the very least that the risk of a repeat of the Leppington and Hornsby Quarry issues is less likely.

²³⁸ Office of the Valuer General, *Your land value review guide*, January 2013, p 18.

²³⁹ Office of the Valuer General, *Your land value review guide*, January 2013, p 18.

²⁴⁰ See for example, Submission 32, Mr Michael Newton, p 1; Submission 37, Commodore KA Gulliver, p 1; Submission 65, name suppressed, pp 2-4.

CONCLUSION

10.39 These reforms are designed to resolve the most pressing issues in the valuation system in its current form. It involves establishing a system that upholds a minimum standard, while encouraging continual improvement to better the outcomes for landholders. Those minimum standards will mean that people are not only afforded the right to make submissions and respond to adverse information, but to afford that right in a way that is more effective at delivering a fair outcome. The capability improvement features are focused on ensuring valuers and others who interact with landholders have the appropriate training, tools and leadership to ensure that landholders are afforded the respect, dignity and fairness to which they are entitled. That may involve adopting different approaches in different circumstances. For this reason what is necessary is the capacity to identify an appropriate mechanism and execute it in the circumstances. Finally, these are reforms which are closely linked to the governance reforms, and they should be read as a package.

VALUATION REVIEWS AND COMPULSORY ACQUISITIONS

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 minimum standards:

- 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.**

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.

That these recommendations be legislated, but until then be adopted as far as possible by the Valuer General as a matter of policy.

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:

- 1. Where this right is exercised, all submissions to the valuer should be shared between the acquiring authority and the landholder, prior to any conference;**
- 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.**

That these recommendations be legislated.

RECOMMENDATION 13

That landholders be entitled to a valuation review based on the comparison of statutory 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.

DISPUTE RESOLUTION

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:

- 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 stakeholder statements focused on the key issues, which landholders and valuers agree to at the beginning of the process.**

RECOMMENDATION 15

That the Valuation Commission build a strong dispute resolution capability for the land valuation system in New South Wales, by:

- 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.**

Chapter Eleven – Courts, tribunals and appeals

INTRODUCTION

- 11.1 A number of submissions raised the costs associated with an appeal to the Land and Environment Court. Such costs significantly undermine the accessibility of the system. To that end, the Committee recommends that parties have the capacity to choose between appealing to the Land and Environment Court and the Administrative Decisions Tribunal (to become the NSW Civil and Administrative Tribunal on 1st January 2014) and that the jurisdiction of the Land and Environment Court be extended such that it may issue administrative law remedies.

THE RIGHT TO SEEK MERITS REVIEW IN A TRIBUNAL

Background

- 11.2 The Valuer General suggested that landholders should be able to seek review through a tribunal rather than the Land and Environment Court:

Although the Act provides for objection decisions to be appealed by the landowner to the Land and Environment Court, the Valuer General considers that this may be too onerous for the landowner, particularly in relation to the costs and time associated with making such an appeal. The Ombudsman's Inquiry found that "the costs involved mean there is little economic incentive to do this [lodge an appeal] unless the potential savings in land tax are substantial". It is recommended that an additional streamlined appeals process be established for less complex matters, such as objections against residential properties.

As an example, in Ontario Canada, appeals are made to the Assessment Review Board, an independent adjudicative tribunal whose main function is to hear appeals from people who believe that their properties had been incorrectly assessed or classified. A decision of the Board may be appealed to Ontario's Superior Court of Justice, though only on a question of law.²⁴¹

- 11.3 That view is supported by submissions to this Committee regarding the costs associated with an appeal to the Land and Environment Court. One stakeholder submitted that:

On consideration with our Lawyers and advisors, we decided to escalate the appeal to the Land and Environment Court. I was advised that if it went to a full hearing I should expect to incur costs of between \$70,000 to \$80,000.

Obviously this is a significant finance expense, and means the appeal system is only a place for well- resourced applicants and those pursuing significant adjustment. Small discrepancies are just not worth the fight.²⁴²

- 11.4 These views are echoed in a number of submissions.²⁴³

²⁴¹ Submission 129, Office of the Valuer General, p 42.

²⁴² Submission 83, confidential, p 5.

Discussion and recommendations

- 11.5 The Committee agrees that the current costs associated with litigation in the Land and Environment Court represent a material barrier to the enforcement of legal rights. There will be circumstances where merits review is best sought in an informal tribunal, others where parties will prefer a formal court setting. For this reason the Committee recommends that parties should be allowed to seek merits review in either the Land and Environment Court or the Administrative Decisions Tribunal (to become the NSW Civil and Administrative Tribunal on 1st January 2014). Further rights of appeal on errors of law will remain as they are now.
- 11.6 It should also be noted that these recommendations do not alter the valuation review recommendations.

COURTS, TRIBUNALS AND APPEALS

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 Land and Environment Court. Further rights of appeal to other superior courts on errors of law remain as they are now.

JURISDICTION OF THE LAND AND ENVIRONMENT COURT

- 11.7 Section 34(1) of the *Valuation of Land Act 1916* lists the following grounds for objecting to a land valuation:
- (a) that the values assigned are too high or too low;
 - (b) that the area, dimensions or description of the land are not correctly stated;
 - (c) that the interests held by various persons in the land have not been correctly apportioned;
 - (d) that the apportionment of the valuations is not correct;
 - (e) that lands which should be included in one valuation have been valued separately;
 - (f) that lands which should be valued separately have been included in one valuation;
 - (g) that the person named in the notice is not the lessee or owner of the land.
- 11.8 Colin Biggers and Paisley told the Committee that there is some uncertainty around whether particular administrative errors could be grounds for objecting to a valuation

²⁴³ See for example: Submission 35, Mr Ross Wagland; Submission 2, name suppressed; and Submission 34, Mr Peter Heywood.

under section 34(1) of the *Valuation of Land Act 1916* and gave some examples of where such uncertainty exists.²⁴⁴

11.9 Section 60A(1) of the Act requires the Valuer General to make a new land valuation if, as a result of a change to a planning instrument (such as a new or amended instrument), the purposes for which development may be carried out on the land have changed. However, Colin Biggers and Paisley gave the Committee an example of a parcel of land that was reascertained pursuant to section 60A(1) before a rezoning of that parcel of land had actually been gazetted (i.e. before the change was actually effected).²⁴⁵

11.10 They gave another example of land that was reascertained after rezoning pursuant to section 60A(1) where the relevant Council had never made a written request to the Valuer General to re-value that land (which is a requirement of section 60A(1)).²⁴⁶

11.11 Colin Biggers and Paisley also explained the following separate issue to the Committee:

Sometimes what appear to be plain statutory construction issues going directly to the question that the valuations are too high (see section 34(1)(a)) are resisted by the Valuer General's legal representatives on the basis that what is sought by the objector are administrative law remedies.²⁴⁷

11.12 Colin Biggers and Paisley referred the Committee to a Land and Environment Court case of *Trust Company Limited ATF Opera House Car Park Infrastructure Trust No 1 v The Valuer-General (No 2)* [2011] NSWLEC 34 where the Court decided that it did not have jurisdiction to grant administrative law remedies in Class 3 disputes (the class of proceedings within which land valuation appeals fall).²⁴⁸

11.13 They explained to the Committee that to obtain an administrative remedy from the Land and Environment Court, for example that a reascertainment under section 60A(1) was beyond power, the following process would apply:

- (a) the applicant would commence proceedings in the Supreme Court
- (b) the applicant would seek an order that the proceedings be transferred to the Land and Environment Court on the basis that it would be more appropriate for the matter to be dealt with in that court
- (c) as a result of the transfer of proceedings from the Supreme Court to the Land and Environment Court, the Land and Environment Court would be vested with the jurisdiction of the Supreme Court.²⁴⁹

11.14 The Committee considers that it is important that any person or organisation affected by an administrative error on the part of the Valuer General should be able to obtain an appropriate administrative remedy from the court.

²⁴⁴ Submission 62, Colin, Biggers and Paisley, p 9.

²⁴⁵ Submission 62, Colin, Biggers and Paisley, p 6.

²⁴⁶ Submission 62, Colin, Biggers and Paisley, p 6.

²⁴⁷ Submission 62, Colin, Biggers and Paisley, pp 9-10.

²⁴⁸ Submission 62, Colin, Biggers and Paisley, p 10.

²⁴⁹ Submission 62, Colin, Biggers and Paisley, pp 10-11.

- 11.15 The Committee has received submissions raising concerns about the costs and difficulties associated with commencing and pursuing an appeal in the Land and Environment Court.²⁵⁰ These difficulties and costs would be exacerbated further in the example given to the Committee by Colin Biggers and Paisley.
- 11.16 The Committee considers that it should be easier and more cost effective for individuals and organisations dissatisfied with the land valuation process to pursue their concerns. The Committee considers that, assuming no overriding legal barriers exist, the Land and Environment Court should be vested with the jurisdiction to deal with administrative errors and grant administrative remedies.

RECOMMENDATION 17

That, in light of the case of *Trust Company Limited ATF Opera House Car Park Infrastructure Trust No 1 v The Valuer-General (No 2)* [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:

- **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.**

CONCLUSION

- 11.17 The recommendations here are designed to reduce the costs associated with an appeal and improve the accessibility of the valuation system. That is consistent with the equitable concerns that accompany this Inquiry's terms of reference. It also consistent with the submissions received.²⁵¹

²⁵⁰ See for example, Submission 2, name suppressed, p 1; Submission 34, Mr Peter Heywood, p 1.

²⁵¹ See Submission 2, name suppressed; Submission 34, Mr Peter Heywood; Submission 35, Mr Ross Wagland; Submission 62, Collin, Biggers and Paisley; Submission 83, confidential; and Submission 129, Office of the Valuer General.

Chapter Twelve – Governance framework

INTRODUCTION

- 12.1 An overhaul of the valuation system’s governance framework is urgently required. The governance framework should re-enforce the valuation system’s strategic initiatives and provide adequate accountability to drive performance. Those thresholds are not met in this state. Many of the issues identified in this report are systemic and occurred over a decade and should have been identified and reformed²⁵². That they have lain dormant for so long highlights the deficiencies in the current oversight model. Other issues with the present governance model are considered elsewhere in this report. Summarily, reform is required to increase accountability in the system, to support the development of a dispute resolution capability, to restore the separation of the taxing authority and the valuation system and to oversee the role out of the recommended rules-based system.
- 12.2 Accordingly, the Committee recommends that the state move to a Valuation Commission model, based on the ATO approach. That system should be led by a Chief Valuation Commissioner and two Valuation Commissioners, overseen by the Ombudsman. It is the Committee’s view that these individual’s positions need to be defined in statute. The Chief Commissioner shall be responsible for determining Valuation Guidelines and the general administration of the system. One Valuation Commissioner shall be responsible for the management of valuation reviews and compulsory acquisition valuations, the other will be responsible for the mass valuation approach. This structural separation protects the integrity of valuation reviews. It also supports the development of a strong dispute resolution capability in line with the “centre of excellence” approach outlined in the objection and compulsory acquisition review in this report.
- 12.3 The Ombudsman will be responsible for providing an independent and sophisticated review of the valuation system. The Ombudsman will have information collection powers in line with the approach taken by Inspector Generals and other Ombudsmen. The Ombudsman will not have the power to alter any valuations, but will have the power to report on instances where the Ombudsman considers that there has been inadequate administration of the valuation system. The Ombudsman will also be required to provide a systemic review of the valuation system at least every two years.
- 12.4 All Commissioners shall be appointed for a period of 5 years by the Governor in Council. It is necessary for the Commissioner (Valuation Review/Compulsory Acquisition) to have security of tenure so that there is genuine separation between the mass-valuation system and the valuation review process.
- 12.5 Further, all valuation monitoring mechanisms and tender awarding systems will no longer be administered by an agency directly accountable to a Minister of the Crown. Instead, they will be conducted by the relevant Valuation Commissioner (Original Land Tax Valuations). Whether that function is to be privatized is a matter for the Valuation Commissioner, but in order to maintain the strict separation of the taxing and

²⁵² See case studies on Leppington compulsory acquisitions, Hornsby Quarry and the Perilya mine at Broken Hill.

valuation functions, the Executive Government should not be involved in day-to-day business of valuations.

- 12.6 The Committee does not consider that the Commission reforms will add significant expense to the state. This is because the activities performed by those functions are either already performed or are recommended in other sections of this report. Rather the crux of the structural changes put here is that the maximum public benefit will be derived if there is structural separation of those functions. There is no extra cost because others will have to undertake these functions anyhow.

THE PURPOSE OF THESE STRUCTURAL REFORMS

- 12.7 Governance frameworks define an organisation's leadership model. Leadership is central in any organisation as it defines the organization's focus through the appropriate mix of responsibility, control, accountability and profile. For this reason, it is necessary that the governance framework and an organization's imperatives align. Here the relevant imperatives are accurate valuations and a positive fair and respectful interaction with community members delivered in an efficient way. Those outcomes are achieved through an effective mass-valuation approach, a fair and robust valuation review and compulsory acquisition process and clear and sound valuation guidelines.
- 12.8 In this context, the Committee has six objectives with these recommendations: 1) to provide the structure to support the transition to a rules-based system, 2) to increase accountability in the system, 3) to increase the integrity of the objection/valuation review system, 4) to foster the development of a dispute resolution capability, 5) to restore the separation of the valuation function from the taxing authority and 6) to minimize any adverse side-effects.

1. To support the transition to rules-based system

- 12.9 A major component of this reform package is a move to a transparent rules-based valuation system. The purpose of this transition is to increase the transparency surrounding valuation methodologies, which is expected to drive certainty and assist landholders in the valuation review process.
- 12.10 As explained above, the major component associated with this reform involves publishing clear valuation guidelines that bind Commission Valuers except where they are invited to depart from those guidelines in the review process. Such guidelines provide certainty for landholders, especially where the land is in a shallow market and there are few comparable sales.
- 12.11 This system requires a compound set of legal and valuation skill sets. Those capabilities will best develop when the individual charged with discharging that function is able to specialize and develop the appropriate team of people around them. Specialized training and support systems will foreseeably be required to effectively administer the system. For these reasons, clearly identifying the official in this role encourages the requisite specialization to discharge the function effectively.

2. Increased accountability

- 12.12 The valuation system requires significantly increased accountability. Many of the issues highlighted in this report involve entrenched forms of behaviour or incidents arising over an extended period. The Mudgee incident occurred last year, the Leppington

issues arose in 2010 and the Hornsby Quarry more than a decade ago. Many of these events, and the systems associated with preventing their recurrence should have been in a place long ago.

- 12.13 Similarly, a pattern of disengagement and defensiveness with landholders is readily apparent from submissions. This is the opinion of a number individuals and sophisticated stakeholders alike.²⁵³
- 12.14 That is not a perception that should be held by objectors. As soon as the perception arises that professional pride is a reason why landholder views are not considered, that valuer's views are immediately tainted with the perception of an ulterior objective that is inconsistent with the accurate valuation of land. Such behaviour when widespread is difficult to alter and it is the Committee's view that without sustained public accountability cultural change will prove challenging.
- 12.15 Further, it is the Committee's view that many of these incidents would not have occurred had there been adequate accountability mechanisms in place. It is doubtful that the Leppington issues would have occurred, if there were a material risk of that being publically exposed. Likewise, it is doubtful if the Valuer General would have treated this Committee's processes with the lax approach exhibited in mid-2012,²⁵⁴ had he been accustomed to the oversight that should accompany the public office he holds. Indeed, it is unlikely that his financial management and management reporting systems would have been in such a state that it was difficult to ascertain financial information from five years ago or key operational metrics such as the reason people are objecting.²⁵⁵
- 12.16 For these reasons, the Committee considers it necessary that the oversight of the valuation system needs significant enhancement. Specifically there is a need for a mechanism that provides public reporting of inadequate management of the system as a whole and poor administration of individual compulsory acquisition valuations or valuation reviews.

3. Increase the integrity of the valuation review (objection) system

- 12.17 A number of submissions raised concerns regarding the independence of valuations performed at the objection stage.²⁵⁶ One submission stated that in their view:

...the Valuer General should be removed from the objection process. The existing objection system essentially involved the Valuer General reviewing his own decision. 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. From ... experience, it appears the contract valuer simply applies the methodologies used by the Valuer General without consideration of whether that methodology is faithful to the terms of the Act. Where

²⁵³ Transcript of evidence, 11 March 2013, pp 25-36; Submission 21, The Monarch Investments Group of Companies; Submission 32, Mr Michael Newton; Submission 43, Louise Developments Pty Ltd; Submission 57, Mr George Citer; Submission 63, confidential; Submission 83, confidential; Submission 85, M3 Property Strategists; Submission 87, confidential; Submission 100, confidential.

²⁵⁴ See Joint Standing Committee on the Office of the Valuer General, *Interim Report on the Eighth General Meeting with the Valuer General*, Report 1/55, October 2012.

²⁵⁵ See Chapter 13 for further detail

²⁵⁶ See for example: Submission 63, confidential, p 6; Submission 3, name suppressed.

an objection goes to methodology it is unlikely that an objection will be upheld. That has been [our] experience. Any valuer contracted by the Valuer General's office has a vested interest in agreeing with the Valuer General to ensure more work flow. The contract valuer is not obliged to consider the objection independently of the Valuer General and it appears that the panel of valuers used by the Valuer General is small (and likeminded). In practice the objection to the Valuer General in the first instance simply adds another step in an already inefficient objection system.²⁵⁷

- 12.18 Similarly, another landholder submitted that in their opinion "the valuer seemed... concerned that his employment may be jeopardized by a significant downwards adjustment to the value of the land".²⁵⁸ Those concerns arise because of the perception that while the objection valuer was independent, there was still a sufficient connection that objection valuations were influenced by the original valuation. One stakeholder, quoting from Sir George Jessel, MR, put the issue in the following terms:

It is natural that his mind, however honest he may be, should be biased in favour of the person employing him, and accordingly we do find such bias... undoubtedly there is a natural bias to do something serviceable for those who employ you and adequately remunerate you.²⁵⁹

- 12.19 The Committee considers that this view is currently re-enforced by the inadequate procedural fairness mechanisms. If parties were afforded adequate opportunity to engage with the system this concern would be less acute.

- 12.20 The separation of the review process has become standard in a range of other contexts. In the United States, the Internal Revenue Service (IRS) employs an independent appeals function. Specifically, legislation in the United States requires the Commissioner of Internal Revenue to provide an independent appeals function, including prohibiting communications between appeal officers and other employees to the extent that those communications would appear to compromise the independence of those appeal officers.²⁶⁰ The New Zealand Inland Revenue Department's Adjudication Unit is part of the Office of the Chief Tax Counsel and is separate from the audit and investigative arm of the Inland Revenue Department. In addition, all correspondence between this Unit and the parties to the dispute is conducted through a Field Liaison and Communication Unit.²⁶¹

- 12.21 The Inspector General for Taxation has also recommended the structural separation of the objections unit for the ATO:

The IGT considers that separating the objections and litigation functions from the investigative arm of the ATO will assist in enhancing both the actual and perceived independence of review of original ATO decisions.²⁶²

²⁵⁷ Submission 100, confidential, p 7.

²⁵⁸ Submission 3, name suppressed, p 1.

²⁵⁹ Submission 59, Mr Colin Rooke, p 4.

²⁶⁰ Inspector-General of Taxation, *Review into the Australian Taxation Office's use of early and Alternative Dispute Resolution*, May 2012, pp 105-106.

²⁶¹ Inspector-General of Taxation, *Review into the Australian Taxation Office's use of early and Alternative Dispute Resolution*, 2012, p 106.

²⁶² Inspector-General of Taxation, *Review into the Australian Taxation Office's use of early and Alternative Dispute Resolution*, 2012, p 105.

12.22 The traditional rationale for not separating the review process is that it creates duplication. That risk does not arise here. Valuation Reviews are a fundamentally different exercise to first instance mass valuations. This is because valuation reviews are valuations of a specific property, to be contrasted with the significant statistical extrapolation usually associated with original mass valuations. In this way, by their nature, valuation reviews are materially more robust than their first instance counterparts.

12.23 Against this, the Committee notes the Valuer General's efforts to provide for an independent objection system. The Committee has also not been able to find any evidence in the data to suggest that objections are not handled independently at a macro level. But with this issue, as with others discussed in this report, perceptions are a legitimate and material consideration.

4. Foster an effective dispute resolution mechanism

12.24 This report has explained at significant length the need for procedural fairness. That is part of a broader shift to a collaborative valuation process. The system outlined above seeks to ensure that valuations remain impartial while encouraging landholder participation in the process. It does this by encouraging information exchange and landholder engagement. One benefit of this approach is increased integrity in valuations but another, equally important benefit, is the enhanced legitimacy of the valuation in the eyes of the public.

12.25 The capability to bring people through a process where the outcome is considered legitimate, notwithstanding that the decision may be adverse to the interests of the relevant party, is difficult to develop. It is appropriate that those valuers and individuals or the individuals who administer that process are centralized to facilitate the development of that capability.

12.26 Centralization of this type will support the specialised development of the skills, processes and tools necessary to build a strong capability. For this reason, any governance framework should group the compulsory acquisition and valuation review administration together.

5. Restore the separation of the valuation and taxation arms of government

12.27 The separation of the valuation and taxation arms of government is discussed at length above.²⁶³ It is critical to the system, indeed sufficiently critical for Queensland to re-introduce an active and independent Valuer General.²⁶⁴ Given the length of the discussion, the Committee prefers to rely on its reasoning in that section. It is sufficient to say that it is Committee's view that sound public policy requires that the Valuer General's independence be maintained such that a fair-minded member of the public would not reasonably contemplate that their valuation was influenced by some government objective other than the accurate valuation of land. If the prevailing structure or culture allows for a scenario, which is neither farfetched nor fanciful, of a valuation that is influenced by a government objective other than the accurate valuation of land that will be sufficient to render the independence inadequate. It will be deemed sufficient for a fair-minded member of the public to reasonably

²⁶³ See Chapter 7.

²⁶⁴ Submission 129, Office of the Valuer General, p 16.

contemplate that their valuation was influenced by a government objective other than the accurate valuation of land if a Minister or an official answerable to a Minister is materially involved in that valuation.

6. Minimal negative side effects

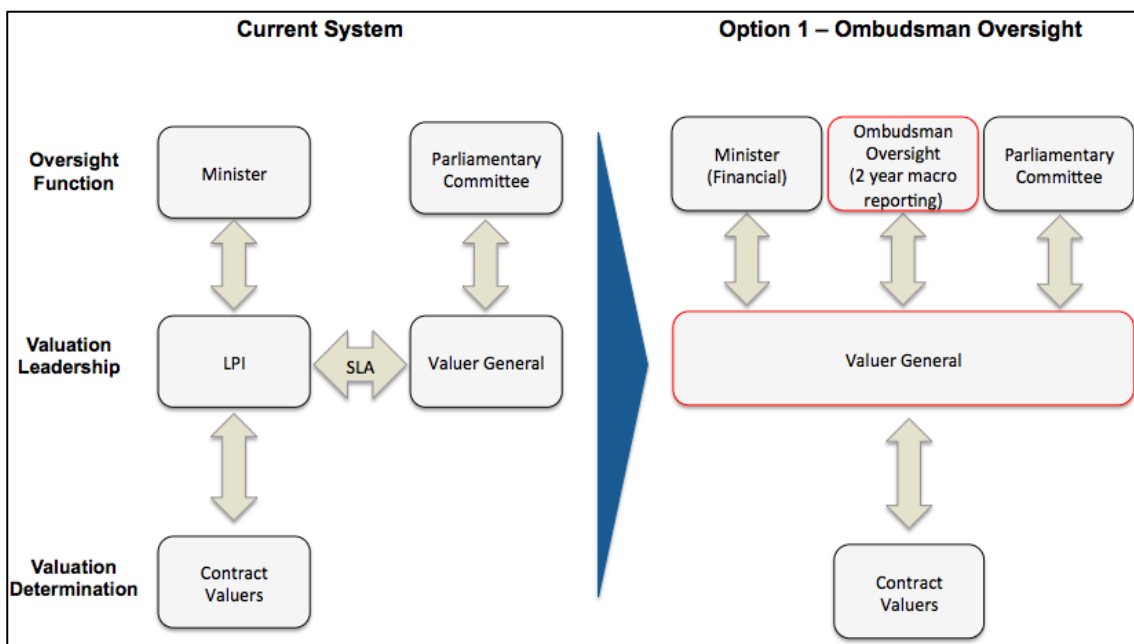
12.28 This criterion is designed to capture consequences associated with the relevant reform, but which are not contemplated by the other factors.

OPTIONS

Option 1 – A Valuer General and extended Ombudsman oversight

12.29 This model is the least aggressive of the reforms considered by the Committee. It involves two primary changes:

- i Strengthened Ombudsman oversight
- ii The transition of work performed by LPI to either the Valuer General’s office or to some private organisation, whichever is preferred.



Ombudsman oversight

12.30 The Ombudsman would be responsible for holding the Valuer General accountable for the discharge of his or her public functions. Specifically, the office would have the power to inquire into specific complaints against the Valuer General in both its Land Tax and Compulsory Acquisition jurisdiction and would be required to table a report to the Parliament every two years. The Ombudsman would not have the power to alter valuations, given a Land and Environment Court appeal would remain open to landholders.

12.31 To support this function, the Ombudsman would have extensive powers to collect information. These powers would include the power to require the production of

documents, information, and to call witnesses who work for the Valuer General's Office or who have been involved in the execution the Valuer General's statutory functions. These powers are consistent with those powers held by Inspectors General and other oversight officers.

- 12.32 The principal functions of the Inspector for the Independent Commission Against Corruption are to audit the operations of the Commission, to report and make recommendations on complaints regarding the Commission, maladministration and the Commissions Procedures. These inquiries can be conducted on the Inspector's own initiative or at the request of the Minister, a complaint or the Parliamentary Committee on the Independent Commission Against Corruption. The Inspector has the power to send for records, require the production of documents, interview witnesses and may recommend disciplinary or criminal proceedings. The Inspector is appointed by the Governor.²⁶⁵
- 12.33 Similar powers reside with the Inspector General of Taxation. The Inspector General of Taxation primary functions are to review the administration of the tax laws and to report on those reviews. The Inspector General for Taxation can invite submissions, request and compel tax officials to provide evidence and produce documents. The Inspector General is appointed by the Governor General for a period of no longer than 5 years.²⁶⁶
- 12.34 The specific powers of the Ombudsman should be tailored to the valuation system. The primary issues over which the Committee considers oversight necessary include:
- The integrity and administration of the valuation system as a whole;
 - The integrity and fairness of valuation determinations and processes; and
 - The extent to which the system is meeting other public policy objectives including transparency, fairness and predictability.
- 12.35 The Committee considers that the Ombudsman would require sufficient powers to obtain information necessary to fulfil this function. This includes the power to seek submissions, to compel witnesses to provide testimony and to produce documents. But given the coercive nature of this power it is the Committee's view that this power should only apply to those that are involved in the administration of the valuation system. That includes contract valuers, public servants working for the Valuer General and the Valuer General himself. Privacy and other rights of individuals should be protected in a way consistent with the protections afforded to citizens interacting with the Inspector General for Taxation. Finally, given the annual valuation cycle it is appropriate to require the Ombudsman to report every two years to allow the Valuer General adequate time to incorporate recommendations into the relevant valuation cycle.

²⁶⁵ *Independent Commission Against Corruption Act 1988* (NSW) Part 5A.

²⁶⁶ *Inspector-General of Taxation Act 2003* (Cth) ss 7(1)(a), 7(2), 13(1), 15, 28(1).

The interaction between the Ombudsman and the other governance mechanisms

12.36 The advantage of Ombudsman is that the individual would have the necessary legal, valuation and investigative skills to provide sophisticated and continuing oversight of the system. It is noteworthy that both the examples cited here involve governance structures that include parliamentary and alternative oversight.

Assessment

12.37 The advantage of this option is that it increases accountability in the system, while maintaining a clear point of leadership. It also crystalizes the structural separation between the valuation system and the rating and taxing authorities.

12.38 Whether the system would foster the development of the appropriate skill sets is an open question, as it would depend on the administrative ability of the Valuer General of the day. It would also not address the objection/valuation review integrity issue.

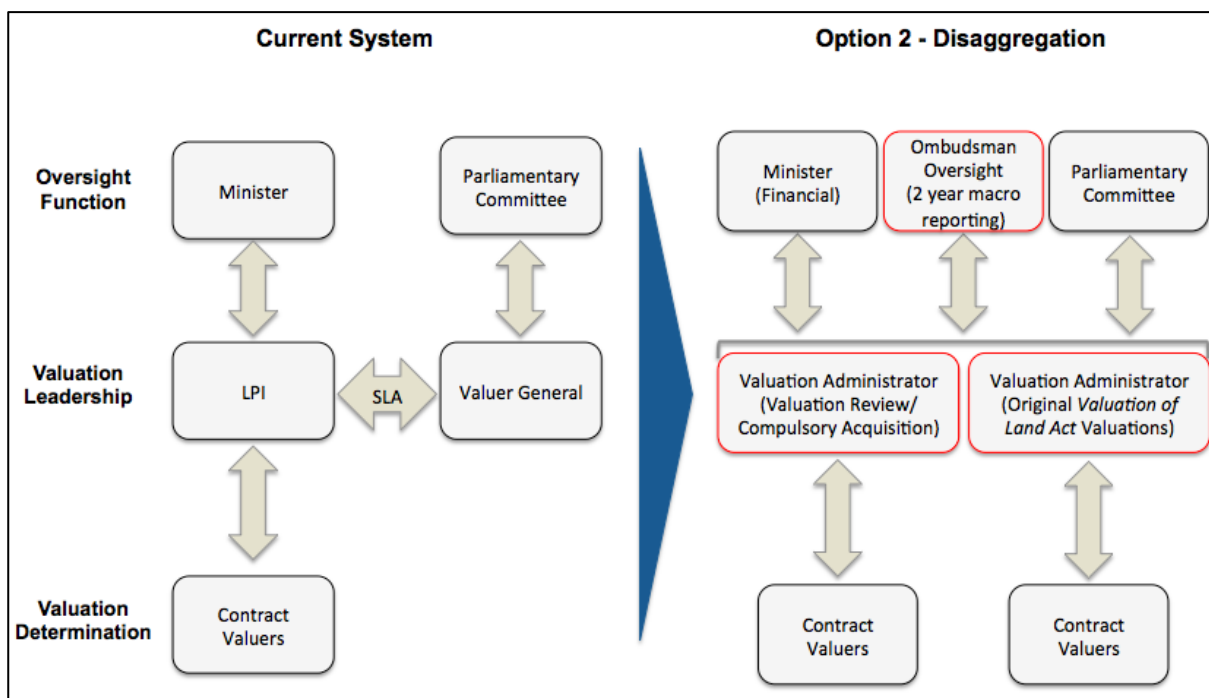
12.39 For these reasons, while the Committee considers the proposal an improvement on the status quo, it is not the preferred option. These findings are summarized in the table below.

Criteria	Discussion	Score
1. Supports Rules-Based Approach	No. While open to VG, not supported by governance framework	1
2. Accountability	Yes. Provided by Ombudsman	3
3. Integrity in Valuation Reviews	No. No structural separation of valuation functions	1
4. Dispute Resolution Capability	No. While open to VG, not supported by governance framework	1
5. Separation of valuing and rating/taxing authority	This is provided by removing executive government from the awarding tenders and valuation monitoring	3
6. Minimal negative side effects	Yes. Significant stasis reduces risk	3
Total		12/18

Note: 3 = fully supports the objective, 2 = allows scope for supporting the objective, 1 = inconsistent with meeting the objective.

Option 2 – Complete disaggregation of the relevant functions

12.40 This option is the most aggressive in terms of governance change. It maintains the Ombudsman in an oversight capacity and the structural change regarding the separation of the valuations and the taxing/rating authorities. The biggest difference is that it abolishes the Valuer General’s Office and disaggregates those functions into the roles of two Valuation Administrators. One Valuation Administrator is responsible for valuation reviews and Compulsory Acquisition valuations, the other for all other Valuations. Valuation Guidelines would be set jointly. Each administrator would be appointed for a term of 5 years and would enjoy the same security of tenure held by the Valuer General now.



Assessment

12.41 The advantage of the disaggregation of the Valuer General’s functions is that the integrity of the valuation review process is enhanced. Likewise, the structural pooling of valuation reviews and compulsory acquisition valuations enhances the skill development in dispute resolution in that function. Further, the cost associated with the administration of the system should not materially change as the activities performed by each of the Valuation Administrators are activities that would need to be undertaken if the Committee’s other recommendations were accepted.

12.42 Despite these benefits the system is somewhat undermined by the lack of a single point of authority. For instance, guideline determination and resource allocation may be a source of tension. This is especially as the Valuation Review Administrator will have authority to ignore guidelines on the grounds that they are inappropriate for the circumstances. Such conditions are not conducive to an effective working relationship. The lack of clear leadership may also confuse the public, as processes involved in dealing with valuations will not involve a single point of reference. In this context, the model is considered high risk and undesirable. Finally, a lack of central authority makes it more difficult for individuals to identify to whom they need to seek redress.

12.43 These view are summarised in the table below:

Criteria	Discussion	Score
1. Supports Rules-Based Approach	No. There is no clear mechanism to support this outcome	1
2. Accountability	Partially. Provided by Ombudsman position but undermined by the lack of clear system ownership	1.5
3. Integrity in Valuation Reviews	Yes. Structural separation of the review function.	3

4. Dispute Resolution Capability	Yes. Through strong structural separation, allowing appropriate candidate selection and skill development	3
5. Separation of valuing and rating/taxing authority	Yes. Provided by removing executive government from the awarding tenders and valuation monitoring	3
6. Minimal Unintended Consequences	High Risk due to disjointed leadership model.	1
Total		12.5/18

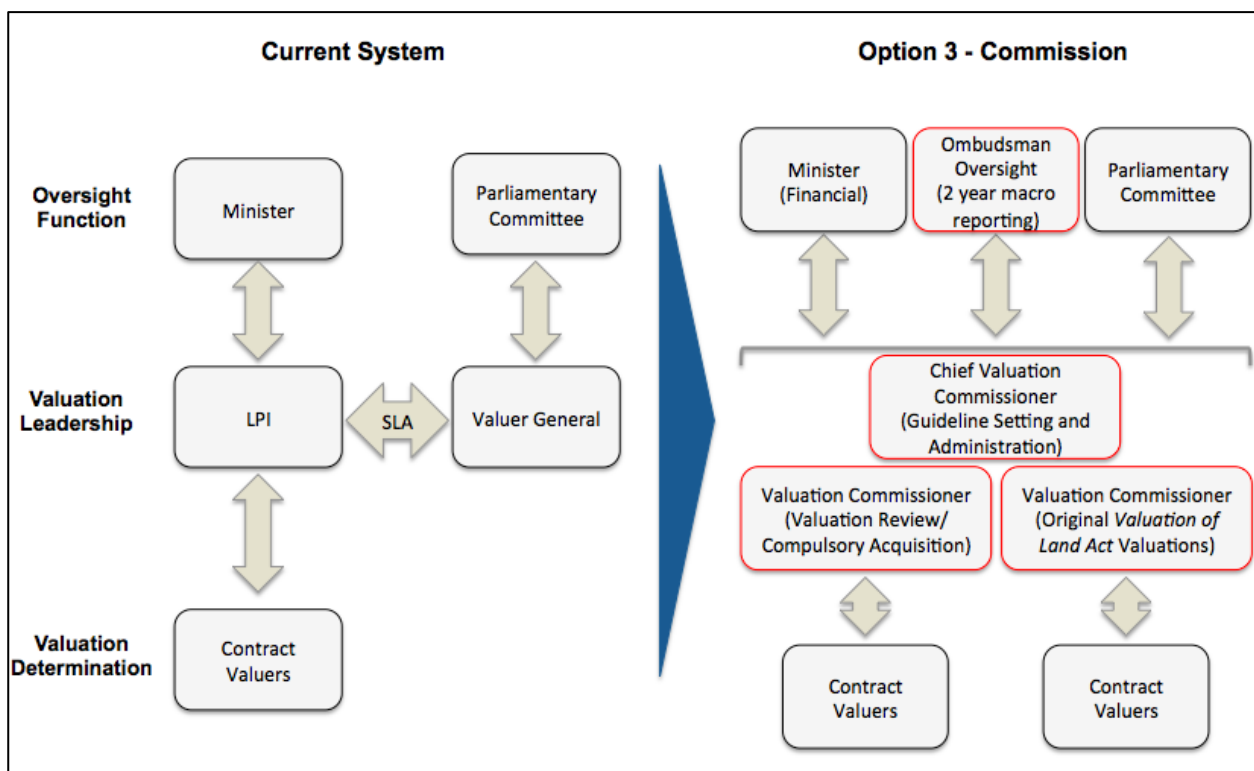
Note: 3 = fully supports the objective, 2 = allows scope for supporting the objective, 1 = inconsistent with meeting the objective.

Option 3 – A Commission system

- 12.44 This system is the most aligned with the reforms suggested in this report. It involves switching to a Commission model, which is consistent with a rules-based approach. Such a switch would represent a significant change in approach to valuations and should be supported by a governance model that re-enforces that change. The Commission model retains the Ombudsman in an oversight function.
- 12.45 The Commission model involves two Valuation Commissioners and a Chief Valuation Commissioner. All Commissioners should be independent statutory appointments and have security of tenure of 5 years. The Chief Valuation Commission would be responsible for setting the valuation guidelines, leading the valuation system, administrative and resourcing/investment decisions required to run a broad system and have powers to order new valuations by either of the other Commissioners. The latter is consistent with the valuation review/compulsory acquisition discussion above. The Chief Commissioner for valuation would also be party to any litigation in the same way the Valuer General is now. The centralization of expertise surrounding guideline setting is appropriate given that litigation can give rise to guideline implications.
- 12.46 Similarly to option 2, one Valuation Commissioner would be responsible for the original valuations, the other for valuation reviews and compulsory acquisition valuations. The reason for maintaining this structural integrity is explained above, but the Committee would emphasize that this model represents best practice, has been recommended by the Inspector General of Taxation at a Commonwealth level²⁶⁷ and is in place in IRS in the United States.²⁶⁸

²⁶⁷ Inspector-General of Taxation, *Review into the Australian Taxation Office's use of early and Alternative Dispute Resolution*, 2012, pp 105-106.

²⁶⁸ Inspector-General of Taxation, *Review into the Australian Taxation Office's use of early and Alternative Dispute Resolution*, 2012, pp 105-106.



Assessment

- 12.47 This model is the Committee’s preferred governance framework and represents a legitimate and needed departure from the existing model. It follows models that have been recommended elsewhere and is considered best practice.
- 12.48 The system encourages the centralization of the skill sets and tools necessary to support rule making and effective and fair dispute resolution. It maintains an effective oversight mechanism in the form of the Ombudsman – a mechanism that is broadly used and has delivered significant benefits in public administration.
- 12.49 Further, there are minimal unintended consequences. The major concern associated with disaggregating the functions relate to leadership issues, discussed above, and duplication. The former concerns do not arise here. Likewise, the duplication issues arising from the separation of the original land tax valuation from the valuation review do not arise because the activities are fundamentally different. The former involves a statistical assessment, the latter an individual valuation. Indeed, for this reason the extra cost burden on the system is not expected to be material. More broadly, other jurisdictions that have separated the original decision and review function have not experienced significant or material incidental consequences that would undermine the underlying attractiveness of this approach.
- 12.50 Finally, as with all options considered here, the connection between revenue raising and valuations is severed to ensure maximum public confidence and integrity in the system.

Criteria	Discussion	Score
1. Supports Rules-Based	Yes. Through strong structural separation, allowing	3

Approach	appropriate candidate selection and skill development	
2. Accountability	Yes. Provided by the Ombudsman	3
3. Integrity in Valuation Reviews	Yes. Structural separation of the review function	3
4. Dispute Resolution Capability	Yes. Through strong structural separation, allowing appropriate candidate selection and skill development	3
5. Separation of valuing and rating/taxing authority	Yes. Provided by removing executive government from the awarding tenders and valuation monitoring	3
6. Minimal negative side effects	Yes. International experience does not indicate material negative side effects	3
Total		18/18

Note: 3 = fully supports the objective, 2 = allows scope for supporting the objective, 1 = inconsistent with meeting the objective.

Relative comparison

12.51 In the Committee's view the Commission model necessarily follows from the design principles. Why that is the case is summarised in the table below:

Design Principles	Implication	Consequence for Options		
		Opt 1.	Opt 2.	Opt 3.
Separation of Taxing and Valuing	Valuer General cannot contract bulk of activities to Government.	✓	✓	✓
Accountability	Ombudsman type role	✓	✓	✓
Integrity of objection/Valuation Review	Separation of Mass Valuation from Valuation Review, which results in the division of responsibility of mass valuations and objections/valuation reviews		✓	✓
Capability Development	Centralized dispute resolution and rule making functions			✓
Clear Leadership	Singular head of system to allow people to seek specific redress			✓

CONCLUSION

12.52 It is necessary to ensure that there is integrity in the governance framework of the valuation system. The Committee considers that the problems identified in this report would have been less likely to occur if there had been adequate accountability for the administration of the system. Further, the governance framework needs to align with any development in dispute resolution and public ruling capability. Applying these considerations, the Committee is of the opinion that a Commission system overseen by the Ombudsman is necessary. The Chief Valuation Commissioner will be responsible for guideline setting, general administration of the system and will have the power to quash valuations and order new valuations. One Valuation Commissioner will be

responsible for the mass valuation approach, another for valuation reviews and compulsory acquisition valuations.

GOVERNANCE FRAMEWORK

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.

RECOMMENDATION 19

That the Chief Valuation Commissioner be responsible for setting valuation guidelines, leading the valuation system, and administrative and resourcing/investment decisions.

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 *Valuation of Land Act 1916*; and another Valuation Commissioner be responsible for the management of valuation reviews and compulsory acquisition valuations, under the *Land Acquisition (Just Terms Compensation) Act 1991*.

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.

RECOMMENDATION 22

That the Chief Valuation Commissioner be party to any litigation in the same manner the Valuer General is now.

RECOMMENDATION 23

That the role of Ombudsman be extended to oversee the Valuation Commission and its administration of the valuation system;

That the functions of the Ombudsman include inquiring into specific complaints against the Valuation Commission, and a macro assessment of the valuation system;

That the Ombudsman be afforded sufficient powers to obtain information necessary to fulfil his or her functions, (though not the power to alter valuations); and

That the Ombudsman be required to table a report to the Parliament every two years, providing a systemic review of the land valuation system.

That these requirements be legislated.

RECOMMENDATION 24

That the Joint Standing Committee on the Office of the Valuer General be reconstituted to oversight the Valuation Commission once established.

Chapter Thirteen – Public reporting

INTRODUCTION

- 13.1 Performance reporting is a key aspect of the governance framework of any independent statutory office. It allows that office to communicate to stakeholders its progress towards achieving positive outcomes for the community. It is also important for accountability and transparency.
- 13.2 The quality of the Valuer General's annual reporting was considered by the Committee as part of its current inquiry as well as on a number of previous occasions.
- 13.3 The Committee considers that the Valuation Commission should prepare an annual performance report and that the Commission should introduce performance indicators to show how it is tracking towards delivering positive outcomes for the community. The recommendations discussed in this Chapter would apply equally to the Valuer General, until such a time as the Valuation Commission is established.

PREPARATION OF AN ANNUAL PERFORMANCE BOOKLET

- 13.4 The Valuer General's Annual Report for 2010/2011 was published as part of the Annual Report of the NSW Department of Finance and Services and was four and a half pages.
- 13.5 It included some valuable information such as information about the relationship between the Valuer General and Land and Property Information and improvements in communications with stakeholders and customer service.
- 13.6 In November 2005, the Committee released its report, *Best Practice Reporting Review* where it recommended that the Valuer General publish an Annual Performance Booklet separate from information provided in the Department of Lands Annual Report (as the Valuer General's Annual Report was, at that time, included as part of the Department of Lands Annual Report).²⁶⁹
- 13.7 The purpose of the Annual Performance Booklet was to show the independence of the Valuer General from the NSW Government and to publish key data and meaningful measures of improvement in a transparent and publicly accessible format. In order to increase transparency and accountability of the Valuer General to the NSW public, the Committee recommended that the booklet be tabled in the NSW Parliament.²⁷⁰ To date, such an Annual Performance Booklet has not been published.
- 13.8 While the Committee considers that the Valuer General's Annual Report of 2010/2011 contains some valuable information, in the Committee's view, it is still short on detail and does not allow the Valuer General to effectively communicate the work he does and the results he produces for the NSW valuation system.

²⁶⁹ Joint Standing Committee on the Office of the Valuer General, *Best practice reporting review*, November 2005, p vii.

²⁷⁰ Joint Standing Committee on the Office of the Valuer General, *Best practice reporting review*, November 2005, p vii.

- 13.9 The Committee also notes that the concerns it voiced in relation to the quality of the Valuer General's Annual Report in its *Best practice reporting review* have not been fully addressed. The Committee is therefore of the view that the Valuer General should prepare a stand-alone Annual Performance Booklet so that the Valuer General can provide sufficient information about his work.

ADDITIONAL KEY PERFORMANCE INDICATORS

- 13.10 The Valuer General's Annual Report for 2010/2011 includes a table with a number of useful key performance indicators to show how the Valuer General is tracking towards the outcomes that the office is working towards. Some examples of the performance indicators used are as follows:

- (a) total valuations issued for rating and taxing purposes;
- (b) percentage of telephone calls that were resolved on first contact;
- (c) percentage of Notices of Valuations that were issued within 31 days;
- (d) percentage of objections to land values for land tax that were completed within 180 days;
- (e) total supplementary valuations issued;
- (f) percentage of council areas that meet all standards;
- (g) number of objections received as a percentage of valuations issued.²⁷¹

- 13.11 The Valuer General's key performance indicators table sets out the targets for each indicator (where there is a target). It also sets out the Valuer General's performance for each reporting year from 2006/2007 to the current year. This format is useful for identifying any trends, analysing improvements over time and identifying any particular peaks or troughs in particular years.

- 13.12 The NSW Audit Office's publication, *Better practice guide: reporting performance*, sets out the following best practice principles for presenting performance information in annual reports:

- report objectives that are clear and measurable
- focus on results and outcomes
- discuss results against expectations
- be complete and informative
- explain changes over time
- provide evidence of value for money
- discuss risks, strategies and the external operating environment.²⁷²

²⁷¹ NSW Department of Finance and Services, *2010/2011 Annual Report*, pp 55-56.

13.13 The NSW Audit Office recommends that published performance indicators should:

- be both qualitative and quantitative
- be relevant and appropriate for the program
- provide evidence of how core functions contribute to the objectives of the agency
- concentrate on high level indicators so readers are not overloaded with information
- provide sufficient information for readers to judge if targets, goals and objectives have been achieved.²⁷³

13.14 One stakeholder made a submission to the Inquiry recommending that the Valuer General's Annual Report include additional information in relation to a number of different matters including expenses incurred handling landowner objections and defending those objections in the Land and Environment Court (including in relation to conciliation conferences under section 34 of the *Land and Environment Court Act 1979*) and overhead expenses of the Valuer General's staff.²⁷⁴

13.15 Another stakeholder also recommended to the Committee that there should be an onus on the Valuer General to keep matters out of court and that this should be tracked in the Valuer General's key performance indicators.²⁷⁵

13.16 The Valuer General's performance reporting is essential to maintain transparency in the system and the associated confidence of the public. This is because the annual reporting, somewhat uniquely, provides a macro view of the valuation system. That is essential given the quantum of revenue levied on this system. In this context quality macro disclosure is required.

13.17 The Committee considers the following principles essential when reporting on the outcomes and activities associated with this system:

- (1) Collectively exhaustive: performance indicators should assess *all* key outcomes associated with valuation system. This includes, but is not limited to, financial matters, procedural fairness issues, public awareness and valuation integrity.
- (2) Meaningful: performance indicators should be tied very specifically to matters such that material assessment can be made regarding the outcome or activity in consideration. For example, the time taken to assess objection claims is a relevant metric, but alone it is not adequately insightful. What is more relevant is assessments of time allocation. How long does it take to allocate the determination to a valuer? How long does it take for them to engage with the landholder? How many conferences do they have with the landholder? How long does it take for LPI to review the assessment? If time assessments for objections decrease because of fewer conferences, and that leads to a lower level of landholder satisfaction with those valuers who had fewer

²⁷² Audit Office of NSW, *Better practice guide: reporting performance*, 2000, p 2.

²⁷³ Audit Office of NSW, *Better practice guide: reporting performance*, 2000, p 10.

²⁷⁴ Submission 83, confidential, p 14.

²⁷⁵ Submission 63, confidential, p 9.

conferences, then that time decrease is not necessarily beneficial. It is this in-depth level of reporting that is required to provide adequate transparency. The Committee recognises concerns associated with excessive detail, but considers that can be managed with appropriate summary sections in the report. The capacity to engage in this type of analysis is supported by the capability recommendation below.

- 13.18 The Committee is pleased that the Valuer General's Annual Report contains a number of performance indicators that allow stakeholders to assess aspects of the Valuer General's performance and to identify trends, analyse improvements over time and identify any particular peaks or troughs in particular years.
- 13.19 However, the Committee considers that, in general, the Valuer General's performance indicators give more information about the amount of work that the Valuer General is producing, and the timeframes within which that work is completed, rather than the quality of the work produced.
- 13.20 While the Committee notes that many of the Valuer General's performance indicators are self-explanatory, the Committee is of the view that other performance indicators would benefit from further clarification to better put them into context for stakeholders. For example, the Committee considers that the performance indicator relating to total supplementary valuations issued could benefit from a footnote explaining what a supplementary valuation is and why it would be issued.
- 13.21 The Committee notes that some of the outcomes that the Valuer General is working towards do not appear to be adequately reflected in the Valuer General's key performance indicators.
- 13.22 For example, in the Committee's view, the outcome of 'accurate and consistent land values' is not adequately reflected in the existing key performance indicators. The Committee also notes that some of the submissions it received in relation to the current inquiry raised concerns surrounding the accuracy and consistency of the Valuer General's land valuations.
- 13.23 The Committee considers that, in terms of this outcome, performance indicators associated with the following could be relevant:
- (a) the consistency and accuracy of land valuations across NSW and how those valuations track against land valuations in the marketplace over time;
 - (b) results of land valuation reviews; and
 - (c) results of Administrative Decision Tribunal or Land and Environment Court proceedings arising from land valuation reviews.
- 13.24 The Committee notes that the Valuer General has some performance indicators that give an indication of levels of stakeholder satisfaction, such as the performance indicator relating to the number of objections as a percentage of valuations issued. However, the Committee would like the Valuer General to consider whether more can be done in this area.

- 13.25 The Committee agrees with some of the suggestions made regarding possible finance-related items to be included in the Valuer General's Annual Report, as the Committee considers that this will further enhance transparency and accountability. In particular, the Committee considers that it would be helpful if the Valuer General's Annual Report highlighted some key financial matters and areas of spending such as money spent on first instance rating and taxing valuations, objection valuations and litigation. This is consistent with the activity based costing of the Valuer General's Office provided to the Committee in the course of this Inquiry (see Appendix 3).
- 13.26 The Committee also considers that metrics should be reported regarding the procedural fairness issues discussed elsewhere in this report. Examples of those indicators are canvassed in the recommendations associated with this section.
- 13.27 Finally, The Committee also emphasises the importance of these reforms. This Inquiry focused significantly on transparency. The macro-transparency of the system is currently inadequate because of the lack of sufficiently specific and comprehensive performance indicators. In the scheme of some of the far-reaching recommendations in this report, the Committee considers these recommendations "low hanging fruit."

REPORTING

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.

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:

- (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;**
- (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:**

- (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.**

RECOMMENDATION 27

That the annual report includes some key financial information and areas of spending including money spent on:

- (a) first instance rating and taxing valuations;**
- (b) objection valuations;**
- (c) litigation.**

This financial information should be consistent with activity based costing provided to this Committee.

Chapter Fourteen – Technology and systems development

INTRODUCTION

- 14.1 The new Valuation Commission needs to have effective systems in place to extract and compile accurate information in a timely manner. This is to ensure effective management, improvement and monitoring of the valuation system.
- 14.2 Throughout the progress of this Inquiry and as part of the Committee's Eighth General Meeting with the Valuer General, the Committee has asked the Valuer General a significant number of questions and sought information on various aspects of the Office of the Valuer General's operations. While the Committee was generally impressed with the Valuer General's ability to provide informative responses to these questions in a timely manner, there were three instances that gave the Committee an insight into some deficiencies in the Valuer General's systems. In particular, the Committee was concerned about:
- (a) inaccurate information that the Valuer General provided to the Committee in response to a question about the amount of money that the Valuer General paid to valuers under service contracts since 2002;
 - (b) delays by the Valuer General in providing the Committee with information about the amount of money spent on certain issues associated with valuation services since 2000; and
 - (c) inadequate data regarding the nature of valuations and identifying causes of objections.

14.3 These three examples are discussed in further detail below.

INSTANCES IN DATA DEFICIENCIES

Inaccurate information provided to the Committee

14.4 Prior to the Committee's Eighth General Meeting with the Valuer General, the Committee sent questions on notice to the Valuer General. Question 19 asked:

Can you provide a list (in an excel document) of all service contracts for valuations since 2002, including the date, the size of the contract (the payment provided to the valuer), the valuation services provided (which properties and for what purpose: land tax valuations, compulsory acquisition, private valuations etc) and the name of the service provider? [This includes any service contract, whether it was terminated, the valuation was or was not issued etc.]

14.5 On 23 March 2012, the Valuer General responded to this question with a detailed list of all the contracts since 2008, along with a summary of the amount of the contracts with each valuation contractor by year, and in total, since 2008.

- 14.6 The summary table indicated that one valuation firm, Quotable Value Australia, had been awarded valuation contracts worth \$37,849,577.96 since 2008, which was approximately 60% of the total value of the contracts awarded. The summary table indicated that the other 23 contractors had been awarded contracts between \$3,060,512 and \$12,000 over the same period.
- 14.7 On the morning of 2 April 2012, the Sydney Morning Herald published an article in which it quoted Mr Western, Valuer General, as indicating that the figures he provided to the Committee were incorrect. It stated:
- ... Mr Western says the figures, supplied by him to a parliamentary committee, are wrong and that Quotable Value’s share of the work is \$13.6 million or 16.6 per cent. He says the next largest market share for the period is Crown Valuation Services with \$9.3 million, or 11.3%.²⁷⁶
- 14.8 At a hearing with the Valuer General on 2 April 2012, the Valuer General gave the Committee an explanation for the inaccuracies in the data. He stated that the spreadsheet was taken as a summary of information obtained from the SAP system within Land and Property Information (LPI). He explained that while LPI believed that the underlying data was correct, the summary of the data was incorrect.²⁷⁷ The Valuer General said that LPI had advised that the correct contract amount for Quotable Value Australia since 2008 was \$13.6 million.²⁷⁸
- 14.9 On 4 April 2012, the Committee resolved to send the data to the Auditor-General for forensic review.
- 14.10 On 30 May 2012, the Auditor-General reported to the Committee that the Mass Valuation Contacts and Fee amounts for Quotable Value Australia Pty Ltd for 2007/2008, 2008/2009 and 2009/2010 were materially incorrect as follows:

	2007/2008	2008/2009	2009/2010
Original 'Attachment G'	\$7,463,074.23	\$14,797,480.95	\$10,914,868.78
Revised 'Attachment G'	\$2,356,750.06	\$2,073,000.06	\$2,478,161.66
Overstatement	\$5,106,324.17	\$12,724,480.89	\$8,436,707.12

- 14.11 The Auditor-General advised that the reason for the misstatements was the ‘reliance on non-standard reporting routines with inadequate quality assurance procedures.’ He explained:

The SAP system configuration had changed over the years making report routines which were effective in recent years being incorrect when applied to earlier years. Data sourced in earlier years through these routines were materially correct at a ‘drilled down’ level but summarised data at a higher level was incorrectly applied

²⁷⁶ S Nicholls, ‘Official’s role in land valuation contracts under investigation’, *Sydney Morning Herald*, 2 April 2012.

²⁷⁷ Mr Philip Western, Valuer General, Office of the Valuer General, transcript of evidence, 2 April 2012, pp 16-17.

²⁷⁸ Mr Philip Western, Valuer General, Office of the Valuer General, transcript of evidence, 2 April 2012, p 17.

against the largest client. This is why the majority of the Mass Valuation data was incorrectly applied to Quotable Value Australia Pty Ltd in the 2008 to 2010 years.

14.12 The Auditor-General also found that the errors should have been obvious to preparers of the report, highlighting a serious lapse in quality control. He recommended that the Valuer General determine why the quality control procedures failed to identify the obvious errors. He also recommended that the Valuer General implement appropriate enhancements to those procedures.

14.13 Based on the evidence taken and the review conducted by the Auditor-General, the Committee issued an Interim Report in October 2012 which made several recommendations including that:

- (a) the quality control procedures in the OVG be independently reviewed to ensure that adequate systems and processes are in place (Recommendation 1); and
- (b) the Valuer General develop appropriate financial reporting tools so that the Valuer General can oversight the value of contracts entered into for land valuations (Recommendation 4).²⁷⁹

14.14 On 21 December 2012, the Valuer General wrote to the Committee to advise of the following progress in implementing the Committee's recommendations:

- (a) Ernst and Young is independently examining the quality assurance procedures in LPI and the OVG.
- (b) Ernst and Young had completed a review of existing risk and control systems in LPI and OVG and developed a standards based Management Assurance Framework. Implementation of the Framework would commence in late January 2013 under the direction of a new quality assurance and risk management role that has been established within the OVG.
- (c) LPI would examine the SAP financial system to determine if it was suitable to develop further reporting capabilities or if it would be more appropriate and efficient to develop a new separate financial reporting system.
- (d) The Service Level Agreement with LPI of January 2013 would contain a requirement for LPI to develop financial reporting capabilities required by the Valuer General.
- (e) The Auditor-General will review LPI's financial systems as part of his 2013 financial audit program.

14.15 On 5 April 2013, the Valuer General provided the Committee with a further update in relation to this progress in implementing the recommendations made in the Committee's Interim Report. In particular, the Valuer General told the Committee that Ernst and Young have provided a draft report and that the Valuer General has commenced implementing the key recommendations from that draft report. This

²⁷⁹ Joint Standing Committee on the Office of the Valuer General, *Interim Report on the Eighth General Meeting with the Valuer General*, Report 1/55, October 2012, p 11.

includes introducing a quality assurance checklist for staff providing advice, a structured peer or independent review of advice being provided for ministerial or parliamentary responses and a document tracking system.²⁸⁰

Delays in providing information to the Committee

14.16 On 1 November 2012, the Committee sent the Valuer General questions on notice in preparation for a public hearing on 19 November 2012. Question 6 of the questions on notice stated:

Could the Valuer General provide the committee with the value of public moneys spent on issues associated with the provision of valuation services on a yearly basis since 1998. This should include:

- a. Public money spent on first instance ratings and tax valuations;
- b. Public money spent on objection valuations;
- c. Public money spent on communications;
- d. Administrative costs;
- e. Public money spent on compulsory acquisition valuations;
- f. Public money spent on handling all legal matters; and
- g. Other material areas of cost.

14.17 The Committee requested a response to question 6 by 15 November 2012.

14.18 On 15 November 2012, the Valuer General wrote to the Committee Chair and made the following comments in relation to question 6:

Within the timeframe provided by the Committee, LPI has been unable to provide the Valuer General with the breakdown of costs in the specific format requested due to the structure of current and previous financial systems. LPI are working towards addressing this but have been unable to provide a delivery date as they are currently investigating options to extract this information. As soon as a date is provided by LPI the committee will be advised.

14.19 After discussions between the Committee Chair and the Valuer General, the Committee revised question 6 so that it only applied to information since 1 July 2000, not since 1998.

14.20 The Valuer General provided the information to the Committee in the following batches:

- (a) 1 February 2013 – 2011/2012 data
- (b) 6 March 2013 – 2007/2008 to 2010/2011 data
- (c) 13 March 2013 – 2000/2001 to 2006/2007 data.

²⁸⁰ Mr Philip Western, Valuer General, Office of the Valuer General, transcript of evidence, 5 April 2013, pp 1-2.

- 14.21 The final batch of data for the period from 2000/2001 to 2006/2007 was received by the Committee almost four months after the original deadline that the Committee had set.

Inadequate data

- 14.22 The Committee requested data regarding the causes of objection, writing to the Valuer General on 21 February 2013 and asking:

Can you please provide the Committee with a breakdown of the reasons for objections to valuations over the last three years?

- 14.23 The purpose of this question was to identify any systemic causes of objection, so that those issues could be resolved.
- 14.24 The Valuer General, in a meeting with the Chair, discussed the information available. It became apparent that the Valuer General stores data regarding the statutory reason for the objection. As the bulk of these reasons were that the land value was too high, that was insufficient for the task.
- 14.25 Similarly the Committee asked that the Valuer General identify valuations where the Government was one half of the transaction. On 27 November 2013, the Committee asked the Valuer General to provide:

The names of parties for whom the Valuer General has done valuations where one side is the Government as the transacting party.

- 14.26 In a series of discussions with the Chair it became apparent that the data set was inadequate to identify the party. The only relevant field was a description label, but this had no standard rules, meaning that a number of properties could not be identified.

DISCUSSION

- 14.27 The Committee acknowledges that it has asked the Valuer General a significant number of questions since March 2012. The Committee appreciates the assistance of the Valuer General and the LPI in providing responses to these questions, most of which have been provided within the deadlines set by the Committee and have satisfactorily answered the questions asked by the Committee. The Committee considers that this indicates that many of the Valuer General's systems are working effectively.
- 14.28 Nevertheless, the Committee considers that the examples outlined in this section give an insight into some deficiencies in the Valuer General's systems which impacted on the Valuer General's ability to account to the Committee in a satisfactory and timely manner.
- 14.29 Data analytics is an important element in any management system. It provides the insights that support continual and effective improvement. It is readily foreseeable that certain types of properties may be subject to greater problems than others. Those issues may arise by geography, methodology, land value, land use, valuer or cause of complaint. It is essential that there is systemic monitoring of these issues and others which may provide insight into the effectiveness of the valuation system.

- 14.30 Analytics is also the means by which reform can be piloted and tested. Without baseline data on key metrics it is difficult to ascertain the causes of issues and whether they have been materially improved, or whether fluctuations have been caused by exogenous factors.
- 14.31 The Committee stresses that such analytics should not be limited to valuations. It should extend broadly across the system including landholder satisfaction, procedural fairness metrics and valuation accuracy indicators.
- 14.32 Retaining adequate data is also necessary to provide an audit trail for future inquiry. It is foreseeable that information regarding specific valuations may be required at a future date. It is also foreseeable that specific information on certain types of properties will be required to take samples of valuation quality probity or other reasons.
- 14.33 For these reasons, in the Committee's view, such deficiencies also have a material impact on the Valuer General's capacity to continually improve the system and deleteriously impact the Valuer General's capacity to review valuations retrospectively. The Committee considers that the information it requested in examples above was important. It is information that the Valuer General should be able to access quickly and easily, not just for the benefit of the Committee, but also for other bodies that may require it.
- 14.34 The Committee has outlined a number of recommendations below. Those recommendations are developed consistently with the principles discussed below:
- i) Original capture of relevant segment data: data should be collected and centralised regarding the key elements of valuations. This is necessary to support auditing procedures and analytics
 - ii) Regular analysis and monitoring of the key aspects of the valuation system: this includes analysing valuation and procedural issues.
 - iii) IT Systems to support the effective development of the dispute resolution capability discussed earlier.
- 14.35 The Committee welcomes the significant steps that the Valuer General has taken to implement the recommendations that the Committee made in its Interim Report and looks forward to further progress updates from the Valuer General.
- 14.36 However, the Committee considers that it is essential that the new Valuation Commission has appropriate systems in place from its inception to assist it with carrying out its functions and activities.

CAPABILITY

RECOMMENDATION 28

That the Valuation Commission have adequate resources and appropriate systems in place from its inception to carry out its functions and activities in a timely and efficient manner.

RECOMMENDATION 29

That the Valuation Commission ensure that key information concerning the land subject to a non-mass valuation determination is captured, stored and centralised electronically. The information should include:

- **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);**

And 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.

Chapter Fifteen – The valuation criterion

INTRODUCTION

- 15.1 In the Committee's Issues Paper, the criterion for land valuation was canvassed as an issue for reform.²⁸¹ A number of submissions have been received on the point, specifically, raising efficiency and equity concerns.²⁸² In considering these submissions, the Committee has adopted a cost/benefit approach. It is apparent that the current criterion is efficient in the sense that it is non-distortionary. Any transition to annual value or capital improved value would create distortions in the investment market and involve material switching costs.
- 15.2 A number of stakeholders have however raised equity issues with council rates in LGAs with above average strata holdings.²⁸³ Such equity issues are very much legitimate, but given the issues associated with a transition, the Committee considers that the appropriate solution lies in allowing councils more flexibility in the application of their rate levies on strata and non-strata holdings. Such a solution would maintain the non-distortionary benefits of the current criterion and achieve the equity outcomes sought. For these reasons the Committee recommends that current definition of land value be retained.

OPTIONS ANALYSIS

- 15.3 The Committee considered three options: the status quo, a move to capital value model, and a move to the annual rental income model. Each system has attendant benefits, but the current definition site value approach is preferred.

Option 1 - Status quo

- 15.4 The current criterion for land value employed in NSW is used widely throughout this country.²⁸⁴ It is often referred to as site value, or the value of land that is cleared and ready for development. This is because the current definition allows the valuer to consider land improvements.²⁸⁵ The Valuation of Land Act defines land improvements in the following terms:
- (a) the clearing of land by the removal or thinning out of timber, scrub or other vegetable growths,
 - (b) the picking up and removal of stone,
 - (c) the improvement of soil fertility or the structure of soil,

²⁸¹ Joint Standing Committee on the Office of the Valuer General, *Issues paper: Inquiry into the land valuation system*, 2013, p 2.

²⁸² See Submission 89, Property Council of Australia; Submission 129, Office of the Valuer General; and Submission 80, Shopping Centre Council of Australia.

²⁸³ See Submission 76, Randwick City Council; Submission 81, Local Government NSW.

²⁸⁴ Submission 129, Office of the Valuer General, pp 17-18.

²⁸⁵ *Valuation of Land Act 1916* (NSW) s 6A.

- (d) the restoration or improvement of land surface by excavation, filling, grading or leveling, not being works of irrigation or conservation,
- (e) without limiting paragraph (d), any excavation, filling, grading or leveling of land (otherwise than for the purpose of irrigation or conservation) that is associated with:
 - (i) the erection of any building or structure, or
 - (ii) the carrying out of any work, or
 - (iii) the operations of any mine or extractive industry,
- (f) the reclamation of land by draining or filling together with any retaining walls or other works appurtenant to the reclamation, and
- (g) underground drains²⁸⁶.

15.5 Conceptually, the process of valuing land pursuant to this formulation involves removing any improvements – other than land improvements, identifying the highest and best use of the land, and identifying the value of the land deployed in that capacity. When assessing that value, consideration is given to any investment necessary.²⁸⁷ So if the highest and best of a parcel of land is a mine, the valuer will employ a discounted cash flow analysis. As part of that analysis they will include the construction of any infrastructure necessary to bring the mine into operation as a cost. In other words, they will assume that the infrastructure has not been built – because it is an improvement – and will account for that cost in the valuation of the land.

15.6 The advantage of the site value definition is that, when used as a tax base, it provides no disincentive for development. This is because by definition any developments are “improvements” and therefore excluded from the assessment. As stated by Dr Mangioni in his submission:

It is a neutral and efficient base which is not distorted by improvements of varying scale, type, age or structures that exist across locations of similarly zoned land, which are not highest and best use. To this end the retention of a tax on land by the States is the most efficient and least distortive basis of value.²⁸⁸

15.7 The data also suggests that over the long run the current system is strongly correlated to the market.²⁸⁹

15.8 One issue with the current system is the volatility in land valuations discussed above, but it is not apparent that this would be materially altered under a capital improved model.

15.9 A further issue raised by a number of submissions is the inequity between strata and non-strata dwellings. To some extent, lower rates for strata properties are the natural

²⁸⁶ *Valuation of Land Act 1916* (NSW) s 4.

²⁸⁷ Crown Solicitor’s Office, *Valuation of land: Differences between revenue and compensation matters*, 2013, pp 11-15.

²⁸⁸ Submission 102, Dr Vince Mangioni, p 2.

²⁸⁹ See Chapter 4 and Appendix 5.

corollary of a system that does not penalise development. An equity issue arises however for council rates where the proportion of properties held under strata differs materially from what is experienced across the state. A number of submissions were made on this point. Randwick Council submitted:

Inequity in the valuation system between non-strata and strata properties is causing inequity in the local government rating system. This is a growing issue in inner city areas such as Randwick City where the number of strata properties is increasing. Greater flexibility to choose the valuation system appropriate for each council is required in NSW. A move from land values to capital improved values is required in an urban area like Randwick City to address this issue.²⁹⁰

- 15.10 While this is a real concern, the appropriate solution lies in allowing councils with high levels of strata holdings the flexibility to allocate a greater rate burden on strata holdings that is consistent with the state average. How that is achieved is outside the scope of the valuation system and therefore the Committee declines to comment on the issue any further, except to raise it as an issue for consideration for the government.

Option 2 – Capital value

- 15.11 Capital Value is the value of land in its actual state, that is it assesses the value of the land with any improvements presently on the site. The advantage of this model is that it is understandable and equitable in the sense that the capital value is easily understood. A further advantage is the ready availability of real world data and market evidence. Against this are, what the Valuer General described as “significant investment”²⁹¹ costs associated with any transition to an alternative mechanism. The Australian Property Institute also suggested that there would be increased costs associated with monitoring the system as the state of repair of improvements would become a material consideration in valuation determinations.²⁹²

- 15.12 A further drawback is the deadweight loss associated with development disincentives. The Valuer General submitted:

improved values are generally considered to tax the capital input and economic endeavor of the owner and it can be argued that this creates a level of disincentive for landowners to improve or maintain property to the highest and best use, given a higher valuation would result in a larger rating and taxing liability. As the Henry Tax Review identified, the “efficiency of council rates is likely to be reduced in councils that use improved values to assess the tax, as this discourages capital improvements.”²⁹³

- 15.13 This is consistent with other evidence heard by the Committee on this issue:

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

²⁹⁰ Submission 76, Randwick City Council, p 2.

²⁹¹ Submission 129, Office of the Valuer General, p 17.

²⁹² Submission 64, Australian Property Institute, p 8.

²⁹³ Submission 129, Office of the Valuer General, p 17.

Mr CONABERE: Yes is the simple answer to that, but what it comes back to is that local government ultimately—what we are talking about here in an equity sense is council rates. We all know that land tax is on the basis of site value in any event. Putting that to one side, what typically transpires when you see a move from a land base to a capital improved base is that the equity or the apportion of that rate burden under the land system substantially changes when you move to a capital system because all of a sudden you go from having a land value down here for a highly improved property and the original rating value jumping up to here. If local government was to maintain the same apportion among land classification in that application, what would happen is that the rate in the dollar—the ad valorem rate that gets applied for council rates—basically would have to come down substantially to maintain that same distribution of the rate burden. That causes a problem for local government in the sense that effectively you may find that your commercial rates actually come down below your residential rates.

We see that again and again where effectively they are not in a position to maintain the same rate burden apportionment that they have had under a land system. That is a concern for the owners. We have seen that happen again and again in other States. The reality is that council rate charges on these major properties are very significant and if we do see substantial shifts in that tax burden, as Angus said, they can be sufficient to prevent development from going ahead.²⁹⁴

15.14 These concerns, however, would mainly apply in our view to non-residential development. We recognise some strong arguments in favour of residential land being valued in this way. However, any further exploration of this issue would need to be done by another Inquiry either by this Committee or another appropriate body.

15.15 For these reasons Capital Value is not the Committee's preferred valuation criterion.

Option 3 – Annual value

15.16 The Annual Value, or rental income method is the method used in Singapore²⁹⁵. It is assessed at the value of the annual rental income of the property. This method is different to site value in that it does not consider the highest and best use of the land, but rather its current use. It is also different to capital value in that the value of the property under the Annual Value model is not equivalent to the market value, although there may be a strong correlation.

15.17 The advantage of the approach is that it reflects the return on investment for property holders. The rate of return is the essential metric for investors and this is reflected by a number of submissions made by investors to the Committee²⁹⁶. In this way, policy makers may have tighter control on the impact of tax rates on investment decisions. That is particularly true for investment decisions where the choice is between land, other investment holdings or property investments in alternative jurisdictions. These elements make the tax suitable for jurisdictions heavily exposed to international property markets. Against this option is the issue that it creates a disincentive for development. There also remain switching costs.

²⁹⁴ Transcript of evidence, 15 March 2013, pp 2-3.

²⁹⁵ Inland Revenue Authority of Singapore, viewed 20 January 2013, <www.iras.gov.sg/irasHome/page04_ektid2110.aspx>

²⁹⁶ See Submission 3, name suppressed, p 1; Submission 8, name suppressed, p 2.

CONCLUSION

15.18 Given the discussion above, it is this Committee's view that the present criterion is appropriate. Site value is understood and is economically efficient. Alternative methods would create distortions in the development market and involve transition costs. The issues surrounding equity of council rates in strata heavy LGAs can and should be resolved through other means, as they are localized to councils with high strata holdings.

VALUATION CRITERION

FINDING 1

That land value is the appropriate basis of valuation for rating and taxing purposes.

Appendix One – List of submissions

1	Mr David Thomas
2	Name suppressed
3	Name suppressed
4	Mr Warren Fahey
5	Confidential
6	Name suppressed
7	Mr John Rawson
8	Name suppressed
9	Confidential
10	Mr Terry Dundas
11	Dr John Hutcheson
12	Mr Raymond Sweetman
13	Name suppressed
14	Name suppressed
15	Name suppressed
16	Mr Jeff Madden
17	Confidential
18	Mr Don Page MP
19	Mrs Susan Meehan
20	Confidential
21	The Monarch Investments Group of Companies
22	Mr Ron Lyons
23	Confidential
24	Mr Athol Terrence & Ms Heather Denise Dorrough
25	Mr David Letts
26	Mr E. Barry Bloore
27	Professor Bridget Wilcken
28	Mr Randolph Rossi
29	Professor Bruce Forster
30	Sixth Floor Selborne-Wentworth Chambers
31	Lunney Watt & Associates Pty Ltd

LAND VALUATION SYSTEM
LIST OF SUBMISSIONS

32	Mr Michael Newton
33	Pythagoras Australia Pty Ltd
34	Mr Peter Heywood
35	Mr Ross Wagland
36	Mr Mark Wareham
37	Commodore KA Gulliver
38	Confidential
39	Mr Aldred J. Goding Lt Col (Rtd)
40	Confidential
41	Royalla Shorthorns
42	Confidential
43	Louise Developments Pty Ltd
44	Confidential
45	Lake Macquarie Ratepayers Action Group
46	Mr Jason & Ms Esther Voorwinden
47	Waterfront Action Group
48	Confidential
49	Confidential
50	Confidential
51	Mr Malcolm Andrews
52	Confidential
53	Ms Gwen and Mr Stephen Shortis
54	Association for Good Government
55	Glassfoptics Pty Limited
56	Name suppressed
57	Mr George Citer
58	Confidential
59	Mr Colin Rooke
60	Bawdens Industrial
61	Home Access Association
62	Colin Biggers & Paisley
63	Confidential
64	The Australian Property Institute
65	Name suppressed

JOINT STANDING COMMITTEE ON THE OFFICE OF THE VALUER GENERAL
LIST OF SUBMISSIONS

66	Name suppressed
67	Broken Hill City Council
68	Boating Industry Association of NSW
69	Name suppressed
70	Name suppressed
71	Confidential
72	Name suppressed
73	Robertson and Robertson Consulting Valuers
74	Name suppressed
75	Urban Taskforce Australia
76	Randwick City Council
77	Confidential
78	International Property Tax Institute
79	David Landa Stewart Lawyers
80	Shopping Centre Council of Australia
81	Local Government NSW
82	Mr Col Coupland
83	Confidential
84	Mr Malcolm Campbell
85	M3 Property
86	Local Government Managers Australia
87	Confidential
88	Mr B M G Remond
89	Property Council of Australia
90	Confidential
91	Major Robert Freebairn
92	Confidential
93	Confidential
94	Ms Del Purcell
95	Confidential
96	Urban Growth NSW
97	Mr Leo DeKroo
98	Confidential
99	Broken Hill Chamber of Commerce

LAND VALUATION SYSTEM
LIST OF SUBMISSIONS

100	Confidential
101	Ms Clare Owen
102	University of Technology, Sydney
103	Ms Frances Vumbaca
104	Mr Adrian Bee
105	NSW Ombudsman
106	Mr Andrew Kyriacou
107	Confidential
108	Name suppressed
109	Mid-Western Regional Council
110	Mr Allan Bligh
111	Confidential
112	NSW Revenue Professionals
113	University of Western Sydney
114	Australian Hotels Association (NSW)
115	The Law Society of New South Wales
116	Real Estate Institute of New South Wales
117	Confidential
118	Confidential
119	Confidential
120	Confidential
121	Confidential
122	Transport Roads & Maritime Services
123	RP Data
124	NSW Farmers Association
125	Mr Mike Danzey
126	Lend Lease Corporation Limited
127	RICS Oceania
128	Confidential
129	Office of the Valuer General
130	University of the Sunshine Coast Queensland
131	Division of Local Government
132	Mr Jamie Long

Appendix Two – List of witnesses

26 MARCH 2012, PARLIAMENT HOUSE

Witness	Position and Organisation
Mr Philip Western	Valuer General <i>Office of the Valuer General</i>

2 APRIL 2012, PARLIAMENT HOUSE

Witness	Position and Organisation
Mr Philip Western	Valuer General <i>Office of the Valuer General</i>

26 OCTOBER 2012, PARLIAMENT HOUSE

Witness	Position and Organisation
Mr John Miller	Former Manager, Compensation and Valuations Unit <i>Land and Property Information</i>

19 NOVEMBER 2012, PARLIAMENT HOUSE

Witness	Position and Organisation
Mr Philip Western	Valuer General <i>Office of the Valuer General</i>
Mr Michael Carr	Former Senior Valuer
Mr Simon Gilkes	Deputy General Manager
Mr Michael Parker	Chief Valuer
Mr Neville Hind	Acting Financial Controller
Mr Mark Glanville	Acting Valuation Manager for Compensation

Land and Property Information

6 MARCH 2013, BROKEN HILL

Witness	Position and Organisation
Mr Wincen Cuy	Mayor
Ms Kate O'Neill	Acting General Manager
Mr Timothy Drew	Chief Financial Officer <i>Broken Hill City Council</i>
Mr Michael Williams	Executive Officer <i>Regional Development Australia Far West</i>
Mr Ray Steer	Former Councillor
Mr Paul Seager	President
Mr Dennis Roach	Executive Officer <i>Broken Hill Chamber of Commerce</i>
Mr John Connolly	
Mr Harold Yourn	
Mr Alan Tucker	
Mr Coral Wilcock	
Mr Hugh Gough	

11 MARCH 2013, PARLIAMENT HOUSE

Witness	Position and Organisation
Professor Tania Sourdin	Director <i>Australian Centre for Justice Innovation (ACJI)</i>
Mr Stephen Lancken	Director <i>Negocio Resolutions</i>
Mr Don Tydd	Executive Officer <i>Association of Mining Related Councils</i>
Ms Frances Vumbaca	
Ms Koula Rafailidis	

15 MARCH 2013, PARLIAMENT HOUSE

Witness	Position and Organisation
Mr Paul Marinko	Company Secretary & Group General Counsel
Mr Paul Arndt	Managing Director and CEO <i>Perilya Ltd</i>
Mr Angus Nardi	Deputy Director
Mr Milton Cockburn	Executive Director <i>Shopping Centre Council of Australia</i>
Mr Marcus Conabere	Director <i>Urbis</i>

5 APRIL 2013, PARLIAMENT HOUSE

Witness	Position and Organisation
Mr Philip Western	Valuer General
Mr Michael Parker	Chief Valuer <i>Office of the Valuer General</i>
Mr Simon Gilkes	Deputy General Manager
Mr Paul Knight	Assistant Director-Valuation Operations <i>Land and Property Information</i>

Appendix Three – Public money spent on the provision of valuation services 2011-12

VALUATION SERVICES 2011-2012	Mass Valuations and Land Data Management (\$'000)	Objection Valuations (\$'000)	Communications (\$'000)	Administrative Costs (\$'000)	Legal Costs (\$'000)	Other Costs - Training (\$'000)	First Instance Rating and Tax Valuations (\$'000)	Compulsory Acquisition Valuations (\$'000)	Other Costs - Special Valuations (\$'000)	Valuer General Office (\$'000)	Total (\$'000)
SALARIES & ONCOSTS *	4,608	871	850	2,808	0	654	9,790	450	1,003	754	11,998
OTHER STAFF RELATED	65	12	12	36	0	9	132	6	12	12	162
ACCOMMODATION AND MAINTENANCE	377	68	67	209	0	50	771	33	71	0	875
POSTAGE AND PHONES	86	11	381	11	0	0	489	0	0	0	489
PRODUCTION	28	4	0	8	0	0	41	0	0	1	42
ELECTRONIC DATA PROCESSING	36	2	0	10	0	0	48	0	0	4	53
TRAVEL & MOTOR VEHICLES	172	40	33	106	0	32	382	26	65	7	479
CONTRACTORS AND CONSULTANTS	203	2	251	0	4	0	480	0	35	77	572
VALUATION CONTRACTS	15,842	1,886	0	0	0	0	17,727	186	625	0	18,538
OTHER	40	2	0	13	0	0	55	0	0	80	136
DEPRECIATION	241	101	0	19	0	0	361	0	0	3	364
TOTAL DIRECT VALUATION AND VALUER GENERAL OFFICE (VGO) EXPENSES	21,898	2,988	1,593	3,220	4	745	30,257	701	1,811	938	33,707
GRAPHIC SERVICES	0	0	1,198	0	0	0	1,198	0	0	0	1,198
VALNET	737	0	0	0	0	0	737	0	0	0	737
LEGAL COSTS	0	0	0	0	1,684	0	1,684	0	0	0	1,684
TOTAL DIRECT VALUATION, VGO, PRINTING, VALNET & LEGAL EXPENSES	22,435	2,988	2,791	3,220	1,688	745	33,877	701	1,811	938	37,327

* Salaries and On-costs exclude all AASB119 related employee on-costs and the Defined Benefit Superannuation expense. These amounts are volatile over time and have been excluded to allow comparison between years. All amounts have been rounded to the nearest thousand dollars (\$'000), which has resulted in minor rounding errors in some totals and subtotals. Excludes indirect costs such as Human Resources, Finance, ICT, Owned Accommodation, LPI Administration, Other Corporate Overheads, etc.

Appendix Four – Extracts from minutes

MINUTES OF PROCEEDINGS OF THE JOINT STANDING COMMITTEE ON THE OFFICE OF THE VALUER-GENERAL (NO. 3)

Wednesday, 7 March 2012

9.07 am

Room 1153, Parliament House

Members Present

Mr Kean (Chair), Mr Barr, Mr MacDonald and Mrs Williams

Apologies

An apology was received from Mr Roozendaal.

Officers in Attendance

Carly Sheen, Jonathan Elliott, James Orchiston and Todd Buttsworth

1. Confirmation of Minutes

Resolved, on the motion of Mrs Williams, seconded by Mr Barr: That the minutes of the deliberative meeting of 22 August 2011 be confirmed.

2. Forward planning – General Meeting with the Valuer-General

The Chair discussed the proposed General Meeting with the Valuer-General. Discussion ensued.

Resolved, on the motion of Mr Barr, seconded by Mrs Williams: That the Committee conduct a general meeting with the Valuer-General on 26 March, including sending questions on notice to the Valuer-General.

3. Other Business

The Committee reviewed the draft questions on notice. Discussion ensued. Members agreed to provide any additional questions to Committee staff by Friday, 9 March.

The committee adjourned at 9:30, sine die.

MINUTES OF PROCEEDINGS OF THE JOINT STANDING COMMITTEE ON THE OFFICE OF THE VALUER-GENERAL (NO. 4)

Thursday, 22 March 2012

3.01 pm

Teleconference, Parliament House

Members Present

Mr Kean (Chair), Mr Barr, Mr MacDonald and Mrs Williams

Apologies

An apology was received from Mr Roozendaal.

Officers in Attendance

Jonathan Elliott, James Orchiston and Todd Buttsworth

1. General meeting with the Valuer-General

Resolved, on the motion of Mr Kean, seconded by Mr Macdonald: That the Valuer General provide the Committee with a copy of any advice or briefing note that he or his office have provided to the Minister for Finance and Services, The Hon Greg Pearce MLC, which relates to litigation involving the Office of the Valuer General and/or functions the Office of the Valuer General has delegated or contracted out, to the Committee.

The committee adjourned at 3:04, sine die.

MINUTES OF PROCEEDINGS OF THE JOINT STANDING COMMITTEE OF THE OFFICE OF THE VALUER-GENERAL (NO. 5)

Monday, 26 March 2012

9.45 am

Waratah Room, Parliament House

Members Present

Mr Kean (Chair), Mr Barr, Mr MacDonald (Deputy Chair), Mrs Williams (from 11:10 am) and Mr Roozendaal

Officers in Attendance

Jonathan Elliott, James Orchiston and Todd Buttsworth

2. Public Hearing: Eighth General meeting with the Valuer-General

The press and public were admitted at 10.05 a.m.

Mr Philip Western, NSW Valuer-General, sworn and examined.

The Committee adjourned for lunch at 12:22 p.m.

The Committee reconvened at 2:07 p.m.

At 2:13 pm: Resolved, on the motion of Mr MacDonald, seconded by Mr Barr:

That the Committee admit a recording device to the hearing."

At 2:33 pm: Resolved, on the motion of Mr MacDonald, seconded by Mr Barr:

That the Committee admit a camera to the hearing."

The Committee adjourned at 3:22 p.m.

The Committee reconvened at 3:46 p.m.

Evidence concluded, the witnesses and public withdrew at 4:38 p.m.

3. Confirmation of Minutes of Meeting No.3, 7 March 2012

Resolved, on the motion of Mr MacDonald, seconded by Mr Barr: That the minutes of the deliberative meeting of 7 March 2012 be confirmed.

4. Publication orders in relation to the corrected transcript of evidence from the public hearing, and the answers to the questions on notice.

Resolved, on the motion of Mr Roozendaal, seconded by Mr Barr: That the corrected transcript of evidence given today [and any tabled documents, which are not confidential] be authorised for publication and uploaded on the Committee's website."

Resolved on the motion of Mrs Williams, seconded by Mr Roozendaal: That the answers to Questions on Notice from the Valuer-General be authorised for publication and uploaded on the Committee's website.

The Committee adjourned at 4:40 pm, sine die

MINUTES OF PROCEEDINGS OF THE JOINT STANDING COMMITTEE ON THE OFFICE OF THE VALUER-GENERAL (NO. 6)

Thursday, 29 March 2012

3.40 pm

Room 1043, Parliament House

Members Present

Mr Kean (Chair), Mr Barr, Mr MacDonald, Mr Roozendaal and Mrs Williams

Officers in Attendance

Helen Minnican, Jonathan Elliott and Todd Buttsworth

1. Confirmation of Minutes

Resolved, on the motion of Mrs Williams, seconded by Mr MacDonald: That the minutes of the deliberative meeting of 22 March 2012 be confirmed.

2. Proposed meeting with the Valuer-General

The Chair distributed correspondence, dated 28 March 2012, in relation to the 8th General Meeting. The Chair spoke to the item. Discussion ensued.

Resolved, on the motion of the Chair, seconded by Mr MacDonald:
That the correspondence be published.

Discussion ensued.

Resolved on the motion of Mr MacDonald, seconded by Mr Roozendaal, that:

- a) the Committee rescind the earlier motion to publish the correspondence; and

- b) the Valuer-General's letter be distributed to all members of the Committee for information and consideration at a later date.

In the interim, the Committee agreed to seek advice from the Clerk of the Legislative Assembly concerning procedural matters arising from the Valuer-General's correspondence, including the provision of legal advice and the consideration of any matters relevant to the Standing Committee on Parliamentary Privilege and Ethics.

3. General Meeting - Questions taken on notice

Resolved, on the motion of Mr MacDonald, seconded by Mr Roozendaal: that the Committee write to the Valuer-General seeking provision of the answers to the questions taken on notice at the public hearing on 26 March 2012, as follows:

- a) The number of heritage properties in New South Wales (p.10);
- b) Scorecards for just terms valuations (p.18);
- c) The Number of compulsory acquisitions per annum (p.26);
- d) Spreadsheet details for valuations subject to objection (p.33 & 35);
- e) Process for advising the Minister following recent judgements (pp.45-46);
- f) Achievements and setbacks for the Valuer-General's Office during the last reporting year and governance arrangements (p.54);
- g) Explanation for differences in valuations between properties in the same location (p.63);
- h) Valuations performed by LPI under the Just Terms Compensation Act for land in Leppington (p.67);
- i) Rationale and reasoning undertaken by valuers in the valuation process (p.76).

Resolved, on the motion of the Chair, seconded by Mr Roozendaal, that the resolution be amended to provide that the information sought at d) in relation to discrepancies in valuations (pp.33 & 35), be provided by close of business today; Mr Western to be advised accordingly.

MINUTES OF PROCEEDINGS OF THE JOINT STANDING COMMITTEE OF THE OFFICE OF THE VALUER-GENERAL (NO. 7)

Monday, 2 April 2012

9.30 am

Room 1245, Parliament House

Members Present

Mr Kean (Chair), Mr Barr, Mr MacDonald, Mr Roozendaal and Mrs Williams

Officers in Attendance

Helen Minnican, Jonathan Elliott and Todd Buttsworth

1. Confirmation of Minutes

Resolved, on the motion of Mr MacDonald, seconded by Mrs Williams:

That the minutes of the deliberative meetings no. 5, 26 March 2012 and no. 6, 29 March 2012 be confirmed.

2. Proposed meeting with the Valuer-General

- a) The Chair raised recent media reports and a proposal to conduct a public hearing with the Valuer-General as a matter of urgency.

Discussion ensued.

Resolved on the motion of Mr MacDonald, seconded Mrs Williams, that the Valuer-General attend a public hearing at 3.30pm Monday, 2 April 2012 for the purpose of giving evidence to the Committee on the following matters:

- i. The content of a report in the Sydney Morning Herald, 2 April 2012 concerning information provided to the Committee;
- ii. Information provided to the Committee by the Valuer-General thus far in relation to the General Meeting and subsequent correspondence;
- iii. Correspondence received from the Valuer-General, dated 28 March 2012.

The Chair raised the issue of the report in the media about the inaccuracy of information provided by the Valuer-General.

- b) Resolved on the motion of Mr MacDonald, seconded Mrs Williams, that advice be sought from the Clerk of the Legislative Assembly concerning the appropriateness of obtaining a written undertaking by the Valuer-General when giving evidence; and for that advice to be discussed in a committee deliberative meeting at 3.25pm on Monday, 2 April 2012, immediately before the commencement of the public hearing.
- c) Correspondence from the Valuer-General, dated 28 March 2012, concerning information he has previously provided to the Committee and his statutory obligations.

The Chair proposed that the Committee provide the correspondence received from the Valuer-General to the Legislative Assembly Standing Committee on Parliamentary Privilege and Ethics.

Consideration of proposed resolution deferred until the deliberative meeting at 3.25pm.

The committee adjourned at 9.45pm, until 3.25p.m.

MINUTES OF PROCEEDINGS OF THE JOINT STANDING COMMITTEE OF THE OFFICE OF THE VALUER-GENERAL (NO.8)

Monday, 2 April 2012

3.25 p.m.

Macquarie Room, Parliament House

Members Present

Members Present

Mr Kean (Chair), Mr Barr, Mr MacDonald (Deputy Chair), Mrs Williams and Mr Roozendaal

Officers in Attendance

Helen Minnican, Jonathan Elliott, James Orchiston and Todd Buttsworth

Deliberative meeting

1. Minutes

Resolved, on the motion of Mr Barr, seconded by Mrs Williams:

That the Minutes of the deliberative meeting of 9:30 a.m. Monday 2 April be confirmed.

2. Media

Resolved on the motion of Mr Kean, seconded by Mr Barr:

That the Committee admit a camera to the hearing".

3. Correspondence from the Valuer-General

Resolved on the motion of Mr Kean, seconded by Mr MacDonald:

That the correspondence received by the Committee from the Valuer-General, dated 28 March 2012, concerning information previously provided to the Committee in relation to the 8th General Meeting be forwarded to the Chair of the Legislative Assembly's Committee on Parliamentary Privilege and Ethics for information and any attention considered necessary.

The Committee adjourned at 3:42 p.m.

The Committee reconvened at 3:51 p.m.

4. Public Hearing: Eighth General meeting with the Valuer-General

The press and public were admitted at 3.51 p.m.

Mr Philip Western, NSW Valuer-General, sworn and examined.

Evidence concluded, the witnesses and public withdrew at 5:24 p.m.

MINUTES OF PROCEEDINGS OF THE JOINT STANDING COMMITTEE OF THE OFFICE OF THE VALUER-GENERAL (NO.9)

10.00 a.m. Wednesday, 4 April 2012

Room 1136, Parliament House

Members Present

Mr Kean (Chair), Mr Barr, Mr MacDonald (Deputy Chair), Mrs Williams and Mr Roozendaal

Officers in Attendance

Helen Minnican, James Orchiston and Todd Buttsworth

Deliberative meeting

1. Minutes

Resolved, on the motion of Mr MacDonald seconded by Mrs Williams:

That the Minutes of the deliberative meeting of 3.25 p.m. Monday 2 April be confirmed".

2. Consideration of the information provided by the Valuer General in response to Question on Notice No. 19

Resolved on the motion of Mr MacDonald, seconded by Mr Roozendaal:

1. That the spreadsheet in attachment G provided by the Valuer General to a Question on notice (Q19) be sent to the Auditor General for forensic review.
2. That the Auditor General consider the following scope/terms of reference for the agreed upon procedures forensic review:
 - a. Confirm the structure and contents of the spreadsheet, the accuracy of the underlying data and the formulas and calculations used to generate the pivot table contained within the spreadsheet;
 - b. Confirm that column B of the spreadsheet represents payments, i.e. invoices, made to private contractors;
 - c. Test the completeness and accuracy of payments made to Quotable Value Australia and other contract valuers listed in the spreadsheet, e.g. review systems information to ensure all payments to contractors between 2007 and 2012 have been listed; and test a sample of payments from bank records to listing.
 - d. Test the accuracy of list provided by testing a sample to invoices and back to bank records, i.e. 3rd party;
 - e. Report to the committee on all payments that have been made per annum to each separate contract provider listed in the attachment G spreadsheet since the year 2000. Provide a breakdown of payments made for each financial year.
 - f. Report to the Committee the total value of contracts awarded to each contract valuer as determined by the tender panel (i.e. construct a listing of each contract awarded to contract valuers by financial year using original contracts or minutes of tender panel meetings);
 - g. Provide a reconciliation between contracts awarded to contract valuers (per part 5) and payments made to contract valuers (per part 4). Quantify any differences between contracts awarded and payments made per annum.
 - h. Provide a breakdown of the amount per year of contracts awarded to each contractor identified in the spreadsheet, giving specific amounts for Just terms compensation work, land tax and council rating and objections reviews work, separately.

3. General Business

Resolved on the motion of Mr Kean, seconded by Mrs Williams:

That for the purpose of facilitating the forensic review, relevant Committee records that have yet to be published be made available to the Auditor-General on request, in particular transcripts of evidence and information provided by the Valuer-General; and

The Committee be advised accordingly.

The Committee adjourned at 10:17 a.m.

MINUTES OF PROCEEDINGS OF THE JOINT STANDING COMMITTEE OF THE OFFICE OF THE VALUER-GENERAL (NO.10)

9.30 a.m. Wednesday, 2 May 2012

Room 1254 & Room 1225, Parliament House

Members Present

Members Present

Mr Kean (Chair), Mr Barr, Mr MacDonald (Deputy Chair), and Mr Roozendaal

Apologies

Mrs Williams

Officers in Attendance

Helen Minnican, Carly Maxwell, Vedrana Trisic, James Orchiston and Todd Buttsworth

Deliberative meeting

1. Minutes

Resolved, on the motion of Mr MacDonald, seconded by Mr Barr:

That the Minutes of the deliberative meeting of 4 April 2012 be confirmed".

2. Auditor-General's forensic review

The Chair advised the Committee that the Auditor-General has accepted the Committee's request that he undertake a forensic review of information submitted by the Valuer-General to the Committee and that it was anticipated that the Auditor-General will provide a report in the coming weeks. Discussion ensued.

3. Publishing transcripts alongside letters from the Valuer-General advising of errors of fact

The Committee discussed the publication of the transcripts of the hearings on 26 March and 2 April 2012. The Chair indicated that the Committee had previously resolved to publish the transcript of 26 March, but not the transcript of 2 April. The Committee noted correspondence distributed at the meeting from the Valuer-General, dated 4 April and 16 April, advising of errors of fact in the information he gave to the Committee at the hearings. Discussion ensued.

Resolved on the motion of Mr Macdonald, seconded by Mr Barr:

That the transcript of the hearing on 2 April 2012 be published on the Committee's webpage."

Resolved on the motion of Mr Barr, seconded by Mr Macdonald:

That the correspondence from the Valuer-General to the Chair dated 4 April and 16 April 2012, regarding corrections to errors of fact in the hearing transcripts, be published on the Committee's webpage alongside the transcripts and accompanied by the following text:

The Valuer-General has submitted correspondence identifying factual errors in his evidence to the Committee and these letters appear below. The Committee will seek to clarify these errors relating to matters of substance with the Valuer-General at a later date."

5. Correspondence relating to Questions on Notice prior to 26 March 2012

The Committee noted the following correspondence between the Valuer-General and the Committee concerning responses to Questions on Notice, prior to the public hearing on 26 March:

- (a) 9 March 2012, Chair to Valuer-General, Letter attaching Questions on Notice
- (b) 22 March 2012, Chair to Valuer-General, Letter attaching Additional Question on Notice
- (c) 23 March 2012, Valuer-General to Chair, Letter responding to Questions on Notice
- (d) 28 March 2012, Valuer-General to Chair, Letter requesting the return of some of the information submitted
- (e) 30 March 2012, Valuer-General to Chair, Letter regarding the Correspondence in relation to the request for return of information submitted dated 28/03/12
- (f) 11 April, Valuer-General to Chair, Email seeking clarification of questions 14, 15, 16, 17 and 18

6. Correspondence relating to Questions Taken on Notice on 26 March 2012

The Committee noted the following correspondence arising from the public hearing on 26 March 2012:

- (a) 29 March 2012, Chair to Valuer-General, Letter concerning the spreadsheet listing discrepancies in valuations
- (b) 29 March 2012, Director to Valuer-General, Letter regarding Questions Taken on Notice
- (c) 4 April 2012, Valuer-General to Chair, Letter responding to Questions Taken on Notice
- (d) 4 April 2012, Valuer-General to Chair, Letter providing a timetable for delivery of responses
- (e) 12 April 2012, Valuer-General to Chair, Letter providing further responses to Questions Taken on Notice
- (f) 18 April 2012, Valuer-General to Chair, Letter providing further responses to Questions Taken on Notice
- (g) 19 April 2012, Valuer-General to Chair, Letter providing an updated timetable for delivery of responses
- (h) 23 April 2012, Valuer-General to Chair, Letter providing an updated timetable for delivery of responses

7. Correspondence relating to Supplementary Questions on Notice

The Committee noted the following correspondence in relation to supplementary questions following on from the public hearing on 2 April 2012:

- (a) 2 April 2012, Chair to Valuer-General, Letter attaching Supplementary Questions
- (b) 4 April 2012, Valuer-General to Chair, Letter responding to Supplementary Questions
- (c) 4 April 2012, Valuer-General to Chair, Letter providing an updated timetable for the delivery of responses
- (d) 12 April 2012, Valuer-General to Chair, Letter responding to Supplementary Questions
- (e) 18 April 2012, Valuer-General to Chair, Letter Further responding to Supplementary Questions
- (f) 19 April 2012, Valuer-General to Chair, Letter providing an updated timetable for the delivery of responses to Questions Taken on Notice

8. Correspondence relating to Questions Taken on Notice at hearing on 2 April 2012

The Committee noted the following correspondence:

- (a) 19 April 2012, A/Director to Valuer-General, Letter regarding Questions Taken on Notice at 2nd Hearing
- (b) 27 April 2012, Valuer-General to Chair, Letter responding to Questions Taken on Notice at 2nd Hearing

9. Consideration of the circulated draft letter from the Chair to the Valuer-General requesting responses to additional questions on notice.

The Chair outlined proposed supplementary questions for the Valuer-General. Discussion ensued.

Resolved on the motion of Mr Macdonald, seconded by Mr Barr that:

- "The Chair write to the Valuer-General with supplementary questions on notice, as circulated, with the addition of a question seeking documentary evidence of the date on which the Valuer-General received legal advice in relation to the providing information to the Committee in response to Questions on Notice."
- "The Committee would ensure all of the material provided by the Office of the Valuer-General thus far was distributed to the members of the Committee for information and that an assessment of the material to be published would be made after further discussion and evaluation."

11. General Business

The Committee discussed the forward planning of the inquiry.

The Committee agreed that the Committee Director would contact the Auditor-General regarding the progress of the forensic review.

The Committee adjourned at 10:24 a.m.

MINUTES OF PROCEEDINGS OF THE JOINT STANDING COMMITTEE OF THE OFFICE OF THE VALUER-GENERAL (NO.11)

1.15 p.m. Thursday 17 October 2012

Room 1254, Parliament House

Members Present

Mr Kean (Chair), Mr Barr, Mr Macdonald (Deputy Chair) and Mrs Williams

Apology

An apology was received from Mr Roozendaal

Officers in Attendance

Carly Maxwell, Todd Buttsworth, Vedrana Trisic, Jenny Whight

The Chair commenced the meeting at 1.18 p.m.

1. Confirmation of Minutes

Resolved, on the motion of Mr Barr, seconded by Mrs Williams:
That the minutes of the meeting held on 10 May 2012 be confirmed.

2. Eighth General Meeting with the Valuer-General

The Committee deliberated on the Chair's proposal that the Committee hear from the Manager of the Compensation and Special Valuations Unit, within Land and Property Information.

Resolved, on the motion of Mr Macdonald, seconded Mrs Williams that the following witness be called to give evidence before the Committee:

- Manager of the Compensation and Special Valuations Unit, Land and Property Information

The Committee deliberated over hearing dates and agreed on Wednesday 24 October at 9.00 a.m.

The Committee adjourned at 1.39 p.m. until 8.30 a.m. on 24 October 2012.

MINUTES OF PROCEEDINGS OF THE JOINT STANDING COMMITTEE OF THE OFFICE OF THE VALUER-GENERAL (NO.12)

8.30 a.m. Tuesday 24 October 2012

Room 1254, Parliament House

Members Present

Mr Kean (Chair), Mr Barr, Mr Macdonald (Deputy Chair), Mrs Williams

Apology

An apology was received from Mr Roozendaal

Officers in Attendance

Carly Maxwell, Vedrana Trisic, Jenny Whight

The Chair commenced the meeting at 8.43 a.m.

1. Consideration of Chair's draft interim report- 8th General Meeting with the Valuer General

The Committee deliberated on the content of the draft report.

Resolved, on the motion of Mrs Williams, seconded by Mr Barr:

That the draft report be considered as a whole.

Resolved, on the motion of Mr MacDonald, seconded by Mr Barr:

That the words ",(by a body recommended by the Auditor-General)," be inserted after the word "reviewed" into Recommendation 1.

Resolved, on the motion of Mr Barr, seconded by Mrs Williams:

That the draft report as amended be the report of the Committee and that it be signed by the Chair and presented to the House.

That the Chair and committee staff be permitted to correct stylistic, typographical and grammatical errors.

That, once tabled, the Report be placed on the Committee's website.

3. Update on arrangements for the next hearing

The Committee deliberated over the proposed date and time for the next hearing. The Committee agreed on Friday 26 October at 8.30 a.m.

4. General business

The Committee discussed the progress of the inquiry of the eighth general meeting with the Valuer General.

Resolved on the motion of Mr MacDonald, seconded by Mr Barr:

That the Committee seek independent legal advice regarding the Committee's powers to compel the production of documents and to compel witnesses to answer questions. It seeks further legal advice on the steps required to exercise any powers and limitations that Privacy Act or the Valuation of Land Act may impose.

The Committee discussed future inquiry topics and proposed visits of inspection.

5. Confirmation of Minutes

Resolved, on the motion of Mrs Williams, seconded by Mr Barr:

That the minutes of the meeting held on 17 October 2012 be confirmed.

The Committee adjourned at 9.29 a.m. until 8.30 a.m. on 26 October 2012.

MINUTES OF PROCEEDINGS OF THE JOINT STANDING COMMITTEE OF THE OFFICE OF THE VALUER-GENERAL (NO.13)

8.15 a.m. Friday 26 October 2012

Macquarie Room, Parliament House

Members Present

Mr Kean (Chair), Mr Barr, Mr Macdonald (Deputy Chair), Mr Roozendaal, Mrs Williams

Officers in Attendance

Helen Minnican, Carly Maxwell, Vedrana Trisic, Jenny Whight

The Chair commenced the meeting at 8.20 a.m.

1. Terms of Reference

The Chair distributed draft terms of reference for the eighth general meeting with the Valuer General.

Resolved, on the motion of Mrs Williams, seconded by Mr MacDonald:
That the Committee adopt the terms of reference.

2. Hearing with the Valuer General

Resolved, on the motion of Mr Barr, seconded by Mrs Williams:
That the Committee hold a hearing with the Valuer General in November.

3. Admission of media

Resolved, on the motion of Mr MacDonald, seconded by Mrs Williams:
That the Committee authorises the audio-visual recording, photography and broadcasting of the public hearing on 26 October 2012 in accordance with the guidelines for coverage of proceedings for parliamentary committees.

4. Public Hearing

The public and media were admitted at 8.30 am. The Chair opened the hearing and made a short opening address.

Mr John Miller, former Manager, Compensation and Valuations Unit, Land and Property Information, sworn and examined.

The Chair commenced questioning the witness.

The witness provided the Committee with the 'Just Terms Compensation Procedures Manual' for their information.

The Chair distributed documents to the Committee and to the witness.

Evidence concluded, the Chair thanked the witness for his attendance, the witness withdrew.

5. Publication Orders

Resolved, on the motion of Mr MacDonald, seconded by Mr Barr:

That the corrected transcript of evidence given today be authorised for publication and uploaded on the Committee's website.

6. General Business

The Committee discussed the hearing in November and agreed that Committee staff would liaise with their offices regarding a suitable date and time.

The Committee adjourned at 9.21 a.m. until a date and time to be determined.

MINUTES OF PROCEEDINGS OF THE JOINT STANDING COMMITTEE OF THE OFFICE OF THE VALUER-GENERAL (NO.14)

10.00 a.m. Thursday 1 November 2012

Room 1254, Parliament House

Members Present

Via teleconference: Mr Kean (Chair), Mr Macdonald (Deputy Chair), Mrs Williams

Officers in Attendance

Helen Minnican, John Miller, Vedrana Trisic, Jenny Whight

The Chair commenced the meeting at 10.02 a.m.

1. Apologies

Apologies were received from Mr Barr and Mr Roozendaal.

2. Confirmation of minutes

Resolved, on the motion of Mr MacDonald, seconded by Mrs Williams:

That the minutes of deliberative meeting no. 12, held on 24 October 2012 and deliberative meeting no. 13, held on 26 October 2012 be confirmed.

3. 'Just Terms Compensation Manual'

The Committee noted the manual, provided by Mr John Miller to Committee members at the hearing held on 26 October 2012.

4. Public hearing no 4, to be held on 19 November 2012

a) Draft questions on notice for the Valuer General

Resolved, on the motion of Mrs Williams, seconded by Mr MacDonald:

That the words "or Bringelly Rd" be inserted after the words "Rickard Rd" into question 4, and that the Chair write to the Valuer General with questions on notice, as amended.

b) Additional witness

Resolved, on the motion of Mr MacDonald, seconded by Mrs Williams:

That the Committee invite Mr Michael J Carr as a witness for the next hearing, to be held on 19 November 2012, for testimony regarding the Leppington valuations.

5. General business

The Committee discussed arrangements for the next hearing and possible future inquiry topics.

The Committee adjourned at 10.11 a.m. until a date and time to be determined.

MINUTES OF PROCEEDINGS OF THE JOINT STANDING COMMITTEE OF THE OFFICE OF THE VALUER-GENERAL (NO.15)

3:43p.m. Thursday 15 November 2012

Room 1254, Parliament House

Members Present

Mr Kean (Chair), Mr Macdonald (Deputy Chair), Mrs Williams

Officers in Attendance

Helen Minnican, Carly Maxwell, Vedrana Trisic, Jenny Whight

The Chair commenced the meeting at 3.43 p.m.

1. Apologies

Apologies were received from Mr Roozendaal and Mr Barr.

2. Confirmation of minutes

Resolved, on the motion of Mr MacDonald, seconded by Mrs Williams that the minutes of deliberative meeting no. 14, held on 1 November 2012, be confirmed.

3· Request from the Valuer General for senior officers from Land and Property Information (LPI) to be sworn in as witnesses and attend the hearing on Monday 19 November 2012

Resolved, on the motion of Mrs Williams, seconded by Mr MacDonald that the Chair write to the Valuer General advising him that the Committee has decided to approve his request for senior officers from Land and Property Information (LPI) to be sworn in as witnesses and attend the hearing on Monday 19 November 2012.

4· Correspondence from the Auditor General in relation to Recommendation 1 of the Committee's Interim Report on the Eighth General Meeting with the Valuer General

Resolved, on the motion of Mrs Williams, seconded by Mr MacDonald that:

1. the Committee note the correspondence from the Auditor General in relation to Recommendation 1 of the Committee's Interim Report on the Eighth General Meeting with the Valuer General;
2. the Chair write to the Auditor General seeking advice as to whether he had recommended Ernst and Young as an independent review body to LPI, in response with recommendation 1 of the Committee's report;
3. the Chair write to Land and Property Information (and copy the Valuer General) seeking Confirmation as to:
 - a. whether Ernst and Young have been engaged by LPI to develop a Management Assurance Framework for Valuation Services; and
 - b. when this occurred, specifically whether Ernst and Young were engaged in response to the Committee's recommendation or if they were engaged prior to the recommendation being made. If Ernst and Young were engaged prior to the Committee's recommendation, the Committee suggests that consideration be given to the issues outlined in the Committee's report and recommendations when planning and conducting the work to be undertaken by Ernst and Young.

5· General business

The Committee noted the correspondence from the Valuer General in relation to questions on notice four and six. The Committee agreed that staff write to the Valuer General advising him that the matters he raised in his correspondence will be dealt with during the public hearing, scheduled for 19 November 2012.

The Committee adjourned at 3.55 p.m.

**MINUTES OF PROCEEDINGS OF THE JOINT STANDING COMMITTEE
OF THE OFFICE OF THE VALUER-GENERAL (NO.16)**

4:22p.m. Thursday 15 November 2012

Chair's office, Parliament House

Members Present

Mr Kean (Chair), Mr Macdonald (Deputy Chair), Mrs Williams

Officers in Attendance

Helen Minnican, Carly Maxwell, Vedrana Trisic,
The Chair commenced the meeting at 4.22 p.m.

1. Apologies

Apologies were received from Mr Roozendaal and Mr Barr.

2. Correspondence from the Valuer General in relation to questions on notice no 4

Resolved, on the motion of Mr MacDonald, seconded by Mrs Williams that the Committee respond to the Valuer General advising him that that the Committee considers that it is in a position to obtain the land valuation reports in respect of at least two of the properties in question and ask that the Valuer General attend the hearing prepared to answer questions in relation to question on notice 4.

The Committee adjourned at 4.22 p.m. until 10.00 a. m Monday, 19 November 2012.

MINUTES OF PROCEEDINGS OF THE JOINT STANDING COMMITTEE OF THE OFFICE OF THE VALUER GENERAL (NO.17)

10:00 am Monday 19 November 2012

Waratah Room, Parliament House

Members Present

Mr Kean (Chair) Mr Macdonald (Deputy Chair) Mr Barr

Officers in Attendance

Helen Minnican, Carly Maxwell, Vedrana Trisic, Jenny Whight

The Chair commenced the meeting at 10:01am

1. Apologies

Apologies were received from Mr Roozendaal and Mrs Williams.

2. Confirmation of minutes

Resolved, on the motion of Mr MacDonald, that the minutes of deliberative meeting no. 15 and deliberative meeting no. 16, held on 15 November 2012, be confirmed.

3. Response to the Questions on Notice from the Valuer General

Resolved, on the motion of Mr Barr, that the Committee note the response to the Questions on Notice from the Valuer General, received on 15 November 2012.

4. Admission of media

Resolved, on the motion of Mr MacDonald, seconded Mr Barr, that the Committee authorise the audio-visual recording, photography and broadcasting of the public hearing on 19 November 2012 in accordance with the guidelines for coverage of proceedings for parliamentary committees.

5. Public hearing - Eighth General Meeting with the Valuer General

The press and public were admitted at 10:03am.

The Chair opened the public hearing and gave a short opening address.

Mr Michael Carr, former Senior Valuer, Land and Property Information, sworn and examined.

The Chair commenced questioning the witness, followed by other members of the Committee. Mr Carr agreed to provide a written reply to any further questions the Committee might have. Evidence concluded, the Chair thanked the witness for his attendance, the witness withdrew.

The Committee took a short adjournment at 10:45am and resumed the public hearing at 11:07am.

Mr Philip Western, New South Wales Valuer General, Mr Simon Gilkes, Deputy General Manager,

Land and Property Information, and Mr Michael Parker, Chief Valuer, Land and Property Information, all affirmed and examined. Mr Mark Glanville, Acting Valuation Manager for Compensation, Land and Property Information and Mr Neville Hind, Acting Financial Controller, Land and Property Information, both sworn and examined.

Mr Western made an opening statement and provided documents to the Committee.

The Chair commenced questioning the witnesses, followed by other members of the Committee.

Mr Hind and Mr Glanville withdrew at 1:30pm and the Committee adjourned for a luncheon break until 2:04pm.

The Chair continued to question the witnesses.

The Committee took a short adjournment at 2:51pm and the witnesses and public withdrew.

6. Legal advice

Resolved, on the motion of Mr MacDonald, seconded Mr Barr, that the Committee allow the Valuer

General two weeks to obtain legal advice regarding the secrecy provisions under section 25 of the

Privacy Act.

7. Public hearing

The Chair continued questioning the witnesses at 3:05pm.

The public hearing concluded at 3:37pm and the public withdrew. The hearing continued in-camera.

8. In-camera hearing

The in-camera hearing concluded at 4:12pm.

9. Supplementary questions and publication of the transcript

Resolved, on the motion of Mr MacDonald, seconded Mr Barr, that the Committee send an additional question on notice to the Valuer General.

Resolved, on the motion of Mr MacDonald, seconded Mr Barr, that the corrected transcript of evidence given today be authorised for publication and uploaded on the Committee's website.

The Committee adjourned at 4:29pm until a date and time to be determined.

MINUTES OF PROCEEDINGS OF THE JOINT STANDING COMMITTEE OF THE OFFICE OF THE VALUER-GENERAL (NO 18)

Wednesday, 19 December 2012

4.30 pm
Room 1245, Parliament House

Members Present

Mr Kean (Chair), Mr Barr, Mr MacDonald and Mrs Williams

Apologies

Mr Roozendaal

Officers in Attendance

Helen Minnican, John Miller and Jenny Whight

1. Confirmation of Minutes

Resolved, on the motion of Mr MacDonald, seconded by Mr Barr:
That the minutes no. 17 of the deliberative meeting and public and *in camera* hearings held on 19 November 2012 be confirmed.

2. Correspondence received

a) Further responses from the Valuer General relating to the Eighth Meeting

The Committee was advised of the following responses received from the Valuer-General, relating to the Eighth Meeting and the associated inquiry terms of reference:

- Response to Advance Questions on Notice for Public Hearing No. 4 – Question 4 (Letter received on 7 December 2012 and USB received on 10 December 2012)
- Response to additional question sent to the Valuer General following hearing no 4 – Question 1 (received on 12 December 2012)
- Response to Questions taken on notice during 26 March hearing – Question C (received on 17 December 2012)
- Interim response to Advance Questions on Notice for Public Hearing No. 4 – Question 6 (received on 18 December 2012)
- Valuer General's legal advice about questions from hearing no 4 – received on 17 December 2012; and Response to Questions taken on notice during Hearing no 4 – Question 7 (received on 17 December 2012)
- Response to Questions taken on notice during Hearing no 4 – Questions 1, 2, 3, 4, 5, 6 & 8 (received on 18 December 2012)

The Committee was also advised of the following information contained on USB and received from the Valuer-General, under cover letter dated 19 December 2012, in response to matters relating to the Eighth Meeting and the associated inquiry terms of reference:

- Response to additional questions to be placed on notice – Question C;
- Response to Advance Questions on Notice for Public Hearing No. 4 – Question 1;
- Response to questions taken on notice during second hearing – Question A

Discussion ensued.

b) Confidential response to Advance Questions on Notice for the Public Hearing no. 4, Question 1

The Committee considered the briefing note previously circulated in relation to the confidential land value information provided by the Valuer General, following his *in camera* evidence on 19 November 2012 (ref 1911TON70). Discussion ensued.

Resolved on the motion of Ms Williams, seconded Mr Barr:
That the following information:

- land value information for the years 2000 onwards (Ref 1911 AQoN 1);
- valuation reports for compulsory acquisitions in Leppington (Ref 1911 AQoN4);
- names of employees who have worked for LPI since July 2000 (Ref 1911 IC1); and
- unredacted minutes of the tender evaluation committee (Ref 1911 IC3);

which has been provided by the Valuer General, will be dealt with in accordance with the usual procedures for the handling of very sensitive *in camera* evidence:

- The USB stick and the information it contains is not to be circulated but will be retained securely in the Committee Office;
- No print outs, electronic copy, notes or duplication of the information is to be made;

Members of the Committee may organise through the staff of the Committee to view the information contained in the USB stick in the Committee Office.

Further discussion ensued.

Resolved on the motion of Mr MacDonald, seconded Mr Barr:

That the Committee authorises that the Chair be given the USB stick containing the abovementioned information provided by the Valuer General, for the following purpose and subject to the specific conditions below:

- The land value information will be used for the purpose of assessing possible trends and other matters relevant to the Committee's jurisdiction and current inquiry;
- The Chair will report back to the Committee at the next deliberative meeting on his analysis of the information, in order that the Committee can determine the need for any further assessment of the data or independent verification of the results of the Chair's analysis;
- Consistent with resolution 1, the USB stick and the information it contains, will be in the sole custody and control of the Chair at all times, during which the information will be treated as *in camera* evidence and handled in the strictest confidence, with no copies or duplication of it being made;

Any other documents and information contained on the USB stick will also be treated confidentially and handled in accordance with the procedures for *in camera* evidence.

Further discussion ensued.

The Clerk-Assistant (Committees & Corporate) provided advice on the procedures involved in the handling of *in camera* evidence and confidential information. Discussion ensued.

The Committee agreed to revisit the need for a consultancy in order to obtain expert technical assistance in relation to its examination of the information provided by the Valuer-General.

3. General Business

The Chair advised the Committee of his recent discussion with the Valuer-General to clarify the extent of information sought by the Committee at recent hearings. Discussion ensued.

The Committee resolved on the motion of Mr MacDonald, seconded Mr Barr:

That in relation to the remaining question to be reformulated by the Committee (Valuer General's Ref: 1911IC2), clarification would be given to the Valuer General that it is seeking details of the following:

- i. Details of all valuations conducted by the Valuer General for third parties, where the Government was a party to the transaction, as either the vendor or buyer, for the years 2000 onwards. These valuations are to include those undertaken in relation to leasing or compulsory acquisitions;
- ii. The details are to include: a property identifier, property address, date and amount of the valuation, identity of the other party, name of the valuer, Government Department involved in the transaction and whether the Government was the vendor or buyer.

The Committee further resolved to obtain an indication from the Valuer-General as to when these details would be available for the period from 2007 onwards and when the information from 2000-2007 would be able to be supplied to the Committee.

The committee adjourned at 5.01 pm, sine die.

MINUTES OF PROCEEDINGS OF THE JOINT STANDING COMMITTEE ON THE OFFICE OF THE VALUER GENERAL (NO. 19)

Friday, 21 December 2012

3.30 pm

Room 1254, Parliament House (or via teleconference)

Members Present

Mr Matt Kean (Chair), Mr Barr, Mr MacDonald and Mrs Williams

Apologies

Apologies were received from Mr Roozendaal

Officers in Attendance

Mark Swinson, John Miller and Jenny Whight

The Chair commenced the meeting at 3.30 pm.

1. Confirmation of Minutes

Resolved, on the motion of Mr Kean, seconded by Mr MacDonald:

That the minutes of the deliberative meeting of 19 November 2012, as amended, be confirmed; and that the minutes of the deliberative meeting of 19 December 2012 be confirmed.

2. Eighth General Meeting with the Valuer General

The Committee considered the engagement of a consultant to perform independent expert analysis of data provided by the Valuer General as part of the Eighth General Meeting with the Valuer General.

Resolved, on the motion of Mrs Williams, seconded by Mr MacDonald:

That the Committee consider the Proposed Terms of Reference for Analysis to be distributed following the meeting and confirm in writing any suggested changes they may have by close of business on Monday, 24 December 2012; and

That, pending such comments from Committee members, the Committee:

Consultancy specification

1. Seek initial advice from the Auditor General as to whether his office can provide the expert auditing and financial analysis required by the Committee. If this is not possible then to seek his advice concerning the most appropriate course to take in relation to engaging a consultant, including the management of potential conflict of interests.
2. Failing the Auditor General being able to assist, the Committee should proceed to engage a consultant to provide independent expert auditing and financial analysis for a small scale consultancy, in relation to the Committee's examination of land value information pertaining to its 8th General Meeting with the Valuer-General and associated terms of reference.
3. Adopt the scope for the consultancy, as outlined in the Proposed Terms of Reference for Analysis, to be included in the specification.
4. Include within the consultancy specification, particular requirements for ensuring confidentiality is maintained around the information to be provided to the consultant under the consultancy agreement.
5. Seek approval from the Speaker for funds to be made available for the consultancy.
6. Advise the Valuer-General of the proposed consultancy and its scope. Selection and engagement of consultants
7. Verify whether the preferred consultant is approved under the NSW Government's procurement pre-qualification scheme, prior to selecting and engaging a consultant in accordance with the Premier's Department Guidelines for use and engagement of consultants (July 2004)
8. Seek advice from the Auditor General regarding the consultant's proposed methodology.

Conduct of the proposed consultancy

9. Have the Committee determine any matters arising in relation to the specification or the conduct of the consultancy.
10. Include requirements for regular progress reports within the consultancy specification, to be provided to the staff of the Committee and the Chair, for distribution to Committee members.

3. General Business

The Committee was advised of the following correspondence received from the Valuer-General:

- A progress report on the recommendations of the Committee's interim report on the Eighth Meeting with the Valuer General, received 21 December 2012.
- An email regarding the proposed report template for the provision of financial information in response to AQoN6, received 21 December 2012

Resolved, on the motion of Mr Barr, seconded by Mrs Williams:

That the Committee note the correspondence received from the Valuer General on 21 December 2012.

Resolved, on the motion of Mr Barr, seconded by Mrs Williams:

That, pending the Chair's consideration and approval of the proposed report template, the Committee respond to the Valuer General confirming their approval of the proposed report template.

The committee adjourned at 4.00 pm until a time and date to be determined.

MINUTES OF PROCEEDINGS OF THE JOINT STANDING COMMITTEE ON THE OFFICE OF THE VALUER GENERAL (NO. 20)

Monday, 21 January 2013

2.43 pm

Room 1254, Parliament House

Members Present

Mr Kean (Chair), Mr Barr, Mr MacDonald, Mrs Williams

Apologies

Apologies were received from Mr Roozendaal

Officers in Attendance

John Miller

1. Confirmation of Minutes

Resolved, on the motion of Mr Barr, seconded by Mrs Williams:

That the minutes of the meeting held on 21 December 2012 be confirmed.

2. Inquiry into the land valuation system

a. Terms of reference

Resolved, on the motion of Mr Barr, seconded by Mrs Williams:

That the Committee inquire into and report on the following terms of reference:

1. To investigate the extent to which the current land valuation system delivers transparent, efficient, equitable and consistent outcomes for stakeholders. This includes monitoring and reviewing the exercise of the Valuer General's functions with respect to land valuations under the Valuation of Land Act 1916 and the Land Tax Management Act 1956, including:

- a. Volatility in land valuations;
- b. Complexity in the valuation system;
- c. Drivers of inefficiency in the system including market distortions, and administration and compliance costs; and
- d. Any inequity in the valuation system.

2. To make recommendations on the issues above, including but not limited to:

- a. Any legislative changes required;
- b. Changes consistent with best practice in comparable jurisdictions;
- c. Measures to improve transparency within the system;
- d. Measures to achieve greater efficiency within the system;
- e. The need for possible amendments to the Valuation of Land Act; and
- f. A cost-benefit analysis of proposed changes to the system.

Further discussion about the terms of reference ensued.

Mr MacDonald moved, seconded by Mrs Williams, that the following words be inserted in the terms of reference "3. This is noting that the focus of the inquiry is not directed at revenue but the valuation system."

Question put- that the proposed words be agreed to -

The Committee divided.

Ayes 3 [Kean, Williams, MacDonald]; Noes 1 [Barr]

Terms of reference, as amended, agreed to.

b. Closing date for submissions and advertising

Resolved on the motion of Mr MacDonald, seconded by Mrs Williams:

That the closing date for submissions be Friday, 22 February 2013; and that the Committee seek the Clerk's approval to advertise the inquiry in the The Land, the Sydney Morning Herald and the Australian Financial Review newspapers.

3. Consultancy for the Eighth General Meeting with the Valuer General

The Chair noted that he had received a memo from the Clerk of the Legislative Assembly regarding funding for the consultancy, and that a copy of the memo would be circulated to members following the meeting.

The Committee agreed to seek written bids from four nominated organisations for the proposed consultancy.

4. General Business

Resolved on the motion of Mr Kean, seconded by Mr MacDonald:

That the minutes of the meeting held on 21 December 2012 be amended to insert the words "and the Chair", in dot point 10 of item 2, following the words " ... to be provided to the staff of the Committee ... ".

The Committee adjourned at 3.38 pm until a time and date to be determined.

MINUTES OF PROCEEDINGS OF THE JOINT STANDING COMMITTEE ON THE OFFICE OF THE VALUER GENERAL (NO. 21)

Friday, 25 January 2013

11.04 am

Room 1254, Parliament House

Members Present

Mr Kean (Chair), Mr Barr, Mr MacDonald, Mrs Williams

Apologies

Apologies were received from Mr Roozendaal.

Officers in Attendance

John Miller, Meike Bowyer

1. Confirmation of Minutes

Resolved, on the motion of Mr MacDonald, seconded by Mrs Williams:

That the minutes of the meeting held on 21 January 2013 be confirmed.

2. Correspondence Received

b. Correspondence from Valuer General re recommendations of the Interim Report

Resolved, on the motion of Mr Barr, seconded by Mrs Williams:

That the Committee note the correspondence from the Valuer General dated 21 December 2012, regarding the progress on implementing recommendations from the Committee's Interim Report on the Eighth General Meeting with the Valuer General.

d. Further responses from Valuer General relating to the Eighth Meeting

Resolved, on the motion of Mr MacDonald, seconded by Mrs Williams:

That the Committee note the correspondence from the Valuer General dated 13 January 2013, regarding unredacted copies of minutes of the tender evaluation committee; and that the minutes be treated confidentially, as per the resolution on 19 December 2013.

3. Inquiry into the land valuation system

a. Stakeholders and submission closing date

Resolved, on the motion of Mrs Williams, seconded by Mr MacDonald:

That the Committee write to relevant stakeholders seeking submissions;

That the closing date for submissions be extended to 8 March 2013; and

That the Committee allow for late submissions to be accepted after the official closing date, if the Committee has been notified.

b. Issues paper

The Committee considered the Chair's draft issues paper.

Resolved, on the motion of Mr MacDonald, seconded by Mrs Williams:

That the Committee authorise the issues paper to be published and uploaded on the Committee's website; and that the Chair and Committee staff be permitted to correct stylistic, typographical and grammatical errors.

4. General Business

Resolved, on the motion of Mr MacDonald, seconded by Mrs Williams:

That the Committee write to the Valuer General advising him of the commencement of the Committee's inquiry into the land valuation system, as well as notifying him that the Committee intends to engage a consultant to analyse the land valuation data he provided.

The committee adjourned at 11.45 am until a time and date to be determined.

MINUTES OF PROCEEDINGS OF THE JOINT STANDING COMMITTEE ON THE OFFICE OF THE VALUER GENERAL (NO. 22)

Thursday, 7 February 2013

4.04 pm

The Committee met via teleconference.

Members present

Mr Kean (Chair), Mr Barr, Mr MacDonald, Mrs Williams

Apologies

An apology was received from Mr Roozendaal.

Officers in attendance

Leslie Gonye, John Miller, Jenny Whight (in Room 1254, Parliament House)

1. Confirmation of minutes

Resolved, on the motion of Mr Barr, seconded by Mrs Williams:
That the minutes of the meeting held on 25 January 2013 be confirmed.

2. Correspondence received

a. Further responses from Valuer General relating to the Eighth Meeting

Resolved, on the motion of Mrs Williams, seconded by Mr Barr:
That the Committee note the correspondence from the Valuer General dated 1 February 2013, regarding the value of public moneys spent on the provision of valuation services.

3. Consultant for the Eighth General Meeting with the Valuer General

a. Consideration of bids

Mr Kean declared a personal relationship with Crowe Horwath and therefore chose to withdraw from the selection process. Mr Kean departed the meeting at 4.19 pm. Mr MacDonald assumed the role of Acting Chair.

Mr MacDonald informed the Committee that he was a client of the firm WHK. The Committee agreed that the relationship would not present a conflict of interest in the consideration of bids for the consultancy.

The Committee considered the proposal received in response to its invitation for bids for a consultancy to perform statistical analysis of land valuation data.

Resolved, on the motion of Mr MacDonald, seconded by Mr Barr:
That the Committee recommend to the Speaker the appointment of Crowe Horwath as the consultant to perform statistical analysis of land valuation data; and
That Committee staff liaise with Crowe Horwath regarding the negotiation of contract details.

Mr Kean re-joined the meeting at 4.25 pm and resumed as Chair.

Resolved on the motion of Mr Barr, seconded by Mrs Williams:
That the Chair and Mr Barr attend a meeting with the consultant on Thursday, 14 February 2013 to determine matters relevant to the scoping stage of the consultancy.

4. Inquiry into the land valuation system

a. Updated stakeholder list

The Chair noted that an updated stakeholder list had been distributed to members

b. Hearing dates and site visits

The Committee considered venues and dates for hearings and site visits for the Inquiry into the land valuation system.

At 4.35 pm Mr MacDonald (who was attending via teleconference) dropped off the line. In the absence of a quorum, the Committee adjourned.

Mr Barr, Mr Kean and Mrs Williams continued to discuss inquiry related matters, which would be considered by the Committee at its next meeting.

MINUTES OF PROCEEDINGS OF THE JOINT STANDING COMMITTEE ON THE OFFICE OF THE VALUER GENERAL (NO. 23)

Tuesday, 12 February 2013

2.32 pm

Room 1254, Parliament House

Members present

Mr Kean (Chair), Mr Barr, Mr MacDonald, Mr Roozendaal, Mrs Williams (via teleconference)

Officers in attendance

Helen Minnican, John Miller, Jenny Whight

1. Confirmation of minutes

Resolved, on the motion of Mrs Williams, seconded by Mr Barr:

That the minutes of the meeting no 22, held on 7 February 2013, be confirmed.

2. Inquiry into the land valuation system

a. Site visits and hearings

Resolved, on the motion of Mr Roozendaal, seconded by Mrs Williams:

That the Committee hold two public hearings at Parliament House, and that the Committee seek the Speaker's approval to conduct a site visit and public hearing in Broken Hill, as well as site visits to Mudgee and Hornsby.

3. General business

a. Questions on notice

Resolved, on the motion of Mr MacDonald, seconded by Mr Roozendaal:

That

- the Chair meet with the Valuer General to discuss the following question on notice- "Can the Valuer General please provide the Committee with a breakdown of the reasons for objections to valuations over the last three years?";

- the Chair notify the Committee of any amendment to the question following the Chair's meeting; and

- following the agreement of the Committee to any amendments, the Committee write to the Valuer General seeking a response to the question on notice.

The committee adjourned at 2.50 pm until 8.00 am on Thursday, 21 February 2013.

MINUTES OF PROCEEDINGS OF THE JOINT STANDING COMMITTEE ON THE OFFICE OF THE VALUER GENERAL (NO. 24)

Thursday, 21 February 2013

8.00 am

Room 1153, Parliament House

Members present

Mr Kean (Chair), Mr MacDonald (Deputy Chair), Mr Searle, Mrs Williams.

Officers in attendance

Helen Minnican, John Miller, Jenny Whight

Apologies

An apology was received from Mr Barr.

Mr Kean notified Committee staff that he would arrive shortly after the scheduled start time. In his absence, Mr MacDonald assumed the role of Acting Chair.

1. Change in membership

The Clerk Assistant (Committees) reported that the Hon Eric Roozendaal MLC had been discharged from the Committee and the Hon Adam Searle had been appointed in his place. (Minutes of Proceedings, No. 124, 20 February 2013, entry 5)

2. Confirmation of minutes

Resolved, on the motion of Mrs Williams:

That the minutes of the meeting no 23, held on 12 February 2013, be confirmed.

3. Inquiry into the land valuation system

a. Site visits and hearings

The Committee discussed the amended dates for site visits and hearings.

b. Submissions

Resolved, on the motion of Mrs Williams:

That the Committee formally receive submission numbers 1 - 15; the orders for publication of submissions be deferred; and, in the interim, the submissions remain confidential to the Committee.

Mr Kean joined the meeting at 8.25 am and assumed the Chair.

d. Question on notice

Resolved, on the motion of Mrs Williams, seconded by Mr MacDonald:

That the Committee write to the Valuer General seeking a response to the following question on notice: We request that you provide the Committee with original valuation reports prepared for the Perilya mine valuation in Broken Hill, so that the Committee can have a better understanding of the way in which the valuation was conducted, prior to its hearing in that town?

The Committee adjourned at 8.33 am until a date and time to be determined.

4. Briefing - scoping meeting with Crowe Horwath regarding consultancy

Following the adjournment of the deliberative meeting, the Chair and Mrs Williams were briefed by Rahavan Yoganathan (Principal) and Eddy Moh (Senior Manager) of Crowe Horwath.

MINUTES OF PROCEEDINGS OF THE JOINT STANDING COMMITTEE ON THE OFFICE OF THE VALUER GENERAL (NO. 25)

Wednesday, 27 February 2013

9.52 am

Room 1153, Parliament House

Members present

Mr Kean (Chair), Mr MacDonald, Mr Searle.

Officers in attendance

Helen Minnican, Rachel Simpson, John Miller, Jenny Whight

Apologies

An apology was received from Mr Barr.

1. Confirmation of minutes

Resolved, on the motion of Mr MacDonald, seconded by Mr Searle:

That the minutes of the meeting no 24, held on 21 February 2013, be confirmed.

2. Inquiry into the land valuation system

a. Terms of reference

Resolved, on the motion of Mr MacDonald, seconded Mr Searle:

That the terms of reference for the Committee's inquiry into the land valuation system be amended by deleting the words: "This is noting that the focus of the inquiry is not directed at revenue but the valuation system."; and inserting instead: "For the purposes of clarity, the inquiry only concerns the valuation system and is intended to be revenue neutral."

b. Site visits and hearings

Resolved, on the motion of Mr MacDonald, seconded Mr Searle:

That the Committee invite the following witnesses to give evidence before the Committee at its public hearing in Broken Hill on Wednesday, 6 March 2013:

- Broken Hill City Council - Wincen Cuy, Mayor; Kate O'Neill, Acting General Manager
- Chamber of Commerce - Paul Seager, President; Dennis Roach, Executive Officer
- Regional Development Australia Far West - Michael Williams, Executive Officer
- Ray Steer, local resident and former councillor

3. Consultant for analysis of land valuation data

The Chair updated the Committee on the progress of the consultancy.

4. General business

i. Site visits- attendance of media

Resolved on the motion of Mr MacDonald, seconded Mr Searle

That media be permitted to film sites visited by the Committee, if agreed to by the property owners. The Chair may brief the media before or after site visits, but there is to be no recording of the Committee's discussions or deliberations during site visits.

ii. Site visits- attendance of member's staff and public

Resolved on the motion of Mr Searle, seconded Mr MacDonald:

That member's staff and the public be permitted to inspect sites visited by the Committee, if agreed to by the property owners, but they may not attend the Committee's discussions or deliberations during site visits.

The Chair adjourned the meeting at 10.10 am, until a time and date to be determined.

MINUTES OF PROCEEDINGS OF THE JOINT STANDING COMMITTEE ON THE OFFICE OF THE VALUER GENERAL (NO. 26)

Wednesday, 6 March 2013

9.30 am

Broken Hill

Members present

Mr Kean (Chair), Mr MacDonald, Mr Barr

Officers in attendance

Rachel Simpson, John Miller

Apologies

Apologies were received from Mr Searle and Mrs Williams.

1. Inquiry into the land valuation system

a. Site visit to Perilya Mine

At 9.30am, the Committee met with the following representatives of Perilya Ltd:

- Paul Marinko, Company Secretary and General Counsel;
- David Hume, General Manager, Operations;
- Bruce Byrne, Deputy General Manager.

Resolved, on the motion of Mr Barr, seconded Mr MacDonald:

That the Committee receive the document entitled 'Comparison between valuation methodologies'.

Adjourned to CBH Resources at 12.20pm.

b. Site visit to CBH Resources, Rasp Mine

At 12.30 pm, the Committee met with the following representatives of CBH Resources:

- Stephen Dennis, CEO and Managing Director;
- Visko Sulicich, Chief Operating Officer;
- Tony Davis, General Manager.

Adjourned to Broken Hill Council Chambers at 1.30 pm.

c. Public hearing at Broken Hill City Council Chambers

The Chair opened the public hearing at 2.35 pm and gave a short opening address.

Mr Wincen Cuy, Mayor, Broken Hill City Council; Ms Kathryn O'Neill, Acting General Manager, Broken Hill City Council; and Mr Timothy Drew, Chief Financial Officer, Broken Hill City Council, affirmed and examined.

Mr Cuy, Ms O'Neill and Mr Drew made opening statements.

The Chair commenced questioning the witnesses, followed by other members of the Committee.

Evidence concluded, the Chair thanked the witnesses for their attendance, the witnesses withdrew.

The Committee took a short adjournment at 3.45pm and resumed the public hearing at 3.57pm.

Mr Michael Williams, Executive Officer, Regional Development Australia Far West, sworn and examined.

Mr Williams made an opening statement.

The Chair commenced questioning the witness, followed by other members of the Committee.

Evidence concluded, the Chair thanked the witness for his attendance, the witness withdrew.

The Committee took a short adjournment at 4.16pm and resumed the public hearing at 4.23pm.

Mr Ray Steer, sworn and examined.

Mr Steer made an opening statement.

The Chair commenced questioning the witness, followed by other members of the Committee.

Evidence concluded, the Chair thanked the witness for his attendance, the witness withdrew.

The Committee took a short adjournment at 4.44pm and resumed the public hearing at 4.50pm.

Mr Paul Seager, President, Broken Hill Chamber of Commerce; and Mr Dennis Roach Executive Officer, Broken Hill Chamber of Commerce, affirmed and examined.

Mr Seager and Mr Roach made opening statements.

The Chair commenced questioning the witness, followed by other members of the Committee.

Evidence concluded, the Chair thanked the witness for his attendance, the witness withdrew.

d. Opportunity for members of public to participate

The Committee took a short adjournment at 5.29pm and withdrew from the Council Chamber to another room.

Resolved on the motion of Mr Barr, seconded Mr MacDonald:

That members of the public who have pre-registered with the Committee clerks be permitted to address the Committee for 5 minutes each, after being sworn in.

e. Public hearing at Broken Hill City Council Chambers

The public hearing resumed at 5.35pm.

Mr John Connolly sworn and examined.

Mr Connolly made a statement, evidence concluded, the Chair thanked the witness for his attendance, the witness withdrew.

Mr Harold Yourn sworn and examined.

The Chair instructed the media note to record or make notes during Mr Yourn's testimony or to report on Mr Yourn's testimony.

Mr Yourn made a statement, evidence concluded, the Chair thanked the witness for his attendance, the witness withdrew.

Mr Alan Tucker affirmed and examined.

Mr Tucker made a statement, evidence concluded, the Chair thanked the witness for his attendance, the witness withdrew.

Ms Coral Wilcock affirmed and examined.

Ms Wilcock made a statement, evidence concluded, the Chair thanked the witness for his attendance, the witness withdrew.

Mr Hugh Gough affirmed and examined.

Mr Gough made a statement, evidence concluded, the Chair thanked the witness for his attendance, the witness withdrew.

The Committee adjourned at 6.15pm until 3.30 pm on Thursday, 7 March 2013.

MINUTES OF PROCEEDINGS OF THE JOINT STANDING COMMITTEE ON THE OFFICE OF THE VALUER GENERAL (NO. 27)

Thursday, 7 March 2013

9.00 am

Broken Hill

Members present

Mr Kean (Chair), Mr MacDonald, Mr Barr, Mr Searle

Officers in attendance

Rachel Simpson, John Miller

1. Inquiry into the land valuation system

a. Witnesses for Public hearing to be held on 11 March 2013

Resolved on the motion of Mr MacDonald, seconded Mr Barr:

That the Committee invite the following witnesses to give evidence before the Committee at its public hearing on Monday, 11 March 2013:

- Professor Tania Sourdin, Australian Centre for Justice Innovation
- Mr Stephen Lancken, Negocio Resolutions
- Mr Don Tydd, Executive Officer, Association of Mining Related Councils
- Ms Frances Vumbaca and Ms Koula Rafailidis

The Committee adjourned at 9.15am until 3.30pm on Thursday, 7 March 2013.

MINUTES OF PROCEEDINGS OF THE JOINT STANDING COMMITTEE ON THE OFFICE OF THE VALUER GENERAL (NO. 28)

Thursday, 7 March 2013

3.30 pm

Hornsby

Members present

Mr Kean (Chair), Mr MacDonald, Mr Barr

Officers in attendance

Rachel Simpson, John Miller

Apologies

Apologies were received from Mr Searle and Mrs Williams.

1. Inquiry into the land valuation system

a. Site visit to Hornsby quarry

At 3.30pm, the Committee met with the following representatives of Hornsby Shire Council:

- Mayor Steve Russell
- Cr Mick Gallagher
- Cr Nathan Tilbury
- Cr Gurdeep Singh
- Cr Michael Hutchence
- Mr Scott Phillips, General Manager
- Mr James Farrington, Group Manager Planning
- Mr Rob Rajca, Manager Design & Construction
- Mr Craig Clendinning, Project Coordinator
- Ms Julie Williams, Manager Strategy and Communications

The Committee adjourned at 6.15pm until 10.30am on Friday, 8 March 2013.

**MINUTES OF PROCEEDINGS OF THE JOINT STANDING COMMITTEE
ON THE OFFICE OF THE VALUER GENERAL (NO. 29)**

Friday, 8 March 2013

10.30 am

Mudgee

Members present

Mr Kean (Chair), Mr MacDonald, Mr Barr, Mr Searle

Officers in attendance

Rachel Simpson, John Miller

Apologies

Apologies were received from Mrs Williams.

1. Inquiry into the land valuation system

a. Briefing with Mid-Western Regional Council

At 10.30am, the Committee met with the following representatives of Mid-Western Regional Council:

- Mayor Des Kennedy
- Cr Percy Thompson
- Clare Phelan, Group Manager of Finance & Administration
- Diane Sawyers, Manager Revenue & Property
- Mr Ian Clayton, Assistant Manager, Revenue & Property

b. Briefing with Mr Spring

At 12.00pm, the Committee met with Mr Tom Spring.

The Committee adjourned for a break at 12.40pm.

c. Briefing with NSW Farmers Association and local landholders

At 1.30pm, the Committee met with the following stakeholders:

- Mr David Clarke, Executive Councillor, NSW Farmers Association
- Mr Mitchell Clapham, Chairman, Mudgee District Council, NSW Farmers Association

- Cr John Webb, "Cooyal Station"
- Mr Tim Evans, "Coomber", Rylestone
- Mr Andrew Evans, Rylestone
- Mr Peter Greeves, "Taloovy", Bylong
- Mr Alan Heath.

d. Site visit to local properties

At 2.30pm, the Committee conducted site visits with the abovementioned stakeholders to local properties in the Mid-Western Regional Council area.

The Committee adjourned at 5.30pm until 1:00pm on Monday, 11 March 2013.

MINUTES OF PROCEEDINGS OF THE JOINT STANDING COMMITTEE ON THE OFFICE OF THE VALUER GENERAL (NO. 30)

Monday, 11 March 2013

Macquarie Room, Parliament House

Members present

Mr Kean (Chair), Mr MacDonald (Deputy Chair), Mr Barr, Ms Williams

Officers in attendance

Helen Minnican, John Miller

Apologies

Apologies were received from Mr Searle.

1. Inquiry into the land valuation system

a. Public hearing

The Chair opened the public hearing at 1.00 pm and gave a short opening address.

Professor Tania Sourdin, Director, Australian Centre for Justice Innovation, Monash University, sworn and examined.

Mr Stephen Lancken, Director Negocio Resolutions, affirmed and examined.

The Chair commenced questioning the witnesses, followed by other members of the Committee.

Evidence concluded, the Chair thanked the witnesses for their attendance, the witnesses withdrew.

The Committee took a short adjournment at 2.17pm and resumed the public hearing at 2.24pm.

Mr Donald Tydd, Executive Officer, Association of Mining Related Councils, affirmed and examined.

Mr Tydd made an opening statement.

The Chair commenced questioning the witness, followed by other members of the Committee. Evidence concluded, the Chair thanked the witness for his attendance, the witness withdrew.

The Committee took a short adjournment at 3.02pm.

b. Deliberative meeting

The Committee commenced deliberations at 3.10pm.

Correspondence from the Valuer General, dated 7 December 2012, in relation to questions on notice concerning valuations at Leppington, previously circulated in December, was distributed for information. Discussion ensued.

The Committee agreed to take the evidence from Ms Vumbaca and Ms Rafailidis in camera, after introductory comments, prior to dealing with confidential matters.

The Committee discussed media statements made in relation to the inquiry. The Committee noted that the Deputy Chair, Mr MacDonald, had made statements on the inquiry to certain media outlets, in the absence of the Chair and on the Chair's request.

The Committee concluded the deliberative meeting at 3.18pm and took a short adjournment.

c. Public hearing resumed

The Committee resumed the hearing at 3.37pm. The Chair opened the hearing to the public and welcomed the witnesses.

Ms Francesca Vumbaca, sworn and examined. Ms Koula Rafailidis, sworn and examined.

Each witness made an opening statement.

The Chair commenced questioning the witnesses, followed by other members of the Committee.

The Committee took a short adjournment at 4.30pm.

d. Deliberative meeting

The Committee commenced deliberations. Discussion ensued.

The Committee agreed that all further evidence from the witnesses, Ms Vumbaca and Ms Rafailidis, be taken in camera.

e. *In camera* hearing

The Committee resumed proceedings at 4.41pm.

The Chair commenced the in camera hearing and the public were asked to leave the hearing room.

Evidence concluded, the witnesses withdrew.

The Committee adjourned at 6.13pm *sine die*.

**MINUTES OF PROCEEDINGS OF THE JOINT STANDING COMMITTEE
ON THE OFFICE OF THE VALUER-GENERAL (NO. 31)**

9.30am, Wednesday 13 March 2013

Room 1254, Parliament House

Members Present

Mr Barr, Mr MacDonald (Deputy Chair), Mrs Williams

Apologies

Apologies were received from Mr Searle

Officers in Attendance

Helen Minnican, Rachel Simpson, John Miller, Jessica Falvey, Jenny Whight

In the absence of the Chair, the Deputy Chair opened the meeting at 9.41am.

2. Confirmation of Minutes

The Committee considered minutes Nos 25 to 30.

Mr Kean joined the meeting.

By leave, the Deputy Chair continued to chair the meeting until the item of business was finalised.

Resolved, on the motion of Mr Kean: That Minutes No 25 of the meeting held on 27 February 2013 be confirmed.

Resolved, on the motion of Mr Kean: That Minutes No 26 of the meeting held on 6 March 2013 be confirmed.

Resolved, on the motion of Mr Kean: That draft minutes No 28 of the meeting held on 7 March 2013 in Hornsby be amended by omitting Councillor Browne and Mr Stevens from Hornsby Council.

Resolved, on the motion of Mr Kean: That Minutes No 28 from 7 March 2013, as amended, be confirmed.

Resolved, on the motion of Mr Kean: That draft Minutes No 29 of the meeting held on 8 March 2013 be amended by omitting item 1a, and that item 1a be minuted as a separate meeting (No 27) at Broken Hill airport on 7 March 2013.

Resolved, on the motion of Mr Kean: That Minutes No 27 of the meeting held on 7 March 2013 at Broken Hill airport, be confirmed.

Resolved, on the motion of Mr Kean: That Minutes No 29 of the meeting held on 8 March 2013, be confirmed.

Mr Kean moved: That draft minutes No 30 be amended by inserting the words 'after introductory comments, prior to dealing with confidential matters' after the words 'The

Committee agreed to take the evidence from Ms Vumbaca and Ms Rafailidis in camera' in item 1b.

Ms Williams left the meeting.

Question put.

The Committee divided.

Ayes: Mr Kean, Mr Macdonald.

Noes: Mr Barr.

Question resolved in the affirmative.

Ms Williams rejoined the meeting.

Mr Kean resumed the Chair.

The remaining items of business were deferred until the next meeting.

The committee adjourned at 9.57am until 4.30pm on Wednesday 13 March 2013.

MINUTES OF PROCEEDINGS OF THE JOINT STANDING COMMITTEE ON THE OFFICE OF THE VALUER-GENERAL (NO. 32)

4.30 pm, Wednesday 13 March 2013

Room 1153, Parliament House

Members present

Mr Kean (Chair), Mr Barr, Mr MacDonald (Deputy Chair), Mr Searle, Mrs Williams

Officers in attendance

Helen Minnican, Rachel Simpson, John Miller, Jessica Falvey

The Chair opened the meeting at 4.31 pm.

1. Confirmation of minutes

Resolved, on the motion of Mr MacDonald: That Minutes No. 31 of the meeting held on 13 March 2013 be confirmed.

2. Inquiry into the land valuation system

a. Submissions

Resolved on the motion of Mr MacDonald, seconded Mr Barr: That the submissions received to date by the Committee, be divided into categories of submissions from individuals and submissions from groups/organisations/corporate entities, with a view to:

Submissions from groups/organisations/corporate entities

- assessing the submissions from groups/organisations/corporate entities by Friday, 15 March 2013 in order that the Committee can resolve whether or not to accept the submissions and the need for any limitations on publication;

- providing the Valuer General, if necessary, copies of the submissions accepted by the Committee in this category, on a confidential basis, in advance of his next appearance for the purpose of preparing to give evidence on the issues raised;
- advising the Valuer General that any publication of the submissions provided on a confidential basis must be first authorised by the Committee;
- seeking information from the Valuer General about the names of parties that are currently involved in legal proceedings with the Valuer General; and
- considering those submissions from parties involved in legal proceedings with the Valuer General to determine what if any part of their submission should be provided to the Valuer General.

Submissions from individuals

- assessing the submissions received from individuals, in order that the Committee can resolve whether or not to accept the submissions and the need for any limitations on publication;
- providing the Valuer General with a list of key issues raised in the submissions from individuals, prior to his appearance.

b. Future public hearing

Resolved, on the motion of Mr MacDonald, seconded Mr Barr: That the Committee invite the following witnesses to give evidence before the Committee at its public hearing on Friday, 15 March 2013:

Name and Position	Organisation
Paul Arndt, CEO	Perilya Ltd
Paul Marinko, Company Secretary and General Counsel	Perilya Ltd
Angus Nardi, Deputy Director	Shopping Centre Council of Australia
Milton Cockburn, Executive Director	Shopping Centre Council of Australia
Marcus Conabere, Director	Urbis/Shopping Centre Council of Australia

That the evidence from Paul Marinko and Paul Arndt of Perilya Ltd be taken *in camera*; and

That the witnesses from each organisation be scheduled to appear for 1 hour.

3. Consultant for analysis of land valuation data

The Chair advised the Committee that updated land valuation data had been received from the Valuer General and provided to the consultant, who now expects to report to the Committee by COB, 18 March 2013.

4. General Business

a. Supplementary questions

Resolved on the motion of Mrs Williams: That the following supplementary question be sent to CBH Resources, "Please provide the Committee with the following information regarding the CBH Rasp mine:

- land tax value,
- rate value, and
- whether or not a valuer came on site for the 2010 valuation. "

The Committee adjourned at 5.13pm until 9.00am on Friday, 15 March 2013.

**MINUTES OF PROCEEDINGS OF THE JOINT STANDING COMMITTEE
ON THE OFFICE OF THE VALUER GENERAL (NO. 33)**

Friday, 15 March 2013

Waratah Room, Parliament House

Members present

Mr Kean (Chair), Mr MacDonald (Deputy Chair), Mr Barr, Mrs Williams, Mr Searle

Officers in attendance

Helen Minnican, Rachel Simpson, John Miller, Jessica Falvey

1. Inquiry into the land valuation system

a. Public hearing

The Chair commenced the in camera hearing at 9.00am and the public were asked to leave the hearing room.

The Committee took a short adjournment at 10.00am.

b. Deliberative meeting

The Committee commenced deliberations at 10.22am.

Resolved, on the motion of Mr MacDonald: That the minutes of deliberative meeting no 32 held on 13 March 2013 be confirmed.

The Committee noted the Valuer General's request for an extension to lodge his submission.

Discussion ensued.

The Committee agreed to allow the Valuer General an extension to make a submission to the inquiry on Wednesday, 20 March 2013.

The Committee considered arrangements for submissions and the conduct of the inquiry.

Discussion ensued.

The Committee agreed to meet the week commencing 25 March to consider the submission made to the inquiry and proposed publication orders, after which it would provide the Valuer General with submissions to the inquiry for response in advance of his appearance to give evidence.

The Committee discussed possible dates for a public hearing with the Valuer General.

Resolved, on the motion of Mr Barr:

- (a) That the Committee schedule a full day public hearing with the Valuer General on Friday, 5 April 2013.
- (b) That members submit any questions on notice they would seek to forward to the Valuer General prior to the public hearing.

The Committee discussed the Crowe Horwath consultancy.

Resolved, on the motion of Mr Barr: That the Committee attends a briefing with Crowe Horwath on Thursday, 21 March 2013 at 8.30am.

The Committee concluded the deliberative meeting at 10.35am and took a short adjournment.

c. Public hearing resumed

The Committee resumed the hearing at 11.00am. The Chair opened the hearing to the public and welcomed the witnesses.

Mr Milton Roy Cockburn, Executive Director, Shopping Centre Council of Australia, sworn and examined.

Mr Angus Nardi, Deputy Director, Shopping Centre Council of Australia, sworn and examined.

Mr Marcus Conabere, Director, Urbis Pty Ltd, sworn and examined.

The Chair commenced questioning the witnesses, followed by other members of the Committee.

Evidence concluded, the witnesses withdrew.

The Committee adjourned at 12.04pm.

MINUTES OF PROCEEDINGS OF THE JOINT STANDING COMMITTEE ON THE OFFICE OF THE VALUER GENERAL (NO. 34)

12:00 pm Wednesday, 20 March 2013

Parkes Room, Parliament House

Members present

Mr Kean (Chair), Mr MacDonald (Deputy Chair), Mr Barr

Apologies

Apologies were received from Mr Searle and Mrs Williams

Officers in attendance

Helen Minnican, Rachel Simpson, John Miller, Jessica Falvey, Jenny Whight

The Chair commenced the meeting at 12:05 pm

1. Confirmation of minutes

Resolved, on the motion of Mr MacDonald, seconded Mr Barr, that the minutes of deliberative meeting no 33, held on 15 March 2013, be confirmed.

2. Inquiry into the land valuation system

a. Submission from the Valuer General

The Chair updated the Committee on the current position regarding the Valuer General's submission. Discussion ensued.

Resolved, on the motion of Mr Barr, that the date for lodging the Valuer General's submission to the Committee be extended from Wednesday 20 March until Thursday 28 March, so that the Valuer General has the benefit of reading the other submissions before finalising his own.

Resolved, on the motion of Mr Barr, seconded Mr MacDonald, that the Valuer General be provided with all of the submissions to be made public by the Committee on Friday 22 March, and that a response to submissions be sent to the Committee by Thursday 28 March.

b. Additional late submissions

The Committee discussed late submissions and agreed to accept them until the date of the final hearing.

3. General Business

The Committee discussed possible dates for a public hearing with the Valuer General and agreed to either the 5 or 8 April, subject to the availability of a quorum, and that the Valuer General be advised accordingly.

The Committee adjourned at 12.15pm until 8.30am Thursday 21 March.

MINUTES OF PROCEEDINGS OF THE JOINT STANDING COMMITTEE ON THE OFFICE OF THE VALUER GENERAL (NO. 35)

8.30 am Thursday, 21 March 2013
Macquarie Room, Parliament House

Members present

Mr MacDonald (Deputy Chair), Mr Kean (via teleconference), Mr Barr, Mr Searle

Apologies

Apologies were received from Mrs Williams

Officers in attendance

Helen Minnican, Rachel Simpson, John Miller, Jessica Falvey, Jenny Whight

As Mr Kean was participating via teleconference, Mr MacDonald chaired the meeting by leave.

The Deputy Chair commenced the meeting at 8.36 am.

1. Confirmation of minutes

Resolved, on the motion of Mr Barr, that the draft minutes of deliberative meeting no 34, held on 20 March 2013, be amended by inserting the words "The Chair updated the Committee on the current position regarding the Valuer General's submission. Discussion ensued." at the beginning of item 1a; and by inserting the words "with the Valuer General and agreed to either

the 5 or 8 April, subject to the availability of a quorum, and that the Valuer General be advised accordingly” at the end of item 3.

Resolved, on the motion of Mr Barr, that the minutes of deliberative meeting no 34, held on 20 March 2013, as amended, be confirmed.

2. Inquiry into the land valuation system

a. Consideration of proposed publication orders for submissions

The Deputy Chair noted that Submissions 1 to 120 had been circulated to members, as well as a table of proposed publication orders for submissions. The Deputy Chair proposed that the publication of late submission numbers 106-108, 110-111 and 117-120 from individuals would be considered at a later meeting. Discussion ensued.

Resolved, on the motion of Mr Searle, seconded by Mr Barr: That the Committee publish the submissions received, as per the proposed publication orders previously circulated to the Committee by email from the Inquiry Manager on 20 March 2013, subject to the following exclusions:

1. Any submissions from authors who are engaged in quasi-judicial legal processes involving the Valuer General, including the objection process (to be confirmed on the basis of advice to be sought from the Valuer General confirming the identity of objectors and other parties);
2. Any submissions from authors who are currently involved in legal proceedings with the Valuer General, as identified in the list provided by the Valuer General and previously circulated, and including the submissions from Perilya Broken Hill Limited and Broken Hill City Council;
3. Any submissions from authors who have indicated their intention to pursue legal proceedings against the Valuer General.

Further resolved on the motion of Mr Searle, seconded by Mr Barr: That all of the submissions referred to in the exclusions listed above remain confidential and not be published on the Committee’s website or provided to the Valuer General.

Mr Kean ceased participating via teleconference, joined the meeting in person, and resumed the Chair.

Mr Searle left the meeting at 8.56 am.

b. Briefing by Crowe Horwath

Following a brief adjournment of the deliberative meeting, the Chair, Mr Barr and Mr MacDonald were briefed by Rahavan Yoganathan (Principal) and Eddy Moh (Senior Manager) of Crowe Horwath regarding their report on the analysis of land valuation data provided by the Valuer General.

The Committee adjourned at 10.15 am until a time and date to be determined.

Proposed publication resolution following meeting on 21 March 2013

i. Publication in full

That the Committee authorise the publication of submissions: 1, 7, 10, 11, 18, 22, 25, 26, 27, 28, 29, 30, 31, 33, 34, 39, 45, 53, 54, 60, 61, 62, 64, 68, 73, 75, 76, 78, 80, 81, 86, 89, 91, 94, 96, 97, 99, 101, 102, 103, 104, 105, 109, 112, 113, 114, 115, 116,

ii. Partial publication

a. Author's name suppressed

That the Committee authorise the partial publication of the following submissions with the author's name suppressed: 13, 14, 74,

b. Property descriptions suppressed

That the Committee authorise the partial publication of the following submissions with property descriptions suppressed: 16, 19, 21, 24, 32, 36, 41, 46, 51, 55, 59, 66, 79, 88,

c. Third party names and property descriptions suppressed

That the Committee authorise the partial publication of the following submissions with names and property descriptions suppressed: 4, 6, 82,

d. Author's name suppressed and property descriptions suppressed

That the Committee authorise the partial publication of the following submissions with the author's name suppressed and property descriptions suppressed: 3, 15, 56, 65, 69, 70, 72,

e. Property descriptions and attachments suppressed

That the Committee authorise the partial publication of the following submissions with property descriptions and attachments suppressed: 12, 84,

f. Other specified sections suppressed

That the Committee authorise the partial publication of the following submissions with specified details suppressed:

- Submission 2 - author's name, author's address, attachment with objection to land valuation
- Submission 8 - the author's name and the paragraphs relating to the author's home valuation details (paragraphs of the submission in bold)
- Submission 47 - addresses but not suburbs, names of third parties apart from the Valuer General, and pages 22 to 30 of the pdf version of the submission, which contain property addresses.
- Submission 85 - on page 11 of the submission, the paragraph that starts 'One recent example' and ends 'there was coercion'.

iii. Confidential

That submissions 5, 9, 17, 20, 23, 35, 37, 38, 40, 42, 43, 44, 48, 49, 50, 52, 57, 58, 63, 67, 71, 77, 83, 87, 90, 92, 93, 95, 98 and 100 remain confidential.

MINUTES OF PROCEEDINGS OF THE JOINT STANDING COMMITTEE
ON THE OFFICE OF THE VALUER GENERAL (no. 36)
10.00 am Monday, 25 March 2013

Waratah, Parliament House

Members present

Mr Kean (Chair), Mr Barr, Mr MacDonald

Apologies

Apologies were received from Mrs Williams and Mr Searle

Officers in attendance

Rachel Simpson, John Miller, Jessica Falvey, Jenny Whight

The Chair commenced the meeting at 10.03 am.

1. Confirmation of minutes

Resolved, on the motion of Mr MacDonald, seconded Mr Barr, that the draft minutes of deliberative meeting no 35, held on 21 March 2013, be amended by inserting the words “by leave” after the words “Mr MacDonald chaired the meeting”; and by inserting the words “Mr Kean ceased participating via teleconference, joined the meeting in person, and resumed the Chair.” before the words “Mr Searle left the meeting” in item 2b.

Resolved, on the motion of Mr MacDonald, seconded Mr Barr, that the minutes of deliberative meeting no 35, held on 21 March 2013, as amended, be confirmed.

2. Inquiry into the land valuation system

a. Correspondence

i. CBH Resources

ii. Mrs Francesca Vumbaca

Resolved, on the motion of Mr Barr, seconded Mr MacDonald, that the Committee note the correspondence received from CBH Resources and Mrs Francesca Vumbaca.

b. Future hearing with the Valuer General

The Committee considered possible dates for the hearing with the Valuer General.

3. General business

a. Consultant report – *Statistical analysis of land valuation data*

The Inquiry Manager advised the Committee that Crowe Horwath would provide an updated version of their report to the Committee on Monday, 25 March.

The Committee agreed to provide any feedback on the new version by midday Wednesday, 27 March so that Crowe Horwath could finalise their report by Thursday, 28 March.

The Committee adjourned at 10.20 am until a time and date to be determined.

MINUTES OF PROCEEDINGS OF THE JOINT STANDING COMMITTEE
ON THE OFFICE OF THE VALUER GENERAL (no. 37)

10.30 am, Friday, 5 April 2013

Waratah Room, Parliament House

Members present

Mr Kean (Chair), Mr Barr, Mr MacDonald, Mr Searle, Mrs Williams

Officers in attendance

Helen Minnican, Rachel Simpson, John Miller, Jessica Falvey, Jenny Whight

The Chair commenced the meeting at 10.39 am.

1. Deliberative meeting - Confirmation of minutes

Resolved, on the motion of Mr Barr, that the minutes of deliberative meeting no 36, held on 25 March 2013 be confirmed.

2. Inquiry into the land valuation system

a. Witnesses to appear with Valuer General

The Chair advised that the Valuer General had requested the following witnesses to give evidence at the hearing:

- Mr Simon Gilkes, Deputy General Manager, LPI
- Mr Michael Parker, Chief Valuer, OVG
- Mr Paul Knight, Assistant Director Valuation Operations, LPI

Discussion ensued.

Resolved, on the motion of Mr Searle, that the Committee approve the Valuer General's request for senior officers from Land and Property Information and the Office of the Valuer General to be sworn in as witnesses during the public hearing on 5 April 2013.

b. Submissions - publication

The Chair reminded members that publication of submissions 106-108, 110-111 and 117-120 from individuals was deferred until this meeting, and submissions 121 – 129 had been received since the Committee last considered publication orders.

Discussion ensued.

Resolved on the motion of Mr Searle, seconded by Mr Barr:

iv. Publication in full

That the Committee authorise the publication of submissions: 106, 110, 122, 123, 124, 125, 126, 127, 129

v. Partial publication

That the Committee authorise the partial publication of Submission 108 with the author's name, property details and appendices suppressed.

vi. Confidential

That submissions 107, 111, 117, 118, 119, 120, 121 and 128 remain confidential.

c. Consultant report – *Statistical analysis of land valuation data*

The Committee considered publishing Crowe Horwath's report entitled 'Statistical analysis of land valuation data'.

Discussion ensued.

Resolved, on the motion on Mrs Williams, seconded Mr Searle, that the report 'Statistical analysis of land valuation data' including the statistical appendix, be published on the Committee's website.

The Committee adjourned the deliberative meeting at 10.45 am

3. Publication of *in camera* transcript from 11 March 2013

Deliberation on this item was deferred until after the conclusion of the public hearing.

4. Public Hearing – Inquiry into the land valuation system

The Chair commenced the hearing at 11.00 am.

Philip John Western, Valuer-General, Office of the Valuer-General, on former oath,

Michael Parker, Chief Valuer, Office of the Valuer-General, on former oath,

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.

Mr Western made an opening statement.

The Chair commenced questioning the witnesses, followed by other members of the Committee.

The Committee adjourned for lunch at 1.15 pm and Mr Barr departed the hearing.

The Committee resumed proceedings at 1.45 pm and Mr MacDonald joined the hearing.

The Committee took a short adjournment at 3.25 pm to hold a deliberative meeting.

5. Deliberative meeting - Photography during hearing

The Committee commenced deliberations at 3.25 pm.

The Chair noted that a journalist had requested to take photographs during the hearing.

Discussion ensued.

Resolved, on the motion of Mr Searle: That the media be permitted to take photographs of the hearing proceedings.

The Committee concluded the deliberative meeting at 3.27 pm and took a short adjournment.

6. Public Hearing – Inquiry into the land valuation system

The Chair resumed the hearing at 3.30 pm.

The Committee continued questioning the witnesses.

Evidence concluded, the Chair thanked the witnesses for their attendance, the witnesses withdrew.

The Chair closed the public hearing at 4.14 pm and cleared the room prior to commencing a deliberative meeting.

7. Deliberative meeting – Documents referred to during hearing

The Committee commenced deliberations at 3.25 pm.

The Chair noted that the Valuer General requested, at the conclusion of the hearing, if he could be provided with a copy of the documents relating to compulsory acquisitions for a number of properties in the Leppington area, as had been referred to by the Chair during the hearing.

Discussion ensued.

Resolved, on the motion of Mr Searle, that the Valuer General be provided with copies of the documents relating to compulsory acquisitions referred to during the hearing.

8. Publication of *in camera* transcript from 11 March 2013

The Committee considered the publication of the *in camera* transcript from the 11 March 2013.

Discussion ensued.

Resolved, on the motion of Mr Searle, seconded Ms Williams, that:

- i. the Chair be provided with a copy of the *in camera* transcript for the purposes of writing his draft report; and
- ii. the Committee reconsider publishing the transcript after it has had an opportunity to consider the Valuer General's answer to the question taken on notice regarding the investigation of the Leppington compulsory acquisitions.

The Committee adjourned at 4.41 pm *sine die*.

MINUTES OF PROCEEDINGS OF THE JOINT STANDING COMMITTEE ON THE OFFICE OF THE VALUER GENERAL (NO. 38)

10.30 am on Monday, 29 April 2013

Room 1254, Parliament House

Members present

Mr Kean (Chair), Mr MacDonald, Mr Searle, Mr Barr (via teleconference)

Officers in attendance

Rachel Simpson, John Miller, Jessica Falvey, Sasha Shevtsova

Apologies

An apology was received from Mrs Williams

The Chair commenced the meeting at 10.37 am.

1. Confirmation of minutes

Resolved, on the motion of Mr MacDonald, seconded Mr Searle, that the minutes of deliberative meeting no 37, held on 5 April 2013 be confirmed.

2. Correspondence

- a. **Mr Peter Waite**
- b. **Valuer General – Leppington investigation**

The Chair noted that correspondence had been received from Mr Peter Waite on 5 April 2013 and from the Valuer General on 16 April 2013.

Resolved, on the motion of Mr Searle, that the Chair write to the Valuer General approving his request to extend the deadline for his review of the Leppington Just Terms determinations to Friday 10 May 2013; and that the Committee accept Mr Waite's correspondence.

3. Late submissions – publication orders

The Chair noted that late submissions have been received from Professor Mike Hefferan, the Division of Local Government and Mr Jamie Long.

Resolved, on the motion of Mr MacDonald:

- That the Committee authorise the publication of submissions 130 and 131;
- That the Committee authorise the partial publication of submission 132 with the attachments suppressed; and
- That the Chair write to Mr John Williams MP advising that the Committee has accepted the correspondence from Mr Long as a submission to the inquiry.

4. Publication of transcripts

- a. **6 March - Broken Hill**
- b. **11 March – Parliament House**
- c. **15 March – Parliament House**
- d. **5 April – Parliament House**

Resolved, on the motion of Mr MacDonald, that the Committee authorise the publication of the corrected transcripts of evidence from 6 March, 11 March, 15 March and 5 April 2013, apart from the evidence of Ms Vumbaca, Ms Rafailidis, Mr Marinko and Mr Arndt.

5. Crown Solicitor's paper on land valuation and other report references

Resolved on the motion of Mr Searle, that the Committee note the distribution of the following items, for members' information:

- a paper by the Crown Solicitor's Office entitled *Valuation of Land: Differences between Revenue and Compensation Matters*,
- a list of documents that were referenced in the draft report,
- a briefing note on the ATO and Inspector-General of Taxation, and
- a briefing note on the Ombudsman.

6. Consideration of the Chair's draft report

Mr Barr joined the meeting at 10.42 am

The Committee agreed to consider the recommendations of the report first, before considering the body of the report chapter by chapter, and then considering the executive summary.

a. Recommendations

Resolved, on the motion of Mr Searle, that recommendation 1 be adopted.

Resolved, on the motion of Mr MacDonald, that recommendation 2 be adopted.

Resolved, on the motion of Mr Searle, that recommendation 3 be amended by inserting the word “public” before the word “guidelines” and by inserting the words “for the valuation of land” before the words “be binding on valuers”.

Resolved, on the motion of Mr Searle, that recommendation 3, as amended, be adopted.

Resolved, on the motion of Mr MacDonald, that recommendation 4 be adopted.

Resolved, on the motion of Mr MacDonald, that recommendation 5 be adopted.

Resolved, on the motion of Mr MacDonald, that recommendation 6 be adopted.

Resolved, on the motion of Mr Searle, that recommendation 7 be amended by omitting the word “seek” and inserting instead the word “introduce”.

Resolved, on the motion of Mr Searle, that recommendation 7, as amended, be adopted.

Resolved, on the motion of Mr Searle:

- That recommendation 8 be amended by omitting the words “consider changes to” and inserting instead the word “review”, and by omitting the words “and that section 14I of the *Valuation of Land Act 1916* be amended to clarify the valuation requirements for valuing Crown Lease restricted land”; and
- That a new recommendation be inserted after recommendation 8 to read, “That section 14I of the *Valuation of Land Act 1916* be amended to clarify the valuation requirements for valuing Crown Lease restricted land.”

Resolved, on the motion of Mr Searle, that recommendation 8, as amended, and the new recommendation be adopted.

Resolved, on the motion of Mr Searle, that recommendation 9 be amended by omitting the words “consider changes to the *Valuation of Land Act 1916* in relation to” and inserting instead the word “review”.

Resolved, on the motion of Mr Searle, that recommendation 9, as amended, be adopted.

Resolved, on the motion of Mr Searle, that recommendations 10 and 11 be combined, and that the following words be omitted from recommendation 11 “That the new valuation review mechanism, and valuations for compulsory acquisitions,”.

Resolved, on the motion of Mr Searle, that recommendation 11, as amended, be adopted.

Resolved, on the motion of Mr Searle, that recommendation 12 be adopted.

Resolved, on the motion of Mr MacDonald, that recommendation 13 be amended by inserting the word “statutory” after the words “the comparison of”.

Resolved, on the motion of Mr MacDonald, that recommendation 13, as amended, be adopted.

Resolved, on the motion of Mr MacDonald, that recommendation 14 be amended by inserting the words “focused on the key issues” after the words “stakeholder statements”.

Resolved, on the motion of Mr MacDonald, that recommendation 14, as amended, be adopted.

Resolved, on the motion of Mr Barr, that recommendation 15 be adopted.

Resolved, on the motion of Mr MacDonald, that recommendation 16 be amended by omitting the words “That landholders be permitted to seek a merits review of their land valuation in either the Land and Environment Court or the Administrative Decisions Tribunal; and that further rights of appeal to other superior courts on errors of law remain as they are now.” and inserting instead, “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 NSW Administrative Decisions Tribunal (to become NSW Civil and Administrative Tribunal on the 1st January 2014) or directly to the NSW Land and Environment Court. Further rights of appeal to other superior courts on errors of law remain as they are now.”

Resolved, on the motion of Mr MacDonald, that recommendation 16, as amended, be adopted.

Resolved, on the motion of Mr Searle, that recommendation 17 be amended by inserting the following words: “in light of the case of *Trust Company Limited ATF Opera House Car Park Infrastructure Trust No 1 v The Valuer-General (No 2) [2011] NSWLEC 34*” after the word “That”.

Resolved, on the motion of Mr Searle, that recommendation 17, as amended, be adopted.

Resolved, on the motion of Mr Barr, that recommendation 18 be adopted.

Resolved, on the motion of Mr MacDonald, that recommendation 19 be adopted.

Resolved, on the motion of Mr MacDonald, that recommendation 20 be adopted.

Resolved, on the motion of Mr MacDonald, that recommendation 21 be adopted.

Resolved, on the motion of Mr MacDonald, that recommendation 22 be adopted.

Resolved, on the motion of Mr Searle, that recommendation 23 be adopted.

Resolved, on the motion of Mr Searle, that recommendation 24 be amended by omitting the words “That a Parliamentary Committee be appointed to oversight the Valuation Commission in the same way that the current Joint Standing Committee on the Office of the Valuer General is constituted” and inserting instead, “That the Joint Standing Committee on the Office of the Valuer General be reconstituted to oversight the Valuation Commission, once established.”

Resolved, on the motion of Mr Searle, that recommendation 24, as amended, be adopted.

Resolved, on the motion of Mr MacDonald, that recommendation 25 be adopted.

Resolved, on the motion of Mr Searle, that recommendation 26 be amended by inserting the words “and be published in the annual performance report to be tabled in Parliament” after the words “be developed”; and by omitting the word “court”.

Resolved, on the motion of Mr Searle, that recommendation 26, as amended, be adopted.

Resolved, on the motion of Mr MacDonald, that recommendation 27 be adopted.

Resolved, on the motion of Mr Searle, that recommendation 28 be adopted.

Resolved, on the motion of Mr Barr, that recommendation 29 be adopted.

Resolved, on the motion of Mr Searle, that finding 1 be adopted.

The Committee adjourned briefly from 12.17 pm until 12.35 pm

b. Report chapters

Chapter 1

Resolved, on the motion of Mr Searle, that paragraph 1.10 be amended by inserting the word “function” after the words “valuation of land”.

Resolved, on the motion of Mr Searle, that Chapter 1, as amended, be adopted.

Chapter 2

Resolved, on the motion of Mr Searle, that paragraph 2.9 be amended by omitting the words “remained opaque” and inserting instead the words “was not available”.

Resolved on the motion of Mr Searle, that paragraph 2.20 be amended by inserting the words “The Council was legally required to acquire the property because of its zoning as ‘Local Open Space’.” after the words “to acquire the site.”

Resolved on the motion of Mr MacDonald, that the following paragraph be inserted after paragraph 2.41: “The Committee heard very traumatic evidence about the impact of these decisions on landholders’ emotional and physical health and financial wellbeing. The Committee noted the vulnerability of landholders, particularly those who have English as a second language and lack of experience in dealing with government.”

Resolved, on the motion of Mr MacDonald, that Chapter 2, as amended, be adopted.

Chapter 3

Resolved, on the motion of Mr Searle, that paragraph 3.3 be amended by inserting the word “some” before the word “landholders”.

Resolved, on the motion of Mr Searle, that Chapter 3, as amended, be adopted.

Chapter 4

Resolved, on the motion of Mr MacDonald, that Chapter 4 be adopted.

Chapter 5

Resolved, on the motion of Mr Searle, that paragraph 5.2 (b) be amended by inserting the word “real” before the words “opportunity for the landholder”, and by inserting the word “adequately” before the words “put their case”.

Resolved, on the motion of Mr Searle, that paragraph 5.46 be amended by omitting the words “and has the effect of suggesting a higher valuation”.

Resolved, on the motion of Mr Searle, that paragraph 5.51 be amended by omitting the word “system” from the first sentence, and inserting instead the word “process”.

Resolved, on the motion of Mr Searle, that paragraph 5.61 be amended by inserting the words “to be paid by local residents” after the words “special rate levy”.

Resolved, on the motion of Mr Searle, that Chapter 5, as amended, be adopted.

Chapter 6

Resolved, on the motion of Mr Searle, that paragraph 6.8 be amended by omitting the word “obvious”; and by inserting the words “that the Committee is aware of” after the words “countervailing reasons”.

Resolved on the motion of Mr Barr, that paragraph 6.11 be amended by omitting the words “The full recommendation” and “Restoring Integrity to the Valuation System” and inserting instead the words “A recommendation addressing this issue” and “Valuation Integrity”, respectively.

Resolved, on the motion of Mr Searle, that Chapter 6, as amended, be adopted.

Chapter 7

Resolved, on the motion of Mr Searle, that paragraph 7.6 be amended by omitting the words “even the judiciary’s administrative functions are to some extent managed by the Attorney General’s Department” and inserting instead the words “The judiciary operates with minimal intervention from the Department of Attorney General and Justice.”

Resolved, on the motion of Mr Searle, that paragraph 7.8 be amended by omitting the words “it is appropriate that in a democracy the starting position is that executive powers should be handled by elected officials, their delegates or individuals who are part of the civil service hierarchy.”

Resolved, on the motion of Mr MacDonald, that Chapter 7, as amended, be adopted.

Part 3

Resolved, on the motion of Mr Searle, that the title of Part 3 be “The Committee’s reform proposals”.

Chapter 8

Resolved, on the motion of Mr Searle, that paragraph 8.4 be amended by inserting the word “apparently” after the words “inadequate processes”.

Resolved, on the motion of Mr Barr, that Chapter 8, as amended, be adopted.

Chapter 9

Resolved, on the motion of Mr Barr, that consequential amendments to Chapter 9 be made to ensure that the text is consistent with the amended recommendations 7, 8 and 9.

Resolved, on the motion of Mr Barr, that Chapter 9, as amended, be adopted.

Chapter 10

Resolved, on the motion of Mr Searle, that paragraph 10.8 be amended by omitting the word “flexible” from the first sentence.

Resolved, on the motion of Mr Searle, that consequential amendments to Chapter 10 be made to ensure that the text is consistent with the amended recommendations 13 and 14.

Resolved, on the motion of Mr Searle, that Chapter 10, as amended, be adopted.

Chapter 11

Resolved, on the motion of Mr MacDonald, that paragraph 11.17 be amended by omitting the words “in so doing increase” and inserting instead the word “improve”.

Resolved, on the motion of Mr MacDonald, that consequential amendments to Chapter 11 be made to ensure that the text is consistent with the amended recommendation 16.

Resolved, on the motion of Mr MacDonald, that Chapter 11, as amended, be adopted.

Chapter 12

Resolved, on the motion of Mr MacDonald, that Chapter 12 be adopted.

Chapter 13

Resolved, on the motion of Mr Searle, that Chapter 13 be adopted.

Chapter 14

Resolved, on the motion of Mr Searle, that Chapter 14 be adopted.

Chapter 15

Resolved, on the motion of Mr Searle, that paragraph 15.11 be amended by inserting the words “A further advantage is the ready availability of real world data and market evidence.” after the second sentence.

Resolved, on the motion of Mr Searle, that the following paragraph be inserted before paragraph 15.14: “These concerns, however, would mainly apply in our view to non-residential development. We recognise some strong arguments in favour of residential land being valued in this way. However, any further exploration of this issue would need to be done by another inquiry, either by this Committee or another appropriate body.”

Resolved, on the motion of Mr Searle, that Chapter 15, as amended, be adopted.

c. Executive Summary

Resolved, on the motion of Mr Searle, that the first paragraph of the executive summary be amended by:

- Omitting the word “opaque” and inserting instead the word “undisclosed”;
- Omitting the words “undermined the public’s confidence” and inserting instead the words “raised significant issues to do with”;
- Omitting the words “the Valuer General’s” and inserting instead the words “what is strongly felt by many who gave submissions to this Committee to be a”; and
- Omitting the words “across this state”.

Resolved, on the motion of Mr Searle, the second paragraph of the executive summary be amended by omitting the words “rules-based” and inserting instead the word “clearer”; and by inserting the words “based on objective criteria or rules (a rules-based approach)” after the words “valuation methodologies”.

Resolved, on the motion of Mr Searle, that the second table in the executive summary be amended by inserting the words “through LPI performing functions that should be performed by the Valuer General.” after the words “has been undermined”; and that consequential amendments be made throughout the report.

Resolved, on the motion of Mr Searle, that the thirteenth paragraph of the executive summary be amended by inserting the word “independent” before the words “statutory appointments”; and that consequential amendments be made throughout the report.

Resolved, on the motion of Mr Searle, that the Executive Summary, as amended, be adopted.

7. Adoption of draft report

Resolved, on the motion of Mr Searle:

- That the report as amended be the report of the Committee, for both the Inquiry into the land valuation system and the Eighth general meeting with the Valuer General, and that it be signed by the Chair and presented to the House;
- That the Chair and the Secretariat be permitted to correct stylistic, typographical and grammatical errors;
- That once tabled, the report be placed on the Committee’s website; and
- That any material contained within the report, as adopted by the committee, which has been the subject of a claim for privilege, confidentiality or privacy, by the Valuer General be authorised for publication in order that the Committee can perform its functions.

8. Publication of confidential material used in the Land Valuation System report

The Chair noted that a number of confidential submissions and transcripts had been referenced in the draft report and recommended that the Committee authorise the publication of this material.

Resolved, on the motion of Mr Searle:

- That the Committee authorise the publication of Submissions 37 and 43.

- That the Committee authorise the partial publication of Submissions 35, 57 and 67 with the attachments suppressed.
- That the Committee authorise the publication of confidential material from Submissions 63, 83, 87, 93 and 100 that has been quoted or referenced in the Committee's final report.
- That the Committee authorise the publication of confidential material from the in camera transcripts of 11 March and 15 March 2013 that has been quoted or referenced in the Committee's final report.

9. General business

Resolved, on the motion of Mr Searle, that the Committee thank and commend the Committee staff for their work on the inquiry.

The Committee adjourned at 2.10 pm sine die.

Chair

Director, Committees

Appendix Five – Consultant report – Statistical analysis of land valuation data



Final Report for The Joint Standing Committee
on the Office of the Valuer General
“Statistical Analysis of Land Valuation Data”



1 May 2013

1 May 2013

Mr John Miller
Acting Inquiry Manager
The Joint Standing Committee of the Valuer General
Parliament House, Macquarie Street
Sydney NSW 2000

Dear Mr Miller,

Thank you for engaging Crowe Horwath to assist the Joint Standing Committee on the Office of the Valuer General with its analysis of land valuation data. We have enjoyed the challenge of managing the complexities with such large amounts of data and reaching conclusions from the detailed analysis we have performed.

Collectively, in the services provided to the Joint Standing Committee in delivery of this project, we have delivered value in:

- Expertise in compiling and creating the necessary data storage solution to hold the relevant information;
- Technical expertise in the use of specialised data analytics and visualisation tools to test, evaluate and draw conclusions from large volumes of data;
- Extensive experience in statistical analysis and data sampling and assessment;
- Experienced team with a proven mature approach to drive outcomes and value for money; and,
- Appreciation of complicated projects, in particular with government agencies.

If there is anything you wish to clarify in this report, or any further information you require to assist you in the Joint Standing Committee's report, please do not hesitate to contact me on 0412 918 863 or Rahavan@CroweHorwath.com.au.

We look forward to working with you in the future.

Yours sincerely,

Rahavan Yoganathan
Partner
Crowe Horwath Sydney Pty Limited

Executive Summary

The Joint Standing Committee on the Office of the Valuer General (the Committee) is reviewing the operations of the Office of the Valuer General, particularly in relation to land valuations. The Committee's report will address key aspects of the valuation system, including:

- i. Predictability of the land valuation,
- ii. Equity of the system,
- iii. Transparency of the system, and
- iv. Efficiency.

As part of the information gathering phase of its report the Committee has received confidential land value data from the Office of the Valuer General for the period 2001-11. The data obtained contains approximately 29 million rows of data covering approximately 2.4 million properties in NSW.

Given the volume and complexity of the data received the Committee engaged Crowe Horwath to assist it in performing data and statistical analysis to test the following two hypotheses:

- Individual property holders experience material volatility in land values (Hypothesis 1)
- Land values on the register have grown materially more than the market (Hypothesis 2).

The procedures to be performed and key definitions of material, volatility, widespread and market were determined by the Committee in consultation with Crowe Horwath. The following is a summary of our key findings:

- The data received was of sufficient quality to enable the analysis requested;
- With respect to Hypothesis 1, we conclude that based on the data provided and procedures performed, individual **property holders experience material volatility** in land values;
- With respect to Hypothesis 2, we conclude that based on the data provided and procedures performed **land values on the register have generally not grown materially more than the market, except in specific years and regions;** and
- Based on the information available it was **not possible to determine the potential cause(s)** of material volatility or material growth more than market in land values on the register.

This report presents our detailed findings from the statistical analysis performed and is set out as follows:

- Overview and validation of the data;
- Hypothesis 1: Objective, testing methodology, results and conclusion;
- Hypothesis 2: Objective, testing methodology, results and conclusion;
- Other considerations; and,
- Appendix: Supporting analysis and schedules.

Overview and validation of the data

The primary source of the data used in testing the two hypotheses was data provided by the Office of the Valuer General consisting of land only (i.e undeveloped property) values from 2000 to 2011. In addition, market data was sourced from Residex consisting of residential property sales values from 2000 to 2012.

With respect to the data provided by the Valuer General:

- On average, there were 2.4 million properties in NSW each year;
- Properties covered 650 postcodes, equating to 3,700 properties / postcode;
- Properties covered 152 LGA's, equating to 15,800 properties / LGA;
- Properties covered 14 NSW regions, equating to 171,400 properties / region.

In order to validate the data provided by the Valuer General the following procedures were performed:

- Checked all records had a property ID
- Identified duplicate property ID's
- Validated postcodes
- Identified duplicate addresses
- Retrieved data from NSW Department of Premier and Cabinet to determine regional areas and LGA relationships for simpler breakdown and identification of areas in NSW.

As a result of the validation procedures performed we concluded that the data was of sufficient quality on which to perform the analysis requested. A summary of the validation results is summarised in the table that is on the following page.

With respect to the data sourced from Residex:

- On average, there were 1.2 million residential properties sold over the period 2001 to 2012;
- Properties covered 601 postcodes, equating to 2,000 properties / postcode;
- Properties covered 152 LGA's, equating to 7,850 properties / LGA;
- Properties covered 14 NSW regions, equating to 85,200 properties / region.

Postcode level comparisons were not available due to most postcodes having too small a sample size for representative analysis, i.e less than 1,000 individual sales in a year.

It was not possible to obtain regional / LGA / postcode level data for property types other than residential as residential properties accounted for the majority (90%) of the market sales data available. As a result, the market data analysis in the report has been performed on residential data only.

Summary of validation results on data provided by the Valuer General

	2000	2001	2002	2003	2004	2005	2006	2007	2008	2009	2010	2011
Total number of properties ('000s)	2,306	2,352	2,384	2,402	2,417	2,431	2,446	2,460	2,473	2,478	2,481	2,483
Duplicate property IDs	Nil	1	1	Nil	Nil	1	1	Nil	Nil	Nil	Nil	Nil
No property ID	Nil	Nil	Nil	Nil	Nil	Nil	Nil	Nil	Nil	Nil	Nil	Nil
Invalid postcodes	< .1%	< .1%	< .1%	< .1%	< .1%	< .1%	< .1%	< .1%	< .1%	< .1%	< .1%	< .1%
Duplicate addresses * issue?	2.6%	3.2%	3.2%	3.3%	3.3%	3.3%	3.3%	3.3%	3.2%	3.1%	3.1%	3.1%
Properties not existing in 2000 ('000s)	N/A	73 3.1%	115 4.8%	148 6.1%	180 7.4%	209 8.6%	238 9.7%	265 11%	290 12%	307 12%	322 13%	335 14%
Properties not existing in 2011 ('000s)	159 6.9%	157 6.7%	144 6.1%	131 5.5%	115 4.8%	101 4.2%	88 3.6%	73 3.0%	57 2.3%	40 1.6%	21 0.8%	N/A
Average land value (\$'000s)	186	200	232	285	336	349	354	369	380	381	399	403
Standard deviation (\$'000s)	569	578	633	721	827	853	914	1,060	1,050	1,101	1,135	1,109
Properties that changed in land size (000's)	N/A	3	7	7	8	6	11	11	16	8	9	5
Properties that changed zoning (000's)	N/A	3	5	4	6	1	8	5	7	7	32	25
Value per square metre (\$/m ²)	269	287	442	410	477	515	538	554	572	579	605	619
Standard deviation of Value per square metre (\$/m ²)	8,877	9,308	16,268	11,679	12,354	12,670	12,750	13,019	12,604	18,914	19,217	18,340

Hypothesis 1

That individual property holders experience material volatility in land values.

A statistical analysis of volatility in land values to identify:

1. *The level of volatility in land values across the sample; and,*
2. *The extent to which materially high levels of land value fluctuations are widespread.*

This analysis should identify any types of property that have had noteworthy levels of volatility, such as specific LGAs or commercial land.

Approach:

In determining whether the hypothesis has been confirmed or rejected, the Committee has provided the following guiding principles:

- Volatility: where the standard deviation of the annual growth in property value is greater than +/- 5%;
- Materially high: Where the annual change exceeds +/- 5%; and,
- Fluctuations are widespread: Material and volatile change in property value in more than 5% of the population.

Results:

Volatility in land values

Volatility is the amount of uncertainty or risk about the magnitude of the change in land value from year-to-year. Statistically, volatility is measured by standard deviation, which indicates how close or far from the average, values fall in relation to the average. A high standard deviation means there is a wide range of values and therefore significant uncertainty or risk about the magnitude of the change in land values. A low standard deviation means there is a low range of values and therefore low uncertainty or risk about the magnitude of the change in land values.¹

The table below summarises the standard deviation in the change in land values from year-to-year for the period 2001-11 by property type.

	2001	2002	2003	2004	2005	2006	2007	2008	2009	2010	2011
Residential	10%	18%	30%	27%	16%	1,807%	25%	1,007%	885%	13%	1,749%
Business	12%	19%	49%	26%	25%	5,221%	29%	21%	19%	15%	16%
Industrial	12%	19%	26%	28%	30%	27%	169,524%	23%	13%	12%	585%
Non-Urban	15%	586%	881%	65%	2,649%	2,061%	1,659%	1,942%	2,069%	1,988%	308%
Other	17%	2,665%	1,810%	561%	45%	2,239%	34%	3,449%	356%	22%	2,683%

¹ See Appendix 2: Standard deviation definition for more information.

Conclusion: The table shows that in all periods and for all property types the standard deviation is greater than 5%. Given some of the extreme standard deviations presented, further analysis was conducted to determine whether volatility still existed if some of the extreme properties were removed.

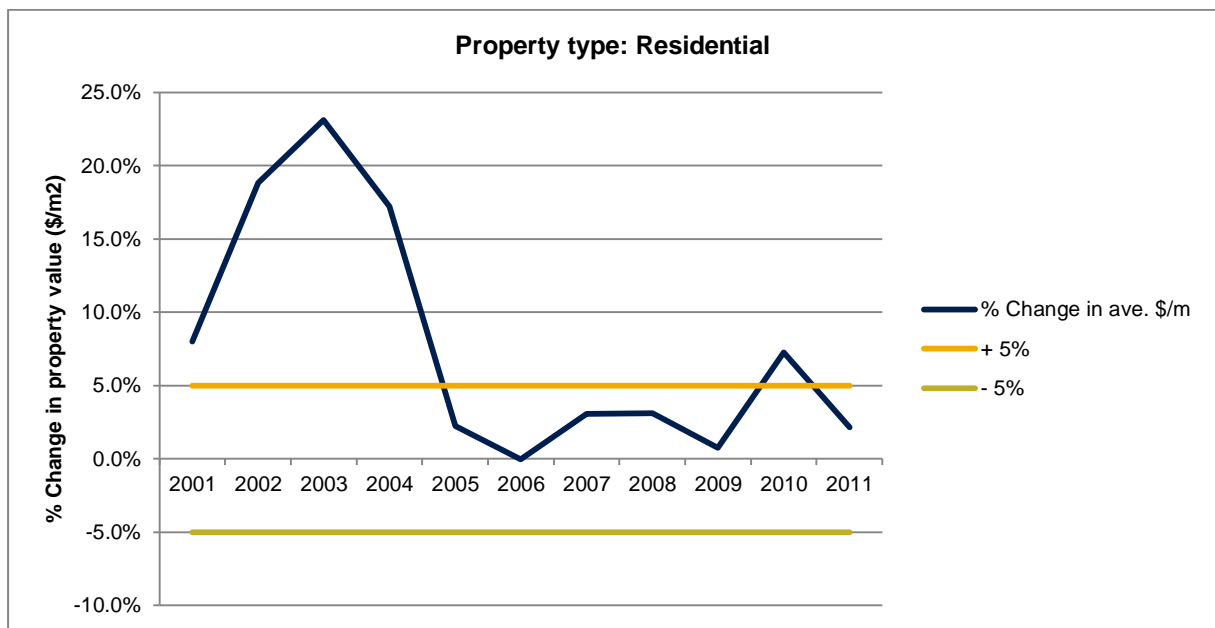
Specifically, we excluded any properties that had any information change about it during the period other than value. For the purposes of this analysis, it meant 500,000 records (approximately 25% of all records) were removed, and then standard deviation was re-calculated. The 500,000 were removed to reduce the number of variables involved, so that the calculation would be on records where the only variable was land value. The re-calculation resulted in the following table:

	2001	2002	2003	2004	2005	2006	2007	2008	2009	2010	2011
Residential	10%	17%	29%	24%	15%	16%	24%	10%	9%	8%	6%
Business	10%	18%	26%	20%	23%	21%	24%	16%	10%	14%	9%
Industrial	12%	16%	23%	27%	29%	26%	25%	22%	12%	11%	10%
Non Urban	15%	638%	24%	36%	23%	18%	21%	19%	21%	16%	15%
Other	16%	28%	35%	52%	41%	49%	30%	27%	32%	20%	19%

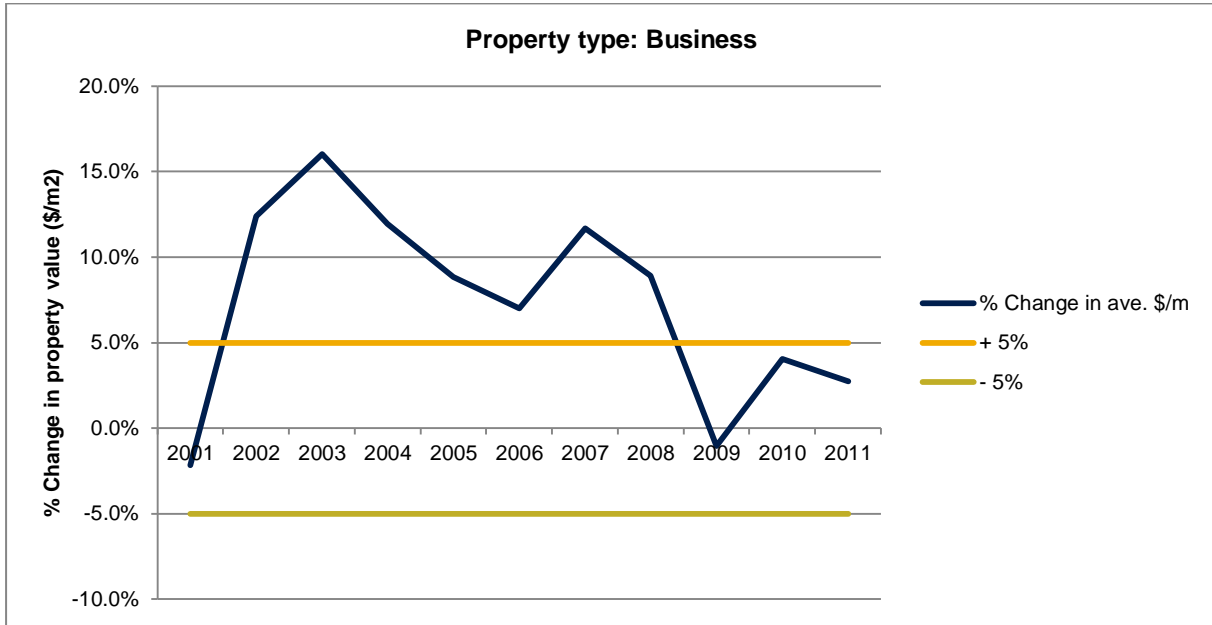
Conclusion: Even when all known variables were removed so that the only variable that existed in the population was land value, the standard deviations were still found to all be above 5% for all periods and property types. Based on the information available, it is not possible to attribute a potential cause(s) for this volatility. However, it is possible to conclude that there is significant volatility in the change in land values experienced by property holders. Given that this has not changed the conclusion the rest of the analysis presented with respect to Hypothesis 1 includes the 500,000 records excluded for the purposes of the above table.

Materially high levels of land value fluctuations

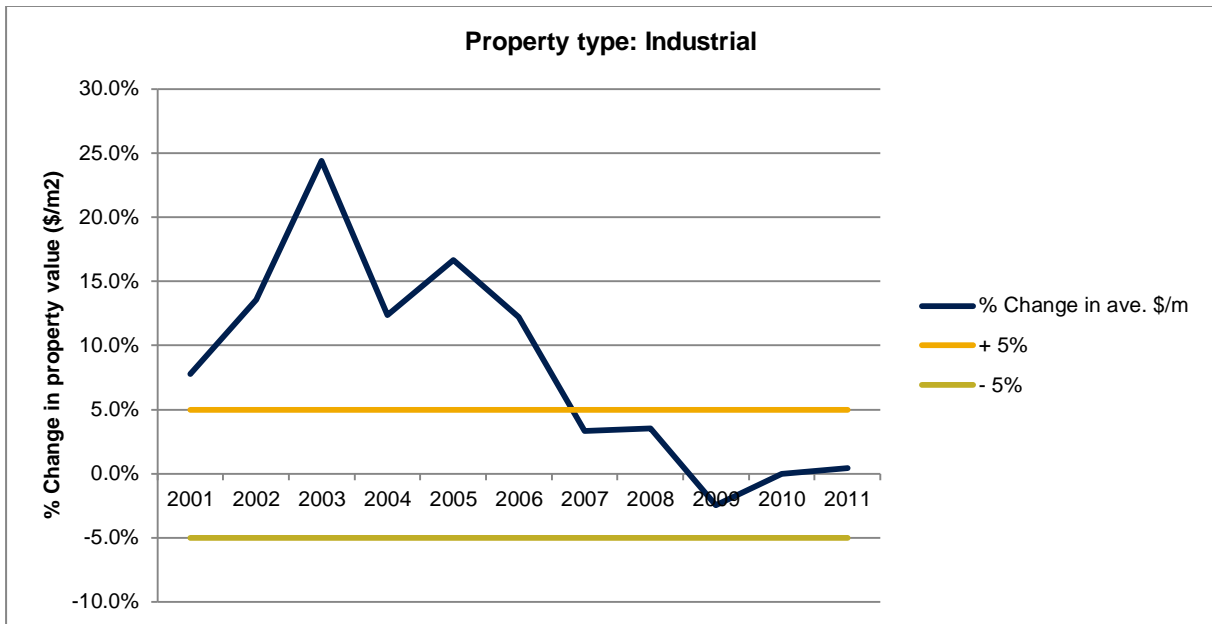
Fluctuation in land value is measured by the percentage change in average land value per square metre. The following graphs show the percentage change in average land value per square metre by property type for the period 2001-11.



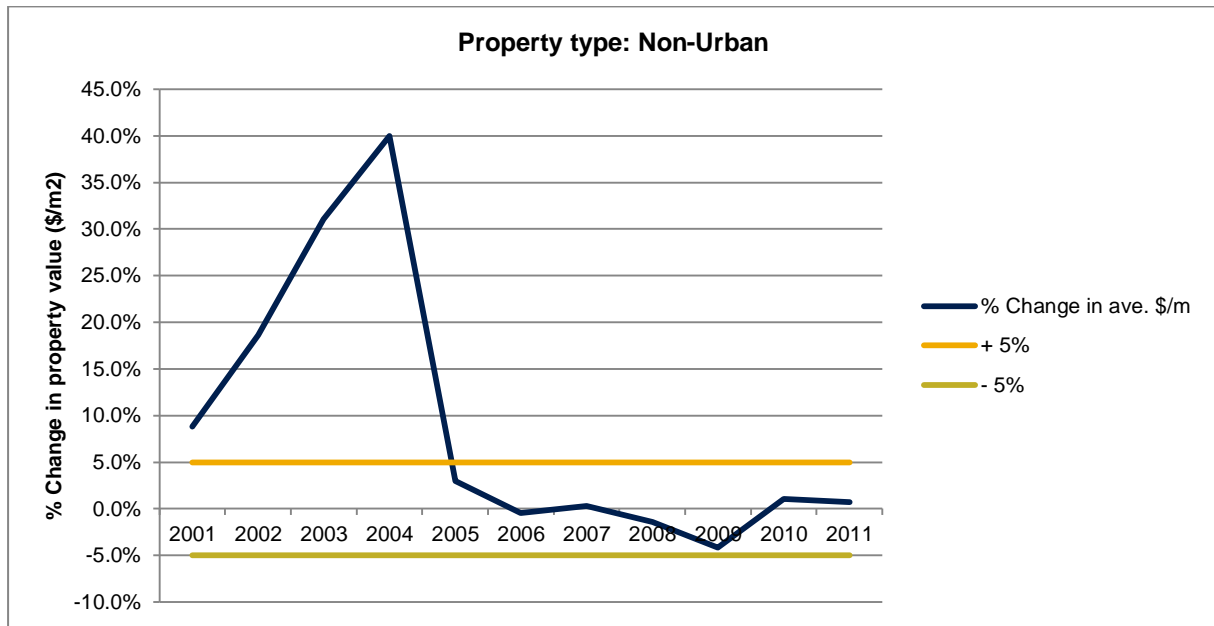
Conclusion: The above graph shows properties zoned as Residential experience materially high changes in value year-to-year between 2001-04 and in 2010.



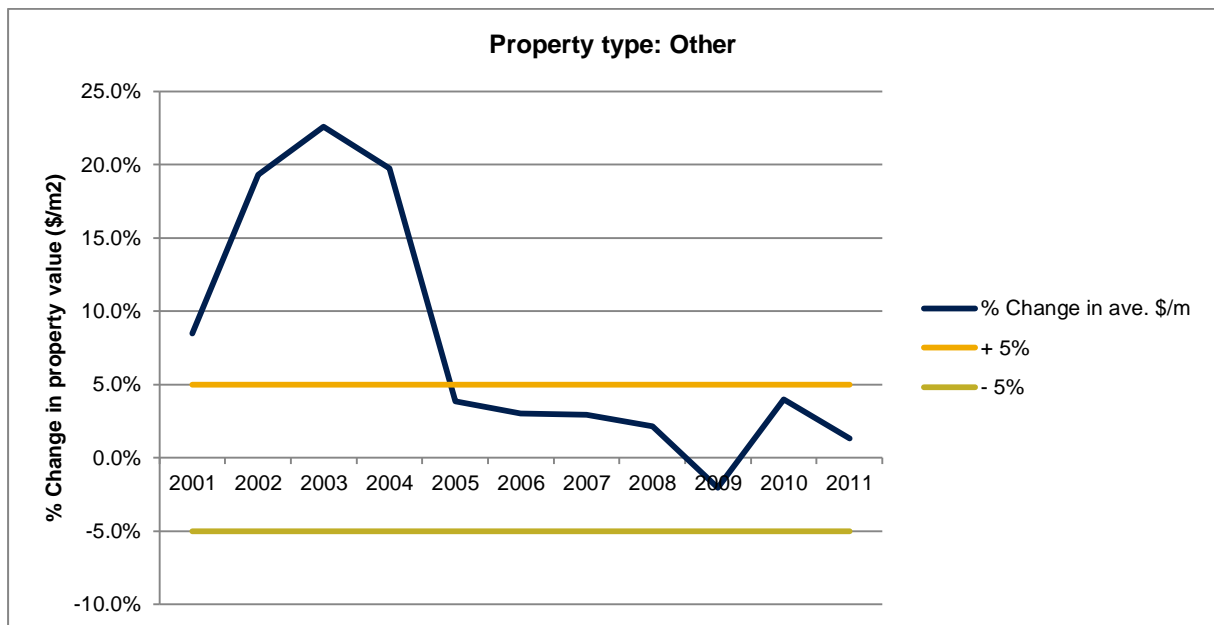
Conclusion: The above graph shows properties zoned as Business experience materially high changes in value year-to-year between 2002-08.



Conclusion: The above graph shows properties zoned as Industrial experience materially high changes in value year-to-year between 2001-06.



Conclusion: The above graph shows properties zoned as Non-Urban experience materially high changes in value year-to-year between 2001-04.



Conclusion: The above graph shows properties zoned as Other experience materially high changes in value year-to-year between 2001-04.

The above graphs for zones all indicate a material high change before 2005, and relatively low change during the more recent years. Although this is correct, recent years have still indicated high levels of material change and volatility. To illustrate this material volatility, the analysis looked at how many properties had very high growth.

		2007		2008		2009		2010		2011	
		Count	%	Count	%	Count	%	Count	%	Count	%
Residential	50-100%	6,405	0.50%	11,207	0.90%	1,005	0.10%	1,789	0.10%	1,292	0.10%
	100-1000%	12,288	1.00%	929	0.10%	628	0.00%	1,532	0.10%	641	0.10%
	1000+%	144	0.00%	36	0.00%	67	0.00%	40	0.00%	373	0.00%
Business	50-100%	1,314	0.30%	930	0.20%	24	0.00%	345	0.10%	203	0.10%
	100-1000%	544	0.10%	258	0.10%	128	0.00%	151	0.00%	86	0.00%
	1000+%	10	0.00%	11	0.00%	8	0.00%	4	0.00%	8	0.00%
Industrial	50-100%	1,314	4.50%	787	2.70%	10	0.00%	160	0.50%	90	0.30%
	100-1000%	325	1.10%	346	1.20%	63	0.20%	82	0.30%	54	0.20%
	1000+%	8	0.00%	7	0.00%	5	0.00%	3	0.00%	16	0.10%
All zones	50-100%	17,466	0.82%	18,966	0.89%	6,323	0.30%	5,783	0.27%	3,307	0.15%
	100-1000%	16,100	0.75%	4,496	0.21%	3,190	0.15%	3,163	0.15%	2,460	0.12%
	1000+%	257	0.01%	143	0.01%	175	0.01%	121	0.01%	607	0.03%

Conclusion: Over the period 2007-11, a large number of records experienced very high growth.

Fluctuations are widespread

Fluctuations are considered widespread if the percentage of property holders who experience material and volatile changes in land value is greater than 5% of the total population.

The table below shows the percentage of the population that experienced material increase in land value from year-to-year for the period 2001 to 2011.

	2001	2002	2003	2004	2005	2006	2007	2008	2009	2010	2011
% of population above 5% change in value	61%	83%	91%	91%	39%	28%	31%	24%	21%	38%	24%

Conclusion: As shown in the table above, greater than 5% of the population experienced greater than 5% percentage change in land value throughout the period 2001-11, peaking in 2003 and 2004 when 91% of properties experienced more than 5% growth. Therefore we can conclude based on the guidance provided by the Committee that the growth experienced by property holders is material and widespread.

Conclusion from hypothesis testing:

Based on the data provided, parameters agreed with the Committee and the analysis performed above, we conclude individual property holders experience material volatility in land values. However, based on the information available, it is not possible to attribute a potential cause(s) for this volatility

Hypothesis 2

That land values on the register have grown materially more than the market.

A comparison of land values to market values. This analysis should be performed:

- *For the State;*
- *For major population centres (Sydney, Newcastle, Wollongong, etc); and,*
- *For local areas (postcode or LGA).*

Where a statistically significant sample size is available, the analysis should also be segmented by property type:

- *Residential;*
- *Commercial; and,*
- *Industrial.*

Approach:

In determination of whether this hypothesis has been confirmed or rejected, the Committee has provided the following guiding principles:

- Major population centres: as defined by the Australian Bureau of Statistics – statistical divisions;
- It was not possible to obtain regional / LGA / postcode level data for property types other than residential as residential properties accounted for the majority (90%) of the market sales data available. As a result, the market data analysis in the report has been performed on residential data only;
- As there is minimal vacant land sales, comparison of land value changes and market values changes (which include building and land values) are assumed to be completely proportional;
- Correlation: Compute the correlation between the rate of change in land value as per the Valuer General register to the rate of change in land value as per Residex market data; and,
- Materially more than market: Where the annual rate of change in land value as per the Valuer General register exceeds +/- 5% the rate of change in land value as per Residex market data.

Results:
Correlation

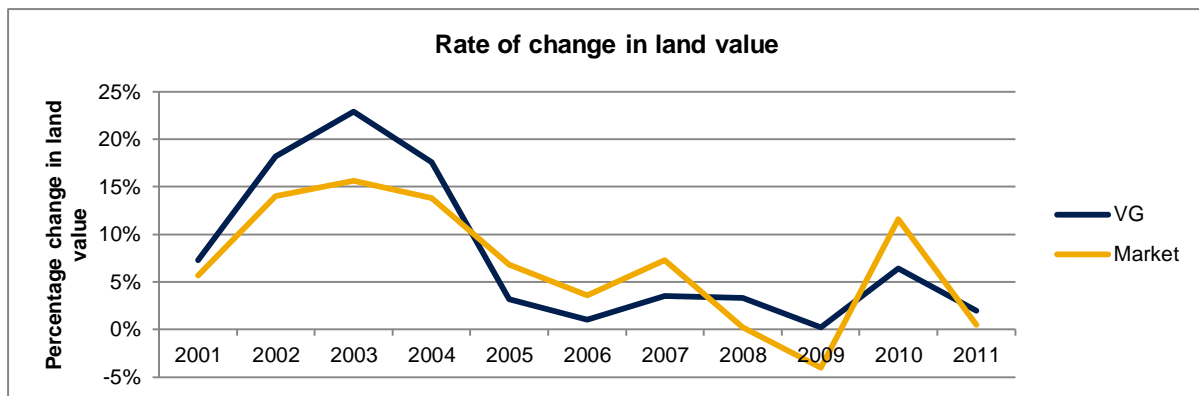
Correlation is the measure of how closely 2 values move in respect to each other. A high correlation, indicated by a value of 1, means 2 values move together at the same rate. A low correlation, indicated by a value of -1, means 2 values move completely opposite of each other. A value of 0, indicates no correlation exists, and that the 2 values move in randomly compared to each other.

The table below shows the correlation between the rate of change in land value as per the Valuer General register to the rate of change in land value as per Residex market data at the NSW state level (residential only).

	Valuer General (\$/m ²)	Market (\$/m ²)	Valuer General	Market
2000	234	347		
2001	251	367	7.3%	5.7%
2002	297	418	18.2%	14.0%
2003	365	484	22.9%	15.6%
2004	429	550	17.6%	13.8%
2005	443	588	3.2%	6.8%
2006	447	609	1.0%	3.6%
2007	463	654	3.5%	7.3%
2008	479	655	3.3%	0.2%
2009	479	629	0.2%	-4.0%
2010	510	702	6.4%	11.6%
2011	520	705	2.0%	0.5%
2012		698		-1.1%
Correlation	0.991		0.858	

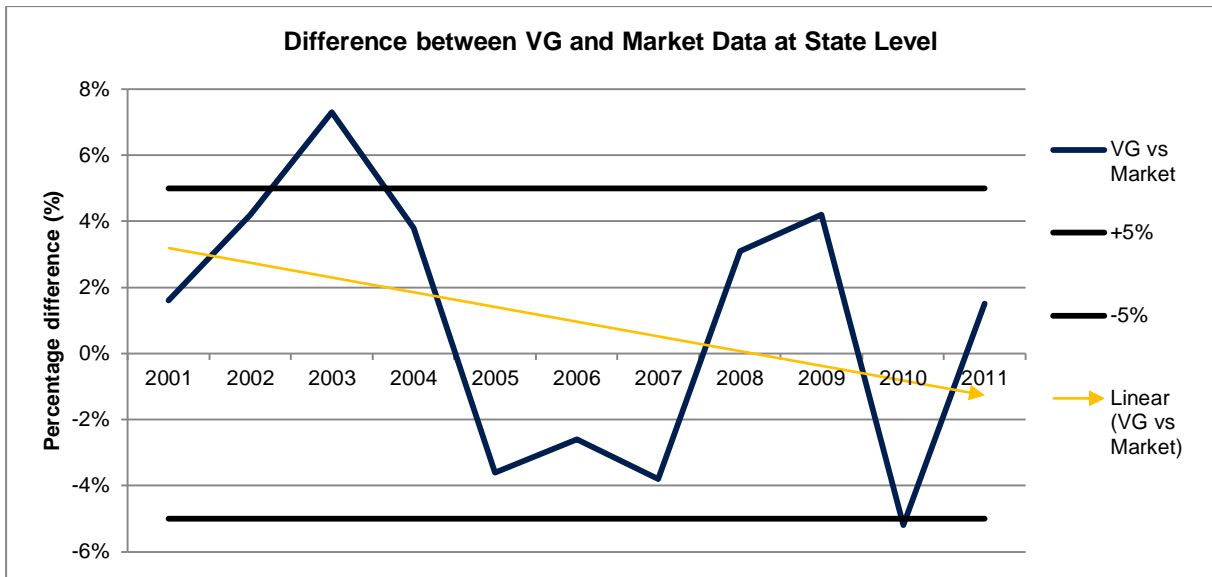
Conclusion: As shown in the table above, at a NSW state level, the correlation between the rate of change in land value as per the Valuer General register to the rate of change in land value as per Residex market data is positive and close to 1. This indicates that the two are highly correlated.

The following graph visually confirms the correlation and it can be seen that generally the two have moved together over the period 2001 to 2011.



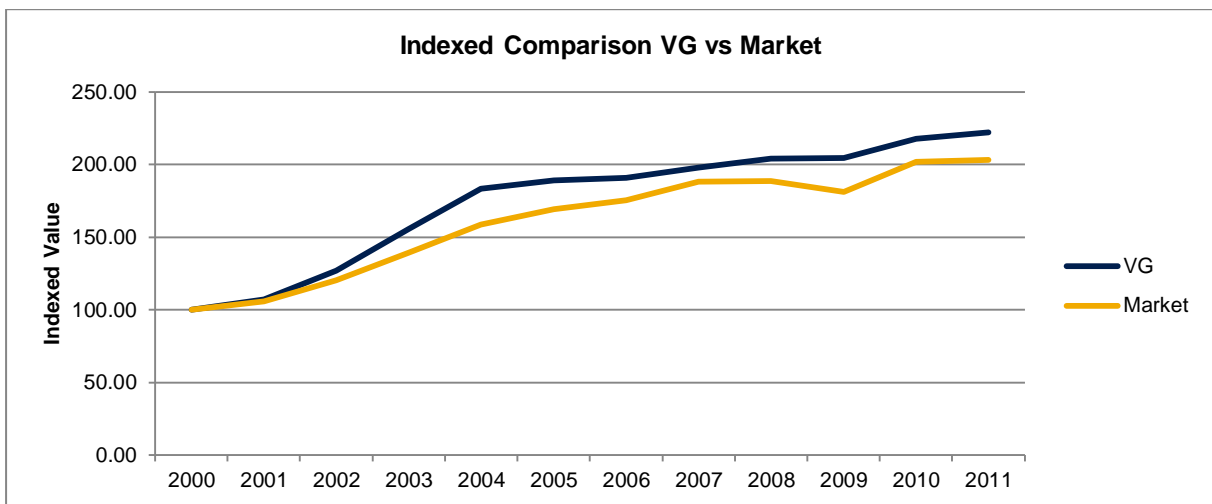
Materially more than market

The following graph shows at a State level where the annual rate of change in land value as per the Valuer General register exceeds +/- 5% the rate of change in land value as per Residex market data.



Conclusion: The graph demonstrates that at State level, the difference between the rate of change in land value as per the Valuer General register and market data have not been materially different, except in 2003 and 2010. Additionally, the trend has shown a general convergence in the rate of change over time.

Although this convergence of rates has shown that Valuer General and market data has had a 'to and fro' relationship, over time, with an indexed comparison, the result is as follows.



Conclusion: The graph demonstrates that at State level, during the 2000-11 period, that a \$100 residential investment in land would have resulted in a Valuer General valuation of \$222 in 2011, whereas market would have valued the land at \$203. Although this result demonstrates a difference of 19% at the end of the period, when viewed on an annual basis, represents an average difference of 1.7%, which by definition, is not a material difference.

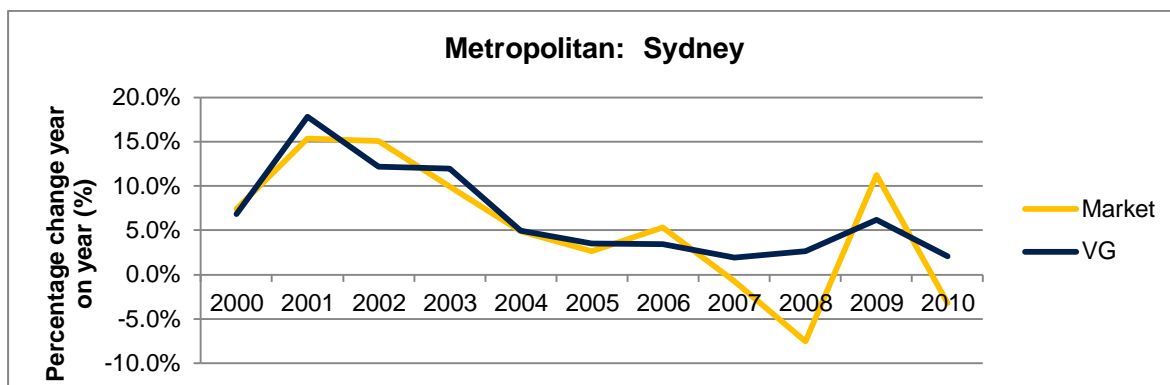
For the Metropolitan Areas

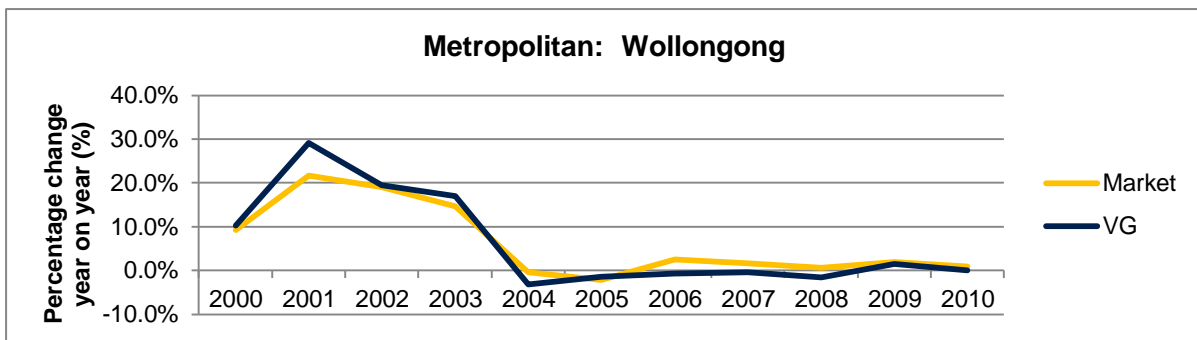
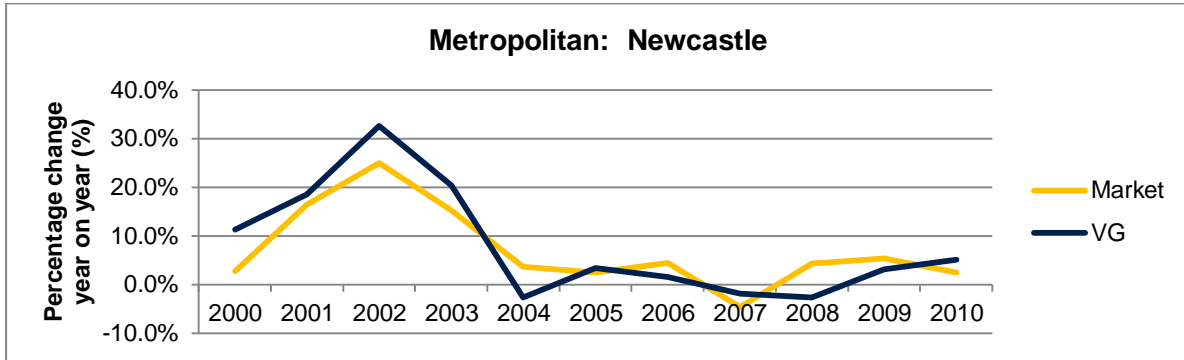
The analysis of the metropolitan areas began with the correlation measures.

	SYDNEY				NEWCASTLE				WOLLONGONG			
	VG	Market	VG	Market	VG	Market	VG	Market	VG	Market	VG	Market
2000	410	520			128	224			177	299		
2001	440	562	6.8%	7.4%	144	230	11.3%	2.8%	198	329	10.3%	9.2%
2002	535	664	17.8%	15.4%	177	276	18.6%	16.4%	279	420	29.1%	21.6%
2003	609	781	12.2%	15.0%	262	367	32.6%	25.0%	346	519	19.4%	19.1%
2004	692	868	12.0%	10.0%	330	433	20.4%	15.2%	418	609	17.1%	14.7%
2005	728	912	5.0%	4.9%	321	450	-2.6%	3.7%	405	607	-3.2%	-0.4%
2006	755	937	3.5%	2.7%	333	461	3.4%	2.5%	399	595	-1.4%	-2.1%
2007	782	990	3.5%	5.3%	338	483	1.6%	4.5%	396	610	-0.7%	2.6%
2008	797	983	1.9%	-0.7%	332	462	-1.8%	-4.6%	395	621	-0.4%	1.7%
2009	818	914	2.6%	-7.5%	324	483	-2.6%	4.4%	389	625	-1.6%	0.7%
2010	872	1030	6.2%	11.3%	334	511	3.2%	5.4%	395	637	1.5%	1.9%
2011	891	998	2.1%	-3.2%	352	524	5.1%	2.5%	395	643	0.1%	1.0%
2012		1043		4.3%		523		-0.2%		636		-1.2%
Correlation	0.978		0.837		0.982		0.907		0.984		0.984	

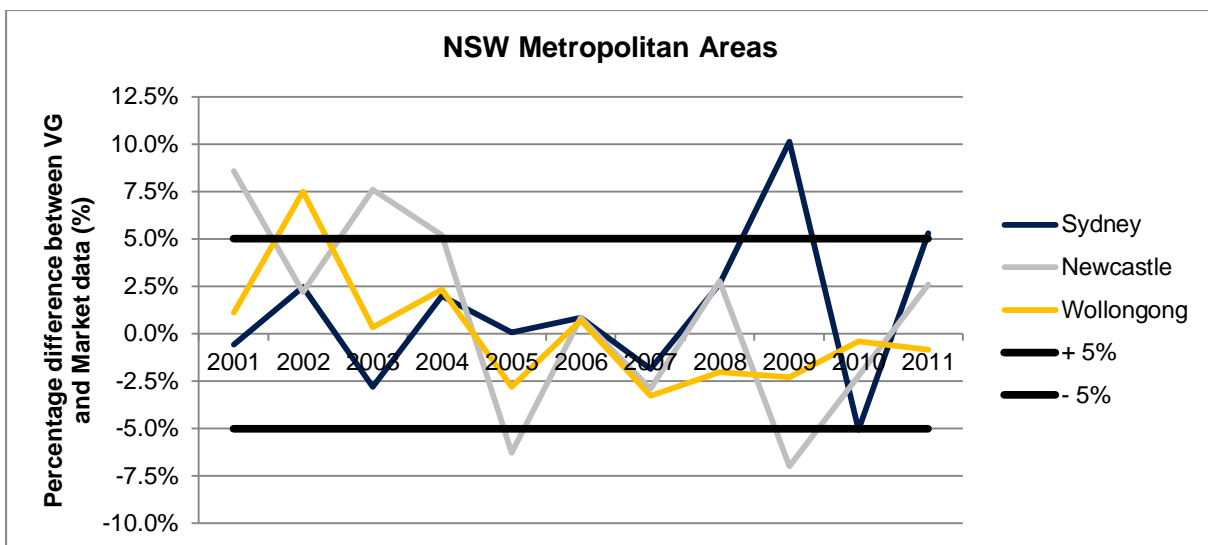
Conclusion: As shown in the table above, at a metropolitan level, the correlation between the rate of change in land value as per the Valuer General register to the rate of change in land value as per Residex market data is positive and close to 1. This indicates that the two are highly correlated.

Visually, the representations of the metropolitan areas are as follows.





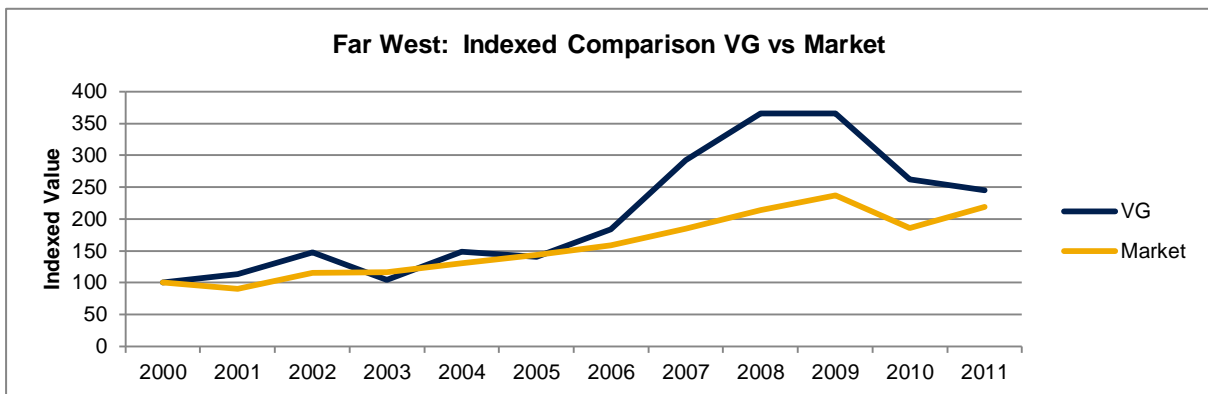
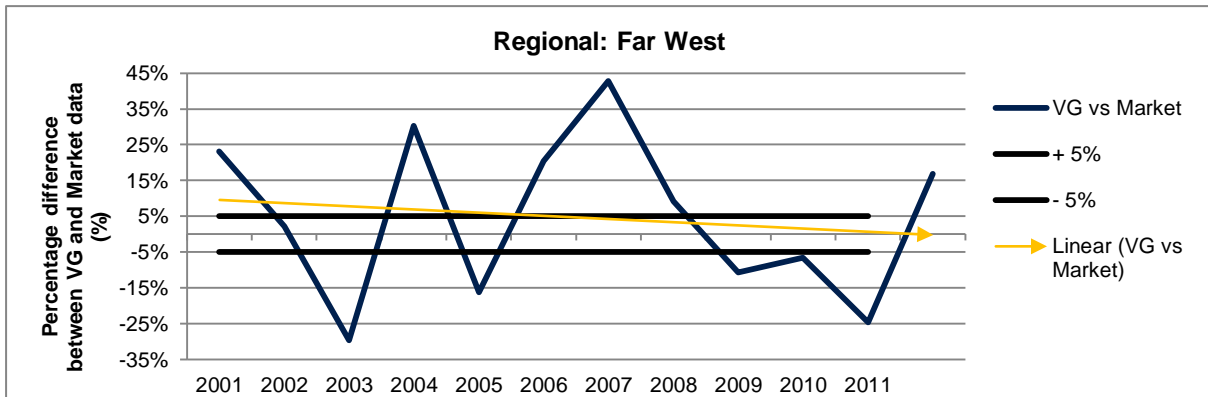
Conclusion: Again, from correlation and visual effect, the Valuer General and market data have trended in the same direction for most years. To better understand whether a material difference exists, the difference in values between Valuer General and market data is represented as follows:



Conclusion: In looking at the percentage differences in metropolitan areas, Sydney and Wollongong have both experienced minimal material differences between Valuer General and market data. They have each only experienced one year of difference, 2009 and 2002 respectively. In comparison, Newcastle has experienced multiple years of material growth differences in 2001, 2003, 2005 and 2009.

For regional areas:

At a regional level, we have found that material differences between Valuer General and market data exists, however it has not been possible to determine that in a particular region the land values as per the Valuer General has consistently outgrown the market or vice versa over time. This is consistent with the fact that over time, there is a strong correlation in land values. An analysis by region is included in Appendix 7, but by way of illustration, we have included the graph below for the Far West region where the correlation was lower (0.57).



Conclusion: In comparison on an annual basis, material differences can be found in the annual growth rates for some chosen years. However, as a general trend, and this exists for all regions, the comparison between Valuer General and market information shows that there is a balancing effect over time.

Conclusion from hypothesis testing:

Based on the data provided by the Valuer General and market data sourced from Residex, we have concluded that overall at the State and Metropolitan level, the land values as per the Valuer General register have not grown materially more than the market. This has been evidenced by the generally high levels of correlation between the sets of data at this level.

At the regional level, however, we have found correlation to be lower and that material differences between the land values as per the Valuer General and market data exists on an annual basis. However, over time it has not been determined that a particular region where the land values as per the Valuer General has consistently materially outgrown the market or vice versa over the period 2001 to 2011. And so, even though the correlation is lower at regional level, Valuer General valuations still have not materially outgrown the market.

Other Considerations

Extreme outlying property valuations

Properties which had growth higher than 20 times its value in 2000 or decreased in value by more than 90% have been separately identified as extreme outliers. The reasons for extreme variance cannot be deduced from the data set provided, but can be summarised as below.

Properties that grew by more than 20 times their value:

Region	Greater than 20 times growth			Greater than 100 times growth		
	Count	Average Value 2000	Average Value 2011	Count	Average Value 2000	Average Value 2011
Central West	74	5,984	222,272	Nil	Nil	Nil
Far West	168	1,499	59,880	8	618	105,087
Hunter	111	8,952	361,147	13	1952	331,092
Illawarra	62	16,733	532,552	5	4400	504,800
Mid-North Coast	17	3,543	109,964	1	100	25,000
Murray	24	17,252	649,320	Nil	Nil	Nil
Murrumbidgee	28	6,282	178,718	Nil	Nil	Nil
North Western	22	2,013	73,368	1	400	46,000
Northern	86	6,441	190,703	1	500	55,000
Richmond - Tweed	55	19,857	587,343	4	1180	275,500
South Eastern	62	5,265	160,942	5	1478	170,600
Sydney Inner	42	44,142	1,800,452	5	506	1,528,540
Sydney Outer	85	39,723	1,449,196	14	4295	945,607
Sydney Surrounds	40	4,541	174,385	2	160	28,500

Conclusion: As a consequence these properties have been excluded from the population so as not to distort the analysis.

Properties that declined in value by more than 90%:

Region	More than 90% decline			More than 98% decline		
	Count	Average Value 2000	Average Value 2011	Count	Average Value 2000	Average Value 2011
Central West	9	39,592	3,009	1	6,580	85
Far West	Nil	Nil	Nil	Nil	Nil	Nil
Hunter	45	175,302	7,015	7	324,828	1,573
Illawarra	619	16,580	921	Nil	Nil	Nil
Mid-North Coast	7	40,342	931	1	138,000	520
Murray	11	25,836	1,247	1	24,300	1
Murrumbidgee	1	15,800	500	Nil	Nil	Nil
North Western	Nil	Nil	Nil	Nil	Nil	Nil
Northern	2	47,450	3,080	Nil	Nil	Nil
Richmond - Tweed	1	50,000	3,600	Nil	Nil	Nil
South Eastern	8	34,756	1,178	5	19,150	1
Sydney Inner	10	647,820	42,735	1	38,000	100
Sydney Outer	64	678,154	22,025	3	5,135,033	3,684
Sydney Surrounds	21	71,171	4,614	1	8,140	120

Conclusion: As illustrated, a number of properties have experienced extreme growth or decline in value. For approximately 50% of these records, they have changed value within a year of a change of zoning type, which on the face of it could be a reason for change in value. However, even after allowing for change in value as a result of a change in zoning utilising market data the change in value of these extreme growth or decline in value properties cannot be explained. Therefore, it is unlikely that the change in value is attributable to a change in zoning despite the change occurring within a year of a change in zoning.

Without speculation, reasons or patterns for the growth and decline cannot be determined from the data and therefore no further investigation can be made into these properties. As a consequence these properties have been excluded from the population so as not to distort the analysis.

Use of construction index as an input to market data to deduce land value

As it was considered that the majority of properties in NSW were market valued including house or building values, the testing of the hypotheses investigated the use of construction prices in an attempt to remove building price from market values.

Using information sourced from:

<http://www.homedesigndirectory.com.au/calculators/ConstructionCostEstimatorPage2.shtml>

It indicates cost of construction is \$1,759/m² of constructed housing property. This is based on an average home, with standard construction material and average land condition, in the ratio of 76.2% of internal living space (rooms, halls, kitchen, and bathrooms), 4.8% of outdoors space (verandas, patios) and 19% garage / storage space.

However, given that each building has a different ratio of size in relation to property – that is, urban homes are more likely to take up more area per property than country homes – it is difficult understand the relationship between construction area and property area.

Also, construction value will vary depending on factors of the constructed property. As noted by tax laws, constructed property is depreciated at a different rate depending on age of property, type of property and other reasons. This depreciated value represents a realistic figure of constructed value, however without details such as age and construction type in the data, it is unknown how to value the constructed building. As such, constructed value has not been included in the hypotheses testing.

Duplicate Records

Four duplicate properties were identified in the data provided by the Valuer General and have been excluded from the analysis. It is recommended that these properties be investigated to identify the reason for their occurrence. The system should prevent such instances from occurring.

Appendix 1A – Data Manipulation Steps

In receiving the data from the Committee, we have detailed the procedures used in manipulating the data into a workable format below:

1. Received information from the Committee in .dat format
2. Loaded data into SQL Server database
3. Checked count of records matched count from raw files from the Committee.
4. Validated data
 - a. Checked all records had property ID. No null property ID's found.
 - b. Identified duplicate property ID's. Removed duplicate from analysis
 - c. Validated postcodes. Less than 0.1% of records found to not have a valid postcode as either non-sensical (ie. Postcode of 0, 9999, alphabetic) or not in NSW according to census data (ie. In Victoria 3xxx or Queensland 4xxx). Removed records from analysis.
 - d. Identified duplicate addresses. Approximately 3% of records found to have duplicate addresses. Noted for record, not removed from analysis.
5. Retrieved data from NSW Department of Premier and Cabinet to determine regional areas and LGA relationships for simpler breakdown and identification of areas in NSW.

Appendix 1B – Consultation

During the course of the engagement, the identified Committee members and staff have been recorded as below.

Role	Stakeholder	Title
Committee Members	Mr Matt Keane (Chairman)	Member for Hornsby
	Mrs Leslie Williams	Member for Port Macquarie
	Mr Clayton Barr	Member for Cessnock
	The Hon Scot MacDonald	Member of Legislative Council
	The Hon Adam Searle	Member of Legislative Council
Committee Staff	John Miller	Acting Inquiry Manager
	Helen Minnican	Clerk-Assistant (Committees)
	Rachel Simpson	Director (Committees)
	Jenny Whight	Committee Officer
Project Team	Rahavan Yoganathan	Partner
	Karl Adolfsson	Partner
	Eddy Moh	Senior Manager

Crowe Horwath, where appropriate, has met and engaged the members with the understanding to only contact as necessary due to time constraints and commitments of parliament sittings for the Committee members.

Date	Attendees	Reason for meeting
15-February	John Miller Karl Adolfsson Eddy Moh	Pick up data from the Committee
21-February	Matt Keane Leslie Williams Helen Minnican Rachel Simpson John Miller Rahavan Yoganathan Eddy Moh	Kick- off meeting and validation of scope
25-February	John Miller Eddy Moh	Status update. Decision made to put engagement on hold to wait for updated data set.
5-March	John Miller Eddy Moh	Status update.
12-March	John Miller Eddy Moh	Meeting to retrieve new data set.
18-March	John Miller Rahavan Yoganathan Eddy Moh	Conference call to update status and finalise time for deliverable

Date	Attendees	Reason for meeting
21-March	Matt Keane Clayton Barr Scot MacDonald John Miller Helen Minnican Rachel Simpson Jenny Whight Rahavan Yoganathan Eddy Moh	Meeting to discuss details in the report and answer questions from the Committee

Appendix 2 – Standard Deviation Definition

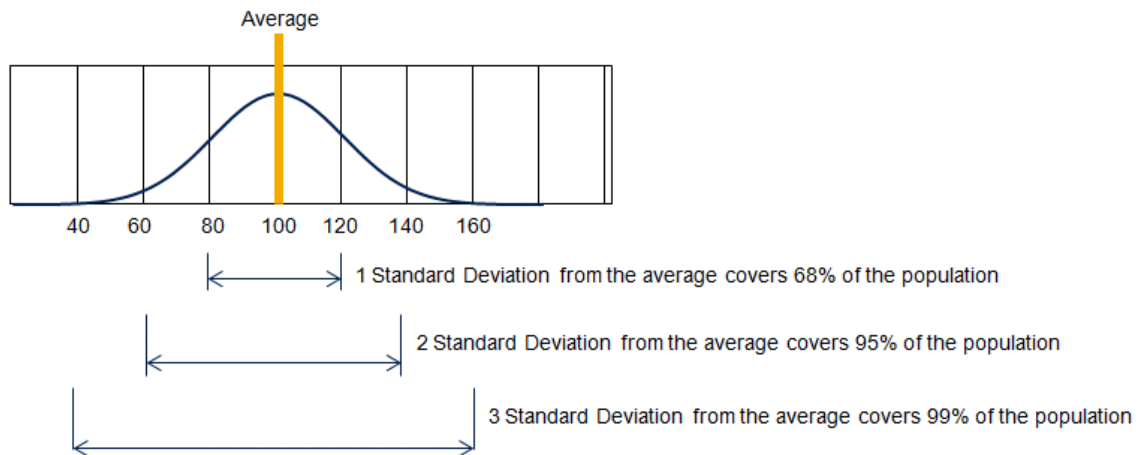
Standard deviation has been used as the main calculator to determine volatility. This definition of volatility has been taken from InvestorWords.com.

<http://www.investorwords.com/5256/volatility.html>

Volatility is the relative rate at which price moves up or down. It is found by calculating annualised standard deviation of change in price. If the price moves and up rapidly over short time periods, it has high volatility. If the price hardly changes, it has low volatility.

Consequently, standard deviation has been used during the course of the analysis. To assist with the understanding of standard deviation, the following example has been developed.

If a sample population has an average value of 100, and a standard deviation of 20, then 68% of the sample population have a value between 80 and 120. The values of 80 and 120 are said to be one standard deviation away from the average, as calculated by the average minus one standard deviation ($100 - 20 = 80$) and average plus one standard deviation ($100 + 20 = 120$). Additionally, 95% of the sample population fall within 2 standard deviations from the average, which in this example, means 95% of sample fall between 60 and 140. Lastly, 99.7% of records fall within 3 standard deviations, meaning in this example, 99.7% of records exist between 40 and 160. The summary of how this example looks is below.



Appendix 3 – Data summarised by LGA

The attached file contains data for the period 2000-12 for each LGA.

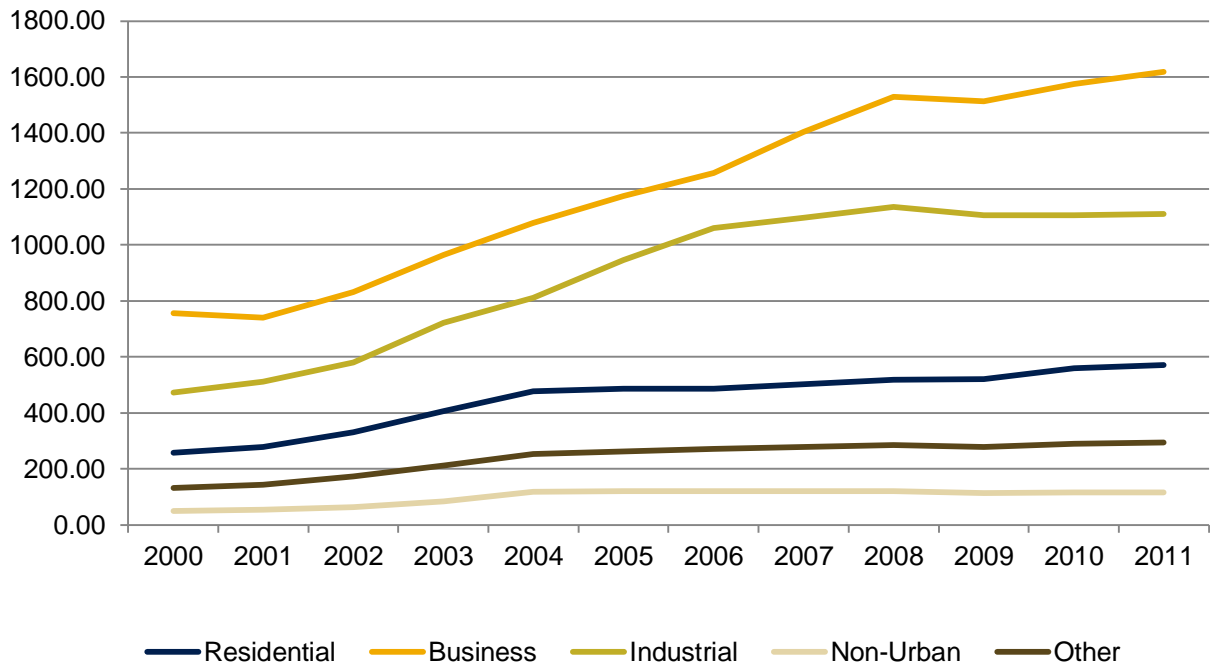


JSCOVG - LGA level
data.xlsx

- **VG % Growth:** For Valuer General provided data, the percentage growth from year to year for each LGA and zone.
- **VG % Std Dev:** For Valuer General provided data, the standard Deviation of the year to year growth for each year, by LGA and zone
- **VG \$m:** For Valuer General provided data, the value of each square metre of property for each year, by LGA and zone.
- **VG 50-100% increase:** For Valuer General provided data, the number of properties that increased by 50-100% for the given year by LGA.
- **VG 100-1000% increase:** For Valuer General provided data, the number of properties that increased by 100-1000% for the given year by LGA.
- **VG more than 1000% increase:** For Valuer General provided data, the number of properties that increased by more than 1000% for the given year by LGA.
- **Market % Growth:** For Market provided data, the percentage growth from year to year for each LGA.
- **Market \$m:** For Market provided data, the value of each square metre of property for each year, by LGA.
- **VG vs Market:** From both Valuer General and Market data, the difference in growth rate for each year by LGA.

Appendix 4 – Property Type Comparison of Valuer General data

Price per Square Meter by Property Type (\$/m²)



Appendix 5A – Residential Market data

Year	Number of Sales	Average Sale Price	Standard Deviation Sale Price	Average Land Area Sold(m ²)	Standard Deviation Land Area Sold (m ²)	Average Sale Price per Square Metre (\$/m ²)
2000	111,461	280,995	629,056	881	1,868	319
2001	111,735	304,395	529,810	887	2,077	343
2002	151,110	350,532	593,960	1,038	3,149	338
2003	144,935	408,309	639,978	1,123	3,559	363
2004	104,835	453,426	725,087	994	2,733	456
2005	93,674	468,400	735,785	915	2,179	512
2006	98,116	476,432	716,929	883	1,972	540
2007	107,474	534,102	929,101	878	2,010	608
2008	87,399	520,290	784,870	882	1,912	590
2009	108,165	510,596	947,668	876	1,972	583
2010	100,236	596,958	1,219,303	954	2,546	626
2011	94,437	560,076	740,060	935	2,503	599
2012	91,629	554,254	665,676	899	2,254	617

Appendix 5B – Commercial Market data

Year	Number of Sales	Average Sale Price	Standard Deviation Sale Price	Average Land Area Sold(m ²)	Standard Deviation Land Area Sold (m ²)	Average Sale Price per Square Metre (\$/m ²)
2000	2,662	887,542	2,660,501	1,096	2,489	810
2001	2,473	880,991	1,943,190	1,209	3,213	729
2002	3,698	1,026,067	2,191,610	1,176	3,273	872
2003	3,825	1,046,259	1,991,616	1,318	3,429	794
2004	2,985	1,160,677	2,499,681	1,297	3,788	895
2005	2,543	1,418,731	3,087,357	1,554	4,613	913
2006	2,587	1,476,885	3,181,243	1,366	4,106	1,081
2007	3,227	1,778,012	4,049,968	1,214	3,340	1,465
2008	2,166	1,537,635	3,630,336	1,298	3,621	1,185
2009	1,996	1,286,546	2,996,404	1,057	2,232	1,217
2010	2,577	1,570,417	3,456,294	1,277	3,232	1,230
2011	2,416	1,737,724	3,891,993	1,369	3,543	1,269
2012	2,291	1,862,756	4,047,582	1,400	3,512	1,331

Appendix 5C – Industrial Market data

Year	Number of Sales	Average Sale Price	Standard Deviation Sale Price	Average Land Area Sold(m ²)	Standard Deviation Land Area Sold (m ²)	Average Sale Price per Square Metre (\$/m ²)
2000	2,076	891,042	2,332,133	4,084	8,453	218
2001	1,795	1,111,835	3,036,528	3,918	7,547	284
2002	2,680	1,111,940	2,677,940	3,949	7,270	282
2003	2,805	1,045,082	2,316,094	3,953	7,499	264
2004	2,655	1,303,899	3,259,612	4,388	7,507	297
2005	2,125	1,413,539	3,258,694	4,505	8,107	314
2006	2,467	2,005,531	5,174,530	4,349	8,031	461
2007	2,752	1,844,428	4,214,006	4,303	8,168	429
2008	1,856	1,712,709	3,685,551	4,182	7,806	410
2009	1,592	1,753,225	3,927,988	4,227	7,530	415
2010	1,857	1,567,592	3,308,040	4,310	7,853	364
2011	1,660	1,605,855	3,647,710	3,992	7,506	402
2012	1,611	1,520,178	3,440,371	4,347	8,080	350

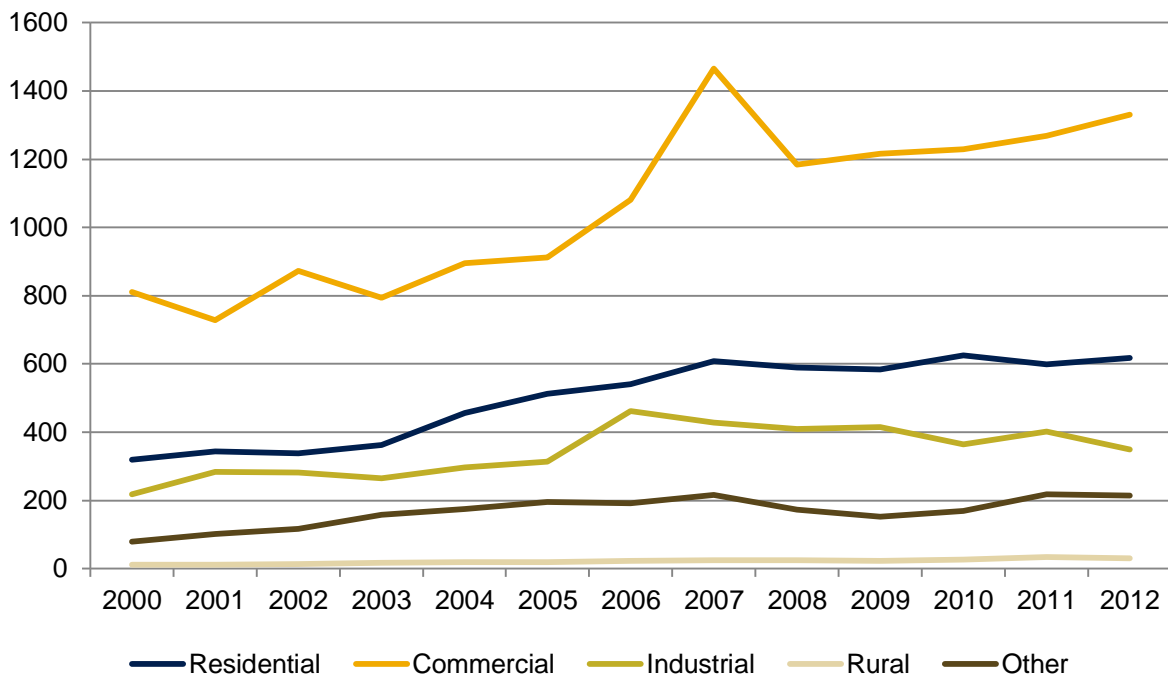
Appendix 5D – Rural Market data

Year	Number of Sales	Average Sale Price	Standard Deviation Sale Price	Average Land Area Sold(m ²)	Standard Deviation Land Area Sold (m ²)	Average Sale Price per Square Metre (\$/m ²)
2000	8,117	280,035	562,323	25,781	21,406	11
2001	8,508	294,753	500,822	25,806	20,962	11
2002	11,732	343,614	617,378	26,311	21,465	13
2003	11,797	431,344	864,319	26,093	21,488	17
2004	9,663	514,203	972,660	26,428	22,583	19
2005	8,359	547,140	958,476	26,954	22,449	20
2006	8,579	611,066	1,198,805	27,169	22,838	22
2007	9,322	652,438	1,122,698	26,246	21,877	25
2008	7,933	636,191	1,200,761	26,710	22,600	24
2009	8,434	576,685	922,929	26,285	21,965	22
2010	8,875	705,774	1,502,708	27,041	22,476	26
2011	8,379	921,370	2,683,017	26,586	22,232	35
2012	8,937	773,870	2,280,937	24,791	22,071	31

Appendix 5E – Other Market data

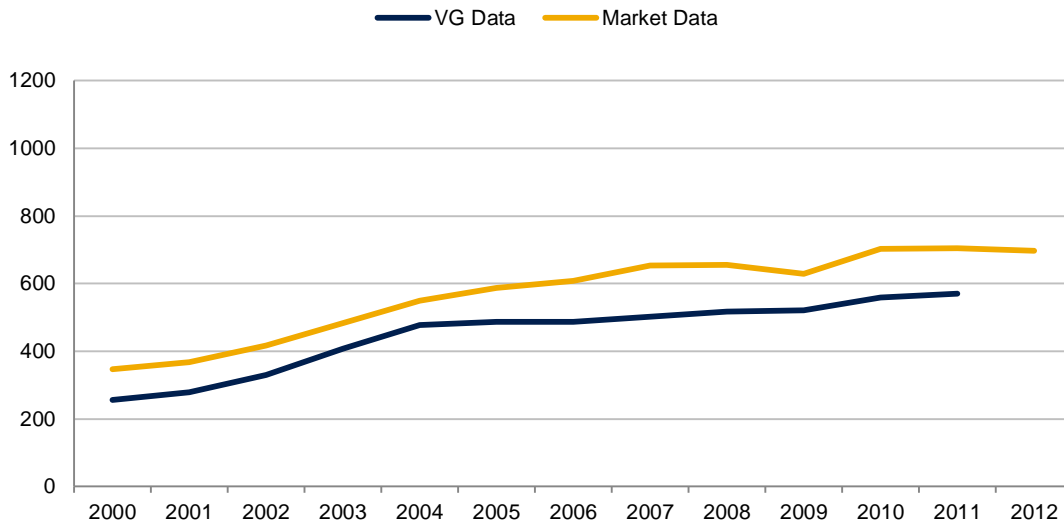
Year	Number of Sales	Average Sale Price	Standard Deviation Sale Price	Average Land Area Sold(m ²)	Standard Deviation Land Area Sold (m ²)	Average Sale Price per Square Metre (\$/m ²)
2000	1,703	727,479	2,285,182	9,088	17,432	80
2001	1,604	849,074	2,331,802	8,374	16,047	101
2002	2,210	984,012	2,815,940	8,453	16,116	116
2003	2,146	1,204,780	3,457,042	7,625	14,605	158
2004	1,679	1,280,083	3,316,598	7,327	14,080	175
2005	1,598	1,558,359	4,141,611	7,947	15,317	196
2006	1,648	1,404,772	3,487,210	7,364	14,961	191
2007	1,887	1,626,264	3,882,829	7,520	14,691	216
2008	1,510	1,460,069	3,572,297	8,462	16,232	173
2009	1,732	1,253,548	3,222,527	8,225	15,334	152
2010	1,689	1,350,138	3,415,852	8,000	14,999	169
2011	1,578	1,362,451	3,675,812	6,260	13,076	218
2012	1,545	1,468,146	3,681,984	6,847	13,968	214

Appendix 5F – Property Type Comparison of Market Data



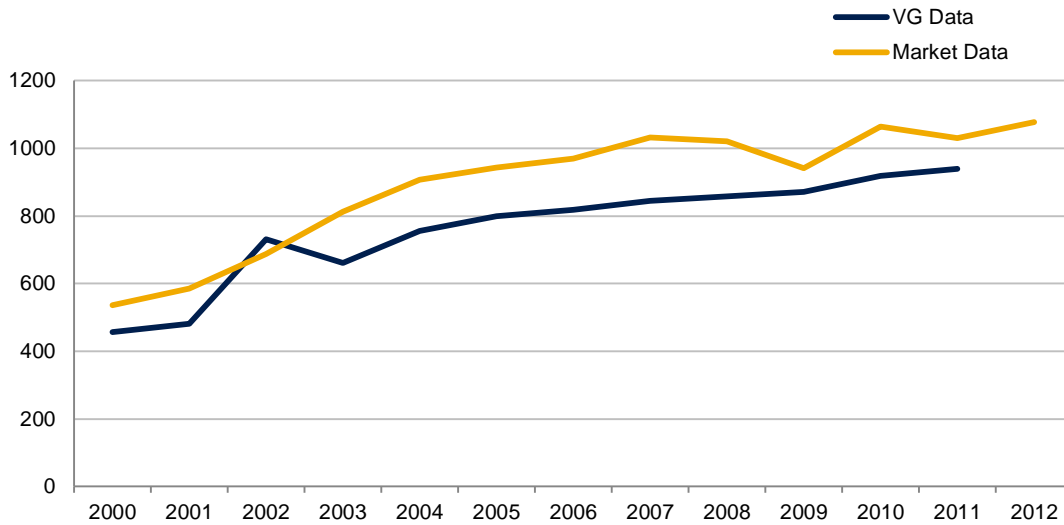
Price per Square Meter by Property Type (\$/m²)

Appendix 6A – NSW Residential Price per Square Metre



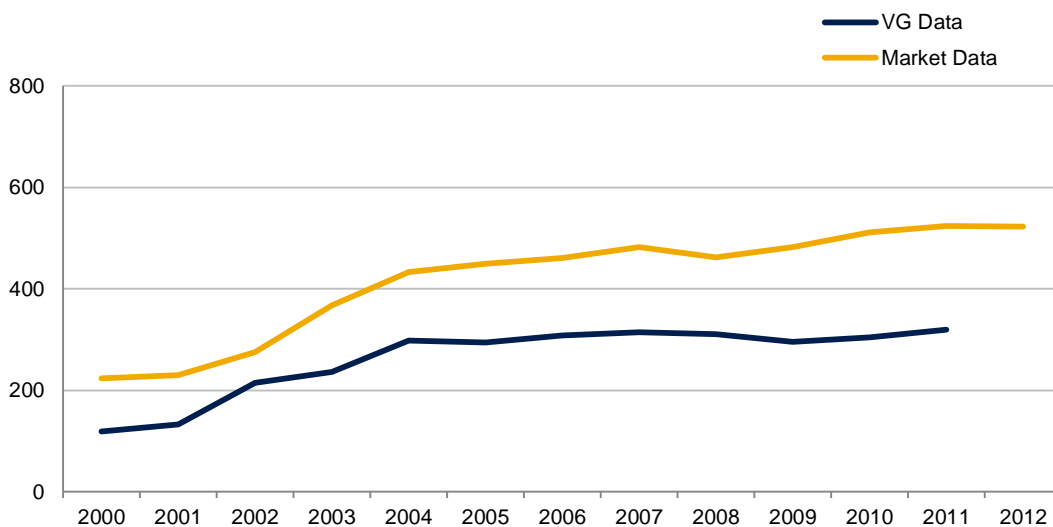
VG Data	257	278	330	407	477	487	487	502	518	521	559	571	
Market Data	347	367	418	484	550	588	609	654	655	629	702	705	698

Appendix 6B – Sydney Metropolitan Residential Price per Square Metre



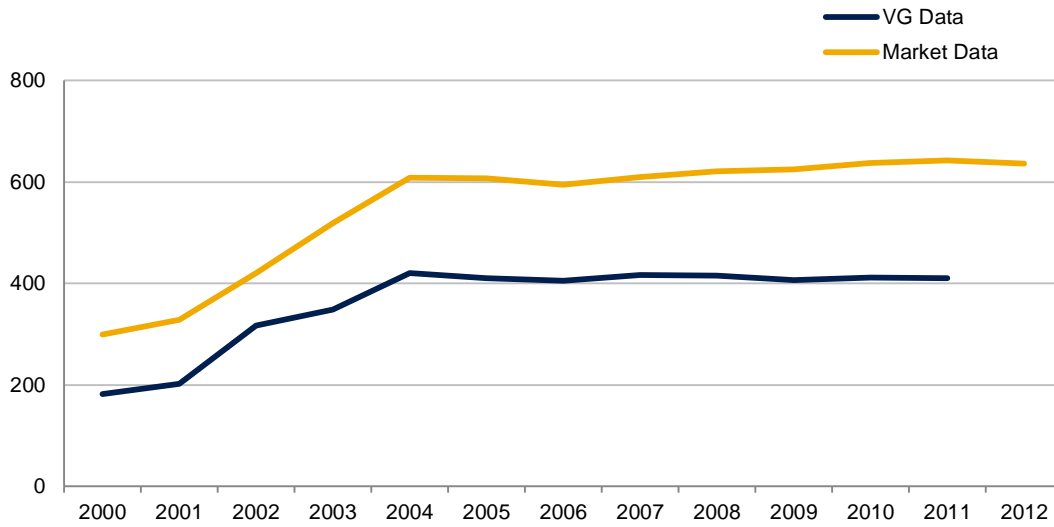
VG Data	456	482	732	662	755	799	818	844	858	871	918	940	-
Market Data	537	585	688	813	907	944	969	1032	1020	941	1064	1031	1078

Appendix 6C – Newcastle Metropolitan Residential Price per Square Metre



VG Data	119	133	215	237	298	295	308	315	311	296	305	320	-
Market Data	224	230	276	367	433	450	461	483	462	483	511	524	523

Appendix 6D – Wollongong Metropolitan Residential Price per Square Metre



VG Data	182	202	317	349	421	410	406	417	416	407	412	411	-
Market Data	299	329	420	519	609	607	595	610	621	625	637	643	636

Appendix 7 – Regional Information

Central

		2000	2001	2002	2003	2004	2005	2006	2007	2008	2009	2010	2011
\$/m ²	VG	52.09	53.94	57.55	69.93	100.89	107.56	116.05	117.58	121.31	120.26	119.88	121.31
	Market	134.84	125.73	143.47	154.41	212.68	250.85	259.64	249.46	264.54	270.16	254.68	265.06
% change	VG		3.4%	6.3%	17.7%	30.7%	6.2%	7.3%	1.3%	3.1%	-0.9%	-0.3%	1.2%
	Market		-7.2%	12.4%	7.1%	27.4%	15.2%	3.4%	-4.1%	5.7%	2.1%	-6.1%	3.9%
% difference			10.7%	-6.1%	10.6%	3.3%	-9.0%	3.9%	5.4%	-2.6%	-3.0%	5.8%	-2.7%
Indexed	VG	100.00	103.43	109.93	129.38	169.09	179.57	192.70	195.21	201.21	199.45	198.82	201.17
	Market	100.00	92.76	104.22	111.61	142.19	163.82	169.37	162.46	171.72	175.29	164.64	171.08

Far West

		2000	2001	2002	2003	2004	2005	2006	2007	2008	2009	2010	2011
\$/m ²	VG	4.76	5.53	7.87	6.10	10.53	9.96	14.38	35.38	47.30	47.29	36.82	34.57
	Market	62.78	57.45	79.31	79.78	90.52	100.99	112.49	134.79	160.56	179.80	147.55	180.15
% change	VG		13.9%	29.7%	29.1%	42.1%	-5.8%	30.7%	59.4%	25.2%	0.0%	28.4%	-6.5%
	Market		-9.3%	27.6%	0.6%	11.9%	10.4%	10.2%	16.5%	16.0%	10.7%	21.9%	18.1%
% difference			23.2%	2.2%	29.7%	30.2%	16.1%	20.5%	42.8%	9.1%	10.7%	-6.6%	24.6%
Indexed	VG	100.00	113.90	147.75	104.76	148.87	140.28	183.40	292.29	365.90	365.89	261.84	244.79
	Market	100.00	90.72	115.73	116.41	130.22	143.72	158.41	184.62	214.25	237.18	185.34	218.88

Hunter

		2000	2001	2002	2003	2004	2005	2006	2007	2008	2009	2010	2011
\$/m ²	VG	123.04	137.95	169.08	252.86	316.93	311.45	322.84	330.33	324.45	316.61	327.03	345.42
	Market	177.82	179.36	195.70	256.21	330.85	342.45	358.46	357.53	356.98	381.17	392.70	406.46
% change	VG		10.8%	18.4%	33.1%	20.2%	-1.8%	3.5%	2.3%	-1.8%	-2.5%	3.2%	5.3%
	Market		0.9%	8.4%	23.6%	22.6%	3.4%	4.5%	-0.3%	-0.2%	6.3%	2.9%	3.4%
% difference			9.9%	10.1%	9.5%	-2.3%	-5.1%	-0.9%	2.5%	-1.7%	-8.8%	0.3%	1.9%
Indexed	VG	100.00	110.81	131.21	174.68	210.00	206.30	213.58	218.42	214.46	209.15	215.82	227.31
	Market	100.00	100.86	109.28	135.09	165.56	171.18	178.82	178.36	178.08	189.38	194.94	201.54

Illawarra

		2000	2001	2002	2003	2004	2005	2006	2007	2008	2009	2010	2011
\$/m ²	VG	139.26	156.78	239.08	299.31	373.89	363.17	355.12	352.17	349.27	341.98	346.50	347.03
	Market	198.13	203.70	275.91	368.49	405.19	425.82	424.27	443.10	430.95	430.10	431.95	437.94
% change	VG		11.2%	34.4%	20.1%	19.9%	-3.0%	-2.3%	-0.8%	-0.8%	-2.1%	1.3%	0.2%
	Market		2.7%	26.2%	25.1%	9.1%	4.8%	-0.4%	4.3%	-2.8%	-0.2%	0.4%	1.4%
% difference			8.4%	8.3%	-5.0%	10.9%	-7.8%	-1.9%	-5.1%	2.0%	-1.9%	0.9%	-1.2%
Indexed	VG	100.00	111.17	149.44	179.51	215.32	208.97	204.23	202.52	200.84	196.56	199.12	199.42
	Market	100.00	102.74	129.63	162.19	176.88	185.45	184.77	192.63	187.20	186.83	187.63	190.19

Mid-North

		2000	2001	2002	2003	2004	2005	2006	2007	2008	2009	2010	2011
\$/m ²	VG	84.38	87.82	123.22	187.55	240.44	246.47	233.08	230.95	234.82	231.42	237.10	236.15
	Market	118.09	122.31	125.91	171.18	252.90	277.17	280.33	253.10	277.91	299.04	305.93	317.69
% change	VG		3.9%	28.7%	34.3%	22.0%	2.4%	-5.7%	-0.9%	1.6%	-1.5%	2.4%	-0.4%
	Market		3.4%	2.9%	26.4%	32.3%	8.8%	1.1%	10.8%	8.9%	7.1%	2.3%	3.7%
% difference			0.5%	25.9%	7.9%	10.3%	-6.3%	-6.9%	9.8%	-7.3%	-8.5%	0.1%	-4.1%
Indexed	VG	100.00	103.91	133.76	179.64	219.16	224.52	211.62	209.67	213.12	210.00	215.03	214.16
	Market	100.00	103.45	106.41	134.54	178.02	193.61	195.79	174.73	190.33	203.78	208.37	216.08

Murray

		2000	2001	2002	2003	2004	2005	2006	2007	2008	2009	2010	2011
\$/m ²	VG	40.95	40.94	48.61	54.64	79.27	100.43	110.27	120.54	119.46	113.05	113.12	112.62
	Market	103.37	113.12	118.68	136.83	162.09	192.36	198.62	223.08	216.57	209.23	188.44	227.10
% change	VG		0.0%	15.8%	11.0%	31.1%	21.1%	8.9%	8.5%	-0.9%	-5.7%	0.1%	-0.4%
	Market		8.6%	4.7%	13.3%	15.6%	15.7%	3.2%	11.0%	-3.0%	-3.5%	11.0%	17.0%
% difference			-8.6%	11.1%	-2.2%	15.5%	5.3%	5.8%	-2.4%	2.1%	-2.2%	11.1%	17.5%
Indexed	VG	100.00	99.97	115.74	128.52	168.46	203.95	222.15	241.09	238.90	225.36	225.50	224.49
	Market	100.00	108.62	113.71	128.79	148.87	172.29	177.72	197.21	191.28	184.57	164.20	192.15

Murrumbidgee

		2000	2001	2002	2003	2004	2005	2006	2007	2008	2009	2010	2011
\$/m ²	VG	66.23	67.79	72.61	69.92	86.74	107.05	127.95	128.38	131.08	136.89	139.50	143.04
	Market	138.73	138.63	164.80	171.12	225.17	242.48	264.34	292.07	279.09	269.06	294.20	304.23
% change	VG		2.3%	6.6%	-3.8%	19.4%	19.0%	16.3%	0.3%	2.1%	4.2%	1.9%	2.5%
	Market		-0.1%	15.9%	3.7%	24.0%	7.1%	8.3%	9.5%	-4.7%	-3.7%	8.5%	3.3%
% difference			2.4%	-9.2%	-7.5%	-4.6%	11.8%	8.1%	-9.2%	6.7%	8.0%	-6.7%	-0.8%
Indexed	VG	100.00	102.30	109.09	104.90	125.24	149.00	173.34	173.92	177.50	185.04	188.49	193.17
	Market	100.00	99.93	115.80	120.07	148.90	159.53	172.72	189.12	180.32	173.60	188.43	194.65

North Western

		2000	2001	2002	2003	2004	2005	2006	2007	2008	2009	2010	2011
\$/m ²	VG	31.47	32.60	34.88	40.24	49.23	63.89	67.67	73.77	71.36	72.22	74.07	76.67
	Market	99.08	76.38	92.35	114.05	132.85	146.24	157.96	171.86	183.73	164.38	155.02	185.76
% change	VG		3.5%	6.5%	13.3%	18.3%	23.0%	5.6%	8.3%	-3.4%	1.2%	2.5%	3.4%
	Market		29.7%	17.3%	19.0%	14.2%	9.2%	7.4%	8.1%	6.5%	11.8%	-6.0%	16.5%
% difference			33.2%	10.8%	-5.7%	4.1%	13.8%	-1.8%	0.2%	-9.8%	13.0%	8.5%	13.2%
Indexed	VG	100.00	103.46	110.21	124.90	147.71	181.61	191.75	207.61	200.58	202.98	208.04	215.09
	Market	100.00	70.27	82.43	98.12	112.00	122.25	131.32	141.94	151.12	133.32	125.28	146.01

Northern

		2000	2001	2002	2003	2004	2005	2006	2007	2008	2009	2010	2011
\$/m ²	VG	34.85	35.27	38.25	40.78	54.03	62.86	71.86	79.76	81.07	82.99	84.94	86.56
	Market	101.86	91.49	105.70	119.89	151.14	171.37	202.55	205.47	207.97	218.55	186.44	246.47
% change	VG		1.2%	7.8%	6.2%	24.5%	14.1%	12.5%	9.9%	1.6%	2.3%	2.3%	1.9%
	Market		-	11.3%	13.4%	11.8%	20.7%	11.8%	15.4%	1.4%	1.2%	4.8%	17.2%
% difference			12.5%	-5.7%	-5.6%	3.8%	2.2%	-2.9%	8.5%	0.4%	-2.5%	19.5%	22.5%
Indexed	VG	100.00	101.18	109.06	115.84	144.24	164.51	185.11	203.45	206.73	211.52	216.38	220.43
	Market	100.00	88.66	100.58	112.49	135.75	151.78	175.14	177.63	179.76	188.46	156.01	194.00

Richmond-Tweed

		2000	2001	2002	2003	2004	2005	2006	2007	2008	2009	2010	2011
\$/m ²	VG	118.88	133.83	241.64	264.18	293.93	297.83	301.40	319.39	349.08	330.97	341.58	331.42
	Market	137.74	129.13	144.31	171.84	265.81	294.90	303.46	344.12	350.03	367.15	382.24	356.26
% change	VG		11.2%	44.6%	8.5%	10.1%	1.3%	1.2%	5.6%	8.5%	-5.5%	3.1%	-3.1%
	Market		-6.7%	10.5%	16.0%	35.3%	9.9%	2.8%	11.8%	1.7%	4.7%	3.9%	-7.3%
% difference			17.8%	34.1%	-7.5%	25.2%	-8.6%	-1.6%	-6.2%	6.8%	10.1%	-0.8%	4.2%
Indexed	VG	100.00	111.17	160.77	174.49	192.15	194.67	196.97	208.07	225.77	213.41	220.04	213.30
	Market	100.00	93.33	103.15	119.68	161.99	177.97	182.99	204.61	208.07	217.77	226.36	209.86

South Eastern

		2000	2001	2002	2003	2004	2005	2006	2007	2008	2009	2010	2011
\$/m ²	VG	60.02	63.76	80.39	147.81	195.50	195.93	197.77	201.07	206.89	201.74	198.67	200.28
	Market	107.73	122.59	142.83	175.48	211.75	254.01	273.14	291.28	275.28	298.02	297.80	308.65
% change	VG		5.9%	20.7%	45.6%	24.4%	0.2%	0.9%	1.6%	2.8%	-2.6%	-1.5%	0.8%
	Market		12.1%	14.2%	18.6%	17.1%	16.6%	7.0%	6.2%	-5.8%	7.6%	-0.1%	3.5%
% difference			-6.3%	6.5%	27.0%	7.3%	16.4%	-6.1%	-4.6%	8.6%	10.2%	-1.5%	-2.7%
Indexed	VG	100.00	105.87	127.77	186.05	231.44	231.94	234.11	237.94	244.63	238.39	234.71	236.59
	Market	100.00	112.12	128.01	151.83	177.83	207.42	221.95	235.77	222.07	239.01	238.83	247.23

Sydney Inner

		2000	2001	2002	2003	2004	2005	2006	2007	2008	2009	2010	2011
\$/m ²	VG	1003.96	1067.82	1300.26	1438.04	1578.58	1567.08	1558.69	1639.76	1777.10	1831.51	1969.84	2018.54
	Market	1319.07	1550.20	1790.51	2100.86	2170.29	2231.85	2364.89	2624.54	2570.42	2184.17	2458.46	2398.53
% change	VG		6.0%	17.9%	9.6%	8.9%	-0.7%	-0.5%	4.9%	7.7%	3.0%	7.0%	2.4%
	Market		14.9%	13.4%	14.8%	3.2%	2.8%	5.6%	9.9%	-2.1%	-17.7%	11.2%	-2.5%
% difference			-8.9%	4.5%	-5.2%	5.7%	-3.5%	-6.2%	-4.9%	9.8%	20.7%	-4.1%	4.9%
Indexed	VG	100.00	105.98	124.93	136.90	149.08	147.99	147.19	154.47	166.41	171.35	183.38	187.81
	Market	100.00	114.91	130.33	149.58	154.37	158.63	167.55	184.13	180.25	148.38	164.93	160.81

Sydney Outer

		2000	2001	2002	2003	2004	2005	2006	2007	2008	2009	2010	2011
\$/m ²	VG	323.16	346.49	417.73	472.78	545.70	536.04	523.86	531.24	522.66	537.37	565.44	577.21
	Market	415.39	457.99	548.11	647.51	733.17	743.64	753.65	766.91	744.79	752.05	828.18	808.00
% change	VG		6.7%	17.1%	11.6%	13.4%	-1.8%	-2.3%	1.4%	-1.6%	2.7%	5.0%	2.0%
	Market		9.3%	16.4%	15.4%	11.7%	1.4%	1.3%	1.7%	-3.0%	1.0%	9.2%	-2.5%
% difference			-2.6%	0.6%	-3.7%	1.7%	-3.2%	-3.7%	-0.3%	1.3%	1.8%	-4.2%	4.5%
Indexed	VG	100.00	106.73	124.94	139.48	158.12	155.27	151.66	153.77	151.24	155.38	163.10	166.42
	Market	100.00	109.30	127.27	146.81	163.96	166.27	168.48	171.40	166.30	167.91	183.34	178.77

Sydney Surrounds

		2000	2001	2002	2003	2004	2005	2006	2007	2008	2009	2010	2011
\$/m ²	VG	181.02	207.62	257.72	315.39	377.26	381.24	377.68	369.57	352.21	343.17	348.07	340.71
	Market	274.69	265.66	314.49	419.82	464.26	485.40	484.40	467.55	463.94	464.15	477.14	469.16
% change	VG		12.8%	19.4%	18.3%	16.4%	1.0%	-0.9%	-2.2%	-4.9%	-2.6%	1.4%	-2.2%
	Market		-3.4%	15.5%	25.1%	9.6%	4.4%	-0.2%	-3.6%	-0.8%	0.0%	2.7%	-1.7%
% difference			16.2%	3.9%	-6.8%	6.8%	-3.3%	-0.7%	1.4%	-4.1%	-2.7%	-1.3%	-0.5%
Indexed	VG	100.00	112.81	134.74	159.38	185.52	187.46	185.69	181.61	172.66	168.11	170.48	166.80
	Market	100.00	96.60	111.60	139.60	152.96	159.63	159.30	153.56	152.36	152.43	156.58	153.92

Appendix 8A – Regional Map of NSW



Sourced from NSW Department of Premier and Cabinet – Division of Local Government

http://www.dlg.nsw.gov.au/dlg/dlghome/dlg_regions.asp

Appendix 8B – Zone Legend

Aggregated Zone Code	Aggregated Zone Description	Zone Code	Zone Description
A	Residential	A	Residential
A	Residential	R1	General Residential
A	Residential	R2	Low Density Residential
A	Residential	R3	Medium Density Residential
A	Residential	R4	High Density Residential
A	Residential	R5	Large Lot Residential
B	Business	B	Business
B	Business	B1	Neighbourhood Centre
B	Business	B2	Local Centre
B	Business	B3	Commercial Core
B	Business	B4	Mixed Use
B	Business	B5	Business Development
B	Business	B6	Enterprise Corridor
B	Business	B7	Business Park

Aggregated Zone Code	Aggregated Zone Description	Zone Code	Zone Description
B	Business	B8	Metropolitan Centre
B	Business	C	Sydney Commercial / Business
B	Business	D	Mixed Use Development
B	Business	E	Employment
B	Business	M	Mixed Residential/Business
B	Business	T	North Sydney Commercial / Business
B	Business	V	Comprehensive Centre
I	Industrial	I	Industrial
I	Industrial	IN1	General Industrial
I	Industrial	IN2	Light Industrial
I	Industrial	IN3	Heavy Industrial
I	Industrial	IN4	Working Waterfront
I	Industrial	W3	Working Waterways
N	National Parks	E1	National Parks & Nature Reserves
N	National Parks	N	National Parks
O	Open Space	O	Open Space
O	Open Space	RE1	Public Recreation
O	Open Space	RE2	Private Recreation
O	Open Space	W	Reserve Open Space
O	Open Space	W2	Recreational Waterways
P	Protection	E2	Environmental Conservation
P	Protection	E3	Environmental Management
P	Protection	E4	Environmental Living
P	Protection	P	Protection
P	Protection	W1	Natural Waterways
R	Non Urban	R	Non Urban
R	Non Urban	RU1	Primary Production
R	Non Urban	RU2	Rural Landscape
R	Non Urban	RU3	Forestry
R	Non Urban	RU4	Rural Small Holdings
R	Non Urban	RU6	Transition
S	Special Uses	S	Special Uses
S	Special Uses	SP1	Special Activities
S	Special Uses	SP2	Infrastructure
S	Special Uses	SP3	Tourist
S	Special Uses	U	Community Uses
X	Reserved Roads	X	Reserved Roads
Y	Reserved Special Uses	Y	Reserved Special Uses
Z	Undetermined, or Village	RU5	Village
Z	Undetermined, or Village	Z	Undetermined, or Village

Information sourced from the Office of the Valuer General.

Appendix 9 – Presentation Material

During the course of the statistical review, Crowe Horwath has presented the following 2 presentation material.

Presentation 1: Meeting held at Parliament of NSW premises (dated 21 February 2013).



JSCOVG Meeting
Pack - 20130221.pdf

Presentation 1: Meeting held at Parliament of NSW premises (dated 21 March 2013).



JSCOVG Meeting
Pack - 20130321.pdf

Appendix 10 – Reviewed Documentation

The material provided by the Committee and assessed for the review during engagement:

- Proposed Terms of Reference for Analysis (January 2013)
- Issues Paper – Inquiry into the Land Valuation System (February 2013)

Appendix 11 – Document Revision History

Version Number	Date of Issue	Author(s)	Brief Description of Change(s)
0.1	05/03/2013	Crowe Horwath	Initial draft
0.2	19/03/2013	Crowe Horwath	Issued draft to the Committee
0.3	21/03/2013	Crowe Horwath	Updated with appendices and after received feedback
FINAL	28/03/2013	Crowe Horwath	Updated and finalised after feedback received feedback

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