

# Land Valuation Amendment Bill 2023

## Explanatory Notes

### Short title

The short title of the Bill is the Land Valuation Amendment Bill 2023.

### Policy objectives and the reasons for them

The *Land Valuation Act 2010* (Land Valuation Act) establishes a statutory land valuation framework to inform the calculation of state land tax, local government rates, and state land rent. Under the Act, the valuer-general has a general duty to independently decide the value of all land in a local government area for a statutory purpose. In undertaking this duty, the valuer-general makes decisions in relation to the configuration of land, including whether to combine lots, or separate parts of a lot, for valuation purposes.

Landowners have a right to object to the valuation of their land. There are both legislative and administrative mechanisms to assist with resolving objections, including the valuer-general's information-gathering powers, informal meetings, and independently chaired objection conferences designed to facilitate the exchange of information between the objector and the valuer-general. If the objector remains dissatisfied with the objection decision, they may appeal the decision to the Land Court of Queensland (Land Court).

The objectives of the Land Valuation Amendment Bill 2023 (the Bill) are to improve the administration and operation of the statutory land valuation framework by amending the Land Valuation Act to ensure:

- it is responsive to changes in the property market and operational environment and transparent in its operation;
- valuations are consistent and defensible, and the supporting processes such as objections and appeals are effective and efficient;
- a clear and consistent framework for determining when land is valued separately or combined based on land use and occupation.

A key component of the improvements will allow the valuer-general to make statutory guidelines to provide direction to registered valuers on processes, practices and considerations to be applied in the preparation of statutory land valuations. The need for such guidelines particularly relates to situations where there are complexities associated with the subject land.

Since 2010, the property market has experienced significant growth, development has become more intensive and complex, with mixed use, volumetric and transport-oriented developments becoming commonplace. The rural property market is also changing with carbon farming, solar farms, gas, and mineral extraction, uses often coexisting with traditional farming uses. The valuation of land has become increasingly complex reflecting the changes in the property market and operational environment.

Another key component is the improvements to the objections processes. In 2010, the Act introduced independently chaired objection conferences. This has been an effective mechanism at resolving objections, that reduces matters proceeding to the Land Court. The Bill makes several improvements to this process to enhance its effectiveness and efficiency by removing the arbitrary threshold for when the valuer-general must offer an objection conference to ensure the most appropriate mechanism is used to resolve an objection (regardless of the quantum of the valuation), encouraging participation in good faith and the disclosure of relevant information.

There are many examples where objectors do not reveal relevant information until it is disclosed through Land Court proceedings. Objection decisions made in the absence of relevant information increase the risk of appeals to the valuer-general's decision. Ensuring that all parties engage in the objection process and share relevant information in good faith would improve the objections process and realise greater efficiencies for all parties.

Other improvements are aimed at improving existing processes to enhance usability, certainty and provide clarity for landowners and local governments about what land is subject to a valuation and when land is valued separately or combined based on land use and occupation.

## **Achievement of policy objectives**

The objectives are given effect through the Bill, along with a range of supporting operational initiatives that will be implemented administratively, to deliver the following outcomes:

- A statutory land valuation framework that is purpose fit for the future and responsive to changes in the property market, the way properties are traded and changes in professional practice.
- All land requiring a valuation for a statutory purpose is valued as part of the annual valuation program.
- Timely application of deduction for site improvement applications, with landowners providing all relevant information upfront.
- Flexibility for landowners to decide if they want their non-adjoining farming lands combined for valuation purposes, provided they meet the relevant criteria under the Act.
- Decisions to combine or separate land for valuation purposes is based on land use and occupation and is consistent for all land including declared parcels.
- Streamlined objection processes to ensure objections are resolved efficiently and accurately.
- Providing more opportunities for objections to be resolved before proceeding to the Land Court.
- Improved objection conference outcomes from the disclosure of all relevant information.
- The valuer-general has all required information to make objection decisions, by allowing information requirements to be made for any objection regardless of the quantum of the valuation.
- Landowners are provided more choice about how they receive their valuation notices electronically, including by way of mobile telephone number (SMS).

## Alternative ways of achieving policy objectives

The main purpose of the Land Valuation Act is to provide for how land is to be valued for particular other Acts – the *Land Tax Act 2010*, *Land Act 1994*, and the making and levying of rates. The regulatory frameworks amended by the Bill are enshrined in legislation and can only be altered by amending legislation. There are no alternative ways of achieving the identified policy objectives.

## Estimated cost for government implementation

Many of the amendments are aimed at delivering greater efficiencies in administering the statutory land valuation framework, particularly the objections process and independently chaired objection conferences. Any potential increases in costs will be absorbed from within existing resources and likely to be offset by savings in legal expenses at the appeal stage by resolving more matters earlier.

## Consistency with fundamental legislative principles

The Bill has been drafted with regard to fundamental legislative principles (FLPs) as defined in section 4 of the *Legislative Standards Act 1992* and is consistent with these provisions. Clauses of the Bill in which FLP issues arise or are perceived, together with the justification for any departure, are outlined below:

### ***A Bill should have sufficient regard to the institution of Parliament - Legislative Standards Act 1992, s 4(4)***

#### *Valuer-general to make guidelines*

*Clause 5* confers the valuer-general with legislative power to make statutory guidelines about any matter relating to the administration of the Act or the valuation of land. A guideline will be binding in relation to the valuations to which it applies. This raises a potential breach of the FLP, about whether the Bill has sufficient regard to the institution of Parliament, in relation to the delegation of legislative power.

The guideline is intended to enhance the transparency of statutory valuation processes and practices. Valuation practices and processes are technical and need to be responsive to changes in the property market, the way properties are traded and changes in professional practice. This detail is suited to a guideline, which frees the Act of unnecessary detail, and assists with clarity.

The potential breach is justified because the guidelines, including any amended or replaced guidelines, will be tabled in Queensland's Legislative Assembly within 14 sitting days after it is made, and will be subject to parliamentary disallowance, ensuring sufficient parliamentary oversight. The guidelines must also be consistent with the Act. Further to this, the power is conferred on the valuer-general, who possesses the relevant skills and qualifications needed to perform the functions under the Land Valuation Act, which includes making valuations.

**Legislation should be consistent with the principles of natural justice – Legislative Standards Act 1992, s 4(3)(b)***Deduction decisions for site improvements*

Under the Land Valuation Act, landowners can apply for a deduction from their valuation for the added value of site improvements (for example, clearing vegetation, filling, grading or levelling), undertaken to prepare the land for development.

Section 41 of the Land Valuation Act provides that a deduction application for site improvements may be made as an objection ground or in the approved form. If the landowner chooses to apply via an objection they must wait until the next valuation is issued which may be some years after the works are completed.

*Clause 9* changes the way a deduction for site improvements application may be made, so that an application can only be made in the approved form, and no longer made as an objection ground for an objection. This raises a potential breach of the FLP, regarding the principles of natural justice because the amendment will remove an objection right.

The Bill is de-coupling deduction application decisions from the objections process. Lodging a deduction application with an objection confuses an administrative matter with the making of a valuation. While a deduction for site improvements may reduce (adjust) a valuation, it is a separate process and does not affect how the (unadjusted) valuation is determined. There are no efficiency gains in coupling its consideration with the objections process and, in some cases, it can delay an objection decision while the accompanying evidence is being assessed.

Further, this amendment will encourage landowners to make deduction applications as soon as practical following the making of site improvements when required documentary evidence is readily available. This will avoid information being lost or misplaced while waiting for the next valuation.

A landowner who disagrees with a deduction decision will have the right to internal review and external review to the Queensland Civil and Administrative Tribunal (*Clause 57*). This is considered consistent with the principles of natural justice.

*Non-adjoining farming lots or parcels*

*Clause 22* introduces an applicant-led process so that if a landowner wants to combine their non-adjoining farming lots or parcels into one valuation, they can make an application. This replaces the current process which requires the valuer-general to include lots that do not join each other in the same valuation if the prescribed criteria are met. This amendment provides greater flexibility and autonomy for the landowner in cases where a landowner does not want their lots or parcels combined for certain reasons, including, for example, succession planning or planned diversification of land use.

This raises a potential breach of the FLP, regarding the principles of natural justice because the application could be refused by the valuer-general. This amendment, however, is consistent with the right to natural justice because the Bill provides the landowner with the right to seek internal review of the decision, which may be externally reviewed by the Queensland Civil and Administrative Tribunal.

*When objection conferences may be held*

Clause 37 removes the requirement on the valuer-general to offer an objection conference when a valuation is greater than \$5 million. This raises a potential breach of the FLP, regarding the principles of natural justice, because the proposed change may result in independently chaired conferences not being offered for a small number of valuations over \$5 million.

The \$5 million threshold is not indicative of when an objection conference will be beneficial in resolving an objection. It instead requires an assessment of a broader range of factors (for example, the availability and quality of evidence, complexity of planning requirements, and highest and best use), in addition to the valuation amount.

Where circumstances do not warrant an independently chaired conference, such as for less complex valuations, or where a landowner does not want an independently chaired conference, or where a conversation with the landowner may lead to a resolution, the valuer-general can continue to offer an informal conference to the landowner. This enables a landowner to clarify or gather more information about their valuation from a departmental valuer. Objectors maintain their appeal rights and if the objector does not agree with an objection decision, they may appeal to the Land Court.

The potential breach is justified because removing the \$5 million value threshold ensures the most appropriate mechanism is used to gather all evidence required to make an objection decision regardless of the quantum of a valuation. This will enable the allocation of resources to offer conferences based on complexity and promote fair hearing rights to a different group of objectors. That benefit outweighs any potential breach.

***Legislation provides appropriate protection against rights and liberties of individuals regarding the right to privacy – Legislative Standards Act 1992, s 4(3)(a)***

*Chairperson may require further information*

Clause 47 enables an independent chairperson to request further information from a party to an objection conference that has already started, if the chairperson considers further information, other than information the subject of legal professional privilege, is likely to be in the custody, possession or power of a party or an agent or representative of a party and is likely to facilitate the resolution of the objection. This raises a potential breach of the FLP, regarding the right to privacy, as the information may include personal information.

The potential breach is justified because if an objector accepts an invitation to participate in an objection conference, they are required to disclose any information relevant to the objection to the chairperson. This is consistent with the purpose of an objection conference under section 126 of the Land Valuation Act, which is to encourage the full exchange of opinion between the parties, including full disclosure of information relating to the objection. This is also consistent with section 149 which provides that the objector has the onus of proving the objector's case.

The scope of information required is not arbitrary and is restricted to that which is necessary to assist in the resolution of an objection. The information is only used for a legitimate purpose and is not made publicly available.

If an objector does not provide the information, then the chairperson may end the conference. The valuer-general can still decide the objection and would be able to consider any information provided during disclosure prior to the conference being held and the written conference report,

that the chairperson is required to prepare regardless of whether a conference is held. Objectors will maintain their appeal rights and if the landowner does not agree with the objection decision, they may appeal to the Land Court.

#### *Valuer-general may require further information*

*Clause 51* changes the application of the requirement for when the valuer-general may require further information. This amendment removes the \$5 million value threshold so that an information notice may be served on all objectors to ensure relevant information is available for deciding an objection. This raises a potential breach of the FLP, regarding the right to privacy, as the information may include personal information.

The potential breach is justified because the request applies to information that the valuer-general considers will likely be relevant to deciding an objection. The information required is at the lower end of personal information. Examples of possible further information include a valuation report, a town planning report, information about a stated type of cost associated with a development.

Objectors will be able to provide a statutory declaration if they do not possess the required information, and the information requirement will continue to be a decision subject to internal review, and external review by the Queensland Civil and Administrative Tribunal.

The scope of information required is not arbitrary and is restricted to that which is necessary to decide an objection. The information is only used for a legitimate purpose and is not made publicly available.

## **Consultation**

The Department of Resources has engaged and consulted with key stakeholders since August 2021. Key industry stakeholders consulted were: AgForce, Australian Property Institute, Local Government Association of Queensland, Property Council of Australia, Royal Institution of Chartered Surveyors, Queensland Farmers Federation, Queensland Law Society, Queensland Resources Council, Real Estate Institute of Queensland, Urban Development Institute of Australia, Shopping Centre Council of Australia, and the Valuers Registration Board.

Key government agencies were consulted during the development of the Bill, including the Department of the Premier and Cabinet, Queensland Treasury, Department of Justice and Attorney-General, Department of State Development, Infrastructure, Local Government and Planning, Department of Agriculture and Fisheries, Department of Environment and Science and the Valuer-General.

In May 2023, key industry stakeholders were provided with a consultation paper detailing the proposed amendments to the Land Valuation Act and were invited to provide feedback. Meetings were also held with these stakeholders to discuss the changes. The feedback received was taken into consideration during the development of the Bill.

All amendments have undergone regulatory impact analysis in accordance with the Queensland Government Guide to Better Regulation. The Office of Best Practice Regulation advised that no further regulatory impact assessment is required.

## **Consistency with legislation of other jurisdictions**

This Bill is specific to the State of Queensland and is not uniform with or complementary to legislation of the Commonwealth or another state. The amendments in the Bill do not impact on other jurisdictions or the Commonwealth and are not affected by any national legislation or work plans through the National Cabinet.

## Notes on provisions

### Short title

*Clause 1* states that this Act will be cited as the *Land Valuation Amendment Act 2023*.

### Commencement

*Clause 2* states that this Act will commence on a day to be fixed by proclamation.

### Act amended

*Clause 3* states that this Act amends the *Land Valuation Act 2010*.

### Amendment of s 5 (Valuer-general to make valuations)

*Clause 4* amends section 5 to clarify that the valuer-general must make valuations for one or more of the statutory purposes under section 6.

### Insertion of new s 6A

#### **6A Valuer-general may make guidelines**

*Clause 5* inserts new section 6A which provides a head of power for the valuer-general to make guidelines about any matter relating to the administration of the Act or the valuation of land. The guidelines are intended to ensure consistency in decision-making and establish consistent state-wide valuation practices for complex property types, such as volumetric lots, shopping centres, land affected by heritage restrictions, and childcare centres, where appropriate. More than one guideline can be made.

The guideline must be consistent with the Act. Valuation practices and processes are technical and need to be responsive to changes in the property market, the way properties are traded and changes in professional practice. This detail is suited to a guideline, which frees the Land Valuation Act of unnecessary detail, and assists with clarity.

To provide oversight of the guidelines, it is intended that any new, amended or replaced guideline must be tabled in Queensland's Legislative Assembly. The guidelines will also be subject to parliamentary disallowance, as if it were subordinate legislation.

The guidelines will be binding in relation to the valuations to which they apply. If the guidelines mandate a particular valuation methodology for a particular property type, this will limit the grounds of potential objections and appeals against valuations to consideration of whether the guidelines have been properly applied in determining the subject valuation. The guideline may also include information of a general nature or other discretionary matters.

Minor editorial changes or corrections may be made to the guidelines without them being tabled in the Legislative Assembly. For example, updating the guideline to provide for updated formatting or editorial changes, making minor corrections or other minor changes that do not change the effect of the guideline.

The guidelines are intended to bring greater transparency and consistency to valuation processes and practices.



**Amendment of s 17 (What is the land's expected realisation)**

*Clause 6* amends the definition of unencumbered in section 17 to omit an 'agreement for lease'. The inclusion of 'agreement for lease' in the definition of unencumbered creates an expectation that the valuer-general will make a deduction of the added value of the agreement from the sale price when a property is sold with an agreement for lease in place. In practice, the added value of an agreement for lease on the value of the land is considered on a case-by-case basis. A purchaser will consider an agreement for lease, along with other site attributes, before purchasing the property, but will only be willing to pay more for it if an agreement for lease provides them with some benefit.

Removal of agreement for lease from the definition will not change the operation of the Act or operational practice. It will, however, remove the expectation that a deduction is made simply because an agreement for lease is in place when a property is sold. It will not prevent a landowner from claiming that they paid more for the property because an agreement for lease was in place. Where it can be demonstrated that it impacts the value of the land, an allowance will be made to reflect that, consistent with current practice. Often there is no evidence an agreement for lease enhances or detracts from the value, making it an inappropriate inclusion as an encumbrance.

**Amendment of s 22 (Assumptions for existing uses)**

*Clause 7* amends section 22, to correct an incorrect cross-reference. This section incorrectly refers to section 17, when it should refer to section 19.

**Amendment of s 34 (Land Act tenures)**

*Clause 8* amends section 34 to clarify that other than for land used for farming or a single dwelling house, the physical state and condition of land at the start of the *Land Act 1994* tenure must be considered in making a valuation.

**Replacement of s 41 (Making deduction application)****41 Making deduction application**

*Clause 9* replaces section 41 to change the way a deduction application may be made. Deduction applications may no longer be made as an objection ground to an objection. Instead, a deduction application can only be made in the approved form. This amendment will encourage landowners to make deduction applications as soon as practical following the making of site improvements when required documentary evidence is readily available. This will avoid information being lost or misplaced while waiting for the next valuation to be issued which may be some years after works are completed.

Further, lodging a deduction application with an objection confuses an administrative matter with the making of a valuation. While a deduction for site improvements may reduce (adjust) a valuation, it is a separate process and does not affect how the (unadjusted) valuation is determined. There are no efficiency gains in coupling its consideration with an objections process and, in some cases, it can delay an objection decision while the accompanying evidence is being assessed.

Landowners who disagree with the decision on a deduction for site improvements application will have the right to an internal review and external review to the Queensland Civil and Administrative Tribunal (*Clause 57*).

**Amendment of s 42 (Deciding deduction application)**

*Clause 10* omits the note under section 42(3) as a consequence of the amendments to section 41 (Clause 9). The note is no longer required as a deduction application cannot be made as an objection ground for an objection.

**Amendment of s 43 (Valuations to which site improvement deduction applies)**

*Clause 11* amends section 43 as a consequence of removing the ability for a deduction application to be made as a ground of objection for an objection (Clause 9). The amendment clarifies that the relevant valuation is the next valuation for which a valuation notice is given to the owner. That is, after an application for a deduction for site improvement is accepted, it applies to the next valuation issued for the property concerned.

**Amendment of s 44 (Amount of site improvement deduction)**

*Clause 12* amends section 44 as a consequence of removing the ability for a deduction application to be made as a ground of objection for an objection (Clause 9). This includes objections based on the added value of site improvements (i.e., after an application is granted). A decision under this section about the added value of site improvements is a decision subject to internal review. This section is amended to clarify that it is the valuer-general who decides the added value, and that notice of the decision is taken to be given when a valuation notice stating the added value of the site improvements is given.

**Amendment of s 49 Application of s div 3**

*Clause 13* amends section 49 as a consequence of the amendment to the definition of parcel in the schedule dictionary. This amendment ensures the section applies to lots or parcels.

**Amendment of s 50 (Discount until parcel developed or ownership changes)**

*Clause 14* amends section 50 as a consequence of the amendment to the definition of parcel in the schedule dictionary. This amendment ensures the section applies to lots or parcels.

**Amendment of s 51 (Provisions for when discounted valuation period ends)**

*Clause 15* amends section 51 as a consequence of the amendment to the definition of parcel in the schedule dictionary. This amendment ensures the section applies to the relevant lot or parcel.

**Amendment of s 53 (Valuer-general's power)**

*Clause 16* amends section 53 to simplify the wording as to when the valuer-general's separation declaration power applies to leased land. There is no change to current practice.

**Omission of s 54 (Guidelines for making separation declaration)**

*Clause 17* omits section 54 as a consequence of the valuer-general's new general power to make guidelines under new section 6A (Clause 5). A specific power to make guidelines for separation declarations is no longer required. The existing separation guideline is taken to be a guideline made by the valuer-general under new section 6A (Clause 65).

**Amendment of s 55 (Notice and taking of effect of separation declaration)**

*Clause 18* amends section 55 to provide that the valuer-general may give notice of a separation declaration for a declared parcel only in a notice of a maintenance valuation for the parcel given under part 5, division 3. This amendment clarifies that separation declarations are made via a maintenance valuation notice, consistent with current practice.

A minor amendment is also made to subsection (2)(b) and the example following, to replace the word ‘repealed’ with the word ‘revoked’, to ensure consistency with current drafting practice. This change does not affect the operation of section 55.

**Amendment of s 56 (Application of div 3)**

*Clause 19* amends section 56 to provide that the combined valuations provisions under the Land Valuation Act apply to all land including declared parcels, except for Land Act rental valuations and land the subject of a discount under section 50.

A declared parcel is a stated part of a lot that the valuer-general determines should be valued separately to the remainder of the lot. This is to reflect that the separated part has a different use and/or occupation than the remainder of the lot.

Section 53 allows for the valuer-general to make a separation declaration to reflect that part of a lot can have a different use or occupation. However, the land subject to the separation declaration and any remaining lands in the lot may be used in conjunction with other lands. These lands should be treated consistently with other lands and combined where Chapter 2, Part 3, Division 3 applies.

**Amendment of s 57 (Adjoining lots—general)**

*Clause 20* amends section 57 as a consequence of the amendment to section 56 (*Clause 19*). This amendment allows adjoining lots and parcels (including declared parcels) to be included in the same valuation, if the prescribed criteria are met.

**Amendment of s 58 (Adjoining lots subleased from the State)**

*Clause 21* amends section 58 as a consequence of the amendment to section 56 (*Clause 19*). This amendment allows adjoining lots and parcels (including declared parcels) subleased from the State to be included in the same valuation.

**Replacement of s 59 (Non-adjoining farming lots)****59 Applying for combined valuation for non-adjoining farming lots or parcels**

*Clause 22* replaces section 59 to change the process for combining non-adjoining farming lots into one valuation. The Bill introduces an applicant-led process so that if a landowner wants to combine their non-adjoining farming lots or parcels into one valuation, they must make an application.

This replaces the existing process which requires the valuer-general to include lots that do not join each other in the same valuation if the prescribed criteria are met. This process does not provide flexibility for the valuer-general in cases where a landowner does not want their lots combined, for example a landowner may not want their lots or parcels included in the same valuation due to succession planning or planned diversification of land use.

Applications to combine non-adjointing farming lots or parcels must be in the approved form and accompanied by supporting evidence demonstrating that the criteria under section 59 is met. The valuer-general has 60 days to decide an application. The valuer-general must decide to include the lots or parcels in the same valuation or not. When the valuer-general makes the decision a maintenance valuation will be issued with a date of effect as at the date of application per section 86(3) of the Land Valuation Act.

The amendment will provide multiple benefits including greater flexibility and autonomy for the landowner, reducing the administrative burden for the valuer-general and less likelihood of errors being made when the valuer-general decides to combine or not combine non-adjointing farming lots or parcels.

#### **Amendment of s 60 (Application of div 4)**

*Clause 23* amends section 60 as a consequence of the amendment to the definition of parcel in the schedule dictionary. This amendment confirms that Chapter 2, Part 3, Division 4, applies to one lot or parcel or more than one lot or parcel.

#### **Amendment of s 61 (Lots separately leased)**

*Clause 24* amends section 61 as a consequence of the amendment to the definition of parcel in the schedule dictionary. This amendment ensures the section applies to lots and parcels.

#### **Amendment of s 63 (Non-adjointing lots, separately owned lots and lots separated by a public road)**

*Clause 25* amends section 63 as a consequence of the amendment to the definition of parcel in the schedule dictionary. This amendment ensures the section continues to apply to lots and parcels.

#### **Amendment of s 72 (General duty to make annual valuations)**

*Clause 26* amends section 72 to clarify that an annual valuation may only be made when there is a statutory purpose for that valuation under section 6. If there are no lands in a local government area for which a valuation is required (under section 6) an annual valuation is not required.

#### **Amendment of s 74 (Exceptions to annual valuation requirement)**

*Clause 27* amends section 74 to omit the word 'possible' and insert the word 'appropriate'. This amendment gives the valuer-general discretion not to make an annual valuation because of unusual circumstances when it is considered not appropriate to do so. Whilst it may be possible, there are circumstances where it would not be appropriate. For example, it may not be appropriate to make an annual valuation because the occurrence of an unusual circumstance, such as a flood, may have affected the value of the land. In this scenario, it could not necessarily be said that the valuation was 'not possible'. Unusual circumstances is a defined term in the Land Valuation Act.

#### **Replacement of s 88 (Adjointing parcels in same valuation)**

### **88 Adjointing or non-adjointing lots or parcels in same valuation**

*Clause 28* replaces section 88 to provide that a valuation of two or more adjointing or non-adjointing lots or parcels may be amended if 1 or more of the lots or parcels is sold. This

amendment has expanded this provision to include non-adjoining lots or parcels. This is required as lots or parcels, whether adjoining or non-adjoining, cannot be combined for valuation purposes unless they are owned by the same person, per sections 56 – 59 of the Land Valuation Act. Where a lot or parcel is sold, and two or more parcels are no longer in common ownership, the valuer-general must amend the relevant valuation or valuations to reflect the changed ownership.

### **Amendment of s 97 (Combining valuations)**

*Clause 29* amends section 97 as a consequence of amendments to sections 56 – 59 (Clause 19 - Clause 22) to provide that the combined valuations provisions under the Land Valuation Act also apply to all parcels of land including declared parcels. This amendment will allow the valuer-general to amend two or more valuations by combining them into one valuation if the valuations are of lots or parcels that could, under part 3, division 3, be included in one valuation.

### **Amendment of s 105 (Right to object)**

*Clause 30* amends section 105 as a consequence of changing the way in which a deduction application may be made (Clause 9). A right to object no longer includes a right to object to a decision about a deduction application concerning the land.

### **Amendment of s 112 (What is a *properly made* objection)**

*Clause 31* amends section 112 as a consequence of the replacement of section 114 (Clause 34) to streamline the initial assessment of an objection by removing the properly made partially compliant decision.

### **Amendment of s 113 (Required content of objections)**

*Clause 32* amends section 113 to change what content is required in an objection. Currently, a landowner who objects to a valuation must advise the valuer-general of the valuation sought, where the original valuation is greater than \$750,000. This clause amends this requirement by removing the \$750,000 threshold (relevant amount) and requiring all objectors to state the valuation sought in their objection.

The \$750,000 threshold is arbitrary and does not reflect the ability of a landowner to access and provide information to support an alternative value. This will help all parties to understand how far apart the respective valuations are, supporting an earlier resolution of the objection.

This clause also removes the provisions relating to objections to site improvement deductions, as deductions can no longer be made as a ground of objection as a consequence of the amendments to sections 41 and 105 (Clause 9 and Clause 30). It clarifies that an objection ground cannot be made concerning the added value of site improvements decided by the valuer-general under section 44. Instead, the decision is subject to internal and external review.

### **Amendment of ch 3, pt 2, hdg (Initial assessment of objections for defects)**

*Clause 33* amends Chapter 3, Part 2 heading as a consequence of the replacement of section 114 (Clause 34) to streamline the initial assessment of an objection by removing the properly made partially compliant decision. The concept of a defective objection is removed. The valuer-general must decide if an objection is properly made or not properly made.

## **Replacement of ss 114 and 115**

*Clause 34* replaces sections 114 and 115.

### **114 Initial assessment**

Section 114 requires the valuer-general to make an initial assessment decision of an objection. The Bill simplifies the initial assessment of whether or not an objection is properly made. It removes ‘properly made but partially compliant’ as an initial assessment decision. Instead, an objection will either be properly made or not properly made.

The valuer-general will not be required to issue a correction notice where the initial assessment decision is that the objection is properly made even if there are one or more non-compliant grounds. The valuer-general may decide to contact the landowner to provide the objector an opportunity to provide any missing or incomplete information or issue a correction notice.

### **115 Notice of decision if objection properly made**

Section 115 is replaced as a consequence of the replacement of section 114. If the initial assessment decision is that the objection is properly made, the valuer-general may (but need not) give the objector notice of the decision.

### **Amendment of s 116 (Correction notice if objection defective)**

*Clause 35* amends section 116 as a consequence of the replacement of section 114 (*Clause 34*). The word ‘defective’ is replaced by ‘not properly made’ to reflect the valuer-general’s decision under section 114.

If the valuer-general determines that an objection is not properly made, a correction notice is issued to the objector. The correction notice must state how the valuer-general considers the objection is not properly made. The objector must, within 28 days after the day the notice is issued, amend the objection so that the objection is properly made.

### **Amendment of s 120 (What pt 3 is about)**

*Clause 36* amends section 120 to clarify the purpose of an objection conference and how it relates to the valuer-general’s objection decision. The purpose of an objection conference is to facilitate the resolution of an objection through the exchange of information to inform the valuer-general when making an objection decision. An objection is decided by the valuer-general, not by the chairperson or parties reaching or negotiating an outcome at the objection conference (section 147).

## **Insertion of new s 121**

### **121 Valuer-general may invite objector to participate in conference**

*Clause 37* inserts new section 121 which sets out when the valuer-general may invite an objector to participate in a conference. It provides that the valuer-general may invite an objector to participate in an objection conference if an objection is properly made and the objection has not been decided by the valuer-general, regardless of the amount of the valuation.

The \$5 million threshold for when the valuer-general must offer a conference no longer applies as a result of the omission of section 123 of the Land Valuation Act (*Clause 38*). The invitation may be made by oral or written communication and the objector may decide to accept or reject

the invitation. If the objector accepts the valuer-general's invitation, the valuer-general must participate in the conference.

Independently chaired conferences were introduced in 2010 and offered to all objectors with valuations greater than \$5 million. Conferences are facilitated by a chairperson who is responsible for arranging the conference, ensuring that all parties comply with their disclosure obligations, encouraging a full exchange of opinion between parties and making recommendations to either party about matters raised at the conference.

These conferences have proven to be an effective way of resolving objections without requiring an appeal to the Land Court. The intent of the \$5 million threshold was to balance the need for a conference against the perceived complexity of the objection. An arbitrary monetary threshold is not the best determinant of complexity. The lands value is only one element in determining the appropriateness or need for an objection conference—in several instances, land valued at or below \$5 million would benefit from an independently chaired objection conference because of the complexity of the valuation and the characteristics of the land. Where circumstances do not warrant an objection conference, there are other administrative mechanisms available to assist with the resolution of the objection.

### **Omission of ch 3, pt 3, div 2 (When objection conference may or must be held)**

*Clause 38* omits chapter 3, part 3, division 2 as a consequence of the insertion of a new section 121 (Clause 37).

### **Amendment of ch 3, pt 3, div 3 hdg (Preliminary steps for required conference)**

*Clause 39* amends the heading of Division 3 to omit the word 'required' as the valuer-general may invite an objector to participate in a conference but is no longer required to offer a conference to an objector if the valuation is more than \$5 million.

### **Renumbering of ch 3, pt 3, div 3 (Preliminary steps for required conference)**

*Clause 40* renumbers chapter 3, part 3, division 3 as a consequence of the omission of chapter 3, part 3, division 2 (Clause 38).

### **Omission of ch 3, pt 3, div 2, sdivs 1 and 2, hdgs**

*Clause 41* reduces the number of headings in Chapter 3, Part 3 of the Land Valuation Act, in accordance with current drafting practice.

### **Amendment of s 124 (Application of div 3)**

*Clause 42* amends section 124 as a consequence of the omission of Chapter 3, Part 3, Division 2 (Clause 38), to update a section reference and replace the word 'offer' with 'invitation' to reflect the new wording.

### **Amendment of s 126 (Chairperson's functions)**

*Clause 43* amends section 126 to expand the functions of a chairperson to include preparing a written report about the conference. The requirements for the report are outlined in new section 129A (Clause 49).

**Replacement of s 127 (Disclosure by parties before conference held)****127 Disclosure by parties before conference starts**

*Clause 44* replaces section 127 to ensure all documents relevant to the valuation are disclosed prior to the start of a conference.

Ensuring adequate disclosure is a very important function of the independent chairperson. Prior to a conference starting, the chairperson must give a disclosure notice to the parties to provide the chairperson with copies of all documents relevant to the valuation that are in the custody, possession or power of a party or an agent or representative of a party. The chairperson must give copies of the documents received from one party to the other party.

A conference must not be held unless the chairperson is satisfied that each party has met their disclosure obligations. If all parties have not complied, the chairperson must give a notice to each of the parties stating that the conference will not be held.

This clause also provides that a party may request a further period to comply with the disclosure obligation. A chairperson retains the ability to give a further period in which to comply on their own initiative.

**Renumbering of ch 3, pt 3, div 2, sdiv 3 (Holding objection conference)**

*Clause 45* renumbers subdivision 3 in chapter 3, part 3, division 2 (as renumbered by this Act), as a consequence of other amendments to headings in this part (Clause 38 - Clause 40).

**Amendment of s 128 (Conduct of conference)**

*Clause 46* makes a minor amendment, omitting 'The' and replacing it with 'An'.

**Insertion of new s 128A****128A Chairperson may require further information**

*Clause 47* inserts new section 128A to enable a chairperson to request further information from either a party or an agent or representative of a party to a conference, after the start of a conference, but where the chairperson has adjourned the conference. This applies where the chairperson considers further information is likely to facilitate the resolution of the objection.

Generally, the party must comply within 14 days, or within an agreed longer period (not more than 14 days). If the party does not comply with the requirement, the chairperson may end the conference by giving a notice to each of the parties.

This amendment is intended to improve conference outcomes by expanding the functions of the chairperson ensuring that the chairperson has the information necessary to facilitate the resolution of the objection conference.

**Amendment of s 129 (Attendance and representation)**

*Clause 48* makes a minor amendment, omitting 'the objection conference' and replacing it with 'an objection conference'.



## **Insertion of new s 129A**

### **129A Written conference report**

*Clause 49* inserts new section 129A, as a consequence of the amendment to section 126 (Clause 43), which provides that a chairperson must prepare a written report about the conference. New section 129A outlines the requirements for the chairperson's written report. The report may include the chairperson's opinion of any matters considered appropriate, including the chairperson's assessment of the grounds of objection, information provided by the parties, the merits of the objection, and any recommendations to either party about the valuation.

If the chairperson gives the parties a notice under section 127(6), or the conference is not held for another reason, the report must include the reasons why the conference was not held. If the chairperson ends the conference under section 128A(4), or the conference ends for another reason, the report must include the reasons why the conference was ended.

A chairperson must sign the report and give a copy to the valuer-general and the objector. The report must be provided to both parties within 28 days after the end of the conference or, if not held, within 28 days after the chairperson forms the opinion the conference will not be held.

This amendment is intended to improve conference outcomes by expanding the functions of the chairperson to ensure that the chairperson has the powers necessary to facilitate the resolution of an objection. The report will inform the objector about matters relevant to their objection (e.g., merits) and may inform the valuer-general's objection decision.

## **Replacement of s 131 (Evidence)**

### **131 Admissibility of evidence**

*Clause 50* replaces section 131 to clarify the inadmissibility of evidence of anything said during an objection conference in any proceeding does not apply to documents or information given to the chairperson before a conference is started (section 127) or in response to the chairperson's request for further information (section 128A). These documents or information are admissible in any proceeding, ensuring if a matter is appealed, the Land Court has access to all information that informed the parties' positions.

## **Amendment of s 135 (Application of div 2)**

*Clause 51* amends section 135 to change when the valuer-general may require further information under section 136 so that it applies to all valuations objected to regardless of the amount of the valuation. Removal of the \$5 million value amount will ensure all objections are treated the same, as having access to all relevant information is essential for the valuer-general to make valid objection decisions.

## **Amendment of s 136 (Valuer-general may require further information)**

*Clause 52* amends section 136 as a consequence of the amendment to section 135, to declare that the information requirement applies to information that is in the custody, possession or power of the objector, or an agent or representative of the objector.

For clarity, it is the objector who is given the notice, and who must give the information to the valuer-general, however the information the subject of the information requirement, applies to information that is in the custody, possession or power of the objector, or an agent or

representative of the objector (where different). Where an objector has appointed an agent or representative to act on their behalf, they must ensure that all relevant information in their or the agent or representatives' custody, possession or power is provided to the valuer-general.

### **Amendment of s 145 (Other permitted amendments)**

*Clause 53* amends section 145 as a consequence of the replacement of sections 114 and 115 (Clause 34), due to the removal of the properly made but partially compliant initial assessment decision. An objection cannot be amended if the amendment would make the objection not properly made.

### **Amendment of s 147 (Considering objection)**

*Clause 54* amends section 147 to clarify that the valuer-general may consider any matter that the valuer-general considers appropriate in deciding the objection. This includes a written report given by the chairperson of an objection conference to the valuer-general.

### **Amendment of s 151 (Notice of objection decision)**

*Clause 55* amends section 151 as a consequence of removing a site improvement deduction application as an objection ground (Clause 9).

### **Amendment of s 157 (How to appeal)**

*Clause 56* amends section 157(3)(c) as a consequence of site improvement deduction applications no longer being made as an objection ground to an objection (Clause 9). Deduction decisions are subject to internal review and external review by the Queensland Civil and Administrative Tribunal.

### **Amendment of s 175 (Decisions subject to internal review)**

*Clause 57* amends section 175 to provide for three new decisions subject to internal review - a decision about a site improvement deduction application; a decision under section 44 about the added value of site improvements; and a decision under section 59 not to include non-adjoining lots or parcels used for farming in the same valuation. These decisions may be subject to external review by the Queensland Civil and Administrative Tribunal under section 179.

It also makes a consequential amendment about the decision that an objection is not properly made as a result of the removal of the properly made but partially compliant initial assessment decision (Clause 31).

### **Amendment of ss 181, 186, 187, 189 and 192**

*Clause 58* amends sections 181, 186, 187, 189 and 192 as a consequence of the changes to the schedule dictionary definition of parcel, which no longer includes a lot.

### **Amendment of s 204 (Notice about protected persons to local governments)**

*Clause 59* amends section 204 to include a note to provide that, generally speaking, local governments must exclude a protected person's name and address for service in land records. This clause also includes an editor's notice to refer to the requirements in the *City of Brisbane Regulation 2012*, section 147(5) and the *Local Government Regulation 2012*, section 155(5) in relation to protected persons.

**Amendment of s 208 (Power to contract to supply bulk data or microfiche data)**

*Clause 60* amends section 208(2)(a)(ii) and definition *change-of-ownership information* as a consequence of the amendment to the definition of parcel in the schedule dictionary, which no longer includes a lot (Clause 66).

**Amendment of s 247A (Electronic service)**

*Clause 61* amends section 247A to update the existing electronic service provision in accordance with current practice. The valuer-general may serve a document (for example, a valuation notice) on a person by an electronic communication to their electronic address. The electronic communication must attach the document, or include the content of the document, or provide a link that allows a person to view and obtain a copy of the document for a reasonable period of time. This is consequential to the inclusion of a mobile phone number in the definition of electronic address (Clause 66).

**Omission of s 262 (Limited application of Act to particular land)**

*Clause 62* omits section 262 as it is a redundant provision that expired on 30 June 2016.

**Amendment of ch 11, hdg (Transitional provisions for Natural Resources and Other Legislation Amendment Act 2019)**

*Clause 63* amends the chapter 11 heading to provide for the inclusion of new transitional provisions (Clause 65).

**Insertion of new ch 11, pt 1, hdg****Part 1 Transitional provision for Natural Resources and Other Legislation Amendment Act 2019**

*Clause 64* inserts new part 1 heading as a consequence of the amendment to Clause 63.

**Insertion of new ch 11, pt 2****Part 2 Transitional provisions for Land Valuation Amendment Act 2023**

*Clause 65* provides transitional provisions for the *Land Valuation Amendment Act 2023*.

**304 Existing separation guidelines made by valuer-general**

Section 304 provides that any existing separation guideline made by the valuer-general under former section 54, prior to commencement, is taken to be a guideline made by the valuer-general under section 6A. The valuer-general is not required to table the guideline in the Legislative Assembly under section 6A(6). However, the guideline may be amended or replaced by a later guideline under section 6A.

**305 Objection to valuation made before commencement**

Section 305 provides that if an owner objected to a valuation of the owner's land before commencement, and the valuer-general had not decided the objection immediately before commencement, the objection must be dealt with as if the *Land Valuation Amendment Act 2023* had not been enacted.

## **Amendment of schedule (Dictionary)**

*Clause 66* amends the schedule dictionary. Most of the amendments are made as a consequence of other amendments in the Bill. Some changes are to align with current drafting practice.

An amended definition of ‘defective’ is provided as it no longer applies to objections. This is a consequence of the replacement of sections 114 and 115 (*Clause 34*). An objection is no longer considered defective rather an objection will either be properly made or not properly made. The definition of defective is unchanged with regards to a valuation appeal notice.

A new definition is provided for ‘electronic address’ to include a mobile telephone number. This provides more flexibility for how the valuer-general may deliver notices via electronic communication. This gives landowners more options for how they receive their notice. Landowners will be able to request electronic delivery of a notice on their mobile phone (SMS) in addition to existing email or postal notices. The new electronic address definition will provide flexibility to adopt new delivery methods to keep pace with changing technology.

The definition of ‘parcel’ is replaced to include any land remaining in a lot after part of the lot is made a declared parcel and therefore subject to Chapter 2, Part 3, Divisions 3 and 4. The new definition no longer includes land that is a lot, to remove the overlap with the definition of ‘lot’. Consequently, any provision that refers only to parcel is consequentially amended to refer to both parcel and/or lot.

As a consequence of the amendment of the definition of parcel and the consequential amendments to section 49, the definition of ‘relevant parcel’ is replaced with ‘relevant lot or parcel’ for chapter 2, part 2, division 5, subdivision 3, see section 49(1) and (2) (*Clause 13*).

The definition of ‘lot’ is amended to ensure that the valuer-general may value all land for which a valuation is required for a statutory purpose. Currently, there are certain non-freehold tenures which are not able to be valued by the valuer-general under the Land Valuation Act as part of the annual valuation program, as they are not included in the definition of ‘lot’.

The definition of lot is exhaustive and does not capture all land that requires a valuation for a statutory purpose. The Bill expands the definition to ensure that all lands that require a valuation for a statutory purpose, including lands that are rateable under the *Local Government Act 2009* and the *City of Brisbane Act 2010* may be valued.

## **Schedule 1 Other amendments**

Schedule 1 includes other minor and consequential amendments to the Land Valuation Act.