LAND VALUATION AMENDMENT BILL 2023

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Valuer-general to make guidelinesThis is a clear and unnecessary breach of the FLP and is an unprecedented attempt to override the legislation. From my long and person experience in dealing with VG guidelines throughout Australia, including within Queensland, guidelines are invariably self-serving to the aspirations of government (revenue generating), are not transparent, are prone to being changed at short notice when shortcomings are identified and do not necessarily follow the legislative requirements. There is no mechanism in place to control or have input into the guidelines other then the VG making their own rules. This runs entirely against the stated intention in the Explanatory Notes of "The Guideline is intended to enhance the transparency of the statutory valuation processes and practices." My own personal experience, having provided expert evidence on numerous occasions before the Land Court of Queensland highlights the inability of the VG to adopt guidelines consistent with the legislative requirements. Indeed the parliament was required to implement the Land Valuation Act 2010 to address unfortunate behaviour and internal guidelines being adopted by the VG outside of the legislative requirements (contrary to the law).A constructive suggestion is for the parliament to review legislative changes in the normal manner should the current legislation prove to be deficient. That provides a level of transparency and oversight enshrined in our parliamentary system. There has been no reasonable basis put forward by the Minister in the Explanatory Note other than to say the valuation of land is becoming increasingly complex. That is a training issue for VG staff, not a legislative issue.No Valuation Act in other other State or Territory in Australia attempts to legislate the approach to value or the methodology to be adopted by the valuer. There is very good reason for that. The complexity, nature and circumstances of individual properties does not necessarily fit a specific approach. That is a matter for the expertise, skill and experience of the valuer to determine. Guidelines will never cover all situations, property types and examples and invariable will lead to greater disputation. Deduction decisions for site improvementsThe stated intention of de-coupling deduction application decisions from the objection process, is not necessarily an unreasonable proposition, but the added desire to eliminate the ability for a landowner to object is totally unnecessary. Deductions for site improvements can be complex matters with the VG often having little or no idea of the nature of works, how they were undertaken, what stage the works are at, etc. Despite the provision of detailed information and elaborate explanations, the task of demonstrating appropriate site deductions in accordance with the legislation is not a matter which the VG has demonstrated an ability to determine without the ability for an owner to object. Indeed the Explanatory Note appears to suggest that the path of resort for the owner is to lodge an appeal which is contrary to the stated intention of a more transparent and amicable system.When objection conferences may be heldThis proposal is a clear breach of the FLP with no basis to support the change. There is no detail provided for what is a "less complex valuation", or "Where circumstances do not warrant an independently chaired conference..". The current ICC for objections in my experience is one of the better systems in Australia. It provides government and the landowner with a feeling of independence and justice. Objection review systems in some other states, as was previously the case in Queensland, are infected with a lack of independence, VG influence, compliant valuers both within government and contract valuers to government which leaves landowners and the public with a feeling of a compromise of natural justice.The current ICC is a respected system in Australia which has been considered by other jurisdictions. To walk back from a well respected system to a compromised approach, determined solely by the VG without oversight or rigor is a backward step and clearly an impact to natural justice.Chairperson may require further informationThis is a power the chair

already has. The proposal to extend the power to information of a third party is unreasonable and in practicality will not be successful. It is unreasonable to expect a landowner to have control over other parties who may hold information not necessarily in their possession. It is instructive that the proposal is directed solely to the landowner, implying that government disclose all information in an open and transparent manner. That is inconsistent with my experience and involvement.The proposal invites a "fishing expedition" approach to be adopted. That should be avoided. It can only lead to dispute over what is deemed relevant, what a party has control over and access to. A clear breach of the FLP.Valuer-general may require further informationUnfortunately the lessons from the past have been ignored. Prior to the Land Valuation Act 2010 being introduced and following judicial decisions, the VG adopted a predatory approach to landowners seeking information on the broadest and most hostile basis. Any non-compliance to requests for information, which were random, unnecessary, broad in scope and outside the nature of the objection or appeal were deemed to be non compliance and a basis to seek to disallow or narrow the rights of the landowner. The judiciary took a very dim of view of this behaviour, as it should have, and heavily criticised the conduct of the VG. The current proposal seeks to re-establish that process and behaviour.The wording in the Explanatory Note is clumsy and vague which is of concern if that be the intent. "The potential breach is justified because the request applies to information that the valuer-general considers will likely be relevant to deciding an objection." That is a vague, broad and open ended statement which empowers the valuer general to request almost anything in their view.The outcome of such vague and general wording is further litigation. Sophisticated property owners will readily challenge each and every request for information that is not deemed relevant, contrary to natural justice, outside the scope of the objection or appeal, outside of their control, etc. That is not a helpful basis for government or the landowner and does not provide any balanced approach whereby the landowner can seek information from the authority.The proposal seems to overlook the entire basis of a valuation undertaken for revenue raising purposes. It is the landowner who receives a valuation which in turn is adopted by authorities to levy charges. It is the landowner who should have the right to seek the detail of how the valuation was undertaken, what was the methodology adopted, what was the evidence utilised and how was the valuation calculated. It is a requirement of the authority imposing the charge to provide a transparent and open approach to the basis of the assessment upon which the charge is levied. The proposal seems to confuse the rights of the party impacted by the valuation.Consistency with legislation of other jurisdictionsAs noted the Bill is specific to the State of Queensland and is not uniform or complimentary to legislation of the Commonwealth or another state. Whilst the amendments do not impact on other jurisdictions or the Commonwealth it unfortunately has failed to consider how existing judicial decisions throughout Australia, often enshrined in valuation law and good judicial practice may be impacted and apply. There is a significant danger in attempting to adopt legislation and an approach, via yet to be understood guidelines, that may not comply with long established judicial decisions. This takes away certainly for government and landowners and has the potential to lead to unnecessary litigation.