

LAND VALUATION AMENDMENT BILL 2023

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Committee Secretary
Transport and Resources Committee
Parliament House
George Street
BRISBANE QLD 4000

Dear Secretary

RE: Land Valuation Amendment Bill 2023

I am writing to object to the Land Valuation Amendment Bill 2023 (**Bill**) and the proposed amendments to the *Land Valuation Act 2010 (LVA)*.

I am writing to express my objection to the proposed amendments outlined in the Land Valuation Amendment Bill 2023 (Bill) and their potential implications on the Land Valuation Act 2010 (LVA).

Context

As stated in the Explanatory Notes accompanying the Bill, its objectives are to enhance the administration and operation of the statutory land valuation framework through amendments to the LVA. These amendments aim to ensure:

1. Responsiveness to changes in the property market and operational environment, maintaining transparency in the valuation process.
2. Consistency and defensibility of valuations, as well as efficiency and effectiveness in objection and appeal procedures.
3. Establishment of a clear and consistent framework for determining the separate or combined valuation of land based on its use and occupation.

However, it is my contention that the Bill fails to achieve these objectives. Instead, the proposed amendments to the LVA, if passed, would likely:

1. Result in increased land tax and rates for landowners, potentially impacting the appetite for property investment in Queensland.

2. Significantly diminish the already lacking transparency and consistency surrounding the Valuer-General's land valuations in Queensland.

Concerns regarding major proposed changes to the LVA

Power to make statutory guidelines

If the Bill is enacted, the Valuer-General will be granted the ability to issue 'statutory guidelines' regarding the administration of the LVA or land valuation processes. The Bill explicitly states that these guidelines would be binding for the valuations they pertain to.

The Explanatory Notes examples include guidelines related to the valuation methodologies for specific types of land or land used for particular purposes, such as volumetric lots, shopping centers, heritage-affected land, and childcare centers. Granting such authority would enable the Valuer-General to override established valuation practices and judicial precedents merely by publishing a guideline on the department's website.

The proposal to empower the Valuer-General with guidelines raises concerns regarding the transparency, consistency, and defensibility of valuations, limiting landowners' ability to object to or appeal against valuations made under the LVA. The likely impact of this proposal is as follows:

1. In an appeal to the Land Court regarding an LVA valuation, appellants must demonstrate error on the Valuer-General's part during the 'two-step' test.
2. As the guidelines would be binding, if the Valuer-General (through her delegate) adheres to a relevant guideline when making a valuation, it would be challenging for a landowner to prove error, even if the guideline contradicts sound principles.
3. Landowners would be limited to pointing out errors in the Valuer-General's application or non-application of guidelines.
4. The binding nature of the guidelines implies that the Land Court would also be bound by them, regardless of their soundness in principle.

The Committee should be concerned that the power to issue guidelines may restrict the Land Court's powers. Additionally, the lack of consultation and limited oversight surrounding the Valuer-General's authority to make guidelines should be particularly concerning to the Committee, especially considering the absence of a consultation requirement.

If the Bill is passed in its current form, guidelines issued by the Valuer-General would take immediate effect upon publication on the department's website. Although the Valuer-General would be required to table the guidelines in Parliament within 14 sitting days, this timeframe allows for limited oversight as Parliament does not convene continuously.

These factors present concerns as it may take several weeks or even months before Parliament considers a guideline that should have never been made. Even if the guideline is eventually

disallowed, any actions or consequences arising from it before the disallowance would remain unaffected.

Practically speaking, this proposed amendment may lead to increased costs for landowners objecting to or appealing against valuations based on the LVA. Furthermore, valuations may be artificially inflated, resulting in higher rates and land tax for landowners. Such high financial burdens discourage investments in land, hampering its development for residential, retail, and commercial purposes.

Amendment of Section 17(2) of the LVA

The Bill suggests amending the definition of "unencumbered" in Section 17(2) of the LVA to exclude agreements for lease (AFL).

The rationale behind this proposal, as stated in the Explanatory Notes, is that including AFLs as encumbrances might not have evidence to enhance or detract from the value, making them inappropriate inclusions. The amendment aims to allow the Valuer-General to consider the value of an AFL in the unencumbered land value unless there is particular evidence indicating its value.

The Committee should be concerned about this amendment, as the automatic inclusion of AFLs in land values aligns with the Court of Appeal's decision in *Chief Executive, Department of Natural Resources and Mines v Kent Street* [2009] QCA 399, along with subsequent decisions made by the Land Appeal and Land Courts that upheld that precedent. Moreover, this amendment fails to provide clarity on AFL treatment, potentially leading to inconsistent approaches by the Valuer-General, thus undermining transparency and inviting further challenges to valuations made under the LVA.

Practically speaking, this proposed amendment may result in increased costs for landowners objecting to or appealing against valuations based on the LVA. Furthermore, these valuations could be artificially inflated, leading to higher rates and land tax payments by landowners. Such financial burdens discourage investments in land and hinder its development for residential, retail, and commercial purposes.

Changes to the objection process

The Bill includes a series of changes to the objection process, including:

1. Removal of the Valuer-General's obligation to offer an objection conference for land with valuations exceeding \$5 million (or offering one at all).
2. Requirement for the objection conference chairperson to provide a report, which becomes a relied-upon document in deciding or appealing against objections.
3. Introduction of new disclosure obligations for objection conferences, expanding the obligation to disclose information to include the parties' agents or representatives. Objection conferences cannot proceed unless these obligations are fulfilled.
4. Permission for parties to rely on disclosed documents in valuation-related proceedings.

The proposed amendments to the objection process give rise to concerns as they:

1. Are likely to increase the costs borne by landowners due to onerous disclosure obligations.
2. May foster a more adversarial approach during objection conferences.
3. May result in the Valuer-General offering fewer or no objection conferences.
4. Potentially lead to fewer objections resolved during objection conferences, raising costs for landowners and putting additional strain on the Land Court's time and resources.

Practically speaking, these proposed amendments may result in increased costs for landowners objecting to or appealing against valuations made under the LVA.

In summary, the amendments contemplated by the Bill will inevitably result in higher land tax and rates for landowners, potentially affecting property investment in Queensland, while impairing the transparency and consistency of valuations conducted by the Valuer-General.

These proposed changes will directly impact the current and future investment decisions made by our Group, potentially altering our investment strategies and locations.

Thank you for considering this submission.

Sincerely,

Terrence Hutchinson

Investment Manager

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