Land Valuation Bill 2010

Explanatory Notes

General Outline

Short Title

The short title of the bill is the Land Valuation Bill 2010.

Policy Objectives

The Land Valuation Bill 2010 will repeal the *Valuation of Land Act 1944* VoLA) and introduce the Land Valuation Act 2010. The new Act has been created due to the extensive changes to the valuation system in Queensland.

The objectives of the Bill are to:

- Implement major reforms to the State's statutory land valuation system announced by the Honourable Anna Bligh MP, Premier of Queensland on 9 March 2010, so that these reforms are in place for the 2011 valuation. The reforms simplify the State's statutory land valuation process consistent with other Australian jurisdictions, and provide a more credible, transparent and less contentious valuation system.
- The key elements of the reforms in the Bill are:
    - shifting from the existing unimproved value methodology to site value for non-rural land;
    - introducing an annual valuation cycle whereby every property will be valued each year, except in unusual circumstances or where there has been negligible market movement;
    - removing intangible elements from the definition of unimproved value and omitting intangibles from the definition of site value;
    - removing the 'shopping centre formula';
    - *for new site improvements* – inserting a new provision for an allowance for site improvements carried out by the owner in the

12 years prior to the valuation that will cease on the sale of the property, whether the property is developed or not;

- *for existing site improvements –*
  - a phasing in of valuation increases over 12 years, or until sale of the property, for properties that experience more than a $1m increase in value due to the introduction of the new site value methodology in 2011; or
  - a site works allowance for the value of site works paid for before commencement that were carried out within the last 12 years prior to commencement. The owner may claim the allowance for the part of the 12 years that has not yet expired (or until sale). An owner cannot claim both the offset and this allowance and where eligible for both, must choose one or the other.
- streamlining the objections and appeal process including:
  - greater information exchange and compulsory objection conferences for properties ($5m and over);
  - the extension of the period to lodge an objection and appeal;
  - simplifying the properly made test requirements;
  - extending the period to correct a objection;
  - removing the restriction on a landowner to only appeal on the grounds submitted in their objection; and
  - introducing internal review rights for landowners to appeal a range of administrative decisions including whether an objection has been properly made or has lapsed and for such reviews to be appealable to the Queensland Civil Administrative Tribunal (QCAT); and
- creating the independent position of valuer-general;
- requiring a review of valuation concessions in the Act after two years.

- amend the *Aboriginal Land Act 1991, Torres Strait Islander Land Act 1991* and *Land Act 1994* to:
  - enable a registered native title body corporate to hold land under the Aboriginal Land Act 1991 or Torres Strait Islander Land Act

1991 for a broader group of Indigenous beneficiaries concerned with the land, than those that these Acts currently permit, therefore meeting stakeholder expectations;

- address technical and practical issues associated with the opening and closing of roads on Indigenous deeds of grant in trust;
- enable State and Commonwealth registered interests on transferable land under the Torres Strait Islander Land Act 1991 to survive the transfer of this land and therefore continue to benefit trustees of this land through a formal tenure arrangement income stream; and
- enable an easement that benefits a parcel of transferable land to survive the transfer of this land and therefore continue to provide benefit.

- amending the *Torres Strait Islander Land Act 1991* to:
  - provide that roads constructed on a Torres Strait Islander deed of grant in trust after the commencement of the Torres Strait Islander Land Act are transferable land. The amendment will provide that public roads constructed on DOGIT land after the commencement of the Act are not transferable land;
  - provide that an easement that benefits a parcel of transferable land continues upon transfer of the land.

Reasons for the Policy Objectives

On 9 March 2010 the Honourable Anna Bligh MP, Premier of Queensland, announced major reforms to the State's statutory land valuation process, with the intention that these reforms would be in place for the statutory valuations to be issued in March 2011 and are effective from 30 June 2011 for rating and tax purposes.

PricewaterhouseCoopers were engaged by the Department of Environment and Resource Management (DERM) to undertake a high-level analysis of site value methodology and other statutory valuation process reforms (the PWC review). The review identified a range of issues with the current statutory land valuation process.

Land Valuation

Unimproved value as the sole valuation methodology in Queensland

The provision of statutory valuation services is a fundamental input into the Queensland (QLD) economy. It is also a critical factor in the efficient operation of the local government rating system and, in some cases, State Government land rentals and land tax assessment.

The VoLA was originally introduced in 1944 to simplify the statutory valuation process and to provide a consistent basis for land valuation in Queensland.

The valuations are used for rating, State land rentals and land tax purposes by local governments, the Department of Environment and Resources (DERM) and the Office of State Revenue (OSR).

Currently DERM provides unimproved land values for all properties in Queensland subject to rates, land tax or state land rental. This has effectively been the case ever since the VoLA was enacted in 1944. Generally, unimproved value represents the market value, reflecting highest and best use of the land in its natural state before any site works. This requires the valuer to consider the property on the basis that all surrounding development and infrastructure and services to the subject property in place as at the date of valuation exist but the property itself has none of its existing improvements or ground improvements such as clearing, levelling, drainage etc. Consequently, the site is, in effect, valued in its natural state with all of its surrounding up to its boundary as the valuer sees it at the date of assessment.

While unimproved value originally served Queensland well, its current use fails to recognise that the State is now largely developed and there is a declining knowledge of what land was like in its original state.

Queensland's current land valuation methodology – unimproved value – is unsustainable. It no longer provides a workable valuation methodology in non-rural areas as its application is highly contestable and is increasingly undermining public confidence in statutory valuations.

The State has been exposed to a number of complex and costly appeals, particularly related to large commercial and highly improved shopping centres where the definition of unimproved value has been heavily challenged.

The government's costs for making and defending valuations in high profile Court proceedings have increased substantially, with concurrent

risks associated with reduced land tax revenue for the State and rating revenue for local governments.

Site value methodology used in other States

In most other jurisdictions, Victoria, South Australia, New South Wales and Western Australia, the unimproved valuation method has been largely replaced with the concept of site value. While there are slight definitional differences between the various states, the site value approach again presumes all the existing surrounding development, infrastructure, services etc. around the subject land at the date of valuation, but now also including, as part of the assessed value, the ground improvements which have been undertaken to the land (clearing, levelling, drainage, filling, reclamation, retaining works, stone picking etc) and which, now, in effect, merge with that land. In some jurisdictions an allowance is made to exclude the site works undertaken by the current owner for a period of years so that the approach could not be viewed as a disincentive to development.

The site value approach is more relevant to today's property market and is easier to comprehend than the unimproved value approach and avoids the need for sometimes protracted and hypothetical legal debates attempting to establish what the original natural state of the land may have been. This methodology has been called for by the Local Government Association of Queensland (LGAQ) for many years.

Site value is also used by the Commonwealth Grants Commission for distribution of GST funds back to the States.

Intangible elements and improvements

Under the VOLA the current valuation methodology includes consideration of the added value of "intangible elements" such as development approvals, leases, infrastructure credits and development premiums.

Consideration of intangibles has the potential to artificially inflate values and cause inequities for more complex, high value properties such as commercial buildings. Based on stakeholder feedback, intangible elements add complexity to the valuations process and are contentious; often resulting in objections.

Other states' legislation is silent regarding intangible elements and they are generally not considered when valuing land.

Valuer-General

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 valuer.

The objections and appeals framework

One of the findings of the PWC review is that there has been a long history of complex and adversarial objections under VoLA that significantly exceeds the experience in other jurisdictions in Australia.

In March 2010 the *Valuation of Land Act 1944* (the Act) was amended to provide a more effective and efficient objection process, including the introduction of requirements for a properly made objection.

The key driver for the reform was that the existing objection process did not lead to landowners providing sufficient information for a departmental valuer to assess whether the valuation was either correct or incorrect. Some landowners provided only property identification details supported by generic grounds such as 'the valuation is too high'. This resulted in a largely ineffective objection process with some landowners and their agents using it to appeal to the Land Court without any genuine attempts to resolve differences during the objection phase.

Stakeholders raised some concerns regarding the March 2010 amendments:

- in relation requirements for an objection to be to the properly made;
- that there is no appeal mechanism once an objection has been assessed as not being properly made. Currently, the only option is judicial review;
- that the new objection process was burdensome, overly prescriptive and unfairly constricted a landowner's appeal rights including that the requirements for a 'properly made objection' will be unachievable within the statutory timeframe; and
- confining appeal rights to those issues identified in an objection, and to preclude landowners from commencing an appeal where their

objection is not 'properly made', in both cases disproportionately restricts appeal rights.

Valuation cycle

Currently under the VOLA, every Local Government Area (LGA) must be revalued at least once every five years. The local government areas to be revalued each year is determined based on a range of criteria set out in the VOLA (such as market movement, time since last valuation etc).

The move to a dual methodology under this Bill increases the need for regular re-valuation particularly as the impacts and volatility of urban and peri-urban change will be exacerbated. The move to more regular (annual) valuations will also overcome substantial steep changes in valuations that have occurred when the period between annual valuations may be up to 5 years.

Shopping Centre formula

In *PT Limited and Anor v Chief Executive, Department of Natural Resources and Water* (2007 QLAC 0074) (the Chermside decision) the Court determined that the definition of "unimproved value of land" in relation to improved land required the improvements to be treated as if they had never been made and that the value of intangible improvements must be deducted from the value of the land regardless of the valuation approach adopted by the valuer in respect of any property developed for profit. This was contrary to the approach used by statutory valuers and would generally have resulted in a much lower valuation where the present use would otherwise constitute the highest and best use.

As a result a formula was introduced in 2008 for the valuation of prescribed large shopping centres. The formula was introduced as an interim measure only until a simpler approach was established. The Chermside decision recognised that a simpler process for arriving at the unimproved value of similar properties needed to be devised. The move to the new site valuation methodology provides this simpler approach.

Concessions

Valuation concessions are provided for in VOLA and reduce the unimproved value from that which would otherwise be determined in the absence of that concession. This provides a benefit to certain landowners, most relating to the single dwelling/farming concession (section 17).

The PWC report recommends the removal of concessions from the valuation methodology on the basis this would result in a more 'pure'

valuations framework based on the land's highest and best use, leaving concession decisions to the rating and taxation authorities.

Aboriginal Land Act 1991, the *Torres Strait Islander Land Act 1991* and *Land Act 1994*

Registered Native Title Body Corporate Holding Land for Broader Group

In the consultation for the transfer of the Hope Vale deed of grant in trust under the *Aboriginal Land Act 1991*, Aboriginal people sought the option to have land transferred to a registered native title body corporate, an organisation under the *Corporations (Aboriginal and Torres Strait Islander) Act 2006,* and for it to hold the land broadly for Aboriginal people as a land trust. However, as the *Aboriginal Land Act 1991* currently operates, if a registered native title body corporate is granted land it must hold it for the native title holders of the land.

Opening and Closing Roads

Currently, where there is a simultaneous opening and closing of a road process within an Indigenous deed of grant in trust, the road that is closed does not automatically become transferable land, as is the remainder of the deed of grant in trust and therefore cannot be dealt with as part of the entire deed of grant in trust when it is transferred under the *Aboriginal Land Act 1991* or *Torres Strait Islander Land Act 1991*. Also if a road is closed generally and the closed road is dealt with under section 109(2)(b) of the *Land Act 1994* to include the land in an Indigenous deed of grant in trust, the same situation exists. Addressing these technical issues in the legislation will result in cost and timesavings in progressing transfers of certain lands.

Roads constructed on a Torres Strait Islander deed of grant in trust after the commencement of that Act are transferable land. It is not a practical situation that the Act would permit these roads to be transferred to a grantee under the Act when that was not the intention of a particular land transfer.

Existing Interests – Transferable Land

Section 31 of the *Torres Strait Islander Land Act 1991* provides that if transferable land is subject to an interest immediately before transfer, when the land is transferred, the interest continues in force.

Section 31 does not however permit interests held by the State or Commonwealth to continue upon transfer. Therefore if these bodies had a lease over the land, for example, it would cease. However because of

section 81 of the *Torres Strait Islander Land Act 1991*, these bodies can continue to use and occupy the land without the need for an interest or to pay rent to the trustee. As a registered interest held by the State or Commonwealth cannot continue upon transfer, it denies the future trustee of the land the benefit that an income stream from a formal tenure arrangement would provide.

Easements that benefit a parcel of transferable land, for example those providing access, cannot continue upon transfer because the land is not subject to the interest, rather it benefits from it. Enabling these easements to continue upon transfer will be beneficial in facilitating the transfer of land.

How the Policy Objectives will be achieved

Land Valuation

Based on the PWC review, the Bill will implement the following reforms to provide for a more contemporary and robust valuation framework that is easier for the community and industry to understand and apply.

Site value

The Land Valuation Bill 2010 will implement the site value methodology for non-rural land in Queensland in conjunction with the continuation of an amended definition of unimproved value for rural land. Unimproved value will continue to be used for rural land, as announced by Government. The change to using site value methodology for non-rural land brings Queensland's valuation approach, consistent with the approaches used in other jurisdictions.

Site value is closer to the current market value of land, as it includes the site improvements in the value of the land. This value is more reflective of the development situation in Queensland's urban areas and as such will provide benefits of a more transparent, less contentious, simpler system.

The proposed definition of site value in the Bill is closely aligned to other states, in particular NSW. The definition will clearly state that site improvements 'to' the land will form part of the valuation. Those improvements that do not improve the land or are associated with the construction of a building, for example, an excavation that merges with the building, will not form part of the site valuation.

Rural and non-rural delineation

The Bill applies the site value methodology to non-urban land and the unimproved value methodology to rural land. The Bill delineates between rural and non-rural land based on the current zoning of a state endorsed planning scheme. An exception to this definition is where land is zoned rural but used for an urban purpose approved through a material change of use approval under the *Sustainable Planning Act 2009* — these properties would be assessed under site value.

The Bill also provides the valuer-general with discretion to determine the statutory valuation methodology to be used for a property where anomalies in zoning occur that disadvantage the owners of particular parcels of land. The valuer-general may decide that land that is zoned as non-rural be treated as rural for statutory valuations purposes only where the valuer-general is satisfied that:

- at least 95 per cent of land used for the same purpose in the State is zoned as rural;
- the land's zoning as non-rural makes a material difference to the valuation of the land; and
- valuing the land as non-rural would result in a disparity in valuation amount between the same land use in other parts of the State.

The Bill provides landowners with the opportunity to alter their statutory valuation methodology only once to rectify anomalies in categorisation. The valuer-general's decision will be reviewable by the Queensland Civil and Administrative Tribunal (QCAT).

Removal of intangible elements and improvements from the site value methodology

The Bill will omit intangible elements from the definitions of unimproved value and site value. This is consistent with the Premier's March 2010 announcement that states that site value would "exclude the valuation of leases which have been so controversial" and is consistent with the NSW definition.

The existence of any agreements for lease, leases, development approvals or infrastructure credits and their added value (if any) will not be considered when determining the value of the property.

Shopping centre formula

The introduction of site value in 2011 will also see the removal of the 'shopping centre formula', which was introduced as an interim measure in 2008.

Position of Valuer-General

On 9 March 2010, the Premier announced that the government, as part of the reforms, would appoint an independent valuer-general to lead the State Valuation Services.

The Bill establishes the position of valuer-general. The position of the valuer-general in Queensland is to be independent in all valuations matters and will carry out all functions presently undertaken by the Chief Executive of VOLA. The valuer-general will be appointed under the *Public Service Act 2008*, but only able to be dismissed by the Governor-in-Council. This position will reflect similar statutory positions in place in other Australian jurisdictions.

Transitioning the impact of site value on valuations

In order to ensure that the introduction of site value will not disadvantage landowners of land currently being developed and to ensure it will not have an adverse affect on current and future development programs, the Bill requires the valuer-general to determine a reasonable allowance for site improvements to the land carried out by the owner after commencement and deduct the value of these improvements for up to 12 years or on sale of the property, whichever occurs first. This effectively freezes the inclusion of site works in the valuation during the preparation of the land for development.

An allowance will not be made for site works if the current owner of the land was not the owner when the site improvements were made. The allowance cannot exceed the cost of improvements. The landowner, as part of the objection process, would make a claim for site improvement expenditure.

Further mitigation is also provided in the Bill for those properties that, as a result of the new site value methodology will experience a significant increase in land value. Where there is a increase in value of more than $1 million between the existing unimproved value and the new site value in the first year when site value is introduced, the difference will be offset in equal instalments over a 12-year period. The full site valuation will be

reflected in the 13th year, or on the sale, or part sale, of the property within the 12-year period.

The Bill also provides a site works allowance for the value of site works paid for before commencement that were carried out within the last 12 years prior to commencement. The owner may claim the allowance for the part of the 12 years that has not yet expired (or until sale). An owner cannot claim both the offset and this allowance and where eligible for both, must choose one or the other.

The objections and appeals framework

The Government is committed to enhancing the objection and appeal processes relating to the valuation of land through the following principles:

- information sharing between public and private practitioners and jurisdictions;
- more openness and transparency in the supply of information to land holders regarding the valuation process;
- simplification of the objection process (e.g. updates to the valuation objection guide, different forms and requirements for property types i.e. residential as opposed to complex properties and eventually, an online objections tool);

Taking into account the above elements, the Bill amends the existing objection and appeal process to:

- provide the objector with an appeal to the QCAT for a range of administrative decisions including whether an objection has been properly made or has lapsed;
- extend the objection period from 45 to 60 days and extend the appeal period from 42 to 60 days;
- clarify the provisions for the properly made test to allow objections to proceed as properly made where at least one of the grounds is properly made (formerly where one of the grounds was not properly made, the objection was rejected);
- extend the period from 14 to 28 days to correct an objection after a correction notice is issued;
- extend the Invitation for Information period;
- remove the provision which restricted a landowners right of appeal to the grounds stated in the objection; and

- provide for a mutual exchange of information and mandatory conferences with landowners with properties over $5m in value.

Annual Valuations

The Bill provides for the commencement of an annual valuation cycle from 2011 where 1.6M valuations will be issued for all properties in the State. This will involve converting all non-rural property to site value and rural property valuations being based on an amended definition of unimproved value.

The Bill retains existing provisions to empower the valuer-general to decide not to make an annual valuation where:

- it is not possible due to unusual circumstances such as civil disturbance or extreme climatic conditions; or
- where there has been no significant increase in values in an area.

Concessions

Concessions were introduced to the VOLA at a time when local governments did not have powers to adjust rates. Local governments now have such powers under the *Local Government Act 2009* and the *City of Brisbane Act 2010* to apply concessions and other rating tools, such as differential general rates and minimum general rates, when levying rates.

The introduction of the new site valuation methodology, and other reforms regarding the streamlined objection process and valuation cycle, represent very significant changes for Queensland's valuation system. In order to ensure clear direction and implementation of these changes consideration of changes to valuation concessions will be delayed.

Whilst the LGAQ supports their removal, the Bill will provide that the Minister must review the concessions currently contained in s17 and s25 of VoLA by December 2012. This timing will ensure that full consultation on this issue can occur and further consideration can be given as to whether removal also of these concessions needs to coincide with any corresponding amendment to rating and taxing legislation.

Aboriginal Land Act 1991, Torres Strait Islander Land Act 1991 and Land Act 1994

Registered Native Title Body Corporate Holding Land for Broader Group

Amendments will enable a registered native title body corporate to hold land under the *Aboriginal Land Act 1991* or the *Torres Strait Islander Land*

Act 1991 for a broader group of Indigenous beneficiaries concerned with the land, including native title holders, traditional owners and those with an historic connection, rather than only those persons that hold native title;

Duplication of this amendment in the *Torres Strait Islander Land Act 1991* allows this option to be available for transfers of land under that Act.

Opening and Closing Roads

Amendments to the *Aboriginal Land Act 1991, Torres Strait Islander Land Act 1991 and Land Act 1994* will provide:

- that as a result of a simultaneous opening and closing of a road process within an Indigenous deed of grant in trust, the road that is closed will automatically become transferable land if included in the deed of grant in trust, enabling it to be dealt with as part of the entire deed of grant in trust when transferred under the Aboriginal Land Act 1991 or Torres Strait Islander Land Act 1991; and
- that if a road is closed generally and the closed road is dealt with under section 109(2)(b) of the Land Act 1994 to include the land in an Indigenous deed of grant in trust, that road automatically becomes transferable land, enabling it to be dealt with as part of the entire deed of grant in trust when transferred under the Aboriginal Land Act 1991 or Torres Strait Islander Land Act 1991.

Amendments to the *Torres Strait Islander Land Act 1991* will provide that roads constructed on a Torres Strait Islander deed of grant in trust after the commencement of the Torres Strait Islander Land Act are not transferable land. These amendments reflect those made to the *Aboriginal Land Act 1991* in 2008.

Existing Interests – Transferable Land

Amendments to the *Torres Strait Islander Land Act 1991* will provide:

- that a registered interest held by the State or Commonwealth can continue upon transfer of the land under the Torres Strait Islander Land Act 1991; and
- that an easement that benefits a parcel of transferable land continues upon transfer of the land under the Torres Strait Islander Land Act 1991.

These amendments reflect those made to the *Aboriginal Land Act 1991* in 2008.

Alternatives to the Bill

For all the amendments in the Bill, there are no other viable alternatives that would achieve the policy objectives other than the proposed Bill.

Estimated administrative Cost to the Government for implementation

Land valuation

There will be costs associated with introducing the reforms. It is estimated that introducing site value in 2011 will cost the government $7.87M. It is further estimated that ongoing funding for the Operation of Office of the valuer-general and supporting staff, the cost of appeals to the Queensland Civil and Administrative Tribunal and peer review activities will be $1.134M. In 2011-12 the additional costs of training, ongoing maintenance of the valuation roll and costs associated with issuing 1.6 million statutory valuation notices and associated activities is estimated to be $3.93M

Aboriginal Land Act 1991, Torres Strait Islander Land Act 1991 and *Land Act 1994*

The proposed amendments will not introduce new implementation costs. Existing implementation costs will continue to be met by the Department of Environment and Resource Management.

Consistency with Fundamental Legislative Principles

The Bill is generally consistent with fundamental legislative principles. Potential breaches of fundamental legislative principles are as follows:

Whether legislation has sufficient regard to the institution of Parliament (Legislative Standards Act 1992 (LSA), section 4(2)(b)) by authorising the amendment of an Act only by another Act – LSA section 4(4)(c)

Clause 265(4) (Regulation-making power) of the Bill provides that if a matter required under the *Land Valuation Act 2010* to be done or made within a particular period can not be, or is not, so done or made, a regulation may fix a further or other period for making or doing the matter.

Arguably this clause is a Henry VIII provision because enables time frames and methods in the Act to be modified by regulation. However, clause 265(5) (Regulation-making power) limits the use of this regulation making power to unusual circumstances or because a strict application of the fixed

period would lead to a harsh result. As a result the power can only be used to the benefit of individuals who would otherwise suffer a harsh result or where it is simply not possible to comply with the Act due to unusual circumstances such as for example floods or bushfires.

Clause 296 (Transitional regulation-making power) authorises the making of a transitional regulations for one year for matters for which the Bill does not sufficiently provide. This is considered to be justified in order to ensure the effective implementation of the new site valuation methodology contained in the Bill. The move to the site value methodology is a significant change from the current unimproved methodology. If any omissions are found in the Bill, it is vital, in the public interest, that they can be rectified as soon as possible to avoid flow on effects to rates, land tax and Land Act rents. Similar provisions have been used in Queensland legislation when regulatory regimes are being substantially changed.

Whether legislation has sufficient regard to rights and liberties of individuals by not adversely affecting rights and liberties, or imposing obligations, retrospectively – LSA section 4(3)(g)

Clause 290 (Provisions for first valuer-general) validates the valuer-general's appointment and functions performed before commencement. The office of valuer-general is being created to assist in ensuring the integrity of valuations for rating and taxing purposes. Given the significant changes being made to valuation methodology by this Bill it is vital that the position be filled and operational before 1 October 2010, when the process of determining annual valuations for 2011 commences.

Consultation

Community and industry stakeholders

Land Valuation reforms

The Government committed to undertake close consultation with industry stakeholders on the proposed reforms prior to the introduction of legislative amendments for site value and business process reforms.

Consultation has been underway since April 2010 through a Valuations Reform Reference Group (VRRG) comprising representatives from the commercial, industrial, local government, rural, tourism, mining, law and residential development sectors with an interest in statutory land valuations.

Membership of the VRRG comprised nominated senior representatives of the following organisations:

- Local Government Association of Queensland
- Property Council of Australia (Queensland) (PCA)
- Shopping Centre Council of Australia (SCCA)
- Queensland Tourism Industry Council (QTIC)
- AgForce
- Queensland Farmers Federation (QFF)
- Queensland Resources Council (QRC)
- Real Estate Institute of Queensland (REIQ)
- Urban Development Institute of Queensland (UDIA)
- Australian Property Institute (Queensland) (API)
- Queensland Law Society
- other organisations, such as the Queensland Bar Association and the Land Court have also been consulted on the Bill.

Amendments to the *Aboriginal Land Act 1991*, *Torres Strait Islander Land Act 1991* and *Land Act 1994* in the Land Valuation Bill 2010

In 2004 an Issues Paper for the *Aboriginal Land Act 1991* and the *Torres Strait Islander Land Act 1991* was released and a comprehensive round of consultations with Aboriginal people and communities, other stakeholders and key Government departments was undertaken.

A discussion paper for the *Aboriginal Land Act 1991* was released for stakeholder consultation and submissions in April 2005 and further consultation followed.

Consultation in the Torres Strait on the Issues Paper occurred in 2006; this entailed visits to all the community islands and the mainland centres of Mackay, Townsville and Cairns.

Meetings were held with Native Title Representative Bodies to discuss proposed amendments and their views.

Consultation on proposed amendments to the *Torres Strait Islander Land Act 1991* commenced in 2008 and was completed in 2009. Consultation consisted of:

- establishing a focus group to guide the community consultation. This focus group comprised the Mayors of the Torres Strait Island Regional Council and the Northern Peninsula Regional Council, the Chairman of the Torres Strait Regional Authority, representatives of the Native Title Office of the Torres Strait Regional Authority and representatives of native title holders;
- preparing and disseminating material and documents for the community;
- advertising on local radio of the purpose of the consultation and where and when it would take place; and
- conducting a series of two day workshops on each community island and in the mainland centres of Mackay, Townsville and Cairns.

Discussions regarding the proposed amendments continued with Cape York Land Council and a number of proposed amendments were sent out for comment to the Native Title Representative Bodies, the Queensland Indigenous Working Group and other key stakeholders. Subsequent discussions with stakeholders identified a number of possible concerns with the most raised issue being the opportunity to comment on a draft of the Aboriginal Land and Torres Strait Islander Land and Other Legislation Amendment Bill 2010. Subsequently an exposure draft of the Bill was released in May 2010.

The proposed amendments to enable a registered native title body corporate to hold land for a broader group of people included in this Bill, though not specifically consulted upon are broadly in line with those matters that relate to enabling organisations registered under the Australian Government's *Corporations (Aboriginal and Torres Strait Islander) Act 2006* to hold land. The Aboriginal Land and Torres Strait Islander Land and Other Legislation Amendment Bill 2010 consultation draft contains those amendments.

Government

The Department of the Premier and Cabinet; Queensland Treasury and the Department of Infrastructure and Planning were consulted in relation the land valuation reforms.

Results of consultation

Community

The VRRG supports the move to site value and the concept of a 'pure' valuation, based on sales, as well as the introduction of an annual valuation. Key matters raised by the VRRG included the need for a commitment from the State Government to mitigate financial impacts arising from increases in land tax (as a result of valuation increases under site value and removal of concessions); the need for clear delineation between rural and non-rural land; and the need for an independent Valuer-General.

In particular, the PCA, the SCCA, the UDIA and other commercial industry stakeholders (QRC and the Queensland Tourism Industry Council), are generally supportive of valuation reforms outlined in the Bill.

There has been ongoing engagement with Indigenous stakeholders over the Aboriginal Land and Torres Strait Islander Land and Other Legislation Amendment Bill 2010. The proposed amendments to the *Aboriginal Land Act 1991*, *Torres Strait Islander Land Act 1991* and *Land Act 1994* advanced from that Bill to the Land Valuation Bill 2010 are detailed in that Bill or are in line with the broad policy concepts raised in that Bill. To date Indigenous stakeholders have either expressed general support in principle, or not commented on all of the proposed amendments.

Aboriginal people associated with the Hopevale DOGIT transfer have requested an outcome, as it relates to an intended grantee, that the proposed amendments will achieve. As these amendments only provide a further option for a possible grantee, it is expected that Aboriginal people and Torres Strait Islander people in general will not raise issue with them.

The Cape York Land Council supports the proposed amendments in this Bill in relation to the *Aboriginal Land Act 1991*, *Torres Strait Islander Land Act 1991* and *Land Act 1994*. The Native Title Office of the Torres Strait Regional Authority has not provided comments on the specific proposed amendments in this Bill at this time.

Government

Government agencies consulted support the Bill.

Notes on Provisions

Chapter 1 Preliminary

Short title

Clause 1 sets out the short title of the Act.

Commencement

Clause 2 provides that Schedule 1 part 1 commences immediately after the commencement of this section. The schedule makes housekeeping amendments to amend the long title and renumbers the dictionary schedule.

Definitions

Clause 3 states that the dictionary in schedule 2 defines words used in the Act.

Main purpose of Act

Clause 4 sets out that the main purpose of the Act is to provide for how land is to be valued for particular Acts.

Chapter 2 Valuations

Part 1 Valuations and their purposes

Valuer-general to make valuations

Clause 5 replaces section 13 of the VoLA (Chief Executive to make valuation) and requires that the valuer-general must make valuations for

purposes contained in clause 6 (Statutory purposes of valuations). The valuations are for all lands in a local government and may be either an "annual valuation" or "maintenance" issued for the purposes of clause 6(1).

Statutory purposes of valuations

Clause 6 replaces section 72 of VoLA (Purposes for which valuation to be used). It sets out that the valuations are to used to assess an owners liability for land tax, rates and Land Act rental. It also replaces section 15(1) (Valuation for rental purposes) in that the valuation for the Land Act rental is only to be used to the extent provided for the Land Act 1994 and that if another Act refers to value or rateable value of land and that valuation is in effect the valuation provided is the valuation referred to.

Part 2 Valuation methodologies

Division 1 General provisions

What is the *value* of land

Clause 7 sets out that the method of valuation to be adopted for non-rural land is the site value approach while rural land will continue to be valued on an unimproved basis.

What is *non-rural land*

Clause 8 clarifies that non-rural land is land that is not rural land or not zoned under a planning scheme.

What is *rural land*

Clause 9 clarifies that land is rural land if it is zoned as rural land in section 10 and that has not ceased to be rural or has not been declared to be rural under clause 11 (Cessation of zoned rural land).

Division 2 Provisions for rural land

Subdivision 1 Zoned rural land

Zoned rural land

Clause 10 clarifies that where more than half of the area of a property is zoned as rural under a planning scheme or is included in a zone that is the nearest equivalent to rural under the Queensland planning provisions, the land is zoned rural. The clause also provides that land which is zoned rural-residential under a planning scheme or is included in the nearest equivalent to rural-residential land under the Queensland planning provisions is not considered as zoned rural. In deciding the nearest equivalent zone regard must be had to the purpose and outcomes under the Queensland planning provisions for land to be zoned as rural.

Cessation of zoned rural land

Clause 11 states that land ceases to be rural land and becomes non-rural land if it is subject to a material change of use under the Planning Act and it is used for an urban purpose.

Subdivision 2 Declared rural land on application

Applying for declaration

Clause 12 states that an owner may apply to the valuer-general to declare that land is rural land. Where an owner has already made a rural land application another application may only be made where there has been a material change of use for the land or a development approval is granted for the land.

Deciding rural land application

Clause 13 states that the valuer-general must decide a rural land application within 60 days of its receipt and that the application may only be granted where at least 95% of land in the State used for the same purpose is zoned

rural and its current zoning makes a material difference of at least 30% to its value.

Subdivision 3 Other declared rural land

Declaration on valuer-general's initiative

Clause 14 provides that the valuer-general may declare land rural at any time provided that it satisfies the requirements of clause 13(2) (Deciding rural land application) and the land is not zoned under a planning scheme.

Division 3 Site value and unimproved value

Subdivision 1 Preliminary

What div 3 is about

Clause 15 defines the site value and unimproved value of land.

Land taken to be granted in fee simple

Clause 16 clarifies that for the purposes of the Act all land is taken to be granted in fee simple even if it is held under another tenure.

What is the land's *expected realisation*

Clause 17 clarifies that the expected realisation for the land is the capital sum which the unencumbered parcel held in fee simple might be expected to sell for if the sale was negotiated as a bona fide sale.

The existence of any agreements for lease, leases, development approvals or infrastructure credits and their added value (if any) must not be considered when determining the value of the property.

Any comparable sales used as a basis of valuation must have the added value (if any) of these item (if included in the sale) deducted from the sale price.

What is a *bona fide sale*

Clause 18 clarifies that a bona fide sale is a sale made on such reasonable terms that a bona fide seller and buyer would require assuming willing but not anxious parties, a reasonable period in which to negotiate the sale and that the property was reasonably exposed in the market. In considering if the terms and conditions are reasonable regard must be had to the land's location and the state of the market for similar lands. The clause also provides that if there is a sale of the property being valued and the sale meets the bona fide test it may be considered to be a bona fide sale for the purposes of the Act.

Subdivision 2 Site value of improved land

What is the site value of improved land

Clause 19 clarifies that if land is improved its site value is its expected realisation under a bona fide sale assuming that all non-site improvements for the land had not been made. This provision may be varied by other provisions of the chapter.

Weighted bond rate applies

Clause 20 replaces section 3(5)(b)(i) of VoLA (Meaning of unimproved value) and provides that the weighted bond rate in clause 21 (What is the weighted bond rate) is to be used in analysing the added value of site and non-site improvements on the land being valued or any comparable sale.

What is the *weighted bond rate*

Clause 21 specifies that the weighted bond rate is either the monthly yield rate published in the Reserve Bank of Australia for government bonds for a 10 year period or if no rate is published a rate prescribed under a regulation, plus 3%.

Assumptions for existing uses

Clause 22 replaces section 3(4) (Meaning of *unimproved value)* and section 15 (3) of VoLA (Valuation for rental purposes).

It declares that the assumption does not apply to Land Act valuations.

It also declares that when assessing the site value of land it may be assumed that the land may be used or continue to be used for any purpose which it was being used or for which it could be used when the land is being valued and also that improvements may be made or continued to be made to allow the existing use to continue.

The clause also clarifies that the assumptions do not prevent the valuer-general from having regard to any other purpose for which the land may be used or when deciding the site value of the land assuming that the current improvements on the land may be replaced with new non-site improvements.

Subdivision 3 Site and non-site improvements

What are *site improvements*

Clause 23 specifies what actions are considered to be a site improvement to the land for the purposes of the Act. They include:

- the clearing of vegetation on the land;
- the picking up and removal of stone;
- improving soil fertility or soil structure;
- works to manage or remediate the contamination of the land under the Environment Protection Act 1994;
- the restoring, rehabilitation or improvement of the lands surface by filling, grading or levelling not being for irrigation or conservation works;
- the reclamation by drainage or filling including retaining walls, underground drainage or any other works necessary to improve or prepare the land for development;
- Excavating the land for footings or foundations or underground building levels is not a site improvement as it merges with the building.

Any of these matters is only an improvement to the extent that it increases the lands value and it ceases to be a site improvement when the benefit of the improvement is exhausted. The clause also provides a meaning of "clearing of vegetation".

What are *non-site improvements*

Clause 24 states that non-site improvements are any works done or material used on the land other than those identified in clause 23 as being site improvements. It also clarifies that works or materials used are a non-site improvement whether or not they add value to the land.

Working out the value of site or non-site improvements

Clause 25 replaces clause 5 of VoLA (Meaning of value of improvements*)* and provides direction on the approach to be adopted in working out the value of site or non-site improvements to or on the land to decide the site or unimproved value of land. The value of the improvements is the lesser of the added value which the existing improvements give to the land regardless of their cost or the cost which should have been reasonably involved in effecting improvements of a nature and efficiency equivalent to the existing improvements.

Subdivision 4 Unimproved value of improved land

What is the unimproved value of improved land

Clause 26 replaces section 3(1)(b) of VoLA (Meaning of unimproved value) and states that the unimproved value of land is the amount which the land may be expected to realise under a bona fide sale assuming that all existing improvements both site and non-site on the land had not been made. The unimproved value approach is subject to other clauses contained in this chapter.

Weighted bond rate applies

Clause 27 requires that the weighted bond rate specified in clause 21 (What is the weighted bond rate) must be used to analyse the added value of site or non-site improvements on the subject land or any sale

Assumptions for existing uses

Clause 28 replaces section 3(4) (Meaning of *unimproved value)* and section 15 (3) of VoLA (Valuation for rental purposes).

It declares that the assumption does not apply to Land Act valuations.

It also declares that when assessing the unimproved value of land it may be assumed that the land may be used or continue to be used for any purpose for which it was being used or for which it could be used when the land is being valued and also that improvements may be made or continued to be made to allow the existing use to continue.

The clause also clarifies that the assumptions do not prevent the valuer-general from having regard to any other purpose for which the land may be used or when deciding the unimproved value of the land assuming that the current improvements on the land may be replaced with new site improvements.

Subdivision 5 Value of unimproved land

What is the site value and unimproved value of unimproved land

Clause 29 states that if a parcel of land is in its unimproved state both its site and unimproved value will be the same.

Division 4 Provisions for particular types of land or resources

Subdivision 1Leases under resource Acts

Mining leases

Clause 30 replaces section 24 of VoLA (Valuation of mining leases) but removes the requirement for the valuer-general to make a valuation of the land contained in a mining lease based on comparable sales. The valuation to be used is now based on configuration of the leased land and the yearly rent charged under the Mineral Resources Act 1989. Where the lease consists of all surface land the rental is 20 times the yearly rent: where it consists of both surface and subsurface land the rental is calculated at 20 times the yearly rent for the surface land plus 6 times the yearly rent for the rest of the lease's area. Where the lease does not have any surface area the valuation will be 6 times the yearly rent for the lease.

Where part of the mining lease is valued as a separate parcel because of its use the separately used parcel is valued as if it was not a mining lease while the value of the remaining part of the mining lease is valued in the same proportion as the balance area bears to the area of the total lease.

Geothermal, GHG and petroleum leases

Clause 31 replaces section 26 of VoLA (Valuation of petroleum leases and GHG leases) but removes the requirement for the valuer-general to make a valuation of the land contained in a mining lease based on comparable sales. The valuation to be used is calculated at 6 times the yearly rent for the lease. The yearly rent is the amount of rent under the Act under which the lease was granted.

Subdivision 2 Other provisions

Easements

Clause 32 replaces section 14 (4) (Deciding unimproved value of certain land) and requires that the valuer-general must take into account the impact of any easement over or benefiting a piece of land.

Land subject to particular rights

Clause 33 replaces section 14 of VoLA (Deciding unimproved value of certain land). This clause requires that the valuer-general must consider any right or limitation on the use of land contained in a lease, licence or permission to occupy or stock grazing permit granted under nominated Acts when determining the valuation of the land. It further clarifies that in making the allowance the purpose and conditions of the right must be considered.

The interests in lands involved are as per the previous Act. However, the Acts which address heritage restrictions have been widened to include local instruments made the Planning Act or a relevant Commonwealth Act.

Land Act tenures

Clause 34 replaces section 15(3) of VoLA (Valuation for rental purposes). The clause requires that for lands:

- whose tenure Land Act conditions provide that the land may be used for other than a single dwelling house or farming; and
- which are not used for farming

the valuer-general must consider the physical state and condition of the land at the start of the tenure when arriving at the land's valuation to be used for rental purposes. This valuation must not include improvements on the land or development works carried out on the land since the tenure commenced.

Racecourse land

Clause 35 replaces section 3(3) of VoLA (Meaning of unimproved value) and retains the provision that when the valuer-general is making a valuation of a racecourse, any restrictions or limitation contained in its deed of grant or certificate of title must be disregarded.

Integrated Resort Act and Sanctuary Cove Act

Clause 36 replaces section 26B (2) and (3) (Valuation of land within approved scheme—Integrated Resort Development Act 1987) and directs that the valuer-general, when assessing the valuation of land in a site contained in the Integrated Resort Act which is or may be inundated by water or subject to tidal influence, must value the land as if it was not or never had been inundated by water. When assessing the value of land under the Sanctuary Cove Act, if any part of the land or adjacent site is or may be inundated by water or tidal influence, the land must be valued as if it or the adjacent site were not or never had been inundated by water or subject to tidal influence.

Exclusion of particular resources

Clause 37 replaces and expands the existing section 16 of VoLA (Exclusion of timber and minerals) by adding geothermal energy, GHG storage reservoirs and petroleum to the previously identified minerals and timber as being matters which are not to be included in the valuation assessed by the valuer-general.

Division 5 Allowances and concessions

Subdivision 1 Deduction for site improvement costs

What sdiv 1 is about

Clause 38 introduces the concept of deducting from the site value of a parcel an amount for site improvements to the land undertaken and paid for by the current owner of the land in the past 12 years.

Who may apply

Clause 39 outlines that an owner may apply for deduction for the site improvements outlined in clause 38 (What sdiv 1 is about), as may the individual's representative, where the owner has died. Such an application may be made if the land is developed with an improvement or has been a developed site in the past and the improvements have been demolished. The cessation of the right to apply is outlined in clause 40.

Cessation of right to apply

Clause 40 sets out the conditions under which an owner or their personal representative lose the right to make an application under clause 39 (Who may apply). This will occur where the person who carried out the works ceases to be the owner of the land.

It will not cease where the property is transferred by:

- a transmission by death from the owner to the owner's personal representative;
- where the land is transferred from one joint tenant to another; or
- the property is transferred by right of survivorship.

Where part of the land is compulsorily acquired the right to apply is retained for the balance while the right to apply is lost if all of the land is acquired.

The right to apply continues while the owner of the land who carried out and paid for the works is the owner to any estate or interest in the land.

Making deduction application

Clause 41 outlines that a deduction application may be made as ground of objection under clause 113 (Required content of objections) or at any other time in the approved form. The objection must provide details of the improvements the subject of the application, including:

- costs;
- who carried out the works;
- when the works were finished and paid for and
- evidence that the applicant paid for the works in the last 12 years.

The application should be accompanied by any documents in the objectors possession relating to the cost of the works.

Deciding deduction application

Clause 42 directs that the valuer-general must consider an application made under clause 41 (Making deduction application) and may either refuse or grant the application. The valuer-general cannot decide an application if the person ceases to be the owner under clause 40(2) or ceases to be an owner of part of the land that has been compulsory acquired as specified in clause 40(5). In all instances the valuer-general is required to give the applicant a decision as soon as is practical after making the decision.

Valuations to which site improvement deduction applies

Clause 43 clarifies the valuation to which a site improvement deduction approved under clause 42 must be applied. In the case of an application made as part of an objection to a valuation it is that valuation; in other instances it is the next valuation notice given to the owner.

The deduction as calculated under clause 44 is to be applied for the balance of the 12 years from when the cost of works were paid.

The deduction will cease from when the owner ceases to be the owner of all of the land as specified in clause 40 while the deduction will apply for the balance of the land where part of the land is taken by compulsory acquisition as per clause 40 (5)(a).

Amount of site improvement deduction

Clause 44 sets out how the amount of site improvements is to be calculated. It is to be the added value of the site improvements on the valuation day. However, this value cannot be more than the actual cost of carrying out the site improvement works on the valuation day and does not include:

- interest or professional costs; or
- the costs relating to obtaining a development approval or other approvals associated with the works.

Subdivision 2 Exclusive use as a single dwelling house or for farming

Application of sdiv 2

Clause 45 replaces section 17(3) of VoLA (Exclusive use for single dwelling house or farming) and clarifies that this subdivision applies to deciding the value of land used exclusively as a single dwelling house or for farming.

The clause does not apply where the land is divided into lots and there is evidence, including advertising or actual sales, of an intention to sell the individual lots.

Particular enhancements must be disregarded

Clause 46 replaces section 17(1) of VoLA (Exclusive use for single dwelling house or farming) and clarifies, for the purposes of clause 45, that:

- the subdivision of the land by survey; or
- the potential use of the land for industrial, subdivisional or any other purposes

are to be disregarded when working out the value of the land.

What is a single dwelling house

Clause 47 replaces section 17(2)(d) (a) to (d) of VoLA (Exclusive use for single dwelling house or farming) and defines the meaning of single dwelling house. The definition includes a:

- dwelling house used solely for habitation by a single household;
- dwelling house part of which is used for or for use as a furnished room or rooms or with a single self contained flat; and
- building consisting of two flats or two self contained units known as a duplex that are used solely for habitation.

What is farming

Clause 48 replaces section 17(2)(a) to (d) of VoLA (Exclusive use for single dwelling house or farming) and defines the meaning of farming. It includes lands used for a farming business where that use is the dominant use of the land.

The business must be operated for profit on a continuous or repetitive basis and must have a substantial commercial purpose or character, having a gross return over a 3 year period of at least $5,000. The business would also qualify if the minimum value of farm improvements or planting of forest or orchard trees was $50,000 and the property had the appearance of being kept for farming.

Subdivision 3 Discounting for subdivided land not yet developed (non-Land Act rental)

Application of sdiv 3

Clause 49 replaces section 25 (1) (Valuation—discounting for subdivided land) and section 15(2) of VoLA (Valuation for rental purposes). This clause defines valuations that will be subject to the discount provided for in clause 50, but excludes any valuation used for Land Act rental purposes. Parcels involved are those which have been subdivided by the current owner and which are not developed. It also includes a parcel which would have been included but which has been reconfigured by compulsory acquisition.

If subdivision 2 (Exclusive use as a single dwelling house or farming) applies because of the use of the land this subdivision is not to apply to the valuation of this land.

Discount until parcel developed or ownership changes

Clause 50 replaces section 25 (2) and (7) (Valuation—discounting for subdivided land) and requires that a local government must discount the issued valuation of a property by 40% prior to calculating a rate based on the valuation amount.

The clause also clarifies that that the discount will cease when the ownership of the land changes or the land becomes developed land.

Provisions for when discounted valuation period ends

Clause 51 replaces section 25 (3) and (4) (Valuation—discounting for subdivided land) and sets out that discounting of the valuation ceases from the day stated in clause 50 and that, for the purposes of the local government legislation:

- the previous valuation is the amount discounted under clause 50(2); and
- the new value is its value without any regard to the discounting.

Part 3 Land to be included in valuations

Division 1 General provision

Valuation generally for each lot

Clause 52 provides that subject to other clauses a separate valuation must be made for each lot.

Division 2 Declaring separate valuation for part of a lot

Valuer-general's power

Clause 53 replaces parts of section 34 of VoLA (Lands to be included in 1 valuation) and provides that the valuer-general may declare that a separate valuation, from the rest of a lot, will be made for a stated part of the lot.

The parcel declared would be either;

- a lawful subdivision in that it could be subdivided from the rest of the lot under the local government bylaws; or
- the part declared to be used for a communication facility.

The valuer-general must also consider it appropriate to make the separate valuation. It is not necessary for the subdivision to have been sought or made for the parcel to be declared.

This clause also applies to:

- a lot that is leased from the State by a department or entity representing the State;
- a local government; or
- a lot leased by a GOC from the state or from a lessee of the State.

The does not apply to another lease from the State.

Guidelines for making separation declaration

Clause 54 provides that the valuer-general may make guidelines about the circumstances in which a separation declaration may be made. The guidelines must be consistent with clause 53 and not be subordinate legislation.

The guidelines may require that written advice will be required from the local government that it would, under its bylaws, approve a subdivisional application for the parcel to be declared.

The valuer-general in making a separation declaration may consider the guidelines but is not bound by the guidelines.

The valuer-general must keep a copy of the current guidelines on the department's website.

Notice and taking of effect of separation declaration

Clause 55 provides that the valuer-general may only give notice of separation declaration on a valuation notice. The declaration has effect and is taken to have always had effect for the valuation and the declaration continues in effect until the declaration is repealed.

Division 3 Combined valuations

Application of div 3

Clause 56 replaces section 34(3) (Lands to be included in 1 valuation) and provides that the **Division 3 Combined valuations** does not apply to a parcel declared under **Division 2 Declaring separate valuation for part of a lot** or a valuation subject to discount **Division 5 Subdivision 3 Discounting for subdivided land not yet developed (non-Land Act rental).**

The clause also provides that, despite **Division 4 Separate valuations**, this division apples to land tax valuations and rating valuations but not those made for Land Act rental purposes.

Adjoining lots—general

Clause 57 replaces section 34(1)(a) (Lands to be included in 1 valuation) and provides that adjoining lots must be included in the same valuation where they are owned by the same person and no part of a lot is leased or all of the lots are leased to the same person. A lease mentioned in this clause does not include a sublease.

For clarity, where a lot is separately leased or used from the balance of the lots, the lot that is separately leased or used should be separately valued.

Adjoining lots subleased from the State

Clause 58 replaces section 34(2B) (Lands to be included in 1 valuation) and provides that if adjoining lots are leased from the State to the same person and that person subleases the lots to different persons, all the lots must be included in the one valuation.

Non-adjoining farming lots

Clause 59 replaces section 34(1)(b) (Lands to be included in 1 valuation) and provides that lots which do not adjoin but are:

- owned by the same person;
- worked as 1 business unit; and
- used for farming

must be included in the one valuation. The proviso to this is that the lots must, if leased, be leased to the same person.

Division 4 Separate valuations

Application of div 4

Clause 60 replaces section 35(1)(c) of VoLA (Separate valuation) and states that all of the provisions of Division 4 apply after a requirement to make a valuation for a designated area has been determined under parts of the Act.

Lots separately leased

Clause 61 replaces section 35(1)(a) of VoLA (Separate valuation) and requires that where a designated area consist of lots which are owned by the same person but one or more of the lots are separately leased to a different person there must be a separate valuation for each leased lot.

Part of area subleased from particular governmental entities

Clause 62 replaces section 35(1A) of VoLA (Separate valuation). The clause requires that where a designated area is leased from the state by a:

- department or entity representing the State; or
- local government

and part of this area is subleased to someone else, a separate valuation must be made for each part subleased to someone else.

Similarly where an area is leased by a GOC from the State or a lessee of the State and part of this area is subleased, a separate valuation must be made for each subleased part.

Non-adjoining lots, separately owned lots and lots separated by a public road

Clause 63 replaces section 35(1)(b) of VoLA (Separate valuation) and requires that there must be a separate valuation for each parcel in a designated area where the parcels do not adjoin, or are separated by a public road and the parcels may be lawfully held or the parcels are separately owned.

For clarity, a valuation may not be issued for the parts if a parcel that is split by a public road is subject to a vinculum, which requires the land to be held as one parcel.

Area crossing different local government areas

Clause 64 replaces section 35(1)(c)(1) of VoLA (Separate valuation) and requires that where a designated area is situated partly in one local government and partly in another, a valuation must be made of the whole designated area and the amount of the valuation apportioned between the parts in the local governments. The apportioned amount becomes the valuation for the part which in the local government which is being valued.

Area crossing categories in same local government area

Clause 65 replaces section 35(1)(c)(ii) of VoLA (Separate valuation) and requires that where a designated area is situated partly in one category and partly in another and the general rate made or levied for the rateable land in each category is different, a valuation must be made of the whole designated area and the amount of the valuation apportioned between the parts. The apportioned amount becomes the valuation for the each part.

Area only partly rateable land

Clause 66 replaces section 35(1)(c)(iii) of VoLA (Separate valuation) and requires that where only part of a designated area is rateable land, a valuation must be made of the whole designated area and the amount of the valuation apportioned between the parts. The apportioned amount for the rateable part is the valuation for that part.

Land Act rental valuation or Land tax valuation

Clause 67 replaces section 35(1)(c)(iv) and 35(2) of VoLA (Separate valuation) and requires that where a designated area is being valued which consists of both freehold and lands leased under the Land Act, there must be a separate valuation for each part where a valuation is required for land tax or Land Act rental purposes.

The clause also requires that there must a valuation for all of the land subject to a Land Act rental even if separate valuations of parts of the land are made for another purpose.

Division 5 Miscellaneous provisions

Areas subject to mining lease application

Clause 68 replaces section 22 of VoLA (Chief executive not required to value separately certain mining leases) and clarifies that the valuer-general is not required to make a valuation of land that is subject to a mining application only. This requirement does not apply where the person is able to enter the land for mining purposes under the *Mining Resources Act 1989.*

Community titles schemes

Clause 69 replaces section 26A of VoLA (Valuation for community titles scheme) and clarifies that the valuer–general must not make a valuation of the individual lots in a community titles scheme, but must value the scheme land as if it was owned by a single owner.

This direction not to make a valuation clarifies the previous section which contained the words "is not required to value the lots". That expression appeared to contain an option which, if implemented, would have made the operations of the Community Titles legislation inoperative because it would have required that the valuation of the whole land to be apportioned by a revenue gatherer to calculate the valuation of the lots for rating and land tax purposes.

The clause also stipulates that the body corporate must be shown as the scheme's owner on the valuation notice and that the body corporate is the owner of the scheme land for valuation, objection and appeal purposes.

This part clarifies that an owner of a lot may not object to, or appeal against, an apportionment of a valuation made by a revenue gatherer to assess rates or land tax.

Approved scheme land under Integrated Resort Act

Clause 70 replaces section 26B (1) and (3) of VoLA (Valuation of land within approved scheme—Integrated Resort Development Act 1987 Sanctuary Cove Resort site). The clause provides that the valuer-general may value each of the following parts as a single lot:

- a lot on a building plan;
- a lot on a group title plan;
- a lot within a precinct;
- a lot consisting of a primary and secondary thoroughfare; and
- a future development area.

The clause clarifies that the lots are not defined under the Act but have the same meaning as they have under the Integrated Resort Development Act.

Sanctuary Cove Resort site

Clause 71 replaces section 26C of VoLA (Valuation of land within site—Sanctuary Cove Resort Act 1985). The clause provides that the valuer-general may value each of the following parts as a single lot:

- a lot on a building unit plan;
- a lot on a group titles plan;
- a lot or lots comprising a primary and secondary thoroughfare; and
- the lot or lots within a zone.

The clause clarifies that the lots are not defined under the Act but have the same meaning as they have under the Sanctuary Cove Act.

Part 4 Annual valuations

Division 1 General provisions

General duty to make annual valuations

Clause 72 permits the valuer- general to make an annual valuation of all land in a local government area and fix a valuation day for each annual valuation. If a valuation is required for more than 1 statutory purpose, an annual valuation must be made for each of them. If particular land is not valued the valuer–general is taken to have made an annual valuation for all of the area. Clause 81 allows for the issue of any valuation missed in this situation.

Effect if annual valuation not made

Clause 73 states that if an annual valuation is not made for a local government area, the last preceding annual valuation for the local government area continues in effect until the next annual valuation for the area takes effect. (replaces section 39 of VoLA)

Exceptions to annual valuation requirement

Clause 74 replaces section 37 of the VoLA and provides than an annual valuation may not be made if the valuer-general considers it is not possible to do so because of unusual circumstances. The valuer-general may also decide there is insufficient market movement to make a valuation after considering a market survey report for the area or as a result of consultation.

Duration of annual valuation

Clause 75 replaces section 38 of VoLA and states that an annual valuation takes effect from the next 30 June after its making. An annual valuation continues in effect until the next annual valuation of the land takes effect. The valuation amount may be amended as provided for in the maintenance provisions of the Bill or as a result of any objection or appeal decision.

The clause provide for the situation where the value of land is changed because of the loss of a water licence under resource operations plan under

the Water Act. If the value of the water licence formed part of the value of the land and the loss happened during the period of 1 year before an annual valuation would have become effective, the loss is not to be reflected until the next 30 June after the annual valuation became effective.

Division 2 Access to information about annual valuations

Unprotected valuation roll information to be available for inspection

Clause 76 replaces sections 40 (2) of VoLA (Particulars of annual valuations to be available for inspection). The clause provides that unprotected valuation roll information must be made available at least 3 months before the 30 June on which the valuation is to take effect. However, this requirement does not apply to a Land tax or Land Act rental valuation.

Time and place for inspection

Clause 77 replaces section 40(1) to (3) and (5) (Particulars of annual valuation to be available for inspection). The clause provides that a copy of the annual valuation roll will be available for inspection free of charge at a local government office during public business hours or at another place and at such times stated in a public notice.

Further the information must be available for at least 60 days from the day stated in the public notice.

Division 3 Notices about annual valuations

Public notice

Clause 78 replaces section 41 of VoLA (Advertisements) and provides that:

- the valuer-general must give a public notice that an annual valuation has been made;

- the valuation roll containing information about the valuations will be available for inspection by anyone without payment of a fee for a stated period of not less than 60 days;
- when the period starts and ends; and
- where the information may be inspected.

The clause also provides that, as well as the public notice, the valuer-general may advertise that the valuation information is available in any other way as the valuer-general considers appropriate.

The clause also clarifies that the valuations made for Land Tax and Land Act rental purposes are not to be made available for public inspection.

These valuations for Land Tax and Land Act rental purposes may not be used because not all land owners pay land tax and not all Land Act rentals are based on the amount of the valuations.

Valuation notice to owner

Clause 79 replaces section 41A(1) of VoLA (Notice to owners about valuations). The clause provides that the valuer-general must give a land owner a valuation notice of the annual valuation and that the notice must be given as soon as is practical after the valuation is made but not later than 31 March in the year that the valuation will take effect.

The Bill introduces a provision to allow valuations for different purposes to be included on the one valuation notice. This provision would allow for the inclusion on the one notice the valuation of the total property to be used for rating purposes by a local government and a valuation to be used as a basis for the assessment of land tax.

Requirements for valuation notice

Clause 80 replaces section 41A (2) of VoLA (Notice to owners about valuations). The clauses sets out that the following information must be included in the valuation notice:

- the amount of the valuation;
- the basis on which the valuation is made either on a site or unimproved basis;
- the valuation day;

- the day of issue of the valuation notice;
- the day the valuation becomes effective;
- the amount of site improvement deduction, if any;
- that an owner may object to the amount within 60 days of the date of issue; and
- how the objection may be made.

Part 5 Maintenance valuations

Division 1 New maintenance valuations

Valuation of land omitted from annual valuation

Clause 81 replaces section 21(2) and (3) of VoLA (Omissions from valuations). The clause provides for a situation where the valuer-general has made an annual valuation of a local government but has omitted to make a valuation and this omission comes to the notice of the valuer-general. In this circumstance, the valuer-general may make a valuation of the omitted land with that valuation being made and having effect at the same date as the balance of land in the local government area.

Valuation on inclusion of land not previously in a local government area

Clause 82 replaces section 32(1) of the VoLA and provides for the valuer-general to include and value lands in a new local government area that have not previously been included in that local government area. The valuations must match the valuation day of those already in the local government area and must take effect from the day that they were added to the local government area. A local government must be provided with valuations for land that has been added to its area.

Valuation of land becoming subject to rates, Land Act rental or land tax

Clause 83 replaces sections 30(1) and (2). The clause allows the valuer-general to provide valuations for land that has become subject to local government rates, Land Act rental or State land tax. Land may have previously not been valued because it was unallocated State land not subject to rates, rental or land tax.

The clause provides that if the land is allocated as either freehold or leasehold then relevant valuations should be provided. The valuation should be effective from when the land became subject to rates, rental or land tax.

The general period allowed for an effective date starts from the day the valuer-general is making the valuation and goes back as far as three years before the first time the latest annual valuation for that local government came into effect. However, because every local government has not been valued every year, the three years may fall in a year when an annual valuation did not come into effect. When this happens the period is extended to when the annual valuation that was in effect at the 3 year period did come into effect.

This establishes the maximum period in which a valuation can become effective. If the land became subject to rates, rental and land tax before this period, the effective date cannot be any earlier than the beginning of the period. If the land became subject to rates, rental and land tax during the period, the effective date for the valuation should be that date.

Division 2 Amending valuations

Subdivision 1 General provisions

What div 2 is about

Clause 84 states that the provisions contained in this division detail the circumstances in which an existing valuation can be amended by another valuation.

Amending period

Clause 85 replaces section 29A(1) and part of 28(1) of the VoLA and establishes the period in which an amending valuation can be first made effective by the valuer-general.

If the valuation to be amended is an annual valuation that has yet to come into effect (an annual valuations is usually issued in February/March but does not into effect until 30 June of that year – there may be a need to amend the valuation after it has first issued) then the effective date cannot be amended – it must be effective from the next 30 June.

If an existing valuation is being amended then the period in which the amending valuation can be made effective commences from the day the valuer-general is amending the valuation and goes back as far as three years before the first time the latest annual valuation for that local government came into effect.

However, because every local government has not been valued every year, the three years may fall in a year when an annual valuation did not come into effect. When this happens the period is extended to when the annual valuation that was in effect at the 3-year period did come into effect. This establishes the maximum period in which an amending valuation can become effective.

Fixing day of effect of amending valuation

Clause 86 replaces sections 20 and 29A(1A) of the VoLA and requires the valuer-general to fix a date of effect for an amending valuation. For clarity if the amendment is caused by the registration of a plan of subdivision, the day of effect must be the day the plan was lodged. This is consistent with land registry procedures.

For other situations (detailed in the following clauses) where an amendment to a valuation is required, the effective date should be the later of either:

- the day of amendment (when the event causing the amendment actually occurred); or
- the beginning of the period described in the previous clause (3 year before the existing annual valuation etc).

The maximum period for an effective date for an amending valuation is consistent with the period allowed for the creation of new valuations.

Subdivision 2 General types of amendment

Separate valuations

Clause 87 replaces section 28(1)(a) and part of section 35. The clause allows the valuer-general to separately value parcels or lots and issue valuations when circumstances require the separation. These circumstances include where the valuer-general has determined a requirement to declare a separate part of a lot (part 3, division 2) and those detailed under 'Separate valuations' in part 3, division 4. Separate valuations can also be required when land has been subdivided and there is a requirement to discount valuations (clause 49-50).

Adjoining parcels in same valuation

Clause 88 replaces section 28(1)(b) of the VoLA and allows the valuer-general to amend a valuation of two or more adjoining parcels if one or more of the parcels are sold. If a valuation consists of more than one parcel because they are in the same ownership and a parcel is sold, separate valuations must be able to be provided for what has been sold and what is remaining.

Public work, service or undertaking

Clause 89 replaces section 28(1)(c) of the VoLA and allows a valuation to be amended if the valuer-general considers it has been affected by public works, services or undertakings.

Damage from adverse natural cause

Clause 90 replaces sections 28(1)(d) and 28(4) of the VoLA. The clause provides for a valuation to be amended if the valuer-general considers that a flood, cyclone or some other natural disaster has caused permanent damage to the land that has affected its value.

The clause also requires that an owner must apply to the valuer-general within six months of the damage occurring. A particular event may be very localised and it is important that the owner provide advice and details of what has occurred to enable the valuer-general to make a proper assessment.

Loss or acquisition of right relating to the land

Clause 91 replaces sections 28(1)(e) and 28(4A) of the VoLA and allows the valuer-general to alter a valuation if a licence, privilege or right has been lost and the value of the license was part of the valuation.

It is important that the valuation be amended to reflect the loss of the licence, privilege or right. Alternatively, if a licence, privilege or right has been acquired and the valuer-general considers that the acquisition adds value then the value should also be amended to reflect this.

The clause also contains a proviso that applies where the right was a water licence under a resource operations plan. If the water licence becomes tradeable (therefore able to be sold by the owner), it is no longer considered to be part of the value and any adjustment to the value is delayed until the next 30 June after it became tradeable. This is to allow time for local governments to factor in adjustments to their budgets.

Change of exclusive use as single dwelling house or for farming

Clause 92 replaces section 28(1)(f) of the VoLA. The clause provides for the valuer-general to amend a valuation where land was previously being used as a single dwelling house or for farming and is no longer used for that purpose. This would only occur where the land was more valuable for another use and that was ignored because the land was being used for a single dwelling house or for farming. Obviously, if the house or farming use no longer applies, the valuation should be altered to reflect the land's potential.

Change of other exclusive use

Clause 93 replaces section 28(1)(j) of the VoLA. The clause provides for the valuer-general to amend a valuation where the land's use has changed to either:

- a single dwelling house; or
- farming

and the land wasn't previously valued to reflect this use.

If the valuer-general considers that the existing valuation reflected a more valuable use or the potential for a more valuable use, the valuation can be amended to reflect the new house or farming use.

Amendment for uniformity with comparable parcels

Clause 94 replaces section 28(1)(g) of the VoLA. The clause allows a valuation to be amended if the valuer-general considers it is necessary to achieve uniformity with valuations for other comparable land. If it is determined that a valuation is 'out of line' with valuations of other comparable land then it should be amended to be 'in line' with those other valuations.

General power to correct error or omission

Clause 95 replaces section 28(1)(h) of the VoLA and allows the valuer-general to correct a valuation that is affected by an error or omission. Where it becomes known that a valuation is incorrect it should be corrected to ensure that appropriate adjustments are made to rates, land tax and land rental.

Change to planning scheme, local law or local government decision

Clause 96 replaces section 28(1)(i) of the VoLA. The clause allows a valuation to be amended if the valuer-general considers the land's value has been affected by:

- the implementation of, or amendments to, a planning scheme; or
- the application of a local law; or
- any other local government decision that affects the use or development of land.

Any of these circumstances could affect the value of land.

Combining valuations

Clause 97 replaces sections 28(1)(k) and 28(2) of the VoLA and allows existing valuations to be combined and valuations issued when certain circumstances apply. These circumstances are detailed in clauses 56-59 and include:

- the requirement to combine valuations for adjoining lots in the same ownership (depending on the existence and use of building or other structures); and

- those for non-adjoining lots in the same ownership and used for the one business.

Particular changes in Land Act tenure

Clause 98 replaces section 28(1)(l) of the VoLA. The clause allows for a valuation of a lease under the Land Act (rental/rating valuation) to be amended if the valuer-general considers that changes to the lease's purpose, conditions or area have an effect on the value.

Land becomes subject to native title determination

Clause 99 replaces section 28(1)(m) of the VoLA. The clause allows for a valuation to be amended if the valuer-general considers it has been affected because it becomes the subject of a determination of native title or an indigenous land use agreement under the Commonwealth Native Title Act.

Land ceasing to be land for which a valuation is required

Clause 100 replaces section 30(3) of the VoLA and allows the valuer-general to amend a valuation if part of the land that was the subject of the valuation is no longer required to be valued. A valuation should only relate to land that is required to be valued for the purposes detailed in clause 6.

Subdivision 3 Amendments because of objection or appeal result

Amendment because of objection or appeal against valuation of same land

Clause 101 replaces section 28A(1) of the VoLA and provides for the valuer-general to alter subsequent valuations to reflect an objection or appeal decision on an earlier valuation. It is important that any defect found in the valuation objected or appealed to should be reflected in subsequent valuations (if applicable to those valuations).

Subdivision 4 Amendments for local government area changes

Valuation on local government area change

Clause 102 replaces section 31 of the VoLA. The clause provides for the valuer-general to make valuations of land when either:

- part or all of the previous local government area that the land was in has been excluded or abolished; and
- all or part of the affected land is included in another local government area.

The clause requires that the new valuations for the affected land must be made at the same date of valuation as the current valuations in the other local government and be effective from when they were added until the end of the existing period.

Division 3 Notice of maintenance valuations

Notice requirement

Clause 103 replaces part of section 50 of the VoLA and requires the valuer-general to give to the owner a notice of valuation after the valuation is made.

Requirements for valuation notice

Clause 104 replaces all of section 69 and part of section 50 of the VoLA. The clause details the requirements for the valuation notice. The notice must be in the approved form and include:

- the valuation;
- whether the valuation is unimproved or site value;
- the valuation day;
- the issue day;
- the effective day; and
- the amount of any site improvement deduction.

Where the valuation has not resulted from a comparable valuation, details on objection processes should also be provided.

Chapter 3 Objections to valuations

Part 1 Making objections

Division 1 Objection right

Right to object

Clause 105 replaces sections 42(1), (2) and 52(1) of the VoLA. The clause provides the right for an owner to object to a valuation of the owner's land or to a decision relating to a site improvement deduction application. Only one objection can be made against a particular valuation. Where an objection is made against a valuation of land for a statutory purpose, an owner can only object to a valuation of the same land for a different statutory purpose where the valuations are different.

New owners

Clause 106 replaces sections 46 and 51 of the VoLA. The clause applies when a new owner purchases land after a valuation notice has issued to the previous owner. Where the previous owner had objected to the valuation, the new owner has the right to carry on the objection. Where the previous owner did not lodge an objection, the new owner has the right to lodge an objection but must do so within the time frames that applied when the notice was actually issued.

When objection for 1 statutory purpose can be used for another

Clause 107 replaces section 42B of the VoLA. The clause requires that where an objection has been lodged against a valuation and:

- there is another valuation for the same land; and

- the same amount for another statutory purpose.

the objection automatically applies to the other valuation as well.

Objection can be made only under this part

Clause 108 clearly states that an objection can only be made under this part of the Bill. The provisions relevant to objections are contained within this part of the Bill.

Division 2 Period for objection

Usual objection period

Clause 109 replaces sections 42(3), (4), 52(2) - (4) of the VoLA. The clause specifies that an objection can only be made if lodged within 60 days after the day of issue of the valuation. This is an extension to the previous period of 45 days to provide more time for owners to provide valid objection related information.

The provision also requires that objections must be properly made. Requirements for properly made are discussed in later clauses.

Extension of usual objection period because of rural land application

Clause 110 provides an extension to the 60 day objection period where an owner makes a rural land application for land. The period can be extended to 60 days after the later of the deciding of the rural land application or the finalisation of any appeal against the decision on the application. This ensures that lodging a rural land application does not disadvantage the owner.

Late objections

Clause 111 replaces sections 44(1)(a),(b),(d), 44(2), 52A(1)(a),(b),(d) and 52A(2) of the VoLA and provides for an owner to lodge an objection within one year of the issue day of the valuation. Valid reasons for the lodgement of late objection include:

- the owner's mental or physical incapacity;

- extreme circumstance; or
- extraordinary emergency.

The provision also allows the valuer-general to accept a late objection for other reasons considered satisfactory in the circumstances.

The objection is still required to be properly made and the valuer-general can request information relating to the reasons for late lodgement at the same time as the issue of either a correction notice (where the objection is not properly made) or an acknowledgement of the objection being properly made.

Division 3 Properly made objections

What is a *properly made* objection

Clause 112 replaces sections 42A(1)(a), (f), 42A(2), 52AA(1)(a) and 52AA(2) of the VoLA and provides information on what is a properly made objection. The objection must be in the approved form and:

- signed by the objector (if signed by a representative it must be accompanied by the objector's written consent);
- comply with the objection requirements detailed in the next clause; and
- be accompanied by the fee prescribed under a regulation (there is no fee currently prescribed).

The approved form must include information on what is required on the form and that an objection cannot be considered if it is not properly made. An objection must provide relevant information for at least one of the grounds to be properly made.

Required content of objections

Clause 113 replaces sections 20(3), 42A(1)(b)(i)-(iv), 42A(1)(c), 42A(3), 52AA(1)(b)(i)-(iv), 52AA(1)(c) and 52AA(3) of the VoLA and details the required content of objections. Requirements for an objection have been streamlined with the removal of those that related to the assessment of the value of improvements. An objection must include:

- a service address;

- information that identifies the land;
- the valuation sought by the objector (only mandatory if the valuation is greater than $750,000 or the amount prescribed);
- grounds of objection and associated information (the objector may include expert opinion evidence if relevant); and
- information relating to a sale (if a ground concerns the comparability of a sale).

An objection can also be used to apply for:

- a site improvement deduction;
- claim a higher site improvement deduction than already provided; or
- object to a decision regarding the deduction.

In these cases specific information relating to site improvements must be provided as well.

The objector may also object to the day of effect associated with the valuation.

Part 2 Initial assessment of objections for defects

Division 1 Assessment and notice of decision

Initial assessment

Clause 114 replaces sections 42C(1) and 52AB(1) and requires that the valuer-general must assess each objection to determine if it is properly made or defective.

Notice of decision if no defect

Clause 115 requires that where an objection is assessed as not being defective, the valuer-general may give the objector notice of the decision.

Correction notice if objection defective

Clause 116 replaces sections 42C(2) and 52AB(2) of the VoLA. The clause requires the valuer-general to issue a correction notice to an objector when an objection has been determined as defective. The correction notice must include:

- the day of issue;
- the decision;
- details of any defect; and
- that the objector has 21 days from the day of issue to correct the objection.

Defects can include where an objection states no particulars for a ground. Where only some of the grounds are noncompliant, the objector has the opportunity to remove these from the objection if they desire.

Division 2 Consequence of noncompliance with correction notice

Application of div 2

Clause 117 replaces parts of sections 42C(2)(e)(i) and 52AB(2)(e)(i) of the VoLA . The clause provides that the provisions included in division 2 apply to an objection if a correction notice has been issued and the objector doesn't comply with the correction notice.

Failure to correct not properly make objection

Clause 118 replaces parts of sections 42C(2)(e)(i) and 52AB(2)(e)(i) of the VoLA. The clause provides that if the assessment decision by the valuer-general is that the objection is not properly made then it has never been properly made.

Notice of consequence

Clause 119 replaces sections 42C(5)(a), 42C(6), 52AB(5)(a) and 52AB(6) of the VoLA. The clause requires the valuer-general to advise the objector within 28 days of the consequences (that the objection is not properly made) of not complying with the correction notice.

Part 3 Conferences about properly made objections

Division 1 Preliminary

What pt 3 is about

Clause 120 replaces sections 43A(1) and 53(4) of the VoLA. The clause provides that the provisions contained in part 3 apply to the holding of objection conferences about properly made objections. This clause also states the purposes of a conference which include:

- encouraging settlement of disputes by facilitating negotiations between the parties;
- promoting an open exchange of information;
- provision of information relating to the legislation; and
- helping to settle the dispute in any other way.

Division 2 When objection conference may or must be held

Conditions for holding conference

Clause 121 clarifies that an objection conference can not be held for an objection if it is not properly made or has already been decided by the valuer-general.

Conference by agreement

Clause 122 replaces sections 43A(1) and 53(4) and provides for an objection conference by agreement of the parties where the valuation is $5m or less.

When conference is required

Clause 123 is a new provision that requires the valuer-general to offer an objector a conference where the valuation is more than $5m or such greater

amount as is prescribed. Properties with valuations of this level would reflect a complexity that would benefit from an exchange of information and ideas between the parties. The objector does not have to accept the offer.

Division 3 Preliminary steps for required conference

Subdivision 1 Preliminary

Application of div 3

Clause 124 states that the provisions contained in division 3 relate to objection conferences for properties with valuations more than $5m where an objector has accepted the conference offer. These provisions relate to the separate appointment of a chairperson for these conferences and the associated functions and responsibilities of the chairperson.

Properties with valuations of this complexity will benefit by having a chairperson to facilitate the exchange of information and ideas between the parties and assist with resolution.

Subdivision 2 Chairperson

Appointment of chairperson

Clause 125 replaces sections 43B(1)-(3) and 53(7)-(10) of the VoLA. The clause requires the valuer-general to appoint an independent chairperson for objection conferences related to properties with valuations of more than $5m. To assist with ensuring that the chairperson is suitable, the valuer-general must consult with the Australian Property Institute before making the appointment.

A chairperson may be appointed for:

- a particular conference;
- conferences for part of a local government area;
- the whole of a local government area; or

- more than one area; and
- for a period and terms determined by the valuer-general.

Chairperson's functions

Clause 126 replaces sections 43B(4)(a),(b) and 53(11)(a),(b) of the VoLA and details the chairperson's functions. These include:

- arranging the conference;
- encouraging a full exchange of opinion and full disclosure of information relating to the objection; and
- making recommendations to either party about matters raised.

The encouragement and facilitation provided by the chairperson will assist with the resolution of disputes associated with more complex valuations.

Disclosure by parties before conference held

Clause 127 introduces a new requirement for disclosure by the parties before a conference is held. As discussed previously, the exchange of information prior to a conference being held should assist with the resolution of disputes associated with more complex valuations.

The provision requires the chairperson to give all parties notice to provide information relevant to the valuation within 14 days. If the chairperson is then satisfied that all parties have complied with the disclosure, copies will be provided to the other party. The chairperson will then arrange the objection conference. If the chairperson is not satisfied that both parties have complied with the disclosure requirement the objection conference cannot be held. The chairperson may allow the noncompliant party extra time to be able to comply with the requirement if it appears likely that they will comply.

Subdivision 3 Holding objection conference

Conduct of conference

Clause 128 details how an objection conference must be conducted. It is important to allow flexibility and provide an environment conducive to the exchange of views and information. To achieve this, the conference must

be conducted in the way the chairperson considers appropriate and as quickly and with as little formality and technicality as possible.

The chairperson may:

- accept information from anyone and distribute it to anyone for the purpose of the conference; and
- adjourn or end the conference at any time.

Attendance and representation

Clause 129 provides clarification as to who may attend a conference and provide representation. The provision allows a person who is not a party to participate in a conference if the chairperson is satisfied the person may assist with the resolution of any issues relating to the objection. If required, an interpreter may be used in a conference.

The chairperson may also allow a party to be represented by an agent or other representative if the chairperson believes that they are needed to help the process. The chairperson may impose conditions on representation to ensure that the other party is not disadvantaged. The approval for representation would then be subject to those conditions being complied with.

Division 4 Miscellaneous provisions

Grounds not limited at conference

Clause 130 replaces sections 43A(2)(a) and 53(5) of the VoLA. The clause ensures that the objection conference is not limited to the objection grounds. It is important to allow the conference flexibility in its content to provide as much opportunity for resolution as possible.

Evidence

Clause 131 replaces sections 43A(3) and 53(6) of the VoLA. The clause ensures that anything said or done about an objection in a conference is inadmissible in any proceeding. This allows parties at the conference to be frank about their issues with the knowledge that the conference environment is completely confidential.

Part 4 Further information

Division 1 When objector may give further information

Response to valuer-general's invitation

Clause 132 replaces sections 43BA(2)-(4), notes 1 and 2 and 53A(2)-(4), notes 1 and 2 of the VoLA. The clause provides for the valuer-general to invite an objector (whether an objection conference has been held or not) to provide further written information that supports or clarifies the objection grounds.

Under the clause, the objector has 28 days from the issue of the invitation to provide the information (with agreement the period can be extended by another 14 days). In the course of reviewing the objection the valuer-general may have realised that the objector may have further information that could assist in making a more appropriate decision on the objection. This provision allows the valuer-general to request that information.

Giving information within 28 days after objection conference

Clause 133 replaces sections 43BA(1) and 53A(1) of the VoLA. The clause allows the opportunity for an objector to supply further written information that supports their grounds of objection or raises a proposed new objection ground within 28 days of the conference ending. After a conference an objector may realise that they have further information to offer and this provision provides for this.

Use of further information given

Clause 134 replaces sections 43BA(5) and 53A(5) of the VoLA. The clause provides that when further information is supplied by an objector after an objection conference or in response to an invitation by the valuer-general, the information can be considered by the valuer-general in deciding the objection.

The clause also provides that the information is admissible in any proceeding about the objection. It is important that as much information as

possible is able to be used by the valuer-general to make the most informed objection decision as possible. For the same reason the information should also be able to be referenced in any further proceeding.

Division 2 When objector must give further information

Application of div 2

Clause 135 replaces sections 43BB(1) and (2) and 53B(1) and (2). The clause states that the provisions in this division provide for when an objector must give further information. This requirement can only apply when an objection is against a valuation of more than $5m (or a higher amount if prescribed) and where the valuer-general considers that the information is likely to be:

- in the objector's custody, possession or power; and
- will be relevant to deciding the objection.

This does not include information the subject of legal professional privilege. Valuations of more than $5m are of a highly complex nature. It is important that the valuer-general make as accurate a decision as possible and to inform the process the valuer-general must have access to information relevant to the valuation.

Valuer-general may require further information

Clause 136 replaces sections 43BB(3) and 53B(3) of the VoLA. The clause provides the authority for the valuer-general to issue a notice to require the objector to provide the further information. The objector can request an internal review of the decision to require information and if not satisfied with the internal review decision can appeal the decision to the Queensland Civil and Administrative Tribunal (QCAT).

Period to comply with information requirement

Clause 137 replaces sections 43BB(3) (a) and (b) and 53B(3)(a) and (b) of the VoLA. The clause requires an objector to whom an information requirement has been given to comply with the requirement within 28 days after the day the requirement notice was issued. If, within the 28 day

period, the valuer-general and the objector agree to an extension of time, the 28 day period can be extended by another 14 days.

As discussed previously, an objector can apply for an internal review of the decision to issue an information requirement and if not satisfied with that decision can further appeal to QCAT.

Conditions for making information requirement

Clause 138 replaces sections 43BB(4),(5) and 53B(4),(5) of the VoLA. The clause details the conditions for an information requirement. The requirement must describe:

- the further information required to be given;
- include the date of the requirement; and
- when the requirement must be complied with.

Because of the serious nature of an information requirement, an objector must be made aware of the time they have available to respond to the requirement.

Notice of lapsing of objection for noncompliance with information requirement

Clause 139 replaces sections 43BC(1), (2) and 53C(1), (2) of the VoLA. The clause applies if the valuer-general considers an objector hasn't complied with an information requirement. In this situation the valuer-general may give the objector a notice that details the information required to comply with the requirement and that unless the information is provided in 28 days the objection will lapse and not be considered.

The information the subject of an information requirement could dramatically improve the quality of an objection decision. The properties subject to a requirement (valuation objected to greater than $5m) are of a complex nature and the information is required to assist the valuer-general to make an informed decision. The objector can apply for an internal review of the decision to give a lapsing notice and can appeal the decision to QCAT.

Objection generally lapses if lapsing notice contravened

Clause 140 replaces sections 43BC(3) and 53C(3) of the VoLA and provides the conditions when an objection is lapsed. An objection generally lapses if the objector has been given a lapsing notice and has not complied within 28 days of the date of the notice. Once the objection lapses the valuer-general is not required to consider the objection. Subsequent clauses describe the situations where an objection can not be lapsed.

Exceptions to lapsing

Clause 141 replaces sections 43BC(4)(a) and (5) and 53C(4)(a) and (5) of the VoLA. The clause details circumstances when an objection cannot be lapsed. These include:

- where the outstanding information would, at common law, be privileged from production in a proceeding; or
- within the required period the objector provides a statutory declaration stating that the outstanding information is not in the objector's possession.

These are obviously valid reasons for not supplying information and when they apply an objection should not be lapsed.

Deferral of lapsing

Clause 142 replaces sections 43BC(4)(b) and 53C(4)(b) of the VoLA. The clause provides for when the lapsing of an objection must be deferred. If, within the 28 day period after the initial information requirement or notice of lapsing is issued, the decision to issue the requirement or lapsing notice is stayed by QCAT, the objection can not lapse until the time, if any, determined by QCAT. Once an objector appeals to QCAT, the objection must be protected from any lapsing until the matter is determined by QCAT.

Part 5 Amendments

Amendment by objector only under this part

Clause 143 replaces sections 43BD(1), (6) and 53D(1), (6) of the VoLA and states that an objector can only amend an objection under the provisions contained in this part. This is important to maintain due process for amendments to the objection after the original objection is lodged.

Amendment in response to correction notice

Clause 144 replaces sections 43BD(2) and 53D(2) of the VoLA and provides for an objection to be amended as a result of the content of a correction notice. If an objector has returned a correction notice the objection should be amended to reflect the content of the correction notice.

Other permitted amendments

Clause 145 replaces sections 43BD(3) and 53D(3) of the VoLA. The clause describes other information that can be amended on the objection.

The clause provides that amendments can be made to information that:

- identifies the land;
- the objector's service address; and
- the valuation sought by the objector.

An objection ground, associated particulars and other information that the objector is seeking to rely on can be withdrawn or amended to reflect matters raised in further information provided by the objector. The objection cannot be amended so that it would not be properly made or to have a noncompliant ground.

Under the clause, depending on the information, an amendment must be made either before the objection has been decided or at the same time as when the further information has been supplied.

It is important to provide for various 'housekeeping' amendments to an objection such as amendments to service addresses and property identification information prior to the objection being decided. When an objector has provided further information they must also be allowed to request that their objection be amended to reflect the further information.

To avoid confusion as to what form the amendment should take, the objector should clearly describe how their objection should be amended to reflect the further information. It is appropriate that the request should be provided at the same time as the further information is provided.

How to amend

Clause 146 replaces sections 43BD(5) and 53D(5) of the VoLA and requires that an amendment to an objection can only be allowed when made by signed notice to the valuer-general. An objection is an important document and any requests for amendment should be in writing to ensure the integrity of the objection.

Part 6 Deciding properly made objections

Considering objection

Clause 147 replaces sections 43(1),(2) and 53(1),(2) of the VoLA and requires the valuer-general to consider and decide a properly made objection. The decision should be made at the appropriate point in the objection stage. This could be after the objector has provided further information.

Effect of maintenance valuation on objection

Clause 148 replaces sections 43C and 54(5) of the VoLA. The clause provides that where:

- an objection has been lodged against a valuation;
- that valuation has yet to come into effect (for rating, taxing and rental); and
- another valuation is made.

then the objection (if still outstanding) should be no longer considered.

This is logical as the valuation that was originally objected to is now redundant because it was superseded before it came into effect. The new

valuation notice will allow the owner to lodge an objection against the new valuation thus protecting the owner's rights.

Objector bears the onus of proof

Clause 149 replaces part of section 33 of the VoLA and requires the objector to prove their case in an objection. It is reasonable to expect that when an objection is lodged it is accompanied by the information, grounds and associated evidence that support why the objector believes the valuation is wrong.

Decision

Clause 150 replaces sections 43(3) and 53(3) of the VoLA and details the parameters available to the valuer-general in deciding an objection. These include:

- allowing the objection to the extent the valuer-general considers appropriate;
- disallowing the objection; and
- disallowing the objection and changing the amount of the valuation.

If the objector disagrees with the objection decision the objector may appeal to the Land Court.

Notice of objection decision

Clause 151 replaces sections 43AA and 54(1),(2) of the VoLA and requires the valuer-general to provide a written notice of the objection decision as soon as practicable. The provision also details the contents of an objection decision, which include:

- the issue day;
- reasons for the decision;
- details of the objector's right to appeal to the Land Court; and
- the period for an appeal.

Where an objection ground concerned a decision on a site improvement deduction application for the land or a claim for a higher deduction, the decision notice should include whether or not the claim has been allowed or the amount of the deduction decided.

Part 7 Miscellaneous provisions

Objection or appeal does not affect valuation

Clause 152 replaces part of section 79 of the VoLA. The clause ensures that a valuation can be used by the rating, State land taxing and State land rental authorities for their purposes even though objection and appeals may have been made against the valuation. Objections and appeals can take long periods of time to resolve and it is important that the revenue authorities are able to continue their business even though these matters are outstanding.

When the objection or appeal is decided the revenue authorities have to make adjustments to reflect any changes to the valuation. This ensures that the owner is not disadvantaged.

Address for service for objections

Clause 153 replaces sections 84(2)-(5) of the VoLA and clarifies that the appropriate address for service for any notice relating to the objection is the address for service nominated on the objection. There should be one address for service even though there may be more than one owner/objector. This is an important point of clarification as the objection may be lodged by an agent or representative of the owner with a different service address than the owner's service address on the valuation roll.

The provision also provides the flexibility for the valuer-general to provide an objection related notice in another way – this could be by email if the valuer-general has the capacity to provide this service and the objector has requested it.

Adjustment if valuation changed on objection or appeal

Clause 154 replaces part of section 79 of the VoLA. The clause requires that where a valuation has been adjusted by an objection or appeal decision, an appropriate adjustment must be made to:

- State land tax;
- local government rates; or
- State land rental (or any other statutory charge based on the valuation) to reflect the change in valuation.

This could include refunds due to amounts paid in excess or recoverable arrears if amounts were short paid. This ensures that any historical change to valuation caused by an objection or the revenue gatherer adopts appeal decision.

Chapter 4 Valuation appeals

Part 1 Appeal to Land Court

Appeal right

Clause 155 replaces section 69 and parts of sections 45 and 55 of VoLA. The clause gives an objector a right of appeal to the Land Court against the objection decision for the objection. However, the objector cannot appeal if:

- the valuation sought was less than the valuation and the decision was to change the valuation to an amount that is equal to or less than the valuation sought;
- the valuation sought was more than the valuation and the decision was to change the valuation to the valuation sought;
- the objection is not properly made;
- the valuer-general has not made a decision yet whether an objection is properly made; or
- the appeal would be against a comparable valuation reduction to a valuation.

New owners

Clause 156 replaces sections 46 and 51 of VoLA. The cause provides for persons who;

- became owners of land; and

- have given an ownership change notice after an objection decision notice for an objection for the land has been issued to the former owner.

Under the clause, the new owner is:

- taken to have received the objection decision notice when it was issued to the former owner; and
- is provided with a right to appeal if the former owner has not already appealed against the objection.

If there is an existing appeal, the new owner becomes the appellant and may carry on the appeal in the new owner's name.

Part 2 Starting appeal

How to appeal

Clause 157 replaces parts of sections 45, 55 and 56 of VoLA. The clause provides for:

- how to appeal;
- providing for filing a notice of appeal; and
- the matters which the appeal notice must contain.

The clause provides that an appeal cannot be started after 60 days after the day of issue stated in the objection decision notice. This is an increase from the 42 days time period provided in sections 45(4) and 55(3) of VoLA.

Late filing

Clause 158 replaces parts of section 57 of VoLA. The clause provides for the late filing of a valuation appeal notice (the notice). The Land Court can only hear the appeal if the notice was filed less than 1 year after the objection decision notice was issued and the appellant satisfies the court there was a reasonable excuse for filing the notice within that period.

Service on valuer-general

Clause 159 replaces parts of sections 45, 56 and 58 of VoLA. The clause requires an appellant to serve a copy of the valuation appeal notice on the valuer-general within 7 days after its filing. Failure to comply with the requirement does not limit or otherwise affect the Land Court's jurisdiction but the court may make any costs order it considers appropriate.

The clause also provides that if the copy of the notice served is defective, the Land Court may still hear and decide the appeal if satisfied the valuer-general was not disadvantaged or may adjourn the hearing to ensure the valuer-general is not so disadvantaged. In the latter case the court may make an order for the costs of the adjournment in the valuer-general's favour.

Part 3 Amending valuations in response to appeal

Application of pt 3

Clause 160 provides that this part applies if a copy of a valuation appeal notice has been served on the valuer-general.

Power to amend

Clause 161 replaces part of section 68(1) of VoLA. The clause gives a discretion to the valuer-general, by notice to the appellant and the Land Court, to amend the valuation sought (an appeal response). The discretion applies provided the notice is given at least 14 days before the hearing of the appeal. An appeal response amendment does not change the day of effect of the valuation amended.

Amendment to valuation sought ends appeal

Clause 162 replaces part of section 68(1) of VoLA. The clause provides that if an appeal response amendment is to the valuation sought, the appeal ends. If this occurs, the Land Court has the discretion to make a costs order under clause 171.

Effect of other reductions

Clause 163 replaces sections 68(2) and (3) of VoLA. The clause provides that if the valuer-general amends the valuation other than to the valuation sought by the appellant, the appellant may accept the valuation by giving notice, given at least 7 days before the hearing of the appeal, to the valuer-general and the Land Court. If notice by the appellant is given, the appeal ends. If the appellant does not give an acceptance notice the valuation as reduced is taken to be the valuation appealed against.

Part 4 Defective valuation appeal notices

Action by Land Court registrar

Clause 164 replaces parts of section 58 of VoLA. The clause details what action the Land Court registrar will take if the registrar considers that a valuation appeal notice is defective. If the defect is that the valuation appeal notice does not satisfy the valuation appeal requirements set out in clause 157, the registrar must give notice to this effect, with reasons, to the appellant. Otherwise, the registrar must give the appellant a requisition. If the registrar considers that an answer fixes the defect the answer will be taken to be read as one with the appeal. If the registrar is not so satisfied, the registrar cannot hear or decide the appeal unless satisfied that the requisition need not have been given or the answer did fix the defect.

The clause requires that the registrar give the valuer-general a copy of any requisition, answer or notice.

Action by Land Court

Clause 165 replaces parts of section 59 of VoLA. The clause provides for cases where, on the hearing of an appeal, the Land Court considers that the notice of valuation appeal is defective. The Land Court must require the appellant to fix the defect within 7 days. If the appellant complies with the requirement the Land Court must make an order the court considers appropriate about the adjournment or continuation of the hearing. If the appellant does not comply with the requirement the Land Court may strike out the appeal or make any other order it considers appropriate.

Costs of adjournment

Clause 166 replaces section 62 of VoLA. The clause gives the Land Court a discretion to make a costs order in the valuer-general's favour for an adjournment because the notice of valuation appeal was defective.

Part 5 Hearing of valuation appeals

Application of pt 5

Clause 167 provides that this part applies for the hearing of a valuation appeal.

Constitution of Land Court

Clause 168 replaces section 63 of VoLA. The clause provides that the Land Court must be constituted by 1 member sitting alone.

Nature of hearing

Clause 169 replaces parts of section 63A of VoLA. The clause provides that the hearing must be limited to the grounds stated in the valuation appeal notice and that the appeal must be by way of rehearing. The clause provides that the appellant has the onus of proof for each of the grounds of appeal.

Order on valuation appeal

Clause 170 replaces section 66 of VoLA. The clause provides for the content of the order the Land Court may give on appeal. The Land court may:

- confirm the valuation appealed against; or
- reduce or increase the valuation to the amount it considers necessary to correctly make the valuation under this Act.

Costs

Clause 171 replaces section 70 of VoLA. The clause provides that each party to a valuation must bear the party's costs but that the Land Court has a discretion to award costs in certain circumstances.

Part 6 Appeals to Land Appeal Court and Court of Appeal

Provisions for appeals to Land Appeal Court

Clause 172 replaces parts of section 64 of VoLA. The clause provides that an appeal to the Land Appeal Court against a decision on a valuation appeal must be by way or rehearing and must not be heard by the member who constituted that court in the valuation appeal. The orders the court may make and the discretion to award costs are the same as those that apply on the hearing of a valuation appeal.

No leave required for appeal to Court of Appeal

Clause 173 replaces section 67(2) of VoLA. The clause provides that, despite section 74(2) of the *Land Court Act 2000*, leave is not required to appeal against a Land Court decision on a valuation appeal.

Part 7 Miscellaneous provision

Judge not disqualified for owning land

Clause 174 replaces 67(4) of VoLA. The clause provides that a judge is not disqualified from hearing a valuation appeal or any appeal to the Land Appeal Court or the Court of Appeal merely because the judge owns land subject to a valuation.

Chapter 5 Internal and external reviews

Part 1 Internal review of decisions

Decisions subject to internal review

Clause 175 gives a right to internal review by the valuer-general to persons adversely affected by a range of administrative decisions under the Act including a decision that an objection is not properly made and that an objection has lapsed. This is a new right that did not exist under the former VoLA.

Applying for internal review

Clause 176 provides that an application for internal review of a decision must be made:

- in writing; and
- within 28 days after notice of the decision is given to the person or after receiving a statement of reasons, whichever is the latter.

The valuer-general has discretion to extend the period for making an application for internal review.

Valuer-general's decision on internal review

Clause 177 provides that the valuer-general must make a decision on an application for internal review and give the applicant an information notice for the decision within 28 days after the application is made. If a decision is not made within the 28 day period, the valuer-general is taken to have made a decision confirming the original decision at the end of the period.

Stay of operation of original decisions

Clause 178 provides that where an application for internal review is made, the applicant may immediately apply to QCAT for a stay of the decision. The stay must not extend past the time when the valuer-general reviews the decision and any later period QCAT allows the applicant to enable the

applicant to apply to QCAT for external review of the valuer-general's decision.

Part 2 External reviews by QCAT

Who may apply for review

Clause 179 provides for anyone who has, or should have been given an information notice for decisions under the relevant provisions of this Bill, the right to apply to the Queensland Civil and Administrative Tribunal for a review of the decision.

Chapter 6 Valuation rolls and related matters

Part 1 Keeping valuation rolls

Requirement to keep valuation rolls

Clause 180 requires the valuer-general must have a valuation roll for each local government area.

Requirements for valuation roll

Clause 181 replaces section 47(1) of the VoLA. The clause requires that the valuation roll must state relevant information concerning each valuation in the relevant local government area. The information includes the:

- date of valuation and date of effect for the valuation;
- owner's name and address;
- land's area;
- land's location; and

- land's description.

The clause also requires that the valuation roll store the amount of any site improvement deduction that has been provided. The provision also allows the valuer-general to keep the valuation roll in an electronic format.

When valuation roll must be amended

Clause 182 replaces section 48 of the VoLA and ensures that the valuer-general must amend the valuation roll to reflect changes to the information contained in the roll.

Part 2 Valuation roll information and other information

Obligation to give certified copy

Clause 183 replaces section 76(1) of the VoLA and enables the valuer-general to provide a certified copy of valuation roll information on payment of the required fee. This would not include suppressed personal information.

Exchange of information

Clause 184 replaces sections 76(3) and (4) of the VoLA and allows the valuer-general to supply relevant valuation roll information to the State or Commonwealth – the information supplied would not include suppressed personal information.

Other information

Clause 185 replaces sections 76(5) and (6) of the VoLA and allows the valuer-general to supply information contained in an ownership change notice on payment of the required fee. The provision also enables the supply of valuation related statistical information on payment of a reasonable fee (no more than the actual cost of giving the statistics).

Part 3 Directions protecting particular valuation roll information

Division 1 Applying for and obtaining direction

Who may apply for direction

Clause 186 replaces sections 75A(1) and (5) of the VoLA. The clause provides for an owner of land to apply to the valuer-general to have their personal information (ownership and service address) excluded from the publicly available parts of the valuation roll and from other relevant documents. All the owners of land may make the application jointly.

Requirements for application

Clause 187 replaces sections 75A(2) and (3) of the VoLA and specifies the requirements for an application to have personal information excluded from the valuation roll. The application must:

- be on the form supplied;
- nominate each parcel; and
- include a statutory declaration detailing the reasons.

The applicant should also provide other relevant information to assist the valuer-general in considering the application.

Deciding application

Clause 188 replaces section 75B(1) and part of 75B (2) of the VoLA and ensures that the valuer-general makes a decision on the application for a suppression direction. The valuer-general must grant the application if satisfied that the applicant's personal safety and property are at risk.

Grant of application

Clause 189 replaces section 75B(4) and part of section 75B(2). The clause ensures that where an application has been granted, a suppression direction must be issued detailing the relevant information and ensuring that the

information is excluded. The direction must include the day of approval and the day the direction stops having effect.

Notice of decision

Clause 190 replaces sections 75B(5) and (6) of the VoLA. The clause requires that the valuer-general provide a notice of the decision relating to the application for the exclusion of information. Where approved, a copy of the suppression direction must accompany the notice. Where not approved, the applicant must be provided with an information notice that details that the applicant can appeal the decision to a Magistrate's Court.

Duration of suppression direction

Clause 191 replaces section 75B(3) of the VoLA and states that a suppression direction is in effect for 5 years from the day the application was granted.

Division 2 Amending or renewing suppression direction

Amendment to reflect change in ownership or parcel

Clause 192 replaces sections 75B(7) and (8) of the VoLA. The clause requires that where there has been a change of ownership involving a protected person or relevant parcel, the valuer-general must be given notice of the change by the person. The valuer-general must make relevant amendments to the suppression direction and give the person a copy. The amendment doesn't change the period for which the direction has effect.

Renewals

Clause 193 replaces section 75A(4) of the VoLA and allows for a renewal for a suppression direction before it expires.

Division 3 Cancelling of suppression direction

Cancellation grounds

Clause 194 replaces section 75C of the VoLA and provides for the grounds to cancel a suppression direction. These include where the direction was based on incorrect or misleading information or the grounds no longer exist.

Cancellation procedure

Clause 195 replaces sections 75D(1) & (2) of the VoLA and provides for the valuer-general to give notice of a proposed cancellation of a suppression direction. The notice must include the reasons and associated facts and circumstances for the cancellation and give the person the opportunity to respond within 42 days. If the valuer-general, after considering any response, still believes that the grounds exist, the suppression direction may be cancelled.

Notice and taking effect of decision

Clause 196 replaces sections 75D(3) - (5) of the VoLA and requires that the valuer-general gives notice of whether the suppression direction is cancelled or not. If the decision is to cancel the suppression direction the person must be provided with an information notice that details that the person can appeal the decision to a Magistrate's Court. A cancellation takes effect on the later of the day the notice is given or the day stated in the notice.

Division 4 Appeals against refusal or cancellation of suppression direction

Appeal right

Clause 197 replaces sections 75E(1) - (3) of the VoLA and allows the applicant for a suppression direction that was refused or a person who had their information suppressed and had their suppression cancelled, to appeal the decisions to a Magistrates Court.

How to appeal

Clause 198 replaces section 75F of the VoLA and details what is required to lodge an appeal to the Magistrates Court.

Action pending outcome of appeal

Clause 199 replaces sections 75G(1) - (4) of the VoLA. The clause details the valuer-general's obligations when served with a copy of an appeal lodged against:

- the decision to refuse an application for suppression; or
- the decision to cancel a suppression direction.

On receipt of the copy, unless the valuer-general considers the application to be frivolous or vexatious, the following must occur. For an application appeal, the person's name and address must be excluded from the public parts of the valuation roll. For a cancellation appeal, the person's name and address should continue to be excluded. The exclusions should continue until the appeal is completed.

Hearing procedures

Clause 200 replaces sections 75H(1) - (4) of the VoLA and details the hearing procedures for appeals against the decisions to either refuse a suppression application or cancel an existing direction. The procedures are those under the *Magistrates Courts Act 1921*.

Powers of court on appeal

Clause 201 replaces section 75I of VoLA. The clause provides that on appeal the court may:

- confirm the decision appealed against;
- set aside the decision and substitute another decision; or
- set aside the decision and return the matter to the valuer-general with directions that the court considers appropriate.

The clause provides that in substituting another decision, the court has the same powers as the valuer-general. In addition, if the court substitutes another decision, the substituted decision is taken, for this Act, to be the valuer-general's decision.

Appeal to District Court on questions of law only

Clause 202 replaces section 75J of the VoLA. The clause provides that that a party aggrieved by the decision of the court may appeal to the District Court but only on a question of law.

Part 4 Distributing valuation rolls

Supplying copies of valuation roll

Clause 203 replaces section 73 of the VoLA and requires the provision of valuation roll information. When an annual valuation is completed for a local government area or amendments made to the valuation roll for an area, the valuer-general must supply the relevant valuation roll information to:

- the local government;
- the State revenue commissioner; and
- any other relevant administering authority.

For an annual valuation the information must be supplied at least 3 months before the annual valuation first takes effect. The information can be supplied in an electronic form. As the requirement to supply the information applies both to annual valuations and other amendments to the valuation roll, the regulatory fees are payable whether or not an annual valuation is made in a year.

Notice about protected persons to local governments

Clause 204 replaces section 73A of the VoLA and applies when a local government is provided with relevant valuation roll information. When supplying the information, the valuer-general must also give notice of any suppression directions applying to personal information. When the suppression direction is made, notice must be given with other amended valuation roll information within 7 days of the direction being made. Any amendments to existing suppression directions must also be given.

Chapter 7 Provisions about the valuer-general

Part 1 Establishment and appointment

Establishment

Clause 205 establishes the office of valuer-general. On 9 March 2010 the Premier announced that the government would put in place reforms to the state valuation services including the appointment of an independent valuer-general. This provision requires that the valuer-general is employed under the *Public Service Act 2008* as a senior executive. To demonstrate the independence of the position the provision requires that only the Governor in Council can only dismiss the valuer-general.

Termination of appointment

Clause 206 provides the reasons why the appointment of the valuer-general may be terminated by the Governor in Council. These include:

- conviction of an indictable offence;
- proved incapacity;
- incompetence;
- misconduct; or
- declared insolvent.

Part 2 Functions and powers

General functions and powers

Clause 207 provides for the general functions and powers of the valuer-general. These include:

- making valuations;

- dealing with objections and appeals;
- maintaining the valuation roll; and
- any other functions required of the valuer-general under an Act.

Power to contract to supply bulk data or microfiche data

Clause 208 replaces section 77 of the VoLA and provides the power for the valuer-general to enter into contracts to supply bulk data or microfiche data. Valuation roll information has been provided under contract to various areas of the property industry for many years. To maintain these existing contracts and negotiate new agreements, the valuer-general must be granted the power previously held by the chief executive.

The provision ensures that any contract allows the valuer-general to exclude certain information or limit its use if the valuer-general is satisfied that including the information could result in its inappropriate disclosure or use. If this exclusion occurs, the contract must also prohibit the disclosure or limit the distribution or use of the information that has already been provided.

The provision also provides for the fees associated with the supply of information under the contract to be those agreed to in the contract. This provision does not limit the supply of data to the state or commonwealth. The provision also includes relevant definitions.

Power to assess value other than for a valuation

Clause 209 replaces section 74 of the VoLA and allows the valuer-general to assess the value of land or personal property on payment of the prescribed fee. Assessments may be of land's:

- unimproved value;
- site value or improved value; or
- the value of improvements on the land.

Use by trustee of assessment by valuer-general

Clause 210 replaces section 78 of the VoLA. The clause allows for the use by a trustee of an assessment of value provided by the valuer-general under clause 209 to lend money secured by the property the subject of the assessment request. However this does not apply if the trustee was directed

by the trust conditions, retainer or employment to determine the value in some other way.

Independence in performing functions

Clause 211 states clearly that the valuer-general must exercise an independent judgement in performing functions and is not subject to direction from anyone else. This matches the Premier's announcement on 9 March 2010 that an independent valuer-general would be appointed.

Part 3 Miscellaneous provisions

Restriction on outside employment

Clause 212 ensures that the valuer-general must not (without the Minister's prior approval) hold any other office of profit or engage in any other paid employment outside the office or duties of the valuer-general. This also supports the independence of the position.

Right of appearance

Clause 213 replaces section 86 of the VoLA and allows that in any proceeding concerning the valuer-general, the valuer-general may appear personally or be represented by a lawyer or a public service officer.

Delegation

Clause 214 replaces section 12 of the VoLA and provides for the delegation of the valuer-general's functions to an appropriately qualified person. Examples of appropriately qualified persons include registered valuers or public service officers with appropriate classification levels.

Chapter 8 Authorised persons

Part 1 General matters about authorised persons

Division 1 Functions

Functions

Clause 215 provides that the functions of authorised persons are:

- to help the valuer-general decide land values and applications by owners of land; and
- to have land declared as rural land under clause 12 (Applying for declaration).

Division 2 Appointment

Appointment and qualifications

Clause 216 empowers the valuer-general to appoint authorised persons. The clause also states that the chief executive must be satisfied the person has the necessary expertise or experience to be an authorised person.

Appointment conditions and limit on powers

Clause 217 specifies that an authorised person holds office on the conditions stated in their instrument of appointment or a signed notice given to the authorised person or in a regulation. The instrument of appointment, the signed notice or a regulation, may limit the powers of an authorised person.

When authorised person ceases to hold office

Clause 218 establishes the conditions for which an authorised person ceases to hold office.

Resignation

Clause 219 provides that an authorised person may resign by signed notice given to the valuer-general.

Division 3 Identity cards

Issue of identity card

Clause 220 requires the chief executive to issue an identity card to each authorised person. The identity card must:

- contain a recent photo of the person;
- contain a copy of their signature;
- identify them as an authorised person under the Act; and
- state the expiry date of the card.

The clause does not prevent a single identity card being issued to a person for this Act and other purposes.

Production or display of identity card

Clause 221 when an authorised person exercises a power under the Act in relation to a person, the authorised person must:

- produce the authorised person's identity card for inspection before exercising the power; or
- have the identity card on display and clearly visible to the person while the authorised person s exercising the power.

The clause provides that when it is impractical to comply with these requirements, the authorised person must produce their identity card for inspection by the person at the first reasonable opportunity.

Return of identity card

Clause 222 requires an authorised person to return the authorised person's identity card within 21 days of ceasing to be an authorised person.

Part 2 Entry to places

Division 1 Power to enter

Entry power

Clause 223 provides that an authorised person may enter a place if the occupier consents to the entry. The clause also confers on an authorised person a right to enter a place without the occupier's consent if the place is:

- a public place and entry is made when it is open to the public; or
- the place is apparently vacant or unoccupied and the authorised person has made reasonable attempts to contact the owner or an occupier of the place or to seek consent.

The power of entry does not extend to the part of the premises where a person apparently resides.

Meaning of *place* and *premises*

Clause 224 defines the meaning of 'place' in this chapter of the Bill.

Division 2 Procedure for entry by consent

Application of div 2

Clause 225 provides that this division applies if an authorised person intends to ask an occupier of a place for consent to enter the place.

Matters authorised person must tell occupier

Clause 226 sets out the matters an authorised person must tell an occupier. Before asking for consent from the occupier, the authorised person must advise:

- the purpose of the authorised person's entry;
- that the occupier is not required to provide consent;
- that the consent may be withdrawn at any time; and

- about any other powers that may need to be exercised to achieve the purpose of the entry.

Consent acknowledgement

Clause 227 provides that if consent to entry is given, the authorised person may ask the occupier to sign an acknowledgement of this consent.

An authorised person must immediately give to the occupier a copy of the acknowledgement if the occupier signs it. If occupier consent to the entry of an authorised person is disputed, the onus of proof is on the person relying on the lawfulness of the entry to prove the occupier consented.

Part 3 Other powers

Division 1 Powers after entry

Application of div 1

Clause 228 provides that this division applies where an authorised officer may enter or has entered a place, other than a public place, with the consent of its occupier.

General powers after entering places

Clause 229 establishes the general powers available to an authorised person after they have entered a place. Those powers enable the authorised person to:

- inspect, test, photograph or film anything at the place;
- copy a document;
- examine, inspect, or film, photograph, videotape or otherwise copy or record an image of a document;
- take into or onto the place any person or equipment and materials reasonably required for exercising the authorised person's powers.

The general powers may be exercised to the extent given in the occupiers consent.

Division 2 Information-obtaining power

Power to require information

Clause 230 empowers an authorise person to acquire information that is needed to perform the authorised person's functions. The authorised person may, by notice, require that the information be given at a stated reasonable time and place. The notice must include a warning that it is an offence not to comply with the notice.

Information stored on computer

Clause 231 provides that if information required by an authorised officer is stored on a computer, the requirement under clause 230 includes a duty to give a clear written reproduction of the information.

Offence to contravene an authorised person's information requirement

Clause 232 provides that it is an offence not to comply with an authorised officers information requirement. The clause provides that it is a reasonable excuse for an individual not to give the information if giving the information might tend to incriminate the individual.

Part 4 Miscellaneous provisions

Division 1 Damage in exercising powers

Subdivision 1 Duty to avoid

Duty to avoid damage

Clause 233 requires an authorised officer, when exercising a power, to take all reasonable steps to ensure that the authorised officer causes as little inconvenience and does as little damage as possible.

Subdivision 2 Notice of damage

Application of sdiv 2

Clause 234 provides that this subdivision applies if an authorised person exercising a power under the Act or a person acting under the direction of an authorised person damages something. The subdivision does not apply to damage the authorised person:

- considers is trivial;
- if there is no-one apparently in possession of the thing; or
- the thing has been abandoned.

Requirement to give notice

Clause 235 requires an authorised person to give notice if the authorised person damages something when exercising or purporting exercise a power. The notice must be given to the person who appears to be the owner or person in possession of the thing.

If it is not reasonably practicable to give a notice to a person, the notice may be left where the damage happened in a conspicuous position and in a reasonably secure way.

The giving of the notice may be delayed if the authorised person reasonably suspects giving the notice may frustrate or otherwise hinder the performance of the authorised person's functions. The delay may be only for so long as the authorised officer continues to have reasonable suspicion and remains in the vicinity of the place.

Content of notice

Clause 236 provides that a notice of damage must state the particulars of the damage and that the person who suffered the damage may claim compensation under the Act. The notice may include a statement of belief by the authorised officer that the damage was caused by a latent defect in the thing or other circumstances beyond the control of the authorised person.

Division 2 Compensation

Compensation because of exercise of powers

Clause 237 provides that a person is entitled to claim compensation from the State if the person incurs a cost, damage or loss because of the exercise, or purported exercise, of a power by or for an authorised person.

Provisions for compensation orders

Clause 238 provides that a claim for compensation may be made in a proceeding in a court with appropriate jurisdiction. The court must have regard to any relevant offence committed by the claimant and may order payment of compensation only if it is satisfied it is just to make the order. A regulation may prescribe other matters that may or must be taken into account by the court when considering whether it is just to order compensation.

Division 3 Offences relating to authorised persons

Giving authorised person false or misleading information

Clause 239 provides that it is an offence to give an authorised officer a document containing false or misleading information whether or not the information was given in response to an authorised person's information requirement.

Obstructing authorised person

Clause 240 provides that it is an offence to obstruct an authorised person or someone helping an authorised person. If a person has so obstructed and the authorised person decides to proceed with the exercise of the power, the authorised person must warn the person that:

- it is an offence to cause an obstruction unless the person has a reasonable excuse; and
- the authorised person considers the person's conduct an obstruction.

Impersonating authorised person

Clause 241 provides that it is an offence to impersonate an authorised officer.

Division 4 Other provisions

Derivative use immunity for individual complying with requirement by authorised person

Clause 242 applies where a person gives an authorised person information in compliance with an information requirement. The clause provides that disclosed incriminating evidence provided by that person is not admissible in evidence against the individual in a civil or criminal proceeding unless the falsity or misleading nature of the evidence is relevant.

Chapter 9 Miscellaneous provisions

Part 1 Access by valuer-general to information

Giving State government information to valuer-general

Clause 243 replaces section 36(1) of the VoLA and requires various state government entities to provide information to the valuer-general. Relevant entities include the state revenue commissioner, land registrar, registrar of the Supreme Court and other public service officers.

Giving local government information to valuer-general

Clause 244 replaces sections 36(2) – (4) of the VoLA and requires a local government or local government officer to allow the valuer-general to take a copy of or extract from a valuation-related document of the local government.

The clause also requires a local government to give the valuer-general information about:

- the auction of land for unpaid rates; and
- all lands it acquires or disposes of.

Part 2 Notice of changes concerning land

Notice of change of ownership

Clause 245 replaces sections 81(1) and 82 of the VoLA and requires that when land changes hands, advice is provided to the valuer-general within 30 days. Changes of ownership have been lodged on a combined form for many years and this provision also allows for the information to be provided on a combined form – providing information required under various state/local government legislation on the one form.

Requirement to fix defective change of ownership notice

Clause 246 replaces section 81A of the VoLA and allows the valuer-general to require a person to fix a defect in an ownership change notice within a reasonable period. The valuation roll reflects information provided via an ownership change notice and inaccuracies can lead to valuation notices not being sent to the correct owner/address.

Part 3 General service provisions

General address for service

Clause 247 replaces section 84(1) of the VoLA and authorises the valuer-general to serve a notice or document at the person's service address. The service address is taken to be the address last notified to the valuer-general. Where there is more than one owner of land, the notice can be provided at the one service address.

The provision also clarifies that if a person has changed the person's service address but hasn't notified the valuer-general of the change, the last notified service address on the valuation roll is taken to be the correct address for service.

Substituted service

Clause 248 replaces section 85 of the VoLA. The clause allows the valuer-general, in cases where an owner is absent from the State and doesn't have a representative to whom a notice can be given, to:

- either post the notice to the last address on the roll;
- place the notice on the land to which it relates; or
- publish a copy of the notice in the gazette.

Part 4 Legal provisions

Division 1 Proceedings

Offence to give valuer-general false or misleading information

Clause 249 replaces section 93 of the VoLA and provides for an offence where a person knowingly gives false information to the valuer-general. Any proceeding relating to the offence must start within one year.

Offences under Act are summary

Clause 250 replaces section 94 of the VoLA and states that an offence against this Act is a summary offence.

Division 2 Evidentiary provisions

Application of div 2

Clause 251 states that division 1 (Proceedings) applies to a proceeding under or relating to this Act.

Valuer-general's appointment and authority

Clause 252 replaces parts of section 96 of the VoLA and provides various evidentiary provisions related to the valuer-general. These include:

- presumptions of a person's appointment as the valuer-general;
- the valuer-general's power to perform functions under an Act; and
- that a document bearing the valuer-general's name was made with the valuer-general's authority.

The provision also requires that judicial notice must be taken of the name and signature of a person who is or was the valuer-general. A document is taken to be signed by the valuer-general if it bears the valuer-general's written, printed or stamped signature (with the valuer-general's authority).

Certified map or plan

Clause 253 replaces section 96(5) of the VoLA and states that a valuer-general's certificate concerning a map or plan is evidence of the matters contained in the map or plan.

Valuation notices

Clause 254 clearly states that a certificate stating it is a copy of a valuation notice is evidence of the matters in the notice.

Publication and availability of valuation roll information

Clause 255 replaces section 96(11)(a) of the VoLA and provides that a certificate concerning the giving of a public notice about the availability of valuation roll information is evidence of the matter.

Particular evidentiary provisions for valuation appeals

Clause 256 replaces section 96(13) of the VoLA and provides for specific evidentiary provisions in relation to valuation appeals. The provision states that a valuer-general's certificate stating:

- the amount of the value of site improvements or non-site improvements concerning the objector's land is evidence of the value and is sufficient evidence in the absence of any other evidence; and

- a document was received from the appellant during the course of an objection process is evidence of the contents and any associated opinion.

Other evidentiary provisions

Clause 257 replaces parts of section 96 of the VoLA and provides a general suite of evidentiary provisions associated with valuation and objection related documents, the occurrence of particular actions and a person's service address.

Part 5 Recording of site improvement deductions

Recording of site improvement deduction in land register

Clause 258 applies if an owner is granted a site improvement deduction on their land which has the effect of decreasing the site value. The valuer-general will request the land registrar to record in the register that a deduction applies and, if ownership changes, the value will change because the deduction will no longer apply. This will ensure that any prospective land purchasers will be made aware that the value will change if they purchase the land.

Removing record

Clause 259 allows the valuer-general to remove from the register notations relating to site improvement deductions. This will occur when the site improvement deduction no longer applies.

Part 6 Other provisions

Confidentiality of information

Clause 260 is a general provision relating to the confidentiality of information. It ensures that public service employees (past and present)

that have access to protected or other confidential information must not make a record, divulge or use the information unless authorised by law or they have the consent of the person that the information relates to.

Publication of particular public notices on department's website

Clause 261 details the requirements when public notices are published on the department's website. The notice must be on the website for at least 10 business days. This provision does not preclude the notice being given in another way as well – depending on the target audience.

Review of particular concession provisions

Clause 262 requires the Minister to review the provisions associated with the granting of concessions relating to single dwelling houses, farming or the discounting for subdivided land before December 2012. Relevant stakeholders have agreed that it is important to see the introduction of site value 'bedded down' before reviewing the appropriateness of these concessions. This will also allow for more time to consult with stakeholders and quantify the impacts of any changes.

Application of provisions

Clause 263 ensures that where any provision applies to another provision for a particular purpose, the other provision applies with necessary changes.

Approved forms

Clause 264 replaces section 97 of the VoLA and allows the valuer-general to approve forms for use under the relevant provisions in this Bill.

Regulation-making power

Clause 265 replaces sections 87 and 99 of the VoLA and allows for regulations to be made under this Bill. A regulation may be associated with the functions and power of valuers; the valuation roll and relevant fees.

The provision allows for a regulation to be made to extend a period of time associated with an action where it was unable to be completed within the

original time. This can only occur where there was an unusual circumstance or where the application of the original period would lead to a harsh or unjust result.

Chapter 10 Repeal, savings and transitional provisions

Part 1 Preliminary

Definitions for ch 10

Clause 266 provides definitions for Chapter 10.

Part 2 Repeal

Repeal of Valuation of Land Act 1944

Clause 267 provides that VoLA is repealed.

Part 3 Saving of repealed Valuation Act for particular purposes

Operation and application of pt 3

Clause 268 provides that this part continues in effect the operation of the repealed VoLA for particular purposes. While the saved former provisions continue in force for a matter, this Act does not apply to the matter.

Saving for particular valuations

Clause 269 provides that the repealed VoLA continues in effect for the making and issuing of a valuation if it has taken effect, or is to take effect or will take effect, before 30 June 2011 (a saved valuation).

Any valuation that is made after commencement of this Act (before or after 30 June 2011) that is effective before 30 June 2011 is for the purpose of maintaining previous valuations (or the creation of new valuations that must be comparable with existing valuations) under the repealed VoLA. Accordingly, those maintenance and new valuations need to be made under the repealed VoLA methodology.

Continuance of purposes for which saved valuation may be used

Clause 270 provides that the former section 72 of VoLA (Purposes for which valuation to be used) continues to apply for a saved valuation.

Objections and appeals for saved valuations

Clause 271 provides for what Act applies to the making and deciding of objections and appeals relating to a saved valuation. If the valuation is issued before the 2011 issue day, the repealed VoLA applies. Otherwise this Act applies.

Declaratory provision for former ss 29A and 107

Clause 272 declares that certain provisions of the former VoLA that enable adjustments to valuations in various circumstances are and have always been valuations for former parts 6 (Notice of valuation (other than annual) and objections) and 6A (Appeals) and are saved valuations.

The clause also provides that, for a saved valuation before and after 30 June 2011, certain clauses of the former sections VoLA that enable adjustments to valuations continue in effect according to their terms.

This clause is necessary because the valuer-general may need, for a period of time, to issue or amend existing valuations for annual valuation years prior to the commencement of this Bill. For example, a current valuation would be amended where there has been a change of use. Where such an adjustment is made, it needs to be done using the former VoLA adjustment provisions.

Acts and omissions before assent

Clause 273 provides that the repealed VoLA continues to apply to an act done or omission made for the repealed VoLA before assent.

Part 4 Transitional provisions

Division 1 Offset for change to particular site values for non-rural land

The move from unimproved value to site value will result in a significant increase in the value of a small number of sites, such as ports, because of the significant amount of site improvements made. To assist the owners of those sites this Division will operate to step a landowner significantly affected by the change from the unimproved value up to full site value gradually over a period of 12 years.

Subdivision 1 The offset

Offset for 2011 unimproved-site value difference

Clause 274 provides that this section applies to land if:

- immediately before the 2011 valuation-making day (the day on which the 2011 annual valuation takes effect) the land had an unimproved value under VoLA; and
- on the 2011 valuation-making day, the land has a site value that is more than $1 million greater than the above unimproved value.

The clause provides that the above applies only while the same person who owned the land on the 2011 valuation-making day continues to own all of the land and the land has not been reconfigured.

The clause further provides that for the following years, the above land's value is it's site value as reduced by the offset under clause 275 for:

- the year to which the 2011 annual valuation applies; and

- the years to which the annual valuations up until 2023 annual valuation apply.

Amount of offset

*Clause 275 p*rovides that the amount of the offset under clause 274 for each year to which it applies is the 2011 unimproved-site value difference for the land, divided by 13 and multiplied by the following:

(a) for the year to which the valuation effective on 30 June 2011 applies—12;

(b) for the year to which the valuation effective on 30 June 2012 applies—11;

(c) for the year to which the valuation effective on 30 June 2013 applies—10;

(d) for the year to which the valuation effective on 30 June 2014 applies—9;

(e) for the year to which the valuation effective on 30 June 2015 applies—8;

(f) for the year to which the valuation effective on 30 June 2016 applies—7;

(g) for the year to which the valuation effective on 30 June 2017 applies—6;

(h) for the year to which the valuation effective on 30 June 2018 applies—5;

(i) for the year to which the valuation effective on 30 June 2019 applies—4;

(j) for the year to which the valuation effective on 30 June 2020 applies—3;

(k) for the year to which the valuation effective on 30 June 2021 applies—2;

(l) for the year to which the valuation effective on 30 June 2022 applies—1.

Subdivision 2 Existing declared parcels

Application of sdiv 2

Clause 276 provides that this subdivision applies to directions that parcels of land are to be valued separately made before commencement of this Act by the chief executive under the repealed VoLA (a separation direction).

The clause also provides that a record in a relevant valuation roll to the effect that a parcel is to be valued separately is evidence that a separation direction was in force at that time.

Validation of separation directions

Clause 277 provides that separation directions have been validly made and always been validly in force under VoLA.

Parcel becomes a declared parcel

Clause 278 provides that on commencement of this Act, each parcel the subject of a separation direction becomes a parcel declared as a separate parcel under Chapter 2, part 3 of this Act (a declared parcel). However, in applying the saved former provisions of VoLA, a declared parcel is taken to be a parcel the subject of a separation direction.

Converted declared parcel direction may be repealed

Clause 279 provides that the valuer-general may under this Act declare that a parcel the subject of a separation direction is no longer a declared parcel.

Subdivision 3 Miscellaneous provisions

Deduction application can not be made if offset applied

Clause 280 provides that if an offset deduction has been made under clause 274 an application cannot be made under clause 284 (Site improvement deductions for existing site improvements) for a site improvement deduction for the same land. The owner therefore is provided with a choice whether it is more advantageous to accept the offset or make an application

under clause 286 for a site improvement deduction for site improvements that the owner paid for before commencement of this Act.

Objections and appeals

Clause 281 provides that an objection ground may include a matter relating to an offset. However, the objection ground must state the amount the objector seeks for the offset and particulars of the amount.

Recording the offset in land register

Clause 282 provides that where an offset applies to the land, the valuer-general may request the land registrar to keep a record that the offset applies and that if ownership of the land changes, its value will change because the offset will no longer apply.

Removing record

Clause 283 enables the valuer-general to request the land registrar by notice to remove a record provided for in clause 282 above. The registrar must remove the record as soon as practicable after receiving the notice.

Division 2 Improvement allowances for existing site improvements

Site improvement deductions for existing site improvements

Clause 284 enables an owner of land, as part of the objection process, to make a deduction application for site improvements the owner paid for before the commencement of this Act. However, the allowance has prospective application only. Therefore, if an owner of land at commencement has carried out any site works within the last 12 years, the owner may claim the allowance for the part of the 12 years that has not yet expired (or until sale). For example, if an owner carried out profitable expenditure 7 years prior to commencement, the owner could claim the allowance for 5 years after commencement.

It should be noted that, by virtue of clause 280, the owner cannot claim both a deduction under this clause and the offset under clause 274.

Division 3 Objections

Making and availability of new objection forms before commencement

Clause 285 provides that a form approved or made available by the chief executive under the repealed VoLA before commencement is take to have been validly made available or approved under this Act on commencement.

Division 4 Changeover from chief executive to valuer-general

Migration of performed functions to valuer-general

Clause 286 provides that any function previously performed by the chief executive under the former VoLA before commencement are taken to have been performed by the valuer-general under the corresponding new provision.

References to chief executive

Clause 287 provides that if, under another Act, an approved form or document refers to the chief executive for or under the repealed VoLA, the reference is taken to be a reference to the valuer-general for this Act.

References to chief executive in saved former provisions

Clause 288 provides that a reference to the chief executive in the saved former provisions of VoLA is taken to be a reference to the valuer-general for this Act.

Outstanding appeals under saved former provisions

Clause 289 provides that, for any appeals under the repealed VoLA that were undecided on commencement of this Act, the valuer-general instead of the chief executive, is taken to be a party to the appeal.

Provisions for first valuer-general

Clause 290 provides that if the chief executive purports to appoint the valuer-general before commencement of this Act the appointment is taken to be validly made and is taken to have been in effect at all times from when it is made.

The clause also provides that if, before the commencement, the appointee purported to perform a function under this Act as the valuer-general, the function is taken to have been validly performed at the time.

Division 5 Existing access authorisations

Application of div 5

Clause 291 provides that this division applies if immediately before commencement a person held an authorisation under section 36 of the former VoLA.

Person becomes an authorised person

Clause 292 provides that, on commencement, the person who held an authorisation under section 36 of the former VoLA becomes an authorised person and holds office for the term and subject to any conditions of the authorisation.

Conversion of existing identity card

Clause 293 provides that if a person held an unexpired identity card under the repealed VoLA immediately before commencement, the card is taken to be an identity card issued as an identity card under this Act. The card expires according to its terms.

Division 6 Regulations

Valuation of Land Regulation 2003

Clause 294 continues in operation under this Act the *Valuation of Land Regulation 2003*, read with the changes necessary to make it consistent

with and adapt its operation to this Act. The regulation may be amended or repealed under this Act.

Amendment of regulations

Clause 295 provides that the amendment of a regulation under schedule 1 of the Act (consequential and minor amendments) does not affect the power of the Governor-General to further amend or repeal the regulations.

Transitional regulation-making power

Clause 296 provides for the making of a transitional regulation making power. The regulation may provide for a matter that is necessary to achieve the transition from the repealed VoLA to this Act and anything this Act does not provide for.

Division 7 Miscellaneous provisions

Leases referring to the term *unimproved value*

Clause 297 provides that a reference in a lease made before the commencement of this Act to the term 'unimproved value' under the former VoLA is taken to be a reference to its corresponding new provision (either unimproved value or site value).

This clause was inserted because, in research for its report, Price Waterhouse Coopers identified several decisions of the New South Wales Supreme Court dealing with the interpretation of a number of leases in New South Wales.

The rent payable under the leases that were the subject of the decisions was calculated by reference to unimproved value as determined pursuant to the NSW Valuation of Land Act (or any Act amending or in substitution). The NSW Valuation of Land Act was substantially amended in 1981 such that the concept of unimproved value was removed and the similar but not identical concept of land value was introduced. The leases in question stated that if there were no unimproved value, then the rent was to be determined by agreement of failing that, by arbitration.

The NSW Supreme Court determined that the change from unimproved value to land value constituted a situation in which there was no

unimproved value as determined pursuant to the NSW Valuation of Land Act and instead, rental had to be determined pursuant to agreement or arbitration. The court indicated that any arbitration should proceed on the basis of the statutory concept previously in force (i.e. before the introduction of land value.

There are a number of leases in Queensland that calculate rent, or other charges, by reference to the unimproved value of the land the subject of the lease. This clause is designed to ensure that valuations under the lease will continue to be made under Queensland valuation legislation.

References to repealed Valuation Act or former provision

Clause 298 provides that:

- a reference in an Act or document to the repealed VoLA is taken to be a reference to this Act; and
- a reference to a former provision in VoLA is taken to be a reference to its corresponding provision in this Act.

Existing suppression directions

Clause 299 provides that existing suppression directions under the repealed VoLA immediately before commencement of this Act become suppression directions under this Act on commencement. The clause provides that this does not change the period for which the suppression direction has effect.

Valuation rolls

Clause 300 provides that on commencement of this Act, a valuation roll under the repealed VoLA becomes a valuation roll under this Act.

Migration of undecided applications

Clause 301 provides that an application under the former VoLA not decided on the commencement of this Act is taken to have been made under the corresponding new provisions in this Act.

Migration of decisions and documents

Clause 302 provides that decisions or documents given under a former provision of VoLA are taken, on commencement, to be decisions or

documents under this Act. The clause does not change when the decision or document was given.

Chapter 11 Amendment of Acts

Part 1 Amendment of Aboriginal Land Act 1991

Act amended

Clause 303 provides that this part amends the *Aboriginal Land Act 1991*.

Amendment of s 13 (DOGIT land)

Clause 304 amends section 13 to provide that as a result of a simultaneously opening and closing of a road process within the external boundary of an Aboriginal deed of grant in trust, the road that is closed will automatically become transferable land if it is included in a deed of grant in trust. This enables the closed road area to be dealt with as part of the entire deed of grant in trust when the land is transferred under the Aboriginal Land Act 1991.

Further it amends section 13 to provides that if a road is closed generally and the closed road is dealt with under section 109(2)(b) of the *Land Act 1994* to include the land in an Aboriginal deed of grant in trust, that closed road automatically becomes transferable land, enabling it also to be dealt with as part of the entire deed of grant in trust when the land is transferred under the *Aboriginal Land Act 1991*.

Amendment of this section is complemented by amendment of section 42A of the *Land Act 1994*.

Amendment of s 27 (Deeds of grant to be prepared)

Clause 305 amends section 27 to enable a registered native title body corporate to hold land under the Aboriginal Land Act 1991 for a broader

group of Indigenous beneficiaries concerned with the land, including native title holders, traditional owners and those with an historic connection, rather than only those persons that hold native title. Amendment of this section is complemented by amendments to sections 27A and 28.

Amendments provide that a deed of grant will show that if land is granted to a registered native title body corporate under section 27A, that it holds the land for the native title holders of the land. Otherwise, when a grantee is appointed under section 28, whether to a registered native title body corporate or another person, than the land is held for the benefit of Aboriginal people particularly concerned with the land and their ancestors and descendants. Aboriginal people particularly concerned with the land are a broader group of beneficiaries than native title holders.

Amendment of s 27A (Appointment of registered native title body corporate as grantee)

Clause 306 amends section 27A to enable a registered native title body corporate to hold land under the Aboriginal Land Act 1991 for a broader group of Aboriginal beneficiaries concerned with the land, including native title holders, traditional owners and those with an historic connection, rather than only those persons that hold native title. Amendment of this section is complemented by amendments to sections 27 and 28.

Amendments confirm that if land is granted to a registered native title body corporate under this section that it holds the land for the native title holders of the land. This reflects amendments made to section 28 which confirm that a registered native title body corporate appointed as grantee under that section holds land for Aboriginal people particularly concerned with the land.

Amendments also correct a term by replacing the word “person” with “people”.

Amendment of s 28 (Minister to appoint particular trustees)

Clause 307 amends section 28 to enable a registered native title body corporate to hold land under the Aboriginal Land Act 1991 for a broader group of Aboriginal beneficiaries concerned with the land, including native title holders, traditional owners and those with an historic connection, rather than only those persons that hold native title. Amendment of this section is complemented by amendments to sections 27 and 27A.

The amendment confirms that if land is granted to a registered native title body corporate under this section that it that it holds the land for Aboriginal people particularly concerned with the land. This reflects amendments made to section 27A which confirm that a registered native title body corporate appointed as grantee under that section holds land for the native title holders of the land.

Part 2 Amendment of Acts Interpretation Act 1954

Act amended

Clause 308 provides that this part amends the *Acts Interpretation Act 1954.*

Amendment of s 36 (Meaning of commonly used words and expressions)

Clause 309 inserts into the Acts Interpretation Act a definition of valuer-general.

Part 3 Amendment of Land Act 1994

Act amended in pt 3 and sch 1

Clause 310 provides that this part and schedule 1, part 2 amend the *Land Act 1994*.

Amendment of s 31 (Dedication of reserves)

Clause 311 amends a spelling error in section 31.

Amendment of s 42A (Amalgamating unallocated State land with existing deeds of grant in trust)

Clause 312 amends section 42A to provide that road that is closed under s109(2)(b) or 109B of the Land Act 1994 and is to be included in an

Indigenous deed of grant issued under section 358 of the Land Act 1994 is transferable land for the purpose of section 42A.

This enables a plan of subdivision to be prepared showing the inclusion of the land with the subject deed of grant in trust - therefore overcoming a limitation with the existing provision.

Amendment of the *Land Act 1994* complements amendments to the *Aboriginal Land Act 1991* and *Torres Strait Islander Land Act 1991* that provide that:

- as a result of a simultaneously opening and closing of a road process within the external boundary of an Indigenous deed of grant in trust, the road that is closed will automatically become transferable land if included in a deed of grant in trust, enabling it to be dealt with as part of the entire deed of grant in trust when transferred under the *Aboriginal Land Act 1991* or *Torres Strait Islander Land Act 1991*; and
- if a road is closed generally and the closed road is dealt with under section 109(2)(b) of the *Land Act 1994* to include the land in an Indigenous deed of grant in trust, that road automatically becomes transferable land, enabling it to be dealt with as part of the entire deed of grant in trust when transferred under the *Aboriginal Land Act 1991* or *Torres Strait Islander Land Act 1991*.

Amendment of sch 6 (Dictionary)

Clause 313 amends a spelling error in the Dictionary.

Part 4 Amendment of Land Tax Act 2010

Act amended in pt 4 and sch 1

Clause 314 provides that this part and schedule 1, part 2 amend the *Land Tax Act 2010* (the Land Tax Act).

Replacement of s 17 (VOLA value)

Clause 315 replaces section 17 (VOLA value) of the Land Tax Act with a new section 17 which provides for 'the Land Valuation Act value'. This amendment is consequential to the replacement of VoLA with the new Land Valuation Act.

Amendment of s 30 (Discounting of VOLA value—subdivided land not yet developed)

Clause 316 amends section 30 of the Land Tax Act to replace references to the former VoLA with references to the new Land Valuation Act.

Insertion of pt 10, div 4

Clause 317 inserts a new pt 10, division 4 into the Land Tax Act that provides a transitional provision for the Land Valuation Act 2010. A reference in the Land Tax Act to the Land Valuation act value of land will, for the financial year starting 1 July 2010, be taken to be a reference to the value applicable under the repealed VoLA.

Amendment of sch 4 (Dictionary)

Clause 318 amends the dictionary to the Land Tax Act consequential to the repeal of VoLA and the making of the Land Valuation Act.

Part 5 Amendment of Torres Strait Islander Land Act 1991

Act amended

Clause 319 provides that this part amends the *Torres Strait Islander Land Act 1991*.

Amendment of s 12 (DOGIT land)

Clause 320 amends section 12 to provide that as a result of a simultaneously opening and closing of a road process within the external boundary of a Torres Strait Islander deed of grant in trust, the road that is

closed will automatically become transferable land if it is included in a deed of grant in trust. This will enable the closed road area to be dealt with as part of the entire deed of grant in trust when the land is transferred under the Torres Strait Islander Land Act 1991.

Further it amends section 12 to provide that if a road is closed generally and the closed road is dealt with under section 109(2)(b) of the *Land Act 1994* to include the land in a Torres Strait Islander deed of grant in trust, that closed road automatically becomes transferable land, enabling it also to be dealt with as part of the entire deed of grant in trust when the land is transferred under the *Torres Strait Islander Land Act 1991*.

Amendment of this section, as it relates to simultaneously opening and closing of a road and a closed road process under 109(2)(b) is complemented by amendment of section 42A of the *Land Act 1994*.

Section 12 is further amended to remove roads that were opened following the enactment of the *Torres Strait Islander Land Act 1991* from being DOGIT land (transferable land) as defined in the Act. Road being transferable land, and having a requirement in the Act that it must be transferred to Torres Strait Islander, is not practical.

Amendment of s 25 (Deeds of grant to be prepared)

Clause 321 amends section 25 to enable a registered native title body corporate to hold land under the Torres Strait Islander Land Act 1991 for a broader group of Torres Strait Islanders beneficiaries concerned with the land, including native title holders, traditional owners and those with an historic connection, rather than only those persons that hold native title. Amendment of this section is complemented by amendments to sections 25A and 26.

Amendments provide that a deed of grant will show that, if land is granted to a registered native title body corporate under section 25A, that it holds the land for the native title holders of the land. Otherwise, when a grantee is appointed under section 26, whether to a registered native title body corporate or another person, than the land is held for the benefit of Torres Strait Islanders particularly concerned with the land and their ancestors and descendants. Torres Strait Islanders particularly concerned with the land is a broader group of beneficiaries than native title holders.

Amendment of s 25A (Appointment of registered native title body corporate as grantee)

Clause 322 amends section 25A to enable a registered native title body corporate to hold land under the Torres Strait Islander Land Act 1991 for a broader group of Torres Strait Islander beneficiaries concerned with the land, including native title holders, traditional owners and those with an historic connection, rather than only those persons that hold native title. Amendment of this section is complemented by amendments to sections 25 and 26.

Amendments confirm that if land is granted to a registered native title body corporate under this section that it that it holds the land for the native title holders of the land. This reflects amendments made to section 26 which confirm that a registered native title body corporate appointed as grantee under that section holds land for Torres Strait Islanders particularly concerned with the land.

Amendment of s 26 (Minister to appoint particular trustees)

Clause 323 amends section 26 to enable a registered native title body corporate to hold land under the Torres Strait Islander Land Act 1991 for a broader group of Torres Strait Islanders beneficiaries concerned with the land, including native title holders, traditional owners and those with an historic connection, rather than only those persons that hold native title. Amendment of this section is complemented by amendments to sections 25 and 25A.

The amendment confirms that, if land is granted to a registered native title body corporate under this section, it holds the land for Torres Strait Islanders particularly concerned with the land. This reflects amendments made to section 25A which confirm that a registered native title body corporate appointed as grantee under that section holds land for the native title holders of the land.

Amendment of s 31 (Existing interests)

Clause 324 amends section 31 as it relates to interests that are to continue upon the transfer of transferable land under the Act, to include an easement that benefits the land and registered interests held by the State and Commonwealth.

Part 6 Amendment of other legislation

Legislation amended in sch 1

Clause 325 provides that Schedule 1 amends the Acts and Regulations it mentions.

Schedule 1 Consequential and minor amendments

Schedule 1 makes consequential and minor amendments to a number of Acts and Regulations.

Schedule 2 Dictionary

Schedule 2 provides the dictionary for the Bill.