

# Valuation of Land Amendment Bill 2008

## Explanatory Notes for Amendments to be moved during consideration in detail by the Honourable Craig Wallace MP

### Title of the Bill

Valuation of Land Amendment Bill 2008.

### Objectives of the Amendments

The objectives are as follows:

- 1 To clarify that invisible improvements related to the value of the business that is conducted on the land are not to be included in the unimproved value of land.
  - The Property Council of Australia (PCA), Shopping Centre Council of Australia (SCCA) and Australian Property Institute (API) have raised concerns about the potential for the proposed amendments effectively moving invisible improvements related to the business conducted on the land, from improvements, which are not included in the unimproved value, to the unimproved value of the land. This is not intended, but could possibly be interpreted as such with the present wording of the amendment.
  - However, any increase in value caused by a development approval, other approval or authority or local planning instrument will be included in the unimproved value. This confirms the historical approach adopted by the department. This is supported by the fact that, historically, the value flowing from the realisation of the ripeness of the land for development was included in the value of unimproved land. The decision of the Land Appeal Court, *AMP Society v Chief Executive, Dept. of Lands* [1994-1995] 15 QLCR 344 confirmed this approach.

- 2 To moderate any effect on the calculation of the commercial land index used in the formula based approach for valuing prescribed shopping centres caused by increases in commercial land values in Brisbane and localised fluctuations of commercial land values in other local governments,.
  - The PCA, SCCA and API are concerned that the proposed methodology for the calculation of the commercial land index would allow for too great an influence from localised fluctuations in commercial values and large increases in Brisbane commercial values.
- 3 Remove the amendment to section 3(4) that stated that there is no risk in realising the use of the land or continuing the use of the land for any purpose for which it is being used. This will preserve the existing interpretation and application of section 3(4)
  - The PCA, SCCA and API are concerned that with the inclusion of the amendment to section 3(4), the department could value land based on an existing use when there is evidence that there is a risk associated with continuing this use.

## **Achievement of the Objectives**

The objectives will be achieved by the following:

Clarify that invisible improvements related to the value of the business conducted on the land are not included in the unimproved value by modifying clauses 5 and 7. This will remove the terminology which is subject to different interpretations.

Change the methodology for the calculation of the commercial land index used for the prescribed shopping centre land. The index for all prescribed land will be based on a calculation of all commercial land in the local governments (excluding Brisbane) in which the prescribed land is located. This will require amendments to clauses 9 and 13.

Remove the clause that states that there is no risk in realising the use of the land or continuing the use of the land for any purpose for which it is being used. This will require an amendment to clause 5.

## **Consultation**

There has been consultation with the Property Council of Australia (PCA), Shopping Centre Council of Australia (SCCA) and Australian Property Institute (API) which has resulted in these amendments.

## **Notes on Provisions**

### **1 Clause 5 (Amendment of s 3 (Meaning of unimproved value))—**

This clause amends clause 5 by removing terminology that could be misinterpreted. The PCA, SCCA, and API have raised concerns about the potential for the proposed amendments effectively moving invisible improvements from improvements, which are not included in the unimproved value, to the unimproved value of the land.

This amendment will clarify that invisible improvements related to the value of the business conducted on the land are not included in the unimproved value.

However, any increase in value caused by a development approval, other approval or authority or local planning instrument will be included in the unimproved value. This confirms the historical approach adopted by the department.

### **2 Clause 5 (Amendment of s 3 (Meaning of unimproved value))—**

This clause will amend clause 5 to delete the amendment that states that there is no risk in realising the use of the land, or continuing the use of the land, for any purpose for which it is being used at the date to which the valuation relates. The PCA, SCCA and API are concerned that the department could value land based on an existing use when there is evidence that there is a risk associated with continuing this use. The removal of this amendment will preserve the existing interpretation and application of section 3(4).

### **3 New clause 5A**

This clause inserts a new clause 5A. Clause 13 of the Bill declares that the Valuation of Land Amendment Act 2003 No. 35 is taken to have never commenced. This has the unintended effect of removing the words ‘including improvements’ from section 4 of the Act. There is a need to retain these words in the legislation to maintain the strengthened definition of ‘improved value’ introduced in 2003.

### **4 Clause 7 (Amendment of s 23 (Chief executive may value stratum or volumetric lot))—**

This clause amends clause 7 by removing terminology that could be misinterpreted. The PCA, SCCA and API have raised concerns about the potential for the proposed amendments effectively moving invisible improvements from improvements, which are not included in the unimproved value, to the unimproved value of the land.

This amendment will clarify that invisible improvements related to the value of the business conducted on the land are not included in the unimproved value.

However, any increase in value caused by a development approval, other approval or authority or local planning instrument will be included in the unimproved value. This confirms the historical approach adopted by the department.

### **5 Clause 9 (Insertion of new s 27)—**

This clause amends clause 9 to change the methodology for the calculation of the commercial land index used for the prescribed shopping centre land. The index for all prescribed land will be based on a calculation of all commercial land in the local governments (excluding Brisbane) in which the prescribed land is located.

This will rationalise any effect on the calculation of the commercial land index that could be caused by localised fluctuations of commercial values and large increases in commercial values in Brisbane.

The PCA, SCCA and API are concerned that the proposed methodology for the calculation of the commercial land index would allow for too great an influence from localised fluctuations in commercial values and large increases in the values for commercial land in Brisbane.

**6 Clause 11 (Replacement of s 70 (Costs of appeal against valuation))—**

This clause amends clause 11 to correct a typographical error.

**7 Clause 13 (Insertion of new pt 9, divs 2 and 2A)—**

This clause amends clause 13 to change the methodology for the calculation of the commercial land index used for the part 1 prescribed shopping centre land. The index for all part 1 prescribed land will be based on a calculation of all commercial land in all the local governments (excluding Brisbane) in which any prescribed land is located.

This will rationalise any effect on the calculation of the commercial land index that could be caused by localised fluctuations of commercial values and large increases in the value for commercial land in Brisbane.

The PCA, SCCA and API are concerned that the proposed methodology for the calculation of the commercial land index would allow for too great an influence from localised fluctuations in commercial values and large increases in the values for commercial land in Brisbane.