

Queensland



Explanatory Notes for SL 2003 No. 193

Valuation of Land Act 1944

VALUATION OF LAND REGULATION 2003

GENERAL OUTLINE

Short title

The regulation will be known as the *Valuation of Land Regulation 2003*.

Authorising Law

Valuation of Land Act 1944

The key authorising provisions are:

- Section 99(1) of the Act enables the Governor in Council to make regulations for the purposes of this Act.
- Section 99(2) provides that a regulation may be made with respect to:
 - (a) the powers and duties of valuers;
 - (b) the form of the valuation roll;
 - (c) the fees payable under this Act;
 - (d) offences for contravention of a regulation and the maximum penalties, of not more than 1 penalty unit, for the offences.

Other relevant authorising sections are:

- Section 6(5) — Non-physical improvements that are intangible improvements.
- Section 25(2) — Setting the rate of discount for subdivided land.
- Sections 28 & 30 — Alteration of valuation and making valuations.
- Section 35A(5) — Maximum percentage of improved value prescribed for intangible improvements.
- Section 37(4) — Extending the period for making valuation.
- Sections 73(3) and 76(1), (5) & (6) — Prescribing fees and payment of fees. for the supply of a valuation roll, valuation information or sales information.
- Section 74(2) — Payment of fee for making other valuations.

Policy Objectives of the Regulation

As described in the accompanying *Regulatory Impact Statement — Valuation of Land Regulation 2003*, the main purpose of the *Valuation of Land Act 1944* is to make better provision for determining the valuation of land for rating and taxing purposes, and for matters incidental thereto or consequent thereon.

The policy objective of having legislation is to ensure that statutory valuations (that is valuations for rating, land tax and State Land rental purposes) are carried out regularly and consistently throughout the State of Queensland. For the public to be confident in the statutory valuation process, they must be sure that the system must be fair and consistent.

The policy objective of the proposed regulation is to provide the detailed machinery to the Act to cover:

- various fees for providing valuations or valuation information;
- the rate of discount for rating and land tax purposes allowed on the valuation of subdivided land;
- changing the effective date for an annual valuation in a local government;
- description of intangible improvements; and,

- maximum percentage of improved value for intangible improvements.

Way in which the policy objective is to be achieved by regulation

The policy objectives will be achieved by operational means.

Regulation of this nature is an accepted way of achieving policy objectives in the field of valuation. Being a purpose driven service, different valuations are possible for the same property, depending on the methodology applied, a fact which is not well understood, particularly by infrequent users of valuation services. Without the regulation, the public and clients such as local governments would lack assurance of certainty and transparency of the valuation system.

Without regulation, the administrative requirements in the statutory valuation system would be only partly described in the principal Act, limiting the effectiveness with which the legislation can be implemented.

Therefore while the principal Act is in place, it is impractical to adopt any other approach other than Regulation.

Consistency With Authorising Law

The Regulation is consistent with the objectives of the principal Act, particularly with the heads of power for making and levying fees, for making valuations or providing valuation information, for discounts associated with making and levying rates for subdivided land, for changing the effective date for an annual valuation in a local government, and matters associated with intangible improvements.

Alternatives

Two options were considered as detailed in the Regulatory Impact Statement (RIS). These were:

Option 1: No regulation — ‘doing nothing’, i.e. allowing the current Regulation to expire and not adopting other measures.

Option 2: Remaking the Regulation (with appropriate amendments)

Under Option 1, the continued administration of the Valuation of Land Act would not be efficient and would likely result in operational difficulties since the statutory valuation system would only be partly described in the principal Act. Amending the Act to include the operational issues being addressed by regulation is not a reasonable solution to the policy problem

and operational issues, given also the complex policy and legislative processes for amending Acts and the associated administrative costs. In addition, the transparency and certainty that is currently associated with the existing regulation could be compromised for those who give, use or are affected by valuation and valuation information. Alternative measures including policies to deal with matters previously covered by the regulations, education and awareness would have to be heavily relied upon. Thus, Option 1 was rejected.

The preferred option is Option 2, remaking the Regulation with appropriate amendments. It delivers high net benefits, reducing the level of financial and social risks to all users of valuation information. It ensures a continuation of a certain and transparent statutory valuation process. Overall, the value of valuation information is such that Queensland society will be better off with the re-making of the regulation than without it. The qualitative cost-benefit assessment detailed in the Regulatory Impact Statement confirmed that this option is indeed the only realistic alternative.

Benefits and costs of implementing the subordinate legislation

A qualitative assessment, detailed in the Regulatory Impact Statement, indicates the following benefits and costs:

- 1) Benefits to government through—
 - a. quality and consistency of land valuation data, thus reducing the financial risks to the Federal, State and Local Governments associated with, and ensuring the equitable levying of, land taxes, rating, rental values and the award of entitlements under social security, and Commonwealth funding
 - b. continued revenue raising capacity for State and Local Governments totalling around \$318.5 million through the provision of valuation services and information, and through the collection of land taxes, rates and rentals.
 - c. more certainty to the annual re-valuation process — there are efficiencies and savings to be gained from the periodic and more systematic programme of undertaking about 800,000 valuations annually at a cost of about \$18 million, instead of carrying out 1.3 million valuations annually at higher resource and financial costs.
 - d. certainty and transparency in the effective implementation of the requirements of the Valuation of Land Act for the State and Local

Governments as well as the general public in that there is relevant machinery regarding valuation, fees and discounts allowed. Government would be less likely to face pressure, or receive more grievances, from those who give, use or are affected by valuation with regard to the implementation or amendment of the Principal Act. This translates into savings for Government in the management of grievances and new policy frameworks since no new administrative procedures or policies to deal with operational issues would be required.

- 2) Costs to government through—
 - a. valuations costing about \$18 million annually – the cost recovery on the provision of valuation services and information will remain unchanged (current level is 54%)
 - b. the purchase of valuation information at a total of \$10.5 million by the Office of State Revenue and Local Governments.
- 3) Benefits to land professionals through certainty and transparency of the systematic supply of reviewed land valuation/sales data—
 - a. reduced financial risks, since land valuation and sales information that are consistent with actual market values are important to land professionals who use this information to determine the value of assets, land and rentals.
 - b. continued public confidence in the valuation profession and a better-informed public.
- 4) Costs to land professionals through the regular purchase of valuation information.
- 5) Benefits to Business groups through—
 - a. Reliable valuation information, enhancing the level of confidence to interpret market trends and the response of the market to a variety of economic stimuli.
 - b. valuation information underpins market efficiency.
- 6) Costs to Business groups through the regular purchase of valuation information.
- 7) Benefits to the General Community through—
 - a. certainty and transparency in valuation for rating and taxing purposes:

- A standard rate would be applied for discounting for the unimproved value of subdivided land by the rating authorities, in addition to the method for calculating associated rates. This recognises the holding costs for vacant land incurred by a subdivider;
 - A defined timeframe for re-valuations in the local government area, assuring the public of the reliability of land valuation data to be used for land taxation purposes; and,
 - defined fees for valuation services offered by the Government.
- b. certainty and transparency for the public in charges and accessibility to statutory valuation and sales information:
- defined fees for products;
 - having valuation and sales information readily accessible to the public would assist in informing the general community.
- c. certainty and transparency resulting in fewer grievances on fees and rating discussed above as well as access to valuation and sales information. Public confidence in the valuation system would be maintained, and there would not be pressure from the public for the government to further regulate by including these matters in the principal Act.

8) Costs to the General Community through the purchase (directly or indirectly) of statutory valuation information or valuation services.

Costs would be higher if the 'no regulation' option was adopted. Whilst some stakeholders would benefit by savings obtained from not having to pay for valuation information, the overall costs of not having certainty and transparency associated with the next effective date of annual valuation, the links to land taxation and ratings are high for government, land professionals, business groups and general community.

In contrast, re-making the regulation, with appropriate amendments, delivers high net benefits, reducing the level of financial and social risks to all users of valuation information. It ensures a continuation of a certain and transparent statutory valuation process. Overall, the value of valuation information is such that Queensland society will be better off with the re-making of the regulation than without it.

Furthermore, when this option is compared to the level of fees currently in force under the *Valuation of Land Regulation 1993*, the option of remaking the regulation signifies an adjustment to CPI of 2.5%, in line with standard government policy, except for the proposed fees under section 3(a) and 3(b) of Schedule 2 that have been aligned to similar fees under the *Land Regulation 1995* and *Land Title Regulation 1994*. It is accepted by clients that current fees are low and that a 2.5% increase over current costs will not unduly burden stakeholders. The proposed adjustment of the current level of fees to CPI is consistent with standard Government policy and is accepted practice.

The matters associated with intangible improvements were included in the Regulation after the RIS was released as part of the urgent legislative changes implemented for the valuation of shopping towns.

Consistency with fundamental legislative principles

The remaking of the Regulation will be consistent with Fundamental Legislative Principles.

Consultation

In accordance with the requirements of the *Statutory Instruments Act 1992*, a Regulatory Impact Statement was released for public comment for public comment four weeks. The Regulatory Impact Statement was notified in the Queensland Government Gazette of 6 June 2003 (No. 33, page 397) and The Courier Mail of 6 June 2003. The closing date for written responses was 7 July 2003. In addition, the remake of the regulation was published on the Department of Natural Resources and Mines and the Department of State Development (Queensland Regulations Have your Say) websites.

Key stakeholders were sent free copies of the Regulatory Impact Statement and others were distributed on request.

Federal Government

- *Commerce Queensland*

This office was consulted on the use of statutory valuation information.

State Government

The following State Government agencies were consulted:

- *Business Regulation Reform Unit (BRRU), Department of State Development*

BRRU was consulted on the drafting of the Regulatory Impact Statement, which outlined the content of and issues associated with the regulation.

- *Department of Treasury*

The Office of State Revenue and the Resources and Industry Division were consulted mainly in regard to the issues of land taxation and the adjustment of fees to Consumer Price Index (CPI).

- *Office of Parliamentary Counsel (OQPC)*

OQPC has drafted the regulation.

- *Department of Local Government (DLGP)*

DLGP was consulted mainly in regard to the use of valuation information and valuation for rating purposes and associated issues such as the level of fees.

- *Department of Main Roads*

The Department of Main Roads was consulted mainly in regard to valuations and valuation information for land acquisitions.

- *Department of Transport*

The Department of Transport was consulted mainly in regard to valuations and valuation information for land acquisitions.

- *Department of Primary Industries*

The Department's Office of Rural Communities was consulted with regard to valuations and valuation information in the rural /regional areas.

- *Department of Premiers and Cabinet*

The Department of Premiers and Cabinet was also consulted on the content of and issues associated with the regulation.

Local Government

All local government offices, except for Aboriginal and Torres Strait Islander Community Councils which are not subject to rates or land tax in terms of legislation, were consulted mainly in regard to the use of, and fees for, valuation information and valuation services in addition to the setting of discounted rates for subdivided land.

Industry

- Australian Property Institute (API) and the Property Council of Australia (PCA)

Although not involved directly in the Regulatory Impact Statement process for the Valuation of Land Regulation 2003, the API and PCA were consulted on recent legislative amendments associated with the valuation of shopping towns. These have been carried through in the draft Regulation.

- *Real Estate Institute of Queensland (REIQ)*

The REIQ was consulted on the content of the regulation and associated issues.

- *Urban Development Institute of Australia (Queensland)(UDIA)*

The UDIA was consulted on the content of the regulation and associated issues.

- *Australian Valuation Office (Queensland)*

The Australian Valuation Office (Queensland) was consulted on the content of the regulation and associated issues.

- *Local Government Association of Queensland (LGAQ)*

The LGAQ was consulted on the content of the regulation and associated issues.

General Community

The public was consulted on the content of the regulation and associated issues.

Results of Consultation

Government

There is agreement within government on the remaking of the Valuation of Land Regulation, with key users of valuation information and valuation services endorsing the remake of the Regulation.

Local Governments supported the remake, indicating in some cases that the Councils would not support land valuations for the purposes of rating being carried out by any organisation other than the State Government.

Industry

Similarly, industry representatives support the remaking of the Valuation of Land Regulation.

NOTES ON PROVISIONS

Section 1 gives the Short Title as the Valuation of Land Regulation 2003.

Section 2 provides commencement of the Regulation on 1 September 2003.

Section 3 describes non-physical improvements that are intangible improvements.

Section 4 prescribes the rate of discount for subdivided land as being 40%.

Section 5 sets a maximum value of intangible improvements at 20% of the improved value.

Section 6 specifies the local government areas for which the period for making valuation is extended.

Section 7 prescribes the annual fees payable for a copy of a valuation roll:

- By a local government – whichever is the greater of the following amounts:
 - (a) \$3,578.30;
 - (b) the total amount for the valuations calculated under Schedule 1.
- By the commissioner of land tax – one third of the total fees payable by all local governments.

Section 8 prescribes the fee for making valuation as being the actual costs or an amount negotiated between the chief executive officer and the person.

Section 9 defines fees payable under the Act, not already mentioned in sections 8 and or 9, as being in schedule 2.

Section 10 repeals the *Valuation of Land Regulation 1992*.

ENDNOTES

1. Laid before the Legislative Assembly on . . .
2. The administering agency is the Department of Natural Resources and Mines.