

Note—

See also chapter 5 (Internal and external reviews).

Division 3 Site value and unimproved value

Subdivision 1 Preliminary

15 What div 3 is about

This division defines the *site value* and the *unimproved value* of land.

Note—

The term *land* includes lots that are stratum or volumetric lots—see the schedule, definition *lot*.

16 Land taken to be granted in fee simple

For deciding the value of land, all land is taken to be granted in fee simple.

17 What is the land's *expected realisation*

- (1) The *expected realisation* of land under a bona fide sale is the capital sum that its unencumbered estate in fee simple might be expected to realise if that estate were negotiated for sale as a bona fide sale.

- (2) In this section—

unencumbered means unencumbered by any lease, agreement for lease, mortgage or other charge.

18 What is a *bona fide sale*

- (1) A *bona fide sale*, for land, is its sale on reasonable terms and conditions that a bona fide seller and buyer would require assuming the following (the *bona fide sale tests*)—

Valuations of "transport" government owned corporation lands under the Valuation of *Land Act 1944*

(prev. VAL/2002/1126)

VAL/2013/117

Version 5.01

Last reviewed 20/06/2016

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Approval

Position	Name	Signature	Date
Valuer-General	Neil Bray		06/06/2011

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Purpose

The purpose of this document is to set out when valuations are to be undertaken under the *Land Valuation Act 2010* (the Act) for “transport” lands owned by or leased from nominated Government Owned Corporations (GOC). A GOC is an entity established under the *Government Owned Corporations Act 1993*.

These nominated owners or lessors being listed below within the meaning of the *Transport Infrastructure Act 1994*. **They are identified on the GOC web site as Port GOCs.** These lands will be referred to as “subject GOC” lands in this notification. It also clarifies who is considered to be the owner of these lands under the Act and the method to be used in calculating the valuations. The previous approaches set out in 6(2) and (3) of the former *Valuation of Land Act 1944* no longer apply:

Government Owned Corporations (GOC) - Ports

Ports North

Gladstone Ports Corporation Limited

North Queensland Bulk Ports Corporation Limited

Port of Townsville Limited

Rationale

Where a valuation is issued under the Act for land leased from the subject GOC, the following aspects of ownership dictates whether a valuation is required.

Rating

Strategic Lands, determined in accordance with the *Transport Infrastructure Act 1994*, being held by a subject GOC, are exempt from rates provided that they are not leased. If they are leased, the lessee becomes the “owner”, and the lands are rateable.

For rating purposes the “owner” of leased lands is the lessee under the Schedule Dictionary **Owner, of land** parts 3(e)(ii) and (vi) of the Act.

Non-strategic lands held by a subject GOC are not exempt from rates and a valuation notice should issue to the “subject GOC”. However, if they are leased, the lessee becomes the “owner” for rating purposes.

Note: the Valuations Administration Officer (VAO) in the District Office should liaise closely with the relevant local government to ensure that those lots, which are rateable, are coded correctly and that valuation advice is issued to all owners.

Land Tax

The *Government Owned Corporations Act 1993* contains the following:

128 Liability to State taxes

- (1) A GOC is not exempt from State tax merely because it is a GOC.
- (2) A GOC subsidiary is not exempt from State tax merely because it is a GOC subsidiary.

(3) State tax is not payable in relation to anything done (including, for example, a transaction entered into or an instrument made, executed, lodged or given) because of, or for a purpose connected with or arising out of, chapter 2 or part 3 of this chapter.

(4) The GOC Minister may certify that a specified matter, instrument, transaction or thing is exempt from State tax under subsection (3), and the matter, instrument, transaction or thing is exempt from State tax.

(5) So far as the legislative power of the Parliament permits, the reference in subsection (3) to State tax includes a reference to tax imposed under an Act of another State.

Therefore for land tax purposes, where the land is held in freehold and is leased to a second party by a GOC, the GOC is taken to be the owner.

State Rentals (this section is provided for information only)

For Perpetual Leases over Strategic Port Lands the purpose of the lease is port and transport related purposes and the Rental Category is 13 (business and government core business) and subject to the minimum rental.

One valuation to issue for any purpose

For rating purposes the "owner" of leased lands is the lessee while the "owner" for land tax purposes is the lessor. See schedule Dictionary "Owner, of Land" parts 3(e) of the Act.

Therefore a copy of the notice is only required to be issued to the owner who is required to pay an amount to a revenue gatherer.

Valuation Approach: It is anticipated that all subject GOC land will be situated in a non-rural area and will be valued on a **site basis**. Should this not be the case the matter should be discussed with the relevant SVS Area Manager.

Note: For the information of VAO, a detailed reference chart is attached setting out administrative actions to be carried out in accordance with this procedure.

Procedure

Valuation and Ownership Approaches

Valuation for rating purposes: The following parties are considered to be the "owners" of land owned by or leased from a subject GOC and should be issued with a valuation notice. The valuation should be calculated as stated.

Non strategic lands: Where the land is leased, the lessee is the "owner" under the Act otherwise the GOC is the "owner". The land should be valued in its "improved" state at the date of the lease with site improvements being considered to merge with the land. The value of any site works carried out by the lessee at a later date should be considered and as discussed in Chapter 2, Part 2, Division 5, Subdivision 1 (Deduction for site improvement costs) of the Act.

Strategic lands: Strategic Port Land includes land the Port Authority wishes to become strategic and is detailed in the land use plan prepared in accordance with Part 4 of the *Transport Infrastructure Act 1994* (TIA).

Where the land is leased, the lessee is the "owner" under the Act. The land should be valued on a site value basis recognising an allowance for site improvements applicable.

Where the land is not leased it is not rateable and an issuing valuation is not required however a freehold record is required to be created on QVAS in the name of the subject GOC.

Valuations for Office of State Revenue (OSR) Purposes: for all rating valuations issued for land leased by a subject GOC or non-valued freehold land a matching freehold record, in the name of the subject GOC, should be created in QVAS with the valuation assessed on a site value or adjusted site value basis with an allowance for site improvements being made where appropriate.

One combined valuation, ignoring separately described parcels, is not to be issued as a basis for land tax.

A valuation notice is to be issued manually to a subject GOC where a request is received from the OSR for a lot configuration that differs from the provided freehold valuations. This should not be recorded in QVAS.

Land below high water mark: Land below high water mark that is not inundated land with continuing freehold title should not require a valuation for OSR purposes. If such a request is received it should be questioned by the Valuer-General's delegate with OSR.

Inundated land is taken to be land as land as described in Schedule 6 Dictionary of the *Land Act 1994*. This being:

"Inundated Land" means freehold land that, through the excavation of the land or other land, has become inundated by water subject to tidal influence, but does not include a canal, or part of a canal, within the meaning of the Coastal Protection and Management Act 1995.

Valuations for rental purposes: Valuations are not required for perpetual leases issued to a subject GOC over strategic lands above or below high water mark as a whole of term minimum rental applies. Other lease types over strategic land may require rental records created in QVAS.

Grievance: Each "owner" is issued with a valuation notice is to be considered to have full grievance rights.

Local Government General Rates Equivalency Regimes (this section is provided for information only)

Local Governments are responsible for determining the land on which a general rate equivalency may be paid and can obtain a valuation on the land from the Valuer-General with agreement of the relevant subject GOC.

The valuations for rate equivalency are not required under the *Local Government Act 2009* or the *City of Brisbane Act 2010* and therefore cannot be supplied under the Act as an annual or maintenance valuation.

Rate equivalency only applies to nominated parcels of "Strategic Port Land in commercial use by Port Authorities". Under the *Local Government Act 2009*, these nominated parcels are not rateable however section 209 of the Act provides the power for the Valuer-General to undertake valuation for a prescribed fee. These valuations are NOT entered into QVAS.

The relevant subject GOC may lodge an objection against the amount of the valuation shown on the notice of valuations undertaken under the Local Government General Rates Equivalency Regimes and if after a decision is made on the objection, the owner is still dissatisfied with the valuation amount, they may be referred to the Treasurer for the State of Queensland for final review. The matter cannot be referred to the Land Court.

Responsibilities

It is the responsibility of the **State Valuation Service (SVS)** and the **regional VAO** to comply with the direction in this document. It is the responsibility of the **Area Manager, SVS** to ensure that this direction is implemented.



References

Issue of Tenures to a Port Authority/Corporation SLM/2013/582

Provision of Valuations for Land Tax Purposes VAL/2013/449

Office of Government Owned Corporations, Transport Industry GOCs

<http://www.tmr.qld.gov.au/business-industry/Transport-sectors/Ports/Port-GOCs.aspx>

Legislation

Land Valuation Act 2010 Chapter 2, Part 2, Division 5, Subdivision 1, Section 209 and Schedule Dictionary.

Local Government Act 2009 Section 39

City of Brisbane Act 2010

Transport Infrastructure Act 1994

Land Tax Act 2010 Section 128

Government Owned Corporations Act 1993 Section 154(1)

Land Act 1994 Schedule 6

Coastal Protection and Management Act 1995

Attachments

[Attachment A - Detailed Reference Chart setting out admin actions](#)

ATTACHMENT A

Detailed Reference Chart setting out the administrative actions to be carried out in accordance with this procedure.

TENURE	HOW HELD	STRATEGIC	NON-STRATEGIC
Freehold	Lease from GOC	<ul style="list-style-type: none"> Issuing record in QVAS in lessee's name if rated (++) or non-valued record if exempt lessee. Freehold record in QVAS in GOCs name (++) 	<ul style="list-style-type: none"> Issuing record in QVAS in lessee's name if rated (++) or non-valued record of exempt lessee. Freehold record in QVAS in GOCs name (++)
	Not Leased from GOC	<ul style="list-style-type: none"> Non-valued record in QVAS in GOCs name. Freehold record in QVAS in GOCs name (++) 	<ul style="list-style-type: none"> Issuing record in QVAS in GOCs name (++)
Crown Lease	Sub-Lease from GOC	<ul style="list-style-type: none"> Above HWM - Issuing record in QVAS in sub-lessee's name if rated (++). Below HWM - Non-valued record in QVAS in sub-lessee's name. Rental record in QVAS in GOCs name (**). No rental record required for set rent Perpetual Lease or Queensland Rail Limited (QR) infrastructure lease. 	<ul style="list-style-type: none"> Above HWM - Issuing record in QVAS in sub-lessee's name if rated (++). Below HWM - Non-valued record in QVAS in sub-lessee's name Rental record in QVAS in GOCs name (**). No rental record required for set rent Perpetual Lease or QR infrastructure lease.
	Not Sub-Leased from GOC	<ul style="list-style-type: none"> Non-valued record in QVAS in GOCs name. Rental record in QVAS in GOCs name (**). No rental record required for set rent Perpetual Lease or QR infrastructure lease. Could require rate equivalency valuation if in commercial use by GOC. 	<ul style="list-style-type: none"> Issuing record in QVAS in GOCs name (++). Rental record in QVAS in GOCs name (**). No rental record required for set rent Perpetual Lease or QR infrastructure lease.
Vested	Lease from GOC	<ul style="list-style-type: none"> Issuing record in QVAS in lessee's name if rated (++). 	<ul style="list-style-type: none"> Issuing record in QVAS in lessee's name if rated (++).
	Not Leased from GOC	<ul style="list-style-type: none"> Non-valued record in QVAS in GOCs name. Could require rate equivalency valuation if in commercial use by GOC. 	<ul style="list-style-type: none"> Issuing record in QVAS in GOCs name (++).

++ Site Improvement Deduction Allowance may be applicable – section 38 *Land Valuation Act 2010*.

** as per physical state and condition of land at lease commencement date – section 34 *Land Valuation Act 2010*.

Statutory Valuation Procedures and Practices under the *Land Valuation Act 2010*

September 2017

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Purpose

This document provides a guide for those involved in the application of the *Land Valuation Act 2010* (the Act) in Queensland and related particularly to valuation assessment and administrative arrangements pertaining to that Act and its annual application.

The document is issued by and under the authority of the Valuer-General Queensland to provide direction to State Valuation Service (SVS) staff. The development of these guidelines involved a range of stakeholders drawn from the public and private sectors. As well as the documents' specific direction to the SVS, it is hoped that those other groups and individuals involved would also be cognisant of these guidelines and they are invited to act in accordance with them. The guidelines aim to provide consistency and uniformity in SVS operations across the state.

They have been developed in association with industry professionals and associations whose input and advice has been welcomed with thanks and incorporated in this final document.

The Act is recognised as the prime document in all of these dealings and where any inconsistency or lack of clarity exists in any reading of this document, the Act prevails.

Rationale

As with any legislation, the Act sets out the legislative requirements and direction for the activities identified therein and for which the State Government has control. In this case, the legislation applied to the manner in which real property is to be assessed for the purpose, inter alia of establishing site value (in the case of non-rural lands) and unimproved value (in the case of rural lands) upon which certain taxes and land rents will be applied by relevant authorities.

The Act has been in operation since 2010 and has proven robust and effective since its introduction.

Legislation by its nature however cannot accommodate all issues that will emerge in application. This observation is particularly true of any legislation pertaining to land resources, development and the natural environment. In the case of the *Land Valuation Act 2010*, the legislation each year must be applied to up to 1.7 million individual properties – each with its own unique physical and environmental characteristics, development controls and legal parameters, available infrastructure and market. No legislation could or indeed aims to address all contingencies and characteristics in such an environment. Rather, it provides parliament's key directions in governing those areas of responsibility and then passing responsibility to the relevant Minister, the Valuer-General, the Department and its professionals to apply and, as required to administer those general directions and standards. These guidelines should be viewed as an important link between the legislation and the Department and those professionals charged with the specific application and day-to-day operations of the system/program.

Relevant also are a range of other support documents and procedures to assist in effecting successful outcomes. These include government and departmental regulations and guidelines, valuation principles and information sources, alternative dispute resolution processes and quality control, statistical analysis, reporting arrangements and, where necessary, litigation.

While all of these are essential, the guidelines particularly help in consistently translating the legislative requirements into operations. For all of this however, it is important to read and apply the

various sections of these guidelines in an holistic document - providing parameters and approaches to various components but then leaving it to the acumen of the professionals in particular cases to apply the guidelines, having regard to the unique characteristics to each particular case.

The guidelines are underpinned by established valuation principles, guidelines established by professional organisations such as the Australian Property Institute (API) and the Royal Institution of Chartered Surveyors (RICS) and the International Valuation Standards Council's (IVSC) Guidelines.

Reviews

The document will be reviewed regularly by the Valuer-General to ensure that the content reflects current practices and procedures and legislation.

Documentation and endorsement

Position	Name	Status	Date
Valuer-General	Neil Bray	Approved	22 September 2017

Part 1 Administration and principles of statutory valuation

1.1 Definition of statutory valuation

A statutory valuation is made under the provisions of enabling legislation and sets out the requirements under which the valuation is made and includes the purposes for which it may be used. Statutory valuations are used for revenue generation purposes by applicable authorities (e.g. local governments or the Office of State Revenue).

In Queensland, the enabling legislation is the *Land Valuation Act 2010* (the Act), which commenced 20 September 2010. This legislation replaced the *Valuation of Land Act 1944* (VOLA) with transitional provisions.

The Act outlines a framework for making, issuing and storing valuations. The Act however clearly is not a valuation textbook, and as such valuations are to be made having regard not only to the Act but also to the Principles of Valuation and to judicial interpretation in cases brought before relevant courts. Additionally, as part of normal Departmental business the Valuer-General will, from time to time, issue detailed work instructions to departmental staff outlining the required work processes pertaining to the provision of statutory valuations.

1.2 Making a valuation (Section 5)

The Act requires that the Valuer-General must decide the value of land for the purposes as provided under the Act. This decision is deemed to be the valuation of the land. Valuations fall under two types:

- a) annual valuations – a valuation of all land in a local government area
- b) maintenance valuations – occur when it is necessary to amend an existing valuation or create a new valuation.

1.3 Statutory purposes of valuations (Section 6)

Valuations made under the Act are used for a number of purposes, including:

- making and levying local government rates (rating valuation)
- assessing land tax liabilities under the *Land Tax Act 2010* (land tax valuation)
- calculating land rentals under the *Land Act 1994* (rental valuation)
- where another Act refers to the value or rateable value of land.

1.4 Annual valuations (Sections 72–80)

The Act requires the Valuer-General to make an annual valuation of all assessable land in a local government area, and to fix a valuation day for each annual valuation. The valuation day (or date of valuation) is common to all properties within that local government area.

The Valuer-General can decide not to make an annual valuation of a local government area due to unusual circumstances (e.g. catastrophic climatic extremes) or after considering a market survey of the area, and consulting with appropriate local and industry groups (i.e. AgForce, local Chamber of Commerce, etc. (Section 74)).

Where an annual valuation is not made, the current (or existing) valuation will continue until the next annual valuation is made (Section 75).

The Valuer-General must give the owner of the land a notice of the annual valuation (annual valuation notice), and the notice will provide certain information as defined by the Act (sections 79–80). The issue of the Valuation Notice is the trigger for the objection process under the Act which is available to land owners, as outlined within Chapter 3 of the Act.

The legislation does not prescribe how a statutory valuation is arrived at under an annual valuation process, and as such, work instructions on the process are provided to the SVS by the Valuer-General. The annual valuation process employs mass appraisal methodology, which is an effective and legitimate method for the creation of new values across a larger number of individual properties in an efficient and timely manner. This methodology is widely accepted across government, by industry standards and supported by court precedents.

1.5 Maintenance valuations (Sections 81–104)

The Act requires the Valuer-General to make a valuation of all lands within a local government area as at a set valuation day or date of valuation. The Act further requires that a valuation record be amended or created in particular circumstances.

The Valuer-General has the legislative authority to amend, create or cancel a valuation, and this action is called a maintenance valuation. Maintenance valuations maintain the valuation roll between the periods of annual valuation.

An annual valuation will update existing valuations to reflect the value of the land as at a new valuation day or date of valuation, whereas a maintenance valuation will amend an existing valuation or create a new valuation reflective of the current day or date of valuation. In some instances, where the maintenance trigger date occurs in the period before the day of effect for new annual valuations, maintenance valuations may be based on two different dates—the current valuation day and the new valuation day.

Valuers should be aware of the need to maintain amended or new valuation records as at the level of value established at the relevant valuation date.

The Act specifies a number of reasons why a valuation may be created or amended including:

- where a valuation has not been made by omission then a valuation must be made (Section 81)
- where land not previously in local government area is included in the area where a valuation is required (Section 82)
- where land has not been previously valued but is now subject to local government rates, *Land Act 1994* rentals or State land Tax (Section 83)
- where land is subdivided into two or more parcels, including declared parcels, each new parcel will require a valuation (Section 87)
- where land held with other parcels is sold or occupied (e.g. two vacant lots held and valued together, one is sold). Each property will require an individual valuation (Section 88)
- where a public work, service or undertaking is provided, which may alter the value (e.g. new services provided or a road may be upgraded to a major highway thereby impacting on adjoining land values) (Section 89)
- where an owner has made a claim for permanent damage due to adverse natural causes, and which may alter the value of the land (e.g. flooding or erosion) (Section 90)
- where the value is altered through the acquisition or loss of a licence, right or privilege, which is deemed to form part of the value of that land (e.g. land may have lost a permit to draw water for irrigation purposes) (Section 91)
- where land previously valued under concessional sections (i.e. single dwelling or farming) no longer qualifies to be valued under that section (Section 92)
- where land now qualifies to be valued under concessional sections of the Act (Section 93)
- where the Valuer-General decides alteration is required to maintain correct uniformity between comparable parcels. The valuer may have found it is necessary to reduce or increase the value of a property to bring it into line with other properties (Section 94). If the amendment is a land valuation reduction, the reduction cannot be appealed
- where the valuation is affected by error or omission, which the Valuer-General considers it necessary to correct. The valuer may have made or found an error in a valuation, and it is deemed significant enough to require an amendment (Section 95)
- where the valuation is altered by the actions of local government including planning schemes, local laws or any other action or decision, which affects the use or development of that land (e.g. a block of land may now have a higher or lower potential use which impacts on its value) (Section 96)
- where lands can be amalgamated for valuation purpose (e.g. where vacant parcels are contiguous or where farming lands are used and worked together) (Section 97)
- where the rental valuation and rating valuation may alter because the purpose, conditions or area of a Land Act lease, licence or permit has changed (e.g. the restrictions on use of the land may impact on its value) (Section 98)

- where the land becomes the subject of a determination of native title or Indigenous land use agreement (Section 99)
- a valuation for land may be amended if part of the land ceases to be land for which a valuation is required (Section 100)
- a valuation may be amended as a result of an objection or appeal decision on an earlier valuation of that property (Section 101)
- where lands are affected by amendments to local government areas and different dates of valuation apply. The valuations should be amended to reflect the relevant date in the local government area (Section 102).

The Valuer-General must give the land owner a notice of the maintenance valuation, which must contain certain information as specified above. The Act states that the notice of valuation may be given at any time after the valuation is made. The issue of a Valuation Notice will trigger the objection process under the Act (Section 103).

The legislation prescribes the reasons why a maintenance valuation can occur however it does not prescribe how a statutory valuation is arrived at under a maintenance valuation process, and as such, work instructions on the process will be provided by the Valuer-General.

1.6 Relevant days or dates (valuation, issue and effect)

The Act makes reference to a number of 'days', which are statutory terms and are defined in the Act. They are:

- **Valuation day (or date of valuation):** is the date set by the Valuer-General to value all land within a local government area. This date is specified on the Valuation Notice.
- **Day of issue of the notice (or date of issue):** is the date that the relevant Valuation Notice was issued to the landowner. This date is specified on the Valuation Notice, and is significant because it is the starting date of the objection lodgment process. Under the Act, an annual valuation notice must be issued to the landowner no later than 31 March in the year in which it is to take effect. A Valuation Notice as a result of a maintenance action may issue to a land owner at any time in the year. The department from time to time will set internal client service standards relating to the delivery of maintenance valuations.
- **Day of effect of the valuation (or date of effect):** is the date upon which the valuation takes effect for its purpose and is specified on the Valuation Notice. For annual valuations, the day of effect is 30 June in the year immediately following the valuation day. For maintenance valuations, the Valuer-General must fix the day of effect and the Act specifies when that day will be depending on the circumstances of the maintenance action. This date of effect is also termed the trigger date for the maintenance action.

1.7 Valuation rolls (Sections 180–185 and 203–204)

The Act requires the Valuer-General to keep a valuation roll for each local government area, and this is a record of all statutory valuations in that area and must state certain information as required under the Act. The roll will be amended from time to time as a result of maintenance valuations, change of ownership, or as a result of an error or omission (sections 180–182).

The information contained within the valuation roll may be provided to anyone upon payment of a fee, however information that is suppressed (owner's name and address) will not be provided (sections 184–185).

The valuation roll must be provided to the relevant authority (local government, etc.) as soon as practicable after the annual valuation is completed but no later than three months before the roll takes effect. Where the roll is amended, the amendment will be provided to the relevant authority (Section 203). There must be appropriate safeguards for 'protected persons' (Section 204).

In Queensland, the valuation roll is contained within the Queensland Valuation and Sales (QVAS) Computer System.

1.8 The Valuer-General (Sections 205–214)

The Valuer-General is a statutory officer whose authority is created under the *Land Valuation Act 2010* and whose role is to administer the Act. The Valuer-General's function and powers are set out (subsections 207–210). The Valuer-General must, in performing the functions under the Act, exercise independent judgement and is not subject to direction from anyone else (Section 211).

Valuations are issued in the name of the Valuer-General and therefore are attributable to that statutory officer. As the valuation process in a particular year proceeds, that officer may find reason, as per the requirements of the Act, to amend/vary any specific valuation and after due consideration of all matters that that officer considers relevant to the case.

The Valuer-General may delegate the functions and powers conferred on the Valuer-General by this Act or the valuation of land under another Act to appropriately qualified person(s). An appropriately qualified person must have the qualifications, experience and standing appropriate for the delegated function—this may include being a registered valuer, and/or having a designated classification level as an officer of the Queensland Public Service.

In general terms, the Valuer-General executes the functions of the Act through the staff of the State Valuation Service, which is a business unit of the Department of Natural Resources and Mines.

1.9 Authorised persons (Sections 215–242)

The Valuer-General may appoint appropriately qualified persons (i.e. valuers) as 'authorised persons' to help decide land values, and decide rural land and deduction applications.

A valuer registered under the *Valuers Registration Act 1992* is taken to be qualified for appointment as an authorised person. The Act provides a number of powers to an authorised person including entry to places, and obtaining information for the purpose of administering the Act.

However, these powers are not unlimited and may be subject to conditions (Section 217).

The Valuer-General must issue an identity card to each authorised person (Section 220). The authorised person must produce or display the identity card before exercising a power (Section 221). The authorised person's power to enter a place and powers after entry are set out (sections 223– 229).

The authorised person's power to obtain information is set out in sections 230–232. Section 230 applies where the authorised person reasonably believes information is needed to perform the authorised functions. In valuation investigations, it will normally be preferable that relevant information is obtained and shared as openly as possible between professionals, regardless of their client, be that public or private. Given that premise, such legislatively based requests should only be made when other reasonable avenues for securing that information have been exhausted.

In exercising a power, an authorised person must cause as little inconvenience and do as little damage as possible (Section 233).

A person who incurs cost, damage, or loss because of the exercise (or purported exercise) of a power by an authorised person, may claim compensation from the State (Section 237).

It is an offence to give an authorised person false or misleading information (Section 239), or to obstruct an authorised person exercising a power (Section 240).

Part 2 Defining non-rural and rural land

2.1 What is the value of land? (Section 7)

The Act requires that all statutory valuations in Queensland are on either a site value or unimproved value basis, depending upon whether the land is designated non-rural land or rural land respectively. The Act provides the definitions of what is non-rural land and what is rural land.

The allocated valuation basis or methodology is called the Property Valuation Methodology, by the State Valuation Service. Each statutory valuation record held in the Queensland Valuation and Sales System contains a Property Valuation Methodology, which is either non-rural (U) or rural (R) and signifies the appropriate methodology under which the valuation is assessed.

2.2 Non-rural land (Section 8)

Non-rural land is land other than rural land, or land that is not zoned under a planning scheme. In general terms, non-rural zoned lands account for most properties in Queensland as it includes most lands in urban centres, lands zoned rural residential or equivalent, and those lands which although zoned rural do not meet the legislative criteria to be deemed as rural land.

Rural land will be amended to non-rural land:

- if the land is no longer zoned as rural land following the amendment of an existing scheme or the introduction of a new planning scheme; or
- where land is used for an urban purpose under a development approval for a material change of use under the *Planning Act 2016*.

An urban purpose is considered as being any usage of an urban nature including commercial, industrial, multiple unit, residential or any other use that is associated with a built urban environment. An example of this would be a new residential subdivision which has a material change of use and reconfiguration for residential purposes but still has an underlying rural zone under the planning scheme.

Land not zoned by definition will be designated as non-rural (e.g. permits or licenses from the State and, lands below high water mark). However, the declaration provisions allow the Valuer-General to declare the land as rural where necessary. The allocation of the Property Valuation Methodology will have regard to the parent parcel Property Valuation Methodology where applicable, or the Property Valuation Methodology of adjoining or adjacent properties. More detailed information regarding rural land declarations is contained in the policy issued by the Valuer-General.

2.3 Rural land (Sections 9–14)

Rural land is land that is zoned rural (but has not ceased to be rural land) under a planning scheme, or where the Valuer-General declares the land to be rural land. Land is zoned rural land either:

- if more than half of the area of the land is zoned as rural under a planning scheme (Section 10 (2))
- where land is declared to be rural land upon application by the owner, and satisfies the criteria as per the legislation (Sections 12, 13)
- where the land is not zoned under a planning scheme and the Valuer-General declares the land to be rural (Section 14).

Multiple zoned parcels have a property valuation methodology applied based on the area of the zonings within the lot.

Multiple lots held in one valuation have a property valuation methodology applied based upon the aggregate of the area of the zonings within the amalgamated parcel.

A landowner may apply to the Valuer-General to declare the land to be rural land or the Valuer-General may at any time (without application) declare the land to be rural (sections 12–14). Once a landowner has made a rural land application, they can only apply again if there has been a material change of use under the planning scheme or if a development approval is granted for the land (Section 12(2)).

Non-rural land can be declared by the Valuer-General to be rural land where it meets the criteria under the Act:

- at least 95 per cent of land in the state used for the same purpose is zoned rural
- the land's zoning in a zone other than rural, makes a material difference to its value, of at least 30 per cent (Section 13). Land not zoned will be designated as non-rural land. However, the declaration provisions allow the Valuer-General to declare the land as rural (where necessary) having regard to the parent parcel Property Valuation Methodology (where applicable) or the Property Valuation Methodology of adjoining or adjacent properties.

Part 3 Site value and unimproved value

3.1 Principles of value (Sections 15–18)

The terms 'site value' and 'unimproved value' are statutory creations, and have relevance only for the assessment of a land value made under the Act.

The Act requires a number of assumptions in order to arrive at a statutory land value, including the notion of a bona fide sale of the land 'in fee simple' as at the day of making the valuation.

All land is taken to be granted in fee simple (i.e. the assumption of freehold title with no encumbrances such as leases, mortgages, etc.) on the title. Where land is held through certain leases from the State, it is taken to be granted in fee simple but having regard to any restrictive conditions or purpose of that lease.

A 'bona fide sale' is defined in the Act as a sale made on reasonable terms and conditions that a bona fide seller and buyer would require, assuming the following:

- a) a willing, but not anxious, buyer and seller
- b) a reasonable period within which to negotiate the sale
- c) that the property was reasonably exposed to the market.

In considering whether terms and conditions are reasonable, regard must be had to the land's location and nature as well as the state of the market for land of the same type.

To remove any doubt, it is declared that if there is a sale of the land in question and, secondly, that that sale complies with the bona fide test including whether terms and conditions are reasonable, then the sale is a bona fide sale (Section 18).

3.2 Site value of improved land (Section 19)

Non-rural land is valued on a site value basis. The site value of improved land (land that is improved by the works of man) is the market value of the land assuming all non-site improvements on the land had not been made.

Site value includes all site improvements as defined in the Act (where they add value), however non-site improvements as defined are deemed not to have been made whether they add value or not.

Site value does not include structural improvements on the land such as houses, sheds, and other buildings nor excavations necessary for the structural improvements on the land (such as for building foundations, footings or underground car parks).

In arriving at site value, the following assumptions about the land must be made:

- a notional bona fide sale of the land as at the relevant date of valuation
- the land is considered unencumbered fee simple (freehold)
- the land is assumed to be vacant (e.g. all non-site improvements had not been made).

Generally, site improvements refer to improvements 'to' the land while non-site improvements refer to improvements 'on' the land. Although non-site improvements on the land must be ignored, all existing external development and infrastructure are deemed to exist as at the day of valuation. Site value is not a 'prairie' value but is undertaken in the context of the fully developed market that exists on lands surrounding the subject lot. It may be that some essential or 'one off' facility, use or service is provided from the subject land. In such a case and consistent with the overall valuation methodology employed, it would be reasonable to assume, notionally, within that market context / physical locality of that scale, that such facility, use or service is available in that locality. (By way of example, if the site was used for and valued as, say, an electrical substation, school, shopping facilities etc., it would not be reasonable to presume that the surrounding locality did not have access to and use of such facilities.)

The concept of 'had not been made' is the presumption that the improvements (other than site improvements) had not been made on the land and, therefore, the land must be valued as if in a notional site improved state having regard to the highest and best use of the land. However, the exceptions to this highest and best rule are in Section 22 of the Act, and in other statutory constraints as contained within legislation.

In determining the site value of any land under Section 22, it shall be assumed that the land may be used, or may continue to be used, for any purpose for which it was being used, or for which it could be used, (referred to as the existing use) at the date to which the valuation relates. Site value assumes that improvements may be continued or made to the land to enable the continuation of the existing use. Consideration may also be given to any other purpose for which the land may be used had the improvements not been made.

The land is to be valued on the assumption that there is no approval for a particular development for land. The existence of any intangible improvements (e.g. 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 land. Also any right or condition dependent on the improvements on the site does not remain when the improvements are considered not to have been made (e.g. a liquor license).

When considering site value, the starting point is to identify the current state of the land excluding non-site improvements. It is not necessary to neither identify the unimproved or original state of the land and then add site improvements, nor identify what are site improvements. The history of how the land got to the current state is only relevant for consideration of any future risks leading to a highest and best use. The determination of the highest and best use must consider the land as at the date of valuation and consider the effect that the state of the land may have in that particular case (e.g. a hole in the ground).

3.3 Weighted bond rate (Sections 20–21 and 27)

The weighted bond rate must be used when determining the added value of improvements (site and/or non-site improvements as the case may be) involved in the sale of the land in question, and any comparable sale of improved land.

The weighted bond rate is used when assessing the holding costs on monies expended on improvements. The rate is defined as the published Reserve Bank of Australia monthly yield rate for 10-year government bonds plus three per cent.

3.4 Site improvements (Section 23)

Under the Act, site improvements are the works done to the land, which increase the value of the land. A site improvement ceases if the benefit was exhausted on the valuation day (Section 23(2)).

Section 23 defines site improvements, which include the clearing of vegetation, earthworks including retaining walls, soil improvement including remediation of contamination, reclamation or drainage works, or any other works necessary to improve or prepare the land for development.

Site improvements do not include anything associated with the construction of non-site improvements on the land; this includes excavations for underground parking and foundation/footing works associated with the construction of buildings. These works are considered to merge with the non-site improvements, which can include works to accommodate storm water and drainage off non-site improvements.

3.5 Non-site improvements (Section 24)

Non-site improvements, to land, mean works done, or materials used, on the land other than a site improvement. The works done, or materials used, are non-site improvements whether or not they add value to the land.

In broad terms, if an improvement is not included under the definition of site improvements, then it must be a non-site improvement.

3.6 The value of improvements (Section 25)

To arrive at a statutory land value for either site or unimproved value purposes, it may be necessary to work out the value of the existing improvements on or to the land.

Section 25 applies specifically to situations where 'it is necessary to work out the value of site improvements or non-site improvements (the existing improvements) to or on the land to decide its site value or unimproved value'.

The value of improvements is the lesser of the following the:

- added value, irrespective of the cost, that the existing improvements give to the land on the day of valuation
- cost that should have reasonably been involved in effecting on or to the land, on the day of valuation, improvements of a nature or efficiency equivalent to the existing improvements.

The underlying principle is that the value of the improvements should reflect what a prudent person would pay for the improvements at that point in time. The Act is specific in identifying that, where the

cost is lesser, the value should be the cost of effecting on or to the land, on the valuation day, improvements of a nature and efficiency equivalent to the existing improvements (Section 25(2) (b)).

It is the actual improvement that is to be valued and not some hypothetical improvement. Regard must be had to the depreciation and obsolescence of that improvement.

As noted above, the undertaking of these assessments needs to reflect valuation best practice. In the assessment of value of improvements, a prudent person would not normally pay 'new for old' and appropriate allowances for depreciation, obsolescence (functional, economic and legal) must be taken into consideration; for example, a relatively new improvement may add a value significantly less than its cost if it is obsolete or, in some circumstances well in excess of what is standard for that area. The former is commonly termed 'overcapitalisation'. The added value of improvements may be determined from the analysis of the property market, to ascertain what a prudent person would pay for improvements as part of that purchase.

When considering the added value of improvements, the following components of added value may need to be taken into consideration:

- the cost to effect the improvements, including:
 - cost of building construction, and associated professional fees
 - costs of rates and taxes over the development period
 - interest on monies expended on land and improvements. This will be assessed having regard to the weighted bond rate (Sections 20–21 and 27)
- depreciation allowance (should apply to all costs).
- functional obsolescence having regard to the highest and best use of the land, giving particular consideration to the limited economic life of the improvement
- the added value of:
 - tenancies
 - development approvals
 - infrastructure credits.

3.7 Unimproved value of improved land (Section 26)

Rural land is valued on an unimproved basis, therefore it is necessary to notionally remove all of the improvements both on and to the land to view the land in an unimproved state.

The unimproved value of improved land (land that is improved by the works of man) is the market value assuming all improvements on or to the land had not been made.

In arriving at unimproved value, the following assumptions about the land must be made, the:

- notional bona fide sale of the land as at the relevant date of valuation
- land is considered unencumbered fee simple (freehold)
- land is assumed to be vacant (i.e. all improvements not been made).

Although all improvements on or to the land must be ignored, all existing external development and infrastructure are deemed to exist as at the day of valuation. Unimproved value is not a 'prairie' value but is undertaken in the context of the fully developed market that exists on lands surrounding the subject lot.

The concept of 'had not been made' is the presumption that the improvements never occurred on the land. Therefore, the land must be valued as if in a notional unimproved state having regard to the highest and best use of the land. However, the exceptions to this highest and best rule are in Section 28 of the Act and in other statutory constraints as contained within legislation.

In determining the unimproved value of any land under Section 28, it shall be assumed that the land may be used, or may continue to be used, for any purpose for which it was being used, or for which it could be used (referred to as the existing use) at the date to which the valuation relates. Unimproved value assumes improvements made on the land enable the continuation of the existing use. Consideration may also be given to any other purpose for which the land may be used had the improvements not been made.

The land is to be valued on the assumption that there is no approval for a particular development on the land or a credit against any future infrastructure charges as both would be considered to be non-site improvements. Also any right or condition dependent on the improvements on the site does not remain when the improvements are considered not to have been made (e.g. a liquor license).

3.8 Site value and unimproved value of unimproved land (Section 29)

If land is unimproved, both its site value and its unimproved value are its expected realisation under a bona fide sale.

The site value or unimproved value of unimproved land (the land is in a natural state and has not been improved by the works of man) is the market value of the land in its current state.

In arriving at either a site or unimproved value, the following assumptions about the land must be made, the:

- notional bona fide sale of the land as at the relevant date of valuation

- land is considered unencumbered fee simple (freehold).

Unimproved or site value is not a 'prairie' value but is undertaken in the context of the fully developed market that exists on lands surrounding the subject lot.

3.9 Existing uses (Sections 22 and 28)

Sections 22 and 28 of the Act refer to existing uses and the existing use assumptions.

Although the improvements are notionally removed, the Act allows the knowledge of the existing permitted use of the land to be considered as the highest and best use where it provides a higher value than if considered in a vacant state. It is important to note that these Sections do not apply to Land Act rental valuations, which are to be valued having regard to the purpose and conditions of that lease or permit.

The Act requires that, in determining the value of any land it must be assumed that the land may be used, or may continue to be used, for its existing use as at the day to which the valuation relates. It also assumes that the improvements may continue or made to the land to allow the land to be used for the existing use.

When the improvements are notionally removed from the land, the full range of permitted uses is to be considered in order to determine the lands highest and best use. There are instances where the existing use of the land is higher than that permitted, or easily achievable, under the current planning scheme and where the existing use would lead to a higher value. In those cases, the higher existing use value should be applied.

This is the case where sites have been developed to a standard in excess of what a hypothetically vacant site could achieve as the highest and best use under the current planning scheme. Such uses may also be termed 'lawful non-conforming uses'.

The 'existing use' value assumes the continuation of the current use and that improvements could be constructed having similar dimensions, floor area, design, etc. to the existing building. While the land is to be valued on the assumption that there is no actual development approval for the existing development on the land or a credit against any future infrastructure charges, there is no need to consider the question of risk. The legislation requires the assumption that the existing use will continue and so there is no risk in obtaining the approval for development. The assessment of other, currently unused, land associated with some other existing use needs to be considered on its merits having regard, among other things, to the likely development, timing and the potential risks of its later use.

Although the value on the basis of the existing use may be considered, this does not prevent the consideration of any other purpose for which the land could be used.

3.10 Highest and best use

Although not specifically stated in the Act, the concept of highest and best use of land is a commonly understood valuation principle, governing the expected realisation of the land.

It can be defined as the use of the land that maximises its potential and that is physically possible, legally permissible and financially feasible

In terms of implementing the Act, land is to be valued on its highest and best use but also having regard to the relevant requirements of legislation, e.g. the Act imposes certain legislative considerations including existing use provisions in arriving at the statutory valuation of the land.

The Act requires the assumption that the non-site improvements in the case of site value, or all improvements in the case of unimproved value, had not been made. The highest and best use of the vacant land is then determined by having regard to the planning scheme.

Regard also needs to be had to the underlying planning designation and the likely usages that could reasonably be approved under that designation. The use is one which may be obtained under the planning scheme but does not ignore the fact that a development approval may be required to achieve that use.

While a development approval in place must be put to one side as if it has never been obtained, and the value of the land assessed without it, the assessment of highest and best use may still consider the chance of obtaining a similar one.

Although the land must be assumed to be vacant as at the date of valuation, the fact that it had been used or has approval for a certain purpose is part of the history of the land and could be considered when arriving at the probable use of the land

The following considerations may be used to establish the highest and best use of a parcel of land for statutory valuation purposes as at the date of valuation:

- notionally, remove the existing improvements (site and/or non-site as the case may be) and ignore the existing approvals, licences, consents, etc.
- determine what would be legally permissible having regard to relevant legislation, government planning schemes, underlying zoning designation, existing use considerations, surrounding uses etc.
- the physical constraints of the land
- the financial or economic viability with regard to the possible uses
- any advantages of the actual use, including determining which use would deliver the greatest value for the land.

3.11 Goods and Services Tax (GST)

Real property is subject to the provisions of the Goods and Services Tax (GST) legislation introduced by the Federal Government in July 2000. The treatment of GST must be considered in the provision of statutory valuations, and by association the analysis of sales.

The Act makes no reference to GST and its impact on valuations made under the legislation. There is no requirement under existing legislation to reflect GST in the statutory valuations, but rather to determine the expected realisation of the land under a bone fide sale.

Particular care needs to be taken in considering GST, liability and advantages as part of any particular purchase given that these impacts vary with the individual involved and are normally confidential and are typically difficult to quantify with any level of accuracy.

The legislation states lands expected realisation under a bona fide sale is the capital sum that its unencumbered estate in fee simple might be expected to realise if that estate were negotiated for sale as a bona fide sale (Section 17).

The capital sum or market value under normal terms and conditions is seen to be the sale price, being the amount which a prudent vendor would accept and what a prudent purchaser would pay for a property, under normal terms and conditions.

The notional sale price as required under the statute is determined by reference to bona fide sales of similar lands. The only time that the sale price would not be seen to be market value is when the sales evidence is inclusive of a GST amount, and that amount of GST paid is recoverable by the purchaser (GST credit), effectively reducing the sale price by the amount able to be claimed back. This would be the GST exclusive value.

Where a GST credit exists for the purchaser, this amount should be assessed and extracted from the sale price. This assumes any prudent purchaser, when purchasing a property subject to GST, will be aware that a GST credit can be claimed, which effectively reduces the sale price by the amount of the credit to arrive at market value. This would normally be the case for vacant englobo, multi-unit, commercial and industrial properties.

Where the GST has merged into the sale price, or where a GST credit is not available to the purchaser, no allowance should be made as the sale price reflects the market value or what a prudent person would pay for the land. This would normally be the case for sales of residential properties, going concerns and farming lands.

It is therefore critical that all sales evidence is reviewed to identify the GST implications and to establish the market value of the land as a starting point to determine the unimproved or site value under the Act.

3.12 Contamination and Heritage

Two other matters that will become relevant to certain valuations (and also, potentially, to the analysis of certain sales) are:

- Contamination – any contamination to the land at the time of valuation needs to be considered in the assessment of the site or unimproved value. Though the existence and nature of such contamination is commonly established through the search of relevant registers, it needs to be noted that in some cases the existence of contamination may not be immediately recognised/recorded nor the extent nor responsibility of that contamination established. The ability to remediate, in whole or in part, and the current or potential impact on highest and best use can only be truly assessed on a case-by-case basis. It should be noted that where the contamination does not impact the existing/continuing use of the land which is considered to be the highest and best use of the land, then the valuation should reflect that use with no allowance for contamination. An example would be a service station

which is the highest and best use of that land, and where any possible or probable site contamination runs with the existing use as a service station.

- Heritage – that is, a recognition of the impact that the legislative or regulatory identification of the land as a site of heritage significance are to be considered as part of the assessment for statutory purposes. Those effects on site or unimproved value could be positive or negative and, where relevant, include any realistic potential benefits available through transferable development rights pertaining to that site.

Typically, heritage legislation and other controls pertain to the whole of the land, not simply to the improvements or a use thereupon.

In undertaking such assessments too, it needs to be recognised that there may be more than one level of government with some, though varying, levels of responsibility and regulatory control. Further, registers of cultural significance and approvals also vary over time.

In a not dissimilar approach to that applied to the assessment of contaminated land, assessments need to be on a case-by-case basis, reflecting the unique nature and extent of heritage characteristics, and the impact and effect of heritage protection and development controls that apply in that case.

Part 4 Particular types of land or resources

The Act provides specific instructions in dealing with the valuation of some lands.

4.1 Particular uses (Sections 30, 31, 35 and 68)

Section 30 requires the value of land comprised in a mining lease to be valued at the lesser of either the:

- set formula as contained within the Act, which is based upon the yearly rent payable under the *Mineral Resources Act 1989* if the lease had been created on the day of valuation
- value of the surface area (or percentage there-of).

Section 31 requires the value of land comprised in a 'Geothermal, Greenhouse Gas (GHG) and Petroleum Lease' is six times the yearly rent payable in respect of the lease or the value of the surface area of that lease, whichever is the lesser. The yearly rent, for a petroleum lease or GHG lease, means the annual rent under the *Petroleum Act 1923*, *Petroleum and Gas (Production and Safety) Act 2004* or the *Greenhouse Gas Storage Act 2009* as at the day of valuation.

Section 35 refers to racecourse land which must be valued disregarding any restrictions and limitations under its deed of grant or title.

Section 68 refers to an area subject to a mining lease application. A separate valuation may be made of the land only if the applicant may enter the land.

4.2 Easements (Section 32)

In deciding the value of land, the existence and effect of a relevant easement (either dominant or servient) must be considered having regard to case law and wider valuation practice and determined on a case by case basis. Relevant means an easement registered under the Land Act or Land Title Act.

Effects on value could include negative impacts through loss of usable area, impact on future development or current work operations, blight due to the physical works, etc.

Where land is benefitted by an easement, for example an easement over adjoining land that provides rear access to the subject land, the value of that benefit should be reflected in the value of the land.

The impact of an easement should be carefully examined to determine what effect, if any, it has on value. The proper measure is by reference to sales, with sales of similarly affected lands seen as the best evidence.

4.3 Land subject to particular rights (Section 33)

In determining the statutory value of land subject to certain rights, any limitation or restriction of use relating to that right, but not the remaining term of a lease, must be considered and an allowance made in the value of the land where applicable.

The rights pertain to Commonwealth and State legislation and include tenure types, heritage agreement, heritage restrictions, determination of native title or an Indigenous land use agreement.

4.4 Land Act tenures (Sections 34 and 297)

Land can be held as a lease, licence or permit from the State. Under the *Land Act 1994* a rental valuation is required, based upon the statutory valuation methodology provided under the *Land Valuation Act 2010*. A valuation assessed under the Act for this purpose is called a Land Act rental valuation.

Any reference in a lease, made before the commencement of the Act, to the term unimproved value in now taken to be reference to a valuation made under the Act.

All lands including leasehold properties are valued as if they were held in fee simple (freehold).

Where lands are held by way of a lease, licence or permit from the State, that are subject to a restriction, limitation or other onerous covenants or conditions, regard must be had to these restrictions etc. in determining the respective unimproved or site value. The purpose of the lease is the main criterion for determining the highest and best use.

When the purpose of the lease, licence or permit is the same as the highest and best use of the property, the rental valuation will usually be the same as the rating valuation.

Where the lease, licence or permit does not restrict the use of farming or single dwelling house, and the property has a higher and better use, the concessional Sections 45–48 of the Act are to be ignored and the land is to be valued at its highest and best use. This can lead to the same property having a different value for rating valuation and rental valuation purposes.

Where the conditions of the Land Act tenure allow the use of the land other than as a single dwelling house or farming, the physical state and condition of the land at the start of the Land Act tenure must be considered in deciding the land value.

However, the value must not include any of the following as defined in schedule 6 of the *Land Act 1994*:

- improvements on the land
- development works done to the land since the tenure commenced.

The valuer must have regard to the physical state and condition of the land at the commencement of the lease after notionally removing the non-site improvements. Where the land includes development works carried out prior to the new tenure, the value will reflect the developed state. Where the development works were carried out by the lessee within the term of the current tenure, the value will reflect the nature of the land prior to development by the lessee. It should be noted that 'development works' as defined under the *Land Act 1994* may differ from 'site improvements' as defined under the Land Valuation Act.

Land, which is held under a farming tenure, will not include the value of any improvements irrespective of when the development works were carried out.

4.5 Exclusion of particular resources (Section 37)

The statutory land value does not include the value of timber or minerals on or in the land including greenhouse gas storage reservoirs, geothermal energy and petroleum.

Minerals are defined under the *Minerals Resources Act 1989*, the other terms under other legislation.

To ensure correct application of the legislation when deriving statutory valuations from sales evidence, the added value of commercial timber (native or exotic) should be deducted from any sale where such timber was included and recognised by the parties to the sale as having value.

4.6 Concession for exclusive use as a single dwelling or for farming (Sections 45–48)

Where land is used only for the purposes of 'a single dwelling house' or 'farming' (as defined), any enhancement in its value as a result of the land having been subdivided by survey, or having potential for industrial, sub divisional or any other purpose must be disregarded.

These sections will not apply if the land is divided into individual lots and there is evidence of an intention, including advertising or sales, to sell the individual lots.

To ensure the correct application of the legislation, the best evidence of value will be bona fide sales of similar use lands which do not have any enhancement in the sale price as a result of the land being subdivided, or having a potential for industrial, sub divisional or any other purpose. In some areas where such sales are not available it is necessary to use market evidence from other areas, after making appropriate allowances for location, services, etc.

4.7 Discounting for subdivided land not yet developed (Sections 49–51)

These sections apply where land is subdivided into parts, has not been developed by way of structures and is still held by the original owner. A reconfiguration as a result of a compulsory acquisition also applies.

The Valuer-General will provide a value to the local government area with a flag to indicate that a discount will apply. In the making and levying of rates, the local government must discount the value of the relevant land by 40 per cent.

The discount ceases upon change of ownership of the land or the day the land becomes developed land i.e. further development by way of structures.

This section does not apply to lands valued as a single dwelling or farm; or where the valuation is a Land Act rental valuation. Valuations made under this section cannot be combined under one valuation i.e. they must be separately valued.

4.8 Community titles schemes (Section 69)

There are no separate valuations made of lots contained within a Community Title Scheme under the *Body Corporate and Community Management Act 1997*. The scheme land will be valued as an undivided whole, and as if owned by a single owner. For the valuation and objection/appeal against the valuation the Body Corporate is taken to be the scheme land's owner.

This will also include land held under Group Title and Building Unit Plans.

4.9 Integrated Resort Act and Sanctuary Cove Act (Sections 36, 70–71)

The Act provides for the Valuer-General to value land which has been developed under the *Integrated Resort Act 1985* and *Sanctuary Cove Act 1987*.

Under these Acts, the Valuer-General may value parts of the site as if each part was a single lot. These parts (as defined under the relevant acts) include:

- a) lots on a building unit plan
- b) lots on a group title plan
- c) lots within a precinct (Integrated Resort Act only)
- d) lots comprising a primary or secondary thoroughfare
- e) a future development area (Integrated Resort Act only)
- f) lot or lots with a zone (Sanctuary Cove Act only).

The Act also provides that any part of a site developed under these acts that is or may be inundated by water, or subject to tidal influence, must be valued as if it was never inundated or subject to tidal influence (Section 36).

Part 5 Deduction for site improvement costs

5.1 Overview (Section 38)

As part of the move to site value for non-rural land, landowners may claim a deduction for site improvements made to the land by them at their own expense within the past 12 years.

5.2 Deduction application (Sections 39 and 41, 42)

An owner of land, or if the owner dies that person's personal representative, may make an application to the Valuer-General for a site improvement deduction.

A deduction application may be made whether or not the land is developed or previously had buildings on it that have been demolished.

The right to make an application, or to continue with the application, is lost when the person ceases to be the owner of the land (subject to the exceptions in Section 40).

An application may be made as part of an objection or at any other time, in the approved form. The application must state the following:

- a) full details of the site improvements the subject of the application, including the cost of the works for the improvements
- b) who carried out the works
- c) when the works were finished
- d) a locality or site plan to identify the location of the works

The application must be accompanied by:

- a) evidence that the applicant paid for the improvements in the past 12 years and when the payment was made
- b) all documents in the applicant's possession or control relating to the cost of the works for the improvements.

The Valuer-General must consider a deduction application and either grant it (all or part) or refuse it. The Valuer-General must give the applicant notice of the decision as soon as practicable after making it.

5.3 Valuations and site improvement deduction (section 43–44)

Where a site improvement deduction is granted, the amount of the deduction must be deducted from the relevant site valuation and subsequent site valuations until the expiration of the 12 years or the person ceases to be the owner of the land or part of the land, over which the deduction applies.

Where the application is received within the objection period, the approved deduction will be applied to the valuation being objected against. Where an application is received outside of the objection

period, any approved deduction will not apply until the next issue of a Valuation Notice for that property. This may be either an annual valuation or maintenance valuation (Section 43).

The amount of the site improvement deduction is the added value, and cannot exceed the cost of carrying out the site works on the valuation day and does not include interest or professional costs or costs relating to obtaining a development approval or other approval for the work (Section 44).

Where a person is no longer the owner of part of the land subject to the site improvement deduction, the added value will be reduced accordingly in proportion to the change in land area (Section 44). This would apply where subdivided land, or existing land, is sold or transferred but the applicant still retains part of the land that the site improvement deduction applies to.

The amount of the site improvement deduction will be reviewed at the time of subsequent annual valuations to ensure that the amount reflects the added value of the improvements as at the day of valuation.

5.4 Cessation of right to apply (Section 40)

If the person ceases to be the owner of the land all of the right to claim is lost. If the person ceases to be an owner of a part of the land, the right is lost for that part. A compulsory acquisition of the land or part of the land will also extinguish the right to apply for site improvement deduction over that area.

A transmission by death from the person to the person's personal representative, or for a transfer from one joint tenant to another, or transfer by right of survivorship does not exclude the right to apply.

5.5 Recording site improvements deductions (Sections 258, 259)

If an owner of land is granted a site improvement deduction for the land, this will be recorded by the Registrar of Titles. If ownership of the land changes, its value will also change because the site improvement deduction no longer applies. Upon a change of ownership, the administrative action must be removed by the Registrar of Titles.

No fee is payable for entering the information on title or removing it from the register.

The removal of the site improvement deduction will result in the value reverting to a site value. Revenue authorities will be advised at this time.

5.6 Site improvement deductions for existing site improvements (Section 284)

Transitional provisions of the Act provide that an application can be made, as part of the objection process, for a site improvement deduction for site improvements the owner paid for before the commencement of the legislation. If the deduction application is granted, the 12-year period is changed to the part of that period that has not expired.

The provisions of sections 43–44 of the Act otherwise apply for deductions made under this section.

5.7 Deduction application cannot be made if offset applies (Section 280)

The transitional provisions of the Act provide that an application for a site improvement deduction under Section 284 cannot be made if an offset has been applied to the valuation. Section 284 refers to site improvements made prior to the 2011 valuation.

An offset is applicable only to certain valuations made under the 2011 valuation. Nothing would prevent an owner applying for a Site Improvement deduction for improvements made post 2011 on land that also has an offset amount applied.

5.8 Valuation Notice and objection against the site improvement amount

Where a site improvement deduction has been granted and the valuation adjusted accordingly the Valuation Notice will show the amount of the deduction granted by the Valuer-General and the unadjusted site value. A landowner may object to this amount.

Part 6 Offset for change to particular site values for non-rural land

Transitional provisions of the Act provide for valuation offsets that apply to certain valuations where the 2011 site value exceeds the previous unimproved value of the land, by more than \$1 million. The offset amount will be automatically applied by the Valuer-General at the making of the initial 2011 valuation and then each subsequent valuation until the offset ceases.

6.1 Offset for the 2011 unimproved-site value difference (Section 274)

This section applies to land where the increase in value resulting from the change from the existing effective unimproved value to the new 2011 annual site value is greater than \$1 million (the 2011 unimproved – site value difference). The difference in the land's value as established at the 2011 valuation will be offset in instalments over a 12-year period as per Section 275 of the Act.

The land's value for the first and following years will be the site value reduced by the amount of the offset as applicable to that year. This deduction will be automatically applied by the Valuer-General and issued to the land owner.

The offset only applies while the same person owns the land. If the person ceases to be an owner of a part of the land, the offset does not apply for that part. A compulsory acquisition over all or part of the land results in a cessation of ownership over that area.

A transmission by death from the person to the person's personal representative, or for a transfer from one joint tenant to another, or transfer by right of survivorship does not extinguish the offset.

The offset will cease after 12 years with the final mitigated value occurring in the 2022 valuation.

6.2 Amount of offset (Section 275)

The difference between the new site value and the existing unimproved value as established at the 2011 valuation, is offset in instalments over a 12-year period with the full site valuation being reflected in year 13, as per calculation

2011	12/13 of year 1 difference
2012	11/13 of year 1 difference
2013	10/13 of year 1 difference
2014	9/13 of year 1 difference
2015	8/13 of year 1 difference
2016	7/13 of year 1 difference
2017	6/13 of year 1 difference

2018	5/13 of year 1 difference
2019	4/13 of year 1 difference
2020	3/13 of year 1 difference
2021	2/13 of year 1 difference
2022	1/13 of year 1 difference
2023	no deduction

6.3 Objection and appeals regarding the amount of offset (Section 281)

Where an offset amount has been applied, and the site valuation adjusted accordingly, the Valuation Notice will show the calculated value as assessed by the Valuer-General.

Upon receipt of a Valuation Notice, a land owner may lodge an objection and include an objection ground relating to the application of the offset provisions of the Act. An objection ground is deemed compliant only if it states the amount of the offset that the objector seeks, and the particulars of the amount.

6.4 Recording and removing an offset in land the register (Sections 282–283)

If an offset is applied, a record will be made by the Registrar of Titles that an offset applies and that if the ownership of the land changes, its value will change because the offset no longer applies. Upon a change of ownership, the administrative action must be removed by the Registrar of Titles.

No fee is payable for entering the information on title or removing it from the register.

The removal of the offset will result in the value reverting to a site value. Revenue authorities will be advised at this time

Part 7 Land to be included in valuations

7.1 General provision (Section 52)

The Act requires that, subject to other provisions as outlined below, a separate valuation must be made for each lot. A lot is defined within the Act as:

- a) lot under the Land Title Act (freehold parcel)
- b) separate parcel recorded in a register under the *Land Act 1994* (leasehold parcel)
- c) common property for a Community Title Scheme
- d) lot or common property to which the *Building Units and Group Titles Act 1980* applies
- e) community or precinct thoroughfare under the *Mixed Use Development Act 1993*
- f) primary or secondary thoroughfare under the *Integrated Resort Act 1985* or the *Sanctuary Cove Act 1987*.

7.2 Declaring separate valuation for part of a lot (Sections 53–55, 276–279)

The Valuer-General may declare that a separate valuation will be made for part of a lot; however, such a separation declaration may only be made under certain circumstances, if:

- a) either:
 - i. it is possible to lawfully subdivide the stated part from the rest of the lot; or
 - ii. the Valuer-General considers the stated part is used for a communications facility, including, for example, a communications tower (this sub-section not applied by direction of the Valuer-General); and
- b) the Valuer-General considers circumstances relating to the value of the part make a separate valuation of it appropriate.

Examples of this include:

- a building on the part is occupied separately, or adapted to being occupied separately, from the rest of the lot
- the part is used, or is suitable to be used, for a purpose different from the purpose for which the rest of the lot is used, or is suitable to be used.

This section applies to leased land if the lease is:

- a) leased by any of the following agencies or entities from the State:
 - i. a local government
 - ii. a department
 - iii. an entity representing the State; or

- b) from a government-owned corporation of land leased by the GOC from the state or a leaseholder of the state.

The Valuer-General may make guidelines about the circumstances in which separation declarations will be made and the guidelines may be considered by the Valuer-General when deciding whether to make a separation declaration. The Valuer-General must keep a copy of the guidelines, as in force from time to time, on the department's website (Section 54).

The Valuer-General may give notice of a separation declaration for a declared parcel only in a Valuation Notice for the parcel. The declaration remains in effect until it is repealed (Section 55).

Any parcel or parcels of land that were valued separately under the previous legislation (*Valuation of Land Act 1944*) are valid valuations until the Valuer-General determines that they should no longer be separately valued (sections 276–279).

7.3 Combined valuations (Sections 56–59)

Adjoining lots must be included in the one valuation where they are owned by the same person and no parts are leased, or all parts are leased to the same person.

This does not apply to declared parcels as per section 53, a parcel the subject of a discount under Section 49–51, or to valuations for rental purposes under the *Land Act 1994*.

Lands, which have buildings or structures adapted to being separately occupied, or do not adjoin, must be valued separately. Where lands, which have buildings or structures adapted to being separately occupied, but are worked as the one business unit, the lands can be combined.

Adjoining lots must be included in the same valuation if they are owned by the same person and either no parts are leased or all of the lots are leased to the same person.

However, this only applies if not more than one of the lots has buildings or other structures on it that are adapted to being separately occupied or if more than one of the lots has buildings or other structures on it that are adapted to being separately occupied and being worked as one business unit.

Subleases of State leases are not to be valued separately.

Lots which do not join each other must be included in the same valuation if the lots are worked as one farming business, are owned by the same person, and if the lots are leased are all leased to the same person.

7.4 Separate valuations (Sections 60–67)

Where one or more lots are owned by the same person but one or more of these lots are separately leased to different persons, separate valuations must be made for the leased lots (Section 61).

Where an area leased from the State by a State department, local government or government-owned corporation is subleased to some other person, there must be a separate valuation for the subleased areas (Section 62).

Lands, which do not adjoin, or are separated by a public road (and able to be lawfully subdivided), or are separately owned, will have separate valuations (Section 63).

Where a parcel of land is severed by a road area, but still on one title linked with a vinculum, one valuation will apply unless a separate parcel is able to be lawfully subdivided and parcel declared by the Valuer-General.

Where lands are partly in one area and partly in another (e.g. different local government areas or a rating category with different general rate levies) or where only part of the land is rateable land, then the land must be valued together and then apportioned between the parts (Sections 64–66).

Separate valuations must be made of properties required for Land Act rentals or land tax purposes. Rental valuations under the *Land Act 1994* must be for the whole of the land held under the tenure even if separate valuations are made of the parts for other purposes (e.g. rating).

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Part 8 Statutory valuation methodology

Statutory valuations are determined by applying appropriate and accepted valuation methodologies in line with the requirements of the relevant legislation. In some cases, the legislation may require some specific departure from otherwise accepted valuation practice, or the use of specific, recognised techniques such as mass appraisal, to provide a statutory valuation in a timely and efficient manner.

The previous parts of these guidelines have addressed the legislative requirements to provide a valuation. This part will cover the accepted valuation methodologies required to arrive at a statutory valuation.

A statutory valuation, similar to a market valuation, is arrived at through the application of sales evidence that is reflective of the market as at the nominated date of valuation. An annual valuation will, by necessity, use mass appraisal techniques to derive a valuation while a maintenance valuation will be individually assessed as at the time of the relevant action while still based on the valuation levels established at the date of valuation of the subsisting assessment. Similarly, objections and appeals are specific to individual valuations.

8.1 Underlying principles

Assessments for statutory purposes represents a particular application of underlying, accepted valuation principles and international standards (relevant and operative at that point in time) applied under the direction, framework and parameters of the *Land Valuation Act 2010*.

The assessment presumes a situation where the parties involved are willing to transact but not compelled (for whatever reason) to do so (the 'Spencer test' as it is known).

Prima facie, the study of comparable sales will provide the best evidence for the value of the subject. (See 8.2 below).

As noted previously, the Act requires that the assessments are to be determined as either unimproved value for rural lands or site value for non-rural lands. Assessments on that basis will almost certainly require adjustment to make comparison possible with sales on the open market. On the face of it, sales which require the least adjustment to allow that comparison are to be preferred.

In all of this, however, care needs to be taken not to unnecessarily complicate the fundamental and simple concept of the 'hypothetical buyer – hypothetical vendor' dealing which, considered with the professional's opinion, arrives at a holistic assessment for the subject land.

In this regard too, the following observations are made:

- It needs to be accepted that, by the nature of this asset class, every parcel of land is unique and, for comparison purposes, no two properties can ever be exactly the same. Further, within all sectors and subsectors, there will often be elements of subjectivity in specific sales which will lead to aberrations from anticipated norms.

Detailed information on individual sales may not be readily available from either purchasers or vendors and, in any case, the veracity and completeness of any information should be confirmed from a number of sources as reasonably possible. This reinforces, in the first instance, the need for comprehensive investigation of sales – particularly those which, prima

facie, provide the best evidence of value in the case. Further, it reinforces the importance of not relying on a single sale or very small number of sales as evidence. However, it should be noted, that in some markets very limited evidence may be available which requires the application of a single or small number of sales.

- Sales evidence may be relatively easy to establish in some cases, very difficult in others. Prior research is critical to successful assessments. The task of the valuer particularly in statutory assessments is not to predict nor to lead the market but rather to reflect it at that point in time (again here, viewing through the eyes of the hypothetical prudent vendor/purchaser). In undertaking these tasks, the valuer is, in effect building a context (sometimes called a 'mosaic' or 'narrative') within which that property (and its value) is positioned. This includes a reasonable appreciation of market sentiment and overall trends and other real property and wider economic factors that should largely be reflected in sound, comparable sales.
- The meaning and use of the word 'comparable' is important here. It means 'able to be compared' not, by necessity, 'the same'. In some cases, closely comparable sales may be available and, all other things being equal, may make a very accurate assessment of value, property-to-property possible. (The value of, say, a lot within a newly developed residential estate may provide an example – though even then and as noted above, a level of subjectivity on the agreed price on particular sale may be observed.)

In other cases, where closely comparable sales are not available, the search to establish the 'valuation mosaic' referred to above may be more difficult. This observation may also be true of sales which are, in some way, flawed or not made under fully open market parameters. The more disparate the sale is from the subject property (in physical, legal or economic terms), the less reliance should be attributed to it – though it may remain of contextual interest. Eventually however a sale may become so obtuse to the matter under investigation that it becomes, near completely irrelevant and potentially misleading. Such sales should be disregarded as primary evidence.

The criteria for comparability will depend upon the circumstances of the case and is not limited to proximity. Some market subsectors (for example, regional shopping centres) form part of national markets. Others have uses which are unique to that property in that area – often reinforced by development legislation and sales of other lands in the immediate proximity may have little or no relevance. Quarries, sporting facilities, racecourses, ports and airports and their associated uses represent typical examples but there are many others.

Such unusual or 'one-off' properties will always create a challenge to mass appraisal assessments and, in all cases, a market led but moderately conservative approach to sales analysis, markets interpretations and final assessments is appropriate. As noted above, such assessments must not predict nor attempt to lead markets rather accepting a reasonable 'following' position. (In practice, this is what typically evolves as, particularly for mass appraisal, time is required for a sustainable market shift to be recognised and accepted.) This approach reflects the nature of real property assessment in a mass appraisal environment. 'Conservatism' in the approach taken should not take the form of some sort of general discount on levels of assessment made. Rather, where sound, closely comparable sales exist, the positioning of statutory assessments (for example, for site value) should

be positioned quite close to that direct market level – again having regard to the vagaries of any market as described above.

The less comparable the sales evidence available, the more conservative should be the approach taken and values applied. (Given the assessment interval in most cases are only one-year duration, it might be hoped that more conclusive evidence may emerge, cycle to cycle in any case.) Particular challenges emerge for all valuers where market conditions are clearly deteriorating but no sales evidence has emerged to that effect. This is a matter for the judgement of the professionals involved in the case and no specific guidance can be given here. Court has repeatedly been unwilling to accept less than a completed sale as evidence of value. That market environment would reinforce the importance of a conservative approach at least until subsequent sales (perhaps emerging in the next valuation cycle) clarify the opinion of incoming purchasers. Through such a period, distressed sales may become the market norm and, thorough care must be taken in investigating the circumstances in each case, to determine if these sales can be applied.

The legislation and subsequent clarifications confirm that any current approvals, infrastructure credits or other intangible improvements that pertain to a particular property, are not to be included in the assessment of site nor unimproved value under this legislation. That notwithstanding, planning or development parameters (either positive or negative) that apply generically are to be considered in arriving at the assessed value.

Even though intangible improvements (such as leases, agreements to lease, approvals, infrastructure credits etc.) are not to be included in the subject assessments, they obviously form part and typically have value particularly in development and commercial markets. They form part of many transactions/sales and therefore, on those sales any value attributable to them in the minds of the parties to the transaction and evidenced in the market must be deducted to arrive at site value or unimproved value under the legislation. The opinion of the parties on a case-by-case basis is again highly relevant here. The value that could be ascribed to such non-tangible improvements in sales analysis may vary depending on the circumstances of the sale.

Lightly improved sales are to be preferred as the greater the need to notionally deduct tangible or intangible improvements from the sale, the more complex and prone to error will be the outcome.

8.2 Specific considerations in sales analysis

In summary, the valuer will seek as much assistance from the market as is possible having regard to the following:

- it is well established precedent that the best evidence of land value is from vacant sales. This is the primary method of assessment, wherever possible
- in the absence of suitable vacant lands sales, it may be necessary to analyse improved sales, however the risk and subjective nature of this approach should be noted
- lightly improved sales are used in preference to more highly improved sales as the greater the adjustment to the sale price resulting from the value of improvements, the greater the risk of error

- the valuer should seek evidence as close as possible to the characteristics inherent in the property to be valued so as to minimise the adjustments necessary in applying the evidence
- evidence should be sought as widely as necessary to obtain appropriately comparable evidence
- as many sales as possible should be investigated and analysed to fully understand the market. Sufficient evidence must be obtained to ensure that the primary evidence relied on reflects the parameters of the market as derived from the broader range of evidence. This research is necessary before concluding the primary evidence conforms to the 'bona fide' test for market value
- sales evidence, as close as possible to the day of valuation, should be used. Where the date of sales evidence does not coincide with the relevant date for the assessment an adjustment may be necessary for market movement between the date of sale and the relevant date, in applying that evidence. Adjustment should only be made where there is substantial market evidence to reflect that movement
- where the terms and conditions of the sales evidence do not reflect the usual terms and conditions of a bona fide sale an adjustment may be necessary in the application of the sale to reflect those usual terms and conditions. Where aspects of the sale are difficult to adjust or where adjustment leads to an erroneous conclusion that does not conform to 'bona fide' test for market value the sale should be considered with care
- sales relied on to form the basis of a valuation must be investigated sufficiently to ensure the robustness of the valuation issued. This includes full inspection of the evidence; obtaining a copy of the contract if possible; interview of the purchaser and/or vendor to ensure the sale conforms to the 'bona fide' test for market value. The valuer must ascertain if there are any special conditions attaching to the sale; and what value, if any, the purchaser placed on the improvements
- consideration should be given to the impact of the Goods and Services Tax (GST) in the analysis of the sale, both unimproved and improved.

8.3 Analysis of sales

The Act requires that land is to be valued on either a site value or unimproved value basis. Vacant land sales are the preferred evidence of value in arriving at a site value or unimproved value, however, improved sales may have to be considered in the absence of suitable vacant land sales.

Where site and/or non-site improvements are to be considered the concept of 'had not been made' applies. Where there are insufficient suitable vacant land sales on which to rely, improved sales may be analysed to assist in the understanding of the land value. This assistance may be through analysis of the sale to derive a land value to:

- provide parameters in which the land value must lie;
- provide an understanding of market movement.

Where the sale is to be used to derive a site or unimproved value, the greater the level of improvements, the greater the margin of error in the analysis. Small adjustments to the tangible and intangible components of the improvement may have significant impact on the analysed land value. It is for this reason that vacant or lightly improved sales are the preferred evidence for analysis.

When considering the added value of improvements, the following components of added value may need to be taken into consideration:

- the actual cost to effect the improvement including:
 - cost of building construction, including all professional fees
 - costs of rates and taxes of the development period
 - interest on monies expended on land and improvements. This will be assessed having regard to the weighted bond rate (refer to Section 20–21 and 27 of the Act); and
- cost of building construction including all professional fees
 - depreciation allowance which would apply to all costs
 - functional obsolescence having regard to the highest and best use of the land, giving particular consideration to the limited economic life of the improvement
- costs of rates and taxes over the development period
- interest on monies expended on land and improvements. This will be assessed having regard to the Weighted Bond Rate (refer to section 20–21 and 27 of the Act); and
- the added value of leases or similar subordinate interests (mortgages, sub-leases)
- the added value of development approvals
- the added value of infrastructure credits.

8.3.1 Site and structural Improvements

Site improvements merge with the land when assessing site value but must be considered when assessing unimproved value. Structural improvements, as for other non-site Improvements, must be considered when assessing site value and unimproved value.

The added value of improvements must have regard to the economic value of those improvements over and above the vacant land value.

The underlying principle is that the added value of an improvement should reflect what a prudent person would pay for that improvement bearing in mind the considerations detailed in Section 8.2.

8.3.2 Development approvals

A development approval is a right granted under a planning instrument that:

1. approves wholly or partially, a development applied for in a development application (whether or not the approval has conditions attached to it)
2. is in the form of a preliminary approval, a development permit or an approval combining both the preliminary approval and a development permit in the one approval
3. is a deemed approval, including any conditions applied to it.

The Act requires that the land is to be valued on the assumption that any non-site improvements have not been made.

The value of a development approval attached to the land is to be excluded from both site value, and unimproved value and therefore, sales of land with a development approval are to be treated in a similar fashion. The added value of any development approval in the comparable evidence must be excluded before comparison with the property being valued.

The added value of a development approval and resultant analysed land value cannot be less than the value of comparable land without a development approval. The added value of a development approval is dependent upon what value the parties to the sale placed upon it. Where a development approval is easily achievable (example being a use which is code assessable or as of right under the planning scheme) the added value of the development approval may be no greater than the time and cost of obtaining the development approval. Where a development approval could take a significant period of time to achieve, incur substantial costs, and require an impact assessment under the relevant planning Act then the added value may be greater.

The added value of the development approval in the comparable evidence may include the:

- added value of a development approval over and above that which may otherwise be available in a code approval or as of right development
- costs incurred to obtain the development approval
- holding costs incurred whilst the development approval is obtained, bearing in mind the weighted bond rate.

It is not necessarily the case that a development approval adds any value. Each case should be treated on its merits and assessed against an understanding of what the parties to the sale consider to be its value.

Development approvals in sales may or may not reflect the purchaser's assessment of the most probable highest and best use of the land - the land is either viable for that use or it is not. A development approval, for a use that a prudent purchaser does not consider to be the highest and best use, has little value to that purchaser who must seek a new development approval to achieve the perceived highest and best use. There may be some aspects of a prior approval that the purchaser believes adds value, such as reports on impact assessable aspects, even though the purchaser does not intend to adopt the highest and best use inherent in the existing approval.

Where a development approval attaches to existing improvements its value will depend upon the remaining life of the improvements, and whether those improvements reflect the most economic and

efficient use of the land. In that circumstance a development approval should be depreciated in a similar manner to the economic and physical obsolescence of the improvements.

Where a development approval attaches to land only, its value will depend on the time left before the approval lapses, whether that DA reflects the highest and best use of the land, or whether the purchaser intends to proceed with that approval at all.

8.3.3 Value of tenancies

Tenancies including leases and licenses may add value to property and must be considered in the analysis of sales where they are in place. Whilst tenancies normally add value in some instances there may be no added value or they may be a detriment.

The Act requires that the land is to be valued on the assumption that any non-site improvements have not been made.

In considering the impact of tenancies the following matters should be considered:

- the relativity of the market rent to the lease rent
- quality of tenants and covenants
- the length of the lease term
- the leasing up period that would be allowed if the premises were vacant, including holding costs
- any incentive that would be offered to a potential tenant to secure that tenant occupying the premises
- the cost of establishing the lease.

It is not necessarily the case that a tenancy always adds any value. Each case should be treated on its merits and assessed against an understanding of what the parties to the sale considered to be its value.

8.3.4 Infrastructure credits

Infrastructure credits are dollar value credits recognised by a local government as a result of existing or previous non-site improvements on the land. Infrastructure credits are offset against any required infrastructure charges imposed where a development approval is given.

The Act requires that non-site improvements are to be assumed to have never been made. Consequently, the added value of infrastructure credits that pertain to the existing or previous non-site improvements or the added value of paid infrastructure charges for non-site improvements are to be analysed out of a sale price to derive the 'site' or 'unimproved' value.

An indication of the value of the infrastructure credits can be obtained from the local government or assessed with knowledge of the relevant planning scheme requirements. The relevant amount is the value the market places on such credits, not necessarily the amount determined and recognised by the relevant local authority.

8.4 Application of statutory values

Statutory valuations are to be determined by the application of appropriate valuation methodology, and in line with the requirements of the legislation. Although valuations may be arrived at by mass appraisal techniques it is required that all valuations also reflect the correct relationship with the market, as at the applicable date of valuation.

8.4.1 Applying market evidence

The application of market evidence to applied value should at all times be on a prudent and conservative basis for rating and taxing valuations.

The use of mass appraisal techniques to derive values is an accepted practice and has been endorsed by the Land Court. However, the results must be reviewed to ensure the accuracy and consistency of application.

The relationship between sales evidence and applied values must be examined, and any inconsistencies addressed to ensure a consistent application of the market evidence.

The use of quality assurance processes must be undertaken to ensure the proposed values are supported by the sales evidence, particularly those sales close to the date of valuation.

Bona fide sales evidence must be used and it is accepted that some sales will not meet the test of a bona fide sale (related party's sales, forced sales, out of line sales, etc. do not meet the test).

8.4.2 Obtaining uniformity in valuations

Legal precedent has held that the best approach to arrive at a statutory land valuation is to consider the sales evidence firstly and then the comparison with the valuation of other lands. The first and most vital principle of sales application should not be overlooked in favor of relativity or uniformity with other lands.

Whilst the preservation of relativity or uniformity is seen as being desirable in terms of distributing the rating burden fairly it should not be at the expense of correct application of the sales evidence.

The correct application of both sales evidence and valuation methodology should arrive at a correct valuation. Correct valuations will produce correct relativity or uniformity with other lands.

8.5 Annual valuations

The Act provides for annual valuation of all assessable properties in Queensland for rating, rental and taxing purposes. The annual valuation process by necessity employs mass appraisal methodology which is an effective and legitimate method for the creation of 'new' values in an efficient and timely manner. This methodology is widely accepted across government, by industry standards and supported by court precedent.

Annual valuations are derived by the application of market based movements (known as factors) to the existing valuations of groupings of similar properties known as sub market areas. The market movements or factors are supported by the valuation of benchmark properties, which are representative valuations within each sub market area. The use of sub market areas and benchmark properties is accepted best practice for the provision of statutory valuations in all jurisdictions in Australia.

8.5.1 Sub market areas

A sub market area is defined as a grouping of properties with either a single highest and best use or multiple highest and best usages, within an area readily defined by an administrative or geographic boundary or readily associated with a geographic or topographic feature where the market movement is similar for all properties.

The set of properties are definable by common attributes that are perceived to be similarly affected by common market forces and will be therefore presumed to move in unison. Subsets of properties may be created where the market evidence identifies an exception to the presumption and supports a separate factor.

A sub market area can in a practical sense extend over local government boundaries as it identifies a particular market area however for the purposes of administration separate sub market areas will be created in each local government area. Although recorded separately, the entirety of the market area and market change within the wider sub market area will be considered at the time of valuation.

8.5.1.1 Establishing sub market areas

Sub market areas are established within all local government areas, and every property is allocated to a single sub market area. Each sub market area allocated a number and description, which is recorded and maintained in QVAS.

Where a market extends beyond a local government boundary, this is identified and separate sub market areas created within each government area, recognising that the wider market area exists, and will be reviewed and moved together as sales evidence warrants.

Where the nature of a sub market area changes over time as a result of development, changing usages, etc., the area may be modified, merged or new sub market area created as circumstances permit, and by the approval of a senior officer of the department.

Sub market areas are reviewed annually to ensure continued relevance to the valuation process.

All properties within the sub market area should be homogenous, either by way of land use, location, topographical feature, etc. By grouping properties with similar characteristics and similar market movements together it provides a framework for the mass appraisal process.

8.5.1.2 Using sub market areas in the valuation process

The sub market area is used in the mass appraisal process by identifying groups of comparable properties that can then be indexed by market based factors to derive a single lot value for each property within that sub market area. The derived value is then validated to ensure that it is consistent with market evidence.

The sub market area provides for either large groups of similar properties to be identified and moved together, or to identify specialised or unique properties (shopping centres, etc.) that can be verified individually as circumstances warrant.

8.5.2 Benchmarking

Benchmarking refers to the identification of typical properties (benchmark properties) within a sub market area that will be inspected and valued against the available bona fide sales evidence to test the proposed market changes for that area

A benchmark property may be described as an individual property within a sub market area that is representative of a large group of similar properties, based on land value, land use and/or other property characteristics. Characteristics may include location, area, zoning, topography, etc.

8.5.2.1 Selection of benchmarks

Benchmarks are a critical part of the mass valuation process and it is important that the selected properties are representative of the range of properties in a specified sub market area. There should be a sufficient number of benchmark properties in a geographic locality or representing a particular property type to ensure accuracy of valuations is achieved.

Market change or development activity may place a benchmark outside of the main representative property groups. Where current benchmarks are found not to represent the property types the existing properties should be replaced by more representative properties.

Benchmarks should be drawn from significant groups of like properties and should represent the spread of values within that like group - lower, middle and upper value ranges. The actual number of benchmarks will depend upon the size of the sub market area, the spread of values, and the range of property attributes within each major land use.

Once identified benchmark properties should be established and maintained in departmental systems for reference in the statutory valuation process.

8.5.2.2 Valuation of benchmarks

Benchmark properties are inspected together with the sales in a locality as a minimum requirement in preparing a statutory valuation. The purpose of benchmark checking is to ensure that the proposed valuation changes are reflective of the market for the different property sets.

Each benchmark property is inspected, valued and a schedule prepared which will form part of the support data for the mass appraisal process. The benchmark schedule is to be provided to the approving officer, and will be an auditable document within the final basis documentation.

It is critical that the comparable sales evidence used to assess the benchmark property has been thoroughly investigated and all relevant information about the sale obtained. If information in regard to a particular sale is incomplete the sale could be used but treated with caution.

Where a benchmark valuation is made on any basis other than direct comparison, or contains a classification of land or calculations of land type, a separate worksheet detailing the basis of valuation and calculations must be maintained.

8.5.3 Benchmarking the mass appraisal process

The benchmark valuation process will either confirm the proposed mass valuation changes as displayed by the sales evidence, or demonstrate that further sales investigation and or factor reconciliation is required.

Following the application of the mass appraisal process, the individual benchmark valuations are compared to the generated land values for those properties produced. If the value of a benchmark varies significantly from the value produced by the mass appraisal process it must be reviewed to determine what is required to bring the values into alignment.

Part 9 Objections

9.1 General overview

A landowner who receives a Valuation Notice has a right to object to the amount of the valuation. However, an objection can only be considered if it satisfies the requirements contained within Chapter 3 of the Act.

Valuation notices provide the landowner with information about the right to object and requirement to make a 'properly made' objection.

Objection forms can be downloaded from the department's website <www.qld.gov.au/landvaluation>. Separate forms are provided for site and unimproved values. A flow chart of the objection process can be found below on page 27.

Note: The onus is on the objector to prove their case (Section 149).

9.2 Right to object

A landowner who has received a Valuation Notice has a right to object to the amount of the valuation (Section 105(1)). The right to object includes a right to object to the amount of an offset allowance (Section 281) and or a site improvement deduction allowance decision (Section 105 (5)) or amount (Section 113(2)). Valuation notices include allowance amounts where applied. The objection provides an opportunity to apply for a site improvement deduction not previously applied for (Section 113(2))

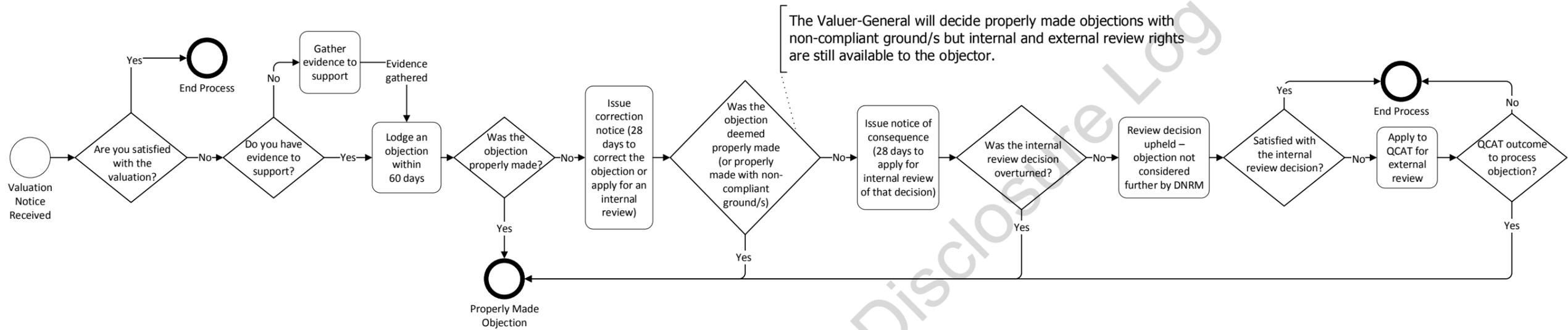
A landowner can include a ground relating to the property valuation method (i.e. site or unimproved), however the decision about the correct declaration of the land will be dealt with outside the objection process. The objection will be held in abeyance until the decision on the correct method is finalised (Section 110).

Where a landowner is provided with multiple notices for the same land but for different purposes (e.g. rating and rental), an objection may only be lodged against each if the valuation amounts differ (Section 105(3)). If a landowner is given notices for more than one statutory purpose (rating and rental), and it is the same amount, an objection to one is taken to be an objection to each of them (Section 107). Any change in value in one resulting from the objection will be applied to the other.

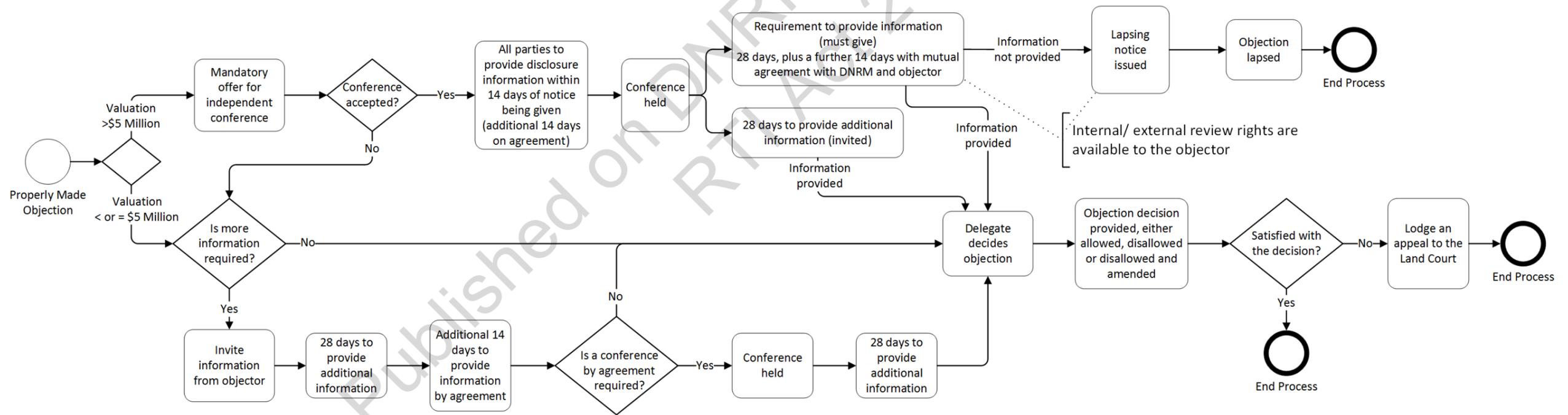
Where a Valuation Notice was sent to a former owner, the new owner may object, provided the former owner has not already done so (Section 106 (3)). Where the former owner has objected the new owner may continue with the objection (Section 106 (4)).

Note: Lodging an objection does not affect the purpose of the valuation (Section 152) such as liability for payment of local government rates, land tax and rent under the *Land Act 1994*. Where a valuation is altered as a result of an objection an appropriate adjustment must be made by the relevant revenue authority for any rating, rental or land tax liabilities (Section 154).

Objection Assessment Process



Objection Decision Process



9.3 Period for objection

An objection can only be made if it is given to the Valuer-General within 60 days after the day of issue of the Valuation Notice and the objection is properly made (Section 109(1)). Where an application has been made for a rural land declaration the period is extended to 60 days after the final decision regarding the declaration (Section 110).

The Valuer-General must accept a properly made objection received after the closure of usual objection period, but before the first anniversary of the start of the period, provided the Valuer-General is satisfied it was late because of either:

- a) the owner's mental or physical incapacity
- b) an extreme circumstance
- c) an extraordinary emergency
- d) another reason the Valuer-General considers satisfactory in the circumstances (Section 111).

The Valuer-General may make a decision or may seek more information about why the Valuer-General should accept the objection (Section 111(4)). The request may or may not be included in a Correction Notice (see below).

The Valuer-General cannot accept the objection if it is not properly made, was not made after the anniversary of the start of the usual objection period, or if not satisfied under (Section 111(3)).

A decision to not to accept a late objection is subject to an internal review process (refer Part 11).

9.3 The properly made test

In addition to the requirement to be lodged in time, the objection must be properly made (Section 109(1)(b)). The requirements of a properly made objection (Section 112) are:

- a) it is in the approved form; and
- b) either:
 - i. it is signed by the objector; or
 - ii. it is signed by an agent or representative of the objector, for the objector, and it is accompanied by the objector's written consent to the objection; and
- c) it contains all the required content stated in section 113; and
- d) contains at least one ground and the information the objector seeks to rely on to establish the ground.

Upon receipt of an objection an initial assessment of the objection will be made by the Valuer-General or a delegated officer, to determine whether it is:

- within time
- properly made or not properly made (Section 114)
- if it is defective.

If it is properly made an acknowledgement of the acceptance of the objection will be sent to the objector (Section 115). An objection will be determined as defective if:

- it only partially complies with the ground requirement - contains one compliant ground and one or more noncompliant grounds
- it does not comply with one or more of the requirements summarised above.

If the objection is defective a Correction Notice will be sent to the objector for response (Section 116). The purpose of the Correction Notice is to seek amendments that would make the objection properly made. In the case of a partially compliant objection the amendment sought is to remove noncompliant grounds or amend them to make them compliant grounds (Section 116(3)).

The Correction Notice will identify the aspects and or grounds of the objection that are defective.

All the amendments must be returned to the Valuer-General within 28 days of issuing the Correction Notice. If the amendments are not returned to the Valuer-General's satisfaction, then objections initially assessed as not properly made will be determined as such, and the Valuer-General will then not be able to consider and decide the objection (Section 118). A decision notice will be provided as a result of the above.

Both a Correction Notice and a not properly made decision notice are subject to internal review (refer Part 11).

Note: an objection with a partial ground requirement is initially assessed as properly made and will continue to be considered and decided, but only on the compliant grounds.

9.5 Required content of objections

An objection must state certain required information (Section 113) to be accepted as properly made. The most critical information is the grounds of objection and the information that the objector relies upon to establish each ground.

Where a ground relates to comparable sales evidence, then details of the sales and comparison to the subject land should be provided.

Where a ground concerns a site improvement deduction the objection must state the amount the objector claims, details of the improvements and be accompanied by the supporting documents as per Section 41(2) of the Act. A ground cannot be made claiming a site improvement deduction if the owner has already made a deduction application for the same site improvements for a previous valuation.

9.5.1 Objection ground requirement

As noted above, the proper definition of grounds on the objection form is an important component and the basis for the objector to be able to prove the objector's case.

'Generic grounds' for objection will not be accepted. Generic grounds are non-specific statements, which provide no indication of how they relate to the valuation of the land, that is they do not specifically state how it relates to the statutory land valuation and provides no supporting evidence. If

generic grounds are provided as a basis for an objection it will be assessed as not properly made and a Correction Notice will be issued to the objector. Responses to correction notices are required within 28 days of the date of the notice.

The following statements are examples of generic grounds:

- the valuation is excessive and unreasonable
- the valuation is wrong in law and contrary to law
- the valuation proceeds on wrong principles and fails to take into account correct principles
- all the facts have not been taken into account in arriving at the statutory land value.

If information and evidence is provided that supports any of these statements, then a 'generic ground' may be considered as properly made. For example, under the statement 'the valuation is wrong and contrary to law', the ground should state which law and how it is applicable to the valuation.

Grounds relating to assessment of local government rates or state government land tax will not be accepted because the determination of these taxes by the relevant authorities is not related to how a statutory land valuation is determined.

9.5.1.1 Comparable sales evidence

Where a ground of objection relies on comparable sales, Section 113(1) (f) requires that the objection must include:

- a) specific details of the comparable sales for consideration
- b) reasons why the sale is comparable and a comparison to the subject land.

It is suggested that comparable land sales should have one or more of the following attributes:

- be within the general locality
- be used for the same or similar purpose e.g. residential; commercial, industrial etc.
- be a similar size
- have similar physical attributes, e.g. topography, views etc.
- have a similar or comparable designation under the Queensland planning provisions or equivalent local government planning scheme.

9.5.1.2 Another possible ground: physical character and use constraints

This ground may explain:

- a) the specific characteristics or constraints
- b) how they affect the value of the land.

Examples of constraints placed on the use of the land that may affect its value could include:

- height or development restrictions under the local government planning scheme
- an encumbrance (easement, right of way, covenant or caveat)
- the property is listed on the heritage register and therefore has limited development potential.

Examples of physical characteristics of the land that may affect the value of the land could include:

- shape, size, topography, aspect and elevation
- light and air considerations
- noise and/or vibration
- erosion
- limitations due to waterways or environmental corridors
- limited access

9.5.1.3 Ground: other

This ground may include any other relevant information not already mentioned in Ground 1 or 2 that may affect the statutory land valuation amount. Some examples of information that could be included in this objection ground are:

- lands which should be included in the one valuation have been valued separately, or vice versa
- that the land was valued as a use different to its actual use, e.g. a residential house site valued as an industrial site
- something that affects the value of the land occurred after the date the valuation was made but before the issue date on the notice of valuation and may not have been considered
- comparison with other applied values.

9.5.1.4 Ground: Application for a deduction for site improvements

Ground 4 of the objection notice must only be completed when a landowner is making an application for a deduction for site improvements.

To apply for the deduction for site improvements, tick the box in Ground 4 on the *Notice of Objection—Site Land Valuation*

(Form 58S) and complete the *Application for Deduction for Site Improvements* (Form 41).

In applying for the deduction for site improvements under this ground, full details of the site improvements made must be provided, together with, who carried out the works, when the works were completed and the associated costs. If any of these details are not provided, then Ground 4 of the objection will not be properly made and a Correction Notice will be issued with 28 days from the date of the Correction Notice to rectify the omission.

9.6 Objection conferences

Once assessed and acknowledged as properly made the objection is considered and decided by a delegate of the Valuer-General. The consideration may involve a conference between the parties. The purpose of the conference as defined within Section 120 is to:

- a) encourage the settlement of disputes about the objection by facilitating and helping the conduct of negotiations between the parties
- b) promote an open exchange of information between the parties
- c) give the parties information, relevant to the dispute, about the operation of this Act
- d) help in the settlement of the dispute in any other way.

It is very important for all parties to note that anything said or done within an objection conference is inadmissible in any later proceeding (Section 131).

A conference cannot be held about an objection that is not properly made or has already been decided (Section 121).

The Valuer-General and the objector may agree to an objection conference, unless the property valuation exceeds \$5 million in which case an offer of a conference will be made by the Valuer-General (Section 122). A conference for valuation amounts for \$5 million or less remains at the Valuer-General's discretion.

9.6.1 Discretionary conferences

Discretionary conferences are by agreement between the Valuer-General and the objector. The Valuer-General's criteria for requesting a conference with the objector may be:

- to clarify a point or information provided in a compliant ground
- to discuss or seek information on a matter not raised as a ground of objection; (an objection conference is not limited to the objection grounds – Section 130).

Note: a request for a conference made in the objection itself will not automatically entitle the objector to a conference. The offer of a conference is at the discretion of the Valuer-General.

An offer of a conference would not be made until a Correction Notice or invited information has been responded to, to the satisfaction of the Valuer-General.

A conference will usually involve the valuer originally responsible for making the valuation and a senior valuer, with delegated responsibilities for making a decision on the objection, on behalf of the Valuer-General.

9.6.2 Required conferences

A required conference is held where the valuation exceeds \$5 million and the objector has accepted the Valuer-Generals offer. It is not mandatory that a conference be held, but the offer must be made by the Valuer-General. Where the offer is not accepted then the objection will be considered on the information provided.

Where the objector accepts the offer then an independent chairperson will be appointed (Section 125). The role of the chairperson is to:

- a) arrange the objection conference
- b) encourage a full exchange of opinion between the parties, including a full disclosure of information relating to the objection
- c) make recommendations to either party about matters raised at the conference (Section 126).

It should be noted that the chairperson does not decide the outcome or result of the objection. The objection in all cases is made against the Valuer General's assessment and only that officer or the Valuer General's delegate can make that response. That notwithstanding, it is important to note that the chair person is appointed as an independent expert (not simply as a mediator and not as an arbitrator) and can be expected to be reasonably involved (i.e. 'make recommendations', question, enter into discussions (with both parties or bilaterally) etc.) that maintains independence but that, hopefully moves the argument towards resolution.

Prior to the arrangement of a conference the independent chairperson will ensure disclosure obligations are met by both parties. The chairperson will give a notice to each party requiring disclosure of all relevant documents within 14 days of the notice (Section 127(1)). The obligation extends to all information in the possession of the objector and the Valuer-General that is relevant to the valuation. When the chairperson is satisfied that disclosure obligations have been made the chairperson will then provide copies of all documents to each other party and arrange a conference (Section 127(2)). If the chairperson is not satisfied that all relevant documents have been disclosed, then:

- a) the conference cannot be held
- b) if started can be ended
- c) the chairperson may grant an additional 14 days to allow the additional information to be provided (Section 127 (3)).

Conferences are to be conducted in the way the chairperson sees fit, but with as little formality and technicality as possible. At the conference the chairperson can accept and distribute documents, is not limited to the grounds of the objection and may adjourn or end the conference as they see fit. If representation is sought by any of the parties at the conference, then the approval of the chairperson is required (Section.129).

9.6.3 Conduct at conferences

Almost any valuation of real property presents a range of possible assessments and of professional opinions, even among experts. If accepted and appropriate methodologies are applied, these variations in most cases should be reasonably confined. However, regardless of those inherent variations, it is the professional obligation of all valuers involved to enter into discussions, conferences or in court proceedings in good faith and with the clear intent of providing accurate, truthful, complete and timely input as best as that individual knows it.

Conferences of various types should be viewed by all parties as an invitation to professionally discuss a specific matter(s) of disagreement, to better understand the nature of that difference in opinion and

to work constructively to resolve that disagreement. Critically, such interactions involve addressing differences in professional points of view, not about dispute – which may or may not emerge later.

The declared 'without prejudice' status of many such conferences is to be strictly complied with by all participants.

Regardless of the declared role of any participant in such hearings, it is anticipated that all participants will always act professionally and truthfully applying valuation and ethical standards summarised in this document. Presenting opinion that is not reasonably based on sales and other market evidence is considered as unprofessional and not conducive to the spirit and intent of such dealings.

Such discussions should remain analytical, even in the face of on-going disagreements and are not to involve personal criticisms, regardless of the circumstances.

The fulfillment of professional obligations in such dealings are based on thorough preparation and investigation of the subject property and its market and, thereafter to put forward that evidence / opinion in a logical and clear manner.

The required outcome is that the valuers from all sides are to provide their highest level of expertise and fullest knowledge to assist all stakeholders (including, depending on the circumstances, the independent chair and the Valuer-General) to move to equitable and legislatively compliant outcomes.

The confidentiality of documents produced and presented by any party at any hearing / conference is to be recognised and respected. Such documents are not to be further used or distributed to third parties outside the organisations without the prior formal approval of the owners of those documents.

In an entire valuation discipline, an exercise of assessment is characterised by complexity and incomplete knowledge. Consequently, there should be no criticism of the valuers from either side of a conference or hearing from moving to a reasonable consensus view or altering their opinion, provided that their initial work has been thorough and has had regard of any new evidence emerging.

It is also recognised that at times the difference of opinion is so significant that further discussions are without purpose or unlikely to reach a consensus.

Timeliness is essential from all parties.

An appeal to the Land Court is, by its nature, a time-consuming and expensive process and care needs to be taken, and in good faith, that all reasonable avenues towards resolution should be pursued in a timely way before such appeal.

In all cases, the final opinions of the valuers involved need to be respected. In the case of the Valuer General's assessment and following the consideration of objections and of without prejudice discussions, it may be that the Valuer-General's valuation remains unchanged.

9.7 Further information

The Act allows the Valuer-General to seek additional information pertaining to an objection whether with or without a conference. An amendment to the objection is treated differently by the Act and dealt with in the following section.

The provision of additional information is by the invitation or by the requirement of the Valuer-General (Part 4). Objectors may also provide additional information at their own initiative with 28 days of an objection conference (Section 133).

9.7.1 Further information by invitation

Whether or not an objection conference has been held, the Valuer-General may invite the objector to give the Valuer-General further written information (the invited information):

- a) that supports the objection grounds
- b) to clarify the objection grounds or anything else stated in the objection.

The invitation is open for a period of 28 days from the date of the invitation or an additional 14 days if so agreed within the original 28-day period (Section 132).

The information may be considered by the Valuer-General, and is admissible in any proceedings regarding the objection (Section 134).

9.7.2 Further information by requirement

The Valuer-General may require further information, other than information subject to legal professional privilege, that is likely to be available to the objector and which will be relevant to the deciding of the objection (Section 135).

The Valuer-General may by notice (the information requirement) and subject to conditions (Section 138) require the return of particular written information (Section 136) within 28 days of the notice or an additional 14 days by agreement made within the original 28 days (Section 137). The requirement only applies to valuations in excess of \$5 million whether a conference is held or not (Section 135).

If the Valuer-General is not satisfied that the information requirement has been complied with, a Lapsing Notice may be provided stating the outstanding information required and that the objection will lapse unless the information is provided within 28 days (Section 139). If a Lapsing Notice is given to the objector, and the required information is not provided, the objection lapses. Once it has lapsed, the objection will no longer be required to be considered (Section 140).

An objection does not lapse if the information requirement is privileged from production or the objector declares the information is not available to the objector (Section 141).

An information requirement and lapsing notice may be stayed by application to the Queensland Civil and Administrative Tribunal (Section 142).

Further information may include:

- a valuation report (improved or unimproved)
- a town planning report
- a record of discussions with purchasers, vendors or agents
- information about a stated type of cost associated with a development of the objector's land or other land.

Note: A person issued with either information requests or a subsequent lapsing notice may apply for an internal review of the decision.

9.8 Amendment of an objection

Generally, an objection is taken to be complete at lodgment unless amended or added to as in the above. The Valuer-General cannot consider any other purported amendments to an objection unless made according to Part 5. The requirements are specific and reference should be made directly to the Act. Amendments under this part must be by a signed notice to the Valuer-General (Section 146).

9.9 Making the decision

The Valuer-General may make a decision at any stage of the objection process, but can only do so for a properly made objection (Section 147). Once a decision has been made the Valuer-General must provide the objector with a notice of the decision as soon as practicable after making the decision. The notice will contain certain information including the reasons for the decision and rights of appeal to the Land Court of Queensland (Section 151).

The decision about the valuation must be to either:

- allow the objection on the terms and to the extent the Valuer-General considers appropriate
- disallow the objection
- disallow the objection and change the amount of the valuation (Section 150).

Where the objector has sought a lower valuation, the Valuer-General may determine a higher valuation than the original and where the objector has sought a higher valuation may determine a lower valuation than the original.

Where the objection includes a claim for a site improvement deduction the decision notice will state whether the claim has been allowed or not and the amount of the deduction (Section 151).

Note: Objections to the initial site valuation effective 30 June 2011 will be the first point for making a deduction claim. Subsequent valuations will include both the provision for making a claim and an objection against an issued deduction amount.

Where a maintenance valuation notice is issued (e.g. 31 May) before the objected to Annual valuation becomes effective (i.e. 30 June of the same year), the Valuer-General can no longer consider the objection (Section 148).

Part 10 Valuation appeals

An objector may appeal to the Land Court (the Court) against the objection decision. A valuation appeal to the Land Court is a judicial proceeding managed externally to the authority of the Valuer-General. The function of the Act, in this part, is to create a right to refer a valuation to the Court and to establish the jurisdiction of the courts in a valuation made under the Act. This function is the limit of the scope of appeals within this document.

The management of the appeal process is the providence of the Land Court under the *Land Court Act 2000* and the rules of the Court and is outside the scope of this document. This limit includes all forms used by the court. Appropriate forms can be accessed from the Land Court at:

Land Court

GPO Box 5266

BRISBANE QLD 4001.

or at their website <www.courts.qld.gov.au/courts/land-court>

Intended appellants are advised to familiarise themselves with those requirements or seek appropriate professional advice before lodging an appeal.

10.1 Right to an appeal

The right of an objector to appeal is based on an objection decision contained within a decision notice issued to an objector (Section 155(1)). The decision notice must be for a properly made objection, otherwise it cannot be appealed (Section 155 (2) (b)).

An objection decision notice that resulted from a comparable valuation reduction (Section 94) cannot be appealed (Section 155(3)).

The amount of the valuation within the objection decision is the amount that is appealed. However, the amount cannot be appealed if the valuation sought:

- a) on the objection, was lower than the issued valuation and the issued valuation is changed to an amount equal to or lower than the amount the objector considers the value to be
- b) was higher than the issued valuation and the issued valuation is changed to the amount the objector considers the value to be (Section 155(2) (a)).

Other than the objector, a new owner of land may appeal the objection decision (Section 156). A new owner will be taken to have received a decision notice given to the former owner. In the case of a unit property, only the Body Corporate can appeal.

10.2 Starting an appeal

An appeal to the Court must be made according to the requirements of the *Land Court Act 2000* and relevant guidelines otherwise there may be delays or an inability of the Court to consider the appeal, and the possibility of costs being awarded against the appellant for those delays.

An appeal must be started by lodgment of the proper Court form, available from the Land Court, within 60 days of the issue date stated on the objection decision notice (Section 157(2)). Also a copy of the notice must be filed with the Valuer-General within seven days of filing with the court (Section 159).

If the appeal is lodged after the 60-day period then the Court will only be able to accept the appeal if the appellant can satisfy the court there was a reasonable excuse (Section 158) for not lodging the appeal within the 60 day period. An example of a reasonable excuse is loss or delay in the delivery of the notice in the ordinary course of the post.

The appeal notice must contain:

- a) the grounds of appeal
- b) the amount the appellant seeks for the valuation
- c) if the appellant claims a site improvement deduction or a higher site improvement deduction - the site improvement deduction claimed. (Section 157(3)).

Failure to provide all of the above information may lead to a challenge of the jurisdiction of the Court to decide the appeal and a possible award of costs against the appellant (Sections 164–66).

10.3 Amendment of valuations prior to a hearing (sections 160–163)

Prior to a hearing the Valuer-General may amend a valuation either to the amount sought on the appeal notice or reduce the valuation to another amount.

Where the Valuer-General reduces the valuation to the amount sought by a notice to the appellant and the Court 14 days before a hearing, the appeals ends even though a hearing has not been held (sections 161–162).

Where the Valuer-General reduces the valuation to another amount and provides a notice to the appellant and the Court, the amended valuation is taken to be the valuation appealed against. Where the appellant accepts the amended amount, by providing the Valuer-General and the Court an acceptance notice, the appeal ends. If the appellant does not accept the amended amount the appeal will continue and the amended amount will be the amount of the valuation appealed (Section 163).

10.4 Hearings (Part 5)

The Land Court has the capacity to engage in a number of dispute resolution measures under the authority of the *Land Court Act 2000*, however as previously mentioned that is outside the scope of this document. The Land Valuation Act only deals with matters pertaining to a hearing of an appeal.

This part of the Act deals with what the Court must consider and how it can decide the valuation and an award of costs. The Act requires that the hearing must be limited to the grounds stated in the valuation appeal and that the appellant has the onus of proof for each of those grounds (Section 169).

In deciding the appeal, the Court must either:

- a) confirm the valuation appealed against
- b) reduce or increase the valuation to the amount it considers necessary to correctly make the valuation under the Act. (Section 170).

Through the normal course of a hearing each party will bear their own costs (Section 171(1)). The Act however, specifies circumstances in which the Court may award costs. These reasons include:

- a) all or part of the appeal was frivolous or vexatious
- b) a party has not been given reasonable notice of intention to apply for an adjournment
- c) an application for an adjournment incurred costs because of the other party's conduct
- d) a party incurred costs because the other party did not comply with the Court's procedural requirements
- e) without limiting paragraph (c), a party incurred costs because the other party introduced or sought to introduce new material
- f) a party did not properly discharge the party's responsibilities for the appeal.

10.5 Appeals to Land Appeal Court and Court of Appeal

The Act specifies that the decision of the Court may be appealed to the Land Appeal Court and that appeal is by way of rehearing. The appeal is made according to the *Land Court Act 2000*.

In the Land Appeal Court, the Land Court member responsible for the original decision, is prohibited from being part of this hearing.

The decision and costs requirements above also apply in the Land Appeal Court.

A further appeal to the Court of Appeal is made according to the *Land Court Act 2000* with the exception that an application for leave to do so is not required.

Part 11 Internal and external review

The Valuer-General has power to make many administrative decisions under the Act. The Valuer-General also has the power to delegate, and has delegated, certain decisions making powers to appropriately qualified officers within the department (Section 214).

Chapter 5 (internal and external reviews) of the Act contains those provisions (sections 175–179) relevant to internal and external reviews of particular decisions made under the Act.

Section 175 details the decisions that are subject to internal review—all of these decisions will include reasons for the decision and advise that an application for an internal review can be made. A landowner who believes that their interests are adversely affected by a decision of the Valuer-General can apply to the Valuer-General for an internal review of the decision.

11.1 Internal review

The internal process applies to original decisions of the Valuer-General. The specified decisions listed are:

- a) a decision on a rural land application not to declare the land as rural land (this refers to the property valuation method)
- b) a decision to declare rural land under Section 14 (this refers to a decision on the Valuer-General's initiative to amend the property valuation method)
- c) a decision to make a separation declaration (this refers to declaring separate parcels)
- d) a decision not to amend a valuation on the application of an owner under Section 90 (this refers to damage due to adverse natural cause)
- e) if section 111 (late objection) applies for an objection, a decision not to accept the objection under section 111(3)
- f) an initial assessment decision that an objection is either:
 - i. is not properly made
 - ii. only partially complies with the ground requirement
- g) a decision under Section 117(b) that an objector has not complied with a Correction Notice
- h) a decision to give an objector an information requirement or a Lapsing Notice.

In addition to delegating his function to an appropriately qualified person under Section 214, the Valuer-General, may appoint authorised persons under Section 216 to help the Valuer-General to decide land values and make decisions.

An information requirement may be made where the authorised person believes information is needed to perform the authorised person's functions (Section 230).

A person of whom an authorised person's information requirement has been made may apply to the Valuer-General for an internal review of the decision (Section 175(2)).

A person entitled to seek an internal review is entitled to receive a statement of reasons, if the original decision notice did not include reasons (Section 175(3)).

11.2 Application for internal review

A person whose interest is adversely affected by an original decision of the Valuer-General may apply for an internal review. The application must be in writing and signed by the aggrieved person and should include:

- date of the original decision
- property reference
- where reason was given—the disputed reason
- the remedy sought by the review
- information supporting the remedy
- contact detail for receiving a decision notice.

The normal period for an application for an internal review to be made is 28 days unless:

- the original notice did not include reasons for the decision
- a statement of reasons is requested (Section 176).

The application period is then extended to 28 days from the date the person is given the statement of reasons. The Valuer-General may also extend the period for making an application for internal review (Section 176(3)).

11.3 Decision on internal review

The decision will be made and an information notice provided to the applicant within 28 days. If the information notice is not given to the applicant within 28 days of the making of the application for review, then the Valuer-General is taken to have confirmed the original decision.

However, where an application for internal review has been made, the applicant may immediately apply to Queensland Civil and Administrative Tribunal (QCAT) for a stay of the Valuer-General's original decision (Section 178), until the Valuer-General deals with the internal review application, the period of the stay will be as determined by QCAT section 178(3).

Contact details for QCAT are:

Level 9, 259 Queen Street

Brisbane QLD 4000

GPO Box 1639

Brisbane QLD 4001

Website: <www.qcat.qld.gov.au>

11.4 External review to QCAT

A person given, or entitled to be given, an information notice of the internal review decision may seek an external review of the decision. The external review is made under the *Queensland Civil and Administrative Tribunal Act 2009* to QCAT (Section 179).

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Division 1

General provisions

7 What is the *value* of land

The *value* of land is as follows, as affected by any other relevant provision of this chapter—

- (a) for non-rural land—its site value;
- (b) for rural land—its unimproved value.

Note—

See, however, [chapter 10, part 4, division 1](#) (Offset for change to particular site values for non-rural land).

8 What is *non-rural land*

Non-rural land is—

- (a) land other than rural land; or
- (b) ¹⁸⁻⁴⁸¹ land that is not zoned under a planning scheme.