



New South Wales

Valuation of Land Amendment Bill 2011

Explanatory note

This explanatory note relates to this Bill as introduced into Parliament.

Overview of Bill

The object of this Bill is to amend the *Valuation of Land Act 1916* as follows:

- (a) to make it clear that the Valuer-General can make a valuation of land for the purposes of a private agreement at the request of a party to the agreement and to provide that for the purposes of such an agreement a valuation carried out in accordance with the Valuer-General's usual delegation and contract valuer arrangements is deemed to have been carried out by the Valuer-General,
- (b) to affirm the methodology used by the Valuer-General in valuing heritage restricted land by ensuring that the cost of construction of improvements is not to be taken into account in determining the land value of land and to make it clear that there is to be no adjustment of the land value of heritage restricted land except that which results from the specific assumptions required by the Act for such a valuation.

The Bill also amends the *Heritage Act 1977* in relation to the valuation of land on the State Heritage Register to the same effect as the amendments referred to in paragraph (b).

Outline of provisions

Clause 1 sets out the name (also called the short title) of the proposed Act.

Clause 2 provides for the commencement of the proposed Act on the date of assent to the proposed Act.

Schedule 1 Amendment of Valuation of Land Act 1916 No 2

Schedule 1 [3] inserts a new section that specifically authorises the Valuer-General to carry out private valuations of land at the request of a party to a private agreement that provides for the valuation to be made by the Valuer-General. Current arrangements under which the Valuer-General delegates the making of a valuation or makes a valuation on the recommendation of a contract valuer will extend to these private valuations, and a valuation made by a delegate or on the recommendation of a contract valuer will operate for the purposes of the private agreement as a valuation made by the Valuer-General. **Schedule 1 [1] and [2]** make consequential amendments.

Schedule 1 [4] affirms the methodology used by the Valuer-General in valuing heritage restricted land by ensuring that the cost of construction of improvements is not to be taken into account in determining the land value of heritage restricted land. The amendment reverses the effect of the decision of the Land and Environment Court in *In Adam Pty Ltd v Valuer-General* [2011] NSWLEC 55 which involved a deduction from land value of a “heritage cost penalty” calculated as the increased cost of construction of improvements on heritage restricted land.

Schedule 1 [5] makes it clear that there is to be no deduction from or other adjustment of the land value of heritage restricted land on account of the effect on land value of any factor concerned with the land being heritage restricted land other than the effect of the assumptions specifically required to be made under the Act for such a valuation.

Schedule 1 [6] inserts a savings and transitional regulation-making power.

Schedule 1 [7] inserts the following transitional provisions for the amendments to be made by the Bill:

- (a) Proposed clause 19 extends the operation of the new section that authorises the Valuer-General to carry out private valuations to private valuations made before the commencement (but not so as to affect any previous court decision).
- (b) Proposed clause 20 validates past valuations of heritage restricted land made on the basis of the methodology that is affirmed by **Schedule 1 [4] and [5]** but not so as to affect any decision in court proceedings commenced before the date of introduction of the Bill into Parliament.

Schedule 2 Amendment of Heritage Act 1977 No 136

Schedule 2 amends the *Heritage Act 1977* in relation to the valuation of land listed on the State Heritage Register to make amendments to the same effect as those made by **Schedule 1 [4] and [5]**. The transitional provision (proposed clause 20) to be inserted by **Schedule 1 [7]** extends to the amendments made by Schedule 2.