

[Act 1996 No 67]



New South Wales

Valuation of Land Amendment Bill 1996

Explanatory note

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

Overview of Bill

The objects of this Bill are:

- (a) to amend the *Valuation of Land Act 1916* to allow the Valuer-General to determine the value of separate parcels of land that comprise the site of a building by valuing the parcels together (even if they are in different ownership or are comprised in different strata plans) as if they were a single parcel and then apportioning that value between the separate parcels, and
 - (b) to amend the *Land Tax Management Act 1956* to give similar powers to the Chief Commissioner of Land Tax for land tax purposes, and
 - (c) to amend the *Strata Titles Act 1973* and the *Strata Titles (Leasehold) Act 1986* to make it clear that if the site of a building is subdivided by means of more than one plan, the parcels that are created by that subdivision are to be valued in accordance with the above principles, and
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- (d) to amend the *Valuation of Land Act 1916* to make it clear that excavation and other work done for the purpose of the erection of a building are to be considered to be land improvements for valuation purposes, and
- (e) to make minor amendments to the *Valuation of Land Act 1916*, for the purpose of inserting appropriate cross-references to the relevant valuation provisions contained in the *Strata titles Act 1973*, the *Strata Titles (Leasehold) Act 1986* and the *Heritage Act 1977*.

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 a day or days to be appointed by proclamation.

Clause 3 is a formal provision giving effect to the amendments to the *Valuation of Land Act 1916* set out in Schedule 1.

Clause 4 is a formal provision giving effect to the amendments to the *Land Tax Management Act 1956* set out in Schedule 2.

Clause 5 is a formal provision giving effect to the amendments to the *Strata Titles Act 1973* set out in Schedule 3.

Clause 6 is a formal provision giving effect to the amendments to the *Strata Titles (Leasehold) Act 1986* set out in Schedule 4.

Schedule 1 Amendment of Valuation of Land Act 1916

Valuation of parcels of land that form the site of a building

Amendments to the *Valuation of Land Act 1916* provide for the method of valuing parcels of land where the site of a building is subdivided into separate parcels of land. For instance, the new valuation method will apply where a building is the subject of more than one strata plan, or one or more strata plans and a deposited plan, with each plan relating to different parts of the building.

The new provision allows the Valuer-General to value all of the parcels of land that are created by the subdivision together as if they comprised a single parcel. The value of each separate parcel is then to be obtained by apportioning the total value between the parcels on the basis of their respective rental values. (See Schedule 1 [5])

Explanatory note

This method of valuation will apply only if at least 2 of the parcels created by the subdivision are adjoined horizontally (one above the other).

The object of this amendment is to overcome one aspect of the decision of the Land and Environment Court in *Perpetual Trustee Co Ltd v Valuer-General* (1994) 83 LGERA 206. That case involved the valuation of a parcel of land used as an underground car park. The rest of the building (erected on top of the car park) was comprised in a separate parcel. The Court noted that a parcel of land is to be valued under the Act by assuming it is in its virgin condition but that the adjoining land and environs are in their existing condition. Accordingly, the value of the land used as a car park had to be obtained by determining the capital sum that the land might realise, having regard to the need to build the car park *after* the building on top of the parcel was erected.

That valuation method resulted in the total value of the land used as a car park, together with the land used for the rest of the building, being less than it would have been if the whole of the building (including the car park) had been comprised in a single parcel of land.

Land improvements

The definition of *land improvements* is amended to make it clear that the excavation, filling, grading or levelling of land for the purpose of the erection of a building, work or structure (other than for the purpose of works of irrigation or conservation) is a land improvement. (See Schedule 1 [1])

This amendment aims to overcome another aspect of the Land and Environment Court decision in *Perpetual Trustee Co Ltd v Valuer-General* (1994) 83 LGERA 206. The Court said that the excavation for a building is not necessarily a land improvement because it does not necessarily restore or improve land surface.

The effect of the amendment is that the value of any excavation or similar work done for the purpose of erecting a building will be included in the land value of the land.

Minor changes

Notes are inserted in the Act to refer the reader to the valuation provisions contained in the *Strata Titles Act 1973*, the *Strata Titles (Leasehold) Act 1986* and the *Heritage Act 1977*. (See Schedule 1 [2], [3] and [4])

Schedule 2 Amendment of band Tax Management Act 1956

The *Land Tax Management Act 1956* is amended similarly to the *Valuation of Land Act 1916* so that, if the site of a building is subdivided into separate parcels of land, the Chief Commissioner of Land Tax is entitled to value the parcels of land in the same way as the Valuer-General under the amendments contained in Schedule 1 [5]. (See Schedule 2 [1] and [2])

Schedule 3 Amendment of Strata Titles Act 1993

Schedule 3 contains amendments to the *Strata Titles Act 1973* that are consequential to the amendment contained in Schedule 1 [5]. The amendments make it clear that if the site of a building is subdivided into separate parcels, and one of the parcels is a strata parcel, the strata parcel is to be valued in accordance with the principles outlined above.

Schedule 4 Amendment of Strata Titles (Leasehold) Act 1986

Schedule 4 contains amendments to the *Strata Titles (Leasehold) Act 1986* that are consequential to the amendment contained in Schedule 1 [5]. The amendments make it clear that if the site of a building is subdivided into separate parcels, and one of the parcels is a strata parcel, the strata parcel is to be valued in accordance with the principles outlined above.