



New South Wales

Valuation of Land Amendment Bill 2009

Explanatory note

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

Overview of Bill

The object of this Bill is to amend legislation relating to the valuation of land that is heritage restricted (including land listed on the State Heritage Register) to restore the previous practice of the Valuer-General in relation to that land before the decision of the Court of Appeal in *Valuer-General v Commonwealth Custodial Services Ltd* [2009] NSWCA 143.

Land value is ordinarily determined on the general assumption that there are no improvements on the land and that the land can be used for any purpose for which it is being used or could legally be used. Valuations of heritage restricted land are reduced by provisions that require the Valuer-General to assume that the land can only be used for the purpose for which it is being used and that the only improvements that can be made and continued are those that are on the land at the relevant date of valuation.

The Valuer-General's practice (which the Court found was not supported by the current provisions of the legislation) has been to treat any improvements on the land as new improvements without making any deductions because of the current

condition of the improvements (such as deductions for repairs or future maintenance). The Bill reverses the Court decision and confirms the previous practice of the Valuer-General in respect of the valuation of heritage restricted land.

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 [1] amends section 14G (in relation to heritage restricted land other than land listed on the State Heritage Register) to give effect to the object outlined in the Overview above.

Schedule 1 [2] enables regulations of a savings or transitional nature to be made as a consequence of the proposed Act.

Schedule 1 [3] validates the past valuations of the Valuer-General (but without affecting the decision of the Court of Appeal in relation to the particular valuation of land concerned).

Schedule 2 Amendment of Heritage Act 1977 No 136

Schedule 2 amends section 123 (in relation to land listed on the State Heritage Register) to give effect to the object outlined in the Overview above.

First print



New South Wales

Valuation of Land Amendment Bill 2009

Contents

	Page
1 Name of Act	2
2 Commencement	2
Schedule 1 Amendment of Valuation of Land Act 1916 No 2	3
Schedule 2 Amendment of Heritage Act 1977 No 136	4



New South Wales

Valuation of Land Amendment Bill 2009

No. , 2009

A Bill for

An Act to amend the *Valuation of Land Act 1916* relating to the valuation of heritage restricted land; and to make a similar amendment to the *Heritage Act 1977*.

The Legislature of New South Wales enacts:	1
1 Name of Act	2
This Act is the <i>Valuation of Land Amendment Act 2009</i> .	3
2 Commencement	4
This Act commences on the date of assent to this Act.	5

Schedule 1	Amendment of Valuation of Land Act	1
	1916 No 2	2
[1]	Section 14G Valuation subject to heritage restrictions under EPI	3
	Insert after section 14G (1) (b):	4
	(b1) that all improvements referred to in paragraph (b) on that	5
	land are new (without any deduction being made because	6
	of their actual condition),	7
[2]	Schedule 2 Savings, transitional and other provisions	8
	Insert at the end of clause 1 (1):	9
	<i>Valuation of Land Amendment Act 2009</i>	10
[3]	Schedule 2, Part 6	11
	Insert after Part 5 of Schedule 2:	12
Part 6	Provisions consequent on enactment of	13
	Valuation of Land Amendment Act 2009	14
18	Operation of amendments	15
	(1) The amendments made to section 14G of this Act, and to	16
	section 123 of the <i>Heritage Act 1977</i> , by the <i>Valuation of Land</i>	17
	<i>Amendment Act 2009</i> are taken to have applied, and always to	18
	have applied, to any land valuation made before the	19
	commencement of this clause.	20
	(2) Subclause (1) does not affect any decision made by a court before	21
	the commencement of this clause.	22

Schedule 2 Amendment of Heritage Act 1977 No 136

[1] Section 123 Definitions

Omit “may be continued, and” from paragraph (b) of the definition of *heritage valuation*.

Insert instead “may be continued,”.

[2] Section 123, definition of “heritage valuation”

Insert after paragraph (b):

- (b1) that all improvements referred to in paragraph (b) on that land are new (without any deduction being made because of their actual condition),