Queensland

Valuation of Land and Other Legislation Amendment Bill 2010

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Contents

2010

A Bill

for

An Act to amend the *Valuation of Land Act 1944*, the *Land Court Act 2000* and the *Water Act 2000* for particular purposes and to make consequential amendments to the *Local Government Act 1993*

The Parliament of Queensland enacts—

Part 1 Preliminary

Clause 1 Short title

This Act may be cited as the *Valuation of Land and Other Legislation Amendment Act 2010*.

Clause 2 Commencement

The following provisions of this Act commence on a day to be fixed by proclamation—

- section 4(2) to the extent it inserts the definitions *adjustment factor*, *general valuation* and *general valuation schedule*.
- section 14
- sections 17 and 18
- sections 21 and 22
- section 23(1) and (3)
- section 24
- section 25(1) and (2)
- section 30(1) and (2)
- sections 33 to 35
- section 36(1)
- section 49
- section 51(1)
- part 4.

Part 2 Amendment of Valuation of Land Act 1944

Clause 3 Act amended

This part amends the *Valuation of Land Act 1944*.

Clause 4 Amendment of s 2 (Definitions)

(1) Section 2, definitions *annual valuation* and *approved form*—

omit.

(2) Section 2—

insert—

'***adjustment factor***, for lands, see section 46A(2).

approved form means a form approved under section 97.

bona fide sale—

1 A *bona fide sale*, for a provision about land, is a sale of the land on reasonable terms and conditions that a bona fide seller and buyer would require assuming—

(a) a willing, but not anxious, buyer and seller; and

(b) a reasonable period within which to negotiate the sale; and

(c) that the property was reasonably exposed to the market.

2 For paragraph 1, in considering whether terms and conditions are reasonable regard must be had to—

(a) the nature and situation of the property; and

(b) the state of the market for a property of the same type.

bond rate means—

(a) the interest calculated at the monthly yield rate published by the Reserve Bank of Australia in relation to government bonds for a 10-year period on borrowed funds that have not been repaid; or

(b) if there is no monthly yield rate published as mentioned in paragraph (a)—the interest rate prescribed under a regulation.

date of valuation means—

(a) for a provision about a general valuation—the date of valuation fixed under section 37; or

(b) for a provision about a valuation other than a general valuation (the ***subject valuation***)—the date of valuation fixed under section 37 for the general valuation in effect for the subject valuation; or

(c) for sections 3, 5 and 23—the date of valuation under paragraph (a) or (b) for the relevant valuation; or

(d) for a provision about an objection—the date of valuation for the valuation the subject of the objection.

general valuation means a general valuation fixed under the general valuation schedule.

general valuation schedule see section 36A(1).

GHG lease means a GHG injection and storage lease under the *Greenhouse Gas Storage Act 2009*.

infrastructure charges means the following—

(a) infrastructure charges under the *Sustainable Planning Act 2009*;

(b) another charge, however called, that is similar to charges mentioned in paragraph (a) imposed under another Act.

infrastructure construction, for land, means constructing infrastructure, whether on or off the land, as developed or as approved or authorized to be developed under—

(a) the *Sustainable Planning Act 2009*; or

(b) another Act relating to the land or an improvement of the land.

objector, for a provision about an objection, means the person who made the objection.

objector's land, for a provision about an objection, means the land the subject of the objection.

properly made objection—

(a) for part 4, see section 42A(1); or

(b) for part 6, see section 52AA(1).'.

Clause 5 Amendment of s 3 (Meaning of *unimproved value*)

(1) Section 3(1)(a), from 'offered' to 'require'—

omit, insert—

'negotiated as a bona fide sale'.

(2) Section 3(1)(b)—

omit, insert—

'(b) in relation to improved land—the capital sum that the fee simple of the land might be expected to realise if negotiated as a bona fide sale, assuming the improvements did not exist.'.

(3) Section 3(2) and (2A)—

omit, insert—

'(2) However, the unimproved value of improved land can not be less than the sum that would be obtained by deducting the value of improvements from the improved value on the date of valuation.

'(2A) The assumption mentioned in subsection (1)(b) is limited to the instant in time when the valuation is to be made on the date of valuation.'.

(4) Section 3(2B)—

insert—

'(c) the making or use of an improvement to the land.'.

(5) Section 3(2C), 'subsection (1) or (2)'—

omit, insert—

'subsection (1)(b)'.

(6) Section 3(4), after paragraph (b)—

insert—

'(c) there is no greater risk than that which applied to the actual use of the land in its actual condition, on the date of valuation, in realising the use of the land, or continuing the use of the land, for any purpose for which it was being used on the date of valuation;'.

(7) Section 3—

insert—

'(5) To remove any doubt, it is declared that—

(a) the benefit of a lease, agreement for lease or any other instrument of any type relating to land, or improvements on land that enhances the value of the land, as unimproved or improved must be included in its unimproved value; and

(b) the following apply for assessing the unimproved value of land—

(i) the bond rate must be adopted in analysing—

(A) the added value of improvements on the land including any allowance to be made under this section or section 5; and

(B) the added value of improvements involved in any comparable sale of improved land;

(ii) no amount can be deducted for goodwill whether in analysing the improvements on the land, or any comparable sale of improved land, or otherwise;

(iii) no deduction for any profit and risk allowance or development premium can be made for the realisation of the use of the land, or for continuing the use of the land, for any purpose for which it was being used on the date of valuation;

(iv) if the land is improved and the assessment includes a comparison with sales of vacant or lightly improved land, or with sales for redevelopment, an amount representing the development premium inherent in the value of the land as improved must be added to the level of value established by the sales;

(v) the benefit to the land of the payment of infrastructure charges or of infrastructure construction must be included; and

(c) the term 'unimproved value' defined under this section has been given a special meaning that must be applied whether or not that definition accords with the ordinary meaning of that term.'.

Clause 6 Amendment of s 4 (Meaning of *improved value*)

Section 4, from 'offered'—

omit, insert—

'negotiated as a bona fide sale.

Example—

If land has been improved by construction of commercial premises leased to tenants at market rentals, and the market value of the property as constructed and leased is assessed by capitalisation of the rental income—

(a) the improved value of the land is at least the market value; and

(b) there is to be no deduction from market value for 'goodwill' as suggested in *Lilac Pty Ltd* v *Department of Natural Resources and Water* [2008] QLC 220 or *Kent Street Pty Ltd & Ors* v *Department of Natural Resources and Mines* [2008] QLAC 221.'.

Clause 7 Amendment of s 5 (Meaning of *value of improvements*)

(1) Section 5(1), after 'added value which the'—

insert—

'physical'.

(2) Section 5(2)—

omit, insert—

‘(2) However, the value of improvements can not be more than the total of the following—

(a) the price payable for construction of the physical improvements reduced by a discount for their condition, age, physical and economic obsolescence or any other factor diminishing their value;

(b) an allowance for holding costs over the time it would take to have had constructed improvements of a nature and efficiency equivalent to the existing improvements.

‘(3) In assessing the value of improvements—

(a) the amount assessed can not be more than the total of the following—

(i) the depreciated value of the improvements, if any, recorded in books of account of the owner of the land current on the date of valuation;

(ii) an allowance for any holding costs over the time it would take to have had constructed improvements of a nature and efficiency equivalent to the existing improvements; and

(b) the price payable for the construction of the physical improvements must be calculated based on the level of construction costs current on the date of valuation and no allowance can be made for any additional costs by way of escalation.

‘(4) In this section—

holding costs means rates, land tax and the interest cost at the bond rate of applying funds for the construction of physical improvements and holding the land during the construction period for the improvements.’.

Clause 8 Amendment of s 6 (Meaning of *improvements*)

Section 6—

insert—

‘(5) In this section—

invisible, for improvements, means physical improvements to land that may not be readily apparent because they merge with the land and lose their character or identity.

Examples—

drainage, reclamation and filling’.

Clause 9 Amendment of s 7 (Meaning of *owner*)

(1) Section 7(2)(d), ‘mining lease’—

omit, insert—

‘GHG lease, mining lease or petroleum lease’.

(2) Section 7(2)(f) and (g)—

renumber as section 7(2)(g) and (h).

(3) Section 7(2)—

insert—

‘(f) a lessee of land held from a local government that holds the land under a lease from the State; and’.

(4) Section 7—

insert—

‘(5) The chief executive of the department in which the *Housing Act 2003* is administered is the ***owner*** of land leased by that chief executive under that Act.’.

Clause 10 Amendment of s 8 (Meaning of *subdivide*)

Section 8(3)—

insert—

‘(d) the lease is from a local government that holds the land under a lease from the State.’.

Clause 11 Omission of s 9 (Housing chief executive as owner)

Section 9—

omit.

Clause 12 Omission of s 10 (References to valuer-general)

Section 10—

omit.

Clause 13 Amendment of s 20 (Chief executive to fix date of valuations or alterations of valuations)

Section 20, heading, after 'date of'—

insert—

'**effect of**'.

Clause 14 Amendment of s 21 (Omissions from valuations)

(1) Section 21(1), 'an annual valuation'—

omit, insert—

'a general valuation'.

(2) Section 21(3), 'annual valuation'—

omit, insert—

'general valuation'.

Clause 15 Amendment of s 23 (Chief executive may value stratum or volumetric lot)

(1) Section 23(2), from 'offered' to 'require'—

omit, insert—

'negotiated as a bona fide sale'.

(2) Section 23(2A)—

omit, insert—

‘(2A) The assumption mentioned in subsection (2)(a) is limited to the instant in time when the valuation is to be made on the date of valuation.’.

(3) Section 23(2B)—

insert—

‘(c) the making or use of an improvement to the stratum or volumetric lot.’.

(4) Section 23(3), after paragraph (b)—

insert—

‘(c) there is no greater risk than that which applied to the actual use of the stratum or volumetric lot in its actual condition, on the date of valuation, in realising the use of the lot, or continuing the use of the lot, for any purpose for which it was being used on the date of valuation;’.

(5) Section 23—

insert—

‘(4A) To remove any doubt, it is declared that—

(a) the benefit of a lease, agreement for lease or any other instrument of any type relating to a stratum or volumetric lot, or improvements on a stratum or volumetric lot, that enhances the value of the lot as unimproved or improved must be included in its unimproved value; and

(b) the following apply for assessing the unimproved value of a stratum or volumetric lot—

(i) the bond rate must be adopted in analysing—

(A) the added value of improvements on or in the lot including any allowance to be made under this section or section 5; and

(B) the added value of improvements involved in any comparable sale;

(ii) no amount can be deducted for goodwill whether in analysing the improvements on or in the lot, or any comparable sale, or otherwise;

(iii) no deduction for any profit and risk allowance or development premium can be made for the realisation of the use of the stratum or volumetric lot, or for continuing the use of the lot, for any purpose for which it was being used on the date of valuation;

(iv) if the lot is improved and the assessment includes a comparison with sales of vacant or lightly improved lots, or with sales for redevelopment, an amount representing the development premium inherent in the value of the lot as improved must be added to the level of value established by the sales;

(v) the benefit to the lot of the payment of infrastructure charges or of infrastructure construction must be included; and

(c) the meaning of the term 'unimproved value', as affected under this section for a stratum or volumetric lot, has been given a special meaning that must be applied whether or not that definition accords with the ordinary meaning of that term.'.

Clause 16 Amendment of s 26 (Valuation of petroleum leases and GHG leases)

Section 26(2), definition *GHG lease*—

omit.

Clause 17 Amendment of s 27 (Valuation of prescribed land)

(1) Section 27, 'an annual valuation'—

omit, insert—

'a general valuation'.

(2) Section 27(4), 'new annual valuation'—

omit, insert—

'new general valuation'.

(3) Section 27(7), definition *issue*, 'the annual valuation'—

omit, insert—

'the general valuation'.

Clause 18 Amendment of s 28 (Alteration of valuation in force or to come into force)

(1) Section 28(1), 'any annual valuation'—

omit, insert—

'any general valuation'.

(2) Section 28(1), 'an annual valuation'—

omit, insert—

'a general valuation'.

Clause 19 Amendment of s 34 (Lands to be included in 1 valuation)

Section 34(2A)—

insert—

'(c) a lease from a local government that holds the land under a lease from the State.'.

Clause 20 Amendment of s 35 (Separate valuation)

Section 35(1A)—

insert—

'(c) a lease from a local government that holds the land under a lease from the State.'.

Clause 21 Replacement of pt 4, hdg (Annual valuations)

Part 4, heading—

omit, insert—

‘Part 4 General valuations

‘Division 1 Making general valuations

‘36A Schedule of areas to be valued

‘(1) A regulation must make a schedule (the ***general valuation schedule***) of the years during the next 10 years on which a valuation of all lands in each area is to be made under this part (each a ***general valuation***).

‘(2) The general valuation schedule must provide that areas are subject to a general valuation at—

(a) 3-year intervals for Brisbane, Bundaberg, Burdekin, Cairns, Cassowary Coast, Fraser Coast, Gladstone, Gold Coast, Goondiwindi, Gympie, Hinchinbrook, Ipswich, Lockyer Valley, Logan, Mackay, Moreton Bay, North Burnett, Redlands, Rockhampton, Scenic Rim, Somerset, South Burnett, Southern Downs, Sunshine Coast, Tablelands, Toowoomba, Townsville, Western Downs and Whitsunday; and

(b) 4-year intervals for Balonne, Banana, Central Highlands, Charters Towers, Isaac and Maranoa; and

(c) for any other area—5-year intervals.

‘(3) The general valuation schedule may be amended no earlier than 5 years and no later than 1 year before it expires.

‘(4) However, the general valuation schedule may be amended for a particular area because of an unusual circumstance.

Examples of an unusual circumstance—

civil disturbance, extreme climatic conditions, industrial action, changes in the way valuations are made, computer failure

‘(5) An amendment made under subsection (4) may change the intervals under subsection (2) for the area.’.

Clause 22 Replacement of ss 37–39

Sections 37 to 39—

omit, insert—

‘37 Obligation to make general valuations

‘The chief executive must—

(a) make general valuations in accordance with the general valuation schedule; and

(b) fix a date of valuation for each general valuation.

‘38 Duration of general valuation

‘(1) A general valuation takes effect from the next 30 June after its making.

‘(2) Subject to sections 28 to 30 and 43, 45, 53, 55, 64 to 66 and 68, a general valuation continues in force until the next general valuation for the land to which it relates takes effect.

‘(3) However, subsection (4) applies if—

(a) the unimproved value of land is altered by the loss, under a resource operations plan, of a water licence the value of which formed part of the unimproved value of the land; and

(b) the loss happened during the period of 1 year before a general valuation for the land would otherwise have had effect under subsection (1).

‘(4) The effect of the loss is not to be reflected in the valuation of the land until the next 30 June after the general valuation became effective under subsection (1).’.

Clause 23 Amendment of s 40 (Particulars of annual valuation to be available for inspection)

(1) Section 40, heading, subsection (1) and subsection (4), ‘annual valuation’—

omit, insert—

'general valuation'.

(2) Section 40(1), 'such places as'—

omit, insert—

'the places and in the form'

(3) Section 40, 'an annual valuation'—

omit, insert—

'a general valuation'.

Clause 24 Amendment of s 41 (Advertisements)

Section 41(1), 'an annual valuation'—

omit, insert—

'a general valuation'.

Clause 25 Amendment of s 41A (Notice to owners about valuations)

(1) Section 41A(1), 'an annual valuation'—

omit, insert—

'a general valuation'.

(2) Section 41A(1)(b), 'annual valuation'—

omit, insert—

'general valuation'.

(3) Section 41A(2)(b)—

omit, insert—

'(b) state the date of valuation and the date of issue of the notice; and'.

Clause 26 Replacement of ss 42 and 43

Sections 42 and 43—

omit, insert—

‘Division 2 Objections and appeals

‘42 Objection to general valuation

‘(1) An owner who is dissatisfied with a general valuation of the owner’s land may object to the valuation.

‘(2) An owner of land may object to the valuation of the land for rental or land tax purposes if—

(a) the owner has not previously objected under subsection (1); or

(b) the owner has objected under subsection (1) and the valuation differs from the valuation the subject of the objection.

‘(3) Despite subsections (1) and (2), an objection under either subsection may be made only if—

(a) it is given to the chief executive within 45 days after the date of issue of the relevant notice of valuation under section 41A(1); and

(b) it is a properly made objection.

‘(4) Subsection (3)(a) is subject to section 44.

‘(5) Subsection (3)(b) is subject to section 42C.

‘(6) To remove any doubt, it is declared that the owner can not make an objection to the general valuation other than as provided for under this section.

‘42A What is a *properly made objection*

‘(1) A ***properly made objection*** is an objection that complies with all of the following requirements—

(a) the objection must be—

(i) in the approved form; and

(ii) signed by the objector or, if it is signed by an agent for the objector, accompanied by the objector’s written consent to the objection;

(b) the objection must state all of the following—

(i) the objector's address for service for any notices concerning the objection;

(ii) information that identifies the objector's land, including, for example, the property identification number, real property description or property address shown on the notice about the valuation under section 41A;

(iii) the amount the objector seeks for the valuation;

(iv) the grounds of objection to the valuation, with particulars of the facts and circumstances relied upon for each of the grounds;

(v) any other matter prescribed under a regulation;

(c) if a ground of objection to the valuation concerns the comparability of the sale of any other land, the ground must state full details of—

(i) the sale; and

(ii) the reasons why the objector contends the sale is relevant to the valuation of the objector's land; and

(iii) the basis of comparison between the objector's land and the land the subject of the sale;

(d) if a ground of objection to the valuation concerns the value of improvements of the objector's land, the ground must state all of the following—

(i) any market value of the objector's land as improved recorded in the objector's books of account current on the date of valuation;

(ii) the improved value of the objector's land contended for by the objector;

(iii) the amount of the replacement cost of the improvements contended for by the objector;

(iv) the insurance replacement cost of any improvements recorded in any of the objector's books of account current on the date of valuation;

(v) the depreciated value of the improvements (if any) recorded in any of the objector's books of account current on the date of valuation;

(vi) the value of the improvements contended for by the objector;

(e) the objection must be accompanied by—

(i) the information the objector seeks to rely on to establish the grounds of the objection; and

(ii) any of the following in the possession or control of the objector relating to the value of the objector's land or the value of improvements—

(A) valuation reports;

(B) depreciation schedules;

(C) assessments of insurance replacement cost of improvements; and

(iii) any other information prescribed under a regulation;

(f) the objection must be accompanied by the fee prescribed under a regulation.

Note—

If a correction notice under section 42C is not complied with, the objection is taken under that section not to be a properly made objection.

'(2) The approved form must state—

(a) the matters the chief executive considers appropriate about the objection process under this part, including, for example, about objections that are not properly made objections; and

(b) that the chief executive can not decide an objection that is not a properly made objection.

‘(3) In this section—

information includes expert opinion evidence.

Example—

an expert opinion concerning any of the matters mentioned in subsection (1)(c)

‘42B Particular objections taken to be to valuations for different purposes

‘(1) This section applies if the chief executive has made a valuation of the same amount for—

(a) a general valuation; and

(b) a valuation for either rental or land tax purposes.

‘(2) An objection to a valuation mentioned in subsection (1)(a) or (b) is taken to be an objection to both valuations.

‘42C Assessment of whether objection is properly made

‘(1) The chief executive must consider an objection made under section 42 and assess whether or not it is a properly made objection.

‘(2) If the decision is that the objection is not a properly made objection, the chief executive must give the objector a notice (a ***correction notice***) stating all of the following—

(a) the date the chief executive issued the correction notice;

(b) that the objection is not a properly made objection;

(c) why the objection is not a properly made objection;

(d) that the objector must, within 14 days after the day the notice was issued, amend the objection so that it is a properly made objection;

(e) that if the objection is not amended within the 14 days so that it is a properly made objection—

(i) under subsection (4), the objection will be taken not to be a properly made objection; and

(ii) section 43(2) will prohibit the chief executive from deciding the objection; and

(iii) section 45(2)(c) will prohibit any appeal to the Land Court about the valuation of the objector's land.

'(3) Subsections (4) to (6) apply if the objector does not, within the 14 days, amend the objection so that it is a properly made objection.

'(4) The objection is taken not to be a properly made objection.

'(5) The chief executive must, within 28 days, give the objector written notice that—

(a) under this section the objection is taken not to be a properly made objection; and

(b) section 43(2) prohibits the chief executive from deciding the objection.

'(6) A failure to comply with subsection (5) does not limit or otherwise affect subsection (4).

'43 Consideration of properly made objection

'(1) The chief executive must consider and decide each objection under section 42.

'(2) However, the chief executive can not decide an objection that is not a properly made objection.

Note—

For other circumstances in which an objection must not be considered, see sections 43BC and 43C.

'(3) The decision must be to—

(a) allow the objection on the terms and to the extent the chief executive considers appropriate; or

(b) disallow the objection; or

(c) disallow the objection and change the amount of the valuation.

‘43AA Notice of decision

‘(1) The chief executive must, as soon as practicable after making a decision under section 43, give the objector written notice of the decision and the reasons for it.

‘(2) The notice must state the date it was issued.’.

Clause 27 Amendment of s 43A (Conference about objection to valuation)

(1) Section 43A(1), ‘owner’—

omit, insert—

‘objector’.

(2) Section 43A(3), after ‘section 45’—

insert—

‘or in an application for review under the *Judicial Review Act 1991*, section 20 of a decision by the chief executive’

(3) Section 43A(3), ‘owner’—

omit, insert—

‘appellant’.

Clause 28 Amendment of s 43B (Chairperson of conference)

Section 43B(4)(a), ‘owner’—

omit, insert—

‘objector’.

Clause 29 Insertion of new ss 43BA–43BD

After section 43B—

insert—

‘43BA When objector may give further information

‘(1) If a conference is held under section 43A, the objector may, within 14 days after the conference ends, give the chief executive further written information that—

(a) supports the grounds in the objection; or

(b) raises a new ground of objection or relates to another matter raised at the conference.

‘(2) Whether or not a conference under section 43A has been held, the chief executive may invite an objector under section 42 to give the chief executive further written information (the ***invited information***)—

(a) that supports the grounds in the objection; or

(b) to clarify grounds in the objection or any thing stated in the objection.

‘(3) The invitation must—

(a) be by written notice to the objector’s address for service stated in the objection; and

(b) state the date the chief executive issued the invitation.

‘(4) The invited information may be given only within the following period (the ***required period***)—

(a) generally—the period that ends 14 days after the date the chief executive issued the invitation (the ***usual period***);

(b) if, within the 14 days, the chief executive and the objector agree in writing to a later period that ends no more than 14 days after the usual period ends—the later period.

‘(5) Further information given under this section is not without prejudice.

Notes—

1 The giving, under this section or section 43BB or 43BC, of further information does not, of itself, change the objection. For how and when an objection can be amended, see section 43BD.

2 Particular amendments relating to the giving of the further information can only be made when the further information is given—see section 43BD(4).

3 In any subsequent appeal against the decision on the objection, only grounds in the objection before the chief executive when the decision was made may be relied on—see section 45(6).

‘43BB When objector must give further information

‘(1) This section applies if—

(a) the chief executive considers further information, other than information the subject of legal professional privilege—

(i) is likely to be in the objector’s custody, possession or power; and

(ii) will likely be relevant to the deciding of an objection made under section 42; and

Examples of possible further information—

any of the following about the objector’s land or other land—

- 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 the development

(b) the valuation objected against is more than the following amount—

(i) if any amount of more than $2m has been prescribed under a regulation—the prescribed amount;

(ii) if no amount has been prescribed—$2m.

‘(2) This section applies—

(a) whether or not—

(i) a conference under section 43A has been held; or

(ii) the information is the subject of an invitation under section 43BA(2); and

(b) whether the information is a document or other information; and

(c) even if the information came into existence for a purpose unrelated to the objection.

Examples of purposes unrelated to the objection—

- the obtaining of finance
- compliance with a requirement under the Corporations Act

‘(3) The chief executive may give the objector a written notice (an ***information requirement***) requiring the objector to give the chief executive in writing all of the information within the following period (the ***required period***)—

(a) generally—the period that ends 28 days after the date the chief executive issued the information requirement (the ***usual period***);

(b) if, within the 28 days, the chief executive and the objector agree in writing to a later period that ends no more than 14 days after the usual period ends—the later period.

‘(4) The information requirement must—

(a) state the date the chief executive issued the information requirement; and

(b) describe the information required to be given.

Example of a description of information—

for a comparative sale mentioned in the objection, a detailed breakdown of the components of the sale, including, if applicable, any demolition costs and details of quantity and costs of site filling

‘(5) For subsection (4)(b), the description is sufficient if it is by reference to the information’s nature or type.

‘43BC Lapsing of objection for noncompliance with information requirement

‘(1) This section applies if the chief executive considers an objector has not, within the required period under section 43BB, complied with all or part of an information requirement under that section.

‘(2) The chief executive may give the objector a notice (a ***lapsing notice***) stating—

(a) the information (the ***outstanding information***) the chief executive considers the objector must give the chief executive to comply with the information requirement; and

(b) that if the objector does not give the chief executive the outstanding information in writing within 14 days after the day the lapsing notice was issued—

(i) the objection will lapse; and

(ii) the chief executive will not be required to consider or further consider the objection.

‘(3) If the objector has not, within the 14 days, given the chief executive the outstanding information in writing—

(a) the objection lapses; and

(b) the chief executive is not required to consider or further consider the objection.

‘(4) However—

(a) subsection (3) does not apply if—

(i) the outstanding information would, at common law, be privileged from production in a proceeding; or

(ii) within the 14 days the objector gives the chief executive a statutory declaration declaring that the outstanding information is not in the objector’s custody, possession or power; and

(b) if, within the 14 days, the decision to make the information requirement or the decision to give the lapsing notice is stayed by a court, subsection (3) does not apply until the time, if any, decided by that court.

'(5) For subsection (4)(a)(ii), the statutory declaration must be sworn by—

(a) if the objector is an individual—the objector; or

(b) if the objector is a corporation—an individual with knowledge of the matter who is lawfully authorised to swear the declaration for the objector.

'43BD How and when an objection can be amended

'(1) An objection can not be amended other than as provided for under this section.

'(2) If, under section 42C, a correction notice is given for an objection, the objection may, within the period provided for under that section, be amended so that it is a properly made objection.

Note—

If the objection is not so amended, under section 42C it is taken to not be a properly made objection.

'(3) An objection may be amended to change—

(a) information that identifies the objector's land; or

(b) the objector's address for service for any notices concerning the objection; or

(c) the amount of the valuation sought; or

(d) the grounds stated in the objection, or the facts and circumstances that are the basis for the grounds, if the change is to—

(i) withdraw a ground or the facts or circumstances; or

(ii) reflect an additional matter raised in further information given under section 43BA to 43BC; or

(e) the information stated in the objection that the objector seeks to rely on to include further information given under section 43BA to 43BC.

‘(4) However, an objection can not be amended if—

(a) the objection as amended would not be a properly made objection; or

(b) the amendment is sought to be made—

(i) for an amendment mentioned in subsection (3)(a), (b), (c) or (d)(i)—after the objection has been decided, whether or not notice of the decision has been given to the objector; or

(ii) for an amendment mentioned in subsection (3)(d)(ii) or (e)—other than when the further information is given.

‘(5) An amendment to an objection permitted under this section can only be made by signed notice to the chief executive.

‘(6) If an objector purports to amend an objection other than under this section, the chief executive must disregard the purported amendment when deciding the objection.’.

Clause 30 Amendment of s 43C (Effect on objection of change in valuation)

(1) Section 43C(1)(a), ‘an annual valuation’—

omit, insert—

‘a general valuation’.

(2) Section 43C(1)(b), ‘annual valuation’—

omit, insert—

‘general valuation’.

(3) Section 43C(1)(c), ‘owner’—

omit, insert—

‘objector’.

(4) Section 43C(2), ‘required’

omit, insert—

‘authorised’.

Clause 31 Amendment of s 44 (Late objection)

(1) Section 44(1)(b), from ‘posts’ to ‘writing’—

omit, insert—

‘makes an objection’.

(2) Section 44(1)(c)—

renumber as section 44(1)(d).

(3) Section 44(1)—

insert—

‘(c) the objection is a properly made objection; and’.

(4) Section 44(2), from ‘through’ to ‘person’—

omit, insert—

‘because of the person’s mental or physical incapacity, an extreme circumstance or an extraordinary emergency’.

Clause 32 Replacement of s 45 (Appeal)

Section 45—

omit, insert—

‘45 Appeal

‘(1) An objector who has objected under section 42 against a valuation may, if dissatisfied with the decision of the chief executive on the objection, appeal to the Land Court against the decision.

‘(2) However, an objector can not appeal if—

(a) the amount of the valuation sought in the objection was less than the valuation and the decision was to change the valuation to an amount that is equal to or less than that amount; or

(b) the amount of the valuation sought in the objection was more than the valuation and the decision was to change the valuation to that amount; or

(c) the objection is not a properly made objection; or

(d) the chief executive has not made a decision under section 43 on the objection.

‘(3) An appeal may be started only by filing a notice of appeal in the Land Court registry.

‘(4) However, other than under section 57, an appeal can not be filed after 42 days after the date of issue stated in the chief executive’s decision on the objection.

‘(5) The notice of appeal must state—

(a) the grounds of appeal; and

(b) the amount the appellant seeks for the valuation.

‘(6) The stated grounds of appeal can only include grounds included in the objection.

Note—

For when the grounds in an objection may be amended, see section 43BD.

‘(7) The appellant must serve a copy of the notice of appeal on the chief executive within 7 days after the filing of the notice of appeal.

‘(8) Sections 57 to 68 and section 70 apply, with necessary changes, to an appeal under this section as if the appeal were an appeal under part 6A.’.

Clause 33 Insertion of new pt 4, div 3

Part 4, after section 46—

insert—

‘Division 3 Adjustment factors if general valuation not made

‘46A Obligation to fix adjustment factor if general valuation not made

‘(1) This section applies if, under the general valuation schedule for a year, a general valuation is not to be made for an area for that year.

‘(2) Before 31 March in that year the chief executive must fix a factor or factors for lands in the area (the ***adjustment factor*** for the lands) to reflect any change in the market for the area since the last general valuation for the area took effect.

‘(3) However, subsection (2) does not apply if—

(a) because of unusual circumstances, the chief executive considers it is not practicable to fix an adjustment factor for the area; or

Examples of unusual circumstances—

civil disturbance, extreme climatic conditions, industrial action, changes in the way valuations are made, computer failure

(b) the chief executive considers the change in the market since the taking of effect of the later of the following is less than 10%—

(i) the last general valuation for the area;

(ii) the last adjustment factor for the lands.

‘(4) The chief executive may fix—

(a) an adjustment factor for all or any grouping of lands in an area based on categorisation criteria the chief executive considers appropriate; or

(b) the same factor for all of the area.

‘46B Notice of adjustment factor

‘Before each 31 March the chief executive must publish a gazette notice or a notice on the department’s website stating—

(a) each adjustment factor that will have effect from the next 30 June; and

(b) the name of the relevant area for each of the adjustment factors; and

(c) the grouping of lands to which each of the adjustment factors apply.

‘46C Submissions before fixing adjustment factor

‘(1) Before fixing an adjustment factor, the chief executive must—

(a) seek submissions from stakeholders the chief executive considers appropriate within a reasonable period before fixing the factor; and

Examples of stakeholders—

local governments, professional and property industry representative organisations and other government agencies

(b) consider the submissions.

‘(2) To remove any doubt, it is declared that subsection (1)(b) does not prevent the chief executive from considering anything else the chief executive considers relevant to fixing the adjustment factor.

‘46D Advisory panel

‘The chief executive may form an advisory panel of stakeholders the chief executive considers appropriate to give the chief executive advice about the fixing of adjustment factors.

‘46E Duration of adjustment factor

‘An adjustment factor has effect for the lands to which it applies from the 30 June after notice of it is published under section 46B until the taking of effect of the earlier of the following for the lands—

(a) a new general valuation;

(b) a new adjustment factor.

‘46F Adjustment of valuation by adjustment factor

‘(1) This section applies while an adjustment factor has effect for land.

‘(2) For section 72, the valuation of the land is adjusted to reflect the adjustment factor.

‘(3) Subsection (2) applies despite section 72.

‘46G Adjustment is not a valuation

‘To remove any doubt, it is declared that the figure resulting from the adjustment under section 46F is not a valuation.’.

Clause 34 Amendment of s 47 (Valuation rolls—particulars and form)

Section 47(2), ‘annual valuations’—

omit, insert—

‘general valuations’.

Clause 35 Amendment of pt 6, hdg (Notice of valuation (other than annual) and objections)

Part 6, heading, ‘annual’—

omit, insert—

‘**general**’.

Clause 36 Amendment of s 50 (Notice of valuation (other than annual))

(1) Section 50, heading, 'annual'—

omit, insert—

'**general**'.

(2) Section 50(1), from 'such notice shall'—

omit, insert—

'the notice must state all of the following—

(a) the date of valuation and the date of issue of the notice;

(b) that the owner may object to the valuation within 45 days after the date of issue of the notice;

(c) the way in which an objection may be made.'.

Clause 37 Replacement of s 52 (Objections to valuation)

Section 52—

omit, insert—

'52 Objection to valuation (other than general)

'(1) An owner who is dissatisfied with a valuation, other than a general valuation, of the owner's land may object to the valuation.

'(2) However, the objection may be made only if—

(a) it is given to the chief executive within 45 days after the date of issue of the relevant notice of valuation under section 50(1); and

(b) it is a properly made objection.

'(3) Subsection (2)(a) is subject to section 52A.

'(4) Subsection (2)(b) is subject to section 52AB.

'(5) To remove any doubt, it is declared that the owner can not make an objection to the valuation other than as provided for under this section.

‘52AA What is a *properly made objection*

‘(1) A ***properly made objection*** is an objection that complies with all of the following requirements—

(a) the objection must be—

(i) in the approved form; and

(ii) signed by the objector or, if it is signed by an agent for the objector, accompanied by the objector’s written consent to the objection;

(b) the objection must state all of the following—

(i) the objector’s address for service for any notices concerning the objection;

(ii) information that identifies the objector’s land, including, for example, the property identification number, real property description or property address shown on the notice of valuation under section 50;

(iii) the amount the objector seeks for the valuation;

(iv) the grounds of objection to the valuation, with particulars of the facts and circumstances relied upon for each of the grounds;

(v) any other matter prescribed under a regulation;

(c) if a ground of objection to the valuation concerns the comparability of the sale of any other land, the ground must state full details of—

(i) the sale; and

(ii) the reasons why the objector contends the sale is relevant to the valuation of the objector’s land; and

(iii) the basis of comparison between the objector’s land and the land the subject of the sale;

(d) if a ground of objection to the valuation concerns the value of improvements of the objector’s land, the ground must state all of the following—

(i) any market value of the objector's land as improved recorded in the objector's books of account current on the date of valuation;

(ii) the improved value of the objector's land contended for by the objector;

(iii) the amount of the replacement cost of the improvements contended for by the objector;

(iv) the insurance replacement cost of any improvements recorded in any of the objector's books of account current on the date of valuation;

(v) the depreciated value of the improvements (if any) recorded in any of the objector's books of account current on the date of valuation;

(vi) the value of the improvements contended for by the objector;

(e) the objection must be accompanied by—

(i) the information the objector seeks to rely on to establish the grounds of the objection; and

(ii) any of the following in the possession or control of the objector relating to the value of the objector's land or the value of improvements—

(A) valuation reports;

(B) depreciation schedules;

(C) assessments of insurance replacement cost of improvements; and

(iii) any other information prescribed under a regulation;

(f) the objection must be accompanied by the fee prescribed under a regulation.

Note—

If a correction notice under section 52AB is not complied with, the objection is taken under that section not to be a properly made objection.

‘(2) The approved form must state—

(a) the matters the chief executive considers appropriate about the objection process under this part, including, for example, about objections that are not properly made objections; and

(b) that the chief executive can not decide an objection that is not a properly made objection.

‘(3) In this section—

information includes expert opinion evidence.

Example—

an expert opinion concerning any of the matters mentioned in subsection (1)(c)

‘52AB Assessment of whether objection is properly made

‘(1) The chief executive must consider an objection made under section 52 and assess whether or not it is a properly made objection.

‘(2) If the decision is that the objection is not a properly made objection, the chief executive must give the objector a notice (a ***correction notice***) stating all of the following—

(a) the date the chief executive issued the correction notice;

(b) that the objection is not a properly made objection;

(c) why the objection is not a properly made objection;

(d) that the objector must, within 14 days after the day the notice was issued, amend the objection so that it is a properly made objection;

(e) that if the objection is not amended within the 14 days so that it is a properly made objection—

(i) under subsection (4), the objection will be taken not to be a properly made objection; and

(ii) section 53(2) will prohibit the chief executive from deciding the objection; and

(iii) section 55(2)(c) will prohibit any appeal to the Land Court about the valuation of the objector's land.

'(3) Subsections (4) to (6) apply if the objector does not, within the 14 days, amend the objection so that it is a properly made objection.

'(4) The objection is taken not to be a properly made objection.

'(5) The chief executive must, within 28 days, give the objector written notice that—

(a) under this section the objection is taken not to be a properly made objection; and

(b) section 53(2) prohibits the chief executive from deciding the objection.

'(6) A failure to comply with subsection (5) does not limit or otherwise affect subsection (4).'.

Clause 38 Amendment of s 52A (Late objections to valuation)

(1) Section 52A(1)(b), from 'posts' to 'writing'—

omit, insert—

'makes an objection'.

(2) Section 52A(1)(c)—

renumber as section 52A(1)(d).

(3) Section 52A(1)—

insert—

'(c) the objection is a properly made objection; and'.

(4) Section 52A(2), from 'through' to 'person'—

omit, insert—

'because of the person's mental or physical incapacity, an extreme circumstance or an extraordinary emergency'.

Clause 39 Amendment of s 53 (Consideration of objections)

(1) Section 53(2) to (9)—

renumber as section 53(4) to (11).

(2) Section 53, before subsection (4), as renumbered—

omit, insert—

‘53 Consideration of properly made objection

‘(1) The chief executive must consider and decide each objection under section 52.

‘(2) However, the chief executive can not decide an objection that is not a properly made objection.

Note—

For other circumstances in which an objection must not be considered, see sections 53C and 54(5).

‘(3) The decision must be to—

(a) allow the objection on the terms and to the extent the chief executive considers appropriate; or

(b) disallow the objection; or

(c) disallow the objection and change the amount of the valuation.’.

(3) Section 53(4), (7), (9) and (11)(a), as renumbered, ‘owner’—

omit, insert—

‘objector’.

(4) Section 53(6), as renumbered, after ‘sections 55 to 68’—

insert—

‘or in an application for review under the *Judicial Review Act 1991*, section 20 of a decision by the chief executive’.

(5) Section 53(6), as renumbered, ‘owner’—

omit, insert—

‘appellant’.

(6) Section 53(8), as renumbered, ‘owners’—

omit, insert—

'objectors'.

Clause 40 Insertion of new ss 53A–53D

After section 53—

insert—

'53A When objector may give further information

'(1) If a conference is held under section 53, the objector may, within 14 days after the conference ends, give the chief executive further written information that—

(a) supports the grounds in the objection; or

(b) raises a new ground of objection or relates to another matter raised at the conference.

'(2) Whether or not a conference under section 53 has been held, the chief executive may invite an objector under section 52 to give the chief executive further written information (the ***invited information***)—

(a) that supports the grounds in the objection; or

(b) to clarify grounds in the objection or any thing stated in the objection.

'(3) The invitation must—

(a) be by written notice to the objector's address for service stated in the objection; and

(b) state the date the chief executive issued the invitation.

'(4) The invited information may be given only within the following period (the ***required period***)—

(a) generally—the period that ends 14 days after the date the chief executive issued the invitation (the ***usual period***);

(b) if, within the 14 days, the chief executive and the objector agree in writing to a later period that ends no more than 14 days after the usual period ends—the later period.

‘(5) Further information given under this section is not without prejudice.

Notes—

1 The giving, under this section, section 53B or 53C, of further information does not, of itself, change the objection. For how and when an objection can be amended, see section 53D.

2 Particular amendments relating to the giving of the further information can only be made when the further information is given—see section 53D(4).

3 In any subsequent appeal against the decision on the objection, only grounds in the objection before the chief executive when the decision was made may be relied on—see section 56(3).

‘53B When objector must give further information

‘(1) This section applies if—

(a) the chief executive considers further information, other than information the subject of legal professional privilege—

(i) is likely to be in the objector’s custody, possession or power; and

(ii) will likely be relevant to the deciding of an objection made under section 52; and

Examples of possible further information—

any of the following about the objector’s land or other land—

- 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 the development

(b) the valuation objected against is more than the following amount—

(i) if any amount of more than $2m has been prescribed under a regulation—the prescribed amount;

(ii) if no amount has been prescribed—$2m.

‘(2) This section applies—

(a) whether or not—

(i) a conference under section 53 has been held; or

(ii) the information is the subject of an invitation under section 53A(2); and

(b) whether the information is a document or other information; and

(c) even if the information came into existence for a purpose unrelated to the objection.

Examples of purposes unrelated to the objection—

- the obtaining of finance
- compliance with a requirement under the Corporations Act

‘(3) The chief executive may give the objector a written notice (an ***information requirement***) requiring the objector to give the chief executive in writing all of the information within the following period (the ***required period***)—

(a) generally—the period that ends 28 days after the date the chief executive issued the information requirement (the ***usual period***);

(b) if, within the 28 days, the chief executive and the objector agree in writing to a later period that ends no more than 14 days after the usual period ends—the later period.

‘(4) The information requirement must—

(a) state the date the chief executive issued the information requirement; and

(b) describe the information required to be given.

Example of a description of information—

for a comparative sale mentioned in the objection, a detailed breakdown of the components of the sale, including, if applicable, any demolition costs and details of quantity and costs of site filling

‘(5) For subsection (4)(b), the description is sufficient if it is by reference to the information’s nature or type.

‘53C Lapsing of objection for noncompliance with information requirement

‘(1) This section applies if the chief executive considers an objector has not, within the required period under section 53B, complied with all or part of an information requirement under that section.

‘(2) The chief executive may give the objector a notice (a ***lapsing notice***) stating—

(a) the information (the ***outstanding information***) the chief executive considers the objector must give the chief executive to comply with the information requirement; and

(b) that if the objector does not give the chief executive the outstanding information in writing within 14 days after the day the lapsing notice was issued—

(i) the objection will lapse; and

(ii) the chief executive will not be required to consider or further consider the objection.

‘(3) If the objector has not, within the 14 days, given the chief executive the outstanding information in writing—

(a) the objection lapses; and

(b) the chief executive is not required to consider or further consider the objection.

‘(4) However—

(a) subsection (3) does not apply if—

(i) the outstanding information would, at common law, be privileged from production in a proceeding; or

(ii) within the 14 days the objector gives the chief executive a statutory declaration declaring that the outstanding information is not in the objector's custody, possession or power; and

(b) if, within the 14 days, the decision to make the information requirement or the decision to give the lapsing notice is stayed by a court, subsection (3) does not apply until the time, if any, decided by that court.

'(5) For subsection (4)(a)(ii), the statutory declaration must be sworn by—

(a) if the objector is an individual—the objector; or

(b) if the objector is a corporation—an individual with knowledge of the matter who is lawfully authorised to swear the declaration for the objector.

'53D How and when an objection can be amended

'(1) An objection can not be amended other than as provided for under this section.

'(2) If, under section 52AB, a correction notice is given for an objection, the objection may, within the period provided for under that section, be amended so that it is a properly made objection.

Note—

If the objection is not so amended, under section 52AB it is taken to not be a properly made objection.

'(3) An objection may be amended to change—

(a) information that identifies the objector's land; or

(b) the objector's address for service for any notices concerning the objection; or

(c) the amount of the valuation sought; or

(d) the grounds stated in the objection, or the facts and circumstances that are the basis for the grounds, if the change is to—

(i) withdraw a ground, or the facts or circumstances; or

(ii) reflect an additional matter raised in further information given under section 53A to 53C; or

(e) the information stated in the objection that the objector seeks to rely on to include further information given under section 53A to 53C.

‘(4) However, an objection can not be amended if—

(a) the objection as amended would not be a properly made objection; or

(b) the amendment is sought to be made—

(i) for an amendment mentioned in subsection (3)(a), (b), (c) or (d)(i)—after the objection has been decided, whether or not notice of the decision has been given to the objector; or

(ii) for an amendment mentioned in subsection (3)(d)(ii) or (e)—other than when the further information is given.

‘(5) An amendment to an objection permitted under this section can only be made by signed notice to the chief executive.

‘(6) If an objector purports to amend an objection other than under this section, the chief executive must disregard the purported amendment when deciding the objection.’.

Clause 41 Amendment of s 54 (Notice to objector)

(1) Section 54(1A) to (3)—

renumber as section 54(3) to (6).

(2) Section 54, before subsection (3) as renumbered—

omit, insert—

‘54 Notice of decision

‘(1) The chief executive must, as soon as practicable after making a decision under section 53, give the objector written notice of the decision and the reasons for it.

‘(2) The notice must state the date it was issued.’.

(3) Section 54(5)(c), as renumbered, ‘owner’—

omit, insert—

‘objector’.

(4) Section 54(5), as renumbered, ‘required’

omit, insert—

‘authorised’.

(5) Section 54(6), as renumbered, ‘subsection (2)’—

omit, insert—

‘subsection (5)’.

Clause 42 Replacement of s 55 (Appeal against the chief executive’s decision on an objection)

Section 55—

omit, insert—

‘55 Appeal right

‘(1) An objector who has objected under section 52 against a valuation may, if dissatisfied with the decision of the chief executive on the objection, appeal to the Land Court against the decision.

‘(2) However, an objector can not appeal if—

(a) the amount of the valuation sought in the objection was less than the valuation and the decision was to change the valuation to an amount that is equal to or less than that amount; or

(b) the amount of the valuation sought in the objection was more than the valuation and the decision was to change the valuation to that amount; or

(c) the objection is not a properly made objection; or

(d) the chief executive has not made a decision under section 53 on the objection.

'(3) Also, other than under section 57, an appeal can not be filed after 42 days after the date of issue stated in the chief executive's decision on the objection.'.

Clause 43 Amendment of s 56 (How to start an appeal)

(1) Section 56(2) and (3)—

omit, insert—

'(2) The notice of appeal must state—

(a) the grounds of appeal; and

(b) the amount the appellant seeks for the valuation.

'(3) The stated grounds of appeal can only include grounds included in the objection.

Note—

For when the grounds in an objection may be amended, see section 53D.'.

Clause 44 Amendment of s 57 (Late filing)

(1) Section 57(1), 'section 55(2)'—

omit, insert—

'section 55(3)'.

(2) Section 57, 'owner'—

omit, insert—

'appellant'.

Clause 45 Amendment of s 58 (Defect in notice of appeal—action of registrar)

Section 58(5), 'owner'—

omit, insert—

'appellant'.

Clause 46 Insertion of new s 63A

After section 63—

insert—

'63A Hearing of appeal

'(1) This section applies for the hearing of an appeal under section 55.

'(2) The hearing must be limited to the grounds stated in the notice of appeal.

'(3) The burden of proving all or any of the grounds is on the appellant.

'(4) Subject to subsection (3), the appeal must be by way of rehearing.

Note—

See also section 96(13) (Evidence).'.

Clause 47 Amendment of s 64 (Appeal to Land Appeal Court)

Section 64(1), 'owner'—

omit, insert—

'objector'.

Clause 48 Amendment of s 65 (Appeal to Court of Appeal)

Section 65, 'owner'—

omit, insert—

'objector'.

Clause 49 Amendment of s 72 (Purposes for which valuation to be used)

Section 72, after subsection (2)—

insert—

‘*Note*—

See, however, section 46F (Adjustment of valuation by adjustment factor).’.

Clause 50 Amendment of s 84 (Address for service)

Section 84—

insert—

‘(2) However, the address for service stated in an objection is the objector’s address for service for any notice concerning the objection (an ***objection-related notice***).

‘(3) The chief executive is taken to have given the objector an objection-related notice by giving it to the objector at the address for service.

Note—

See also the *Acts Interpretation Act 1954*, sections 39 (Service of documents) and 39A (Meaning of service by post etc.).

‘(4) Subsections (2) and (3) apply despite any actual change of the objector’s address, even though the chief executive is aware, or might by enquiry become aware, of the change.

‘(5) To remove any doubt, it is declared that the chief executive may give the objector an objection-related notice in another way as permitted under the *Acts Interpretation Act 1954*, section 39.’.

Clause 51 Amendment of s 96 (Evidence)

(1) Section 96(11)(a), ‘an annual valuation’—

omit, insert—

‘a general valuation’.

(2) Section 96—

insert—

‘(13) For an appeal relating to an objection under this Act—

(a) a certificate by the chief executive stating the amount of the value of improvements concerning the objector’s land is—

(i) for section 3, sufficient evidence of the value of the improvements; and

(ii) sufficient evidence of that value in the absence of any other evidence enabling the Land Court to conclude another amount should be decided to be the value; and

(b) a certificate by the chief executive stating the amount of the improved value of the objector’s land is—

(i) for section 3, sufficient evidence of the amount of the improved value; and

(ii) sufficient evidence of that amount in the absence of any other evidence enabling the Land Court to conclude another amount should be decided; and

(c) a document received by the chief executive from the appellant during the course of the objection, certified to have been so received, is evidence of the contents of the document and any opinions contained in the document.’.

Clause 52 Insertion of new pt 9, div 5

Part 9—

insert—

‘Division 5 Transitional provisions for Valuation of Land and Other Legislation Amendment Act 2010

‘104 Definitions for div 5

‘In this division—

commencement means the day this section commences.

former, for a provision mentioned in this division, means the provision to which the reference relates is a provision of the pre-amended Act, as affected by any relevant definitions under the pre-amended Act.

new, for a provision mentioned in this division, means the provision to which the reference relates is a provision of the post-amended Act, as affected by any relevant definitions under the post-amended Act.

post-amended Act means this Act as in force from the commencement.

pre-amended Act means this Act as in force before the commencement.

‘105 Retrospective displacement of particular provisions

‘(1) This section applies to a valuation in effect at any time on or from 30 June 2002.

‘(2) Former sections 3 to 6 and 23 do not apply, and are taken never to have applied, for the valuation.

‘(3) New sections 3 to 6 and 23 apply, and are taken to have always to have applied, for the valuation.

‘(4) Despite subsections (2) and (3), former sections 3 to 6 and 23 continue to apply for the purpose of a proceeding decided before the commencement.

‘(5) To remove any doubt, it is declared that subsections (2) and (3) otherwise apply for all other purposes, including, for example—

(a) an objection or decision relating to the valuation made before the commencement; and

(b) a proceeding, including an appeal from a proceeding mentioned in subsection (4), started but not decided before the commencement.

'(6) For the application of new sections 3 to 6 and 23 to the valuation, a reference in the sections to the date of valuation is taken to be a reference to the date of valuation as stated in the relevant notice about the valuation under former section 41A or 50.

'106 Petroleum leases

'To remove any doubt, it is declared that, for the pre-amended Act, the holder or a lawful occupier of a petroleum lease has always been an owner of the land the subject of the lease.

'107 Making and availability of new objection forms before commencement

'(1) This section applies if before the commencement the chief executive purports to approve and make available the first approved form for an objection under new sections 42 and 52.

'(2) The approval of the form and the making of its availability are taken to have been validly made or done on the commencement.

'(3) Making the form available before the commencement as mentioned in subsection (1) includes publishing it on the department's website without notifying it in the gazette.

'(4) Subsections (2) and (3)—

(a) apply despite the *Statutory Instruments Act 1992*, section 58 (***section 58***); and

(b) do not prevent a notice under section 58 about the form from being gazetted after the commencement.

'(5) A gazettal mentioned in subsection (4)(b) does not change the approval of the form on the commencement.

‘108 References to date of valuation

‘Until new section 37 commences, a reference in this Act to the date of valuation for a particular valuation is a reference to its date of valuation as stated in the notice about the valuation required under former section 41A or 50 or new section 41A or 50.

‘109 General valuation schedule first commences on 30 June 2012

‘Despite new section 36A, the general valuation schedule when first made commences for general valuations that take effect on 30 June 2012.

‘110 References to general valuations

‘(1) Until the general valuation schedule commences under section 109, a reference in the post-amended Act to a general valuation is taken to be a reference to an annual valuation.

‘(2) For new section 46A(2) and (3)(b)(i), if there has been no general valuation for an area the reference to a general valuation includes a reference to an annual valuation for the area.

‘(3) In this section—

annual valuation means an annual valuation as defined under the pre-amended Act, whether made before or after the commencement.

‘111 Pre-amended Act applies for particular objections

‘(1) This section applies to a valuation the notice for which is issued before—

(a) a day prescribed under a regulation; or

(b) if no day is prescribed under a regulation before the first 2010 valuation—the day the notice for the first 2010 valuation is issued.

‘(2) Despite the post-amended Act, the pre-amended Act applies for making the objection and any appeal relating to the objection.

‘(3) Subsection (2) applies subject to section 105.

‘(4) In this section—

first 2010 valuation means the first valuation under the post-amended Act to take effect on 30 June 2010 for which a notice is given.

notice, for a valuation, means the notice about the valuation required under former section 41A or 50 or new section 41A or 50.

‘112 Outstanding appeals

‘(1) Despite the post-amended Act, former sections 45, 55 and 56 continue to apply for an appeal against a decision on an objection if the objection was made before the commencement.

‘(2) New section 63A does not apply for the appeal.’.

Part 3 Amendment of Land Court Act 2000

Clause 53 Act amended

This part amends the *Land Court Act 2000*.

Clause 54 Amendment of s 33 (Land Court may make declarations)

Section 33—

insert—

‘(6) Despite subsection (1), a proceeding can not be brought in the Land Court for a declaration about whether or not a document that purports to be an objection under the *Valuation of Land Act 1944* is a properly made objection under that Act.'.

Part 4 Amendment of Local Government Act 1993

Clause 55 Act amended

This part amends the *Local Government Act 1993*.

Clause 56 Amendment of s 996 (Amendment of land record)

(1) Section 996(2), 'an annual valuation'—

omit, insert—

'a general valuation'.

(2) Section 996—

insert—

'(4) In this section—

general valuation means a general valuation under the *Valuation of Land Act 1944* and includes a general valuation affected by any adjustment factor applied under that Act.'.

Part 5 Amendment of Water Act 2000

Clause 57 Act amended

This part amends the *Water Act 2000*.

Clause 58 Amendment of s 74 (Applying for approval of land and water management plans)

Section 74—

insert—

‘(7) Subsection (2) does not apply to—

(a) an application mentioned in subsection (5); or

(b) a proposed land and water management plan, or part of a proposed plan, comprising an accredited ERMP.’.

Clause 59 Insertion of new s 74A

After section 74—

insert—

‘74A Documents that may make up land and water management plan

‘(1) A land and water management plan may—

(a) consist of any number of documents; and

(b) incorporate the provisions of other documents into the plan.

Example for paragraph (b)—

A proposed land and water management plan might incorporate provisions of an accredited ERMP about mitigating the risk of land degradation caused by water use.

‘(2) The documents mentioned in subsection (1) may be documents prepared for another purpose.

‘(3) The plan need not be called a land and water management plan.’.

Clause 60 Amendment of s 76 (Criteria for deciding application for approval of land and water management plan)

Section 76(2)—

omit, insert—

‘(2) Subsection (1)(a) does not apply to—

(a) an application for approval of a farm management system as a land and water management plan; or

(b) a proposed land and water management plan, or part of a proposed plan, comprising an accredited ERMP.’.

Clause 61 Amendment of s 78 (Amending land and water management plans)

(1) Section 78, heading, after ‘plans’—

insert—

‘**—general**’.

(2) Section 78—

insert—

‘(3) Subsection (1) is subject to section 78B.’.

Clause 62 Amendment of s 78A (Minor or stated amendments of land and water management plan)

Section 78A—

insert—

‘(2) Subsection (1) is subject to section 78B.’.

Clause 63 Insertion of new s 78B

Chapter 2, part 3, division 3, subdivision 5—

insert—

‘78B Amending particular land and water management plans

‘(1) This section applies to a land and water management plan, or a part of a plan, comprising an accredited ERMP.

‘(2) The plan or part comprising the accredited ERMP can not be amended under section 78 or 78A.

‘(3) If the accredited ERMP is amended under the *Environmental Protection Act 1994*, the amendment is taken to be an amendment of the land and water management plan for this Act.

‘(4) In this section—

accredited ERMP includes a part of an accredited ERMP.’.

Clause 64 Amendment of s 82 (Deciding application to defer land and water management plan requirements)

(1) Section 82(1), from ‘defer’ to ‘year’—

omit, insert—

‘defer, or further defer, the requirement under section 73(5) for a stated period (the ***deferral period***) of not more than 2 years’.

(2) Section 82(3)—

omit.

(3) Section 82(4) and (5)—

renumber as section 82(3) and (4).

(4) Section 82(6)—

omit, insert—

‘(5) The deferral of the requirement under section 73(5) has effect from—

(a) for a further deferral approved before the end of a previous deferral period—the day after the previous deferral period ends; or

(b) otherwise—the day the chief executive gives the applicant the information notice about the decision.’.

Clause 65 Amendment of sch 4 (Dictionary)

Schedule 4—

insert—

‘***accredited ERMP*** means an accredited ERMP under the *Environmental Protection Act 1994*.’.