

25 March 2024

Mr Peter Jamieson
Director
Department of Resources

peter.jamieson@resources.qld.gov.au

Dear Mr Jamieson

Further to our letter of 6 February 2024, and in anticipation of the Department providing a copy of a consultation draft of the proposed changes to the Land Valuation Amendment Bill 2003 (the Bill), the API seeks to make further comment on the proposed amendments to ensure our position with respect to this Bill is clear to the Queensland Government.

The API comprises a membership cohort of 7900 Australian property professionals and 4000 firms. We advocate for our members with a range of stakeholders, providing the professional recognition each member deserves. Our members are active across all sectors of the property profession – in private practice and the public sector, including those working in valuation, property management, facilities management, property law, property education, property development, funds and asset management, town planning, property consultancy and advisory.

Statutory Guidelines - General

The API acknowledges verbal advice from the Department that the new guidelines will be only binding on the State Valuation Service (SVS); however, the API would appreciate written confirmation from the Department that these guidelines will not be binding on the parties to any dispute or the courts.

The API offers to be involved in the development of these new guidelines. The API has access to several subject matter experts forming an advocacy group in Queensland who can contribute to the development of these guidelines.

The API also seeks assurance that a draft of those guidelines will be provided to stakeholders (including the API) for comment prior to the introduction and passage of the amended Bill. Such consultation will go a long way to avoiding confusion and potential litigation in the application of both the legislation and the new guidelines.

Statutory Guidelines – Particular Matters

The API is concerned that the guidelines are seeking to give guidance on the valuation of such matters as heritage, volumetric titles, mixed use and contamination that does not reflect current legal precedent and demonstrates the importance of our involvement in their drafting.

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The proposed changes will effectively increase the value of the relevant titles. Increases in valuation result in increases in rates and taxes. The API believes that the Queensland government should be open and transparent about its motives and intentions so that potentially impacted owners are made aware of those impacts.

The API is also concerned that the proposed changes will result in confusion and litigation, resulting in costs to both government and landowner.

Agreements for Lease

The API notes that the government intends to amend section 17 of the Land Valuation Act 2010 to remove agreements for lease from the definition of “unencumbered”. The API has consistently argued against this change. The concern was initially acknowledged by the Department, and an attempt was made to resolve the problem, but the new proposal also caused concern. The API argues that an agreement for lease should remain in the Act as an encumbrance, as it has the same effect on valuation as a lease.

The existence of an agreement for lease of a parcel of land will have an objective impact on its valuation. The API is concerned that if a sale of land, subject to an agreement for lease is used as a comparable sale, it will skew the valuation of similar properties not subject to an agreement for lease in the area.

As a general principle, any inaccuracies in property valuations will have a deleterious impact on the Queensland economy in particular and the Australian economy generally.

Protection of Confidential Information

The API acknowledges the advice of the Department that commercial in confidence information will not have to be disclosed with respect to an objection.

The API also acknowledges that a valuer, in an objection or appeal, is obliged to produce details of particular information upon which they are relying to allow the other side to review or consider them. Such information can, if required, be provided under a confidentiality agreement.

However, the API does not support the proposed amendment whereby an objection will be disallowed if the owner or valuer refuses to provide information because of their professional client confidentiality obligations. Should such information be relevant, access could be achieved by way of court or tribunal order.

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Definition of a “lot”

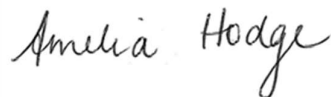
The API notes that the proposed amendment of the definition of “lot” will facilitate changes to the valuation of mixed-use developments. However, the API is concerned that this change of definition, with its artificial, hypothetical assumptions of subdivision of land goes against the traditional methodologies of land valuation.

The decision of *Port of Melbourne Corp v Melbourne City Council & Valuer General Victoria* [2015] VSC 714 in Victoria confirms the generally accepted position that an occupancy is valued as part of a larger property because valuing the occupancy in isolation may not reflect the highest and best use of the land comprising the occupancy or the land of which it forms a part.

While the Queensland Parliament may decide to change this generally accepted position by way of legislation, to do so exposes the government to potential confusion, complications, legal challenge, and administrative burdens for the SVS in relation to consistency of application and unintended consequences.

Please do not hesitate to contact me on the below details should you wish to discuss any of the above.

Yours sincerely,



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