Valuer General

Valuer General's Policy

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Valuation of land below high water mark (commercial waterfront occupancies)

What

This policy guides valuers on the methods to use, and factors to consider, when valuing land used for commercial purposes below the high water mark for rating and taxing purposes.

This policy addresses land used for commercial purposes only.

How

Under this policy, valuers use mass valuation methods based on specific assumptions and considerations.

Valuers must also apply market evidence and do ongoing quality reviews to support valuations.

Valuers assess the value of the land only, without including the value of structures or other improvements on that land.

Why

This policy will ensure that the Valuer General's valuations of land below the high water mark used for commercial purposes are:

- consistent and accurate
- transparent
- in line with the *Valuation of Land Act 1916* (Valuation of Land Act).

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Contents

1 Policy

1.1 Scope

Land below high water mark

Crown land

mean high water mark

Land below high water mark refers to Crown land bordering the coast of NSW which lies below the mean high water mark and includes coastal estuaries, many large river beds, many wetlands and the states territorial waters extending 5.5 kilometres out to sea.

Land used for commercial purposes

Use this policy to assess the land value of land below the high water mark used for commercial purposes.

Depending on the circumstances, land below the high water mark used for commercial purposes is either valued with the adjoining land or standalone.

Domestic waterfront occupancies

The valuation of land below high water mark which is used for domestic purposes is not covered under this policy. Refer to the policy *Valuation of land below high water mark (domestic waterfront occupancies).*

1.2 Assumptions and considerations

Legislative assumptions

Land below high water mark is Crown land. Crown land is valued under different sections of the *Valuation of Land Act 1916* (Valuation of Land Act) depending on who administers the land.

Crown land below high water mark is either administered by the Department of Industry, Lands & Forestry, or Roads and Maritime Services (RMS).

Administering body	How land below high water mark is valued
The Department of Industry, Lands & Forestry	This land is considered to be Crown lease restricted land. It is, therefore, valued with regard to both section 6A and section 14I of the Valuation of Land Act. For more information on the valuation assumptions for valuing Crown lease restricted land refer to

	the policy *Valuation of Crown lease restricted land*.
RMS	Crown land administered by RMS is not classified as Crown lease restricted land and therefore not valued under section 14I.

For land below high water mark which has a commercial use, the land value should reflect the use which is allowed by the lease and that use will be considered the highest and best use. This is the case whether the land is subject to a Crown lease or a lease administered by RMS.

Valuation assumptions

fee simple in possession

highest and best use

improvement

land improvement

sale

unencumbered

You must value land below high water mark having regard to section 6A and or section 14I (1) of the Valuation of Land Act if it is Crown lease restricted.

Section 6A provides the basis for the valuation assumptions specific to determining the market value of the land.

In line with section 6A of the Valuation of Land Act, you must value the land at its highest and best use, while assuming:

- there is a sale of the land
- the buyer and seller are hypothetical
- the title is unencumbered, and the valuation is of the full fee simple in possession
- the land is vacant and has no improvements other than land improvements
- there is no existing development consent for the land.

Valuation considerations

date the valuation was made

Section 14I requires the added assumption that:

- the highest and best use is the use as prescribed in the lease.

You must also consider and reflect in the valuation these other requirements:

- the valuation reflects a sale of the property at 1 July of the valuing year (section 14B)
- the property's physical condition, surroundings, zoning and allowable uses that applied on the date the valuation was made (section 14K).

Refer to the policy *Valuation of Crown leased restricted land* for further details.

Valuing with the adjoining land

Where the land below high water mark is leased by the owners of the adjoining freehold land, they are to be considered the owners of the leased land. The use of that land, in conjunction with the freehold land, requires both the freehold land and the leased land to be included in one valuation.

Standalone valuations

fee simple in possession

Not all land below high water mark can be valued with the adjoining land. You must value land below high water mark separately under the following circumstances:

1.	The land below high water mark is leased by the owners of the adjacent freehold land but is separated by a road and/or other land such as public reserves.
2.	The land below high water mark is held under a different name or legal entity to the adjoining freehold land.
3.	Land below high water mark has no identified or identifiable property which directly benefits from its use.

1.3 Valuation methods

Mass valuation process

component method

The Valuer General uses a mass valuation process to value most land below high water mark used for commercial purposes. It involves the systematic valuation of groups of properties at a given date using standardised procedures.

Mass valuations must also meet the requirements of the Valuation of Land Act. All valuations must be supported by market evidence and quality assured.

The mass valuation method most commonly used in NSW is the component method. Valuation methods, such as the direct comparison method and the hypothetical development method, are used to value a sample of individual properties within the component. The increase or decrease in those valuations is then applied to other similar properties in the component.

Direct comparison

Direct comparison involves comparing market sales with the subject land. Although land below high water mark is not generally sold comparisons can be made with sales of freehold land that is also used or could be used for commercial purposes. Adjustments are then made for the various advantages and disadvantages of such land. For example, land below high water mark will have different development costs due to the difficulties of building below the mean high water mark.

When using direct comparison to value land below high water mark used for commercial purposes, you must:

- consider a broad range of market evidence, including sales of vacant and improved land
- consider the value of existing lease arrangements in the sale price
- follow an evidence-based approach when using sales of improved land to deduce the land value (see 1.4 for market analysis)
- consider all factors that influence the land value such as the land's size, aspect, location, zoning, planning controls, demographics and the land's permitted use.

Hypothetical development method

capitalisation

improved value

land improvements

net rental

The direct comparison method of valuation should be the primary method of valuation for land below high water mark used for commercial purposes. However, situations may arise where there is no suitable market evidence to apply this method.

Where there are not enough directly comparable sales to value the subject land you can use the hypothetical development method.

To derive the land value of land below high watermark used for commercial purposes, you must:

1.	Estimate the net rental which could be obtained from the land based on the legally permitted use as set out in the lease.
2.	Capitalise the estimated net rental to arrive at the improved value of the site.
3.	Deduct the estimated cost of developing the site (including holding costs and developer's margin) from the improved value of the site. Costs include the additional cost and time required to build below high watermark.

When you value the land below high water mark you must not deduct the added value of land improvements.

Land improvements

Examples of land improvements for commercial land below high water mark include retaining walls and seawalls.

Piers are not considered a land improvement.

While piers may be considered to support an excavation of the seabed, existing piers will always require replacement in any hypothetical development of the site, as their condition and ability to support a new building is difficult to determine.

Therefore, piers will always be considered as a cost of construction.

Marinas

Marinas are a particular class of commercial activity that requires separate consideration due to the nature of their operation. Marinas are frequently a combination of land, reclaimed land and land below water.

The valuation of the wetland areas which includes the marina berths can be made by capitalising the ground rental paid under the lease. Care must be taken to ensure that the rental is a market rent and does not include other elements of the marinas activities.

Where the current market rental cannot be established the returns generated by the marina wetland areas must be included in the hypothetical valuation.

1.4 Market analysis

Wide analysis of market evidence

You must analyse all applicable sales and rental evidence to establish or verify land values at 1 July in the valuing year.

Sales of vacant land and improved sales where a land value has been deduced by removing the added value of the improvements are to be used and adjusted for the additional costs required to build on land below the high water mark. The advantages of the position, such as location and views, should also be considered and the sales adjusted accordingly.

Sales of businesses occupying land below high watermark

Sales of businesses occupying land below high water should be treated with caution. Elements of a sale such as goodwill, plant, fit out and improvements are to be excluded. The sale will not include the value of the land.

2 References

2.1 Definitions

added value of improvements	The value that improvements add to the land. It is determined by comparing market evidence for land with improvements to that for vacant or lightly improved land.
capitalisation	Capitalisation is a method used to determine the current market value of a property by converting the net income stream into a capital value using a single conversion factor.
component	A group of properties, used for mass valuation, whose market values move uniformly. It is also known as a 'sub-market group' or 'sales group' in other Australian jurisdictions.
Crown land	Land vested in the State of New South Wales. This land may be held under Crown title or Torrens title.
fee simple in possession	Absolute title to land, free of any other claims against the title, which one can sell or pass to another by will or inheritance.
highest and best use	Valuation concept that refers to the possible use of a property that would give the highest market value. The use must be lawful, physically possible and financially feasible.
improved value	The market value of a property's land and improvements inclusive.
improvement	Something that improves the value of the land. This is not defined in the Valuation of Land Act, and is different from the term 'land improvement' (below).
land improvement	Land improvement, such as draining, excavating, filling or clearing, as defined in section 4 of the Valuation of Land Act and included in the land value.
land value	Value of the land excluding any structures or improvements, but including land improvements. See section 6A of the Valuation of Land Act for a full explanation.

mean high water mark	The mean high water mark is defined as the "line of the medium high tide between the highest tide each lunar month (the springs) and the lowest tide each lunar month (the neap) averaged over out over the year" (Butt 2001, p.24).
net rental	Rent payable excluding all outgoings and GST.
outgoings	The total of all statutory charges, operating expenses and other outgoings for which the lessor is liable.
sale	The transfer of property between parties. To use a sale as market evidence, it must have been: • an arm's length transaction • between a willing buyer and willing seller who both acted knowledgeably, prudently and without compulsion • properly marketed.
unencumbered	Unencumbered land is land without any encumbrances. An encumbrance is any right to or interest in land by someone other than the owner, and that prevents the transfer of that land or lowers its value. It might include an easement, restrictive covenant, mortgage, or other restriction.
valuing year	The year starting 1 July. Valuation reflects the property market at the start of the valuing year.

2.2 Laws and policies

Governing NSW law	*Valuation of Land Act 1916* (Valuation of Land Act) Section 6A Section 14I
Related Valuer General policy	Valuation of Crown lease restricted land Valuation of land below high water mark(domestic waterfront occupancies)

3 Context

3.1 Role of the Valuer General

The Valuer General for NSW

In NSW, the Valuation of Land Act 1916 establishes the Valuer General as the independent statutory authority responsible for ensuring the integrity of land valuations in NSW.

Valuation Services, Property NSW manages the valuation system on behalf of the Valuer General, outsourcing the majority of valuation services to private valuation firms.

The Valuer General is committed to an open and transparent valuation process that is easy for landholders to understand.

3.2 Background

Rents for commercial land below high water mark

Rents for land below high water mark used for commercial purposes are determined by Department of Industry, Lands & Forestry and RMS, based on valuations made by independent valuers and/or through negotiation.

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Office of the Valuer General

Any enquiries relating to the policy may be addressed to the Office of the Valuer General at feedback@ovg.nsw.gov.au

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Document control

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