

# Valuer General's Policy

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## Compensation following compulsory acquisition involving possible conflicts of interest

### What

This policy provides instruction for cases where there is a perceived or actual conflict of interest with Valuation Services, part of Property NSW, determining compensation for land that is compulsorily acquired. This policy removes the Valuer General's delegated authority from Valuation Services in these instances.

### How

The Valuer General will review, approve, document and determine the amount of compensation in compulsory acquisition matters where there is a perceived or actual conflict of interest.

Valuation Services will provide administrative and valuation support in these matters but will not influence decisions and outcomes.

Compensation is assessed in accordance with the *Land Acquisition (Just Terms Compensation) Act 1991* (Land Acquisition Act).

### Why

This policy will:

- eliminate perceived or actual conflict of interest
- afford procedural fairness to land owners
- ensure land owners are justly compensated for the acquisition of land
- provide transparency and assurance to land owners.

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# 1 Policy

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## 1.1 Scope

### Compulsory acquisitions involving possible conflicts of interest

conflict of interest  
acquiring authority

Follow this policy in compulsory acquisition cases where:

- there could be a perceived or actual conflict of interest
- Property NSW (PNSW) is the acquiring authority (AA)
- PNSW is acting on behalf of an AA
- PNSW own, manage or lease the property.

This policy applies to matters determined under the *Land Acquisition (Just Terms Compensation) Act 1991* or Treasurer's Direction 469.02.

## 1.2 Compulsory acquisition

### Background

acquiring authority  
compulsory acquisition

Valuation Services, part of PNSW, manage the determination of compensation process, where land is to be compulsorily acquired, under delegated authority of the Valuer General.

However, other divisions within PNSW may undertake or manage the compulsory acquisition of land where the compensation payable would normally be determined by Valuation Services on behalf of the Valuer General.

This policy:

- removes any perceived or actual conflict of interest in cases where PNSW are involved in the compulsory acquisition of land
- provides the process to be followed by the Office of the Valuer General and Valuation Services in these cases
- applies to all instances where PNSW is the AA, owner, lessee or manager of the property or managing the process on behalf of an AA.

### Valuation Services to inform the Valuer General

As soon as Valuation Services become aware of any actual or perceived conflict of interest in a compulsory acquisition matter they will inform the Valuer General.

The Valuer General requires Valuation Services to keep a record of these matters for the Valuer General.

### The Request for Quote

Advice to inform the determination of compensation will generally be obtained from a contract valuer and possibly other experts.

Valuation Services will manage the Request for Quote (RFQ) process and provide the Deputy Valuer General (DVG) with access to all responses to the RFQ.

The DVG will review the RFQ responses and approve the engagement of contractor(s).

Valuation Services will manage the engagement of the selected contractor(s) and provide them with all relevant information received from either the land owner or AA.

Valuation Services will advise contractor(s) of the processes in place to address any actual or potential conflicts of interest.

## **The preliminary report**

### **preliminary report**

Valuation Services will review the valuation contractor's draft valuation report and any supporting expert reports. Following the review the Director Compensation Program will provide comments and a letter of certification, to the DVG.

The letter of certification will confirm to the DVG that a quality assurance review has been conducted by Valuation Services.

The DVG will review the draft report(s) and any comments provided by Valuation Services. The DVG is responsible for liaison with the valuation contractor regarding the draft valuation report.

Once the DVG is satisfied with the draft report, the valuation contractor will supply the DVG with a preliminary valuation report to be issued to the land owner and the AA, along with any supporting expert reports.

The preliminary report is to detail the amount of compensation and how it was determined. The land owner and AA have 15 working days to provide feedback.

Any concerns raised by the land owner or AA about the preliminary report must be addressed by the DVG before the report is finalised.

## **Determination of compensation**

### **determination of compensation**

Valuation Services will provide the DVG with a draft Determination of Compensation certificate based on the approved final report. The DVG will sign the Determination of Compensation under delegated authority from the Valuer General.

## **Communications**

In order to reinforce the removal of any conflicts of interest all communications with the land owner, the AA and other

experts (such as town planners) will be from the Office of the Valuer General.

### 1.3 Administrative processes

#### **Administrative processes**

Staff in the Office of the Valuer General and Valuation Services should follow the procedures documented in *Procedures for Compulsory Acquisition where a Conflict of Interest is Identified* for these matters.

## 2 References

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### 2.1 Definitions

**acquiring authority** In NSW, state and local government organisations, including State owned corporations, can acquire land for public purposes. The government organisation acquiring the land is commonly called the acquiring authority. The acquiring authority manages the acquisition process including all negotiations with the land owner.

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**compulsory acquisition** While acquiring authorities aim to acquire land by agreement with the land owner, this is not always possible or practicable. When this happens, the acquiring authority may need to acquire the land compulsorily

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**conflict of interest** A situation that has the potential to undermine impartiality because of competing interests

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**determination of compensation** The determination of compensation shows the amount of compensation payable as determined by the Valuer General.

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**preliminary report** Preliminary valuation reports, showing the amount of compensation and how it was determined, are issued to both the land owner and acquiring authority with 15 working days for review and feedback.

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## 2.2 Laws and policies

<b>Governing law</b>	<i>Land Acquisition (Just Terms Compensation) Act 1991</i>
<b>Related Valuer General policy</b>	<i>Compensation following compulsory acquisition Compulsory acquisition advice</i>

## 3 Context

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### 3.1 Role of the Valuer General

#### **The Valuer General for NSW**

The Valuer General is appointed by the Governor of New South Wales as a statutory officer and acts independently of both State and local government.

This independence is important so there is a separation between the acquisition of land by government for a public purpose and the determination of compensation.

The Valuer General is responsible for:

- ensuring land owners are fairly compensated when their land is compulsorily acquired
- providing an independent, fair and transparent process for determining the amount of compensation.

### 3.2 Background

#### **Compulsory acquisitions**

Where land is acquired for a public purpose, compensation is paid to the owner of the land and any other parties having a compensable interest in the land. The Land Acquisition Act requires the AA to seek agreement with all parties, having an interest in that land, on the compensation which should be paid for the loss of their interest.

Where agreement cannot be reached, the interest will be compulsorily acquired. The Valuer General provides an independent determination of compensation for those interests which are compulsorily acquired.

Once acquired, all interests in land are vested in the AA, by written notification printed in the NSW Government Gazette. The identified land will be freed and discharged from all estates, interests, trusts, restrictions, dedications, reservations, easements, rights, charges, rates and contracts in, over, or in connection with, the land.

Any compensable interest in the land will be converted to a right for compensation.

## Copyright

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Any enquiries relating to the policy may be addressed to the Office of the Valuer General at [feedback@ovg.nsw.gov.au](mailto:feedback@ovg.nsw.gov.au).

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## Document control

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### Approval

Name and position	Signature and date
Simon Gilkes, Valuer General	 30/06/2017

### Version

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1.0	Final	30/06/2017	Rachael Burn, OVG	First release

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