

Valuer General

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Application of allowances

Guidance Note

February 2024



Acknowledgement of Country

The office of the Valuer General and Valuation NSW acknowledges that we stand on Aboriginal land. We acknowledge the Traditional Custodians of the land, and we show our respect for Elders past and present through thoughtful and collaborative approaches to our work, seeking to demonstrate our ongoing commitment to providing places in which Aboriginal people are included socially, culturally, and economically.

Published by the NSW Valuer General

valuergeneral.nsw.gov.au

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Revised: February 2024

ISSN: 2981-9873

Department reference number: VG23/79

More information

Enquiries relating to this guidance note should be addressed to the office of the Valuer General via email to valuergeneral@dpie.nsw.gov.au.

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Introduction

1.1 Purpose

This document is intended to provide guidance to valuers on when and how to apply allowances under section 14L and section 14T of the *Valuation of Land Act 1916* (the Act).

Section 14L provides an allowance to developers for profitable expenditure in the development of land.

Section 14T provides an allowance to developers who have subdivided land but have not yet sold the land.

This guidance note will ensure that 14T and 14L allowances are applied in a way that is:

- consistent and accurate
- transparent
- in line with the Act.

1.2 Background

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

Valuation NSW carry out functions on behalf of the Valuer General under formal delegations. Some valuation services may also be contracted out to private valuation firms. All valuation services are subject to a rigorous quality assurance process prior to issue to landholders.

Recommended Approach

1.3 Scope

1.3.1 Determining allowances

When you value land, you must determine the amount of any allowances for profitable expenditure or any allowances for subdivision.

Use this guidance note to assess the amount of the allowances.

1.4 Allowances for profitable expenditure

1.4.1 What is an allowance for profitable expenditure?

An allowance for profitable expenditure is a reasonable allowance given to any land for profitable expenditure by an owner, occupier or lessee.

An allowance for profitable expenditure is applicable for any property that meets the criteria set out in section 14L of the Act and which is not excluded by the provisions of section 14M.

There are two distinct categories of allowance set out under section 14L. These are:

- allowances for any effective land improvements on or appertaining to the land (on-site allowances)
- allowances for visible and effective improvements off the land (off-site allowances).

1.4.2 What items of expenditure attract an allowance for profitable expenditure?

For improvements to be eligible for an allowance under section 14L, the improvement must be effective, the expenditure must be profitable, and the allowance must be reasonable. This applies for both on and off-site allowances.

The term effective means that the improvements add to the usefulness of the land.

The term profitable refers to an enhancement in value.

On-site allowance

You must only give an on-site allowance for profitable expenditure for “effective land improvements”. Land improvements are specifically defined in section 4 of the Act:

- a. the clearing of land by the removal or thinning out of timber, scrub or other vegetable growths,
- b. the picking up and removal of stone,
- c. the improvement of soil fertility or the structure of soil,
- d. the restoration or improvement of land surface by excavation, filling, grading or levelling, not being works of irrigation or conservation,
- e. (d1) without limiting paragraph (d), any excavation, filling, grading or levelling of land (otherwise than for the purpose of irrigation or conservation) that is associated with:
 - i. the erection of any building or structure, or
 - ii. the carrying out of any work, or
 - iii. the operations of any mine or extractive industry,
- f. the reclamation of land by draining or filling together with any retaining walls or other works appurtenant to the reclamation, and
- g. underground drains.

Off-site allowances

You may give an off-site allowance for items of expenditure which are not on the land itself but have been constructed:

- for the purpose of supplying water to the land, or
- for the purpose of draining the land, protecting the land from inundation or making some other provision for the more beneficial use of the land.

A list of items that can and cannot be considered in establishing an allowance for profitable expenditure is included in the Appendix.

1.4.3 How to calculate an allowance for profitable expenditure

Once you have established an allowance for profitable expenditure is applicable, you must calculate the amount of the allowance.

Calculate the difference between the value of the land with the improvements and the value on the assumption that the improvements had not been made.

Any allowance determined must not exceed the actual cost of the improvements. Although cost does not equal value, the actual cost may be used as a guide.

Allowances may be given for expenditure on council section 7.11 contributions (previously referred to as section 94 contributions in the Environmental Planning and Assessment Act 1979) in some instances.

The allowances would only be given for the construction of civil works off the land, therefore only that part of the section 7.11 fee that relates to those works will be applicable.

1.4.4 When allowances are not provided

You should not give an allowance for profitable expenditure in certain circumstances. These are detailed in sections 14M and 14O.

In summary, do not provide an allowance:

| | |
|----|---|
| 1. | If the owner of the land was not the owner when the profitable expenditure was incurred. |
| 2. | If any building or structure has been erected or any works have been carried out on the land. |
| 3. | If the profitable expenditure was incurred more than 15 years before the valuation year at which the value is being determined. |
| 4. | If the expenditure was incurred for land leased by the Crown or statutory body. |

In relation to the second point:

- erected is to be construed as meaning substantially commenced
- a building, structure or work is a physical improvement that is not a land improvement
- the building, structure or work must be on the land for it to exclude the allowance.

1.4.5 Objections

Objections may be lodged to an allowance for profitable expenditure.

The provisions for lodging an objection to an allowance for profitable expenditure are set out in section 14R of the Act.

An objection may be made to an allowance for profitable expenditure in the same way as an objection is made to the valuation of any land. The objection may be made on the grounds of an allowance being ascertained, an allowance not being ascertained or the amount of an allowance.

1.5 Allowances for subdivision

1.5.1 What is a subdivision allowance

When land is subdivided, the lots created in the deposited plan are separately valued under section 27B of the Act.

A subdivision allowance refers to an allowance under section 14T of the Act. It is an “in line discount” for all the lots in the deposited plan that remain in the hands of the subdivider.

A subdivision allowance may be applicable if any of the lots in a deposited plan are still owned by the subdivider at the date the valuation is made.

Subdivider

There is a definition of subdivider in section 14S of the Act:

- the subdivider is the person who, either alone or with any other person, owned the whole of the land immediately before the registration of the plan or
- where the land comprised two or more lots, then the subdivider is the person who owned the whole of the land comprising one or more of those lots, either alone or with any other person.

In some cases, a subdivider holding several lots may amend the boundaries of those lots without changing the existing number of lots in the deposited plan. You must consider this as a new deposited plan and determine any allowances accordingly.

1.5.2 How to calculate a subdivision allowance

The discount from sale price

To calculate the allowance, first calculate the discount from sale price for lots in a deposited plan. This is the difference between:

- the total of the land values of the lots had they been sold separately (section 14U(2)(a)), and
- the total of the land values of the lots had they been sold to one person (section 14U(2)(b)).

Remember both the total value of the lots sold separately, and the total value of the lots sold to one person must reflect market conditions at 1 July in the year the valuations are made.

The best evidence of the total value will be sales of single parcels, possibly within the subdivision.

The primary method of determining the value of the sale in one line is to consider sales where land has been subdivided and then sold in one line. Consideration can also be given to the time, cost and risk of selling the land individually rather than as one in line sale.

You must assume there is both a willing buyer and willing seller. Market conditions change and the allowance applied should reflect the market annually.

When calculating the allowance, only take into account the lots in that particular plan (not the total number of lots in a development that comprises more than one deposited plan).

Apportioning the discount from sale prices

Once you have calculated the discount from sale price, apportion it to each lot in the plan. The amount applied to each lot does not have to be the same.

When apportioning the discount from sale price, take into account the total number of lots in the deposited plan and not just the remainder still in the ownership of the subdivider. This still applies if the subdivider only has one lot left in their ownership.

As a general rule, the market does not apply a discount to residue englobo parcels held for further development. The value of the residue parcel for development purposes already includes an inherent allowance for profit and risk.

If the market indicates no discount is applicable, you must issue a subdivision allowance of \$0.

When an allowance ceases to be applicable (section 14V) it is no longer given.

Example – residential lots only

A subdivision allowance may be applicable to any class of land. For simplicity, any examples used in this guidance note refer to residential lots.

Example – residential lots

There are 10 residential lots in a plan. Of these, five have a land value of \$200,000 and five have a land value of \$300,000. The difference is calculated below:

| | |
|---|-------------|
| Total land value of lots assuming sold separately | \$2,500,000 |
|---|-------------|

| | |
|--|-------------|
| Total land value of lots assuming sold to one person | \$2,250,000 |
|--|-------------|

| | |
|--------------------------|-----------|
| Discount from sale price | \$250,000 |
|--------------------------|-----------|

The “in line discount” represents 10 per cent of the total land value of the lots if they had been sold separately.

Therefore, the lots with a land value of \$200,000 would have a subdivision allowance of \$20,000 and the lots with a land value of \$300,000 would have a subdivision allowance of \$30,000.

The discount from the sale price (\$250,000) is apportioned equally to each lot based on the percentage of each lot’s value.

Example – residential lots and a residue englobo lot

In many cases the subdivision will result in a number of single residential lots being created with a remaining undeveloped or englobo lot or lots which are to be developed at a later date.

Example – residential lots and a residue englobo lot

The subdivision creates 10 residential lots with a residue englobo lot.

| | |
|--|-------------|
| 10 lots with a land value of \$200,000 each: | \$2,000,000 |
| One Englobo lot with land value: | \$1,000,000 |

The difference is calculated below:

| | |
|--|-------------|
| Total value of all lots had they been sold separately: | \$3,000,000 |
| Total land value of all lots had they been sold to one person: | \$2,800,000 |

Discount from sale price: \$200,000 (equates to 10 per cent of the total value of the residential lots had they been sold separately).

The discount is then apportioned as \$20,000 to each of the residential lots and \$0 to the englobo lot.

The value of the englobo lot is calculated using sales of englobo land that already reflect an “in line discount” captured in the profit and risk factor.

The assumption that the market does not apply a discount to englobo parcels is true in most situations; however, each case must be determined on individual circumstances and annual market conditions.

1.5.3 Allowance to be reasonable and reflect market conditions

When assessing what discount to apply you must consider a willing buyer/seller scenario. In most cases, the subdivider is a developer and if the amount of the discount exceeds their profit margin, they would then be operating at a loss and not willing to sell. This is not reasonable and the seller in this case, would be likely to market the lots themselves.

When you calculate the allowance, you must assume the subdivision has been completed and that all lots are on the market for sale.

Because the allowance is calculated at the end of the development period, any risk associated with development that existed at the start of the project no longer exists.

1.5.4 When a subdivision allowance is not applied

You must not give a subdivision allowance in certain circumstances. These are outlined below and detailed in section 14V of the Act:

| | |
|----|---|
| 1. | If there have been any buildings erected on the land or any works carried out since the registration of the deposited plan, then a subdivision allowance is not to be given. |
| 2. | The allowance is only applicable for three years and is not to be given after this period. As the allowance is applicable for both land tax and council rates the reference date for the three-year period is different. This is discussed in the section below. |
| 3. | An allowance is not applicable if there are no lots left in the deposited plan that are still owned by the subdivider. |

Three-year timeframe

As the allowance is applicable for both land tax and council rates the reference date for the three-year period for which a subdivision allowance can be applied is different.

For the purposes of the Land Tax Management Act 1956 if more than three years have passed from the registration of the deposited plan to 31 December prior to the beginning of the land tax year, then the property is not eligible for a subdivision allowance.

For the purposes of the Local Government Act 1993, if more than three years have passed from the registration of the deposited plan to 30 June prior to the beginning of the rating year, then the property is not eligible for a subdivision allowance.

Therefore, there is a six-month gap when an allowance may be applicable for one rating authority but not the other. In these cases, you must calculate an allowance.

It will then be the responsibility of the relevant rating authority to determine if they will use the allowance.

1.5.5 Objections

Objections may be lodged to a subdivision allowance.

The provisions for lodging an objection to a subdivision allowance are set out in section 14W of the Act.

An objection may be made to a subdivision allowance in the same way as an objection is made to the valuation of any land. The objection may be made on the grounds of an allowance being ascertained, an allowance not being ascertained or the amount of an allowance.

References

Definitions

| Term | Meaning |
|---|---|
| Allowance for profitable expenditure | An allowance given under section 14L of the Act. It recognises profitable expenditure by an owner, occupier or lessee for land improvements ‘on-site’ or for other works ‘off-site’ which add value to the land. |
| Allowance for subdivision | An allowance under section 14T of the Act, an “in line discount” for all the lots in the deposited plan that remain in the hands of the subdivider. |
| Englobo land | <p>Land that is:</p> <ul style="list-style-type: none">• undeveloped, or has minimal development• largely un-serviced• zoned to allow for subdivision into smaller parcels. <p>The term usually refers to large parcels of land, consisting of one or more lots, which could be subdivided into at least five or more lots.</p> |
| Land value | Value of the land excluding any structures or improvements but including land improvements. See section 6A of the Act for a full explanation. |
| Section 7.11 contributions | Section 7.11 (previously section 94) of the Environmental Planning and Assessment Act 1979 enables councils to levy contributions for public amenities and services as a consequence of development. |

Related documents and legislation

- [Valuation of Land Act 1916](#)
- [Land Tax Management Act 1956](#)
- [Local Government Act 1993](#)
- [Environmental Planning and Assessment Act 1979](#)

1.6 Appendix

Typical subdivision expenses (off-site allowances only)

| Subdivision expenses | Allow YES/NO | Comments |
|--|--------------|---|
| Roadworks including kerbing, guttering, tar sealing, drainage | YES | |
| Footpaths, walkways, cycleways | YES | |
| Traffic lights, traffic works (e.g. round-about) | YES | Only if they add to the value of the lot |
| SOME Section 7.11 fees as well as fees for works by other authorities (see body of this instruction for clarification) | YES | Only the part of the fee that is for works actually constructed, in nearby proximity and that add to the value |
| Joint water supply scheme | YES | Only the part of the scheme that is for works actually constructed, in nearby proximity and that add to the value of the land |
| Flood retention basins | YES | Only if they are a condition of subdivision |
| Water and sewer reticulation | YES | |
| Drainage piping | YES | |
| Water and sewer amplification | YES | |
| Earthworks | YES | |
| Electricity | YES | |
| Gas | YES | |
| Telephone cabling | YES | |
| Costs directly related to subdivision eg survey fees, geotech report | YES | |
| Supervision and design costs related to construction | YES | Does NOT include developer's fees, financial costs |
| Advertising | NO | |

| Subdivision expenses | Allow YES/NO | Comments |
|---|-----------------|----------|
| Rates and taxes | NO | |
| Interest charges and other financial fees | NO | |
| Council fees | NO | |
| Fees paid to authorities to gain approval | NO | |
| Professional fees such as for valuers, accountants, legal, marketing, agents | NO | |
| Council section 7.11 fees where they apply to contributions for maintenance | NO | |
| Demolition costs of improvements | NO | |
| Agents' commission | NO | |
| Ground maintenance | NO | |
| Security fees | NO | |
| Developer's profit and risk | NO | |