

**Valuer General**

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# Valuing separate parcels

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.

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## 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](mailto:valuergeneral@dpie.nsw.gov.au).

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# Introduction

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## 1.1 Purpose

This document is intended to provide guidance to valuers on when lands should be valued as separate parcels and when land should be valued as one parcel under the *Valuation of Land Act 1916*.

The separate valuation of parcels of land is a complex area partly covered by statute, and partly covered by court precedent and practice.

This guidance note will ensure that the Valuer General's valuations of separate parcels are:

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

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## 1.2 Background

In NSW, the *Valuation of Land Act 1916* (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

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## 1.3 Scope

### 1.3.1 Valuation of separate parcels

Use this guidance note to work out:

- where parcels of land adjoin and should be valued together
- where parcels of land adjoin but should be valued separately
- where parcels of land do not adjoin but should be valued together.

### 1.3.2 Legislation

The sections of the Act discussed in this guidance note are set out below:

<b>Section 4</b>	Definitions of owner and lessee.
<b>Section 14A (4)</b>	The Valuer General may separately value different parts of the same parcel of land, in which case this Act applies to each such part as if it were a separate parcel of land.
<b>Section 26 (1) to (3)</b>	Where lands are to be included in one valuation unless adapted for separate occupation.
<b>Section 27 (1) to (5)</b>	Where lands are to be separately valued.
<b>Section 27B</b>	Lands in subdivision to be separately valued.
<b>Section 7B</b>	Land value of strata.
<b>Section 26A</b>	Valuation of parcels that form part of the site of a building.
<b>Section 28</b>	Land or stratum in two or more districts.
<b>Section 28A</b>	Land of which part only is rateable or taxable.

These provisions provide the basis of separate and combined valuations. They must be read together to understand the whole intent of the legislation and also read in conjunction with the precedents

applied by the courts. This guidance note has consolidated the direction provided by the legislation and the court.

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## 1.4 Valuation considerations

### 1.4.1 What is a parcel of land

A parcel of land is defined in the *Local Government Act 1993* (Local Government Act) as “separately valued under the *Valuation of Land Act 1916*”. There is no definition of a parcel of land in the Act.

However, in general terms, a single parcel of land can be considered as land that is held in the one ownership and used for one purpose.

A parcel of land may comprise:

- a single lot in a deposited plan, parts of a lot in a deposited plan or numerous lots within the same or different deposited plans
- land contained within one or more than one Certificate of Title
- land which is used for one purpose and is not adaptable for separate occupation or
- land covered by a registered strata plan.

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## 1.5 Parcels of land adjoin and are valued together

### 1.5.1 Adjoining parcels owned by the same person

Generally, section 26(1) of the Act provides for adjoining parcels of land to be included in the one valuation where they are owned by the same person, and where no part is leased.

There are two exceptions to this:

- where buildings or structures are erected on the land that are obviously adapted for separate occupation (discussed in section 1.4)
- where the Valuer General directs otherwise. The Valuer General may, and usually will, direct that individual lots in a deposited plan are to be individually valued (section 27B).

The intent of section 26(1) is to provide a single valuation where a single owner owns adjoining parcels of land that form a single land holding.

If land which is not part of a large subdivision has been subdivided into two or more parcels and the landholder is not currently trying to sell the land it must be valued as one parcel as long as it meets the requirements of section 26(1).

## 1.5.2 Strata plans

Under section 90 of the *Strata Schemes (Freehold Development) Act 1973* (SS Act) all the land covered by a strata plan must be valued as a single parcel, as if owned by a single owner.

The SS Act defines a parcel, as the lands comprising the lots and common property that are subject to a strata scheme and, in relation to a plan lodged for registration as a strata plan, the land comprised in that plan.

This means even though land in a strata plan may be divided by land owned by another party, or a road, it will still have a single valuation in the Register of Land Values.

Land which includes strata property will generally be valued in accordance with section 6A at its highest and best use. Further direction on the valuation of such land is contained in the relevant Valuer General guidance note document i.e. Valuation of high density residential land, Valuation of industrial land or Valuation of commercial land.

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## 1.6 Parcels of land adjoin but are separately valued

### 1.6.1 Land that is adapted for separate occupation

Subject to the following conditions, where separate occupations exist on a parcel of land you must make separate valuations which reflect those occupations under section 26 of the Act.

Parcels and occupancies are to be valued separately where the following statements apply:

1.	The 'degree of separation effected by the owner in using the land' is such that it is obvious that a parcel is, or parcels are, quite separate to the remainder of the property.  It should be clear that the parcels can be, and are, used independently of each other.
2.	The physical boundaries of the proposed parcels can be readily determined.
3.	The buildings or structures are 'obviously adapted for separate occupation'
4.	There is clearly defined access to each parcel of land from a public road.

The following situations do not comply with the four requirements above and therefore the land will not be separately valued:

- cottages which are clearly part of farming properties
- cottages on properties zoned for "multiple occupancy" on rural lands
- caravan parks and mobile home parks

- shops which are part of a building, and which are not on an identifiable parcel of land (for example, shops in a regional shopping centre or shops in a building where there are offices above)
- dual occupancy where the planning scheme allows two occupancies on the one parcel of land but does not allow subdivision or strata of that parcel
- commercial uses on farming properties which are an intrinsic part of the farming use of that property (winery outlets, bed and breakfast or accommodation units, farm produce outlets or restaurants).

### 1.6.2 Only part of the land is rateable

In some instances, it is possible that only part of the site will be rateable land. While not common, the Local Government Act makes an allowance for land that may be non-rateable parts.

You may need to make a separate valuation under section 28A of the Act where only part of the land is rateable.

You must value the rateable part of the parcel:

- under section 6A or
- if a stratum, under section 7B or
- if part of the site of a building, under section 26A.

### 1.6.3 Parcels that form part of a building

Section 26A of the Act provides special provisions for the valuation of the site of a building where it has been subdivided into separate parcels.

This section only applies if that subdivision is by either:

- the creation of two or more lots in a deposited plan
- a deposited plan and one or more strata plans
- two or more strata plans.

The valuation of the separate parcels under section 26A are not calculated individually but rather are assessed by apportionment of the value of the whole site to the separate lots.

There is a separate guidance note addressing the valuation of land under section 26A of the Act. Refer to the Valuation of parcels guidance note that form part of a building for more details.



## 1.6.4 Separately valuing land or stratum in two or more districts

Where land is located across local government boundaries section 28 of the Act applies.

In such cases you must value the land as one parcel and apportion the value on the basis of each part's respective area.

You must maintain adequate records to show the value of the land as one parcel/property and the basis of the apportionment.

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## 1.7 Parcels of land do not adjoin but are valued together

### 1.7.1 General – lands which do not adjoin

Section 27(2) of the Act states “lands which do not adjoin or are separated by a road, or are owned by different persons shall be separately valued.”

There is no definition of “adjoining lands” in the Act. Situations can arise where land may not physically adjoin but is adjacent and still considered to be one parcel.

### 1.7.2 Valuer General's discretion

The Act provides some direction on lands or “parcels of land” which should be valued separately or together, but also provides some discretion for the Valuer General to decide. The courts have provided guidance on the interpretation of the statutory requirements, but the court does not direct the Valuer General in how to exercise the discretionary powers.

The way land is used is an important factor in deciding if land is one or a number of parcels. Where it is found that the lands are used for one or more related purposes, they will be included in one valuation.

There are many instances where land may appear to be a single parcel, but contains two or more non adjoining parts (for example, land separated by a drainage reserve). If such land was considered as a single parcel, then the operation of section 27(2) does not arise, and the land can be included in one valuation.

For land to be considered a single parcel of land and included in one valuation, the following criteria must be met:

- a single lot in a deposited plan regardless of whether it is contiguous or comprises separate parts, and
- it is contained within one Certificate of Title, and
- it is used for the one purpose and not adaptable for separate occupation.

Below are examples where parcels may not adjoin, but a single valuation is to be made:

- A single lot in a deposited plan, held in one certificate of title but severed by a drainage reserve so that each part of the lot does not adjoin.
- A single lot in a deposited plan, held in one certificate of title but described on the plan as part lots which are separated by other lots.
- A single lot in a deposited plan, held in one certificate of title but described on the plan as part lots which are separated by a road.

### 1.7.3 Fragmented rural holdings

You must include separate parcels of land which are worked as one pastoral or agricultural holding in the one valuation (section 27(2)). These parcels are known as fragmented rural holdings.

The value of each part is to be separately considered in determining the valuation of the whole parcel.

The valuation should assume a hypothetical sale of the whole parcel in one line.

Care must be taken when determining whether there is any discount to the value of the whole compared to the sum of the fragmented parts. Any such discount should be evidence based and may reflect the difficulty in working a fragmented parcel as one holding. Regard should be had to such factors as distance between the parcels and the difficulty of moving stock and machinery.

Fragmented rural holdings should only be included in one valuation when the holdings are all located within the one Local Government Area (LGA).

If a fragmented rural holding includes land in more than one LGA section 28 of the Act applies. You must value all the parcels as one holding and then apportion the value to each LGA based on area.

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## 1.8 Further considerations

### 1.8.1 Valuation of parcels with more than one owner (also known as part formerly valuations)

On occasion, separate titles may be amalgamated into one title, despite having separate owners. The individual owners may still be identified as the owners of that land previously held under separate titles.

The “First Schedule” of the Certificate of Title will list each individual owner as being the owner of a specific part of the land with words to the effect of “as to that part of the land formerly known as lot x in deposited plan yyyyyy”.

These valuations are known as “part formerly” valuations. They should be valued under the normal provisions of section 6A as if held as individual parcels.

This approach has been confirmed by the courts including *Mir and others v Valuer General* 2009 NSWLEC 1309 (Mir) and *Attard v Valuer General* 2006 NSWLEC 351 (Attard).

Of particular relevance from *Mir* (44): *“While each property must be valued separately, it must be assumed that hypothetical vendors and purchasers would conduct their affairs in a market in which they act predictably, rationally and in their economic best interests. While there are clearly obstacles to the independent development of each of the properties (with the possible of exception of Property 4), this does not mean that each property should be treated as a stand-alone property with no consideration of the contextual relationship with other adjoining or nearby properties particularly when this relationship affects the attainment of the highest and best use of the property.”*

### **1.8.2 Valuation of Domestic Waterfront Occupancies containing a shared jetty**

Where a Domestic Waterfront Occupancy is shared by the owners of two or more adjoining freehold parcels, the valuation will be dealt with differently to this guidance note. See the Valuer General guidance note, Valuation of land below high-water mark (domestic waterfront occupancies) which details the treatment of shared jetties.

# References

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## Definitions

Term	Meaning
<b>Certificate of title</b>	Provides evidence of a person's right to deal with the land in the title. A new edition of the Certificate of Title is issued each time a property changes ownership and when certain other transactions occur, such as registration of a mortgage or lease.
<b>Date the valuation is made</b>	The actual date on which the valuer performs the valuation. The physical condition of the land and the manner in which it is used on the date the valuation is made must be assumed to be the same as at 1 July. See section 14K of the Act.
<b>Environmental planning instrument</b>	A legal document that regulates land use and development under State environmental planning policies and local environmental plans.
<b>Fee simple in possession</b>	Absolute title to land, free of any other claims against the title, which one can sell or pass to another by will or inheritance.
<b>Highest and best use</b>	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.
<b>Improvement</b>	Something that improves the value of the land. This is not defined in the Act and is different from the term 'land improvement' (below).
<b>Land improvement</b>	Land improvement, such as draining, excavating, filling or clearing, as defined in section 4 of the Act and included in the land value.
<b>Land value</b>	Value of the land excluding any structures or improvements but including land improvements. See section 6A of the Act for a full explanation.
<b>Register of Land Values</b>	The official record of land values for land in NSW. The Register of Land Values contains information that includes ownership or rate paying lessee details, title details and the value of the land.

Term	Meaning
<b>Sale</b>	<p>The transfer of property between parties. To use a sale as market evidence, it must have been:</p> <ul style="list-style-type: none"> <li>• an arm's length transaction</li> <li>• between a willing buyer and willing seller who both acted knowledgeably, prudently and without compulsion</li> <li>• properly marketed.</li> </ul>
<b>Strata</b>	Plural of stratum.
<b>Strata plan</b>	The registered plan of a strata title property showing the boundaries of lots and unit entitlements. Pursuant to legislation on strata or unit titles
<b>Stratum</b>	Stratum means a part of land consisting of a space or layer below, on, or above the surface of the land, or partly below and partly above the surface of the land.
<b>Statutory restrictions</b>	Statutory restrictions on the land may include environmental planning instruments and development control plans, as well as restrictions relating to the clearing of land, water, and soil management.
<b>Unencumbered</b>	<p>Unencumbered land is land without any encumbrances.</p> <p>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.</p>
<b>Valuing year</b>	The year starting 1 July. Valuation reflects the property market at the start of the valuing year.

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## Related documents and legislation

- [Valuation of Land Act 1916](#) – Section 14A (4), Section 26 (1) to (3), Section 27 (1) to (5), Section 27B, Section 7B, Section 26A, Section 28, Section 28A
- [Strata Schemes \(Freehold Development\) Act 1973](#) – Section 90
- *Mir and others v Valuer General* 2009 NSWLEC 1309
- *Attard v Valuer General* 2006 NSWLEC 351
- [Valuation of parcels that form part of a building guidance note](#)
- Valuation of land below high-water mark (domestic waterfront occupancies) guidance note