

Valuer General


valuergeneral.nsw.gov.au



Valuation of land below high-water mark (domestic waterfront occupancies)

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

Valuation of land below high-water mark (domestic waterfront occupancies)

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.

Copyright and disclaimer

© State of New South Wales through the NSW Valuer General 2024. Information contained in this publication is based on knowledge and understanding at the time of writing and is subject to change.

This document is intended to provide guidance only. Before relying on any material contained within this document, readers should obtain legal or professional advice suitable to their particular circumstances.

For more information, please visit valuergeneral.nsw.gov.au/copyright.

Contents

- Introduction..... 4**
 - 1.1 Purpose..... 4
 - 1.2 Background 4
- Recommended Approach 5**
 - 1.3 Scope..... 5
 - 1.4 Assumptions and considerations 5
 - 1.5 Valuation methods 7
 - 1.6 Market analysis..... 9
- References 11**
 - Definitions..... 11
 - Related documents and legislation..... 12

Introduction

1.1 Purpose

This document is intended to provide guidance to valuers on the methods to use, and factors to consider, when valuing land below the high-water mark used for domestic waterfront occupancies (DWOs) for rating and taxing purposes.

This guidance note will ensure that the Valuer General's valuations of land below the high-water mark used for DWOs are:

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

1.2.1 Rents for DWOs

Rents for DWOs are established by the Department of Planning, Housing and Infrastructure and Transport for NSW (formerly Roads or Maritime Services (RMS)), based on a formula set by the IPART. The formula references land values of DWOs (where separately valued) and adjoining freehold lands.

Recommended Approach

1.3 Scope

1.3.1 Land below 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 riverbeds, many wetlands and the State's territorial waters extending 5.5 kilometres out to sea.

1.3.2 Domestic waterfront occupancies (DWOs)

Use this guidance note to assess the land value of DWOs.

DWOs refer to land below high-water mark which are leased and used for domestic purposes.

DWOs are not usually sold, other than the occasional sale of reclaimed land to the adjoining owner. Rentals for the land are determined by a formula devised by the Independent Pricing and Regulatory Authority (IPART).

Depending on the circumstances, DWOs are either valued with the adjoining land or stand-alone.

1.3.3 Non-domestic

The valuation of land below high-water mark used for non-domestic purposes is not covered under this guidance note. Refer to Valuer General guidance note on Valuation of land below high-water mark (commercial waterfront occupancies).

1.4 Assumptions and considerations

1.4.1 Legislative assumptions

Land below high-water mark is Crown land. Crown land is valued under different sections of the Act depending on who administers the land.

Crown land below high-water mark is either administered by the Department of Planning, Housing and Infrastructure, or Transport for NSW (previously Roads and Maritime Services (RMS)).

Administering body	How land below high-water mark is valued
Department of Planning, Housing and Infrastructure	This land is considered to be Crown lease restricted land, so it is valued with regard to both section 6A and section 14I of the Act. For more information on the valuation assumptions for valuing Crown lease restricted land refer to the guidance note for valuing that type of land.
Transport for NSW	Crown land administered by Transport for NSW is not classified as Crown lease restricted land and is therefore not valued under section 14I.

1.4.2 Valuing DWOs with the adjoining land

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

You can make the valuation by referring to sales of similar properties, using the direct comparison method.

Where DWOs adjoin freehold residential parcels, the value added by the lessee's interest in that occupancy, including all improvements, is usually reflected in the sale price of the freehold land. However, no money transacts between seller and buyer for a transfer of the lease.

1.4.3 DWO leases in two or more names

Where the DWO is leased in the names of more than one person, for example J. Smith and D. Smith and one of those is the legal owner of the adjoining land, the DWO and the freehold land shall be included in one valuation.

However, if the land is owned by J. Smith but the DWO is leased by D. Smith the two parcels cannot be included in one valuation.

1.4.4 Shared jetties

A common outcome of government leasing policy has been the occurrence of a single jetty constructed to serve two adjoining parcels of land. The jetty usually extends from the centre line of both parcels meaning each parcel will connect to the DWO.

Where a DWO is shared by the owners of adjoining freehold land as described above, the DWO shall be amalgamated to each parcel of adjoining land.

The joint ownership of the DWO must include the same legal entities as the separate adjoining freehold land.

The valuation of each single freehold parcel will include the added value of the DWO to that parcel.

1.4.5 Standalone valuations

Not all DWOs can be valued with the adjoining land. You must value a DWO separately (or as a “stand-alone DWO”) in the following circumstances:

1.	The DWO is leased by the owners of the nearby freehold land, but it is separated by a road and/or other land such as public reserves.
2.	The DWO is leased by the owners of the adjoining freehold land, but the lease is held under a different name or legal entity.
3.	The DWO has no identified or identifiable property which directly benefits from its use.

In the case of 1 and 2 above you need to ensure that the land value of the property benefiting from the use of the standalone DWO (where it exists) does not include any value attributed to the use of the DWO.

As there are no sales of land below high-water mark you will usually value the standalone DWO using the hypothetical development method.

The valuation is of the fee simple in possession (FSIP) having regard to the lessor’s and lessee’s combined interest.

1.5 Valuation methods

1.5.1 Mass valuation process

The Valuer General uses a mass valuation process to value most waterfront properties with DWOs and most standalone DWOs. 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 Act. All valuations must be supported by market evidence and quality assured.

The mass valuation method 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.

1.5.2 Direct comparison

Direct comparison is the method most commonly used to value a DWO, when valued in conjunction with the adjoining land.

Direct comparison involves comparing market sales with the subject land.

Be aware that the sale of freehold land does not include the adjoining leasehold area. However, the sale will reflect the lessee's interest in the land where the lease can be transferred to the purchaser of the land. To determine the full value of the freehold and leasehold area together, adjustment is required to reflect the lessor's interest in the leasehold land (see section 1.8 market analysis).

When using direct comparison to value a DWO with the adjoining land, you must:

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

1.5.3 Hypothetical development method

The hypothetical development method will most commonly be used to value a DWO when valued in isolation (standalone).

To derive the land value of a DWO using this method, you must:

1.	Estimate the net rental which could be obtained from the DWO, based on the legally permitted use as set out in the lease and relevant planning approvals.
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.

When you value a DWO you must include the added value of land improvements. Examples of land improvements for DWOs 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.

You should obtain rental evidence from a variety of sources where similar uses exist. A local marina and boat storage tender or kayak storage facilities are typical sources.

In applying rental evidence you should reflect the actual use, the availability and cost of maintaining that use and the likely interest which would be shown for that use in that location.

1.6 Market analysis

1.6.1 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.

1.6.2 Analysis of sales of waterfront properties

Waterfront properties which are sold may or may not benefit from a DWO. You should analyse sales of properties with and without the benefit of an associated DWO to determine the added value of the DWO's.

The total land value of the DWO will need to reflect the FSIP being the combined interest of the lessor and the lessee.

When you analyse a sale of land which includes a DWO, the current rental paid by the lessee to the government authority responsible for the land should be capitalised and added to the sale price to reflect the full FSIP value of the combined freehold and DWO land.

The added value of a DWO is determined by deducting from the combined value, the value of freehold land without the benefit of an associated DWO.

Example

Sale of freehold property with associated DWO - say \$2.1 m

Current rent of DWO - \$10,000 per annum capitalised at say 10% = \$100,000

Full FSIP = \$2.2 m

Less added value of improvements:

- House \$300,000
- Garage \$50,000
- Jetty \$50,000

Total added value of improvements = \$400,000

Analysed land value = \$1.8 m

Less land value of a freehold parcel without a DWO (based on sales of similar properties) - say \$1.6 m

Added value of the DWO = \$200,000

Note: Figures quoted are for illustration only.

1.6.3 Rental analysis

To determine land value using the hypothetical development method, you need to establish the improved value of the DWO by capitalising the rental value.

The rental paid for DWOs is for the land only and does not include the value of any improvements. The rental value inclusive of improvements can be determined by reference to similar uses in commercial circumstances. These include rentals of berths and swing moorings in marinas, as well as waterfront storage facilities for boats and marine related uses.

The adjustment of rental evidence to the domestic situation should reflect the additional services available in the commercial facility such as fuel sales, cleaning and maintenance. The domestic situation will have advantages related to access being located adjacent to the freehold land. Other considerations include the distance from alternate facilities and the proximity of available public moorings.

The evidence used, rationale and calculations for adjustments are to be recorded.

1.6.4 Sales of berths

Sales of berths of various sizes in private and commercial marinas do occur. There is no public record of these sales, and the information is usually only available from the agents who handle the sales.

You must analyse such sales with caution. The sale and all associated conditions of the sale should be documented. Be aware of services which are included, if the sale is limited to a term, what levies are payable, and whether the rental is covered for the term of ownership. The adjustments required for the sale will be dependent on circumstances.

Such sales are always of a leasehold interest, not a freehold interest. The payment of the ground rental of the licensed area needs to be taken into account in your analysis. Adjustment should also be made for restricted terms when comparing to the value of freehold land.

References

Definitions

Term	Meaning
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.
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 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 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 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.

Term	Meaning
Occupancy	Refers to domestic waterfront occupancy (DWO).
Outgoings	The total of all statutory charges, operating expenses and other outgoings for which the lessor is liable.
Sale	<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"> • an arm's length transaction • between a willing buyer and willing seller who both acted knowledgeably, prudently and without compulsion • properly marketed.
Valuing year	The year starting 1 July. Valuation reflects the property market at the start of the valuing year.

Related documents and legislation

- [Valuation of Land Act 1916 – Section 6A](#)
- [Valuation of Crown lease restricted land guidance note](#)
- [Valuation of land below high-water mark \(commercial waterfront occupancies\) guidance note](#)