

**Valuer General**


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# Valuation of Crown lease restricted land

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 advise valuers on the methods to use, and factors to consider, when valuing Crown lease restricted land for rating and taxing purposes.

This guidance note will ensure that the Valuer General's valuations of Crown lease restricted land are:

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

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## 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 Crown leases

A lease of Crown land enables exclusive use over a particular piece of land for a specified term and purpose. Generally, leases are sought over Crown land for uses such as agriculture, irrigation, commercial purposes, marina sites, domestic waterfront purposes and caravan parks.

All Crown land leases are issued for specified terms and are recorded on the title of that land.

### 1.2.2 Administration of Crown leases

Crown leases and licenses are administered by Crown land, NSW Department of Planning, Housing and Infrastructure.

# Recommended Approach

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## 1.3 Scope

### 1.3.1 Crown lease restricted land

Use this guidance note to assess the value of Crown lease restricted land.

Section 14I(2) of the Act defines land that is Crown lease restricted if it is subject to any of the following:

- a. a lease or licence, or a permit to enclose a road or watercourse, granted under Part 4 of the Crown Lands Act 1989
- b. an incomplete purchase or permissive occupancy, or a special lease or term lease, within the meaning of the Crown Lands (Continued Tenures) Act 1989
- c. a lease under the Forestry Act 2012
- d. in the case of lands of the Crown, a lease of a class or description prescribed by the regulations.

Section 4 of the Valuation of Land Regulation 2012 (under the Valuation of Land Act 1916) refers to a number of other leases or tenures that are to be considered as Crown lease restricted land for the purpose of section 14I of the Valuation of Land Act.

Certain land owned by the Crown is managed by Transport for NSW (previously known as Roads and Maritime Services (RMS)). This includes Sydney Harbour and its tributaries, Port Kembla, Newcastle Harbour and Botany Bay. Land managed by Transport for NSW does not fall within the definition of Crown lease restricted as defined in section 14I(2) unless it is land used for agricultural or pastoral purposes.

### 1.3.2 The Western Division

Land subject to a Western Lands lease is not covered under this guidance note. Refer to the guidance note for the valuation of land in the Western Division.

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## 1.4 Valuation methods

### 1.4.1 Mass valuation process

The Valuer General uses a mass valuation process to value most Crown lease restricted land. 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 used in NSW is the component method. Valuation methods, such as the direct comparison method, are used to value a sample of individual properties within the component.

### 1.4.2 Direct comparison

Direct comparison involves comparing market sales with the subject land. When using direct comparison to value Crown lease restricted land, you must:

- use sales of land that have a similar use to that prescribed in the lease document for the subject land
- 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
- consider all factors that influence the land's value such as the land's size, aspect, location, zoning, planning controls, and permitted use under the lease.

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## 1.5 Assumptions and considerations

### 1.5.1 Valuation assumptions

You must value Crown lease restricted land with regard to section 6A and section 14I(1) of the Act.

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 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.

## 1.5.2 Valuation considerations

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).

## 1.5.3 The Crown lease

When Crown lease restricted land is valued, the restrictions on the disposition or the manner of use that apply to the land under the lease must be taken into account (section 14I).

The restriction on disposition means the restriction on transferring the land. Land held under a Crown lease cannot be transferred without the Ministers consent. You must consider the time, costs and risk of gaining Ministerial approval.

The manner of use relates to the actual restrictions on the use of the land as documented in the lease. For example, a lease where the use is identified as “for a golf course” confines the use of the land to golf course activities. The highest and best use of the land will be for use as a golf course.

The assumptions in section 14I does not require you to consider other aspects of the lease. The restrictions on manner of use and disposition are all that needs to be considered.

# References

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## Definitions

Term	Meaning
<b>Component</b>	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.
<b>Component method</b>	An indexing system of mass valuation based on the principle of identifying groups of comparable properties and then extrapolating an individual valuation decision for a typical property within the group across the range of the component.
<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 may be used on the date the valuation is made must be assumed to be the same as at 1 July. See section 14K of the Valuation of Land Act.
<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 Valuation of Land Act and is different from the term 'land improvement' (see below).
<b>Land improvement</b>	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.
<b>Land value</b>	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.



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>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>Western Division</b>	<p>The Western Division makes up 42 per cent of the total area of NSW, covering approximately 32.5 million hectares. The vast majority of the Western Division is Crown land, administered under various Crown Lands Acts, in particular the Western Lands Act 1901.</p>

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## Related documents and legislation

- [Valuation of Land Act 1916](#) - Section 6A, Section 14I
- [Crown Lands Act 1989](#)
- [Forestry Act 2012](#)
- [Valuation of land in the Western Division Guidance Note](#)