

Valuations for Dealings under the Land Act 1994. PUX/901/656

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Version History

Version	Date	Description/Comments
1	17/10/2008	Endorsed by Scott Spencer, Director-General, Department of Natural Resources and Water.
1.1	15/07/2010	Updated to include Land Regulation 2009 amendments
1.2	06/09/2012	Minor updates to reflect departmental name change to DNRM
1.3	19/03/2013	Updated to change government logo
1.04	07/03/2014	Updated to new DNRM template
1.05	21/06/2016	Minor amendment to review and insert text on new template

Approval

Position	Name	Date
Acting Director, Operations Support - Land	Amanda Kearnan	21/06/2016



Table of contents

Executive Summary	1
Purpose/Scope	1
Rationale	1
Policy.....	2
Responsibilities.....	7
Legislation	7



Executive Summary

Where an interest in state land is to be granted the provisions of the *Land Act 1994* require a market approach to land dealings adjusted when appropriate for community benefits arising from the dealing.

In addition, under the government's land disposal policies market value is to be realised on the sale of the property or a grant of an interest in property, unless the specific approval of the Treasurer is otherwise obtained.

This policy provides direction on the –

- relevant date of a valuation,
- matters to be considered in valuing the land, and
- methodology for determining the consideration for easements and
- methodology for determining annual rents
- methodology for determining the value of improvements

This Policy applies to all applications, including those made by a State government agency, local government or a government owned corporation.

Purpose/Scope

To provide direction and ensure a consistent approach is taken to the provision and application of valuation advice that supports land dealings in accordance with the *Land Act 1994*.

Rationale

All non-freehold land dealt with under the *Land Act 1994* is owned by the State and the Department administering the *Land Act 1994* (representing the State) has a responsibility under the government's land disposal policies to realise fair market value on the disposal/sale or grant to an interest in state land, unless the specific approval of the Treasurer is otherwise obtained.

Prior to the allocation of land under the *Land Act 1994* there will be an evaluation of land to determine its most appropriate use and tenure.

Upon determination of the most appropriate tenure and consideration of the priority criteria, where required, a decision will be made as to the most appropriate method for allocation of the land and in many instances this will require the applicant to pay the department a purchase price for the land.

In instances where the land is allocated under a lease, licence or permit to occupy, in most instances the holder for the lease, licence or permit to occupy is required to pay the department an annual rent based on the most recently made valuations for rental purposes.

For easements the consideration for the granting of an easement will be equivalent to the valuation of diminution in value of the land over which the easement is sought.

The *Land Act 1994* also requires in some instances for the former owner of improvements on a lease, licence or trust land to be paid the value of the improvements when the lease ends or a new lease or deed issues to another entity.



A registered valuer will provide the required valuation and in the absence of specific legislation citing a relevant date for the valuation, this policy provides direction on the relevant date for valuations to ensure consistent and accountable administration of land dealings.

Policy

Unless the *Land Act 1994* specifies a relevant date at which the valuation (to support the purchase price or the calculation of an annual rent or the consideration for an easement, or the value of improvements) is to be made, the relevant date of the valuation must not be older than 3 months as at the date of approval of the relevant action.

If the date of the valuation is older than 3 months, (with the exception of rental valuations for Leases, Licences & Permits) before deciding on the action a review of the valuation is to be sought and obtained to ensure that the valuation is current and reflects any movement in market values.

This Policy applies to all applications, including those made by a State government agency, local government or a government owned corporation.

Schedule 2 of the *Land Act 1994*, identifies the particular dealings when the applicant may seek an internal review or make an appeal against the purchase price or the valuation.

Definitions:

- the term 'purchase price' includes the value of the land and/or improvements on the land that is the property of the State.
- the meaning of 'unimproved value' is as per section 434 of the *Land Act 1994*.

Specific relevant dates for determining purchase price/valuation for land

s.25 - Disposal of reservations by sale

The purchase price for a reservation in a deed of grant or freeholding lease is the unimproved value of the land.

The unimproved value is the value of the land

- (a) on the date the application to buy the land was received from the registered owner or lessee; or
- (b) on the day the offer was made if an offer to sell the land was made before the registered owner or lessee applied to buy the land.

NB. The *Land Act 1994* makes no provision for the purchase price to include the value of any commercial timber located within the reservation area. Accordingly the valuation must not have reference to the value of commercial timber.

s.127 - Reclaimed land

If a deed of grant is issued over reclaimed land the purchase price is -

- (a) the purchase price stated in the permission to reclaim the land or in the lease; or
- (b) if no purchase price is stated-the amount of the unimproved value of the land, on the day the permission to reclaim the land was given.

It is important to note that under s.127 (1) (a) the reclamation works must have been carried out by the entity that is to be granted the deed.

s.170 - Conversion of a lease to a deed of grant or freeholding lease

Unless the purchase price or formula for calculating same has already been stated in the lease to be converted, the purchase price for the conversion is the total of the unimproved value of the land and the market value of any commercial timber that is the property of the State on the land.

The unimproved value is determined as at the date the valid application was received by the department. The market value of the commercial timber is calculated at –

- (a) the day the conversion application was received if the value is not appealed; or
- (b) if the value is appealed-the day the appeal is decided.

Non-specific relevant dates

For Land Act dealings, other than those specified in sections 25, 127 and 170, the relevant date of the valuation for determining the purchase price or annual rent or consideration for an easement, is the date of the valuation report.

If the date of the valuation report is older than 3 months, before deciding on the action a review of the valuation is to be sought and obtained before approval of the relevant action.

Permanent road closure

Permanent road closure for inclusion into -

- **an adjoining freehold lot;**
- **or an adjoining freeholding lease;**
- **an adjoining perpetual lessee held by a government leasing entity (e.g. gov. dept., GOC) as defined in s.30 of the Land Regulation; or**
- **operational trust land**

The purchase price is the valuation of the land based on added value, or site basis or the before and after methodology.

The valuation is to include the value of any improvements and development work on the road area that are the property of the State.

No allowance is given to reflect the removal and/or adjustment of public infrastructure

belonging to a public utility provider (including the road pavement) and/or any unauthorised improvements/development work undertaken by the applicant that improves or degrades the road area. In addition no allowance is given to the cost of survey of the adjoining land to include the road area.

Where the road area is to be included in adjoining freehold land or a freeholding lease the purchase price must also include the value of any commercial timber on the road area. If the date of the valuation report on the commercial timber is older than 3 months, before deciding on the action a review of the valuation is to be sought and obtained before approval of the relevant action.

Permanent road closure for inclusion into -

- **an adjoining perpetual lessee not held by a government leasing entity (e.g. gov. dept., GOC) as defined in s.30 of the Land Regulation;**
- **an adjoining term lease; or**
- **trust land for a community purpose**

No purchase price for the land is payable. Where the closed road is included into an adjoining term or perpetual lease the annual rent may be adjusted on a pro-rata basis following a reassessment of the valuation under s.28 (L) of the *Valuation of Land Act 1944*.

There is no requirement to assess the value of commercial timber as this remains the property of the State under a lease or reserve.

In instances where the closed road is to be included into an adjoining term or perpetual lease and there are improvements on the road area that are the property of the State, the lessee will need to pay the State for the improvements. A valuation of these improvements is required and the relevant date for the valuation is the date of the valuation report. If the date of the valuation report on the improvements is older than 3 months, before deciding on the action a review of the valuation is to be sought and obtained before approval of the relevant action.

Unallocated State land

Unallocated State land for inclusion into -

- **an adjoining freehold lot;**
- **or an adjoining freeholding lease;**
- **an adjoining perpetual lessee held by a government leasing entity (e.g. gov. dept., GOC) as defined in s.30 of the Land Regulation; or**
- **operational trust land**

The purchase price is the valuation of the land based on added value, or site basis or the before and after methodology.

The valuation is to include the value of any improvements and development work on the USL that are the property of the State. The valuation is not to give any unauthorised improvements/development work undertaken by the applicant that improves or degrades the land.



Where the unallocated State land is to be included in adjoining freehold land or a freeholding lease the purchase price must also include the value of any commercial timber on the USL. If the date of the valuation report on the commercial timber is older than 3 months, before deciding on the action a review of the valuation is to be sought and obtained before approval of the relevant action.

Unallocated State land for inclusion into -

- **an adjoining perpetual lessee not held by a government leasing entity (e.g. gov. dept., GOC) as defined in s.30 of the Land Regulation;**
- **an adjoining term lease; or**
- **trust land for a community purpose**

No purchase price for the land is payable. Where the USL is included into an adjoining term or perpetual lease the annual rent may be adjusted on a pro-rata basis following a reassessment of the valuation under s.28 (L) of the *Valuation of Land Act 1944*.

There is no requirement to assess the value of commercial timber as this remains the property of the State under a lease or reserve.

In instances where the USL is to be included into an adjoining term or perpetual lease and there are improvements on the USL that are the property of the State, the lessee will need to pay the State for the improvements. A valuation of these improvements is required and the relevant date of the valuation report. If the date of the valuation report on the improvements is older than 3 months. Before deciding on the action a review of the valuation is to be sought and obtained before approval of the relevant action.

Sale of unallocated State land (including an area of permanently closed road) as a stand-alone lot, without competition.

The purchase price is the valuation of the land based on the highest and best use principle.

The relevant date for the valuation is the date the valuation is provided to the department. The valuation is to include the value of any improvements and development work on the land that are the property of the State. The valuation is not to give any consideration to any unauthorised improvements/development work undertaken by the applicant that improves or degrades the land.

The purchase price must also include the value of any commercial timber on the land. If the date of the valuation report on the commercial timber is older than 3 months, before deciding on the action a review of the valuation is to be sought and obtained before approval of the relevant action.

New leases, licences and permits to occupy

Unless there is a set rent, the rent for a lease, licence or permit is the amount calculated by multiplying the most recently made valuation for rental purposes (ie. the valuation provided to the department on the most recently issued local government valuation, as per the *Valuation of Land Act 1944*) by the rate prescribed in the Land Regulation for the category of the lease, licence or permit.

The relevant date for the valuation is the date of the valuation report. The valuer will quote the valuation as at the current revaluation.

For leases only, if there are any improvements on the land to be leased that are the property of the State, the valuation should also include a value of the improvements.

There is no requirement to assess the value of commercial timber as this remains the property of the State under the lease, licence or permit.

Easements

In accordance with Land Act Policy PUX/901/527 easements are to be granted only on determination of suitable consideration.

The consideration for the granting of an easement will be equivalent to the valuation of diminution in value of the land over which the easement is sought. State Land Asset Management Notification PUX/952/072 provides a procedure in this regard.

The relevant date for the valuation is the date of the valuation report.

Specific relevant dates for determining the value of improvements

s.139 - Improvements to be bought by incoming lessee or buyer

If there are improvements, the property of the State or a previous lessee, on land to be leased or bought under the *Land Act 1994*, the value of the improvements is to be determined as at the day the offer was made.

The value of the improvements is to be assessed on a cost less depreciation basis.

s.249 - Payment by the State for improvements

If a term lease for pastoral purposes, or a term lease for agricultural or grazing purposes of a type mentioned in section 160A(1), expires or is surrendered absolutely, or a perpetual lease for grazing or agricultural purposes is surrendered, and the State –

- (a) sets aside any land, that was a part of the lease, as a reserve for a community purpose;
or
- (b) dedicates any land, that was a part of the lease, as a road;

the State must pay, to the person who was the lessee, the value of any lawful improvements on the part of the land set aside or dedicated.

The value of the improvements is to be determined as at the day of the expiry or surrender of the lease.

The value of the improvements is to be assessed on a cost less depreciation basis.



Non-specific relevant dates

s.247 – Payment for improvements by incoming lessee or buyer

Where the State is intending to seek payment from an incoming lessee or buyer for the improvements and development work on the land, the relevant date for the valuation is the date of the valuation report. If the date of the valuation report is older than 3 months, before deciding on the action a review of the valuation is to be sought and obtained before approval of the relevant action.

The value of the improvements is to be assessed on a cost less depreciation basis.

Responsibilities

All officers with appropriate delegations under the *Land Act 1994*, in particular State Land Asset Management officers within regions

Legislation

Land Act 1994

Land Regulation 2009

Valuation of Land Act 1944