

Recording of reasons for decisions on the eligibility of land for concessional valuation

(prev. Val/2002/341)

VAL/2013/451

Version 4.02

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Version History

Version	Date	Description/Comments
2.00	11/02/2002	Updated previous procedure
3.00	01/08/2003	Updated to new format.
3.01	20/06/2005	<ul style="list-style-type: none"> • Conversion Project – New Word XML template. • Changed Regional Manager Title
3.02	28/02/2008	<ul style="list-style-type: none"> • Minor changes - updated to current template • New policy number and review date updated.
3.03	08/02/2011	<ul style="list-style-type: none"> • Changed access from 'Public' to 'Departmental' • Status 'Under Review' & removed Metadata Record from Internet until document updated.
4.00	13/03/2011	Updated content to reflect the Land Valuation Act 2010
4.01	06/06/2016	<p>Cosmetic changes approved by Position, Region, State Valuation Service:</p> <ul style="list-style-type: none"> • Updated to new DNRM template • Updated information including date of last review within title page, version history table and footer • ID update due to migration of document to a new policy register (previously VAL/2002/341) • Cosmetic & minor content updates of e.g. department name, policy names & IDs, legislation references, links & outdated references.
4.02	22/06/2020	<p>Cosmetic changes approved by Area Manager, North Coast, State Valuation Service:</p> <ul style="list-style-type: none"> • Updated to new DNRME template • Updated information including date of last review within title page, version history table and footer • Include reference to business of farming under s.48 LVA • Include reference to store decision file in QVAS

Approval

Position	Name	Signature	Date
Valuer-General	Neil Bray		13/03/2011

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Purpose

The purpose of this procedure is to set out the requirement for the **State Valuation Service (SVS)** to record the reasons used to determine if a landowner qualifies to have their land valued under sections 45 to 48 of the *Land Valuation Act 2010* (the Act).

Concessional valuation refers to the valuation of land used for single unit dwelling or farming (as defined under sections 45 – 48 of the Act).

Rationale

The process to be used on the single dwelling house test (as contained in Notification Number VAL/2013/465) as well as the farming test.

There have been cases where concessional valuations were removed and a full valuation issued. The owners did not object to the amount of the valuation through the normal grievance process but challenged the decision to remove the concession through the Parliamentary Commissioner for Administrative Investigations (Ombudsman).

During the course of investigation by the Ombudsman, it was revealed that a written record of the reason for the decision by the SVS to remove the concessional valuation had not been kept on the file.

It is pointed out that there is a mandatory requirement for recording these reasons to cater for instances where the action is taken for a review of the process by the landowner in terms of the *Judicial Review Act 1991* and the *Right to Information Act 2009*.

Procedure

In all cases where a valuation approach is reviewed which either results in a sections 45 to 48 valuation approach being removed or declined, the SVS is to record clearly in writing on the Departmental file, the reason why the valuation approach was removed or declined. This is to be done at the time the decision is made.

The file note should be stored as a document against the property record in QVAS.

Responsibilities

It is the responsibility of the *State Valuation Service (SVS)* to record the reasoning process used in removing or refusing an application for a concessional valuation under sections 45 to 48 of the Act. These notes should be in such detail as is necessary to meet the needs of a review of the decision making process under the *Judicial Review Act 1991* or the *Right to Information Act 2009*.

It is the responsibility of the **Area Managers, SVS** to ensure that the decision making process is being recorded in an appropriate form and that where possible forms part of the relevant property file.

References

Valuation Management Notification VAL/2013/465- "Valuation: Single Dwelling House - Section 47"

Legislation

Judicial Review Act 1991

Right to Information Act 2009

Land Valuation Act 2010 sections 45 to 48

**Land used for the Business of Farming
Section 48- *Land Valuation Act (2010)*:
Sale Selection**

VAL/2017/3905

Version 1.01

Last reviewed 12/05/2021

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Version History

Version	Date	Description/Comments
1.00	01/06/2017	New Policy. Relates to Sec 48 of <i>Land Valuation Act 2010</i> . Final draft compiled by Greg Crowley, Area Manager, South Coast.
1.01	12/05/2021	Cosmetic updates only approved by Director SVS Policy including update to new Department of Resources template.

Approval

Position	Name	Signature	Date
Valuer-General	Neil Bray		01/06/2017
Director SVS Policy	Karen Hopper		12/05/2021

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Purpose

This policy provides guidance on the appropriate sale selection and analysis for valuing land that qualifies as farming under section 48.

Rationale

Chapter 1, Part 1 of the *Land Valuation Act 2010* (the Act) requires the Valuer-General to decide the value of land for various purposes. Part 2 identifies the methodology required in certain cases including the valuation of land used for farming (Div. 4, Sub. 2). Section 48 identifies what is farming.

The value of farming land must ensure that any enhancement in value, because of the uses mentioned in section 46, are ignored. The critical element is not the use – but whether there is any enhancement on value for the use.

This policy provides guidance on the appropriate sale selection and analysis for valuing land that qualifies as farming under section 48.

In all cases sale selection must satisfy the expected realisation requirements for a site or unimproved value (Ch. 1, Pt. 2, Div. 3 of the Act).

Procedure

Sales Selection

In general terms, in areas dominated by farming activity the market will determine a highest and best use consistent with farming. The caution in those areas is the selection of sales in multi-title. This type of sale may be suitable where the highest and best use of the lands is as a combined parcel, for example land with no practical access prospects to additional titles or an unviable subdivision. A paired sale approach with a comparable single title sale may indicate whether or not there is any enhancement in the value attributed to the multiple titles.

In areas where farming markets merge with other purposes, greater caution is required when selecting sales to ensure there is no premium paid for certain lands. In merging areas potential for other purposes in a land sale does not eliminate it from consideration unless there is clear evidence of enhancement in value. **To be clear, the right for a place to live or a lifestyle influence in a land sale are generally inherent in a farming business.** Unless there is evidence of a premium paid for those influences then they inherently form part of the value for that land for a farming business.

Land Court precedent (*Clayton, Meirs*) accepts that farming and rural residential or rural lifestyle purposes do compete in some areas which is the “one market” principle. The best test for suitability is whether land is purchased with the intention for a farming business under the Act. This approach has been supported by decisions of the Land Court (*Olm*).

The second element is the reliability of the sale for a site or unimproved valuation. The general principle on the level of improvement in sale selection is that vacant or lightly improved land is preferred. The principle is based on the reliability of the sale – the less adjustment required to reduce a sale price to site or unimproved value the more reliable the sale. Conversely, more adjustment creates greater conjecture and less reliability. Ultimately, the level of improvement of a selected sale will depend on the availability of truly comparable evidence within the various forms of farming (e.g. grazing and agriculture) and land attributes (e.g. land area and location) to be valued.

Where vacant or lightly improved sales are discarded for farming purposes in a merged area, the reason for discarding must be identified in the sale analysis e.g. a rural living feature not representative of a farming market, or multiple titles. The best test for enhancement is a paired sale approach against sales that meet the farming business intention test.

The land must be used for, or is intended to be used for, the business of farming as per s.48 of the Act either in its own right or in conjunction with other land held by the owner (owned or leased). Actual or intended farming use must be confirmed by way of interview or questionnaire and documented in the analysis.

The use of large farming sales in local government areas has been common practice, and each of these sales would reflect the rural living, or right to live, component inherent in each sale. For this reason smaller farming purchases should not be ignored or discarded because of the perceived "premium" of having a rural living feature. However, sales with significant features such as beach frontage or panoramic views should not be used, unless it is supported in the general market. If such features are common to the farming market, then these sales are considered appropriate.

Sales Analysis

The purpose of sales analysis is to identify the expected realisation from the assumption of the sale of land in either a site or unimproved state. The sales analysis may require particular adjustments to reflect the assumption, such as the removal of the added value of site and/or non-site improvements on or to the land that may have been included in the sale price.

Sales evidence should be sought as close as possible to the date of valuation to reflect the market as at that date, and that reflects the characteristics of the land to be valued to minimise the adjustments necessary in applying the evidence.

Full inspection of all relevant rural farming sales is required, after a farming questionnaire or interview, to confirm the information provided by the owner. Where the existing valuation is not valued under s.48 then it may require amendment under s.92 of the Act.

Where there is a lack of suitable lightly improved sales, then improved sales may be used however care must be taken in the analysis of sale.

Improved sales should be analysed on an added value approach to support the analysis of vacant or lightly improved land sales but not as the primary method of determining unimproved or site value. Where there is a lack of vacant or lightly improved land sales, improved sales must become the primary evidence, in which case a thorough analysis is required. The higher risk and subjective nature of this approach should be noted. Where the analysis of an improved sale is at odds with the evidence of vacant or lightly improved sales (assuming all other things being equal) then the analysis of added value must be reviewed.

Consistent identification of improvement costs is important, however it is the added value of all improvements that must be considered when analysing sales, not the cost of making that improvement.

Once a sale has been analysed, the 'analysed sale price' is derived and may be used to determine the valuation of other lands for statutory purposes under the Act.

Application of sales under the Act

The direct comparison approach is used and sales should be sought as widely as necessary to find comparable land sales, even if those sales are not in the same location or dated in nature, and make suitable adjustments. The objective is to identify markets, and these markets may exist across various local authority boundaries.

Lands which are being used for the business of farming must be valued having regard to similar used lands although in some markets the difference in value between farming lands and rural living lands may be minimal. For example, the difference in unimproved or site values for similar smaller area sale properties, side by side – one analysed as a rural living parcel and the other as rural farming would be development interest, if any.

The rural living features common to the area, and considered by the prudent purchaser, will be reflected in the statutory valuation for farming lands. As a result certain features might result in land values being applied at odds with the physical quality of the land for farming purposes. For example, a poorer quality forest grazing block with a good location may be valued higher than a better quality agricultural block with poorer access or location to services.

Combined valuations under Chapter 2, Part 3, Division 3 of the Act will be valued as one parcel ignoring the separate titles but having regard to the as of right rural living component of the land, as well as any working difficulties where the parcels are severed/non-adjointing. For example, a cane farm with five non-adjointing 20 hectare lots will be valued as a 100 hectare farm reflecting the best rural living component from one of the parcels and additional farming area to the balance in the same fashion a single 100 hectare parcel would be assessed. An allowance is required where there is working difficulties due to the severance.

When undertaking the valuation it is essential that uniformity exists between different properties in line with sales evidence so that the valuations are undertaken in accordance with the Act. Regard should be had to criteria such as rural living features of the land common to the area, carrying capacity, location, availability to transport, access, shape, size, water availability, vegetation management, soil types and country classification make up. Full use should be made of all available spatial imagery and data as well as inspections where required.

References

See Attachment 1: *Cited Land Court Precedents*

Legislation

Land Valuation Act 2010 - Section 48

Attachments

Attachment 1: *Cited Land Court Precedents*

Attachment 1: Cited Land Court Precedents

Clayton & Ors v Valuer-General (2012) QLC0030

- [16] *In my opinion, the distinction drawn by Mr Hoffman between the values of rural lifestyle properties and primary production properties is difficult to accept. The subject properties are zoned rural pursuant to the Stanthorpe Shire Council Planning Scheme 2004. Such zoning enables properties within the zone to be used either for residential or for primary production purposes. If therefore any particular property in the rural zone is assumed to be unimproved, as is required by s.3(1)(b) of the Act, the prudent purchaser has the choice as to whether to use such a property for residential or for primary production purposes. Without further explanation, it is inconceivable that a prudent purchaser who wishes to use such an unimproved property for residential purposes would pay a premium as compared with those purchasers who might wish to use the same property for primary production purposes. Indeed such a purchaser could not be described as a prudent purchaser.*
- [22] *Mr Hoffman said that the primary production properties in the region of the subject properties had been valued under s.17 and accordingly had a concessional value. However s.17 does not require any deduction or discount to be made in valuing property used for primary production. All that s.17 requires is that such properties are to be valued for primary production purposes and any potential higher use is to be ignored. The existence of s.17 does not in my opinion explain why a prudent purchaser who is seeking to purchase unimproved rural land would pay more for a so called lifestyle use than for primary production purposes.*
- [23] *Mr Hoffman also said, at one point, that primary production properties usually were more highly improved than rural properties used for residential purposes. If Mr Hoffman relied on improved sales at the mass appraisal stage of the valuation, there may be some error in the values attributed by Mr Hoffman to the improvements on the primary production properties, or indeed those properties may be over-capitalized. To some extent this is speculation on my part, but the point to be made is that the valuations are to be carried out on the assumption that the subject properties were unimproved as at the relevant date, and Mr Hoffman should have selected sales of unimproved or lightly improved properties, if they were available, for the purposes of the valuation.*

Donald Neil Meiers & Florence Myrtle Meiers v Valuer-General (2012) QLC 0019

- [33] *Mr Meiers supports his claims by reference to the market in this area for rural residential home sites, which he concedes is the appropriate highest and best use of the subject land, and farming land, as being in the one market with the same pool of purchasers. From the evidence given by both Mr Meiers and Mr Hutchinson, I accept that there is one market in the locality of the subject land, and that generally speaking, a purchaser of farming property or a rural home site property, could be just as likely to purchase either the Meiers' property, surrounding properties, or indeed, any of the properties which are all of relatively comparable size, within the vicinity.*
- [34] *When this conclusion is taken to its extremity, it would appear to support the contention that to make the valuations relative, would necessarily mean that those rural residential valuations and the farming valuations, should be on a par, or at least supported by similar, if not identical, sales evidence.*

- [42] *When one takes a close look at the valuation reports provided by Mr O'Connor for this appeal, it is immediately apparent that Mr O'Connor has assessed the unimproved value of the subject lands in each case using the provisions of s.17 of the VLA. The effect of this is that Mr O'Connor has accepted that each of the subject properties should be valued under s.17 as rural land used for farming purposes with an as of right place to live inherent in that value. Of course, amalgamated properties provide even greater assistance to landholders. Save for the one question of amalgamation under appeal, Mr O'Connor has no option than to follow the legislative provisions of s.17 of the VLA.*
- [44] *It is abundantly clear from the above that the appellants in each case have received the benefit of the concession provided by s.17 of the VLA. In my view, Mr O'Connor has quite properly applied the concession in each of these matters and, in effect, in this regard the appellants have already received the benefit that they complain of having not received, save for the one property for which they seek amalgamation.*