



Office of the  
**Valuer-General**

## Valuer-General's Policy

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VGP 11/2020

Valuation of Land Affected by Spray Drift

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Approved: 11 November 2020

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**Note:** Words and acronyms that are in italics in this Policy, that are not part of a 'quote' or legislative reference, have a meaning as outlined in the Valuer-General's Guideline VGG - *Glossary of Terms and Definitions*

## PURPOSE

To provide consistent direction for the identification of land negatively affected by chemical spray drift and application of discount to the valuation of the affected area.

## SCOPE

This policy relates to the valuation of any land negatively affected by chemical spray drift, as detailed hereafter, for the purpose of rating and taxing in accordance with the *Valuation of Land Act 1971 (VL Act)* and by having appropriate regard to the *highest and best use of the land*.<sup>1</sup>

## IMPLEMENTATION

This policy supersedes Valuation of Farming Land Adjoining Sensitive Land Uses Directive of August 2014.

Any property with a valuation discount applied under the prior Policy is to retain that discount, except where;

- Investigations reveal the discount is no longer applicable,
- The owner requests a review,
- The value of the property is scrutinised through a grievance, or other, process.

In the case of the above, this new Policy will become effective if applicable.

## BACKGROUND

In early 2010's, a case was raised with the then State Valuation Office, where a land used for primary production had been negatively impacted as a result of spray drift from adjoining land. This resulted in a reduction in yield for the affected area. On investigation, a discount to the affected area was applied to reflect the reduction in yield.

A policy was created at that time to address valuation of such affected land and for

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<sup>1</sup> Refer to Valuer-General's policy VGP 08/2020 'Highest and Best Use'

the provision of allowance/discount to the affected area or 'buffer zone'.

As noted in the reference section, multiple materials regarding spray drift and chemical management have been sought and factored in the consideration of this policy. Those references indicate a 'buffer zone' relating to an area to be left fallow between a spraying area and neighbouring areas to mitigate the impact of spray drift. As such, and noting the prior policy is superseded, the 'buffer zone' terminology will correlate to that understanding and for the purpose of valuation application will be referred to as the 'affected area'.

## DISCUSSION

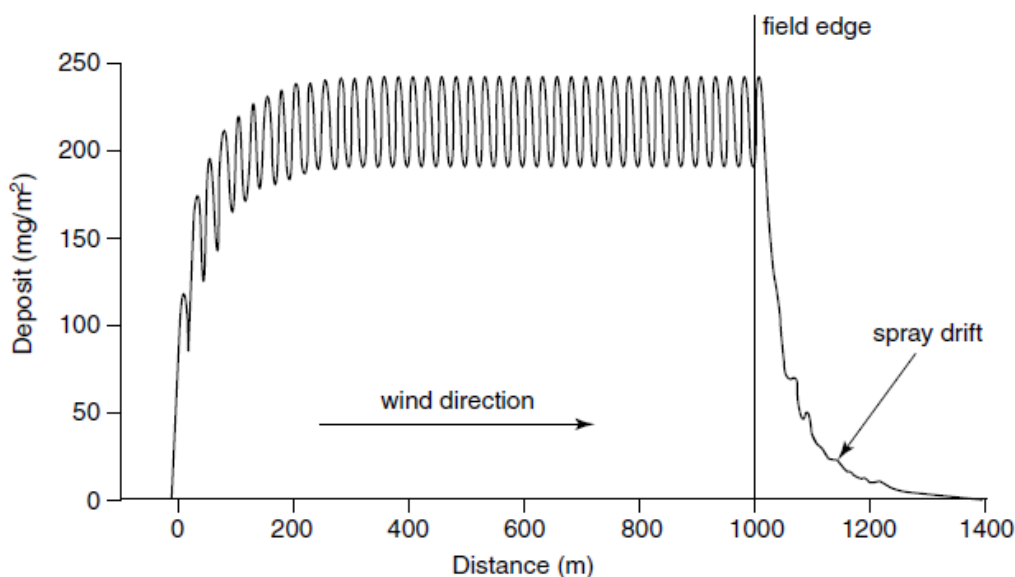
Spray drift can occur in two different ways:

- *droplet drift - the direct airborne movement of liquid droplets away from the target intended to be sprayed*
- *vapour drift - the airborne movement of vaporised agricultural chemicals from the sprayed area.*

Ref - <https://www.business.qld.gov.au/industries/farms-fishing-forestry/agriculture/land-management/chemical-controls/spray-drift-issues>

The intensity of impact is variable and dependent on many aspects including, but not limited to, the type of chemical used, the method of application, variable weather conditions, rainfall and responsible application. The negative impact to the adjoining or affected land is similarly variable.

The spread and level of impact for droplet drift, as demonstrated in the below graph, is at its highest concentration closest to the sprayed area and diminishes in impact over distance. Vapour drift is very dependent on atmospheric conditions and topography and it is not practical to model its impact.



Ref - <http://www.publish.csiro.au/ebook/download/pdf/3452>

Furthermore, research has suggested that in the majority of instances, the affected area experiences the negative impact for the period of a single season – though there are exceptions<sup>2</sup>.

Guidelines for use of such chemicals are typically outlined on the label (in accordance with the Agricultural Labelling Code) and there are also Government publication(s) to minimise spray drift.

Investigations with the Biosecurity division of Primary Industries and Regions SA (PIRSA) has revealed that instances of spray drift resulting in a negative impact to land can be reported through PIRSA's Chemical Trespass Management System, where such instances are then investigated and recorded. It is important to note that PIRSA's function is the incorrect application of chemicals and not the detrimental impact to neighbouring land – though such impact is often the impetus for the report.

It was also recognised that incidents of spray drift are often managed informally, between neighbours and/or by insurance claims.

<sup>2</sup> These exceptions tend to be plantings that are not annual crops, such as vines, where spray drift may damage the onset of new growth having implications for the productivity of the plantings over a number of seasons.

Noting the heavily regulated use of chemicals and a formal Trespass Management process, it is expected that land for investigation by Land Services SA on behalf of the Valuer-General would be reasonably minimal.

## VALUATION APPROACH

The approach to valuing land where there has been chemical trespass by way of spray drift is:

1. investigate any trigger;
2. determine the site and capital value of the land having regard to its highest and best use as outlined under assumptions ; and
3. apply a discount to address any valuation impact as discussed under considerations

The triggers to investigate and apply allowances/discounts to affected areas may include;

- Owner originated request
- Valuer observations
- PIRSA referral
- PIRSA's annual report
- Other public information

In the first instance, the Valuer should seek to verify the assertion and ensure that the appropriate report through PIRSA's Chemical Trespass Management System has occurred. The owner may have valid reasons for not raising the complaint with PIRSA and, in that instance, the Valuer should seek to confer with the owner to identify and record why – noting that due attention to privacy is maintained.

On verification that the land has been negatively affected and an allowance/discount to the affected area is warranted, identification of that area should be quantified and documented. Having regard to the CSIRO report, it is expected that in most instances the distance of the affected area would not typically exceed 200 metres from the boundary of the sprayed area (not necessarily the boundary of the land).

## ASSUMPTIONS AND CONSIDERATIONS

### Assumptions

In determining the *highest and best use* of the *land* for the purpose of determining a value under the VL Act the valuer must have regard to the Valuer-General's policy, *VGP 08/2020 Highest and Best Use*, and must also assume:

- The *land* is capable of being separately sold.
- The *estate in fee simple* in the *land* to be *valued* is *unencumbered* and the *valuation* is not of the taxpayer's interest in the *land*.
- The *willing buyer* and *willing seller* are hypothetical.
- For site value improvements on the *land* that are not exhausted are assumed to have not been made. These include buildings and structures, wells, dams, reservoirs and the planting of trees for commercial purposes.

Where the improvements are exhausted the valuer will need to give consideration as to how these improvements may affect the *highest and best use*, based on factors such as where these improvements are located on the *land* and the cost of demolition and site remediation.

- For site value improvements and structures in the nature of *site works* are not hypothetically ignored. These include:
  - reclamation of the *land* by draining or filling, and any retaining walls or other structures or works ancillary to that reclamation;
  - the excavation, grading or levelling of the *land*;
  - the removal of rocks, stone, sand or soil from the *land*;
  - and

- the clearing of timber, scrub or other vegetation.
- For capital value if the value of the *land* is enhanced by trees planted on the *land*, other than commercial trees, or trees preserved on the *land* for the purpose of shelter or ornament, the *capital value* must be determined as if the value of the *land* had not been so enhanced.
- For capital value trees planted for the primary purpose of commercial production of timber, or the prevention of degradation of *land*, or the disposal of effluent, or the provision of a habitat for wild life must not be taken into account in the *valuation* of the *land*.<sup>3</sup>
- For capital value any item of machinery, plant or equipment that is used in connection with the *land* being used for purposes that are in scope of this policy, or trade, manufactory or other business must not be taken into account in the *valuation* of the *land* where:
  - It is not fixed to the *land* or premises; or
  - It is fixed to the *land* or premises so as to be capable of being removed without structural damage, other than minor or trivial structural damage, to the *land* or premises.
- For capital value any main, pole, transformer, wire, pipe, machinery, plant or equipment that is used in the connection with the generation and supply of electricity, the supply of gas or water or the provision of sewerage and is erected on *land* occupied by a public utility undertaking<sup>4</sup> to the supply or provision of such services must not be taken into account in the *valuation* of the *land*, unless:

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<sup>3</sup> See regulation 10 of the *Valuation of Land Regulations 2020*



- It is electricity generating plant, and substations for converting, transforming or controlling electricity that are used by a body specified by proclamation under clause 3(2) of Schedule 1 of the *Electricity Corporations (Restructuring and Disposal) Act 1999*; and
- are situated on *land* to which a proclamation under clause 3(3) of Schedule 1 applies.

### Considerations

In determining the level of discount to be applied, the valuer must first identify the extent of the affected area. With regard to the aforementioned graph, it is considered that the affected area will not exceed 200 metres from the boundary of the sprayed area (ie. not necessarily the boundary of the land).

In the case of a notably significant impact beyond 200 metres, the valuer can seek to extend the area on application to the Valuer-General.

In determining the level of impact, the valuer should have consideration to the following, with supporting notes, documentation or photography (aerial and/or otherwise) to be retained on SAILIS or another acceptable file<sup>5</sup> by the valuer:

- Relevant chemicals
- Method of application
- Timeline of application
- Historical aerial imagery
- Physically inspect (with a care for best WHS practices) and identify affected area and with permission of the land owner, obtain photographs
- PIRSA investigation findings

Upon identification of the area to which a discount may be applied, the valuer should have regard to the following in

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<sup>5</sup> Another acceptable file is one where the Valuer-General can still obtain access and reporting can still be derived from it.

determining the level of discount appropriate to be applied to the whole of that area:

- Reduction in yield
- Cost of remediation
- Length of exposure
- Market impact

The valuer is to use best professional discretion in determining to apply one of the following classifications/discounts to the affected area:

**Low – 20% discount**

Observations and evidence suggest that the level of exposure is considered low, of short duration with low reduction to yield and minimal cost for remediation.

**Medium – 40% discount**

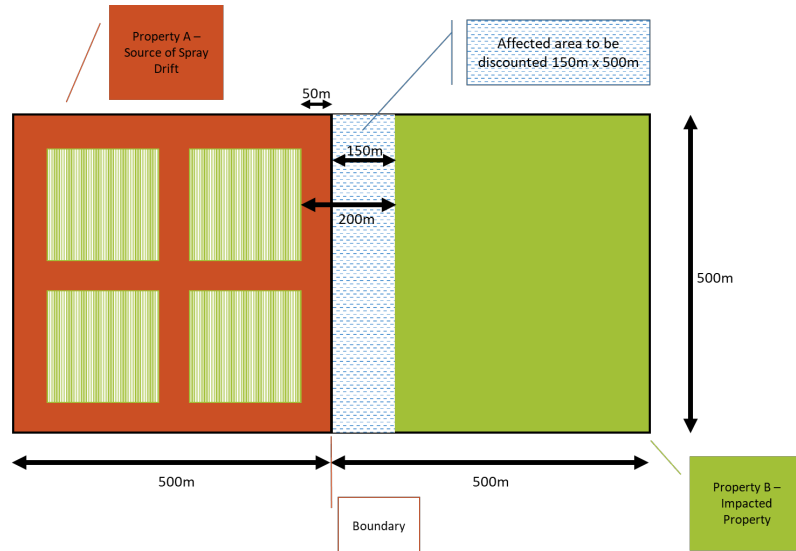
Observations and evidence suggest a reduction in yield and increased costs in supporting that yield.

**High – 60% discount**

Observations and evidence suggest a demonstrable reduction in yield, long exposure, high cost of remediation and detrimental impact to marketability.

The detriment is to be recorded in SAILIS using a specific identifier as determined by LSSA and endorsed as such by OVG.

**Calculation Example**



**Property B**

Total Site Area 25 hectares

It was identified that the level of impact for the affected area is classified as medium.

Unaffected Site Area	17.5 ha @ \$5,000/ha	\$ 87,500
Affected Area	7.5 hectares @ \$3,000/ha (ie. 40% discount from \$5,000/ha)	<u>\$ 22,500</u>
<b>Total Site Value</b>		<b>\$110,000</b>

**Specific valuation considerations**

Where the utility of property is impacted by the introduction of a buffer zone to mitigate spray drift to adjoining land (either existing/pre-dating this Policy or introduced by virtue of a change in use on adjoining land), the owner or occupier are entitled to have their property values reviewed by submitting a written objection, in accordance with s 24 of *The Act* within 60 days of receiving the first rate notice from any rating authority

for the financial year. It is acknowledged that these owners are often required to establish buffer zones for the purpose of noise abatement as well as to ensure that spray and odour is also minimised to neighbouring properties. Buffer zones are often implemented as a result of an order of PIRSA or a land use change in adjoining properties including housing, intensive primary production and other sensitive land uses. Where land is impacted by the imposition of spray drift buffer zones it is acknowledged that this can result in economic loss through the reduction in the amount of useable land. In this instance the Valuer-General recognises that these properties would similarly be entitled to a discount to the buffer portion noting that the level of impact and the discount applicable will be informed by analysis of sales of land with and without buffer zones in place.

In situations where the owner or occupier is located in an existing buffer zone and also the source of spray drift this policy confers that the property valuation will already be reflective of the restriction. If not, the land owner or occupier should submit a written objection, in accordance with s 24 of *The Act* within 60 days of receiving the first rate notice from any rating authority for the financial year.

## ADMINISTRATION

LSSA are to run a report for all properties with the relevant codes or flag for each year to verify the continuance of the allowance/discount. Collaborating with PIRSA for reported incidents or using the aforementioned identification methods for that verification.

Should it be found that the allowance/discount is no longer necessary, it can be removed by LSSA, the flag in SAILIS removed and correspondence sent to the originating party notify same.

The affected land owner can seek for the allowance/discount to be retained, however evidence should be obtained to verify that assertion.

Where it has been determined that a discount should be applied for the first time to site and capital value, this should be done for the *proposed general valuation* following the date upon which the owners request was received by the Valuer-General, or when Land Services SA or the Valuer-General has identified a discount should apply. Unless upon consideration of the facts and circumstances, on a case by case basis, the Valuer-General considers there are grounds for the discount to be applied to a valuation in force for the current general valuation.

In instances where an objection is lodged, should it be proven that the property was affected as at the date of valuation, then an appropriate discount in accordance with this policy may be incorporated into the objection recommendation as provided by Land Services SA. Land Services SA may also, in undertaking their investigations, provide a recommendation for the Valuer-General to consider a correction for the current year in accordance with s15 of the *Valuation of Land Act 1971*.

## REFERENCES

<http://qwalc.org.au/wp-content/uploads/2016/07/rural-guide-whslaws.pdf>

<http://www.publish.csiro.au/ebook/download/pdf/3452>

<https://www.abc.net.au/news/rural/2018-02-28/calls-for-crackdown-on-spray-drift-amid-rise-in-sa-reports/9490130>

<https://apvma.gov.au/node/10796>

<http://www.publish.csiro.au/ebook/download/pdf/3452>

[https://pir.sa.gov.au/\\_data/assets/pdf\\_file/0005/235526/FSWorkingTogethertoMininiseChemicalSDrift0913.pdf](https://pir.sa.gov.au/_data/assets/pdf_file/0005/235526/FSWorkingTogethertoMininiseChemicalSDrift0913.pdf)

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[https://www.daf.qld.gov.au/\\_data/assets/pdf\\_file/0009/54738/agricultural-chemical-users-manual.pdf](https://www.daf.qld.gov.au/_data/assets/pdf_file/0009/54738/agricultural-chemical-users-manual.pdf)

<https://www.business.qld.gov.au/industries/farms-fishing-forestry/agriculture/land-management/chemical-controls/spray-drift-issues>

## LEGISLATION

- *Valuation of Land Act 1971*
- *Valuation of Land Regulations 2020*

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## DOCUMENT CONTROL

### Version

Version	Status	Date	Prepared By	Comments
0.1	Draft	11 Sept 2019	K Bartolo	Concepts and Outline – identified that a conversation with PIRSA was necessary before proceeding to next steps
0.2	Draft	25 Sept 2019	K Bartolo	Refined draft following conversation with PIRSA
0.3	Draft	15 Oct 2019	A Smit	Refinements and fact check
0.4	Draft	31 Oct 2019	PIRSA	Feedback on content
0.5	Draft	18 Dec 2019	LSSA	Feedback – delayed and outside policy creation guidelines due to ill health of Valuer-General
0.6	Draft	31 Mar 2020	K Bartolo	Review of LSSA feedback and minor changes. Delayed due to bushfires and Covid 19
0.7	Draft	3 Jun 2020	S Howson	Review document dates and watermark “Draft – For Consultation” in preparation to receive stakeholder feedback
0.8	Draft	28 Oct 2020	S Howson	Review of document to consider feedback received from stakeholders – addition of specific valuation considerations on page 11; update of legislation references; amended watermark; formatted document.
1.0	Final	11 Nov 2020	K Raftopoulos	Watermark removed. Version approved by the Valuer-General.

### Approval

Name and Position	Signature and Date
Katherine Bartolo <b>Valuer-General</b>	 11 November 2020

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### Next Review

Date	Comments
11 November 2021	Bi-annual policy review or as needed.