

Australian Property Institute  
Property Institute of New Zealand  
New Zealand Institute of Valuers

# **TECHNICAL INFORMATION PAPER - RETROSPECTIVE VALUATIONS (ANZVTIP 1)**

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## Technical Information Papers

The principal objective of a Technical Information Paper (TIP) is to clarify professional and industry processes, best practices and procedures and to discuss their use and implementation. A Technical Information Paper is designed to be of assistance to Members and those who use Members' services.

The intention of a TIP is to:

- Provide information on the characteristics of different types of assets that are relevant to the advice.
- Provide information on appropriate practices and their application.
- Provide information that assists Members in exercising the judgements they are required to make in specific situations.
- Convey elements of what is considered 'competent professional practice' for Australian Property Institute (API) Members and 'best practice' for Property Institute of New Zealand (PINZ) and New Zealand Institute of Valuers (NZIV) Members.

A TIP is not intended to provide comprehensive training, instruction or prescriptive practices and procedures, or direct that a process, professional approach or method should or should not be used in any specific instruction or situation.

The Member is responsible for choosing the most appropriate approach in a matter based upon the task and instruction. Whilst TIPs are not mandatory, they serve as a guide and measure of acceptable professional practice.

Case law and relevant legislation may change over time and whilst the Institute(s) consider this TIP accurate at the time of publication, Members and those who use Members' services should have regard to legislative changes and new rulings and if necessary, seek further advice prior to having regard to this TIP.

It is a matter for each Member to decide the appropriate practice in any situation, and if they are unclear, seek professional advice such as legal or accountancy, or contact the Institute(s).

If any Member considers any information or advice in this Technical Information Paper to not be accurate or up to date, or wish to raise any issue for consideration arising from the contents of this TIP, please refer this to [standards@api.org.au](mailto:standards@api.org.au) or [standards@property.org.nz](mailto:standards@property.org.nz).

## **Retrospective Valuations**

### **1.0 Introduction**

#### **1.1 Scope of this TIP**

The objective of this TIP is to address circumstances whereby Institute Valuer Members are instructed to prepare a valuation as at an earlier date, and/or review a previously completed valuation. Valuer Members undertaking retrospective valuations must do so to the standard of professionalism and skill required and consistent with membership of the Institute(s) and in compliance with the law.

This TIP applies to Valuer Members who undertake retrospective valuations. Retrospective valuations are commonly instructed by Lenders when reviewing lending decisions or for Court purposes to assist in resolving issues in proceedings. They may also be used for example for tax purposes, negotiations between parties and in estate matters.

This TIP should be read in conjunction with IVS and any other relevant TIPs, Guidance Notes, Practice Standards, and any other relevant publication from the Institute(s).

The Institute(s) do not represent or warrant that anything contained in this or any other TIP is a definitive or final statement on any issue. Members must perform their own work pursuant to their own professional expertise and experience and if required, seek additional which might include legal advice. Members have a responsibility to decide when it is inappropriate to follow a TIP.

A court or tribunal may take into account the contents of any relevant TIP or any other document published by the Institute(s) in deciding whether the Member acted to a standard required by law.

Where Valuer Member departs from the practices recommended in this TIP, it is recommended reasons for not complying are recorded. Members are advised to seek legal and/or other advice before departing from the practice recommended in a TIP.

#### **1.2 International Valuation Standards**

International Valuation Standards (IVS) published by the International Valuation Standards Council (IVSC) are adopted by the Institute(s). It is the Valuer Members responsibility to follow IVS, keep informed of any changes, and apply them consistently in their professional tasks.

## 2.0 Definitions

The definitions contained below have been included for the interpretation and understanding of certain stated terms used within this TIP. Where a defined term is included in this TIP it is identified as a capitalised term.

Institute(s)	All references to Institute(s) mean as the context requires, API, PINZ and /or NZIV.
Member	A Member of the API, PINZ and/or NZIV.
Expert	A person who has ‘specialised knowledge’ in a field in which they demonstrate that by reason of specified training, study or experience.
Expert Witness	A person who is qualified in their area of expertise and training, and possess specialised knowledge, who is retained by parties or by the Court to provide opinion on an aspect(s) of a case.
Expert Evidence	<p><i>‘The purpose of the use of expert evidence in proceedings, often in relation to complex subject matter, is for the Court to receive the benefit of the objective and impartial assessment of an issue from a witness with specialised knowledge (based on training, study or experience)’</i></p> <p><a href="http://www.fedcourt.gov.au/law-and-practice/practice-documents/practice-notes/gpn-expt">http://www.fedcourt.gov.au/law-and-practice/practice-documents/practice-notes/gpn-expt</a> [viewed 8/5/2019]</p>
Professional Member Obligations	<p>Professional obligations for Members are contained in a variety of documents published or adopted by the Institute(s).</p> <p>This includes valuation and property guidelines prepared and published by the Institute(s) and any other professional guidelines adopted by the Institute(s).</p>
Valuation Review	The act or process and output, undertaken by a Valuation Reviewer, of considering and reporting on a valuation performed by another valuer, which may or may not require the Valuation Reviewer to provide their own opinion as to the valuation of the asset.
Valuation Reviewer	<p>‘A “<i>valuation reviewer</i>” is a professional <i>valuer</i> engaged to review the work of another <i>valuer</i>. As part of a <i>valuation</i> review, that professional may perform certain <i>valuation</i> procedures and/or provide an opinion of <i>value</i>.’ (IVS)</p>

## 3.0 Retrospective Valuation

A valuation completed where the date of valuation is in the past is a retrospective valuation. Depending on the circumstances, the valuation will be informed by information that was or could only have been known or available at the date of valuation but in some cases by the information that became available subsequently.

## **4.0 Scope of Works / Key Principle when Instructing Valuers**

The purpose, basis and premise of value should be disclosed. Where the purpose is Expert Evidence or Valuation Review (or where legal principle dictates), the instructions provided should direct the Valuer Member on whether there are constraints on the information. As far as possible, sufficient information should be provided to the Valuer Member to describe the property as at the date of valuation.

### **4.1 Nature of Instructions**

The Valuer Member should obtain instructions in writing that comply with International Valuation Standards – IVS 101 Scope of Work – Section 20.3.

Valuer Members undertaking retrospective valuations for litigation purposes should refer to Real Property Technical Information Paper 1 (ANZRPTIP 1) – Acting as an Expert Witness.

### **4.2 Instructions from a Lender**

A lender or a lenders representative may instruct a Valuer Member to prepare a retrospective valuation either on their own behalf or on behalf of a mortgage insurer. In these cases, the purpose of the valuation must be advised.

The completion of a retrospective valuation may assist the lender in reviewing an earlier valuation relied upon for lending purposes and so the purpose will be to assess the accuracy and content of a previous valuation. In these instances, Valuer Members should ensure there is clarity about how the report will be used and whether the Valuer Member is only to consider details that could have been known at the date of valuation.

### **4.3 Instructions for Litigation Purposes**

A Valuer Member may be instructed as an Expert Witness to assist a Court. In this instance, the Expert Witness' paramount and overriding duty is to the Court. In all Courts there are guidelines in relation to Expert Evidence and Expert Witnesses that need to be followed.

A Valuer Member may be requested to complete different assignments. In some cases, to provide a retrospective valuation assessing value as at the date of an original valuation, the date of an insured event, under a contract or other causes. Alternatively, they could be asked to complete a Valuation Review (refer 7.0 below).

At all times when acting for the Court, the Expert Witness has an overriding obligation to the Court to provide their view independently, impartially, and in a way that will assist the Court to achieve a just resolution of issues in proceedings.

### **4.4 Instructions for Other Purposes**

There is a multitude of reasons for seeking a valuation for a date in the past. This could include for example contract disputes, insurance claims, estate matters, professional complaint investigations, taxation matters including capital gains tax, stamp duty purposes, tax consolidation, unit entitlement allocations and family law.

The Valuer Member has a duty to accept only instructions that they have the professional skill and experience to complete in accordance with a duty of care and standards as required by law.

#### **4.5 A Member Accepting Instructions**

A Valuer Member must operate within the limits of their qualifications and experience and must only accept instructions in a field of practice in which they possess sufficient knowledge and skill. If a Valuer Member is not able to meet this standard, they must decline the instruction.

Where possible, it is recommended the Valuer Member be appropriately certified by the respective Institute(s) at the time of the retrospective valuation date and registered in those states where registration or similar by a regulatory/licensing body is required.

Prior to accepting an instruction, a Valuer Member should ensure there is no conflict of interest. Refer API Code of Professional Conduct, PINZ Rules of Conduct or NZIV Code of Ethics.

### **5.0 Inspection Requirements**

#### **5.1 Real Property**

The property should be fully inspected internally and externally, where possible. Detail regarding the condition and presentation of the property at the date of valuation should be sought. This could include property databases with historical photographs, various property websites, local agents, other parties including owners and occupiers, aerial view maps over time, town planning and other council resources. The valuation report should reference all information relied upon.

#### **5.2 Plant and Equipment, and Personal Property**

Plant, machinery, equipment and personal property should be inspected where possible. Detail regarding the condition and presentation of the property at the date of valuation should be sought. However, as plant and machinery assets are portable, inspections may be problematic in retrospective valuations.

Plant, machinery, equipment and personal property may no longer exist or if they do, maybe in a substantially different condition than they were at the date of the retrospective valuation; and sometimes assets may have been destroyed, damaged, stolen or in the possession of another (unfriendly) party.

Historical evidence, observations and notes regarding the asset's condition and use as at the date of the retrospective valuation should be sought by the Valuer Member undertaking the valuation. This could include client data with or without photographs, local distributors or service companies, other parties including landlords and/or tenants etc. The Member should endeavour to verify the information relied upon.

In cases where there is an insurance claim, certain contract disputes and other litigation, the object of the retrospective valuation is to determine the value of the asset at a given date. This is not a Valuation Review. In these instances, where the sole purpose of the retrospective valuation is to determine the value at a given date, post valuation date data that contributes to determining the value at the retrospective valuation date is acceptable (in certain circumstances) eg. a Valuer Member could show that the market for the asset is static over a period, and a graph may demonstrate the direction of the market and its volatility in relation to the retrospective valuation date.



### 5.3 Generally

In cases where physical inspection isn't practical or possible, Members should refer to the API Code of Professional Conduct, PINZ Rules of Conduct or NZIV Code of Ethics and proceed accordingly. Members should seek disclosure of all relevant information about the property at the date of valuation and supplement and/or verify the information by completing their own research. The source of information and any assumptions made should be made clear in the report.

The Member should disclose the level of inspection undertaken and state the effect of not having conducted an inspection or complete inspection has on the valuation provided. Where necessary, the Member's report must detail the assumptions made in relation to the condition, construction, or any other aspects of the property not inspected. The Member should reserve the right to review their valuation if new information of a material significance subsequently comes to light.

## 6.0 Report Content

The level of reporting will be agreed with the client and detailed in the Terms of Engagement and Scope of Works. As a minimum, the report should comply with IVS 103 Reporting.

Detail regarding the condition and presentation of the property at the date of valuation should be included in the report along with any assumptions in this regard. Sources of information relied upon should be cited.

When the Member is aware that there may have been changes to the property since the retrospective valuation date, known details should be included within their report.

A single point valuation must be given. It is then acceptable to also give a range of values based on special assumptions made where there is an inability to inspect fully, or where there is a lack of reliable data on the condition or other aspects pertaining to the property as at the retrospective valuation date.

Members should comply with the Institute's instructions or guidelines applicable to the property being valued and include qualifications and disclaimers appropriate to the instruction and report.

## 7.0 Valuation Review

The Valuer Member, undertaking a Valuation Review, should receive the following as part of their instructions:

- A copy of the instructions provided to the original Valuer.
- A copy of any other documents provided to the original Valuer at the time.
- For Court purposes, a copy of the Expert Witness, or Expert Evidence, or opinion evidence guidelines, or similar applicable document for the relevant Court.
- A copy of the original valuation report (except for professional complaint check valuation purposes where only selected part of a report or a redacted version of a report might be provided).
- Any other applicable documents.
- A limitation to exclude any information that could not have reasonably been known or could not have been known to the valuer when the original valuation was completed.



The Valuer Member, acting as a Valuation Reviewer, may be asked to comment as below including:

- Instructions and report content.
- Evidence and information.
- Methodology.
- Valuation.
- If the subject property has been sold since the original valuation, the instructing party may ask the Valuer Member to comment on changes in market conditions since the date of the original valuation and the date of sale of the subject property. The Valuer Member should explain how those changes have, if at all, impacted on the sale price of the subject property.
- Changes in market conditions since the date of the original or retrospective valuation and the current date.

## 8.0 Supporting Evidence

### 8.1 Real Property

Sales and/or rental evidence prior to the retrospective valuation date should primarily be used.

Sales and/or rental evidence after the date of valuation should be treated with extreme care. The starting position is that such evidence is irrelevant because a hypothetical purchaser and seller would not have been aware of that sale at the date of valuation. However, when there is a scarcity of evidence prior to the date of valuation, Valuer Members can have regard to other market evidence, but need to explain how that evidence indicates what would have been in the contemplation of hypothetical purchasers and sellers at the earlier valuation date.

This is a difficult process and care needs to be taken in analysing evidence past the retrospective date. At page 97, of *Land Valuation and Compensation in Australia* (3<sup>rd</sup> Ed.), Rost and Collins quote the 1943 High Court case of *Daandine Pastoral Co v Commissioner of Land Tax* (1943) where the court observed in relation to a retrospective valuation for revenue purposes:

*'Subsequent sales are just as admissible in evidence as prior sales provided that in all circumstances they are comparable. If between the material date and the date of the subsequent sale, supervening events occur which alter the conditions previously existing, the subsequent sales would not be comparable and would be useless.'*

This case should not be regarded as a precedent across all retrospective valuations and does not set out a broad statement of principle as to how Valuer Members should analyse evidence post the valuation date for retrospective valuations. In some revenue cases, it might be appropriate, but in other areas, such as business valuation, it is rare to have regard to sales evidence post the valuation date.

Most certainly, in a case relating to negligence against a Valuer, evidence post the date of valuation is irrelevant because a Valuer cannot be judged on evidence they could not have known at the time.

Valuer Members may wish to seek legal or tax advice to clarify appropriate practice.

## 8.2 Plant and Machinery

Sales evidence should be obtained where possible, whilst cognisant of the limitations for plant and machinery. There are a number of historical databases that provide a record of sales data however these are generally limited to more common types of mobile plant, motor vehicles, machinery and equipment.

Research may comprise

- Using comparable sales that are contemporaneous with the valuation date.
- Completing a regression analysis using comparable sales that are contemporaneous with the valuation date. Where such contemporaneous comparable sales are lacking it may be appropriate to use comparable sales pre and/or post the valuation date, to establish where the market may have been at the date of valuation.
- Establishing a current value and deflating using Australian Bureau of Statistics (ABS) or other relevant cost indices.
- Using the cost approach based on established historical cost from suppliers.
- Using the cost approach by deflating the current cost to historical cost to arrive at a starting base.

If a Member can demonstrate that the market has remained static over the relevant period, the use of comparable sales that are not contemporaneous with the valuation date may provide an acceptable method for inferring a value at the valuation date. Likewise, it may be acceptable to use comparable sales pre and/or post the valuation date to demonstrate the direction and volatility of the market at the valuation date to infer a value at the valuation date.

## 9.0 Effective Date

1 January 2020 (Australia and NZ)

*It replaces the previous version dated 1 July 2019 (NZ) and 1 October 2019 (Australia).*