

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

# TECHNICAL INFORMATION PAPER – VALUATIONS FOR COMPENSATION AND COMPULSORY ACQUISITION

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## Principles of Technical Information Papers

### Objectives

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 TIP 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 guidance and 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.

### Member Obligations

The Member is responsible for choosing the most appropriate approach in a matter based upon the task and instruction. 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). Members have the responsibility of deciding when it is appropriate to depart from the guidance and practices contained in a TIP.

The Institute(s) do not warrant that anything contained in this or any TIP is the 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 advice which might include legal advice.

### Court of Tribunal Reliance

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

### Currency of this TIP

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 precedent and if necessary, seek further advice prior to having regard to this TIP.

### Departure or Non-Compliance

Where a Member considers that a circumstance exists that warrants the departure from or non-compliance with any of this TIP, the Member's report (or other advice) must include a statement that outlines:

- (a) the reasons for the departure or non-compliance with this TIP; and

- (b) any impact the Members departure or non-compliance may have on the content of the report.

Members are advised to seek legal and/or other advice before departing from practice recommended in a TIP.

### **Enquiries**

If any Member considers any information or advice in this TIP 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

API contact: [standards@api.org.au](mailto:standards@api.org.au)

PINZ/NZIV contact: [standards@property.org.nz](mailto:standards@property.org.nz)

# Valuations for Compensation and Compulsory Acquisition

## 1.0 Introduction

### 1.1 Scope of this TIP

The objective of this TIP is to address circumstances whereby Institute Valuer Members (Valuers) are instructed to prepare valuations for compensation purposes including pre-acquisition advice and any subsequent discussions, negotiation or representation as part of a Requiring Authorities/Acquiring Authorities acquisition process.

Valuations for compensation purposes for Compulsory Acquisitions are commonly instructed by either the acquiring authority (Requiring Authorities or Acquiring Authorities or in some cases private enterprise organisations under statutory provisions) or Claimants (dispossessed owners or tenants).

For the purpose of this TIP, the words 'acquisition' and 'resumption' refer to the same process. Acquisitions or resumptions can be either by Compulsory Acquisition process or negotiation.

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

All valuations and acquisition processes are to be undertaken and completed in accordance with the relevant Compulsory Acquisition legislation applicable at the date.

### 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 Valuers responsibility to comply with the IVS applicable at the date of valuation, keep informed of any changes, and apply them appropriately and consistently when providing valuations.

This TIP is also intended to be consistent with the concepts and definitions contained in the IVS, however, there may be departures from the IVS to reflect Australian and New Zealand law and practice. This TIP refers to and uses IVSC definitions to promote consistency.

## 2.0 Definitions

The defined terms contained below and used in this TIP are applicable to this TIP and have been included to assist with 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.

<b>Acquiring Authority</b>	Any authority/entity authorised by law to acquire land for public purposes by compulsory process. This is the commonly used term in Australia.
<b>Advocate</b>	A person who puts forward a case on behalf of another person, or a person who publicly supports or recommends a matter, other than an Expert who explains, supports or recommends their expert opinion.
<b>Claimant(s)</b>	The person(s) whose interest in land is affected by the acquisition.
<b>Compulsory Acquisition</b>	The acquisition of land by compulsory process permitted under legislation. The term includes where the transfer of the land is by agreement prior to the formal procedure under the legislation.
<b>Expert</b>	A person with specialised knowledge in a field demonstrated by reason of specified training, study or experience.
<b>Expert Witness</b>	<p>A person who is qualified in their area of expertise and training, and possess specialised knowledge, who is retained by parties or by a Court to provide opinion on an aspect(s) of proceedings before a Court or Tribunal.</p> <p>The role of an Expert Witness is to provide independent objective advice to explain and support their expert opinion to a Court or Tribunal with regards to matters in which they are an Expert.</p> <p>The primary role of the Expert, that is the Valuer, is therefore to provide assistance to a Court or Tribunal.</p>
<b>Expert Evidence</b>	<p>An objective and impartial assessment of an issue provided for the Court from a single or joint Expert Witness.</p> <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, or 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> <p>In New Zealand, expert evidence must be in accordance with Schedule 4 of the High Court Rules, or equivalent rules depending upon the Court/ Tribunal.</p>

<b>Institute(s)</b>	All references to Institute(s) mean, as the context requires, API, PINZ and / or NZIV.
<b>Joint Expert Report</b>	A Joint Expert Report is a written document that is the product of a conference between Experts with expertise in the same or similar field.
<b>Member</b>	A Member of the API, PINZ and/or NZIV.
<b>Requiring Authority</b>	Refers to any entity or authority with statutory powers to acquire land or any interest in the land for purposes of public work. This is the commonly used term in New Zealand.
<b>Professional Member Obligations</b>	<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 or standards prepared and published by the Institute(s) and any other professional guidelines and/or standards adopted by the Institute(s).</p> <p>In New Zealand, where there is a difference between the Professional Member Obligations and the NZIV Code of Ethics, the NZIV Code of Ethics shall prevail.</p>

## 3.0 Instructions

### 3.1 In Writing

#### 3.1.1 IVS 101 Scope of Work

The Valuer should obtain instructions in writing and produce a scope of work that is consistent with IVS 101 Scope of Work.

#### 3.1.2 Preliminary (Draft) Reports

The instructions may require the Valuer to provide a preliminary/draft report. Care should be taken to ensure that the Valuer retains control of any preliminary/draft reports and that reliance is not placed on the report until the final version is completed and delivered to the client.

### 3.2 Ethical Obligations

#### 3.2.1 Within the Limits of Qualifications and Experience

A Valuer 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 is not able to meet this standard, the instruction should be declined.

#### 3.2.2 Conflict of Interest

A Valuer should assess whether there is a potential or perceived conflict of interest, prior to accepting instructions from a client.

### **3.2.3 Codes/Rules of Professional Conduct**

In Australia Members are bound by the API Code of Ethics and the API Rules of Professional Conduct, and in New Zealand the PINZ Code of Ethics and Rules and NZIV Code of Ethics.

## **3.3 Member's Duty**

A Valuer must prepare a valuation, report or advice which can be supported by the application of market evidence and supportable valuation principles. Valuers must be aware of requirements under Statute or Regulation with respect to valuations for compensation and Compulsory Acquisition purposes in the jurisdiction in which the professional services are being undertaken.

### **3.3.1 Expert**

A Valuer acting as an Expert shall prepare a valuation report as an independent expert, having regard to relevant legislation, court rules, practice directions, codes of conduct and guidelines, and decisions of relevant courts which:

- addresses the elements or heads of compensation;
- explains the basis of the assessment and the appropriate legislative framework under which they are working;
- provides a description of the methodology, assumptions and calculations which have been utilised;
- rationalises the market evidence relied upon in assessing the value of the Claimant's interest; and
- can be relied on as evidence of value at any stage of negotiations or as required in the settlement process by agreement, arbitration or court proceedings.

A Valuer acting as an Expert may be required to present evidence in a Court, Tribunal or mediation process.

### **3.3.2 Advocate**

#### **In Australia**

A Member is entitled to act as a Claimant's Advocate during the acquisition process, however the advocacy role is subject to proper professional practice in conducting negotiations on a client's behalf and that role must be declared to all parties. A Member may conduct negotiations on a client's behalf based on valuation principles and practice. A Member must not act as an Advocate and as an Expert in the same matter.

#### **In New Zealand**

A Valuer must not act as an Advocate and as an Expert in the same matter. A Valuer acting as an Advocate and not an Expert must disclose the capacity in which they are working to all parties. A non-Valuer Member of PINZ may act as an Advocate subject to the proper professional practice in conducting negotiations on a client's behalf.

### **3.3.3 Ambit Claims**

A Valuer shall not prepare a valuation, report or advice without a basis that cannot be supported by reasoned or substantiated valuation practice.

### **3.4 Member's Client**

A Valuer may be involved in the process after having been instructed by:

- a) the Requiring/Acquiring Authority; or
- b) a private enterprise expressly authorised to act for the Requiring/Acquiring Authority in the acquisition matter; or
- c) the Claimant (dispossessed owner or tenant) of an interest in land affected by the proposed or actual acquisition.

The party for whom the Valuer acts is the client regardless of who pays the fee and this should be made clear to all parties at the start, particularly where a non-Valuer Member is involved in the acquisition.

### **3.5 Fees and Reporting**

#### **3.5.1 Agreeing the Fee Basis and Payment**

It is important that the basis of the Valuer's fees are agreed in writing prior to the commencement of the task.

#### **3.5.2 Fees when Instructed by a Claimant**

This agreement should clarify the basis of fees. It may stipulate that the client may be liable for additional fees. In New Zealand where the Acquiring Authority is the payer of reasonable fees, this may be subject to certain conditions.

#### **3.5.3 Post Consultancy Report**

Consultancy is often required beyond the report phase, so it is prudent to establish post consultancy advice and report agreements at the time of taking instructions.

In addition to the initial fee, it is recommended that from the outset, the written agreement contains a basis of:

- continuing consultancy fee;
- fee for any additional work or preparation required as a result of work by other experts on the team or as required by legal representation; and
- fee for representation at any meetings, mediation and/or Court or Tribunal proceeding(s).

As the process can be protracted, Valuers may wish to make an agreement for rendering periodic accounts, accepting that over time their hourly rate and/or fee basis may be reviewed.

#### **3.5.4 Opt-Out Provision**

It is important the retainer agreement contains an opt-out clause allowing the Valuer to reject unacceptable terms or conditions such as; something that creates a conflict of interest and/or affects impartiality.

### **3.5.5 Other Professionals**

In some matters, the Valuer may be the only professional engaged. In others, the Valuer could be part of a team. The team may consist of legal representatives, accountants, town planners, quantity surveyors, architects, specialist property consultants, engineers, surveyors, and others. Valuers are responsible for ensuring they maintain their own professional integrity when acting as an Expert and any issued reports should note and qualify any other professional advice and information relied upon.

For NZIV Members professional integrity needs to be consistent with obligations under Schedule 4 of the High Court Rules.

## **4.0 Basis of Compensation Assessment**

### **4.1 Legislation**

Compulsory Acquisition is enabled for public works and purposes under various legislation which affect different types of property and interests in property.

Legislation that enables property to be acquired normally contains provisions for compensation assessment. An understanding of such legislation, in addition to precedent that interprets that legislation, is fundamental to assessing compensation. The value of the owner's or any Claimant's interest (i.e. any legal or equitable estate or interest in land including registered proprietors, tenants, licences, permits, business interests) is required to be assessed in accordance with the provisions of the relevant Act.

### **4.2 Interest to be Assessed**

The assessment for compensation is to put the Claimant back into the same position as it was prior to the Compulsory Acquisition, as far as money is able to do that. The subject of the assessment is not simply the property, rather the claim of the Claimant for compensation. This could include the value to the Claimant of the interest being acquired including claims under various other heads such as any special value, reinstatement, and disturbance which includes, any disadvantage resulting from relocation. In addition, the compensation assessment may need to take into account any increase or decrease in the value of other land which is not necessarily contiguous. The following heads of claim may also apply, severance, injurious affection or betterment/enhancement.

As an Expert, the Valuer Member has a responsibility to consider all heads of claim as they relate to property matters only and are identified in the relevant legislation, according to the Members expertise, and in accordance with the most recent case law.

Business loss claims are undertaken by specialist business valuers.

### **4.3 Goods and Services Tax (GST)**

In analysing market transactions, the basis of GST treatment should be the manner in which the market participants consider GST for the type of property and the applicable circumstances of the GST Legislation.

PINZ and NZIV members should refer to NZVTIP 1 Goods and Services Tax (GST) in Property.

#### **4.4 Claimants Interest to be Compensated**

The Claimant's interest will include the market value of the interest in the property taken as at the date of Compulsory Acquisition together with other heads of compensation and compensable items, if any.

The value of land taken is the value as at the date of Compulsory Acquisition only taking into account matters that were reasonably known as at that date. Other heads of compensation including enhancement, severance and injurious affection may take into account subsequent events that were not reasonably known at the date of Compulsory Acquisition.

For partial acquisitions, the preferred methodology may be to assess a 'before' valuation and an 'after' valuation to estimate the amount of compensation applicable for the property, unless in the circumstances of a partial acquisition the land taken is a size and shape that retains a higher and better use as a separate title then it is appropriate to consider a piecemeal approach to the assessment of compensation.

For partial acquisitions, any impact on value as a result of the purpose for which the land is acquired is to be taken into account for the balance of the remaining land and is factored into the 'after' valuation.

Where a whole property is being acquired any impacts on value as a result of the purpose for which the land is acquired is to be disregarded.

#### **4.5 Court Precedent**

A sound knowledge of the application of legal precedents is fundamental to assessing compensation, as many principles interpreting the legislation have been laid down in court decisions. Consideration ought to be had to decisions which may be derived from other states or countries, or established in prior legislation, if it is relevant to the matter at hand.

A sound knowledge of the application of legal procedures is fundamental to assessing compensation.

See ANZVTIP 13 Resource Pack, and ANZRPTIP 1 Acting as an Expert Witness and ANZRPTIP 1 Expert Witness Resource Pack.

#### **4.6 Date of Assessment**

Any pre-acquisition assessment should relate to the current market. Valuer Members should advise their clients that if the matter proceeds to formal Compulsory Acquisition, the date at which compensation is assessed may change depending on the statutory requirements. and this could impact on the assessed value and compensation amount(s) due to changes in market conditions

## 5.0 Compulsory Acquisition – Heads of Compensation

The assessment for compensation is to put the Claimant back into the same position as it was prior to the Compulsory Acquisition, as far as money is able to do that. Legislation in various jurisdictions may include definitions relating to market value and other heads of claim and compensation. Reference to some definitions and explanatory precedent is provided below.

The heads of compensation examples below may not be applicable in all jurisdictions in all scenarios. Valuer Members are reminded to refer to the relevant legislation.

### 5.1 Value of Land Taken

The value of land taken should reflect the IVS Defined Basis of Value - Market Value is *'Market Value is the estimated amount for which an asset or liability should exchange on the valuation date between a willing buyer and a willing seller in an arm's length transaction, after proper marketing and where the parties had each acted knowledgeably, prudently and without compulsion.'* (IVS)

### 5.2 Special Value

The principle of Special Value envisages the land having some attribute which has a financial value to the owner that would not otherwise have value to the hypothetical purchaser. Put simply, the current owner would pay something more for the land. In the *Pastoral Finance Association*<sup>1</sup> case, it was held that market value should reflect what a prudent buyer in the same position as the landowner "would have been willing to give for the land sooner than fail to obtain it". Typically, that special value will be considered where the land is adapted to a particular purpose or particular benefits which cannot easily be replaced. However, it is not to reflect a sentimental or irrational basis.

Whilst Special Value is referred to in law, the concept may differ slightly with the IVS concept.

In the *Turner* case, the Court found that the special consideration must be legal, probable under the 'highest and best use' assumption.<sup>2</sup>

### 5.3 Reinstatement

Reinstatement is the method of assessing compensation as the cost to put the Claimant in a similar position to the one enjoyed prior to the Compulsory Acquisition. The current physical condition of any improvements to the land taken is to be taken into account in any assessment of compensation. The affected party cannot claim new for old.

### 5.4 Disturbance

Disturbance includes costs and expenses reasonably incurred in moving from the land being acquired to another comparable property and may also include other costs including reasonable fees for consultants appointed to assess and lodge the claim for compensation.

<sup>1</sup> *Pastoral Finance Associate Ltd v Minister* [1914] AC 1083

<sup>2</sup> *Turner v Minister for Public Instruction* [1956] 95 CLR 245

Business compensation is considered under this principle. Business loss may comprise extinguishment, or loss of goodwill both local and personal.

### **5.5 Severance**

Severance is considered where part of the land is taken, and the owner retains the remainder of their land. Severance refers to the impact on value of the remaining portion of land.

### **5.6 Injurious Affection**

Injurious Affection implies some kind of injury to the value of other land of the Claimant due to the carrying out or proposed carrying out of the public work for which the land has been taken. In Australia consideration needs to be given to the injurious affection whilst the public works are being undertaken as well as any long-term impact.

In addition to the impact to an owner occupier's interest in the property, which is readily identifiable, consideration may also be given to the impact on a tenant's interest and any long term impact on the rental and use of the land by the tenant.

### **5.7 Enhancement/Betterment**

Enhancement is the increase in value in the residual land, if any, arising from the carrying out of the works or the impact of the public purpose for which the taken land was acquired. It is to be taken into account but not to the extent that negative compensation results.

### **5.8 Solatium**

Solatium is compensation for emotional attachment to a property. It does not apply in all jurisdictions.

In New Zealand, solatium has been replaced and now referred to as 'other compensation'.

### **5.9 Other**

Compensation for the Compulsory Acquisition of land taken cannot be increased or decreased as a result of the scheme underlying the Compulsory Acquisition. This principle relates specifically to the land taken. Other land in the same ownership may be injuriously affected or enhanced. When adopting the "before and after" method, this is achieved by ignoring the scheme (including all the studies resulting in the scheme) in the "before" assessment. The principle is known as the *Pointe Gourde*<sup>3</sup> principal.

The effect on value of planning restrictions should be disregarded where they are imposed as a preliminary step in a scheme of Compulsory Acquisition. This rule is known as the *San Sebastian*<sup>4</sup> principle, after the case which developed it as an extension of reasoning in *Pointe Gourde*.

Valuers should familiarise themselves of the principles of equivalence and the application of extinguishment in the Privy Council Decision in *Director of Buildings and Lands v Shun Fung Ironworks Ltd* [1995] 1 All ER 846.

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<sup>3</sup> *Pointe Gourde Quarrying & Transport Co v Sub-Intendent of Crown Lands (Trinidad)* [1947] AC 565

<sup>4</sup> *Housing Commission (NSW) v San Sebastian Pty Ltd* (1978) 140 CLR 196

## **6.0 Inspection and Enquiry Guidelines**

### **6.1 Professional Guidelines**

Valuers should also refer to the IVS and other relevant publications of the Institute(s) applicable to the valuation of property.

For compensation and Compulsory Acquisition matters, as well as an assessment of impacted Claimant's interest and claims under other heads, the Valuer may also be required to address additional aspects as follows.

#### **6.1.1 Improvements Demolished Before Settlement**

Instances may arise where Valuers are required to discuss or defend their assessment after the improvements on the land have been demolished.

It is important that full and accurate inspection notes, photographs, and any other documents utilised in an assessment are recorded and kept. Property inspections need to be objective, and notes should include positive and negative aspects of the property. Significant features of surrounding properties, including those that might be acquired and/or those that impact on the subject property, should also be recorded.

#### **6.1.2 Interview the Owner/Claimants**

Regardless of the instructing party, it is important that the Valuer discuss the details of the property being acquired and the Compulsory Acquisition processes with the owner/Claimant(s). This is to ensure that all relevant particulars of the property and the Claimant's legal current and future use is understood, and so that the claimant feels that their position is understood, and they will be adequately compensated. This is particularly relevant if only part of the property is taken e.g. an easement.

Compulsory Acquisition is likely to be an unfamiliar and significant event for the Claimant and an environment in which the Claimant has limited control. It is an opportunity for Valuers to demonstrate professionalism and appropriate sensitivity, regardless of which party instructs the Valuer. An interview with the Claimant should also confirm any other parties' interests in the property, and how those interests affect those of the Claimant.

#### **6.1.3 Interviews and Discovery**

Investigation and research should be conducted for both the property and other heads of claim. Information should be obtained in writing from the sources of the information where possible and documented in the report.

#### **6.1.4 Requiring/Acquiring Authority**

The Compulsory Acquisition notification will usually indicate the purpose of the Compulsory Acquisition. Details of proposed works are important for establishing injurious affection, and betterment/enhancement,.

The extent of works could impact significantly on the assessment for compensation. It is likely that the Requiring/Acquiring Authority will have carried out studies of any impact. Valuers should obtain copies of plans and studies and may discuss them with the Requiring/Acquiring Authority and the Claimant who may be able to indicate how these will impact on the interest and/or use of the property.

### 6.1.5 Report Notes and Files

Records of instructions, inspections, meetings, sources of information, calculations and basis of valuations, and any other notes and files gathered as appropriate must be kept for a period having regard to the relevant statutory, legal or regulatory requirements.

## 7.0 Report Content

Refer to IVS 103 Reporting.

Valuation reports should include content that is relevant to the type of property, and the information required by instructing and reliant parties. The extent of detail under any heading will vary depending on the instructions and scope of works, style of property, nature of the property, purpose of the valuation and the applicable Acts and government-issued guidelines.

Note: see also ANZVTIP 13 Resource Pack.

### 7.1 Professional Guidelines

Professional guidelines and/or standards published or adopted by the Institute(s), collectively referred to as Professional Member Obligations, provide direction and guidance on contents of reports.

Requirements of the client should be considered.

The following should also be considered when undertaking a report for Compulsory Acquisition and where appropriate, and or required under relevant legislation, included in the report:

- Expert witness statement of compliance;
- Compulsory Acquisition date;
- Effect of the Compulsory Acquisition and the scheme or project to which the land is to be put;
- Town planning and resource management;
- Reference material;
- Heads of property claim (in accordance with the legislation, even if a 'nil' amount)
- Summary of claim
- Separate valuation statements;
- Degree of detail;
- Suitable for exchange.

#### 7.1.1 Expert Witness Statement of Compliance

Members should be aware of any relevant Court rules of practice, directions or regulations relating to expert witnesses and comply with requirements. See ANZVTIP 1 Acting as an Expert Witness, and the related Resources Pack.

In Australia, a harmonised Expert Witness Code of Conduct requires a statement that the expert has been provided with the Expert Witness Code of Conduct, read it and agrees to be bound by the principles contained therein AND a declaration that no material matter has been omitted from the Report.

### **7.1.2 Compulsory Acquisition Date**

Details of the Compulsory Acquisition date should be noted, and a copy of any notification annexed to the report. It is important to include:

- Date of Proposed Acquisition Notice / Opening Letter / Notice to Treat / Notice of Intention to Acquire Land / Notice of Intention to Resume (NIR) / Notice of Acquisition / Notice of Trust Acquisition / Public Acquisition Overlay (PAO), or any other formal notice or advice.

### **7.1.3 Effect of the Compulsory Acquisition**

Where partial land is acquired, it is particularly important to comment in detail on the impact of the Compulsory Acquisition on the residue of the property.

### **7.1.4 Town Planning / Resource Management**

Town planning or resource management details should be included in a report.

Additional information may be required where the current or proposed zoning may be or is a step in the Compulsory Acquisition process (and as such may have to be ignored in the assessment of compensation). In such a case, comment on the most likely alternative zoning should be included (supported if necessary, by a planning consultant's report).

### **7.1.5 Reference Material**

Where suitable, copies or extracts of relied upon documentation should be referenced or annexed to the report.

### **7.1.6 Heads of Property Claim**

All heads of property claim should be explained, including 'nil' amounts and reasons, and their criterion and quantification adequately detailed.

### **7.1.7 Summary of Claim**

Provide a summary of the amounts claimed for the value of the interest in the property acquired, and the amounts claimed under each head of claim in accordance with the relevant legislation. This should be set out in a way to ensure compliance with any requirements of the relevant legislation, and to enable any prescribed claim form to be completed. A total of the assessments or values of the claims should also be shown.

### **7.1.8 Separate Valuation Statements**

If a number of valuations reflecting different interpretations of the law, planning or other matters are prepared, it is appropriate that separate valuation statements be made, clearly setting out the basis of each valuation.

### **7.1.9 Degree of Detail**

Valuer Members may be directed by the Claimant's legal representatives as to the degree of detail and reasons to be provided in their report. Reports should comply where relevant with the Institute(s) Professional Member Obligations.

### **7.1.10 Suitable for Exchange**

A report should be produced that is suitable for exchange prior to any discussions of value or negotiations (subject to direction from any legal representative). This will

enable the parties to better understand the points of difference between them and will ultimately assist the Court. Exchange will normally be at the direction of the client or their legal or property professional.

## **8.0 Post Assessment Consultancy**

### **8.1 After the Assessment**

A significant part of the Valuer's work can occur after the assessment has been carried out. This may take the form of discussions and negotiations. It may also include preparation and proof of evidence for an appeal hearing, giving evidence and cross examination. A Valuer should notify the client up front and if necessary, decline the instructions, if they are not prepared to follow through with these stages.

It is desirable for the Valuer's brief to extend beyond the assessment to include the negotiation of a settlement of the compensation claim. It is generally unacceptable for the Valuer who has carried out an assessment to subsequently not participate in the resolution process.

The provisions of this clause apply equally to Valuer Members acting for Requiring/Acquiring Authorities and Claimants. Instances may occur where negotiations are undertaken by another professional who instructs a Valuer.

### **8.2 Negotiation with other Professionals**

Professionals assessing compensation claims following Compulsory Acquisition by a Requiring/Acquiring Authority will often be called upon to negotiate with other property professionals. In any negotiation it is essential that Valuers be prepared to substantiate their opinions by reference to market evidence, facts and reasoned arguments in accordance with relevant legislation and Court procedures. These negotiations are undertaken on a 'without prejudice basis'.

### **8.3 Joint Expert Reports**

It is common procedure in many jurisdictions that a Joint Expert Report undertaken by the respective valuers for each party are required in order to emphasise those valuation issues that are agreed and those that are in dispute and the reasons they are in dispute. In order to compile the Joint Expert Report, it is essential that the respective valuers for each party substantiate their opinions by reference to market evidence, facts and reasoned arguments in accordance with relevant legislation and Court procedures.

## **9.0 Effective Date**

This TIP is effective from 1 January 2021. Earlier adoption is recommended.

*It replaces ANZPS 1 and ANZVGN 5 Valuations for Compulsory Acquisitions which are withdrawn 31 December 2020.*