

Australian Property Institute and
Property Institute of New Zealand

TECHNICAL INFORMATION PAPER - RETROSPECTIVE VALUATIONS

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Reference ANZVTIP 1 – Retrospective Valuations
Effective 1 August 2015
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Technical Information Papers

The principal objective of a Technical Information Paper (TIP) is to reduce diversity of practice by identifying commonly accepted processes and procedures and discussing their use. A TIP is designed to be of assistance to property professionals and informed users alike.

A TIP will do one or more of the following:

- provide information on the characteristics of different types of asset that are relevant to the advice,
- provide information on appropriate practices and their application, provide information that is helpful to property professionals in exercising the judgements they are required to make in specific situations.

A TIP does not:

- provide training or instruction,
- direct that a particular approach or method should or should not be used in any specific situation.

The contents of a TIP are not intended to be mandatory. Responsibility for choosing the most appropriate approach is the responsibility of the property professional based on the facts of each task.

Whilst TIPs are not mandatory, it is likely they will serve as a comparative measure of the level of performance of a Member. They are an integral part of “Professional Practice”.

The reader should understand that legislation may change and whilst this TIP is accurate and relevant at the time it was completed, relevant referred reading and legislation should be investigated at the time of relying on this TIP.

Retrospective Valuations

1.0 Introduction

1.1. Objective

The objective of this TIP is to address circumstances whereby API and PINZ members are instructed to prepare a 'retrospective valuation' and / or assess the competency of a previously obtained valuation (valuation review).

1.2 Scope of this TIP

This TIP applies to Members who undertake Retrospective Valuations on behalf of known clients with whom those Members or their employers have entered into the appropriate Valuation Services Agreement. This TIP should be read in conjunction with other TIPs and/or API/PINZ Practice Standards, which are either over-arching or directly applicable to the issues raised in this TIP.

TIPs are intended to embody for API Members recognised 'competent professional practice', and for PINZ Members, recognised 'best practice'. Therefore a TIP may (although this should not be assumed) assist an API Member to act in a competent professional manner, or a PINZ Member to practice to a level that meets best practice, if properly applied. While TIPs are not mandatory, it is likely that Members who have regard to and apply the guidance provided by TIPs will be able to evidence that they have acted in a competent professional (API) or to a level that meets best practice (PINZ). The API and PINZ do not warrant that anything contained in this or any TIP is the definitive and/or final statement on any issue raised in the TIP. Members must perform their own work pursuant to their own professional expertise and experience.

Where recommendations are made in this TIP for Members to undertake a specific professional task, these are intended to represent 'competent practice' for API Members and 'best practice' for PINZ Members, i.e. recommendations that in the opinion of the API and PINZ, as the case may be, would meet practice accepted by peer professional opinion. Although Members are not required to follow the recommendations contained in the TIP, they should take into account the following points.

When an allegation of professional negligence and/or breach of a statutory duty is made against a Member, a court or tribunal will almost always take account of the contents of any relevant TIP published by the API and PINZ in deciding whether or not the Member acted to a standard as required by law.

In the opinion of the API and the PINZ, a Member conforming to the practices recommended in this TIP should have at the very least a partial defence to an allegation of negligence and/or other alleged breach, if they have followed those practices. However, Members have the responsibility of deciding when it is inappropriate to follow a TIP.

It is for each Member to decide on the appropriate procedure to follow in any professional task. However, where Members do not comply with the practice recommended in this TIP, they should do so only for a good professional reason and it is recommended that Members record for their own purposes why they did not comply with something contained within a TIP. Members may wish to seek legal and/or other advice before embarking on a path of non compliance with practice recommended in a TIP. In the event of a legal dispute, a court or tribunal may require them to explain why they decided not to adopt the recommended practice.

1.3 International Valuation Standards

This TIP recognises the International Valuation Standards prepared by the International Valuation Standards Council. The guidance in this paper presumes that the reader is familiar with the International Valuation Standards and Technical Information Papers.

This TIP is also intended to be consistent with the concepts and definitions contained in those Standards; however, there may be departures from IVSC Standards to reflect Australian and New Zealand law and practice.

2.0 Definitions

The following defined words and terms have particular relevance to this TIP. Other words and terms that are also defined in the IVS Glossary and / or the joint API / PCA / REIA 2007 Glossary of Property Terms may be used but are not listed below in the interests of brevity.

Please note any IVSC definition included in the 2007 Glossary of Property Terms will be superseded by the current IVS Glossary.

Expert Valuer	In Australia - a person who is a Certified Practising Valuer of not less than 5 years' standing, of the Australian Property Institute and was active in the relevant market at the time of the original valuation. In New Zealand a Registered Valuer of not less than 5 years' standing, of the Property Institute New Zealand and was active in the relevant market at the time of the original valuation.
Market Value	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.
Retrospective Valuation	A valuation taking effect from a date in the past.
Valuation Review	Impartial judgment in considering the work of another Valuer.

3.0 Key Principles When Instructing Valuers

3.1 Instructions

In the context of the dispute resolution process, it is common for lenders to instruct a Valuer to prepare a 'retrospective valuation' to assess the competency of a previously obtained valuation (**the Original Valuation**).

The role of such expert evidence may be used to assist a court in reaching a decision as to whether or not a Valuer has used reasonable care and skill in preparing the Original Valuation. As such, an expert Valuer is not to use hindsight and is to endeavour, as far as possible, to put themselves in the position of the Valuer performing the Original Valuation.

To do justice to the lender and the Valuer that prepared the Original Valuation, it is recommended that such an opinion be obtained in two stages where possible. The first is the expert providing a retrospective opinion as to market value. The second is the expert Valuer preparing a critique that assesses whether or not the Original Valuation, in the opinion of the expert, lacked reasonable care and if so, why.

An expert Valuer taking on this work should ideally be prepared to perform both stages.

3.2 Selection of Appropriate Expert

Wherever possible, the expert should have experience in valuing properties in the same or similar location as at the time of the Original Valuation. Expert Valuers should decline to accept instructions to prepare a retrospective valuation, if they were not valuing in that market at that time.

3.3 Nature of Instructions

Once the expert Valuer is selected, they should receive the following material as part of their instructions:

- A copy of the same instructions provided to the original Valuer, if they are available, that are de identified so that the expert Valuer does not know the name or firm of the Valuer that prepared the Original Valuation.
- A copy of any other documents provided to the Valuer at the time.
- A copy of the expert witness guidelines applicable in the relevant Court of the jurisdiction where the Original Valuation was performed.

The expert Valuer should conduct the valuation in accordance with the standard expected of the Valuer at the time the valuation was conducted. The overriding principle is that the expert Valuer should give an opinion of value in accordance with an opinion they would have given at the time had they been so instructed.

In doing so, it is acknowledged that it will take some time for the expert Valuer to re acquaint themselves with the market conditions that existed at the time of the Original Valuation. Wherever possible, the expert Valuer should have regard to any prior valuations they performed of the subject property or comparable properties at the time of the Original Valuation.

Should the expert Valuer be unable to gain access to the property for a retrospective valuation, a valuation range rather than a single point figure is to be adopted. Unless otherwise advised, the property is to be assumed to have been in an average condition for its property type.

Members undertaking retrospective valuations need to be cognisant of API/PINZ TIP **Acting as an Expert Witness**.

4.0 Critique of Original Valuation (Valuation Review)

The purpose of the second stage is to critically review the Original Valuation. This should only be instructed if the retrospective opinion of the Valuer differs significantly from the Original Valuation.

At this point the expert Valuer should be provided with the Original Valuation and asked to comment on whether:

- the Original Valuation departed from the standard of care expected of a reasonable and competent Valuer at the time.
- the Original Valuation departed from the Lender's stated requirements for the Original Valuation.
- the methodology applied was appropriate.
- there were any errors made.
- there were any particular risks or assumptions that should have been considered in the original valuation that were not.

All conclusions should be fully explained and disclosed. Where the review Valuer is not in possession of all the facts and information on which the Valuer relied, the review Valuer must disclose the limitations of his or her conclusions.

5.0 Change in Market Conditions

If the subject property has been sold, the lender should ask the expert Valuer to comment on changes in market conditions since the date of the Original Valuation and the date of sale of the subject property.

The expert should explain how those changes in the market have, if at all, impacted on the sale price of the subject property.

6.0 Summary

These principles for retrospective valuations are a guide only. At all times, the expert Valuer has an overriding obligation to the court, to provide their expert view independently and in a way that will assist the court in resolving any dispute between the lender and Valuer.

7.0 Effective Date

This TIP is effective from 1 August 2015. Earlier adoption is permitted. No previous versions.