

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

TECHNICAL INFORMATION PAPER RETROSPECTIVE VALUATIONS

Reference	ANZVTIP 1 – Retrospective Valuations
Effective Date	Australian and New Zealand Effective Date 1 July 2019
Owner	PINZ Standards Board

Australian Property Institute
6 Campion Street
Deakin ACT 2600

Telephone: 1800 111 274
Email: national@api.org.au
Website: www.api.org.au

Property Institute of New Zealand
Level 3, Gleneagles House
69 The Terrace
Wellington

Telephone: 04 471 5543
Email: national@property.org.nz
Website: www.propertyinstitute.nz

Contents

Technical Information Papers.....	3
Retrospective Valuations.....	4
1.0 Introduction	4
1.1 Objective	4
1.2 International Valuation Standards	4
2.0 Terms.....	5
3.0 Retrospective Valuation	5
4.0 Key Principles When Instructing Valuers	5
4.1 Instructions from a Lender.....	6
4.2 Instructions for Litigation Purposes	6
4.3 Instructions for Other Purposes.....	6
4.4 A Member Accepting Instructions	6
4.5 Nature of Instructions	6
5.0 Inspection Requirements	7
5.1 Real Property.....	7
5.2 Plant and Equipment, and Personal Property.....	7
5.3 Generally	7
6.0 Report Content.....	7
7.0 Valuation Review.....	8
8.0 Sales Evidence	8
8.1 Real Property.....	8
8.2 Plant and Machinery	9
9.0 Effective Date	9

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 Technical Information Paper 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) Members.

A Technical Information Paper 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 Technical Information Papers 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 Australian Property Institute and the Property Institute of New Zealand consider this Technical Information Paper 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 Technical Information Paper.

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.

If any Member considers any information or advice in this Technical Information Paper to not be accurate or up to date, refer this to standards@api.org.au. In New Zealand, contact standards@property.org.nz.

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 valuation as at an earlier date, and/or review a previously completed valuation.

This TIP applies to 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 2017 and any other relevant TIPs, Practice Standards, Guidance Notes, professional guidelines and case law.

The API and PINZ 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 seek additional advice if required. Members have a responsibility to decide when it is inappropriate to follow a TIP.

Where a court or tribunal makes a finding on whether a Member has acted to a standard required by law, it may take into account both the contents of any relevant TIP or any other document related to a recommended professional practice.

Where a Member wishes to depart from the practices recommended in this TIP, it is suggested that the Member:

- makes a record of the reasons for not complying with the TIP; and
- seeks legal and/or other advice before departing from the practice recommended in the TIP.

1.2 International Valuation Standards

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

2.0 Terms

The following are terms used in this Technical Information Paper

Institute	All references to Institute mean, as the context requires, API and /or PINZ.
Member	A Member of the API and/or PINZ.
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 of a case.
Expert Evidence	<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> http://www.fedcourt.gov.au/law-and-practice/practice-documents/practice-notes/gpn-expt [viewed 8/5/2019]
Professional Standards	Valuation and property guidelines as adopted by the API and PINZ including International Valuation Standards (IVS), Technical Information Papers (TIPS), Practice Standards, Guidance Notes, and any other professional guidelines adopted by the Institute.
Valuation Review	<i>'The act or process of considering and reporting on a valuation undertaken by another party, which may or may not require the reviewer to provide their own valuation opinion.'</i> (International Valuation Standards Council) https://www.ivsc.org/standards/glossary#letter_v [viewed 20/5/2019]
Valuation Reviewer	<i>'A "valuation reviewer" is a professional valuer engaged to review the work of another valuer. As part of a valuation review, that professional may perform certain valuation procedures and/or provide an opinion of value.'</i> (IVS 2017)

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 information that became available subsequently.

4.0 Key Principles 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 on whether there are constraints on the information. As far as possible, sufficient information should be provided to the valuer to describe the property as at the date of valuation.

4.1 Instructions from a Lender

A Lender or a Lender's 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 verify the accuracy of a previous valuation. In these instances, valuers should ensure there is clarity about how the report will be used and whether the valuer is only to consider details that could have been known at the date of valuation.

4.2 Instructions for Litigation Purposes

A Valuer may be instructed as an expert witness to assist the Court. In this instance, the expert witness' paramount and overriding duty is to the Court. In all Courts there are guidelines that need to be followed as Expert Guidelines.

A 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.

4.3 Instructions for Other Purposes

There are 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, taxation matters including capital gains tax, stamp duty purposes, tax consolidation, unit entitlement allocations, family law.

The 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.

4.4 A Member Accepting Instructions

A Member must operate within the limits of his or her qualifications and experience and must only accept instructions in a field of practice in which he or she possesses sufficient knowledge and skill. If a Member is not able to meet this standard, they must decline the instruction.

It is recommended the valuer have been registered or certified appropriately at the time of the retrospective date in those states where registration or certification is required or available.

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

4.5 Nature of Instructions

The Member should obtain instructions in writing that comply with International Valuation Standards 2017 – IVS 101 Scope of Work – Section 20.3.

Members undertaking Retrospective Valuations for litigation purposes should refer to Real Property Technical Information Paper 1 – Acting as an Expert Witness.

5.0 Inspection Requirements

5.1 Real Property

Where possible, the property should be fully inspected internally and externally. 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. Reference information relied upon.

5.2 Plant and Equipment, and Personal Property

Plant, machinery 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 can be problematic in retrospective valuations.

Historical evidence, observations and notes regarding the asset's condition and use as at the date of retrospective valuation should be sought by the 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, or reference information relied upon. The Member should endeavour to verify information relied upon.

An inspection is generally not possible in most retrospective valuations for litigation because the assets no longer exist or if they do, they are in a substantially different condition than they were at the date of valuation; and sometimes assets have been destroyed, damaged by fire or accident, stolen or in the possession of unfriendly parties.

5.3 Generally

In cases where a physical inspection isn't practical or possible, Members should refer to the API Code of Professional Conduct or PINZ Rules of Conduct 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.

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 change 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 Institutes 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 Member 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 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.
- 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 Member 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 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 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 Sales Evidence

8.1 Real Property

Sales evidence prior to the retrospective date should primarily be used. Sales 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, valuers 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 sales past the Retrospective Date. At page 97, Rost and Collins quotes 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 valuers 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.

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 few historical databases, particularly beyond two years for plant and machinery.

Research may comprise

- Contemporaneous comparable sales.
- Plotting a curve of sales sometimes including pre-date of valuation sales, and sometimes including post date of valuation sales, and sometimes both to establish where the market may have been at the date of valuation.
- Establish current value and discounting back for age using ABS statistics.
- Using the cost approach based on established historical cost from suppliers, although it should be noted that such data is rarely available.
- Using the cost approach by indexing current cost to historical cost to arrive at a starting base.

There are cases where sales post the valuation date are acceptable. In cases where there is an insurance claim, certain contract disputes and other litigation, the object of the retrospective valuation is to determine value at that date. This is not a valuation review. In these instances where the sole purpose of the valuation is to determine the value at the date, post valuation date data that contributes to determining the valuation date is acceptable e.g. a Member could show the market is static over a period, and a graph may demonstrate the direction of the market and its volatility at a relevant date.

9.0 Effective Date

This TIP has been adopted by PINZ and NZIV and is effective from 1 July 2019 and replaces the previous version dated 1 August 2015.