

ANZVGP 103

Addressing the Concept of Forced Sale

24 March 2023

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Review of ANZVGP 103

Addressing the Concept of Forced Sale

- Review undertaken by Property and Valuation Standards Board in conjunction with the Australian Property Institute.
- **Updated** joint API/PINZ guidance paper **ANZVGP103** effective from 1st July 2023 - **recommended best practice**
 - Earlier adoption is permitted and encouraged
- GP addresses issues Valuers should consider when requested to provide their opinion of a “**forced sale price estimate**” for an asset.

ADDRESSING THE CONCEPT OF FORCED SALE

Reference:	ANZVGP 103 – Addressing the Concept of Forced Sale
Published Date:	30 November 2022
Effective Date:	1 July 2023
Exposure Draft Period:	Open: 2 November 2022 Closed: 18 November 2022
Review Date:	12 – 18 months after the effective date
Owner:	Manager Professional Standards

Forced sale: some ground rules & comparisons

- Scenario typically applies where a seller is under compulsion to sell
 - Proper marketing not possible
 - Buyers may not be able to conduct adequate due diligence
- Although valuers may be asked to provide their opinion of **“forced sale price estimate”**, it is recommended that **valuers should not use the term “forced sale value”** in their reporting (written or otherwise).
- This is a significant change. The previous GP described the concept of a forced sale situation having application when Valuers are requested to consider an “actual or anticipated constraint which is inconsistent with market value”
 - Subsequently, it addressed circumstances where Valuers were “instructed to provide an assessment subject to an agreed set of circumstances that is not consistent with market value”
 - Under the previous regime valuers could provide an estimated realisable price reflective of a market constraint (commonly termed “forced sale”) expressing itself via the “likely price attainable in a non-market environment”.
 - The previous GP also considered other descriptions such as “fire sale value” and / or “distressed sale value” as being inappropriate and unsupported.



Forced sale price

- The price that could be obtained will depend upon:
 - The nature of the pressure on the seller
 - The reasons why proper marketing cannot be undertaken
 - The consequences for the seller failing to sell within the period available



Forced sale... International Valuation Standards

- Valuers responsibility to comply (and consistently apply) relevant International Valuation Standards (IVS)
- Primary reference: **IVS 104 Bases of Value - 170 Premise of value - Forced Sale**
- The price a seller will accept in a forced sale will reflect its particular circumstances, rather than those of a hypothetical willing seller in the market value definition
- Therefore , a “forced sale” is a description of the situation under which the exchange takes place – not a distinct basis of value



IVS 104 Bases of Value - 170.1

Unless the nature of, and the constraints on the seller are known, **the price obtainable in a forced sale cannot be reasonably known**



A forced sale typically reflects **the most probable price** that a specified property is likely to bring **under all of the following conditions**

- a) Consummation of a sale within a short time period
- b) The asset is subjected to market conditions prevailing as at date of valuation or assumed timescale within which the transaction is to be completed
- c) Both the buyer and the seller are acting prudently and knowledgeably
- d) The seller is under compulsion to sell
- e) The buyer is typically motivated
- f) Both parties are acting in what they consider to be in their best interests
- g) The normal marketing effort is not possible due to the brief exposure of time, and
- h) The payment will be made in cash



IVS 170.3

Just to emphasise:

Market value definition

Remains unchanged:

The estimated amount for which an asset or liability should exchange on the valuation date between a willing buyer and willing seller in an arm's length transaction, and after proper marketing and where the parties had each acted knowledgeably, prudently and without compulsion.



What constitutes “special assumptions”?

- The IVS (170.2) provides that in the case of forced sales, these are any circumstances existing as at the valuation date, **beyond that** of identifying:
 - the reasons for the constraint on the seller
 - the consequences of failing to sell in the specified period (set out appropriate assumptions in your report)
- Such circumstances, if they exist, are to be clearly identified as “special assumptions”.
- So these may reflect a perspective (in a forced sale scenario) that would not be taken by all market participants
- This is a change from the previous GP whereby special assumptions were described as essentially any of those that would not be made by a typical market participant



Forced sale price estimate

- Is inconsistent with market value
- Should not be regarded as a **distinct basis of value** (they are a **premise of value**)
- **Single figure assessment** should only be used to reflect the valuers opinion of **market value**. (i.e. not forced sale price estimate)
- The sale price attained is not generally considered indicative of prices achieved for similar properties sold under “normal” market conditions.
 - Property is not exposed to the market to facilitate the highest price reasonably obtainable
 - Methods of sale similarly inhibitive
 - Length of exposure time to the markets inhibits negotiation and competition – characteristics which otherwise exemplify a “free market”



What about sales in an inactive or failing market?

- These are not automatically “forced sales”.
 - A seller may well hope for a better price if conditions improve
- Unless the seller is **compelled to sell by a deadline** that **prevents proper marketing**, the seller will be a willing seller within the definition of “market value”
- “Forced sale” transactions are generally excluded from sales evidence supporting a “market value” valuation.
 - But... it can often be difficult to verify that an arms length transaction in a market was indeed a forced sale.

IVS 170.4 & IVS 170.5



Relevant date

- **Previously** the GP focussed its attention on providing the most likely realisable price at the relevant date considering market conditions at the time.
 - Valuers were to avoid trying to make assessments where constraints do not exist - even though there may be foreseeable consequences of specific future events
- The **revised GP** instructs that whilst in most instances the date of the inspection will be the date of assessment, retrospective assessments may be required.
 - In this instance any assessed value should reflect known or observable events and circumstances existing at the relevant date.
- Notwithstanding, **post valuation events or circumstances may be commented upon** when considered relevant.



Liquidation value

- Liquidation value can be determined under the premise of a forced transaction with a shortened marketing period
- But... the liquidation value is the amount that would be realised when
 - an asset or group of assets are sold on a piecemeal basis.
 - Should take into account the costs of getting the assets into a saleable condition - as well as those of the disposal activity

IVS 80



Instructions

- This is a **new section** added to the GP
- Instructions to provide forced sale price estimate must be agreed to prior to commencement, and be in writing.
 - Refer IVS 101 – Scope of Work (20.3)
- The special assumptions must be outlined in the instructions:
 - Marketing period
 - Proposed method of sale
 - The market the proposed sale is to take place in



Instructions (further notes)

- No ambiguities - especially relation to special assumptions
- Variations to instructions (if applicable during course of assignment) also to be agreed to in writing
- Special assumptions to be included in written instructions to Valuer - which will also identify that their opinion is restricted to being the most likely sale price realised for the asset given those assumptions
- The Valuer is to obtain fully informed written consent from the client where the valuation is to be undertaken in conjunction with another valuer – particularly important where the other valuer's competence is being relied upon.



Further matters concerning instructions

- If the Valuer has not been provided with sufficient information to enable a forced price estimate to be determined (including detail of special assumptions), the valuer is to either:
 - Decline the assignment
 - Seek further information / clarity from client / instructing party



Valuation Approach

- Another **new section** in the revised GP
- Is consistent with IVS approach “based on the economic principles of price equilibrium, anticipation of benefits or substitution”
- GP reminds / refers valuers to **IVS 105 Valuation Approaches and Methods**, i.e. various methodologies that can be applied within the ambit of the three approaches
 - i. Market approach
 - ii. Income approach
 - iii. Cost approach
- ANZVGP 103 Clause 5.1: The valuation approach adopted should take into account:
 1. **difficulty in obtaining market evidence**, and
 2. the **purpose** for which the valuation is being undertaken, and
 3. the **clients requirements**



Valuation Methodology

- Forced sale price estimate may have a high degree of uncertainty
 - Assumed circumstances might be unique to the transaction
 - Often insufficient comparable sales available
- Therefore, the Valuer is required to make adjustments to account for the forced sale scenario to be assumed.
- There are various methodologies that can be applied under the three principal valuation approaches
 - Refer IVS 105 Valuation Approaches and Methods
- It is the Valuers responsibility to choose the appropriate method(s) of valuation



Valuation considerations

- Also another **new section** (6) in the revised GP
- All usual valuation processes to be undertaken in the determination of a forced sale price estimate (i.e. inspection, inquiries, market analysis and computation / calculations assessment)
- However, lack of comparable sales evidence (i.e. market evidence that is transacted on the same basis as the assumed sale transaction for the subject asset) requires special considerations on a variety of factors to properly understand and interpret the market.
- This could include making adjustments for differences in any physical and legal characteristics between the comparables and the subject.
- Where appropriate, make allowances for market and economic changes since the sale(s) took place
- Also include adjustments applied to account for the restrictions and constraints imposed by the client's special assumptions requirements



Valuation considerations (continued)

Market Evidence

- Evidence can be **constrained** or in some ways **incomparable**
 - Improper marketing periods
 - Restricted arms-length transactions
 - Sales transactions not directly comparable due to market circumstances
 - The same set of special assumptions likely to be rare
- Therefore critical for the Valuer to **provide a clear explanation** in relation to available sales evidence and the **basis of comparison** used in formulating an estimate.



Reporting Requirements

- The final **new section** (7) in the revised GP
- Valuers to have regard to **IVS 103 Reporting**
- Reports to satisfy requirements contained in the Instructions, along with - as a **minimum**:

• Reference to instructions	• Valuation approach & methodologies
• Details of asset	• Supporting Sales evidence
• Purpose	• Assumptions, and special assumptions
• Client and others who can rely upon valuation	• Forced sale price estimate (conclusion and explanation)
• Dates: valuation, inspection, and report issue	• Limitations, conditions or qualifications, or any conclusions
• Third party disclaimer(s)	



Reporting forced sale price estimate range

It is the Institute's position that a **forced sale price estimate range** is appropriate rather than a single figure assessment (forced sale price estimate)



Questions

