

# **SUBMISSION**

## Review of the Occupational Regulation of Valuers

### New Zealand Transport Agency – HNO Property

---

#### **SUBMITTER**

The New Zealand Transport Agency (The Transport Agency), in all of its guises, has a long history of association with the valuation profession. Our partnership is an integral relationship to the performance of The Transport Agency and the furthering of road projects throughout New Zealand.

As background, the New Zealand Transport Agency - Waka Kotahi (the Transport Agency) is a Crown entity, established on 1 August 2008 under the Land Transport Management Act 2003 and is responsible for developing and maintaining an affordable, integrated, safe, responsive and sustainable land transport system for New Zealand. Of the six business units that make up the Transport Agency, the Highways and Network Operations (HNO) is responsible for the building, maintaining and operating the state highway network and within this division sits the HNO property team.

The primary purpose of HNO Property is to acquire property for highway improvement projects. Property is the early critical enabler to build and improve the state highway network. It is vital that negotiations to acquire property for projects proceed in a fair, equitable and expedient manner.

The HNO property team also manages held properties until they are either used for roads and then identified as surplus land and disposed of.

Property is acquired by the Transport Agency under the Public Works Act 1981 (PWA). Acquisition of land for any Crown purpose is administered by Land Information New Zealand (LINZ). This is to aid robustness and transparency to the acquisition process.

As a government agency the Transport Agency is not mandated to negotiate directly with owners and so contracts a number of accredited suppliers e.g. The Property Group and Opus, to undertake acquisition and disposal negotiations. The accredited supplier in turn instructs (on behalf of the Transport Agency) valuers to advise on value as defined in the Public Works Act.

The Transport Agency and more specifically the HNO property team is then a client and stakeholder of the valuation profession (much like financial institutions are) and would be one of the largest purchasers and users of valuations in New Zealand.

Registered Valuers are instructed by the Transport Agency (via a service provider) to provide valuations for the acquisition of property (often, more than one is commissioned for the same property) and land owners generally obtain a valuation themselves. This expense is ultimately borne by the Transport Agency.

Valuations are obtained on disposal of a property, particularly if it enters the Maori Protection Mechanism, the formal process by which surplus Crown properties are considered for land banking

for possible use in Treaty settlements. Also, valuers are often instructed to assess market rentals for properties held by the Transport Agency.

The Transport Agency, directly and indirectly, commissions over 400 valuations per annum for acquisition purposes alone.

The Transport Agency has two main aims in working with the valuation profession

1. To obtain better quality, more accurate and useful valuations from the profession for PWA work undertaken on behalf of NZTA and landowners alike. This ensures the fairest outcome for both parties and the progression of recognised strategic infrastructure projects.
2. To support the valuation profession to ensure that it is in good order at any point in time with essential elements in place, such as professional and ethical standards that are observed and enforceable, an effective CPD programme, a process of resolving complaints satisfactorily and quickly and a progression path for the future.

Currently the Transport Agency has the following concerns regarding the valuation profession.

#### 1. Standard of Valuations

- Advocacy. This is one of the main areas of concern for the Transport Agency. We are party to many valuations where the independence and objectivity of valuers is questionable and the client's position is more reflected in the final valuation. This is evident for valuers acting for the crown and landowner alike.
- Lack of evidence within valuation reports to support the final assessment.
- Poor understanding of and adherence to professional standards.
- Insufficient experience in valuing under PWA.

#### 2. Slow discipline process and not transparent

- The current perception (rightly or wrongly) is that a complaint against a valuer has to be very serious before it is worthwhile to lodge with the VRB. Plus it is costly and time consuming and often a result is not forthcoming for a significant period (2 -3 years)with the valuer in question continuing to work in that period.

#### 3. Continuing improvement and progression of profession and professional standards.

- A strong and effective profession is one that encourages continual development of members so as to reduce risk to stakeholders. Currently there is little evidence of progression in the profession or acceptance of its frailties and shortcomings.
- A strong profession engages with its stakeholders on a regular basis so as to obtain feedback as to the stakeholders opinion of how 'good' the profession is. The NZIV has only recently begun this action but still falls very short of really taking on board the wants of the stakeholders. It is left up to individual stakeholders to set their own standards benchmark as stakeholders are unconvinced that the NZIV is effectively performing this role e.g. the Transport Agency valuation templates, LINZ Standards and Guidelines for the acquisition of land under the Public Works Act 1981 and banks (e.g. BNZ) valuation standing instructions.

All of the above concerns contribute to the Transport Agency receiving inaccurate and substandard valuations which can lead to prolonged negotiations, delays in project completion, budget blow outs on acquisitions and ultimately an increase cost to the taxpayers.

**Q1 Do you agree that there is a lack of accountability and transparency in relation to the VRB's operation?**

Yes.

There is some communication between the VRB and Valuers Council and VRB and PINZ Board however there is limited communication between the VRB and the members and no communication between the VRB and the public. Consequently the profession is largely ignorant of many of the issues, the lack of reporting offers no learning opportunities and it does not promote confidence in the public that changes will occur or that the profession is taking a lack of compliance seriously.

**Q2 Do you agree that the composition of the Valuers Registration Board is problematic?**

Yes.

From a stakeholder's perspective, the current makeup of the VRB appears a 'closed shop' with the members being appointed and with minimal changes to the sitting members over time.

**Q3 Do you agree with the proposal to constitute a new board which would include lay people with specialist expertise?**

Yes, though the proposed seven members should be seen as a maximum and not mandatory as a lay person may have expertise in more than one discipline that will suit the board.

**Q4 Do you agree that it should not be mandatory for registered valuers to join NZIV or any other professional association?**

The Transport Agency agrees that it should not be mandatory for registered valuers to join NZIV, but they should be a member of a professional association.

**Q5 What of any issues do you think would need to be managed if professional association membership was voluntary?**

Continuing professional development and the professional advancement of valuers.

**Q6 Do you think that a tiered complaints system could deliver the benefits outlined above?**

Yes.

Additionally the Transport Agency would like to see included into any complaints system a 'mediation and arbitration' facility that stakeholders and the public can access, if so desire, to resolve a dispute on quantum e.g. rent review dispute or compensation for acquisition under the PWA. This form of alternative dispute resolution is less expensive, more efficient and any decision can be binding.

The mediator or arbitrator panel could be chosen from either the board or appointed by the board and the dispute could be either on quantum or a breach of ethics or standards. We consider that this service could potentially reduce the number of complaints to the VRB and is a proactive service for the VRB to provide.

**Q7 Do you think it is possible to reduce the reliance on check valuations?**

Yes.

It is considered by the Transport Agency that the reliance on Check valuations has become too great and that complaints should be assessed purely on the performance / conduct of the valuer in question and not benchmarked against other valuers' opinions.

**Q8 Is the range of sanctions proposed adequate?**

Yes.

**Q9 Is there a need for compliance monitoring and if so, by whom?**

Yes.

The Transport Agency does consider that there is a need for the compliance of standards and ethics to be monitored.

Currently Registered Valuers are to attend an ethics and a standards refresher course (provided through PINZ) every three years. The majority of complaints are due to the breaching professional standards or ethics then it would be logical for the Complaints Board to be responsible for the provision of ethics education and compliance monitoring.

**Q10 Do you agree with the proposal for the VRB to undertake more analysis of complaints and outcomes?**

Yes.

The analysis should be made available to all professional associations that have valuers as members so that appropriate education programmes are undertaken. The analysis should be made public on the VRB website.

**Q11 Do you agree that "registered valuer" should be the only protected title?**

Yes.

**Q12, Q13 Do you think that it necessary or desirable to change the existing registration period and / or registration renewal requirements?**

Yes.

The Transport Agency considers that Registration should not be for life and that there should be ongoing competency reviews, in one form or another. If the proposed scheme of self-declaration is adopted, the penalties for fraudulent information must be severe enough to discourage such act, e.g. removal of the ability to practice for at least a year.

**Q14 Should CPD be mandatory?**

Yes.

**Q15 Do you agree with the proposal for setting practice standards?**

No.

The Transport Agency believes that the proposal of combined and agreed setting of standards by the professional associations is too ideological and would not happen in practice. However to have separate standard is also not practical and would be confusing for the public.

The Transport Agency suggests that the professional standards for valuers in New Zealand be a function of Standards New Zealand. This is an independent Council formed under the Standards Act 1988 and who develop Standards be independent expert committees. The standards developed for valuers by this committee could be enforceable by legislation so that all valuers, regardless of the professional association they belong to, would have to comply with them.

**Q16 Do you agree with the proposal for setting ethical standards?**

Yes.

The Transport Agency agree that the government is the better place to set ethical standards; professional ethics or codes of conduct are relatively generic across all professions with the only difference being that valuers are to be totally independent and not to be advocates (unlike lawyers). It is paramount that this behaviour is maintained for valuers and if professional ethics for valuers were in legislation then we would welcome it, particularly as it could lead to tougher penalties if breached.

**Q17 Do you agree that the minimum age requirements should be removed?**

Yes.

**Q18 What do you consider are the benefits and the costs of implementing any or all of the proposals?**

The Transport Agency would hope that the total cost of implementing the scheme would remain relatively unchanged to individual valuers, but that the efficiency of the scheme would be improved, that the compliance of ethics and standards be greater due to better awareness and promotion of them through legislation and feedback from the complaints board and the discipline process is more flexible, expedient and cost effective.

## **OTHER ISSUES**

In the next section, the Transport Agency has chosen to answer only those questions which are relevant to the Transport Agency sphere of interest.

### **Q21 Do you think the three year supervised experience period for New Zealand graduates is too long?**

The Transport Agency regard the strict nature of the three year experience i.e. valuation only, too onerous and narrow and therefore does not produce well rounded property professionals. Some experience in affiliated property sectors, should be allowable. This in our opinion leads to young property professionals with a greater understanding of the nuances of property as well as providing graduates with more opportunity for employment with property firms who offer wider property services than specialised valuation companies. A suggestion is a minimum of 75% of the pre-registration period of supervised valuation experience.

### **Q22 Do you favour a tiered registration system that provides for provisional registration (with less experience and other requirements) as well as full registration?**

The suggested provisional registration is also acceptable to the Transport Agency, if it is regarded as being completely necessary for the entire pre-registration period to be valuation experience.

### **Q23 Should the requirement for overseas valuers to have at least one year's practical experience in New Zealand be retained?**

Yes.

Experience in the New Zealand market is critical as is knowledge of the professional standards and ethics.

### **Q28 Are there any risks in allowing registered valuers who have not passed degree courses in valuation to do rural valuations?**

No, however the Transport Agency does consider that a tertiary qualifications is required, either a diploma with the additional period pre –registration rural experience equivalent to a degree course e.g. a diploma in farm management plus 4 years relevant experience.

A rural valuer firstly needs a good understanding of farm management then valuation principles therefore this should be the emphasis for the training of rural valuers. A one year valuation course to understand the principles of valuation would suffice.

### **Q29 Are the valuation qualifications offered by the accredited universities fit for specialist purposes?**

The Transport Agency considers that undertaking valuations under the Public Works Act is a specialised discipline and would like this to be recognised by the universities. It requires a good understanding of the Public Works Act and case law. Inexperience or poorly educated valuers who undertake PWA valuations can cost the taxpayer a great deal of money in delaying projects, over expenditure in projects, bringing the profession into disrepute by lifting expectations etc. Graduates

who have completed a 300 level course on the Public Works Act and then obtained experience in this field could become specialist valuers in this field, whilst existing practicing valuers would have to submit an application to the VRB as being suitable to undertake such work which would include references (peer approved). The roll of approved PWA valuers would be published and made available to landowners and the Crown alike. PWA Valuers would have to undertake equal proportion of valuations for the crown and landowners. Valuers who have a complaint upheld against them could be removed from this roll.

If the review committee would like to discuss any of this submission, please contact

