
CONSUMER PROTECTION

CP401*

LAND VALUERS LICENSING ACT 1978 LICENSED VALUERS CODE OF CONDUCT

The Licensed Valuers Code of Conduct (“the Code”) has been made by the Commissioner for Consumer Protection with the approval of the Minister for Commerce pursuant to section 26 of the *Land Valuers Licensing Act 1978* (“the Act”). A licensed valuer failing to comply with the Code will be liable for disciplinary action pursuant to section 28(2) (c) of the Act.

Citation

This notice may be cited as the Licensed Valuers Code of Conduct.

Commencement

The Code shall commence upon the day after the date of publication of this notice in the *Government Gazette* and will replace the Code of Conduct published in the *Government Gazette* on 23 December 2011, and all previous codes of conduct, which shall be repealed upon the day after the date of publication of this notice in the *Government Gazette*.

Interpretation

In this Code—

- “**as if complete**” valuation means a valuation that assumes the proposed development to be in a completed state as at the date of valuation and reflects current market conditions at the date of valuation;
 - “**as is**” valuation means a valuation that provides the current market value of the property as it currently exists rather than the value of the proposed development;
 - “**proposed development**” means any planned development or redevelopment of a property, including building improvements or modifications, which are proposed, approved or under construction on the property (but does not include a planned development or redevelopment of a single dwelling residential property for residential use) where the value of the proposed or planned development is estimated to be \$50 000 or more when complete;
 - “**the Act**” means the *Land Valuers Licensing Act 1978*;
 - “**licensed valuer**” means a person who is licensed under the *Land Valuers Licensing Act 1978*;
and
 - “**valuation statement**” as referred to in rule 2.1 in this Code, means the statement usually found at the end of a valuation report stating the valuation amount, the date of the valuation and reference to qualifications and disclaimers, if any.
1. A licensed valuer shall—
 - 1.1 ensure that the duties and obligations imposed by the Act, Regulations and this Code are complied with in the performance of valuation work by the licensed valuer or by any person assisting the licensed valuer. A licensed valuer shall not be excused from non-compliance with these provisions by reason of claimed ignorance of their existence or content;
 - 1.2 maintain a risk management program;
 - 1.3
 - (a) carry out valuation work with diligence and competence in accordance with the accepted principles and practices of valuation;
 - (b) act at all times with honesty and integrity; and
 - (c) where it is their duty to do so, act with impartiality and independence;
 - 1.4 take all reasonable steps to—
 - (a) gather sufficient relevant data in forming an opinion of value or, in the absence or deficiency of such data, explain in the valuation report the basis on which the opinion of value was formed; and
 - (b) ascertain and verify such relevant facts and information as a prudent licensed valuer would have ascertained or verified in order to provide a professional valuation of a property. Where all such facts or information have not been ascertained or verified, make written disclosure of this to the client in the valuation report together with a statement of the extent, if any, to which the failure to ascertain or verify the facts or information in question qualifies or affects the valuation provided;

- 1.5 except with the written agreement of the client, personally inspect the property to be valued in accordance with accepted valuation practice. If the property is not inspected or is only partially inspected, the licensed valuer must disclose this in the valuation report and state the effect that the failure to conduct an inspection or complete inspection has on the valuation provided;
 - 1.6 include in the valuation report—
 - (a) in the case of a mortgage valuation, other than a valuation of a single dwelling residential property for residential use, as a covering page, a valuation Executive Summary in the form of Schedule 1 to this Code;
 - (b) the date of any inspection(s) made of the property, the interest to be valued (e.g. freehold, leasehold etc.), the valuation date and the date on which the report was issued. The licensed valuer must also sign the report and state their licence number;
 - (c) a statement, under the heading of “Assumptions, Conditions and Limitations”, of all assumptions made in arriving at an opinion of value and all conditions, requirements or limitations arising from the client’s instructions or arising due to any other circumstances;
 - (d) where the licensed valuer has an interest of any kind, whether direct or indirect in a property to be valued or a development proposed for that property, a statement describing the nature and extent of the interest in the property or development as the case may be; and
 - (e) particulars of any conflict of interest that are provided to a client or prospective client under sub-rule 2.6(a);
 - 1.7 hold any valuation as confidential unless the client otherwise agrees in writing or unless required by law to disclose the valuation;
 - 1.8 retain in a place of safe keeping for a minimum of 6 years a copy of the valuation report, all instructions from the client or the client’s representative, and all other records and information upon which the valuation opinion was based;
 - 1.9 obtain or confirm in writing all instructions of the client or the client’s representative;
 - 1.10 attach as an annexure to all valuation reports all instructions received from the client or the client’s representative and also any written consent obtained from a client or prospective client under sub-rule 2.6(b);
 - 1.11 where a valuation is to be undertaken on a proposed development, include in the valuation report the definitions of “as if complete” valuation and “as is” valuation that are provided in the Interpretation section of this Code;
 - 1.12 where a valuation is to be undertaken of a proposed development, include an “as is” valuation immediately following the “as if complete” valuation in the body of the valuation report and also in any certificate of valuation or other valuation summary in the report or attached to it;
 - 1.13 properly supervise and control the work of unlicensed persons engaged in assisting in the valuation work and be responsible for any work performed by unlicensed persons on behalf of the valuer; and
 - 1.14 where instructions are accepted to perform valuation work, for either a single task or multiple tasks, carry out all the valuations in accordance with the requirements of this Code regardless of the fee which has been agreed with the client.
2. A licensed valuer shall not—
 - 2.1 produce a valuation statement that purports to predict future value or future values (see Rule 3);
 - 2.2 advertise the licensed valuer’s services, skills or experience in a manner that is false or misleading;
 - 2.3 accept instructions to undertake valuation work which is contingent upon obtaining a predetermined result or finding;
 - 2.4 except with the written consent of the client, accept an engagement to perform a valuation or continue an engagement to provide a valuation where a conflict of interest exists, or arises prior to the completion of a valuation;
 - 2.5 use confidential information obtained in the course of making a valuation to the benefit of the licensed valuer or any person other than the licensed valuer’s client;
 - 2.6 accept or continue an engagement to perform a valuation where a conflict of interest would or does arise, unless;
 - (a) written particulars of the conflict or potential conflict are given to the client or proposed client as the case may be; and
 - (b) the client or proposed client has consented in writing to the licensed valuer performing or continuing to perform the valuation as the case may be;
 - 2.7 accept instructions to perform a valuation beyond their competency and if after accepting instructions to perform a valuation, a licensed valuer becomes aware of any circumstance or matter which places the performance of the valuation beyond their competency the licensed valuer shall not continue to act on the valuation (see Rule 4);

- 2.8 adopt the role of advocate in a matter where—
- (a) their duty is to exercise independence and impartiality; or
 - (b) it is the duty of another member of the same firm to exercise independence and impartiality in the same matter; or
- 2.9 accept an engagement, or continue to be engaged, to exercise independence and impartiality in a matter where another member of the same firm has adopted the role of advocate in the same matter.
3. Sub-rule 2.1 does not prevent a licensed valuer from—
- (i) forecasting income or outgoings using economic price prediction modelling, including discounted cash flows, to determine a present value; or
 - (ii) making properly qualified forecasts.
4. Sub-rule 2.7 does not prevent a licensed valuer from accepting an engagement beyond their competency or continuing to perform a valuation after becoming aware of a circumstance or matter putting the assignment beyond their competency, if with the prior written consent of the client the licensed valuer engages another licensed valuer with the necessary competency to assist in the valuation.
5. Before beginning any valuation work the licensed valuer must make a costs disclosure to the client. The costs disclosure must—
- (a) be given to the client in writing; and
 - (b) set out the maximum amount that the client will be charged by the licensed valuer to provide the services that the licensed valuer has agreed to provide to the client.
6. The maximum amount disclosed in the costs disclosure must include all fees, charges and disbursements to be charged by the licensed valuer to provide the services that the licensed valuer has agreed to provide to the client in relation to the transaction.
7. If the licensed valuer has made a costs disclosure to a client under rule 5, in relation to a service to be provided by the licensed valuer, then the licensed valuer is entitled to receive for that service—
- (a) a reward that does not exceed the amount disclosed to the client in that costs disclosure; or
 - (b) a reward that exceeds the amount disclosed to the client in that costs disclosure if—
 - (i) there is an unforeseen significant change in the scope of the work required to provide the service; and
 - (ii) the licensed valuer informs the client in writing of that change; and
 - (iii) the client agrees to the licensed valuer continuing to provide the service; and
 - (iv) the reward that exceeds the amount disclosed is reasonable having regard to that change.

DAVID HILLYARD for GARY NEWCOMBE,
Commissioner for Consumer Protection.

Approved by the Minister—

MICHAEL MISCHIN MLC, Minister for Commerce.

Schedule 1

(Sub-rule 1.6 (a))

EXECUTIVE SUMMARY MORTGAGE FINANCE VALUATION

PROPERTY ADDRESS:

CERTIFICATE OF TITLE:

REGISTERED OWNERS:

ENCUMBRANCES: (Limited to those that affect the use or value of the subject property.)

LAST SALE: (Report any transaction(s) within the last three years including date of sale, consideration and other relevant details. Facts relating to a current contract for sale of the subject property must also be included.)

ZONING:

DESCRIPTION OF THE PROPERTY "AS IS":

DESCRIPTION OF PROPOSED IMPROVEMENTS:

COMMENTS:

INTEREST VALUED:

VALUATION DATE:

CURRENT MARKET VALUE "AS IS":

CURRENT MARKET VALUE "AS IF COMPLETE":

VALUER: (name, signature, valuer's licence number and date.)

IMPORTANT: All data provided in this summary is wholly reliant on and must be read in conjunction with the information provided in the attached report. It is a synopsis only designed to provide a brief overview and must not be acted on in isolation.