

Interpretations

In this Scheme Instrument, unless the context otherwise requires:

1. headings or sub-headings are for convenience and navigation purposes only and should not be used in the interpretation of this Scheme Instrument;
2. a reference to a clause shall be a reference to all of its sub-clauses;
3. words in the singular form should also be interpreted to include the plural form, and vice versa.

PREAMBLE

- A. The Australian Property Institute Valuers Limited (APIV) is an occupational association for the purposes of the *Professional Standards Act 2003 (Vic)* (the Act).
- B. The Scheme is prepared by the APIV for the purposes of limiting Occupational Liability to the extent to which such liability may be limited under the Act.
- C. The Scheme applies to all Members of APIV, subject to clause 2 below.
- D. The Scheme will have force in Victoria, the Australian Capital Territory, New South Wales, the Northern Territory, Queensland, South Australia, Tasmania, and Western Australia. To the extent that the scheme applies to limit liability in the other jurisdictions, it is subject to the professional standards legislation of those jurisdictions.
- E. The APIV has furnished the Professional Standards Council (“the Council”) with a detailed list of the risk management strategies, currently in place and intended to be implemented, in respect of its Members and the means by which those strategies are intended to be implemented.
- F. The APIV has furnished the Council with APIV Insurance Standards with which Participating Members must comply for purposes of this Scheme. The APIV will not amend these insurance standards while the scheme is in force without prior approval of the Council.
- G. The APIV has advised Members to whom the Scheme applies that they must have the benefit of a Professional Indemnity Insurance Policy that complies with APIV Insurance Standards and that they remain liable for the amount of any difference between the amount payable to a plaintiff under the policy and the Monetary Ceiling specified in the Scheme.
- H. The APIV has furnished the Council with details of its complaints system and discipline system.
- I. The APIV and its Members to whom the Scheme applies have undertaken to comply with all reporting obligations associated with the Scheme, in furtherance of the statutory objects of improvement of the occupational standards of its Members, and protection of the consumers of such Members’ services.
- J. The APIV has undertaken to remit all fees payable under the *Professional Standards Regulations 2017 (Vic)* to the Council as and when these become due.
- K. The Scheme is intended, subject to applicable legislation in various jurisdictions, to commence on 1 September 2026 and remain in force for five (5) years from its commencement unless, prior to that time, it is revoked, its operation ceases, or it is extended pursuant to section 34 of the Act.
- L. Sections 12GNA(2) of the *Australian Securities and Investments Commission Act 2001 (Cth)*, 137(2) of the *Competition and Consumer Act 2010 (Cth)*, and 1044B(2) of the *Corporations Act 2001 (Cth)* provide for limited liability where a Professional Standards Scheme is prescribed in the relevant

regulation. The Scheme does not apply to limit any liability under a Commonwealth law unless it has been prescribed under regulations by the Commonwealth.

THE AUSTRALIAN PROPERTY INSTITUTE VALUERS LIMITED PROFESSIONAL STANDARDS SCHEME

1 Occupational association

1.1 The Australian Property Institute Valuers Limited Professional Standards Scheme is a scheme under the Act prepared by the APIV whose registered address is:

Suite 1, Level 6, 66 Clarence Street
Sydney NSW 2000

2 Persons to Whom the Scheme Applies

2.1 The Scheme applies to:

2.1.1 all Members who are natural persons and who hold API certification of Certified Practising Valuer, Certified Practising Valuer (Residential), Residential Property Valuer and/or Certified Practising Valuer (Plant & Machinery) and are eligible to participate in the Scheme;

2.1.2 all Corporate Members; and

2.1.3 all Persons to whom the Scheme applies by virtue of the Act and the Corresponding Laws of other jurisdictions in which the Scheme applies.

2.2 The APIV may, on application by an individual referred to in clause 2.1.1, exempt that individual from participating in the Scheme from the date on which the exemption is granted or a later date specified in the exemption.

3 Jurisdiction

3.1 The Scheme applies in Victoria.

3.2 In addition to Victoria, the Scheme is intended to operate in the Australian Capital Territory, New South Wales, the Northern Territory, Queensland, South Australia, Tasmania and Western Australia in accordance with the Professional Standards Legislation of those states and territories and subject to the requirements of that legislation ("the Corresponding Laws"), so that references to a provision of the Act, the application of the scheme to a liability, the limit of a liability under the Act, or what constitutes Occupational Liability, are intended to pick up the relevant provisions of the Corresponding Laws to the extent that is necessary for the application of the Scheme in any of those jurisdictions.

4 Limitation of Liability

4.1 This Scheme only affects the liability for Damages arising from a single cause of action to the extent to which the liability results in Damages exceeding \$1,000,000.

4.2 If a Person, who or which was, at the time of the act or omission giving rise to Occupational Liability, a Participating Member and against whom a proceeding relating to Occupational Liability is brought, is able to satisfy the court that such person has the benefit of an insurance policy:

(a) of a kind which complies with the APIV Insurance Standards;

- (b) insuring such Person against the Occupational Liability to which the cause of action relates; and
- (c) under which the amount payable in respect of that Occupational Liability is not less than the applicable Monetary Ceiling specified in the table at clause 4.3,

then that Person is not liable in Damages in relation to that cause of action above the Monetary Ceiling specified in clause 4.3 of this Scheme.

4.3 The Monetary Ceiling is to be determined according to the following table:

Category	Assessed Value or Indicative Value	Monetary Ceiling
Category 1 Services Real Property Valuation and Desktop Services	\$0 to \$3,500,000	\$1,000,000 (fixed)
	\$3,500,001 to \$7,500,000	Assessed Value x 33%
	\$7,500,001 to \$100,000,000	\$2,000,000 + (Assessed Value x 7.5%)
	\$100,000,001 or greater	\$10,000,000 (fixed)
Category	Category Description	Monetary Ceiling
Category 2 Services	Low Risk Valuation Services	\$1,000,000 (fixed)
Category 3 Services	Plant & Machinery Valuations	\$1,000,000 (fixed)
Category 4 Services	Other Occupational Services	\$1,000,000 (fixed)

- 4.4 This Scheme limits the Occupational Liability in respect of a cause of action founded on an act or omission occurring during the period when the Scheme was in force of any Person to whom the Scheme applied at the time the act or omission occurred.
- 4.5 Clause 4.2 does not limit the amount of Damages to which a Person to whom the Scheme applies is liable if the amount is less than the amount specified for the purpose in this Scheme in relation to a Person to whom the Scheme applies.
- 4.6 For the avoidance of doubt, the applicable limitation of liability in respect of a Claim is the Monetary Ceiling as in force at the time at which the act or omission giving rise to the cause of action concerned occurred.
- 4.7 Where a Person, who at the time of the acts or omissions referred to in clause 4.2 incurs an Occupational Liability as a result of:
 - 4.7.1 an act or omission by that Person in the performance of Category 1 Services; and
 - 4.7.2 an act or omission by that Person in the performance of:
 - (a) Category 2 Services;
 - (b) Category 3 Services;
 - (c) Category 4 Services; or
 - (d) any combination of Category 2 Services, Category 3 Services and/or Category 4 Services;

such Person's Occupational Liability under this Scheme for Damages in excess of

the amount specified in clause 4.1 will be determined in accordance with those provisions of the Scheme relating to Category 1 Services only, as set out in the table at clause 4.3.

- 4.8 Where a Person who at the time of the acts or omissions incurs an Occupational Liability as a result of:
- 4.8.1 an act or omission in the performance of a Category 1 Service; and
 - 4.8.2 an act or omission in the performance of one or more other Category 1 Service;
- the Monetary Ceiling shall be calculated by reference to the Assessed Value or Indicative Value.
- 4.9 Where, in respect of a Government Valuation, a Person who was a Participating Member:
- 4.9.1 expressly extends reliance in respect of such Government Valuation to a Non-Government Entity; and
 - 4.9.2 incurs a liability to such Non-Government Entity as a result of an act or omission by that Participating Member in the performance of the Government Valuation;
- the relevant Occupational Service, for the purpose of calculating the applicable Monetary Ceiling in respect of such liability to the Non-Government Entity in accordance with clause 4.3 (only), will be deemed to be a Category 1 Service.
- 4.10 Notwithstanding anything to the contrary contained in this Scheme if, in particular circumstances giving rise to Occupational Liability, the liability of any Person who is subject to this Scheme is capped both by this Scheme and also by any other scheme under Professional Standards Legislation (whether of this jurisdiction or under the law of any other Australian state or territory) and, if the amount of such caps should differ, then the cap on the liability of such Person arising from such circumstances which is higher shall be the applicable cap.

5 Conferral of discretionary authority

- 5.1 Pursuant to section 26 of the Act, the APIV has discretionary authority, on application by a Person referred to in clause 2.1, to specify in relation to that Person a higher Monetary Ceiling (maximum amount of liability) not exceeding \$20 million, than would otherwise apply under the Scheme, in all cases or in any specified case or class of case.

6 Commencement and duration

- 6.1 The Scheme will commence:
- 6.1.1 in New South Wales, the Northern Territory, Queensland, Tasmania, Victoria and Western Australia, on 1 September 2026; and
 - 6.1.2 in the Australian Capital Territory and in South Australia, on this same date, or such other later date, provided the date is specified in the relevant Minister's notice in relation to the Scheme; or
 - 6.1.3 in all other cases, subject to the statutory provisions of each applicable jurisdiction.
- 6.2 The scheme will be in force in all applicable jurisdictions for five (5) years from the date of its commencement in Victoria.

- 6.3 Clause 6.2 is subject to the provisions of each jurisdiction in relation to the revocation, extension, or cessation of a Scheme.

7 Definitions

- 7.1 The definitions below and elsewhere in this Scheme Instrument have been included for interpretation and understanding of certain stated terms used within this Scheme Instrument.
- 7.2 For the avoidance of doubt, the use and meanings of defined terms in this Scheme Instrument take precedence over a common meaning or interpretation of the same term.
- 7.3 Where a defined term is included in this Scheme Instrument it is shown as a Title Case term. Where not shown as Title Case the ordinary meaning of the term applies in the context in which it is used.

“Act” means the Professional Standards Act 2003 (Vic).

“API” means the Australian Property Institute Ltd ACN 608 309 128.

“APIV” means the Australian Property Institute Valuers Limited ACN 143 638 975.

“APIV Insurance Standards” means the insurance standards approved by the APIV and presented to, and considered by, the Professional Standards Councils in connection with the Councils’ approval of the Scheme (subject to any amendment to such APIV Insurance Standards as are subsequently approved by the APIV and presented to the Councils and approved or endorsed by the Councils in writing).

“Assessed Value” means an express statement of professional opinion by a natural person who is or was a Participating Member as to the value of any right, interest or benefit related to the ownership, occupation or use of real property or plant, machinery or equipment as a result of a Valuation Processⁱ. Where a valuation report states a range of values, rather than a single value, the Assessed Value shall be deemed to be the mid-point value in such range.

“Category 1 Services” means any Valuation of Real Propertyⁱⁱ or Desktop of Real Propertyⁱⁱⁱ in Australia excluding any Low Risk Valuation Services.

“Category 2 Services” means the provision of Low Risk Valuation Services in Australia.

“Category 3 Services” means the provision of Plant & Machinery Valuation Services in Australia.

“Category 4 Services” means the provision of Other Occupational Services in Australia.

“Corporate Member” means a corporation which has been admitted as a Member pursuant to the eligibility criteria prescribed by the APIV Constitution.

“Corresponding laws” has the same meaning as it has in the Act.

“Court” has the same meaning as it has in the Act.

“Damages” has the meaning given in Section 4 of the Act.

“Government Valuation” means any valuation or desktop prepared on instructions from any:

- (a) Government in Australia (including Federal, State or Territory and Local government);

- (b) Government department; or
- (c) Government agency; or
- (d) Government statutory or non-statutory body or authority.

"Indicative Value" means a qualified estimate by a natural person who is or was a Participating Member as to the value of any right, interest or benefit related to the ownership, occupation or use of real property or plant machinery or equipment, where the scope of work is limited or restricted such that the valuer does not undertake all the

necessary enquiries, investigations, procedures and processes to fully inform the valuer's reasoning and analysis that is a prerequisite for a Valuation Process. Where a report states a range of indicative values, rather than a single indicative value, the Indicative Value shall be deemed to be the mid-point of such range.

"Low Risk Valuation Services" means any:

- (a) Valuation of Real Property or Desktop of Real Property undertaken in the capacity as an arbitrator;
- (b) Valuation of Real Property or Desktop of Real Property undertaken for the purpose of asset means testing;
- (c) Expert Determination^{iv};
- (d) Expert Evidence Valuation^v;
- (e) Financial Reporting Valuation^{vi};
- (f) Government Valuation;
- (g) Insurance Valuation^{vii};
- (h) assessment of any unit entitlement in respect of any subdivision, strata title, company title (or similar) property;
- (i) Valuation of Real Property or Desktop of Real Property undertaken for the purpose of determining a rate, tax, duty or levy that applies in respect of the property including but not limited to any council rates, Good & Services Tax or stamp duty; or
- (j) Valuation of Real Property or Desktop of Real Property undertaken for Resumption^{viii} purposes.

"Member" means a member of the APIV.

"Monetary Ceiling" means the applicable monetary ceiling specified in the table at clause 3.4 of this document.

"Non-Government Entity" means a person or entity which is not a government entity of the type identified in the definition of Government Valuation at clause 5.1 (including, for the avoidance of doubt, any joint venture or partnership between one or more Government Entity(s) with one or more Non-Government Entity(s)).

"Occupational Liability" has the same meaning as it has in the Act.

"Other Occupational Services" means any Occupational Services^{ix} provided by a Participating Member in the performance of the Occupation^x other than any:

- (a) Category 1 Services;

(b) Category 2 Services;

(c) Category 3 Services.

“Participating Member” means a Member to whom the Scheme applies pursuant to clause 2.1 and who has not been granted an exemption pursuant to clause 2.2.

“Plant & Machinery Valuation Services” means any valuation or desktop of any right, interest or benefit related to the ownership, possession or use of plant, machinery or equipment expressed as an Assessed Value or Indicative Value.

“Person” means an individual or a body corporate.

“Professional Indemnity Insurance Policy” means a policy of insurance that provides cover for the Participating Member in compliance with the APIV Insurance Standards.

“Professional Standards Legislation” means:

- (a) the Act;
- (b) *Professional Standards Act 1994* (NSW);
- (c) *Professional Standards Act 2004* (Qld);
- (d) *Professional Standards Act 2004* (SA);
- (e) *Professional Standards Act 2005* (Tas);
- (f) *Professional Standards Act 1997* (WA);
- (g) *Professional Standards Act 2004* (NT); and
- (h) *Civil Law (Wrongs) Act 2002* (ACT).

“Real Property Valuation and Desktop Services” means any Valuation of Real Property or Desktop of Real Property but excluding any Low Risk Valuation Services.

“Scheme” means The Australian Property Institute Valuers Limited Professional Standards Scheme set out in this document.

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- i **“Valuation Process”** means an established evidence based process for assessing the value of a tangible asset which includes all the necessary enquiries, investigations, procedures and processes including the physical inspection of the asset by the valuer, required to fully inform the valuer’s reasoning and analysis in accordance with practice accepted as proper by the API.
 - ii **“Valuation of Real Property”** means any valuation, undertaken in accordance with Rule 11 of the [API Rules of Professional Conduct](#), of any right, interest or benefit related to the ownership, occupation or use of real property including land and all things that are a natural part of the land as well as any improvements to the land (but excluding plant, machinery and equipment) expressed as an Assessed Value.
 - iii **“Desktop of Real Property”** means any desktop, undertaken in accordance with Rule 12 of the [API Rules of Professional Conduct](#), of any right, interest or benefit related to the ownership, occupation or use of real property including land and all things that are a natural part of the land as well as any improvements to the land (but excluding plant, machinery and equipment) expressed as an Indicative Value.
 - iv **“Expert Determination”** means any Valuation of Real Property or Desktop of Real Property undertaken for the purpose of making a determination acting as an expert pursuant to an agreement or deed where all relevant parties have agreed to indemnify, release or hold the valuer harmless in respect of any liability in connection with the valuation. An Expert Determination can be binding or non-binding.

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- v **“Expert Evidence Valuation”** means any Valuation of Real Property or Desktop of Real Property undertaken for the purpose of providing expert evidence in relation to a proceeding before a court or tribunal where the expert’s primary duty is to the court or tribunal (excluding a Valuation of Real Property or Desktop of Real Property undertaken for Resumption purposes).
- vi **“Financial Reporting Valuation”** means any Valuation of Real Property or Desktop of Real Property undertaken for the purpose of the preparation and issue of financial reports by any entity in the general course of the entity’s operations. It excludes special purpose financial reports prepared in respect of a specific transaction including any sale, merger, takeover or fundraising.
- vii **“Insurance Valuation”** means any assessment of the cost of replacement of destructible improvements to real property or plant, machinery or equipment undertaken for the purpose of advising on the insurable value of such property in connection with the entry into, or proposed entry into, a contract of insurance.
- viii **“Resumption”** means compulsory acquisition of land (including compulsory acquisition or appropriation of Crown land) under the provision of any Act of the Commonwealth or of a State or Territory authorising compulsory acquisition or appropriation of land.
- ix **“Occupational Services”** means any Category 1 Services, the Category 2 Services, the Category 3 Services and the Category 4 Services provided by a Participating Member in the performance of the Occupation.
- x **“Occupation”** means the occupational vocation carried out by Participating Members by application of the qualifications, training, skills, practices, disciplines, specialisations, standards, guidelines and experience of a natural person holding the API certification of Certified Practising Valuer, Certified Practising Valuer (Residential), Residential Property Valuer and/or Certified Practising Valuer (Plant & Machinery).