

Public Consultation Document

Association of Consulting Surveyors National Ltd Professional Standards Scheme

1. What are the objects of CSN?

Association of Consulting Surveyors National Ltd (**CSN**) is the occupational association for consulting surveyors throughout Australia.

Its objects are to represent the interests of, and provide support to, consulting surveyors and to promote and encourage the highest standards of professional conduct and consumer protection in the consulting surveyor industry.

2. Who are CSN's Members?

Consulting surveying involves the measurement and mapping of the surrounding environment. Consulting surveyors play an integral role in ensuring the integrity of the cadastre and assisting in the management of land and land use for town planning and administrative purposes. Given the importance of land boundaries in Australia's economic context it is critical that these services are carried out by qualified professionals.

CSN's members are natural persons and businesses that offer consulting surveying services.

CSN Professional Standards Scheme

1. What is the CSN Professional Standards Scheme?

The "Association of Consulting Surveyors National Ltd Professional Standards Scheme" (**Scheme**) is a legal instrument that limits the civil liability of Scheme participants to specified amounts provided they meet the Scheme's requirements.

Unless CSN exempts a person from the Scheme, the Scheme will apply to all Individual Members and Corporate Members, and all persons to whom the scheme applies because of the Professional Standards Acts in each jurisdiction (**Participating Members**). CSN has designed the Scheme with the objective of:

- promoting its ongoing commitment to improvement of the professional standards of its Members;
- protecting consumers of consulting surveyor services; and
- increasing consumer confidence in the consulting surveyor profession.

2. Who administers the Scheme?

CSN is responsible for administering the Scheme and ensuring compliance with the requirements of the Professional Standards Acts and of the Professional Standards Councils (**PSC**). The PSC oversee the operation of the Scheme via the Professional Standards Improvement Programme.

3. Has CSN previously administered a Scheme?

No. However, CSN has a close relationship with Professional Surveyors Occupational Association Inc (**PSOA**), the administrator of the Professional Surveyors Occupational Association Scheme for surveyors in New South Wales, the Australian Capital Territory, the Northern Territory, Queensland, and Victoria, which is due to expire on 11 November 2018. PSOA supports CSN assuming responsibility for administering the Scheme on an ongoing basis.

4. Where does the Scheme operate?

The Scheme will apply in all States and Territories where mutual recognition provisions exist – New South Wales, Western Australia, Victoria, Northern Territory, South Australia, Australian Capital Territory, Queensland and Tasmania.

5. What types of work will the Scheme cover?

The Scheme limits, to the extent permitted by the Act, all civil liability arising from anything done or omitted by a Participating Member in performing consulting surveying services (in tort, contract or otherwise).

The Scheme does not limit liability for damages arising from any matter to which the Professional Standards Acts do not apply. This includes but is not limited to liability for damages arising from death or personal injury to a person, a breach of trust, fraud or dishonesty, and liability the subject of proceedings under Parts 13 and 14 of the *Real Property Act 1900* (NSW), Section 110 of the *Transfer of Land Act 1958* (VIC), Part 9, Division 2, Subdivision C of the *Land Title Act 1994* (QLD), Part 18 of the *Real Property Act 1886* (SA), Part XII of the *Transfer of Land Act 1893* (WA), Division 2 of Part XI of the *Land Titles Act 1980* (TAS), Part 9, Division 2, Subdivision 3 of the *Land Title Act* (NT) or Part 16 of the *Land Titles Act 1925* (ACT).

The Scheme covers acts or omissions that occur after the commencement of the Scheme.

6. When will the Scheme commence?

The Scheme is due to commence on [insert].

7. What classes of CSN's members will the Scheme be available to?

CSN has three categories of Membership - Individual Membership, Corporate Membership, and Associate Membership.

Corporate Members

A person is eligible to be a Corporate Member of CSN if the person carries on in Australia a consulting surveying business. A Corporate Member may be a natural person, body corporate, unincorporated body, partnership, or trustee.

Individual Members

A natural person is eligible to be an Individual Member of CSN if the person:

- is a consulting surveyor who possesses an accredited qualification or the requisite expertise and experience determined by the CSN Board as satisfying published admission criteria;

- is engaged as a principal, partner, director, employee or consultant of a Corporate Member; and
- has completed the Limitation Scheme Induction Module.

Associate Members

A person is eligible to be an Associate Member if that person:

- is not eligible to be an Individual Member or Corporate Member; and
- is a person with a real connection to the professional activities of a consulting surveyor.

The Scheme will apply to Corporate Members and Individual Members who meet the requirements of the Scheme, including the requirement that they have the benefit of a professional indemnity insurance policy insuring against occupational liability to which the cause of action relates and the amount payable under the insurance policy is no less than the amount of the relevant monetary ceiling specified in the Scheme.

8. What members will the Scheme not apply to?

The Scheme will not apply to Associate Members and any other person who has applied to, and been approved by, CSN as exempt from the Scheme.

Operation of the Scheme

1. How is the level of limited liability of CSN Members determined?

The Scheme provides Participating Members with the benefit of a statutory cap if damages are awarded against them as a result of a successful occupational liability claim. Under the Scheme, the person must have the benefit of professional indemnity insurance to an amount at least equal to the liability cap (monetary ceiling) applying to that person at the relevant time.

The monetary ceilings applicable for the purposes of limitation of liability under the Scheme are as follows:

Class	Description	Monetary ceiling
1	<p>A Participating Member who is at the relevant time a principal, partner, officer or employee of a consulting surveying practice that generated annual fee income for the financial year immediately preceding the relevant time of up to and including \$2 million.</p> <p>A Participating Member which is at the relevant time a Corporate Member that generated annual fee income for the financial year immediately preceding the</p>	\$2 million

	relevant time of up to and including \$2 million.	
2	<p>A Participating Member who is at the relevant time a principal, partner, officer or employee of a consulting surveying practice that generated annual fee income for the financial year immediately preceding the relevant time of greater than \$2 million and up to and including \$5 million.</p> <p>A Participating Member which is at the relevant time a Corporate Member that generated annual fee income for the financial year immediately preceding the relevant time of greater than \$2 million and up to and including \$5 million.</p>	\$5 million
3	<p>A Participating Member who is at the relevant time a principal, partner, officer or employee of a consulting surveying practice that generated annual fee income for the financial year immediately preceding the relevant time of greater than \$5 million.</p> <p>A Participating Member which is at the relevant time a Corporate Member that generated annual fee income for the financial year immediately preceding the relevant time of greater than \$5 million.</p>	\$10 million

The Scheme confers discretionary authority on CSN to specify a higher monetary ceiling than would otherwise apply under the Scheme. The discretion can be for a specified case, a class of case, or in all cases. Participating Members who tender for government contracts and those who work on specific large transactions may wish to avail themselves of the discretionary higher cap option as a positive risk management strategy.

2. How will consumers know if a CSN Member is covered by the Scheme?

All Participating Members are required to disclose on all stationery and client communications that their liability is limited under a Professional Standards Scheme. The following notification is prescribed:

Liability limited by a scheme approved under Professional Standards Legislation.

The Professional Standards Councils has directed that disclosure should appear on all documents given to clients or prospective clients that promote or advertise the Participating Member or their occupation, including letters, emails, newsletters and other publications, websites, fee statements and invoices.

New Participating Members are informed of their statutory obligation to comply with the disclosure notification requirement. All Participating Members must annually declare ongoing compliance with this requirement.

3. How long will the Scheme operate?

It is proposed that the Scheme will operate for 5 years from the date of commencement.

Benefits of the Scheme

1. How will consumers benefit from the Scheme?

The benefit to consumers of the Scheme is the recognition of consulting surveyors as a professional group that must comply with professional standards established by CSN and the PSC. This ensures that consumers are well served by educated, ethical and responsible consulting surveyors.

The requirement that each Participating Member be covered by an approved professional indemnity insurance policy also provides protection for consumers.

2. How does the Scheme enhance the professional standards of CSN Members?

The PSC requires participants in a Scheme to maintain a high level of professionalism, to act ethically in their provision of services to consumers and to manage risk in such a way as to protect those who are impacted by their services. CSN's role is to encourage transparency and strong risk management and regulate its Members in such a manner so as to maintain and improve professional standards.

To this end, CSN has developed the following strategies:

Risk management practices

CSN's risk management framework and risk profile are reviewed regularly. Risk assessment is a key part of CSN's operational planning and extends to its governance, operational, financial and compliance risks and those of its Members. The CSN Board takes active steps to understand the principal risks associated with the practice of consulting surveying on an ongoing basis and management has the responsibility to ensure that the CSN Board and its committees are kept well informed of these changing risks. CSN has an internal audit function that reports directly to CSN's Chief Executive Officer. The internal auditor attends all committee meetings and is directly available to advise all Members of the internal audits results independently of management.

Continuing occupational education (COE)

Risk prevention is one of the overarching objectives of CSN's COE policy. Through the implementation of its COE requirements, CSN seeks to address the following broad categories of risks:

- ethical issues faced by its Members, for example, conflicts between self-interest and the client's interest;

- issues around technical competence and adhering to client service standards (leading to the implementation of quality control and claims prevention measures); and
- issues around occupational health and safety (leading to the implementation of adequate staff training and supervisory measures).

CSN Members are required to undertake a minimum of 15 COE points each year, at least six of which must be specific professional occupational risk management points in the following approved learning disciplines:

- Cadastral surveying;
- Mining surveying;
- Technology use related to surveying;
- Infrastructure and engineering;
- Environment and Planning;
- Building development;
- Subdivision development;
- Project management;
- Mine planning and development;
- Professional practice management;
- Risk management; and
- Ethics.

Complaints and discipline processes

CSN has implemented a robust complaints and discipline policy which provides consumers and other stakeholders with an avenue to identify situations where professional standards have not been followed. CSN's role under the policy is to:

- promote and encourage the highest possible standards of professional conduct in accordance with the best practices of consulting surveyors;
- ensure each of its Members conducts itself and its practice in accordance with the law and always renders faithful service to its clients in a fair and just manner; and
- take any such disciplinary action as the CSN Board considers necessary or desirable to protect the interests of CSN, its Members and consumers.

CSN, under its constitution, is authorised to censure or expel a Member or suspend Membership if a Member refuses or neglects to comply with CSN's complaints and discipline policy.

3. How does limiting participant liability help consumers?

Limiting participant liability plays a role in safeguarding the availability of a sustainable and affordable professional indemnity insurance policy for Participating Members. Such insurance coverage ensures that the consumers of consulting surveying services receive timely and fair compensation for legitimate claims.

It is however important to note that in return for the benefit of capped liability, Participating Members are expected to meet the requisite professional standards and conduct of a genuine profession. This creates a balance that allows more Participating Members to run efficient and viable practices, which in turn creates more options for consumers of consulting surveying services and creates more competition between consulting surveying service providers.

4. Is the Scheme a professional indemnity insurance scheme?

Professional indemnity insurance does not serve to limit your occupational liability. It is important however because CSN has chosen to limit liability for Participating Members by way of insurance arrangements rather than by requiring Participating Members to hold a certain level of business assets. CSN's insurance standards require a Participating Member to hold an insurance policy for any amount of coverage equal to or greater than the amount for which that Participating Member's liability is capped at.

Further information regarding the Scheme can be found on the CSN website, www.acsnational.com.au, or you may contact Paul Mather (CSN Board Member) on 0417 440926 or at pmather@acsis.com.au.