



# CODE OF ETHICS

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# CODE OF ETHICS

Driving Business Success for Consulting Firms in the Built and Natural Environment

## PREAMBLE

The Code of Ethics establishes the standard adopted by the members of the Consult Australia to regulate their working habits and relationships. The members are bound by a common commitment to promote technology based intellectual consulting services for the built and/or natural environment and facilitate its practice for the common good, based upon shared values of:

- ethical behaviour
- competent performance
- innovative practice
- excellence in service provision
- equality of opportunity
- social justice
- unity of purpose, and
- sustainable development

This document and its obligations and requirements on members was approved by members at a general meeting of Consult Australia pursuant to by law 7.2 (b) on Friday 8 August 2003.

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## **THE MEMBERS ARE COMMITTED TO THE PRINCIPLES OF THIS CODE OF ETHICS. THESE ARE:**

- to respect the inherent dignity of the individual;
- to act on the basis of a well informed conscience;
- to act in the interest of the community; and
- to uphold its Tenets.

## **THE TENETS OF THE CODE OF ETHICS ARE THE SPECIFIC PRINCIPLES TO WHICH CONSULT AUSTRALIA ASCRIBES:**

- 1) Members shall at all times place their responsibility for the welfare, health and safety of the community before their responsibility to sectional or private interests, or to other members;
- 2) Members shall act with honour, integrity and dignity in order to merit the trust of the community;
- 3) Members shall act only in areas of their competence and shall practise in a careful and diligent manner;
- 4) Members shall act with honesty, good faith and without discrimination towards all in the community, including clients, employers and colleagues;
- 5) Members shall apply their skill and knowledge in the interest of their employer or client for whom they shall act with integrity, without compromising any other obligation to these Tenets;
- 6) Members shall take all reasonable steps to inform themselves, their clients and employers and the community of the social and environmental consequences of the actions and projects in which they are involved;
- 7) Members shall express opinions, make statements or give evidence with fairness and honesty and only on the basis of adequate knowledge;
- 8) Members shall continue to develop relevant knowledge, skill and expertise throughout their careers and shall actively assist and encourage those under their direction to do likewise; and
- 9) Members shall not assist, induce or be involved in a breach of these Tenets and shall support those who seek to uphold them.

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## INTERPRETATION

The comments which follow provide interpretation of the Tenets as they apply to practices and situations in which members may find a need for ethical guidance. A breach of the Code of Ethics occurs when a member acts contrary to one of the nine Tenets judged on the circumstances of the case and not on the emphasis of the interpretations.

## THE COMMUNITY

Members' obligations to the welfare, health and safety of the community involves the application of sound judgement based on experience and relevant analysis to arrive at the appropriate balance of considerations which must apply in a given situation. Protection of the environment is both a short term and long term concern of the community and needs to be considered by members at all times. Members' obligations extend to taking reasonable steps to understand the consequences of their own actions and the actions of those with or for whom they are working.

### Members:

- a) shall work in conformity with accepted environmental standards in a manner which does not jeopardise the public welfare, health or safety;
- b) shall endeavour at all times to maintain services essential to public health and safety;
- c) shall have due regard to requirements for the health and safety of the workforce;
- d) shall give due weight to the need to achieve sustainable development and to conserve and restore the productive capacity of the earth;
- e) shall endeavour to ensure that information provided to the public is relevant and in a readily understood form;
- f) shall avoid assignments taken on behalf of clients or employers that are likely to create a conflict of interest between the member or their clients or employers and the community;
- g) shall not use association with other persons, corporations or partnerships to conceal unethical acts; and
- h) shall not involve themselves with any practice which they know to be of a fraudulent, dishonest or criminal nature. Successful prosecution before a Court for any such action may be deemed to be a breach of the Code of Ethics.

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## AREAS OF COMPETENCE AND DESCRIPTION OF QUALIFICATIONS

Members should understand the distinction between working in an area of competence and working competently. *Working in an area of competence* requires members to operate within their qualifications and experience; *working competently* requires sound judgement. If an error of judgement occurs, the outcome may be construed as negligence, however, it does not necessarily imply that the member has acted unethically.

### Members:

- a) shall neither falsify nor misrepresent their own, or their associates', qualifications, experience and prior responsibility;
- b) shall inform their employers or clients, and make appropriate recommendations on obtaining further advice, if an assignment requires qualifications and experience outside their fields of competence.

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## CLIENTS AND EMPLOYERS

### Members:

- a) shall promote the principle of selection of services by clients upon the basis of merit, and shall not compete with other consulting engineers on the basis of fees alone. However, it shall not be a breach of the Code of Ethics for members to provide information as to the basis upon which they usually charge fees for particular types of work. Also, it shall not be a breach of the Code of Ethics for members to submit a proposal for the carrying out of work, which proposal includes, in addition to a technical proposal, an indication of the resources which members can provide and information as to the basis upon which fees will be charged or as to the amount of the fees for the work which is proposed to be done. In this respect it is immaterial whether or not members are aware that others may have been requested to submit proposals, including fee proposals, for the same work;
- b) may use advertising (which includes direct approaches to prospective clients by any reasonable means) which is not misleading, to announce their practice and availability. Information given must be truthful, factual and free from ostentatious or laudatory expressions or implications;
- c) shall, when acting as administrator of a contract, be impartial as between the parties in the interpretation of the contract. This requirement of impartiality shall not diminish the duty of members to fairly apply their skill and knowledge in the interests of their employers or clients;
- d) shall keep their employers or clients fully informed on all matters, including financial interests, which are likely to lead to a conflict of interest;
- e) shall advise their clients or employers when they judge that a project will not be viable, whether on the basis of commercial, technical, environmental or any other such risk which the member might reasonably have been expected to consider;
- f) shall inform their clients or employers of the possible consequences in the event that a member's judgements are overruled on matters relating to the welfare of the community. Where justified by the consequences which result from the matter continuing, members shall endeavour further to persuade the client or employer to discontinue with the matter. If unsuccessful, members may make the details of the adverse consequences known to the public without incurring a breach of the Code of Ethics.
- g) shall neither disclose nor use confidential information gained in the course of their employment without express permission, unless permission unduly withheld would jeopardise the welfare, health or safety of the community;
- h) shall not undertake, nor should they be expected to undertake, professional work where the terms of reference are so restrictive that they are not able to carry out their responsibilities in accordance with recognised professional standards;

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- i) shall not accept compensation, financial or otherwise, from more than one party for services on the same project, nor provide free services, unless the circumstances are fully disclosed to, and agreed to, by all interested parties;
- j) shall neither solicit nor accept financial or other valuable considerations from material or equipment suppliers for specifying their products;
- k) shall neither pay nor offer directly or indirectly inducements to secure work;
- l) shall neither solicit nor accept gratuities, directly or indirectly, from contractors, their agents, or other parties dealing with their clients or employers in connection with work for which they are responsible.

## COLLEAGUES

### Members:

- a) shall exercise due restraint in explaining their own work, shall give proper credit to those to whom proper credit is due, and shall acknowledge the contributions of subordinates and others;
- b) shall accept, as well as give, honest and fair professional criticism when commenting on another's work or making public comment;
- c) shall compete on the basis of merit and not compete unfairly;
- d) shall neither maliciously nor carelessly do anything to injure, directly or indirectly, the reputation, prospects or business of others;
- e) shall, where acting as a representative on behalf of an employer, recognise that other members, who are employees, are colleagues to whom the Code of Ethics applies;
- f) shall uphold the principle of adequate and appropriate remuneration;
- g) shall neither attempt to supplant another individual or organisation who has been duly appointed by a client or employer nor accept engagement from a client or employer in replacement of another without first ascertaining that the appointment has been terminated by due notice;
- h) shall examine the circumstances and determine the appropriateness of accepting an engagement from a client if they have evidence that they are to replace another, having first made all reasonable efforts to make the other aware of the situation;
- i) shall, if asked by a client to review the work of another, discuss the review with the other person or organisation prior to submitting the review if it is possible to do so; and
- j) shall not unfairly criticise others for their past work where such work was conducted in accordance with the accepted standards and practices and community values of the time, and in accordance with the needs of the time.

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## ACTING AS AN EXPERT WITNESS

An expert witness provides a special and unique service to legal or quasi-legal proceedings established for the purpose of making judgements. Once accepted by the judge or arbitrator, an expert becomes "an officer of the Court or Hearing".

In this capacity the expert witness is normally afforded two important privileges: the freedom to remain in the proceedings at all times and the freedom to express an opinion.

At all times the expert witness owes the proceedings total objectivity. The role of expert witness is to give the tribunal the benefit of his or her special training and experience in order to help the tribunal understand matters which it would not otherwise understand and thus help the tribunal to come to the right decision.

### It follows that:

- a) members' reports, statements or testimony before any tribunal shall be objective and accurate. They shall express an opinion only on the basis of adequate knowledge and technical competence in the area, but this shall not preclude a considered speculation based intuitively on experience and wide relevant knowledge;
- b) members must reveal the existence of any interest, pecuniary or otherwise, that could be taken to affect their judgement in a technical matter about which they are making a statement or giving evidence;
- c) members must ensure that all reports and opinions given to a client prior to a hearing include all relevant matters of which they are aware, whether they are favourable or unfavourable;
- d) members giving evidence as experts should listen very carefully to the question put, and ensure that each answer is given objectively, truthfully and completely and covers all matters relevant to the question of which they have knowledge; and
- e) when discharging these responsibilities, members should have regard to the normal practice at the time of the occurrence of the incident which gave rise to the call for advice.

Members should also refer to relevant Practice Notes issued by this Consult Australia (and in particular to section 4.0) and also to the document "Guideline for Expert Witnesses in proceedings in the Federal Court of Australia" issued by the Federal Court of Australia.

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## **PUBLIC COMMENT OR STATEMENTS**

### **It follows that:**

- a)** Members may, if they consider that by so doing they can constructively advance the well-being of the community, contribute to public discussion on technical matters in their area of competence;
- b)** in areas outside of a member's area of competence, but those in which a member can demonstrate adequate knowledge, comment may be made on details of a project within that area of knowledge. Adequate knowledge generally applies to a narrow aspect of an area of competence. Adequate knowledge may be acquired from working in a related area of competence or through continued professional development. However, adequate knowledge in a narrow area is not generally a sufficient basis for public comment or advice on the overall solution to a task outside of a member's area of competence; and
- c)** in areas outside of a member's area of competence, and in which the member is not able to demonstrate adequate knowledge, public comment or statements should be limited to enquiries which seek to provide deeper understanding. In this respect, the member may draw on experience in training and analysis as a basis for asking objective questions which may assist the public to evaluate services without the member implying personal competence or knowledge in the area.

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## WHISTLEBLOWING

In the course of a member's employment, situations may arise concerning the employer or client organisation, which may present the member with a significant moral problem. These could include criminal behaviour, threats to public safety or unethical policies. Depending on the particular circumstances a member may have a responsibility under the provisions of the Code of Ethics to ensure that any such practices are brought to the attention of those with direct authority to rectify the problem or, to raise the matter elsewhere.

**The following practical and commonsense guidance is set out for the benefit of members who have or are intending to make such disclosure:**

- 1.** Make any objections to unethical practices promptly so as to avoid any misinterpretation of the motives for doing so;
- 2.** Focus on the issues and proceed in a tactful, low-key manner to avoid unnecessary personal antagonism which might distract attention from solving the problem;
- 3.** Keep supervisors informed of your actions as much as possible, both through informal discussion and formal memoranda;
- 4.** Be accurate in your observations and claims and keep formal records documenting relevant events;
- 5.** Raise the problem initially through normal organisational channels;
- 6.** Consult colleagues for advice and avoid isolation;
- 7.** Consult with the Consult Australia through the Chief Executive on the ethical issues involved, or with other organisations as appropriate; and/or
- 8.** Seek legal advice concerning potential legal liabilities.

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## **PROCEDURES FOR HANDLING ALLEGED BREACHES OF THE CODE OF ETHICS**

The members of Consult Australia have approved Articles to govern the investigation of alleged breaches of the Code of Ethics. The Articles at Part 4 and By Laws at Part 3 provide for a process to investigate alleged breaches and to reflect the importance which the Board places on all members upholding the ethical standards of the membership.

All complaints are considered by the Chairman of the Complaints Tribunal. Complaints which, if substantiated, would amount to improper conduct are referred to an investigating panel.

### **The following sanctions may be applied:**

- admonition;
- reprimand;
- fine;
- suspension; or
- termination of membership of Consult Australia.

Details of the decision and reasons for it are sent to the member concerned, who may lodge an appeal.

Where breaches are proven, the decisions are normally communicated to members of Consult Australia and to other relevant bodies including learned Institution if applicable.