



# Code of Ethics

*Collaboration, Fairness and Integrity –  
a commitment by Consult Australia members*

This document was approved by members of Consult Australia at the Annual General Meeting on 21 October 2021 in accordance with 13.1 of the Constitution in force at the time. This Code of Ethics is binding on all Consult Australia members.

Consult Australia is Australia's leading voice for a prosperous and vibrant built and natural environment industry. The success of Consult Australia as a leading industry association relies on its members upholding standards underpinned by the principles outlined in this Code of Ethics.

Consult Australia members, when dealing with **clients**, the **community**, and **other members**, will uphold the standards expected of a professional consultant, committing to three core principles:

- **Collaboration** – sharing ideas, skills, experience and building relationships to achieve shared goals.
- **Fairness** – treating everyone with respect, consistency and acting equitably.
- **Integrity** – acting honestly, authentically and being accountable.



The behaviours and commitments set out in this Code of Ethics are in addition to legal obligations on members including but not limited to:

- common law requirements
- consumer protection and competition legislation
- contractual obligations
- corporations' law
- legal frameworks that govern modern slavery, bribery, and corruption, including the Criminal Code
- environmental requirements and standards
- workplace health and safety.

Consult Australia provides opportunities for members to take part in a range of meetings, discussions, and events. These networking opportunities bring competitors in the same industry together which makes it important for members to be mindful of the *Competition and Consumer Act 2010* (Cth) and its restrictions on anti-competitive behaviour. All members must ensure they are familiar with the regularly updated guide on *Consult Australia Activities and Avoiding Restrictive Trade Practices* available at: <https://www.consultaustralia.com.au/>.

The guide sets out the relevant provisions of the Act and provides examples of conduct that must be avoided. For example, members must not share any competitively sensitive information that could lead to collusive behaviour and only share information that is legitimately required for the purpose of discussion at the meeting.

Consultants need to make commercial decisions on the work they do. If the client's requirements of you for a specific project do not permit you to meet the requirements of this Code of Ethics, you should consider your options and evaluate potential solutions. A solution with no negative consequence may not always be available. It is a matter for you to decide if you can proceed with that project or not.



## Commitment to CLIENTS

The relationship between consultants and clients is such that many of the obligations of the consultant are set out in the contract, or in legislation. For example, consultants will notify the client of any actual or perceived conflicts of interest and will act in accordance with the reasonable requests of clients.

In addition to those contractual and legal obligations, it is expected that Consult Australia members will:

- act only in areas of their competence\* and practise in a careful and diligent manner
- continue to develop relevant knowledge, skill and expertise throughout their careers and actively assist and encourage those under their direction to do likewise
- work collaboratively with clients to deliver the services, seeking to resolve issues together
- be efficient and proactive, by fairly considering the client's needs and interests
- provide advice that balances client needs with consideration of the needs of current and future generations including environment, health, wellbeing and safety
- where possible, and practicable to do so, take into account consideration sustainability and sustainable outcomes when providing advice
- provide clear, well considered advice on viability of a project or process to the client, where appropriate to the consultant's appointment and role and which the consultant is reasonably expected to consider.

**\*Note:** 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.



## Commitment to the COMMUNITY

The work of consultants benefits and/or impacts the community through the implementation of projects and consultants should have regard for this when advising clients. When providing advice to clients on the best way to proceed with a project, consultants should consider community benefit and impact (to current and future generations). It should be noted that consultants are advisors to clients and do not have the final say on whether projects proceed or not.

Consult Australia members should seek to (unless doing so would result in a breach of their contractual and legal obligations):

- ensure that community benefits, incorporating social, cultural, health, safety, environmental and economic considerations, are considered when providing advice
- where possible, and practicable to do so, consider sustainability and sustainable outcomes when consulting communities
- provide advice that balances the current needs with the needs of future generations by identifying outcomes that do not compromise the ability of future generations to enjoy the same or better environment, health, wellbeing and safety as the current generation
- engage positively with the community (when contracted to do so) so that its needs and feedback can, where possible and practicable to, be incorporated into projects (whether that arises from community consultation undertaken by the consultant or the client)
- respectfully address concerns raised by the community on project decisions (when contracted to do so)
- provide clear and relevant information to the community (when contracted to do so) and where community concerns raise an issue for re-consideration by the client, provide clear advice to the client on that issue.



## Commitment to OTHER MEMBERS

Consult Australia members often work on the same projects (whether engaged together or at different times). Sometimes there will be a contract setting out the key obligations between consultants, but not always.

In addition, and subject to any contractual and legal obligations, it is expected that Consult Australia members will:

- work collaboratively and respectfully with each other to deliver for the project, whether working in a joint venture, as consultant-sub-consultant roles or as independently appointed consultants
- formalise arrangements with other consultants on tenders and expression of interest bids via memorandums of understanding and do not replace those consultants upon winning the work without providing a reasonable explanation
- fairly negotiate the contract with each other, ensuring there is positive engagement, appropriate risk allocation, fair and reasonable remuneration for effort involved and open communication
- appropriately acknowledge the contributions of others, avoiding any unfair criticism on past work where it was conducted in accordance with all legal and contractual requirements, the accepted standards and practices and community values of the time, and in accordance with the needs of the time
- consider the circumstances and appropriateness of accepting an engagement from a client if replacing another consultant or reviewing the work of another consultant
- not attempt to supplant another consultant who has been appointed by a client nor otherwise misrepresent or undermine the integrity, skills, or expertise of any consultant
- avoid actual or perceived collusion with other consultants
- accept and provide an honest and fair critique if receiving feedback or commenting on another's work.

## **EXAMPLE: How Consult Australia members should consider our obligations to clients, the community and each other**

You submitted a tender to government on a controversial project, utilising the skills of a geotechnical sub-consultant. The client appointed you as the lead consultant, but during contract negotiations the scope of services changed – you need specialist geotechnical skills not contemplated at tender. Community engagement held by the client reveals significant concerns about land contamination from the project. To ensure that you meet the obligations of the Code of Ethics, you have:

- ☑ discussed with the client the viability of the project noting the environmental risks
- ☑ notified the geotechnical consultant involved at tender that the scope of services has significantly changed, you then work with that consultant to ensure they can meet the updated requirements, and if they can, give them first right of refusal
- ☑ fairly negotiated a contract with all sub-consultants and set-up regular project team meetings where issues can be raised, discussed, and resolved
- ☑ developed, with the expertise of the sub-consultant, information for the community that explains the project's potential risks and rewards – this information does not undermine or conflict with the client's objectives (as permitted by law).

## **Public comment or statements**

Noting the above obligations, when it comes to public comments or statements (whether it be quotes to journalists, articles submitted to industry magazines or social media posts), Consult Australia members can contribute to public discussion on:

- projects (and technical matters of those projects where it is in their area of competence)
- broader industry issues to raise awareness of matters of concern.

All contributions should:

- constructively advance the community's understanding
- be considered, that is avoid spurious and unsubstantiated comments that could hinder further investigation
- be clearly stated as an opinion if it is an opinion
- not breach contract or confidentiality provisions
- highlight potential solutions or collaborative problem-solving.

### **EXAMPLE: How to provide a media comment on a controversial project undertaken by another consultant**

A journalist from a major news outlet has asked you to comment on a controversial project which is marred by cost over-runs and legal disputation. You have had no consultant role on the project. If you decide to comment, to ensure that you meet the obligations of the Code of Ethics, you should:

- ☑ only comment on the technical aspects of the project if you have sufficient knowledge of those aspects of the project and it is in your area of competence
- ☑ provide comments that could assist the community understand how over-runs and legal disputation happens, including the broader industry culture
- ☑ avoid any unfair criticism of any party to the project or the integrity, skills or expertise of the consultant/s engaged
- ☑ refer to any current investigation (if there is one and it is publicly known)
- ☑ consider referring the journalist to Consult Australia to provide broader industry comment.

### **How to follow these obligations on social media**

The above obligations also apply to your professional social media accounts, that is any social media account where you refer to your position, employer or membership of Consult Australia.

Be careful of any publication on social media as this content is not easily withdrawn or retracted.



## Complaint Procedures

The Consult Australia Constitution and By Laws govern the investigation of complaints about alleged breaches of the Code of Ethics. Please refer to the Constitution and By Laws available on the [Consult Australia website](#) for the process and relevant confidentiality provisions.

The Board takes seriously all complaints made under the Code of Ethics. It is expected that complainants and respondents will take complaints just as seriously and engage positively with the Board to resolve matters. To assist the Board's proper assessment, the complainant will need to provide supporting information.

Remembering the potential consequences of a breach finding by the Board, it is important that complaints are not made based on ill-will or frivolous matters. Respondents should also not be dismissive of the complaint or the complainant's concerns, but instead provide a full and frank response. If a mistake or difficulty occurred, it is better to be open and cooperative.

If the complaint is made by or about a Consult Australia member employee or a Consult Australia Board Member, that individual will not participate in conducting the investigation of that complaint.