

Australian Capital Territory

Civil Law (Wrongs) Australian Property Institute Valuers Limited Scheme 2016 (No 1)

Disallowable instrument DI2016–33

made under the

Civil Law (Wrongs) Act 2002, schedule 4, section 4.10, (Schemes are subject to disallowance)

EXPLANATORY STATEMENT

Professional Standards Legislation (PSL) was developed on a national basis following the insurance crisis of 2002.

PSL, which has been passed by all States and Territories, involves a trade-off whereby professionals have their negligence liability for economic loss capped in return for a commitment to higher standards of service delivery, monitored by a professional standards council operating on a national basis.

In 2004, the ACT passed its own PSL, which was incorporated as schedule 4 of the *Civil Law (Wrongs) Act 2002* ('the Act'). Schedule 4, section 4.10 of the Act provides that the Attorney-General must give notice of an interstate scheme submitted by the appropriate council for the jurisdiction in which the scheme was prepared.

This instrument gives notice of the ACT Professional Standards Council's endorsement of the *Australian Property Institute Valuers Limited Scheme* (the Scheme).

The Scheme commences on 1 September 2016 and will remain in force for five years (to 31 August 2021) unless the scheme is revoked, extended, or its operation ceases. It replaces an existing scheme (DI2010-198), which is due to expire on 31 August 2016.

The Scheme limits the occupational liability of members of the Australian Property Institute Valuers Limited (APIV) up to monetary ceilings of \$1 million to \$5 million and \$10.0 million by reference to the member's highest valuation in the most recent 12 month period of insurance. The Scheme also confers discretionary authority on the APIV, on application by a member, to approve a monetary ceiling up to a maximum of \$20 million.

The Scheme has been developed in New South Wales under the *Professional Standards Act 1994* (NSW) by the APIV, a special purpose company established by the Australian Property Institute (API) to limit occupational liability of API members who undertake valuations of real property. The Scheme is also intended to operate by mutual recognition in New South Wales, the ACT, the Northern Territory, Queensland, South Australia, Victoria and Western Australia.

All required processes under the *Professional Standards Act 1994* (NSW) and the Act, including the prescribed period of public notification and submission by the ACT Professional Standards Council to the ACT Attorney-General, were observed in the development of the Scheme.