



Policy document

Code of Conduct

Behavioural standards applying to all members of the Independent Planning Commission and its subcommittees

Application of the Code

Members of the Independent Planning Commission and its subcommittees (including the Mining and Petroleum Gateway Panel) (together, the **Commission**) are required to demonstrate standards of professional behaviour that will preserve public trust and deliver the best possible outcomes for the people of NSW.

You must comply with a broad range of whole of Government regulations and policies including those stipulated in legislation, regulations, Ministerial Memoranda, circulars from the Premier's Department and the Cabinet Office and Treasury publications. For example:

- The Cabinet Office – [NSW Government Board and Committee Guidelines](#)
- [The Independent Commission Against Corruption Act 1988](#)
- [Public Interest Disclosures Act 2022](#)
- [Work, Health and Safety Act 2011](#)

The Code of Conduct provides an easy-to-understand summary these responsibilities and sets out the standards of behaviour we expect.

Values

The NSW Government's core values are set out in the [Government Sector Employment Act 2013](#), and they are:

- Integrity
- Trust
- Service
- Accountability

In addition to the NSW Government's core values, the Commission's values are:

Integrity

Our processes are undertaken with a high degree of openness and transparency and in line with ethical conduct.

Quality

The Commission makes fair, timely and robust decisions, and instils a work culture of excellence and continuous improvement.

Engagement

We encourage public submissions as input to our decision-making processes and value stakeholder feedback on our processes and procedures.

Independence

Commissioners are independent and objective in the determinations they make and advice they provide. The Office of the Independent Planning Commission (**OIPC**) is separate from other government departments and agencies.

Timeliness

The Commission delivers timely determinations within the legislative and Government policy framework to serve the people of NSW.

These values are the heart of how we work and, if applied consistently, they help us to maintain the trust of the public.

Standards of conduct

This Code outlines the standards of conduct expected of Commission members in exercising your functions. It is your responsibility to comply with this Code.

The Code has been developed to ensure you:

- commit to upholding a high degree of professional service and ethical leadership

Office of the Independent Planning Commission

- act in a way that promotes public confidence in board and committee conduct
- have a clear understanding of your public duty and legal responsibilities
- act for proper purposes without exceeding your powers
- exercise due diligence in all your functions.

Key member conduct principles

Members must comply with the *Environmental Planning and Assessment Act 1979*, and all policies, guidelines and protocols established by the Commission and the OIPC as well as any lawful direction or guidance provided by the Minister for Planning and Public Spaces or the Chair of the Commission (**Chair**). In this regard, the Commission is not subject to the direction or control of the Minister except in relation to certain procedural matters.

Honesty, integrity and the public interest

Members are bound to act honestly and in good faith, for a proper purpose. They must always act in the public interest, and not for any private interests.

Members must not place themselves under financial or other obligation to any person or organisation that could reasonably influence them in their professional duty.

Members must not make decisions or actions motivated by:

- Financial benefit, including the avoidance of financial loss
- Personal benefit
- Familial benefit
- Acquaintance benefit
- Business benefit
- Personal belief or political position.

Members must ensure all decisions are fair, appropriate and reasonable with regard to relevant facts. They should interact with parties involved in the exercising the functions of the Commission in a just, impartial manner.

Members must not take any action, statement or communication (with proponents, applicants, submitters, or the public) that conveys any suggestion of willingness to provide improper or preferential concessions and treatment.

Leadership

Members must promote and support the Code by demonstrating leadership and maintaining the public's trust and confidence in the Commission and the NSW planning system.

Responsibility and impartiality

Members must undertake their duties consistently, promptly, impartially, conscientiously and fairly. Members must take all relevant facts into consideration, especially those known or reasonably known to them. They should focus on the particular merits of each case, and not give regard to irrelevant matters or circumstances in the decision-making process.

Members must also understand their role and statutory obligations, seek advice from the OIPC, and act accordingly.

Members are responsible for complying with and upholding the Minister's Statement of Expectations and other directions from the Minister as well as the Memorandum of Understanding between the Commission and the Department.

In exercising their functions, members must consult with the Commission Chair in accordance with the Commission's *Chair Oversight Protocol* and take direction from the Chair in matters relating to the Minister's Statement of Expectations, other Ministerial directions, the Memorandum of Understanding and other matters that could potentially have an impact on the reputation of the Commission.

Accountability and openness

Members are publicly accountable for decisions and actions. Members should perform their functions with transparency, fairness, and an open mind.

Members must regularly report, through their panel Chairs, to the Chair regarding the progress of matters or issues that could potentially impact the standing of the Commission. See the Commission's *Chair Oversight Protocol* as in force at any given time and published at: <https://www.ipcn.nsw.gov.au/our-processes/our-policies-and-guidelines>

Members must also ensure the efficient, responsible expenditure of public funds in accordance with government legislation, policies and guidelines, including by complying with the OIPC's policies on the remuneration of members.

Respect and inclusion

Respect and inclusion are fundamental to a harmonious, productive and psychologically safe workplace where people feel safe to speak up about concerns. We are committed to ensuring a safe environment in which everyone feels they can achieve their potential.

We have no tolerance for harassment or victimisation. You are responsible for:

- treating people with dignity and respect, and contributing to a positive and productive space

- making sure people feel valued and are able to fully participate
- not discriminating against, harassing or victimising anyone on any grounds including:
 - sex, gender identity or sexual orientation
 - marital status
 - pregnancy
 - age
 - race or ethnicity
 - physical or intellectual disability
 - political or religious conviction
- creating a workplace that is safe and offers protection from sexual, physical and psychological harassment and neglect
- preventing bullying.

Economy and efficiency

Members should seek to improve the performance of the Commission and achieve high public administration standards. Members should use their authority, resources and information only for intended, work-related purposes.

Members must support the Chair in meeting any Key Performance Indicators set by the Minister in the Statement of Expectations – including in respect of any timeframes for decision making. It is the responsibility of each member to consult with the Chair of their panel and/or the Commission Chair if there are any risks to the Commission or Gateway Panel meeting any timing or quality KPIs.

Members are responsible for ensuring that time and resources spent on a matter are consistent with guidance from the Chair and OIPC. If members are likely to require additional time or resources, they are responsible for raising this with the Commission Chair and OIPC at the earliest opportunity.

Work health and safety

Ensuring our people have a safe place to work is a top priority as is public safety. As members, you are considered 'workers' for the purposes of the [Work Health and Safety \(WHS Act\) 2011](#) and [Regulation 2017](#). We are committed to eliminating and minimising work, health and safety (WHS) risks as far as reasonably practicable. You are responsible for:

- being aware of the safety systems and practices that help keep everyone safe and well
- looking for hazards, taking action if a safety risk is identified and it is safe to do so
- reporting all WHS incidents, including near misses, to the OIPC.

Criminal offences and bankruptcy

You must notify the Chair and the OIPC if you are charged with or convicted of an offence, even if it occurred in your private life.

Additionally, inform the Chair and the OIPC if you are

declared bankrupt or enter into an arrangement with creditors.

Conflicts of interest or duty

Members are appointed for their expertise in particular areas. However, this expertise can sometimes lead to potential for conflicts of interest between a member's responsibilities to the Commission and their personal interests or obligations to others.

A conflict of interest exists when a reasonable person might think that your personal interest might influence your duty as a member.

The object of a conflict of interest can be:

- Pecuniary (where you may stand to obtain a financial gain)
- Non-pecuniary (where the gain is intrinsic or related to your own personal feelings or those of people close to you or results in social and networking opportunities).

A conflict of interest arises in relation to your responsibilities as a member, if:

- you have personal interests which could improperly influence the performance of your responsibilities as a committee member
- there is the potential for you to personally benefit or provide benefits to associates from access to non-public information, or the results of non-public discussions, or decision-making processes.

Examples of situations that may cause conflicts of interest include:

- professional and business interests and associations
- investment interests or the investment interests of friends or relatives
- family/social relationships
- participation in political activities

A conflict of duty exists when you have responsibilities to organisations separate to your membership of the Commission that are incompatible or contradictory to your responsibilities to Commission. A conflict of duty does not require you to receive any form of personal benefit.

Examples of situations that may cause conflicts of duty include:

- An executive of a regulated entity also being a member of the industry regulator
- An individual with personal beliefs or attitudes that are not aligned with the intent of the Commission

Sometimes there may not be an actual conflict,

however, the circumstances may create a perceived or potential conflict. This occurs when your private interests or other duties may appear to influence you when carrying out your official duties.

Even if you do not think you have an actual conflict and that you're carrying out your official duties objectively, it is important you still declare your interests.

Conflicts of interest or duty do not, in themselves, usually constitute corrupt conduct. Corrupt conduct can, however, arise when a conflict is concealed, understated, mismanaged or abused.

You must mitigate conflicts of interests or duty by complying with the Commission's *Conflicts of Interest Policy* as in force at any given time and published at: <https://www.ipcn.nsw.gov.au/our-processes/our-policies-and-guidelines>.

Members must also comply with the disclosure requirements established under [clause 27 of Schedule 2 to the Environmental Planning and Assessment Act 1979](#).

To further manage the risk of conflicts of interest, members who are not appointed to a particular panel will have no access to any information relating to that panel other than what is already publicly available. Members should not make any enquiries of the OIPC in relation to matters to which they are not part of the appointed panel, and any such enquiry will be reported by the OIPC to the Chair for consideration against the standards expected under this Code.

Gifts, benefits and hospitality

A gift or benefit is defined as any item, service, prize, hospitality or travel provided by a customer, client, applicant, supplier, potential supplier or external organisation, which has an intrinsic value and/ or a value to the recipient, a member of their family, relation, friend or associate.

You must not solicit or accept a gift or benefit as an inducement or incentive to make a decision or provide a favour. This constitutes corrupt conduct under the [Independent Commission Against Corruption Act 1988](#) and may lead to criminal prosecution.

Members cannot:

- Seek or accept bribes or improper incentives
- Seek gifts or benefits of any kind
- Accept gifts or benefits that create a sense of obligation or which might be intended to influence the member's public duty
- Accept money, regardless of the amount
- Accept any gift or benefit of more than token value

Generally, token gifts and benefits may include:

- Light refreshments in conjunction with:
 - Discussion of matters before the Commission
 - Conferences
 - Social functions organised by groups such as professional associations or government agencies
- Gifts of single bottles of reasonably priced alcohol at end of year functions and public occasions
- Ties, scarves, coasters, tie pins, diaries, chocolates or flowers

Gifts and benefits that exceed token value may include, but are not limited to:

- Tickets to sporting or cultural events
- Corporate hospitality at a corporate facility, at major sporting events
- Discounted products for personal use
- Use of facilities like gyms
- Use of holiday homes
- Free or discounted travel.

You must comply with the Commission's *Gift, Benefits and Hospitality Policy* as in force at any given time and accessible from the OIPC.

As a general rule, any gift from an applicant, objector or any of their consultants or representatives in relation to a pending matter or a matter still to be determined by the Commission must not be accepted.

You are required to make a declaration to the OIPC of any offered or accepted gift, benefit, or hospitality within 10 working days of the offer or acceptance to be recorded in the Commission's register of gifts and benefits.

Commission resources

Appropriate use of resources

Commission resources should only be used for the purposes of the Commission. OIPC staff, equipment, office space (except for areas designated for a member's incidental personal use) and other resources are provided to members only to perform their official functions and should not be used for personal gain or cause any detriment to the Commission.

Public expenditure

You must ensure the efficient and responsible expenditure of public monies in accordance with legislation and Government policies and guidelines including the following:

- [Government Sector Finance Act 2018](#)

- [Public Works and Procurement Act 1912](#) and the associated Board Directions issued by Treasury NSW.

Intellectual property and copyright

All intellectual property created in your role as a member of a Commission is the intellectual property of the NSW Government. You cannot sell or give away intellectual property created during or in connection with your appointment to the Commission.

You must provide the OIPC with complete copies of any reports, documents or other materials created during the course of your appointment.

Intellectual property includes rights relating to scientific discoveries, industrial designs, trademarks, service marks, commercial names and designations, inventions and activity in the industrial, scientific, literary or artistic fields.

Confidential and private information

During the course of your duties, you will have access to confidential information, including sensitive, personal and or commercially sensitive information. This includes all information regarding the deliberations of a Commission panel that is not already publicly available. This information could relate to applicants, members of the community, the NSW Government or government employees. Such information is varied in form and may include written information, stored information, e-documents and verbal information.

Such information may only be used for the purposes of the work of the Commission. You are expected to protect the integrity and security of information and documents for which you are responsible. Breaching confidentiality can seriously damage public trust and make it harder to obtain information relied upon in performing public administration. You have an ongoing duty to protect confidential and private information even after you are no longer a member of the board or committee.

Disclosing confidential or personal information may be an offence under [section 10.5 of the Environmental Planning and Assessment Act 1979](#), the [Privacy and Personal Information Protection Act 1998](#) and the [Health Records and Information Privacy Act 2002](#).

Examples of misuse of official information or documents include:

- speculating on shares, commodities or property on the basis of confidential information about the affairs of a business or of proposed Government actions
- seeking to take advantage of another person, for personal reasons, on the basis of information held in official records
- disclosing sensitive information to members of the public, political parties, clients, lobby groups, other public servants, other government organisations or members of Parliament, without proper authority
- providing or trading confidential information for use by private investigators, banks and credit agencies.

You must:

- use confidential or official information only in relation to your role as a member and consistent with your obligation to act impartially
- be cautious and use sound judgement when discussing sensitive information with others
- safely and securely store any committee records, including emails and electronic information
- treat email and electronic records as carefully as hard copy information
- return or securely destroy any confidential or official information when requested by the OIPC.

You must not:

- use information that is not already publicly available for any purpose outside the Commission
- use information gained in your capacity as a member for personal gain
- improperly collect, use or disclose the personal information of individuals including community and staff members
- use information gained in the course of your role to cause harm or detriment to government or any person or organisation
- remove official information from government premises unless needed for the purposes of exercising your official functions as a member.

Communicating with the media and third parties, use of social media

Only the Commission Chair may speak to the media on behalf of the Commission. The Chair can authorise another Commission member, or employee/contractor of OIPC to speak to the media in their place, at any time.

Members must at all times comport themselves in accordance with the Commission's policies on media and social media to ensure that they are not only impartial but are perceived to be impartial when exercising their functions. Although members are not NSW government sector employees, the Office of the Public Service Commissioner's [Use of social media in a private capacity](#) guideline (as may be revised from time to time) gives useful examples of appropriate and inappropriate social media activity for members.

Views that are publicly expressed (including on social media) by a member, even in a private capacity may be perceived or construed by the broader community as views of the Commission.

Members should not speak about pending or current Commission matters to any person outside of their official functions or without the knowledge of the OIPC. Apart from referring to already publicly available information, members are not permitted to speak about pending, current or past Commission matters to any person outside of the course of their official functions.

Members are required to disclose to the OIPC any communications with the media regarding the work of the Commission.

Speaking up and reporting matters

We can only resolve problems and put improvements in place if people speak up and make us aware of the situation.

We will support members who speak up by listening and providing feedback on the actions they have taken and the reasons for these actions. Speaking up is more likely to be effective if it takes place early and in a constructive, courteous way.

Reporting allegations of impropriety and corrupt conduct

It's better that you raise something and it turns out to be a minor issue, than for one serious matter to go unaddressed because someone didn't raise it.

You can raise concerns directly with the Chair or with the Executive Director or Legal Director of the OIPC.

Further, the [Public Interest Disclosures Act 2022](#) provides protection to you as a member who voluntarily reports suspected corrupt conduct. You can make reports to the Chair of the Commission or to the Executive Director or Legal Director of the OIPC in accordance with the *Public Interest Disclosures Policy* as in force at any given time and published at: <https://www.ipcn.nsw.gov.au/our-processes/our-policies-and-guidelines>.

You can also report directly to the following investigative bodies:

- Disclosures concerning corrupt conduct should be made to the [ICAC](#).
- Disclosures concerning maladministration should be made to the [NSW Ombudsman](#).
- Disclosures concerning serious and substantial waste of public money should be made to the [NSW Auditor General](#).

Corrupt conduct is the dishonest or partial exercise of official functions by a public official including the

including the improper use of power or position as a board or committee member for personal gain or the advantage of others.

Maladministration is conduct that involves action or inaction of a serious nature that is contrary to law, unreasonable, unjust, oppressive or improperly discriminatory or based wholly or partly on improper motives. It is more serious than a technical breach of policy or procedures.

Fraud is dishonestly obtaining a benefit, or causing a loss, by deception or other means including the unlawful use of information obtained as a board or committee member or equipment provided by the Commission for personal use.

Breach of the Code

It is important that your conduct as members reflects the principles and ethical requirements set out in this code at all times.

If you do not comply with the Code, the Chair may direct you to take a specified action to rectify your conduct or determine that further work is not allocated to you until the breach is rectified. If the Chair is in breach of the code, members of the Commission may bring these concerns to the OIPC.

If you do not adhere to the code of conduct or are seen to display inappropriate ethical standards of behaviour, we may take applicable action under NSW Government or Commission policy.

In the case of a serious breach, the Chair or OIPC will refer to the Minister and consider appropriate action. Any action taken will consider the seriousness of the breach, whether there is a pattern of such conduct, the intent of the member concerned and the effect it is having on the work of the Commission.

The Minister may remove members from office at any time, without notice. Members may be removed for breach of this Code, including if the ICAC recommends consideration of member removal due to corrupt conduct.

The Chair may also exercise their function of allocating the work of the Commission by removing a member from a particular panel at any time, without notice.

Support for members

In complying with this Code, members are encouraged to seek advice whenever necessary from the Chair and the OIPC. Except in exceptional circumstances (for example, serious misconduct), advice can be provided on a confidential basis.