



New South Wales Government
Independent Planning Commission

CODE OF CONDUCT

1. OUR ROLE AS THE COMMISSION

The Independent Planning Commission of NSW was established by the NSW Government on 1 March 2018 as an independent statutory body operating independently of other government agencies including the Department of Planning and Environment. To support the work of the Commission, the Office of the Independent Planning Commission was established on 1 July 2020 as a separate agency, independent of other government agencies including the Department of Planning and Environment.

The Commission plays an important role in strengthening transparency and independence in the decision-making processes for major development and land use planning in NSW. The key functions of the Commission include:

- Determining State significant development applications
- Conducting public hearings for development applications and other matters
- Providing independent advice on any other planning and development matter, when requested by the Minister for Planning or Planning Secretary.

The Commission is an independent consent authority for State significant development applications where there are:

- More than 50 public objections
- Reportable political donations
- Objections by a relevant local council.

The Mining and Petroleum Gateway Panel ('the Gateway Panel') is a subcommittee of the Commission which determines applications for gateway certificates for mining or petroleum development and provides advice to consent authorities, the Minister and the Planning Secretary.

2. THE PURPOSE OF OUR CODE

Our Code of Conduct (Code) has been appraised and updated regularly since 2008. The Code applies to all Commission members and to all members of the Gateway Panel. It outlines the standards of conduct expected of members, and sets out minimum behaviour requirements for members to carry out their functions. Code compliance is the personal responsibility of each member.

The Code assists with:

- Understanding expected standards of conduct
- Honest, ethical and responsible behaviour
- Exercising reasonable degrees of care and diligence
- Enhancing public confidence in the Commission's integrity, through appropriate behaviour.

The Commission Chair has oversight of appointed panels of the Commission or Gateway Panel to monitor and ensure compliance with this Code.

The Code continues to be reviewed and amended regularly, to reflect our ongoing operations and experience.

3. KEY MEMBER CONDUCT PRINCIPLES

Commission and Gateway Panel members must adhere to the following principles when carrying out their duties:

3.1 Honesty, Integrity and 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.

3.2 Leadership

Members must promote and support the Code by demonstrating leadership, and maintaining the public's trust and confidence in the Commission, the Gateway Panel and their planning system roles.

3.3 Responsibility and Impartiality

Members should be impartial in their duties, and make decisions based on merit. They should also understand their role and statutory obligations, and act accordingly.

3.4 Accountability and Openness

Members are publicly accountable for decisions and actions. Members should perform functions with transparency, fairness, and consideration of issue merit – taking other points of view into account.

Members must regularly report, through their panel Chairs, to the Commission Chair regarding the progress of matters or issues that could potentially impact the standing of the Commission or Gateway Panel.

Members must also ensure the efficient, responsible expenditure of public funds in accordance with government legislation, policies and guidelines, including by complying with the Commission's policies on the remuneration of members. See NSW Treasury for more details: <https://buy.nsw.gov.au/policy-library/policies/procurement-policy-framework>

3.5 Respect for Others

Members must treat fellow members, staff of the Office of the Independent Planning Commission and the public with respect at all times. People are to be addressed fairly, consistently and without discrimination.

3.6 Responsive Service

Members should understand their role, the Minister for Planning's role, and the role of the Department of Planning and Environment in relation to the Commission and the Gateway Panel. Members should provide relevant, responsive service and offer all necessary, appropriate assistance.

Members are responsible for complying with and upholding the Minister's Statement of Expectations and other directions from the Minister, the Memorandum of Understanding with the Department of Planning and Environment and its supporting Administrative Arrangements.

In exercising their functions, members must consult with the Commission Chair in accordance with the Commission's Chair Oversight Protocols and take direction from the Commission Chair in matters relating to the Minister's Statement of Expectations and other Ministerial directions, the Memorandum of Understanding and its Administrative Arrangements.

3.7 Economy and Efficiency

Members should seek to improve the organisation's performance, and achieve high public administration standards. Members should use authority, available resources and information only for intended, work-related purposes.

Members must support the Commission Chair in meeting any Key Performance Indicators set by the Minister in his/her 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.

4. OUR PERSONAL AND PROFESSIONAL BEHAVIOUR

4.1 General Conduct

When carrying out duties, members must not behave in a manner likely to bring the Commission into disrepute. Specifically, they must not act in a way that:

- a. Contravenes the Environmental Planning and Assessment Act 1979 (EP&A Act)
- b. Is unethical or improper
- c. Is an abuse of power
- d. Causes, comprises or involves intimidation, harassment or verbal abuse
- e. Causes, comprises or involves discrimination, disadvantage or adverse treatment
- f. Contravenes any policy, guideline or protocol of the Commission or any direction or guidance as to procedure from the Minister or Commission Chair.

Members must be lawful, honest and display a reasonable degree of care and diligence when performing their functions, with regard to obligations under the EP&A Act.

4.2 Fairness and Equity

Members must complete their duties consistently, promptly, 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.

4.3 Decision-Making and Taking Action

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 Commission or Gateway Panel's functions 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.

5. CONFLICTS OF INTEREST

5.1 General

A conflict of interest may exist when a member is likely to be influenced – or perceived to be influenced – by any interest other than the public interest. Such interests can be pecuniary and non-pecuniary.

To uphold Commission decision-making standards, members must avoid conflicts of interest. If an actual, perceived or potential conflict does arise, members are responsible for identifying and disclosing the issue as soon as possible, in line with the Commission's current Conflict of Interest policies, processes and guidelines.

When identifying whether an actual, perceived or potential conflict may exist, members must consider how others

would view their situation. If a member is still unsure, they should speak with the relevant officers of the Office of the Independent Planning Commission who will advise the Commission Chair.

5.2 Identifying Pecuniary Interests

A pecuniary interest describes a personal interest linked to the likelihood or expectation of significant financial gain or loss. A member does not have a pecuniary interest if the matter is so remote or insignificant it could not possibly influence their decision-making.

A member does have a pecuniary interest, if the pecuniary interest is in the interest of:

- a. The member
- b. The member's spouse, de facto partner or relative
- c. The member's employer or partner
- d. A company or body of which the member, or their nominee, partner, or employer is a member.

5.3 Disclosure of Pecuniary Interests

Members must comply with the disclosure requirements established in Clause 27, Schedule 2 of the EP&A Act (attached at Appendix 1).

5.4 Disclosure of Corporate or Business Interests

Members must declare interests in corporations, partnerships or other businesses that may be relevant to our activities. Interests include those of an associate or close relative.

5.5 Disclosure of Non-Pecuniary Interests

A non-pecuniary interest is a private or personal interest that does not relate to money. For example, an interest based on a personal relationship, association membership, or society or trade union involvement.

Members should consider potential non-pecuniary interests that may develop while carrying out duties. Where possible, the source of probable conflict should be removed. When this is impossible, and a member has a non-pecuniary interest that appears to raise conflict with proper duty performance, the member must follow the procedures under Clause 27, Schedule 2 of the EP&A Act, in the same way as a pecuniary interest.

5.6 Register of Declarations Interest

The Office of the Independent Planning Commission will record all disclosures of interest made by members in a register. This register is available for inspection by members of the public at the Office of the Independent Planning Commission during office hours.

5.7 Other Business or Employment

Members must ensure outside employment and business will not:

- a. Conflict with their functions as a Commission member

- b. Use confidential information or resources obtained as a Commission member
- c. Discredit or disadvantage the Commission.

6. PERSONAL BENEFITS

6.1 Gifts and Benefits

Members must not accept gifts or benefits intended to sway partiality in the course of their duties. Members cannot:

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

Generally, token gifts and benefits may include:

- a. Free or subsidised meals, beverages or refreshments in conjunction with:
 - i. Discussion of matters before the Commission
 - ii. Conferences
 - iii. Social functions organised by groups
- b. Invitations and attendance at local social, cultural and sporting events
- c. Gifts of single bottles or reasonably priced alcohol at end of year functions and public occasions
- d. Ties, scarves, coasters, tie pins, diaries, chocolates or flowers

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

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

As a general rule, any gift from an applicant, objector or associate of a proponent in relation to a matter still to be determined by the Commission or Gateway Panel falls into one of the above categories, and should not be accepted.

6.2 Register of Gifts

The Commission maintains a register of gifts to ensure the receipt and disposal of gifts is open and transparent. When offered a gift or benefit, members must inform the Office of the Independent Planning Commission of the following information, so a record can be made:

- a. The person who made the offer and the date the offer was made
- b. Whether the gift or benefit was accepted
- c. Whether the gift or benefit was allocated to another person or body
- d. The value of the gift or benefit.

7. HOW WE PROTECT AND USE INFORMATION

Members must comply with Section 10.5 of the EP&A Act, governing the use and disclosure of information obtained in the course of a member's duties.

In addition to these obligations, members must:

- a. Protect confidential information
- b. Only release confidential information if authorised
- c. Only use confidential information for the purpose intended
- d. Not use confidential information for the purpose of securing a private benefit
- e. Not use confidential information with the intention to cause harm or detriment to any person, body or the Commission
- f. Not disclose information discussed during a confidential Commission session.

When dealing with personal information, Commission members must comply with the Privacy and Personal Information Protection Act (1998).

8. USE OF PUBLIC RESOURCES

Members may be provided with equipment and resources to perform required functions. These resources are to be used for Commission or Gateway Panel purposes only, in accordance with guidelines and rules on appropriate resource use.

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

Subject to any further requirements set by the Commission Chair or Minister, members must abide by the current NSW Government policies on domestic travel and expense caps.

9. PUBLIC COMMENT AND THE MEDIA

The Commission Chair speaks to the media on behalf of the Commission and Gateway Panel. The Chair can authorise another Commission member, or employee of the Office of the Independent Planning Commission 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.

10. REPORTING SUSPECTED CORRUPT CONDUCT

Members are subject to the Independent Commission Against Corruption Act (1988) and the Ombudsman Act (1974).

To uphold our high standards of integrity, members are urged to report suspected corrupt conduct, maladministration, and serious, substantial waste of public resources.

Members can make reports of suspected corrupt conduct to the Commission Chair. The Commission Chair is under duty to report to the Independent Commission Against Corruption (ICAC) on any matters he/she reasonably suspects may concern corrupt conduct.

Members can also report directly to the following investigative bodies:

- a. The NSW Ombudsman for any maladministration concerns
- b. The NSW Auditor General for serious, substantial waste of public money concerns.

11. LOBBYING

All members must comply with the NSW Lobbyists Code of Conduct at Schedule 1 to the Lobbying of Government Officials (Lobbyist Code of Conduct) Regulation (2014) – published on the NSW Legislation website, as amended from time to time.

<https://legislation.nsw.gov.au/#/view/regulation/2014/753/sch1>

12. REMOVAL FROM OFFICE

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

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

13. HANDLING COMPLAINTS

Complaints against members must be handled in accordance with our Complaints Management Policy.

Contact:

Office of the Independent Planning Commission
Phone (02) 9383 2100 | Fax (02) 9383 2133
Email: ipcn@ipcn.nsw.gov.au

Level 15, 135 King Street
Sydney, NSW 2000

APPENDIX 1

ENVIRONMENTAL PLANNING AND ASSESSMENT ACT 1979

Clause 27, Schedule 2

Disclosure of Pecuniary Interests

1. If:
 - (a) a member has a pecuniary interest in a matter being considered or about to be considered at a meeting of the planning body, and
 - (b) the interest appears to raise a conflict with the proper performance of the member's duties in relation to the consideration of the matter, the member must, as soon as possible after the relevant facts have come to the member's knowledge, disclose the nature of the interest at a meeting of the planning body.
2. A member has a pecuniary interest in a matter if the pecuniary interest is the interest of:
 - (a) the member, or
 - (b) the member's spouse or de facto partner or a relative of the member, or a partner or employer of the member, or
 - (c) a company or other body of which the member, or a nominee, partner or employer of the member, is a member.
3. However, a member is not taken to have a pecuniary interest in a matter as referred to in subclause (2) (b) or (c):
 - a) if the member is unaware of the relevant pecuniary interest of the spouse, de facto partner, relative, partner, employer or company or other body, or
 - b) just because the member is a member of, or is employed by, a council or a statutory body or is employed by the Crown, or
 - c) just because the member is a member of, or a delegate of a council to, a company or other body that has a pecuniary interest in the matter, so long as the member has no beneficial interest in any shares of the company or body.
4. A disclosure by a member at a meeting of the planning body that the member, or a spouse, de facto partner, relative, partner or employer of the member:
 - a) is a member, or is in the employment, of a specified company or other body, or
 - b) is a partner, or is in the employment, of a specified person, or
 - c) has some other specified interest relating to a specified company or other body or to a specified person, is a sufficient disclosure of the nature of the interest in any matter relating to that company or other body or to that person which may arise after the date of the disclosure and which is required to be disclosed under subclause (1).
5. Particulars of any disclosure made under this clause must be recorded by the planning body and that record must be open at all reasonable hours to inspection by any person on payment of the fee determined by the planning body.
6. After a member has disclosed the nature of an interest in any matter, the member must not:
 - a) be present during any deliberation of the planning body with respect to the matter, or
 - b) take part in any decision of the planning body with respect to the matter.
7. For the purposes of the making of a determination by the planning body under subclause (6), a member who has a direct or indirect pecuniary interest in a matter to which the disclosure relates must not:
 - a) be present during any deliberation of the planning body for the purpose of making the determination, or
 - b) take part in the making by the planning body of the determination.
8. A contravention of this clause does not invalidate any decision of the planning body.
9. This clause extends to a council nominee of a Sydney district or regional planning panel, and the provisions of Part 2 (Duties of Disclosure) of Chapter 14 of the Local Government Act 1993 do not apply to any such nominee when exercising functions as a member of the panel.