

**CODE OF ETHICS AND CONDUCT**  
**MEMBERS OF GREATER SYDNEY**  
**COMMISSION**

**POLICY**

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## 1. Introduction

This Code of Ethics and Conduct (**Code of Conduct**) outlines the standards and behaviour expected of the members of the Greater Sydney Commission, with the exception of ex-officio members, who are covered by the relevant code of ethics and conduct of their organisation.

In this Code of Conduct:

- a. a reference to the Commission is a reference to the Greater Sydney Commission; and
- b. a reference to a Commissioner is a reference to the Chief Commissioner, the Deputy Chief Commissioner, a District Commissioner or a Greater Sydney Commissioner appointed under section 6 of the *Greater Sydney Commission Act 2015*.

In addition to complying with the Code of Conduct, as members of a NSW Government board and committee, Commissioners must also comply with part 2 of the *Government Sector Employment Act 2013* (the ethical framework for the government sector).

Commissioners are expected to operate in accordance with the principles set out in section 7 of the *NSW Government Boards and Committee Guidelines* (Department of Premier & Cabinet, September 2015), available at:

[https://www.boards.dpc.nsw.gov.au/publications-folder/NSW\\_Government\\_Boards\\_and\\_Committee\\_Guidelines\\_-\\_Updated\\_September\\_2015.pdf](https://www.boards.dpc.nsw.gov.au/publications-folder/NSW_Government_Boards_and_Committee_Guidelines_-_Updated_September_2015.pdf)

**Appendix 1** contains defined terms used in the Code of Conduct.

## 2. Purpose

The purpose of the Code of Conduct is to:

- Provide a framework for appropriate behaviour for Commissioners' interactions with staff of the Commission, stakeholders and each other.
- Outline the values and standards necessary to guide Commissioner's decisions, actions and ethical behaviour in the performance of their duties.

### 3. Greater Sydney Commission Vision

The Commission's vision in delivering on its statutory objectives, functions and priorities, is to create a Greater Sydney:

- That is for the present and future generations;
- That makes it easier to live and thrive as people grow and prosper;
- That is diverse and energetic, rich in culture and community;
- That makes it easy to travel from home to work and everywhere in between;
- That is more productive and successful, providing opportunities for all;
- That is competitive with the best in the world; and
- Where more people does not mean a lower quality of life.

The Commission aspires to work in a way that is **inclusive, bold and open minded, transparent, collaborative, active** and **informed**.

### 4. Code of Conduct Principles

Commissioners have a responsibility to act honestly and ethically, for a proper purpose, without exceeding their powers, and to have a clear understanding of their public duty and legal responsibilities. They have a duty to uphold the Government sector's core values.

Colleagues, Commission staff and stakeholders have a right to be treated fairly, consistently, without discrimination, and with proper regard for their rights and obligations.

### 5. Code of Conduct Responsibilities

Commissioners must:

- Demonstrate leadership and provide strategic guidance for the Commission and its staff.
- Demonstrate accountability for their actions.
- Behave in a lawful, professional and reasonable manner and always act in the best interests of the Commission.
- Understand the duties, responsibilities and accountabilities of their roles, and perform these safely, honestly, courteously and fairly.

- Make impartial decisions that demonstrate the values of the NSW Government and the Commission and promote confidence in the integrity of public administration.
- Demonstrate solidarity, once Commission decisions are made.
- Report unethical, dishonest or corrupt conduct.
- Maintain the integrity, confidentiality and security of Commission information.
- Comply with Commission's Operational Plan and other policies, procedures and guidelines, as well as relevant legislative and industrial requirements that apply.
- Treat colleagues, Commission staff and stakeholders fairly, consistently and with respect.
- Not discriminate, harass, bully or engage in inappropriate conduct while performing their duties as Commissioners.

#### (a) Honesty, integrity and public interest

Commissioners have a duty to act honestly, in good faith, for a proper purpose and in the public interest. Commissioners must:

- Not place themselves under a financial or other obligation to any person or organisation that might reasonably be thought to influence them in the exercise of their official duties.
- Not make a decision or take an action that is motivated by their obtaining a financial benefit (including avoidance of a financial loss) or other benefit for themselves, their family, friends or business interests.

#### (b) Leadership

Commissioners have a duty to promote and support the key principles of this Code of Conduct by demonstrating leadership and maintaining and strengthening the public's trust and confidence in the Commission and its role in the planning system.

#### (c) Accountability and openness

Commissioners are accountable for their decisions and actions. They should perform their functions transparently and fairly, considering issues on their merits and taking account of the views of stakeholders. They should share information

and requests relating to the Commission's role and functions with other Commissioners and the Chief Executive Officer of the Commission.

Commissioners must demonstrate solidarity in relation to decisions that are made by the Commission.

Commissioners must ensure the efficient and responsible expenditure of public funds in accordance with the *Public Finance and Audit Act 1983* and Treasury policies, procedures and requirements.

#### (d) Respect for others

Commissioners must treat all colleagues, Commission staff and stakeholders fairly and consistently, with dignity and respect and in a non-discriminatory manner. The Commission has a zero tolerance for bullying or harassment.

Commissioners must respect management's role in relation to day to day management of the affairs of the Commission. They are expected to respect Commission staff reporting lines and management's protocols for access to staff and resources of the Commission.

#### (e) Expertise and responsiveness

Commissioners must have an understanding of their role as well as that of the Minister, the Commission, key Government stakeholders and local councils in the Greater Sydney region. Commissioners must perform their duties conscientiously and responsively.

Commissioners must not make unauthorised commitments on behalf of the Commission outside their role and responsibilities.

#### (f) Conflict of Interest

Commissioners must perform their duties impartially and in the public interest. They must avoid any actual, potential or perceived conflict of interest.

An actual, potential or perceived conflict of interest exists when a Commissioner could be influenced by a competing interest in the course of their official duties. This may arise through a range of personal interests or connections including family, friends and associates, or as a result of financial, business, employment, community or political interests and activities.

Commissioners must disclose every instance of an actual, potential or reasonably perceived conflict of interest. If a Commissioner is unsure whether a conflict exists, they should discuss the issue with the Chief Commissioner or the Chief Executive Officer of the Commission. Options for dealing with an actual, potential

or reasonably perceived conflict of interest may include withdrawing from a process or decision-making.

In addition, Commissioners must complete and submit an annual Undertaking & Declaration of Interests (see **Appendix 2**).

**Appendix 3** contains further information about avoiding conflict of interest and what must be disclosed.

### **(g) Protecting official and confidential information and privacy**

Commissioners must maintain the security and confidentiality of all official information and of any documents that are not published or normally made available to the public. Confidentiality must be maintained in relation to the operations of the Commission, and the discussions and deliberations of Commissioners. Unauthorised disclosure may cause harm to individuals or give an individual or organisation an improper advantage.

To promote open, accountable, fair and effective government, the *Government Information (Public Access) Act 2009* gives members of the public a right to access government information. This right is restricted only when there is an overriding public interest against disclosing the particular information. Any record including emails, working notebooks, draft documents and database entries, may be released to the wider public. Commissioners should consult the Department of Planning and Environment's Public Access to Information & Privacy Unit for further information.

### **(h) Workplace health and safety**

As leaders, Commissioners have a duty to ensure that the Commission maintains a safe and healthy working environment that ensures, so far as is reasonably practicable, the safety and well-being of workers and others in the Commission's places of work.

Commissioners are responsible for complying with the Commission's Work, Health and Safety policies and practices.

### **(i) Gifts and benefits**

Commissioners must never seek or accept any payment, gift, benefit, inducement, or offer of hospitality that is intended, or that could be reasonably perceived to be intended, to induce them to:

- Act in a particular way, including making a particular decision; or
- Fail to act in a particular circumstance; or

- Deviate in any way from the proper exercise of their official duties.

Commissioners must immediately report any offer of a bribe or inducement to the Chief Commissioner or the Chief Executive Officer of the Commission.

Commissioners must make appropriate disclosures of gifts and benefits in accordance with Commission policy, procedures and guidelines. **Appendix 4** contains further information.

#### **(j) Media inquiries and public comment**

The Chief Commissioner is responsible for speaking to the media on behalf of the Commission. The Chief Commissioner may authorise another Commissioner or the Chief Executive Officer of the Commission to speak to the media at any time on behalf of the Commission. Commissioners may obtain further information from the Commission's Operational Plan.

#### **(k) Political, community and personal activities**

Commissioners must ensure that their involvement in any political, community, volunteering or personal activity does not conflict with or influence their employment or their official duties in an impartial and objective manner.

#### **(l) NSW Government Lobbyist Code of Conduct**

Commissioners must comply with the Premier's Memorandum *M2014-13 – NSW Government Lobbyist Code of Conduct*. **Appendix 5** contains further information.

## 6. Ethical Framework

Commissioners must conduct themselves in accordance with the ethical framework for the government sector, which is contained in Part 2 of the *Government Sector Employment Act 2013 (Ethical Framework)*.

The objectives of the Ethical Framework are to:

- Recognise the role of the government sector in preserving the public interest, defending public value and adding professional quality and value to the commitments of the Government of the day.
- Establish an ethical framework for a merit-based, apolitical and professional government sector that implements the decisions of the Government of the day.

The Ethical Framework core values for the government sector and the principles that guide their implementation are:

### Integrity

- Consider people equally without prejudice or favour.
- Act professionally with honesty, consistency and impartiality.
- Take responsibility for situations, showing leadership and courage.
- Place the public interest over personal interest.

### Trust

- Appreciate difference and welcome learning from others.
- Build relationships based on mutual respect.
- Uphold the law, institutions of government, and democratic principles.
- Communicate intentions clearly and invite teamwork and collaboration.
- Provide apolitical and non-partisan advice.

### Service

- Provide services fairly with a focus on customer needs.
- Be flexible, innovative, and reliable in service delivery.
- Engage with the not-for-profit and business sectors to develop and implement service solutions.
- Focus on quality while maximising service delivery.

### Accountability

- Recruit and promote employees on merit.
- Take responsibility for decisions and actions.
- Provide transparency to enable public scrutiny.
- Observe standards for safety.

- Be fiscally responsible and focus on efficient, effective and prudent use of resources.

Further information on the Ethical Framework may be found at <https://www.psc.nsw.gov.au/employmentportal/ethics-conduct/behaving-ethically/behaving-ethically-guide/section-2/the-code-of-ethics-and-conduct-for-nsw-government-sector-employees>

## 7. Breaches of the Code of Conduct

### (a) Reporting

Behaviour contrary to the Code of Conduct and/or the Ethical Framework should be reported. In this Code of Conduct, the reporting of a concern or complaint, whether informally or formally made, by or about behaviour or conduct of a Commissioner that is contrary to the Code of Conduct and/or the Ethical Framework, is defined as a “Report”.

A Report:

- Is to be made to the Chief Commissioner or the Chief Executive Officer of the Commission.
- Will be dealt with in accordance with the procedures in **Appendix 6**.

Behaviour that may also be corrupt conduct, maladministration, a serious and substantial waste of government resources, or a breach of Government information or privacy rights, should be reported to the Chief Executive Officer of the Commission, or the relevant investigating authority (such as the Independent Commission Against Corruption, the Ombudsman, Auditor-General, the Information Commissioner or the Privacy Commissioner).

A public official may provide a Report as a Public Interest Disclosure where they believe, on reasonable grounds, that a public official or a public authority has engaged in corrupt conduct, maladministration, serious and substantial waste of public money or a breach of the *Government Information (Public Access) Act 2009*. The Department of Planning and Environment’s *Public Interest Disclosures policy* contains further information about how to make a Public Interest Disclosure and how it will be handled.

### (b) What happens next

#### Reports by or about Commissioners

A Report will be referred to the Chief Commissioner. The Chief Commissioner and the Chief Executive Officer will evaluate the matter to determine whether a formal process is required.

Where an allegation is minor or of a low level, the Chief Commissioner or the Chief Executive Officer will discuss the matter directly with the person who made the Report, and determine what action, if any, should be taken. Such action may range from discussing the Report with the Commissioner concerned to convening a meeting between the complainant and the person about whom the Report was made. In some circumstances (for example an anonymous complaint with insufficient detail or particulars), it may be appropriate that no further action is taken.

A Report containing a more serious allegation may require a more formal process.

The Chief Commissioner may in his or her absolute discretion determine that a Report should be investigated further. The Chief Commissioner may seek confidential advice from internal or external advisors (including the Commission's Finance & Governance Committee) at any stage.

Investigation of Reports will be undertaken by persons with appropriate expertise and experience, in accordance with legal requirements and procedural fairness.

Following the conclusion of an investigation, the Chief Commissioner will determine what action may be necessary. The Chief Commissioner may seek confidential advice from the Minister, the Secretary of the Department of Planning and Environment, the Chief Executive Officer of the Commission, the Public Service Commissioner, or from an external professional adviser. The Chief Commissioner may also seek advice from the Commission's Finance & Governance Committee. In all cases, legal and procedural fairness requirements will be followed.

A Report made by a Commissioner that is not a complaint about another Commissioner will be referred to the Chief Executive Officer, who will evaluate the matter to determine whether a formal process is required. The Chief Executive Officer will follow the Commission's complaint handling procedures in dealing with the Report.

### **Public Interest Disclosures**

A Report that is made as a public interest disclosure will be managed under the Department of Planning and Environment's *Public Interest Disclosures policy*.

## Delegation

Without limiting the powers of the Chief Executive Officer or the Commission under sections 7 and 11 and of the *Greater Sydney Commission Act 2015*, the Chief Commissioner may in his or her absolute discretion authorise the Chief Executive Officer of the Commission to carry out any of the actions or steps in dealing with a Report.

The Chief Commissioner or Chief Executive Officer of the Commission may engage an external person, or a person employed within the NSW Government sector, to undertake an investigation and to make recommendations about actions that should be taken, provided the person has appropriate expertise and experience, having regard to the nature and complexity of the matter in issue.

## Records

In order to ensure procedural fairness and legal requirements, complete and accurate records must be kept of all Reports, and the processes implemented to deal with them.

## 8. Monitoring the Code of Conduct

The Chief Operating Officer of the Commission is responsible for the effective management of the Code of Conduct. The effectiveness of the Code of Conduct will be reviewed at least every two years.

## APPENDIX 1

### DEFINED TERMS in the Code of Conduct

<b>Bullying</b>	<p>means repeated behaviour and unreasonable behaviour directed towards a worker or a group of workers that creates a risk to health, safety or wellbeing.</p> <p><i>Note: a single incident of unreasonable behaviour is not considered to be workplace bullying; however, it may have the potential to escalate and should not be ignored.</i></p>
<b>Corrupt Conduct</b>	<p>has the same meaning as in the <i>Independent Commission Against Corruption Act 1988 (ICAC Act)</i> and may involve:</p> <ul style="list-style-type: none"> <li>• <i>any conduct of any person (whether or not a public official) that adversely affects, or that could adversely affect, either directly or indirectly, the honest or impartial exercise of official functions by any public official, any group or body of public officials or any public authority,</i></li> <li>• <i>any conduct of a public official that constitutes or involves the dishonest or partial exercise of any of his or her official functions.</i></li> <li>• <i>any conduct of a public official or former public official that constitutes or involves a breach of public trust,</i></li> <li>• <i>any conduct of a public official or former public official that involves the misuse of information or material that he or she has acquired in the course of his or her official functions, whether or not for his or her benefit or for the benefit of any other person.</i></li> <li>• <i>any conduct of any person (whether or not a public official) that adversely affects, or that could adversely affect, either directly or indirectly, the exercise of official functions by any public official, any group or body of public officials or any public authority and which could involve any of the following matters:</i> <ul style="list-style-type: none"> <li>○ <i>official misconduct (including breach of trust, fraud in office, nonfeasance, misfeasance, malfeasance, oppression, extortion or imposition),</i></li> <li>○ <i>bribery,</i></li> <li>○ <i>blackmail,</i></li> <li>○ <i>obtaining or offering secret commissions,</i></li> <li>○ <i>fraud,</i></li> <li>○ <i>theft,</i></li> <li>○ <i>perverting the course of justice,</i></li> <li>○ <i>embezzlement,</i></li> <li>○ <i>election bribery,</i></li> <li>○ <i>election funding offences,</i></li> <li>○ <i>election fraud,</i></li> </ul> </li> </ul>

	<ul style="list-style-type: none"> <li>○ <i>treating,</i></li> <li>○ <i>tax evasion,</i></li> <li>○ <i>revenue evasion,</i></li> <li>○ <i>currency violations,</i></li> <li>○ <i>illegal drug dealings,</i></li> <li>○ <i>illegal gambling,</i></li> <li>○ <i>obtaining financial benefit by vice engaged in by others,</i></li> <li>○ <i>bankruptcy and company violations,</i></li> <li>○ <i>harbouring criminals,</i></li> <li>○ <i>forgery,</i></li> <li>○ <i>treason or other offences against the Sovereign,</i></li> <li>○ <i>homicide or violence,</i></li> <li>○ <i>matters of the same or a similar nature to any listed above,</i></li> <li>○ <i>any conspiracy or attempt in relation to any of the above.</i></li> </ul> <ul style="list-style-type: none"> <li>● <i>any conduct of any person (whether or not a public official) that impairs, or that could impair, public confidence in public administration and which could involve any of the following matters:</i> <ul style="list-style-type: none"> <li>○ <i>collusive tendering,</i></li> <li>○ <i>fraud in relation to applications for licences, permits or other authorities under legislation designed to protect health and safety or the environment or designed to facilitate the management and commercial exploitation of resources,</i></li> <li>○ <i>dishonestly obtaining or assisting in obtaining, or dishonestly benefiting from, the payment or application of public funds for private advantage or the disposition of public assets for private advantage,</i></li> <li>○ <i>defrauding the public revenue,</i></li> <li>○ <i>fraudulently obtaining or retaining employment or appointment as a public official.</i></li> </ul> </li> </ul> <p><b>However</b>, under the ICAC Act, in order to be corrupt conduct, the conduct must also be a criminal offence, a disciplinary offence or reasonable grounds for dismissal, dispensing with the services of a public official or otherwise terminating the services of a public official.</p>
<b>Discrimination</b>	means where a person is treated unfairly because they may belong to a particular group of people or have a particular characteristic (eg gender, pregnancy, breastfeeding, race, age, marital or domestic status, sexual orientation, disability, carer's responsibility).
<b>Ethical Framework</b>	Is contained in Part 2 of the <i>Government Sector Employment Act 2013</i>
<b>Fraud</b>	means dishonest activity by any employee that causes actual or potential financial loss to the Department or the Government, including

	theft of moneys or other property. It includes deliberate fabrication, concealment, destruction or improper use of documentation used for a normal business purpose or the improper use of other information or position.
<b>Government official</b>	means: <ul style="list-style-type: none"> <li>• A Minister or Parliamentary Secretary;</li> <li>• A staff member of a Minister or Parliamentary Secretary (including a staff member in an electorate office);</li> <li>• The head of a Public Service agency;</li> <li>• A person employed in the Public Service of New South Wales, the Transport Service of New South Wales, or any other service of the Crown;</li> <li>• An individual who is engaged under a contract to provide services to or on behalf of the Public Service of New South Wales, the Transport Service of New South Wales or any other service of the Crown; or</li> <li>• A member (however expressed) of, or of the governing body of, a statutory body.</li> </ul>
<b>Harassment</b>	in the workplace means subjecting a person to repeated behaviour that: <ul style="list-style-type: none"> <li>• A reasonable person would consider to be offensive, humiliating, intimidating or threatening; or</li> <li>• Is unwelcome and unsolicited; or</li> <li>• The person considers to be offensive, intimidating, humiliating or threatening.</li> </ul>
<b>Lobbying</b>	means communicating with a Government official for the purposes of representing the interests of others in relation to: <ul style="list-style-type: none"> <li>• Legislation or proposed legislation;</li> <li>• A Government decision or proposed Government decision;</li> <li>• A planning application; or</li> <li>• The exercise by a Government official of their official functions.</li> </ul>
<b>Lobbyists Code</b>	means the <i>Lobbyists Code of Conduct</i> see: <a href="https://legislation.nsw.gov.au/~/-/view/regulation/2014/753/sch1">https://legislation.nsw.gov.au/~/-/view/regulation/2014/753/sch1</a>
<b>Lobbyists Register</b>	means the <i>Register of Third-Party Lobbyists</i> , which is kept and maintained by the NSW Electoral Commission. see: <a href="https://data.nsw.gov.au/data/dataset/register-of-third-party-lobbyists/resource/Of1bcc82-4162-4ef0-b2f9-41b5bb6929c3">https://data.nsw.gov.au/data/dataset/register-of-third-party-lobbyists/resource/Of1bcc82-4162-4ef0-b2f9-41b5bb6929c3</a>
<b>Lobbyists Watch List</b>	means the list maintained by the NSW Electoral Commission that contains the names and other identifying details of any third-party or other lobbyist placed there by the Commission as a result of contraventions of the Lobbyist Code of Conduct or the Act.

<b>Maladministration</b>	means 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.
<b>Other lobbyist</b>	means any individual or body that lobbies a Government official other than a third-party lobbyist; this includes individuals engaged to undertake lobbying for a third-party lobbyist.
<b>Public official</b>	means: <ul style="list-style-type: none"> <li>• the head of a Public Service agency;</li> <li>• a person employed in the Public Service of New South Wales, the Transport Service of New South Wales, or any other service of the Crown or other public authority;</li> <li>• an individual who is engaged under a contract to provide services to, or on behalf of the Public Service of New South Wales, or any other service of the Crown or other public authority; or</li> <li>• a member (however expressed) of or the governing body of a statutory body.</li> </ul>
<b>Repeated behaviour</b>	means the persistent nature of the behaviour and can involve a range of behaviours over time.
<b>Report</b>	means the reporting of a concern or complaint, whether informally or formally made, by or about behaviour or conduct of a Commissioner that is contrary to the Code of Conduct and/or the Ethical Framework.
<b>Serious and substantial waste</b>	means the uneconomical, inefficient, or ineffective use of resources that could result in the loss or wastage of public resources.
<b>Unreasonable behaviour</b>	means behaviour that a reasonable person in the circumstances would see as unreasonable, including behaviour that is victimising, humiliating, intimidating or threatening.

## APPENDIX 2

### UNDERTAKING & DECLARATION OF INTERESTS (section 5, paragraph (f))

I, .....

[INSERT NAME]

#### DECLARE THAT:

1. There is no matter I am aware of concerning my interests, or any activity in which I am or have been engaged, that may call into question the probity of the Greater Sydney Commission or give rise to any conflict with my responsibilities as a Commissioner of the Greater Sydney Commission.
2. I am aware that I must exercise my responsibilities as a Commissioner of the Greater Sydney Commission in accordance with the *NSW Government Boards and Committee Guidelines*, including the confidentiality requirements set out in those Guidelines, as well as the *Greater Sydney Commission Code of Ethics and Conduct*.
3. Attached in Annex A is my declaration of personal interests.
4. I will formally advise the Greater Sydney Commission of any significant change in circumstances that affects the accuracy of this undertaking and declaration of interests.

..... **DATE:** .....

(SIGNATURE)

**ANNEX A**  
**DECLARED INTERESTS**

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[ADD SEPARATE PAGE IF NECESSARY]

..... **DATE:** .....

(SIGNATURE)

**NOTES:**

*The declaration of interests form is to be completed annually by Commissioners and submitted to the Chief Commissioner.*

**Additional responsibilities:** *Schedule 2, clause 7 of the Greater Sydney Commission Act 2015 requires Commissioners who have a direct or indirect pecuniary interest in a matter being considered or about to be considered at a meeting of the Greater Sydney Commission to disclose the nature of the interest at a meeting of the Commission as soon as possible after the relevant facts have come to the Commissioner's knowledge, where the interest appears to raise a conflict with the proper performance of the Commissioner's duties in relation to the consideration of the matter.*

*A Commissioner's interests include the interests of the Commissioner, immediate family (where those interests are known), business partners or associates.*

*Interests to be declared annually include:*

- Sources of income, shareholdings, trusts or nominee companies, superannuation, other significant sources of income, significant liabilities
- Memberships of other Boards and Committees
- Interests and positions in trade unions and professional or business associations
- Property holdings
- Immediate family or business relationships that would or could be perceived to have an impact on the duties and responsibilities of a Commissioner of the Greater Sydney Commission
- Interests and positions in corporations
- Membership or association with voluntary organisations

## APPENDIX 3

### CONFLICT OF INTEREST – GUIDANCE AND RULES FOR COMMISSIONERS

*(section 5, paragraph (f))*

#### General

A conflict of interest exists when it is likely that a Commissioner could be influenced, or perceived to be influenced, by a competing interest when carrying out their functions. Competing interests can be pecuniary or non-pecuniary, actual or perceived. Conflicts of interest can also be between competing obligations, such as your role with the Commission, and a role with another public body in planning system.

To uphold the probity of Commission decision-making, Commissioners should avoid conflicts of interest. If an actual or potential conflict does arise, it is the Commissioner's responsibility to identify and disclose the conflict as soon as possible.

When identifying whether or not a conflict of interest exists, Commissioners should consider how others would view their situation. If a Commissioner is unsure whether a conflict exists, they should discuss it with the Chief Commissioner or the Chief Executive Officer of the Commission.

Commissioners must complete and submit a form in which they declare their personal interests on an annual basis. Commissioners must disclose information about:

- sources of income, including shares property and superannuation;
- membership of boards and committees;
- interests and positions in corporation;
- interests and positions in trade unions and professional business associations;
- close business and other relationships otherwise pertinent to the work of the Commission.

#### Identifying pecuniary interests

A pecuniary interest is an interest that a person has in a matter because of a reasonable likelihood or expectation of appreciable financial gain to the person.

A person does not have a pecuniary interest in a matter if the interest is so remote or insignificant it could not reasonably be regarded as likely to influence any decision that person might make.

A Commissioner has a pecuniary interest in a matter if the pecuniary interest is the interest of:

- the Commissioner;
- the Commissioner's spouse, or de facto partner or a relative of the Commissioner;
- a partner or employer of the Commissioner;
- any company or other body of which the Commissioner, or their nominee, partner or employer, is a member.

### **Disclosure of pecuniary interests**

Commissioners must comply with the disclosure requirements set out in schedule 2, clause 7 of the *Greater Sydney Commission Act 2015* – see extract at the end of this Appendix 3.

In particular, if:

- a Commissioner has a pecuniary interest in a matter being considered or about to be considered at a Commission or Committee meeting; and
- the interest appears to raise a conflict with the proper performance of the Commissioner's duties in relation to the consideration of the matter,

the Commissioner must, as soon as possible after the relevant facts have come to their attention, disclose the nature of the interest at a meeting of the Commission or Committee.

After a Commissioner has disclosed the nature of an interest in any matter, the Commissioner must not, unless the Minister or the Commission otherwise determines:

- be present during any deliberation of the Commission or Committee with respect to the matter; or
- take part in any decision of the Commission or Committee with respect to the matter.

### **Disclosure of corporate or business interests**

Commissioners must disclose interests in corporations, partnerships or other businesses that may be relevant to the activities of the Commission. A Commissioner's interests include those of an associate or close relative.

### **Disclosure of non-pecuniary interests**

A non-pecuniary interest is a private or personal interest which does not relate to money - for example, an interest based on a family or personal relationship, membership of an association, society, council, industry group or trade union, or involvement or interest in an activity which may include an interest of a financial nature.

Commissioners should consider possible non-pecuniary interests that may arise while carrying out their duties as a Commissioner. Where possible, the source of potential conflict should be removed.

However, where this is not possible, if a Commissioner has a non-pecuniary interest in a matter and the interest appears to raise a conflict with the proper performance of the Commissioner's duties, the Commissioner must follow the procedure set out in schedule 2, clause 7 of the *Greater Sydney Commission Act 2015*, in the same manner as if the interest was a pecuniary interest

### **Register of declarations of interest**

The Commission will record in a register all disclosures of interests made by a Commissioner. The register will be available for inspection at the Commission offices during normal office hours.

### **Other business or employment**

Commissioners must ensure that any outside employment or business they engage in will not:

- conflict with their functions as a Commissioner;
- involve using confidential information or resources obtained through their role as a Commissioner (note that any authorised disclosure of any information contained in connection with the administration or execution of the Commission's role is an offence under section 22 of the *Greater Sydney Commission Act 2015*, whether the information is confidential or not);
- discredit or disadvantage the Commission.

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**EXTRACT: Schedule 2, Clause 7 of the *Greater Sydney Commission Act 2015*:**

**7 Disclosure of pecuniary interests**

- (1) If:
- (a) a member has a direct or indirect pecuniary interest in a matter being considered or about to be considered at a meeting of the Commission, 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 Commission.
- (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 local 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 local council, 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 Commission 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 that may arise after the date of the disclosure and that is required to be disclosed under subclause (1).
- (5) Particulars of any disclosure made under this clause must be recorded by the Commission in a book kept for the purpose and that book must be made available for inspection by any person at any reasonable time for no charge.
- (6) After a member has disclosed the nature of an interest in any matter, the member must not, unless the Minister or the Commission otherwise determines:
- (a) be present during any deliberation of the Commission with respect to the matter, or
  - (b) take part in any decision of the Commission with respect to the matter.
- (7) For the purposes of the making of a determination by the Commission 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 Commission for the purpose of making the determination, or
  - (b) take part in the making by the Commission of the determination.
- (8) A contravention of this clause does not invalidate any decision of the Commission.
- (9) This clause applies to a member of a committee of the Commission and the committee in the same way as it applies to a member of the Commission and the Commission.

## APPENDIX 4

### GIFTS & BENEFITS – POLICY & GUIDANCE FOR COMMISSIONERS (section 4, paragraph (i))

#### General

Commissioners must not solicit or accept for themselves or for another individual, a gift or benefit that is intended to, or is likely to, or could be perceived to, influence them in the course of their duties.

The Public Service Commission defines gifts and benefits as:

*Any item, service, prize, hospitality, or travel, provided by a customer, client, applicant, supplier, potential supplier, or external organisation or individual, which has an intrinsic value and/or a value to the recipient, a member of their family, relation, friend or associate.<sup>1</sup>*

Acceptance of a gift or benefit can create a sense of obligation that may compromise impartial and honest decision-making, and could even be perceived to be a bribe intended to further personal or business interests.

Commissioners must not:

- seek or accept a bribe or other improper inducement;
- seek gifts or benefits or any kind;
- accept any gift or benefit that may create a sense of obligation on their part or which might be, or appear to be, intended to influence them in carrying out their public duty;
- accept any gift or benefit of more than token value (see below);
- accept any offer of money (or a gift card), regardless of the amount.

Commissioners may accept a personal gift of low value (\$150 or less).

Gifts of a value greater than \$150 should not become personal property. In the first instance, such gifts should be politely refused. However, there may be circumstances where a gift with a value greater than \$150 may not easily be returned, for example:

- gifts accepted for ceremonial, cultural, protocol or other reasons, where returning it would be inappropriate;
- a wrapped gift that the recipient does not open in the presence of the gift giver;

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<sup>1</sup> Public Service Commission, *Behaving Ethically – A Guide for NSW Government Sector Employees*

- anonymous gifts received through the mail or left for the Commissioner without a return address; or
- a gift received in a public forum where attempts to refuse or return it would cause significant embarrassment.

In such circumstances, and to ensure that no perception of undue influence may be created, the gift must be declared by the Commissioner and given to the Commission. The Chief Executive Officer of the Commission will determine the appropriate action for disposal of items, on a case-by-case basis, and record the decision in the Commission's Register of Gifts.

If a Commissioner is ever offered a bribe (ie, anything given in order to persuade a person to act improperly), they must refuse it, explain why it is not appropriate, and immediately report the matter to the Chief Commissioner or the Chief Executive Officer of the Commission.

### **Exception**

In recognition of the role Commissioners have in developing and maintaining networks and contacts to assist them in carrying out their official duties, Commissioners are not precluded from accepting invitations from Government agencies or local councils to events, including sporting events, entertainment, exhibitions, gala events, fairs and other community events, to represent the Commission or to network with stakeholders.

Commissioners must ensure that the conflict of interest requirements of the Code of Conduct are followed if attendance at such an event later creates a real or perceived conflict of interest with their official duties.

### **Examples of gifts**

Examples of gifts to which this policy applies include:

- gifts of a type commonly given for hospitality purposes, such as flowers, bottles of wine or books;
- promotional materials, including clothing, DVDs or manufacturers' samples;
- provision of goods or services for personal use, such as labour or building materials;
- sponsored travel;
- use of facilities, such as gyms or holiday homes;
- accommodation and car hire discounts;
- discounts on commercial items;
- gifts to family members that arise in connection with a Commissioner's official duties;
- prizes obtained during work-related functions being organised by a third party;

- prizes, gifts and/or benefits that are won as a result of entering a competition while engaging in official duties, eg lucky door prizes at seminars, supplier-run competitions;
- invitations to potential or actual supplier-organised events including a conference/award dinner, Christmas party;
- personal benefits gained from purchases under a purchase incentive scheme.

### **Register of Gifts**

The Commission maintains a Register of Gifts to ensure the receipt and disposal of gifts is conducted in an open and transparent manner. When offered a gift or benefit, Commissioners must disclose the following information in the Register of Gifts:

- the person/organisation who made the offer and the date on which the offer was made;
- whether or not the gift or benefit was accepted;
- whether the gift or benefit was allocated to another person or body;
- the value of the gift or benefit.

## APPENDIX 5

### LOBBYING AND OTHER EXTERNAL MEETINGS – GUIDANCE FOR COMMISSIONERS

(section 5, paragraph (l))

Commissioners must comply with the Premier's Memorandum M2014-13 – NSW Government Lobbyist Code of Conduct and the NSW Government Lobbyist Code of Conduct in place from time to time:

- see <http://www.legislation.nsw.gov.au/~view/regulation/2014/753/sch1>

As a Government Official, a Commissioner must not permit lobbying by:

- A third-party lobbyist who is not registered on the Lobbyist Register;
- An individual engaged to undertake lobbying for a third-party lobbyist who is not themselves registered;
- Any lobbyist who has failed to make the disclosures required of them under the Act and the Lobbyists Code;
- A lobbyist whose name has been placed on the Lobbyist Watch List, unless;
  - At least two Government officials (other than a Minister, a Parliamentary Secretary or a member of their staff) are present during any communication with the lobbyist;
  - One of those Government officials takes notes of the communications with the lobbyist, and provides a copy of those notes to the Chief Executive Officer of the Commission.

The Commission's *Policy on Requests for Meetings from Stakeholders* must be followed for meetings with third-party lobbyists, other lobbyists and external parties:

- Commissioners must follow the procedures for scheduling and attendance at meetings, as well as telephone, email, other written and electronic communications;
- Records must be made of any contact with third-party and other lobbyists that may influence or be perceived to influence policy, planning approvals or procurement decisions;
- Records must be made of any external party meeting if business is conducted at that meeting, regardless of whether or not lobbying has occurred, and must be saved in Objective;

- Commissioners must also ensure any meeting with a lobbyist or external party is scheduled in the Commission's official meeting calendars.

## APPENDIX 6

### PROCEDURES FOR HANDLING COMPLAINTS BY OR AGAINST COMMISSIONERS (section 7)

#### Making a Report

In this Code of Conduct, the reporting of a concern or complaint, whether informally or formally made, by or about behaviour or conduct of a Commissioner that is contrary to the Code of Conduct and/or the Ethical Framework, is defined as a “Report”.

A Report is to be made to the Chief Commissioner or the Chief Executive Officer of the Commission.

A Report:

- Can be made in writing or verbally;
- Must contain sufficient details and particulars for the complaint to be assessed and, if necessary, investigated, so as to afford procedural fairness to the person about whom the complaint is made.

Behaviour that may also be corrupt conduct, maladministration, a serious and substantial waste of government resources, or a breach of Government information or privacy rights, should be reported to the Chief Executive Officer of the Commission, or the relevant investigating authority (such as the Independent Commission Against Corruption, the NSW Ombudsman, Auditor-General, the Information Commissioner or the Privacy Commissioner).

A public official may provide a Report as a Public Interest Disclosure where they believe, on reasonable grounds, that a public official or a public authority has engaged in corrupt conduct, maladministration, serious and substantial waste of public money or a breach of the *Government Information (Public Access) Act 2009*. The Department of Planning and Environment’s *Public Interest Disclosures policy* (available on the Department’s intranet) contains further information about how to make a Public Interest Disclosure and how it will be handled.

#### What happens next

A Report will be referred to the Chief Commissioner<sup>2</sup>. The Chief Commissioner will evaluate the matter to determine whether a formal process is required.

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<sup>2</sup> If a Report concerns a complaint about the Chief Commissioner, it will be referred to the Deputy Chief Commissioner, who will deal with the Report in accordance with these Procedures. In such a case, references to the Chief Commissioner in these Procedures are taken to be references to the Deputy Chief Commissioner.

Confidentiality is of key importance. Information will not be disseminated beyond those who need to know in order to properly manage the complaint.

The Chief Commissioner may seek confidential advice from internal or external advisors (including the Commission's Finance & Governance Committee) at any stage.

Where an allegation is minor or of a low level, the Chief Commissioner will discuss the matter directly with the person who made the Report. Such action may range from discussing the Report with the Commissioner concerned to convening a meeting between the complainant and the person about whom the Report was made. In some circumstances (for example an anonymous complaint with insufficient detail or particulars), it may be appropriate that no further action is taken.

A more serious allegation may require a more formal process.

A Report that does not contain sufficient information or particulars to enable a proper assessment to be made, may not proceed beyond the initial assessment stage.

A Report that is not a complaint about another Commissioner will be referred to the Chief Executive Officer, who will evaluate the matter to determine whether a formal process is required. The Chief Executive Officer will follow the Commission's *Complaints Handling Policy* in dealing with such a Report.

## **Investigation**

The Chief Commissioner may determine that a Report should be investigated further.

Investigation of a Report will be undertaken by a person with appropriate expertise and experience, in accordance with legal requirements and procedural fairness.

Once sufficient facts have been gathered about the circumstances and nature of the complaint, the Chief Commissioner will discuss the complaint with the relevant Commissioner (and their support person/legal representative if desired). At this meeting, the Commissioner about whom the complaint was made will be provided with an outline of the substance of the allegations made against them and the process that is to be undertaken. Written notice of the commencement of the formal investigation process will be provided at, or shortly after, this meeting.

The Commissioner about whom the complaint was made:

- Will be invited to meet with the investigator to be interviewed in relation to the allegations;
- Will be provided with details of the outcome of the investigation; the investigation report (once finalised) or extracts of it may be provided to the Commissioner if the Chief Commissioner considers it appropriate in all the circumstances;
- May make formal representations and provide comments to the investigator or the Chief Commissioner;
- Will be given the opportunity to provide comments if any adverse findings are likely to be made against them.

### **After the investigation**

Following the conclusion of an investigation, the Chief Commissioner will determine what action may be necessary. The Chief Commissioner may seek confidential advice from the Minister, the Secretary of the Department of Planning and Environment, the Chief Executive Officer of the Commission, the Public Service Commissioner, or from an external professional adviser. The Chief Commissioner may also seek advice from the Commission's Finance & Governance Committee. In all cases, legal and procedural fairness requirements will be followed.

### **Public Interest Disclosures**

A report by or about a Commissioner that is made as a public interest disclosure will be managed under the Department of Planning and Environment's *Public Interest Disclosures policy*.

### **Delegation**

Without limiting the powers of the Chief Executive Officer or the Commission under sections 7 and 11 and of the *Greater Sydney Commission Act 2015*, the Chief Commissioner may in his or her absolute discretion authorise the Chief Executive Officer of the Commission to carry out any of the actions or steps in dealing with a Report.

The Chief Commissioner or Chief Executive Officer of the Commission may engage an external person, or a person employed within the NSW Government sector, to undertake an investigation and to make recommendations about actions that should be taken, provided the person has appropriate expertise and experience, having regard to the nature and complexity of the matter in issue.

At any stage, confidential advice may be sought from the Minister, the Secretary of the Department of Planning and Environment, the Chief Executive Officer of the Commission, the Public Service Commissioner, or from an external professional

adviser. The Chief Commissioner may also seek advice from the Commission's Finance & Governance Committee.

## Procedural Fairness

The Commission will follow the guidance of the NSW Ombudsman<sup>3</sup> in relation to the principles of procedural fairness:

Any person who decides any matter without hearing both sides, though that person may have rightly decided, has not done justice. Any person whose rights, interests or legitimate expectations will be affected by a decision or finding is entitled to an adequate opportunity of being heard. In order to properly present their case, the person is entitled to know the grounds on which that decision or finding is to be taken.

However, the courts emphasise the need for flexibility in the application of the rules of natural justice, depending on the circumstances of each individual case. Depending on the circumstances which apply, natural justice may require a decision-maker to:

- inform any person:
  - whose interests are or are likely to be adversely affected by a decision, about the decision that is to be made and any case they need to make, answer or address
  - who is the subject of an investigation (at an appropriate time) of the substance of any allegations against them or the grounds for any proposed adverse comment in respect of them
- provide such persons with a reasonable opportunity to put their case, or to show cause, whether in writing, at a hearing or otherwise, why contemplated action should not be taken or a particular decision should or should not be made
- consider those submissions
- make reasonable inquiries or investigations and ensure that a decision is based upon findings of fact that are in turn based upon sound reasoning and relevant evidence
- act fairly and without bias in making decisions, including ensuring that no person decides a case in which they have direct interest
- conduct an investigation or address an issue without undue delay.

While a person the subject of an investigation should be informed of the substance of the allegations against them and proposed adverse comment, this does not require all the information in the investigator's possession supporting those allegations to be disclosed to that person. Indeed, it may damage the effectiveness of the investigation to show the investigator's hand completely by offering too much information too early to the person the subject of complaint.

In rare cases there may be an overriding public interest in short-circuiting certain natural justice requirements. This will normally be in situations that involve serious risks to personal safety or where substantial amounts of public funds may be at risk. In these cases, expert external advice should always be sought and documented.

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<sup>3</sup> NSW Ombudsman, Public Sector Agencies Fact Sheet 14 – *Natural Justice/Procedural Fairness*

## **Records**

In order to ensure procedural fairness and legal requirements, complete and accurate records must be kept of all Reports, and the steps and processes implemented to deal with them.