



Planning,
Industry &
Environment

Berrys Bay Community and Stakeholder Working Group Code of Conduct

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Governance Frameworks

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The Department of Planning, Industry and Environment acknowledges that it stands on Country - always was and always will be Aboriginal land. We acknowledge the Traditional Custodians of the land and waters, and we show our respect for elders past, present and emerging.

We are committed to providing places in which Aboriginal people are included socially, culturally and economically through thoughtful and collaborative approaches to our work.

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Introduction and application of the Code

As public officials, members of boards and committees have obligations to act in the public interest. Board and committee members are required to demonstrate standards of professional behaviour that will preserve public trust and deliver the best possible outcomes for the people of NSW.

Members of boards and committees must comply with a broad range of whole of Government regulations and policies including those stipulated in legislation, regulations, Ministerial Memoranda, Department of Premier and Cabinet circulars, Treasury publications and Public Service Commission policy documents.

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

Values

The NSW Government core values are set out in the *Government Sector Employment Act 2013*, are:

- Integrity
- Trust
- Service
- Accountability

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

The Department of Planning, Industry & Environment also has additional specific values that encourage us to be:

- Daring
- Collaborative
- Creative
- Kind
- Inclusive

Standards of Conduct

Board and committee members are expected to maintain/behave in accordance with certain standards when performing their functions. This section explains the standard of conduct expected in three key areas.

Work, health and safety

Ensuring people working for the Department have a safe place to work is a top priority—as is public safety. Board and Committee members are considered ‘workers’ for the purposes of the *Work Health and Safety (WHS) Act and Regulation 2011*. The Department is committed to eliminating and minimising work health and safety (WHS) risks as far as reasonably practicable. Board and committee members are responsible for:

- being aware of the safety systems and practices that help keep everyone safe and well
- looking for hazards and taking action if a safety risk is identified and it is safe to do so
- reporting all WHS incidents, including near misses, to the board and committee Secretariat who will liaise with DPIE WHS

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. The Department is committed to ensuring a safe environment in which everyone feels they can achieve their potential.

The Department has no tolerance for harassment or victimisation.

Members 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
- demonstrating inclusive behaviours and using inclusive language
- creating a workplace that is safe and offers protection from sexual, physical and psychological harassment and neglect
- preventing bullying

Conflict of interests

The three types of conflict of interests are:

- actual conflict—there is a direct conflict between a member’s current duties and responsibilities and their private interests

- perceived conflict—a person could reasonably perceive that a member’s private interests are likely to improperly influence the performance of their official duties, whether or not this is the case
- potential conflict—a member has a private interest that could conflict with their official duties in the future

Examples of when conflicts of interest can arise include where a member has:

- Other directorships or employment
- Professional and business interests and associations
- Investment interests or the investment interests of friends or relatives
- Family relationships
- Participation in party political activities
- Personal beliefs or attitudes that affect impartiality

related to the subject matter of their work with the board or committee.

The above list is indicative only and there may be other situations that can lead to a real or perceived conflict of interest.

A member has a duty to declare any private interest that may impinge on a board or committee decision. When an issue arises, the board or committee member must as soon as practicable disclose full and accurate details of the interest or issue to the Chair of the board or committee. A member must disclose interests to the board or committee (which include positions and pecuniary interests) in corporations, partnerships or other businesses or organisations that may be relevant to the activities of the board or committee. A member’s interests include those of an associate or close relative.

General disclosures must be made at the beginning of a member’s term. Member’s must make specific disclosures as soon as possible after the relevant facts come to the member’s knowledge, and they must be recorded by the board or committee in minutes of the meeting.

A register of such interests must be maintained by the board or committee.

Gifts, benefits and hospitality

Members should be aware that it is illegal to seek, offer or receive money or gifts in order to obtain a benefit or favour. Members must also not accept gifts or benefits that could place them under an actual or perceived financial or moral obligation to another organisation or individual.

Offers (other than light refreshment) should be politely refused. Members are required to report all offers of gifts, benefits or hospitality that are offered to them in their role as a board or committee member. A board or committee may establish a Register of Gifts to provide a high degree of transparency.

Departmental resources

Appropriate use of resources

Departmental resources should only be used for Departmental purposes. Furniture, equipment, staff and other resources may be provided to a board or committee to perform its functions and should be used only in relation to those functions.

Public Expenditure

Members 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 Finance and Audit Act 1983*
- *Public Works and Procurement Act 1912* and the associated Board Directions

Members of governing boards must comply with government financial, asset management and procurement requirements.

Intellectual property and copyright

All intellectual property created by members in the course of their role as members of a board or committee is the intellectual property of the Department. Members cannot sell or give away intellectual property created during or in connection with their appointment to a board or committee.

Members should provide the Department with complete copies of any reports, documents or other materials created during the course of their appointment as a board or committee member.

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 their duties, members might have access to sensitive, personal and/or commercially confidential information. This information could relate to members of the community, the NSW Government or government employees. Such information is varied in form including written information, stored information, e-documents and verbal information.

Such information may only be used for the purposes of the work of the board or committee. Members are expected to protect the integrity and security of information and documents for which you are responsible and to adhere to the principles of the *Privacy and Personal Information Protection Act 1998* and the Departmental Privacy Management Plan.

Examples of misuse of official information or documents include:

- speculation in 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

Members must:

- not use information for any unofficial purpose outside the committee
- use confidential or official information only in relation to their committee role and consistent with their obligation to act impartially
- be cautious and use sound judgement when discussing sensitive information with others
- not use information gained in their capacity as a committee member for personal gain
- disclose information that is normally available to members of the public
- not improperly collect, use or disclose the personal information of individuals including community and staff members
- not use information gained in the course of their committee role to cause harm or detriment to government or any person or organisation
- safely and securely store any committee records, including emails and electronic information
- not remove official information from government premises unless needed for committee purposes
- treat email and electronic records as carefully as hard copy information.

Release of information

The *Government Information (Public Access) Act 2009* (GIPA Act) applies to public sector agencies including the boards and committees that meet the definition of public sector agency in the GIPA Act. Boards and committees are encouraged to proactively release decisions of their meetings in accordance with the NSW Government's Open Government policy unless there is an overriding public interest against disclosure.

Where a board or committee has delegated its obligations under the GIPA Act to the Department or is considered a subsidiary agency under Schedule 3 of the GIPA Regulation, requests for information from the Information Access and Privacy Unit should be responded to promptly. All documents should be provided and any sensitivities clearly articulated to the Information Access Officer handling the case.

Communicating with the media and third parties

Views that are publicly expressed by a member may be perceived or construed by the broader community as views of the board or committee or the Department.

Members should ensure that any public comments made in a private capacity are not attributed as official comments the board or committee. In this respect, members should not use official stationery for private correspondence or for purposes not related to their official duties.

Members must not:

- initiate contact with the media on matters or issues that have been subject to discussion by the board or committee
- make public comment on behalf of the board or committee or the Department
- make public comment on (including to the media or on social media) any matter or issue that has been subject to discussion by the board or committee
- share any board or committee records with the media or on social media

Speaking up and reporting matters

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

The Department will support people 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 is important that the conduct of board and committee members reflects the principles and ethical requirements set out in this code at all times. If allegations about inappropriate conduct are made or aired in the public domain which, if true, would constitute a breach of this code, the member concerned may be removed from the board or committee.

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 provide by the Department for personal use.

The *Public Interest Disclosures Act 1994* provides protection to board and committee members who voluntarily report suspected corrupt conduct. Members can make reports to the Chairperson or to the principal officer of the relevant public authority (usually the Secretary, Chief Executive Officer, General Manager) in accordance with the agency's internal reporting guidelines. Members 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

Breach of the Code

It is important to remember that members are representatives of the NSW Government and are conducting work on behalf of the NSW Government. If a member does not comply with the Code, the Chair may direct the member to take a specified action to rectify his or her conduct or determine that further work not be allocated to the member until the breach is rectified. If the Chair is in breach of the code, members of the Board may take similar relevant actions.

If members of the board or committee do not adhere to the code of conduct or are seen to display inappropriate ethical standards of behaviour, the Department may take applicable action. Where suspected breaches are related to the conduct of a member or the entire board or committee, the board or committee must consult with the Department.