

Parramatta Light Rail Stage 1

Design Review Panel

Terms of Reference

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1. Introduction

Parramatta Light Rail – Stage 1 (PLR) is one of the NSW Government’s major infrastructure projects being delivered to serve a growing Sydney. PLR will connect Westmead to Carlingford via Parramatta Central Business District (CBD) and Camellia.

In accordance with Condition E90 of Infrastructure Approval SSI 8285, Transport for NSW (TfNSW) has established a **Design Review Panel** to provide independent advice and recommendations on the detailed design of the Parramatta Light Rail – Stage 1 (the Project). The nominated members of the Design Review Panel was approved by the Department of Planning, Industry and Environment (DPIE) on 25 November 2019.

The purpose of this Design Review Panel Terms of Reference (Terms of Reference) is establish best practice governance and protocols for the operation of the Design Review Panel, to detail the roles and responsibilities of the Design Review Panel and to outline the administrative arrangements of the Design Review Panel meetings, such as meeting frequency, agendas and any cessation arrangements.

The Design Review Panel must be operated and managed in accordance with the approved Terms of Reference and in accordance with the *NSW Government Boards and Committees Guidelines* (Department of Premier and Cabinet, September 2015) (**Appendix D**). This Terms of Reference document has been developed and endorsed by all panel members and approved by the Planning Secretary on XXXX.

Table 1-1: Minister’s Conditions of Approval

CoA	Condition Requirements	Reference	How Addressed
E95	Once the Design Review Panel is formed a Design Review Panel Terms of Reference must be developed and endorsed by all panel members and then approved by the Secretary. The Terms of Reference must:	This document	The Terms of Reference has been endorsed by all panel members and was approved by the Secretary on XXXX.
	(a) establish best practice governance and protocols for the operation of the Design Review Panel;	This document	The Terms of Reference outlines the protocols for the operation of the Design Review Panel.
	(b) include a Code of Conduct;	Section 8; Appendix B	The Design Review Panel is to operate in accordance with the TfNSW Code of Conduct provided in Appendix B .
	(c) outline the agreed frequency of Design Review Panel meetings;	Section 7.1; Section 7.4	Details of the meeting frequency and meeting programme are provided in Sections 7.1 and Section 7.4.

CoA	Condition Requirements	Reference	How Addressed
	(d) outline secretariat functions and administration including the recording and storing of meeting agenda, minutes and actions; and	Section 5.3; Section 7	The roles and responsibilities of the Secretariat is provided in Section 5.3. The administrative arrangement of the Design Review Panel meetings is provided in Section 7.
	(e) identify cessation arrangements	Section 7.8	Cessation arrangements are provided in Section 7.8.
E96	The Design Review Panel must be operated and managed in accordance with the approved Design Review Panel Terms of Reference and in accordance with the NSW Government <i>Boards and Committees Guidelines</i> (Department of Premier and Cabinet, September 2015).	Section 1	The Design Review Panel must be operated in accordance with the approved Design Review Panel Terms of Reference and in accordance with the NSW Government <i>Boards and Committees Guidelines</i> (Appendix D).

Appendix A provides the relevant Conditions of Approval that relate to the Design Review Panel and its functions.

In accordance with the PLR Staging Report (PLR-TFNSW-CBD-PE-RPT-000001), the functions of the Design Review Panel and these Terms of Reference are applicable to the following PLR packages of work:

- **Infrastructure Works (Package 4)** – Design and construction of civil works, public domain and light rail infrastructure up to road level/top of rail and to the top of the concrete slab at stops, including provision of utility services (excluding high-voltage power supply and cabling for rail systems), and decommissioning of the T6 Carlingford Line); and
- **Supply, Operate and Maintain Works (Package 5)** – Design and construction of the light rail systems, high-voltage power supply and stops above slab level, the supply of light rail vehicles, and the design and construction of the Stabling and Maintenance (SaM) Facility, including all light rail operations, customer service and asset management.

Further information on the staging of Parramatta Light Rail is provided in the PLR Staging Report, available at: <http://www.parramattalightrail.nsw.gov.au/library/environment>.

2. Purpose of the Design Review Panel

The purpose of the Design Review Panel is to provide independent expert design advice to the Parramatta Light Rail Project. The Design Review Panel must be chaired by the NSW Government Architect (or its nominee), and must be comprised of, where relevant, a suitably qualified, experienced and independent professional in each of the fields of:

- Architecture
- Urban design and place making
- Landscape design
- Aboriginal cultural heritage
- Non-Aboriginal heritage.

The Chair is to invite Relevant Councils, technical experts, key stakeholders, and NSW government agencies to observe Design Review Panel meetings and to provide advice on local issues, context, and city outcomes. This includes the Heritage Council (or its delegate). The proponent (Transport for NSW) and its contractor(s) may also be invited onto the Panel as observers only and to provide technical advice.

Observers or advisors should not be present while the Panel is deciding upon its recommendations.

The Proponent must provide independent secretarial resources to the Panel.

During design development of the Project, the Design Review Panel must provide advice and recommendations on the detailed design. The responsibilities of the Design Review Panel include:

- Review of the design to assess whether it is consistent with the commitments and outcomes made in the documents listed in Condition A1, as amended by the terms of the Infrastructure Approval including the Urban Design Requirements Report required by Condition E87; and
- To provide advice on the application of the objectives to key design elements in relation to place making, architecture, heritage, urban and landscape design and artistic aspects of the Project.

3. Governance structure

The relationship between the Design Review Panel and PLR leadership is shown in Figure 1. Advice and recommendations from the Design Review Panel are issued to the TfNSW PLR Program Director for review prior to issue to the Project Director whose responsibility it is to cascade advice to the relevant internal and external teams.

The TfNSW PLR Program Director's review will assess whether there are any recommendations in the Design Review Panel advice that are essential to achieving the commitments outlined in the EIS and the Conditions of the Infrastructure Approval, but which may constitute a potential variation to the project delivery contract and hence require PLR Program Control Group approval to proceed.

As the Design Review Panel is convened in response to the Department of Planning, Industry and Environment Conditions of Approval for the Parramatta Light Rail Stage 1, their review of the design to assess its consistency with commitments and outcomes outlined in the documents listed in Condition A1 is material to assuring the Secretary of Planning Industry and Environment and thereby the Minister for Planning, that the Conditions of Approval for the CSSI have been met.

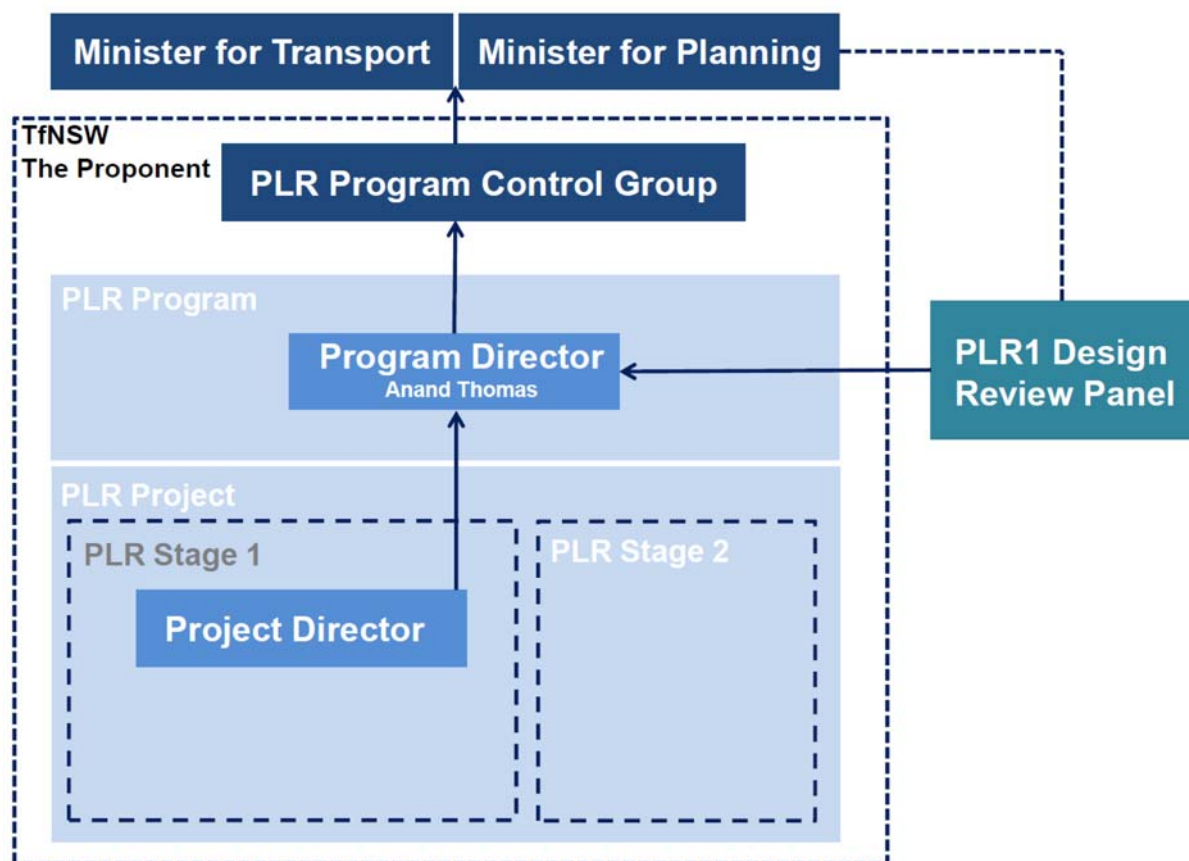


Figure 3-1: Relationship of PLR DRP to PLR Program Governance Structure

4. Authority of the Design Review Panel

As outlined in Section 2, the purpose of the Design Review Panel is to make recommendations on matters relating to place-making, visual amenity, architecture, heritage, urban and landscape architecture and artistic aspects that affect design excellence on Parramatta Light Rail.

The authority of the Design Review Panel is as follows:

- The Design Review Panel is advisory and its recommendations are not binding on Transport for NSW or operating entities including PLR
- The Design Review Panel cannot authorise any expenditure, works or consultancies
- The Design Review Panel does not have authority to vary the scope of works or project briefs and must consider budget limitations and project/program constraints as advised by PLR team members when providing recommendations.

Despite the limits to the authority of the Design Review Panel, their recommendations carry weight with the Project team and the PLR Program Control Group as follows:

- Where a Design Review Panel recommendation is not able to be adopted, it is the responsibility of the Project to provide adequate justification to the Design Review Panel as to why the recommendation is not feasible. Where this requires escalation for resolution, the Program Director (or delegate) will raise with the PLR Program Control Group for determination
- Where the Design Review Panel has identified a design issue that renders the design non-compliant with technical or urban design requirements, it is the responsibility of the Project to notify the Independent Certifier
- Where the Design Review Panel has identified a design issue that renders the design non-compliant with the Infrastructure Approval (CSSI-8285) requirements, it is the responsibility of the Project to notify the Environmental Representative and report through non-compliance reporting processes outlined the Contractors approved Construction Environmental Management Plan
- The Conditions of Approval require the Design Review Panel to attest to the consistency of the proposed design with the commitments and outcomes committed to as part of the Infrastructure Approval and as outlined in the **Urban Design Requirements Report**.

5. Roles and responsibilities

This section details the roles and responsibilities of the Design Review Panel members, the Chair, Secretariat and Observers. All those responsible for participating in the Design Review Panel must operate in accordance with the TfNSW Code of Conduct (Section 8).

5.1 Design Review Panel members

The roles and responsibilities of Design Review Panel members include:

- Evaluating the detailed design of the Project for consistency with the documents listed in Condition A1, as amended by the Infrastructure Approval SSI-8285 including the Urban Design Requirements Report
- Reviewing and providing recommendations in the development of the Urban Design Requirements Report to be prepared in accordance with Condition E87
- Providing advice on the application of the objectives to key design elements in relation to place making, architecture, heritage, urban and landscape design and artistic aspects of the Project
- Advising on potential refinements and improvements to Project and program design.

In performing the functions of the Design Review Panel, members responsibilities include:

- Supporting the Design Review Panel to perform its functions
- Attending meetings and participating in decision making processes
- Contributing the time needed to study and understand information provided
- Expressing opinions openly and ask questions that seek to evaluate the fundamental core of issue presented
- Applying good analytical skills, objectivity and judgement
- Undertaking reviews, consultation or research to support and promote discussion of the agenda items
- Reviewing and providing comments where necessary to the Advice Sheets that are written and issued to the Design Review Panel by the Secretariat
- Seeking to reach a consensus on decisions. Members may express dissenting views and have these recorded in the Advice Sheets, but in the best interest of the Design Review Panel, they should defer to the final decision made.

5.2 Chair

The Chair is responsible for leading the Design Review Panel and must the NSW Government Architect (or it's nominee). The Chair's role and responsibilities include:

- Ensuring that the Design Review Panel performs its functions, acting within the terms of the Infrastructure Approval SSI-8285, legal obligations and complying with these Terms of Reference
- Facilitating the conduct of meetings to allow frank and open discussion
- Ensuring individual members make an effective contribution
- Facilitating the flow of information to members and stakeholders
- Liaising with the PLR Program Director and Stakeholders, as relevant
- Reviewing the performance and contribution of members

- Ensuring that appropriate secretariat support is provided by Transport for NSW
- Ensuring that the appropriate Observers are invited and available for the Design Review Panel meeting and have an opportunity to adequately contribute
- Ensuring that Design Review Panel members are aware that Boards and committee members in NSW are appropriately briefed on their obligations under the *Government Information (Public Access) Act 2009* (GIPA Act).

5.3 Secretariat

Transport for NSW will provide independent secretarial resources and support to the Design Review Panel through the PLR Independent Certifier.

The Secretariat's role and responsibilities includes:

- Distributing information and technical papers as required.
- Taking meeting minutes throughout the sessions;
- Ensuring the record of attendance is completed for each PLR DRP session
- Prepare the Advice sheets and coordination of approval from the panel members and Chair before distribution within two weeks of the meeting to:
 - o PLR DRP Members;
 - o Parramatta Light Rail senior technical team.

5.4 Observers

In accordance with the Condition E92, the Chair is to invite relevant Council representatives, technical experts, key stakeholders, or NSW government agency representatives to observe Design Review Panel meetings and to provide advice on local issues, context, and city outcomes as requested by the Design Review Panel on an as required basis. This includes the Heritage Council (or its delegate).

Transport for NSW and its contractor(s) may also be invited to the Panel as observers and to provide technical advice as requested by the Design Review Panel on an as required basis.

Observers and advisors are not to be present while the Panel is deciding upon its recommendations.

The responsibilities of the PLR DRP observers include:

- Attend Design Review Panel meetings as required under the terms of the Infrastructure Approval SSI-8285 or as requested by the Chair
- Developing and presenting design reports, and other documentation pertaining to architectural, urban and landscape design and issues associated with visual impact, Aboriginal cultural heritage and non-Indigenous heritage or as otherwise requested by the Design Review Panel
- Providing technical advice as requested by the Design Review Panel
- Expressing opinions at Design Review Panel meetings
- Observers or advisors should not be present while the Panel is deciding upon its recommendations but may request 'closed door' meetings with the Design Review Panel as required.

6. Composition and tenure

6.1 Tenure

Design Review Panel membership will initially be for a period of two (2) years. A Design Review Panel member wishing to resign from the Panel must do so in writing.

The Planning Secretary or their Delegate may approve changes Design Review Panel membership, including extensions to appointments and alternate members at any time.

6.2 Confidentiality and conflicts of interest

On appointment, Design Review Panel members will provide written declarations to the Project advising any conflicts of interest. These will be noted on a conflicts register. Design Review Panel members must advise the Secretariat of any changes.

Design Review Panel members must declare any new or changed conflicts of interest at the start of each meeting or before discussion of the relevant agenda item or topic. Details of any conflicts of interest will be minuted and the conflicts register updated.

Where Design Review Panel members are deemed to have a real, or perceived, conflict of interest in a particular agenda item they must excuse themselves from deliberations on that item.

On appointment Design Review Panel members must also provide a statement of independence and a statement of association to demonstrate independence for review, on request, by the Secretary prior to approval.

6.3 Membership

The standing membership of the Design Review Panel is outlined in Table 6-1. In the event that the Acting NSW Government Architect or its nominee is unavailable to chair the meeting, the alternate Chair will be Peter Mould.

In the event that the primary member is not available to attend the Design Review Panel meeting, the alternate member will take the place.

Table 6-1: Minister's Conditions of Approval

Ref	Requirement of Condition E92	Primary member	Alternate member
E92	Chaired by NSW Government Architect (delegate)	Olivia Hyde	Peter Mould Architect (Former NSW Government Architect)
(a)	Architect	Peter Mould	Bill Tsakalos
(a)	Architect	Peter John Cantrill	Bill Tsakalos
(b)	Urban design & place making	Angela Koepp	Bill Tsakalos Garth Paterson
(c)	Landscape design	Garth Paterson	Angela Koepp Peter John Cantrill
(d)	Aboriginal cultural heritage	Graham Davis King	Jillian Comber
(e)	Non-Aboriginal heritage	Jillian Comber	Peter John Cantrill

The nominated members are qualified and in most instances have expertise in more than one area.

6.4 Vacancies

Alternate members may act in the role nominated in Table 6-1 for a period of up to three months. Where there is a vacancy in a Primary Member role for a period of more than three months the vacancy will be advertised on the Department of Premier and Cabinet (DPC) register (<https://www.nsw.gov.au/your-government/nsw-government-boards-and-committees-register/join/>) and appointment of the new member will comply with the Appointment Standards – Boards and Committees in the NSW Public Sector (Appointment Standards). See **Appendix C** for further detail on the Appointment Standards.

New Design Review Panel members would be nominated by Transport for NSW and approved by the Secretary in accordance with Condition E93.

7. Administrative Arrangements

In accordance with the Condition E96, the Design Review Panel will operate and be managed in accordance with this Terms of Reference and in accordance with the *NSW Government Boards and Committees Guidelines* (Department of Premier and Cabinet, September 2015) (**Appendix D**).

7.1 Meeting frequency and location

Design Review Panel meetings will be generally held on a monthly basis, with additional meetings being scheduled as required to meet specific project and program requirements or as otherwise agreed with the Chair. In the event that the Design Review Panel recommends a cancellation of a meeting, any agenda items will be carried over to the next scheduled Design Review Panel meeting.

Where a meeting program has been endorsed by the Design Review Panel, the meeting program takes precedence over this documented meeting frequency. The meeting program is subject to annual review or as required.

Meetings will be held at the Parramatta Light Rail Project Office, located at Level 10, 130 George Street, Parramatta, or as agreed by the majority of the Design Review Panel members.

7.2 Quorum

The quorum for the Design Review Panel will be four (4) members. Design Review Panel meetings will be rescheduled where a quorum is not reached.

7.3 Meeting format

Each meeting will follow a similar format as outlined in the table below.

	Agenda item	Lead	Present
1	Introductions & attendance sheet	Chair	All
2	Declaration of conflicts	Chair	All
3	Statement of meeting behaviours	Chair	All
4	Presentation addressing: - Outline of urban design requirements for that aspect or element - How the design responds to those requirements	Project and design team	All
5	Response to previous DRP recommendations and advice	Project and design team	All
6	Questions and discussion	DRP members with project & design team	All
7	Closed session	DRP members with stakeholders and TfNSW	DRP members & secretariat
8	Closed session for deliberation	DRP members	DRP members & secretariat

7.3 Design Review Panel Advice Sheets

Detailed Design Review Panel Advice Sheets will be issued for each meeting that outline:

- Attendees including Design Review Panel members present, presenters and observers
- List of previous Design Review Panel advice sheets
- Brief summary of presentation topic
- Design Review Panel advice and recommendations
- Circulation of advice
- Notification of date and topics for next meeting.

The Secretariat will compile the draft Advice Sheets which will be reviewed and approved for circulation to the rest of the Design Review Panel by the Chair (or its nominee). Following Design Review Panel consensus on the final advice, Design Review Panel Advice Sheets will be issued to the PLR Program Director (or delegate) and PLR Project Director (or delegate) and other relevant Project team members for further distribution as necessary. Design Review Panel Advice Sheets will also be issued to City of Parramatta Council, DPC Heritage Division and other stakeholders nominated by the Chair for information.

Note that Design Review Panel Advice Sheets are confidential advice to be provided to the PLR team and relevant stakeholders only. All advice sheets are stored in the TfNSW document control system, TeamBinder with the document status of “Confidential”. A summary of Advice Sheets will be maintained including a specific document reference.

7.4 Meeting program

A forward program is to be developed by Transport for NSW (as proponent) to outline the agenda for Design Review Panel meetings to ensure that all items required to be addressed in the Urban Design Requirements Report can be reviewed and evaluated by the Design Review Panel in advance of key milestones and in time to influence the design outcome.

7.5 Design Review Panel endorsement

In order to facilitate the operation of the Design Review Panel, so that it can provide evidence of having met its obligations under Condition E91, the Transport for NSW (as Proponent) is to establish and manage a rolling list of actions based on the recommendations provided in the Design Review Panel Advice Sheets (see Section 7.3). These actions are to be recorded in the Design Review Panel Advice Log which tracks the status of each action/recommendation throughout the design process.

The Design Review Panel Advice Log will include Project responses to recommendations and Design Review Panel close out of Project responses. The process for achieving Design Review Panel close out is to receive support in principle, then endorsement following presentation of resolved design.

Where there are outstanding issues raised by the Design Review Panel that have not been adopted, the reasons why they have not been/could not be adopted must be provided in the Design Review Panel Advice Log and presented at subsequent Design Review Panel meetings. These outstanding issues will be raised by the TfNSW PLR Program Director (or nominated delegate) with the PLR Program Control Group for determination and resolution.

7.6 Reporting

In accordance with the Governance structure outlined in Section 3, the Design Review Panel reports to the TfNSW PLR Program Director (or nominated delegate), primarily through the Design Review Panel Advice Sheets and Design Review Panel Advice Log.

The TfNSW PLR Program Director (or nominated delegate) will produce an annual progress report on the Design Review Panel which outlines:

- A summary of key activities undertaken during the period
- Outcomes achieved and key results for the period
- Meetings held during the period and attendance
- Current membership and any changes that have occurred during the period
- A summary of Design Review Panel Advice Sheets and Advice Log
- An internal review to determine:
 - The board or committee is fulfilling its functions and objectives
 - delivery through the board or committee is the most cost effective approach
 - there is an ongoing need for the board or committee to meet and confirm frequency of meetings to allow DRP functions to be performed
 - members have the appropriate mix of skills, experience, and diversity
- Any amendments or recommended to this document (the Terms of Reference).

The progress reports will be submitted to the Design Review Panel members and relevant stakeholders, including the City of Parramatta Council, DPC Heritage Division and the Department of Planning, Industry and Environment, once finalised.

7.7 Government Information (Public Access) Act 2009

The *Government Information (Public Access) Act 2009* (GIPA Act) contains a right to information systems for NSW Government to make government information more readily available and improve openness and accountability. The GIPA Act applies to all NSW government agencies, including boards and committees. Board and committee members are to be appropriately briefed on their obligations under the GIPA Act.

7.8 Cessation arrangements

The Design Review Panel will cease to function once the detailed design has been fully resolved and all design issues have been dealt with to the satisfaction of the PLR Project Director and in accordance with the Infrastructure Approval SSI-8285. Notwithstanding this, from time to time during construction, design issues may arise that require changes to the detail design and review by the Design Review Panel.

PLR DRP membership will initially be for a period of two (2) years as per section 6.1 *Tenure*. For the avoidance of doubt the Design Review Panel will cease to function once the all the Design Packages have been issued and approved for construction.

7.9 Amendments

Once approved, any changes to these Terms of Reference are to be endorsed by the Design Review Panel, then endorsed by the Environmental Representative in accordance with Condition A23(d) and submitted to the Planning Secretary for approval.

8. Code of Conduct

The TfNSW Code of Conduct applies to all members of the Design Review Panel. The Code of Conduct is provided at **Appendix B**. The TfNSW Code of Conduct will be periodically reviewed (e.g. annually) to ensure its appropriateness for the PLR DRP and where necessary amended to reflect any changes in circumstances.

Appendix A – Conditions of Approval

Design Review Panel

- E90 The Proponent must establish an independent **Design Review Panel** before development of the detailed design and before construction commences.
- E91 During design development of the CSSI, the **Design Review Panel** must provide advice and recommendations on the detailed design. The responsibilities of the Design Review Panel include:
- (a) review the design to assess whether it is consistent with the commitments and outcomes made in the documents listed in **Condition A1**, as amended by the terms of this approval including the **Urban Design Requirements Report** required by **Condition E87**; and
 - (b) provide advice on the application of the objectives to key design elements in relation to place making, architecture, heritage, urban and landscape design and artistic aspects of the CSSI.
- E92 The **Design Review Panel** must be chaired by the NSW Government Architect (or its nominee), and must be comprised of, where relevant, a suitably qualified, experienced and independent professional in each of the fields of:
- (a) architecture;
 - (b) urban design and place making;
 - (c) landscape design;
 - (d) Aboriginal cultural heritage; and
 - (e) non-Aboriginal heritage.

The Chair is to invite Relevant Councils, technical experts, key stakeholders, and NSW government agencies to observe **Design Review Panel** meetings and to provide advice on local issues, context, and city outcomes. This includes the Heritage Council (or its delegate). The Proponent and its contractor(s) may be invited onto the Panel as observers only and to provide technical advice.

Observers or advisors should not be present while the Panel is deciding upon its recommendations.

The Proponent must provide independent secretarial resources to the Panel.

- E93 The **Design Review Panel** members must be nominated by the Proponent and approved by the Secretary in accordance with the timeframes in **Condition E90**.
- E94 Nomination and appointments of the **Design Review Panel** must comply with the Public Service Commission's *Appointment Standards: Boards and Committees in the NSW Public Sector* guideline.
- E95 Once the **Design Review Panel** is formed a **Design Review Panel Terms of Reference** must be developed and endorsed by all panel members and then approved by the Secretary. The Terms of Reference must:
- (a) establish best practice governance and protocols for the operation of the **Design Review Panel**;
 - (b) include a Code of Conduct;
 - (c) outline the agreed frequency of **Design Review Panel** meetings;
 - (d) outline secretariat functions and administration including the recording and storing of meeting agenda, minutes and actions; and
 - (e) identify cessation arrangements
- E96 The **Design Review Panel** must be operated and managed in accordance with the approved **Design Review Panel Terms of Reference** and in accordance with the NSW Government *Boards and Committees Guidelines* (Department of Premier and Cabinet, September 2015).

Appendix B – TfNSW Code of Conduct



Our Code of Conduct

Transport for NSW
Roads and Maritime Services
Sydney Trains
NSW Trains
State Transit
Department of Transport

March 2018



Transport
for NSW

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1. Introduction

The Transport Code of Conduct outlines the standards of behaviour expected of staff in the transport agencies listed below:

- Transport for NSW (TfNSW);
- Department of Transport;
- Roads and Maritime Services (RMS);
- Sydney Trains;
- NSW Trains;
- State Transit.

The Code of Conduct will help us build a values-based organisation that ensures insofar as reasonably practicable that our vision promotes and maintains public confidence and trust in our work.

It provides a framework for appropriate behaviour during our interactions with customers, stakeholders and each other, and outlines the standards required to guide our decisions, actions and ethical behaviour in the performance of our duties.

To meet these expectations we are all responsible for understanding the requirements of the Code of Conduct which must be read in conjunction with Transport and agency policies, procedures and industrial instruments. We are all accountable for our actions and behaviours, including any failure to take action. You must seek guidance from your manager if you require further clarification, or if you find yourself in a position where you are unsure how to act.

Code of Ethics and Conduct for NSW government sector employees

The Code of Ethics and Conduct for NSW government sector employees applies to all staff members in the Transport agencies.

In addition to complying with the Transport Code of Conduct all staff must also comply with the Code of Ethics and Conduct for NSW government sector employees.

Who does this Code cover?

The Code of Conduct covers all permanent, temporary and casual staff. The term 'staff' is used in this Code of Conduct to cover these groups.

The term 'manager' applies to staff members who have delegated authority to supervise others and provide management direction.

The Statement of Business Ethics provides guidance to our commercial partners on the behaviours expected of them when doing business with us. Our commercial partners are responsible for ensuring that labour hire, professional services contractors and consultants are educated about the contents of this Code of Conduct and their obligation to comply with it.

2. Transport responsibilities

Transport agencies conduct their business with efficiency, fairness, impartiality and integrity. Transport responsibilities include but are not limited to:

- facilitating adequate understanding of this Code of Conduct by providing appropriate training and avenues to seek clarification as required;
- providing you with access to current policies and procedures that you are required to comply with. This includes appropriate notification of any changes to these policies and procedures which may impact on you;
- providing you with avenues to raise concerns in relation to breaches of this Code of Conduct which will be managed in accordance with procedural fairness and provide you with protection against victimisation.
- ensuring the general conduct and management of functions and activities of the agencies are in accordance with our values and this Code of Conduct; and
- facilitating the implementation of policies and programs to create a safe work environment free from bullying, harassment and discrimination.



3. Staff responsibilities

You are responsible for familiarising yourself with agency policies and procedures, and complying with them. You are also responsible for making enquiries if you are unsure about what actions to take.

You need to be aware that the reputation of the transport agencies can be affected by your actions at work and, in certain circumstances, by your conduct outside the workplace.

You must:

- treat our customers and colleagues fairly, consistently and with respect;
- behave in a lawful, professional and reasonable manner and always act in the best interest of Transport;
- comply with agency policies and procedures, as well as relevant legislative and industrial requirements that apply to you;
- understand the duties, responsibilities and accountabilities of your role, and perform these safely, honestly, courteously and fairly;
- make impartial decisions that demonstrate your agency's values and promotes confidence in the integrity of public administration;
- comply with reasonable lawful requests, directions and instructions given in the course of your duties by any person with authority to do so;

- maintain the integrity, confidentiality and security of corporate information;
- report unethical, dishonest and/or corrupt conduct;
- not discriminate, harass, bully or engage in inappropriate workplace conduct;
- not gamble, including online gambling, in the workplace and, in vehicles or vessels using official devices, during paid work time (excluding established practices such as Melbourne Cup sweeps, self-administered football tipping and lottery syndicates); and
- present yourself in a professional manner, including wearing the designated uniform for your agency and required safety gear appropriate to operations.

Nothing in this Code of Conduct affects your rights to participate in lawful industrial activities.

You need to be aware that the reputation of the transport agencies can be affected by your actions at work and, in certain circumstances, by your conduct outside the workplace.

4. Manager responsibilities

Managers are responsible for the fair and effective management of their staff. As a manager, you have additional responsibilities to promote and demonstrate ethical conduct, fairness and equality, and lead by good example.

Managers must also:

- set an example to staff by demonstrating agency values in everything they do and being accountable for their actions or omissions;
- communicate acceptable standards of behaviour to staff, and take preventative or corrective action where unacceptable behaviours or practices are identified;
- promote a workplace that is free from discrimination, bullying, harassment and inappropriate conduct;
- raise awareness with staff regarding agency policies and procedures;
- proactively identify situations that may lead to corrupt conduct, and ensure these are managed in accordance with relevant policies and procedures;
- inform staff members of their duties, responsibilities and expected performance standards with adequate information, guidance and feedback so they can undertake them effectively, efficiently and safely; and
- facilitate a positive workplace environment through open, honest, two-way constructive communication.



5. Ethical decision making

We must ensure that our decisions:

- are made lawfully, ethically and impartially;
- promote agency values;
- align with overall organisational objectives; and
- are in the public interest.

You must consider the implications of your conduct, decisions and actions for yourself, customers, colleagues and Transport. Any information or advice you give or any decisions you make must not lead to personal gain ahead of public interest.

If you have delegation to make decisions on behalf of Transport, the decisions must be able to withstand external scrutiny. This includes holding and maintaining adequate records of decisions and actions, including the reasons for those decisions.

Any information or advice you give or any decisions you make must not lead to personal gain ahead of public interest.



6. Conflicts of interest

An actual, potential or perceived conflict of interest exists when you could be influenced by a personal interest in the course of your official duties. Conflicts of interest that affect impartial decision making may constitute corrupt conduct.

A conflict or potential conflict could arise through a range of personal interests or connections including family, friends and associates, or as a result of financial, employment and/or community or political interests or activities. While these associations would not normally be required to be declared, you may be the only person aware of any actual, potential or perceived conflict and are, therefore, responsible for identifying, disclosing or managing such conflicts in a transparent manner.

When considering whether or not there is a conflict, it is important to consider your role, the nature of your work and how others would view the situation.

Where a conflict of interest may compromise your ability to perform your role in an impartial manner, the matter must be declared in accordance with the Transport Conflicts of Interest Policy – Personal Interests, Secondary Employment; Gifts and Benefits and agency procedures. You must also:

- identify methods for managing the conflicts with your manager;
- disclose the conflict and arrange for it to be registered on your agency's Conflicts of Interest Register; and
- monitor the conflict and comply with the methods implemented to manage it.

Special arrangements apply to staff members who are contesting state or federal elections.

In addition to the above all Senior Service staff members (including staff acting in Senior Service roles) are required to make an annual written declaration of private financial, business, personal and other interests or relationships that have the potential to influence, or could be perceived to influence, decisions made or advice given by the staff member.

Specific areas of potential conflict of interest are detailed in the following sections of this Code of Conduct:

- gifts and benefits; and
- secondary employment.

You must not misuse your position or business information to which you have access to secure future employment advantages within and outside your agency, or to benefit any other person or organisation, including former staff.

You must be extremely careful when dealing with former staff, and make sure you do not give them favourable treatment or access to corporate information. You must report any attempt by a former staff member to influence you. Failure to disclose a conflict of interest may lead to disciplinary action and may also constitute corrupt conduct as defined in the Independent Commission Against Corruption Act 1988 (NSW).

When considering whether or not there is a conflict, it is important to consider your role, the nature of your work and how others would view the situation.

7. Gifts and benefits

Gifts or benefits that pass between colleagues or come from external organisations may be perceived as being used to create favourable impressions and gain preferential treatment. You must not ask for gifts, benefits or hospitality for yourself or anyone else in connection with your employment at a transport agency.

The acceptance of certain gifts and benefits has the potential to compromise current and future impartial decision making. Refer to the Transport Conflicts of Interest Policy – Personal Interests, Secondary Employment and Gifts and Benefits, and relevant agency procedures for specific information on accepting gifts and benefits.

The acceptance of certain gifts and benefits has the potential to compromise current and future impartial decision making.

Significant personal loans (regardless of whether interest is applied or not) exchanged between staff and/or potential or actual providers of services to a transport agency may be considered a gift or benefit, and may result in an actual, potential or perceived conflict of interest.

Certain gifts, benefits and hospitality must be refused. In particular, you must refuse gifts, benefits and hospitality that:

- are of cash value, including gift vouchers, shares and other monetary equivalents;
- might influence or be seen to influence or are given with the aim of influencing you at work;

- are for family members that arise in connection with your official duties, or which could be perceived to be connected with your official duties by a reasonable observer;
- might influence or have the potential to influence recruitment or procurement decisions;
- are inappropriate because of a staff member's position, role or activities;
- extend beyond reasonable courtesy (hospitality); and/or
- are bonuses for agency purchases that will benefit the receiver personally.

If you are offered two or more gifts of appreciation or gratitude within a 12-month period, regardless of the value of the gifts or whether or not they were provided from the one company or individual source, and regardless of whether any have been accepted or declined, they will be regarded as a cumulative gift that will need to be declared in writing.

If you are directly involved in procurement (for example, as a member of a procurement team or Tender Evaluation Panel, or engaged in low-end purchasing), you are prohibited from accepting any gift or benefit from a supplier or potential supplier of goods or services to any transport agency or yourself.

You must report attempts of bribery, and the offer and acceptance of certain gifts and benefits in accordance with the Transport Conflicts of Interest Policy – Personal Interests, Secondary Employment, Gifts and Benefits. You are also responsible for ensuring relevant gifts and benefits, including those that are declined, are declared in accordance with your agency procedures so they can be recorded on the agency's Gifts and Benefits Register.

8. Secondary employment

When considering secondary employment, you must assess whether it may adversely affect the performance of your transport agency duties and responsibilities, or give rise to a conflict of interest. This applies regardless of whether you are working full time, part time or on a temporary basis. Staff involvement in unpaid Union activities or Union activities for which an honorarium is paid is not considered secondary employment.

You must obtain written approval from a delegated officer within your agency before engaging in any form of secondary employment outside of your transport role. This applies to new staff members who, upon joining a transport agency, have outside employment they wish to continue.

If approval is obtained, you must ensure that:

- the secondary employment is performed wholly on your own time;
- you present for work fit for duty and your secondary employment must not result in a breach of any relevant regulatory, agency or safe working requirements with regard to work times and rest periods;
- there is no actual or perceived conflict of interest between your duties with the transport agency and your secondary employment;
- there is no adverse impact on the performance of duties with your agency;
- the secondary employment does not involve the use of Transport agencies intellectual property, confidential information or resources. This excludes emergency services work;
- transport equipment is not used in your work for another employer or for your own business. This does not include reasonable use of equipment for Union delegates for appropriate industrial activity;
- your transport agency contact details (such as telephone number and email address) are not provided as a contact point for private business or practice; and
- you promptly notify your manager if there is a change or proposed change in the circumstances of approved secondary employment.

You must obtain written approval from a delegated officer within your agency before engaging in any form of secondary employment outside of your transport role.

9. Workplace health and safety

We prioritise safety, and are committed to providing a safe workplace and safe culture for our staff, customers, suppliers and visitors in accordance with the Work Health and Safety Act 2011 (NSW), Rail Safety (Adoption of National Law) Act 2012 (NSW), Rail Safety National Law (NSW), Passenger Transport Act 1990 (NSW) and the Marine Safety Act 1998 (NSW). You must be familiar with and, as far as reasonably able, adhere to your agency's safety policies, procedures and guidelines which provide additional information on your obligations under relevant legislation.

You should consider safety in everything you do. We all play a part in making sure that, as far as reasonably practicable, our work environment is safe and free from hazards. This includes ensuring our customers experience safe, clean and reliable passenger services, working safely and preventing circumstances that may endanger our colleagues.

Without limiting the application of relevant health and safety legislation, your agency must ensure, so far as is reasonably practicable, your health and safety and that the health and safety of other persons is not put at risk from the agency's work.

As a staff member, you are required to:

- take reasonable care of your own health and safety;
- take reasonable care that your acts or omissions do not adversely affect the health and safety of other persons;
- comply, so far as you are reasonably able, with any reasonable safety instruction; and
- co-operate with any reasonable agency policy or procedure relating to health or safety at the workplace that has been notified to you.



10. Drugs and alcohol

You are responsible for complying with your agency's drug and alcohol policy and/or relevant legislation. This includes prescribed, over-the-counter and alternative medication which may negatively affect your ability to perform your duties, or pose a risk to your safety or that of others.

Returning a positive drug or alcohol test, or tampering with or refusing a test, may be an offence or contravene agency policies/procedures and may result in disciplinary action.

You should inform your manager where you have reason to suspect anyone working for a transport agency may be abusing or under the influence of drugs or alcohol.

You are encouraged to disclose if you have a drug or alcohol dependency, so appropriate action can be taken to provide relevant support and maintain a safe workplace.

Refer to your agency's drug and alcohol policy for disclosure advice.

No alcohol or prohibited drugs are permitted to be consumed on agency premises at any time.

You may only store alcohol in the workplace or sell alcohol to customers when required to do so as part of your official duties. For instance, NSW Trains staff members may be expected to sell alcohol as part of their duties.

No alcohol or prohibited drugs are permitted to be consumed on agency premises at any time.



11. Smoke-free workplace

Smoking is not permitted in any transport agency workplace.

You must not smoke:

- in an enclosed public place, which includes professional, trade, commercial and other business premises, trains, buses, trams, aeroplanes, taxis and hire cars, ferries and other vessels;
- within 4 metres of the pedestrian entrance or exit of any public building, building lobbies, offices, stairwells, elevators, toilets, meal rooms, lounge areas, training rooms or meeting rooms;
- in any area of a train station, including the platform, workshops, and covered areas of maintenance depots and sites;
- in any area pertaining to vessel operation, including wharves and dry docks;
- in bus depot workshops, or public transport stops or stations; or
- in any area of any transport vehicle, including buses, trains, vessels, cars and other road vehicles.



Smoking is not permitted in any transport agency workplace.

12. Bullying, harassment, discrimination and inappropriate workplace conduct

We have zero tolerance for bullying, harassment, discrimination and inappropriate workplace conduct. You must treat all colleagues, customers and members of the public fairly, with dignity and respect. The manner in which such behaviour will

be managed are set out in the Transport Prevention and Management of Bullying and Harassment Policy, Discrimination Free Workplace Policy and relevant agency procedures.

13. Child protection in the workplace

We all have a responsibility to act appropriately when dealing with children. Under the Ombudsman Act 1974 (NSW), a child is defined as a person under the age of 18, and so may include a customer or colleague. Appropriate conduct includes, but is not limited to:

- reasonable conduct for the purpose of management of a child; and
- using appropriate language to attract a child's attention for safety purposes.

You must report incidents or allegations of inappropriate conduct towards a child to your manager. All reports will be treated seriously and may be investigated and/or reported

to the NSW Ombudsman within 30 days of the agency being notified of the allegations. Reportable conduct may include, but is not limited to:

- assault, ill-treatment or neglect of a child;
- behaviour that causes psychological harm to a child; and/or
- any sexual offence or sexual misconduct committed against, with or in the presence of a child (including a child pornography offence or an offence involving child abuse material).

You must report incidents or allegations of inappropriate conduct towards a child to your manager.

14. Criminal conduct

If you are charged or convicted with any offence which may impact on your ability to undertake part or all of the inherent requirements of your role, you must immediately notify your manager.

If you are charged or convicted with a serious criminal offence, whether or not it is related to work, you must immediately notify your manager. You may be suspended from duty pending the outcome of disciplinary or legal proceedings. A serious criminal offence means an offence committed in New South

Wales that is punishable by imprisonment for six months or more or an offence committed elsewhere that, if it had been committed in New South Wales, would be an offence so punishable.

If there is sound evidence that you have committed a criminal offence at work or related to work, Transport may take disciplinary action against you as well as notifying the police or other relevant external authority.



If you are charged or convicted with a serious criminal offence, whether or not it is related to work, you must immediately notify your manager.

15. Corrupt conduct and public interest disclosures

Our customers expect us to perform our duties honestly and in the public interest. Corrupt behaviour that involves maladministration, and serious and substantial waste of public money will not be tolerated.

If you have reasonable grounds to suspect any unethical behaviour, dishonest or corrupt conduct, you must report it. A manager who receives a report that might qualify as a protected disclosure must advise and encourage the reporter to make a report directly to one of the delegated contacts, so that the reporter may be protected under the Public Interest Disclosures Act 1994 (PID Act).

The PID Act provides protections for staff making protected disclosures, including in relation to detrimental action and confidentiality. Detrimental action means action causing, comprising or involving any of the following:

- a. injury, damage or loss;
- b. intimidation or harassment;
- c. discrimination, disadvantage or adverse treatment in relation to employment;
- d. dismissal from, or prejudice in, employment; and/or
- e. disciplinary proceeding.

Under the PID Act, the identity of a person who has made a public interest disclosure is not to be disclosed unless:

- the person consents in writing or has voluntarily identified themselves;
- it is essential, having regard to the principles of natural justice; or
- disclosure of information identifying the person is necessary to investigate the matter effectively or it is otherwise in the public interest to do so.

Corrupt conduct, as defined in the Independent Commission Against Corruption Act 1988, is deliberate or intentional wrongdoing, not negligence or a mistake. It has to involve or affect a NSW public official or public sector organisation. It is illegal and may have serious consequences such as dismissal and/or imprisonment. Corrupt conduct in the course of your employment may include, but is not limited to:

- offering or accepting bribes, commissions or unauthorised payments;
- blackmail;
- criminal activity including, but not limited to, fraud or theft, comprising the abusive or fraudulent use of official material, finances or information;
- the dishonest use of your role for personal gain or the advantage of others; or where a member of the public influences, or tries to influence, you to use your role in a way that is dishonest, biased or breaches public trust;
- acting dishonestly or unfairly, or breaching public trust; and/or
- unauthorised disclosure of corporate information or material.

You must report if you know about or have reasonable grounds to suspect any unethical, dishonest or corrupt conduct.



Maladministration is defined in the Independent Commission Against Corruption Act 1988 as conduct that involves action or inaction of a serious nature that is:

- contrary to law;
- unreasonable, unjust, or oppressive or improperly discriminatory; or
- based wholly or partly on improper motives.

Reports of misconduct related to corruption, maladministration, serious and substantial waste and breaches of the Government Information (Public Access) Act 2009 (GIPA Act) (NSW) may be considered 'Public

Interest Disclosures' under the PID Act. You can make such reports in accordance with the relevant agency policies and procedures regarding public interest disclosures.

For a report to be considered a protected disclosure, it must meet all requirements under the PID Act. These include that:

- the person making the disclosure must be a public official; and
- the person making the disclosure honestly believes on reasonable grounds that the information shows or tends to show wrongdoing.

16. Protecting confidential information and privacy

You may handle or use confidential information in the course of your duties. Confidential information, in any form, must not be disclosed to any party without official approval, or as otherwise permitted by legislation or court order.

Protecting our information appropriately is good security practice and provides confidence in transport agencies.

Unauthorised disclosure may cause harm to individuals or give an individual or organisation an improper advantage. The integrity and credibility of Transport may also be damaged if the organisation appears unable to keep information secure.

Transport is committed to protecting personal and health information in line with the Privacy and Personal Information Protection Act 1998 (NSW) and the Health Records and Information Privacy Act 2002 (NSW). Staff who have access to personal information, including medical or disciplinary information, must only discuss such information with other staff who have a specified need to know or who are appropriately authorised to have access to that information.

Confidential information must be kept secure, and care must be used when taking it out of the workplace. You are responsible for any loss of confidential information from your possession, which includes leaving information unattended in public places or inadvertently sending official information to an incorrect recipient. Confidential information must not be read openly or discussed in public areas.

Managers must ensure their personnel, and any contractors, temporary staff or secondees working with them, are aware of their information security responsibilities and any associated procedures, guidelines and standards.

If you are unsure whether disclosure of information is authorised, seek advice from your manager.

Under the State Records Act 1998 (NSW), you are required to make and keep full and accurate records in respect of your official actions. You must do so in accordance with your agency's records management policy and procedures.

To promote open, accountable, fair and effective government, the GIPA Act 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 you create – including emails, working notebooks, draft documents and database entries – has the potential to be released to the wider public.

Being transparent, open, honest and accountable for decisions increases public confidence in the decision-making process of transport agencies and encourages greater trust. Transport is committed to ensuring customers have appropriate access to information in line with the objectives of the GIPA Act.

Confidential information must be kept secure, and care must be used when taking it out of the workplace.

17. Public comment

You have the right to make public comment and enter into public debate on political and social issues. Public comment includes, but is not limited to; public speaking engagements; comments on radio and television or in letters to newspapers; profiles or activities on social media (including posting, blogging, tweeting, uploading photographs, commenting, sharing, liking and re-tweeting); and/or expressing views in books and journals, and on notices, internet sites or any other medium where it is expected that the comments will spread to the community at large.

Whilst you have a right to make public comment, if doing so in a capacity that has not been authorised you must state that the opinions are your own and that you are making comment as an individual citizen or as a representative of another organisation. You should also do so without transport agency insignia, including on clothing.

You must not make any comment on behalf of Transport unless authorised to do so by a delegated officer. All media inquiries must be referred to the agency's media unit. Making public comment or releasing information must only occur in accordance with agency policies and procedures.

Whilst making public comment, you must not disclose issues of a confidential nature except for lawful or public interest purposes. You may disclose official information that would normally be publicly available, but should only disclose other official information or documents:

- where proper authority has been given;
- when required or authorised to do so by law; and
- when called to give evidence in court.

In these cases, comments made must be confined to factual information. Opinions on transport agencies and government policies or decisions must be avoided unless required by law.

You must not make any comment on behalf of Transport unless authorised to do so by a delegated officer.

18. NSW Government Lobbyist Code of Conduct

As staff members of a transport agency, you are considered 'government representatives' in the NSW Government Lobbyist Code of Conduct, and must adhere to the Code at all times. Transport will only engage with professional lobbyists if they are listed on the NSW Department of Premier and Cabinet (DPC) Register of Lobbyists.

A lobbyist is a person, body corporate, unincorporated association, partnership or firm whose business includes being contracted or engaged to represent the interests of a third party to a government representative. A lobbyist is not:

- an association or organisation constituted to represent the interests of its members;
- a religious or charitable organisation; or
- an entity or person whose business is a recognised technical or professional occupation which, as part of the services provided to third parties in the course of that occupation, represents the views of the third party who has engaged them.

If you are approached by a lobbyist, you are not permitted to engage with them in relation to official business unless they are on the DPC Register of Lobbyists and you have the delegated authority to do so. If you are satisfied that the lobbyist is registered and elect to meet with them, another transport representative must also be in attendance.

Staff involved in professional lobbying – that is, those contracted or engaged to represent the interests of a third party to a government representative – must abide by the NSW Government Lobbyist Code of Conduct available at

arp.nsw.gov.au/m2014-13-nsw-lobbyists-code-conduct

Transport will only engage with professional lobbyists if they are listed on the NSW Department of Premier and Cabinet (DPC) Register of Lobbyists.



19. Use of official resources

Official resources includes computers, laptops, telephones, mobile phones, faxes, photocopiers, email and the internet.

You are expected to be economical and considerate in the use and management of official resources. Minimal personal use of official resources, is permitted, provided the use does not interfere with the performance of your work and complies with relevant agency policies and procedures.

Reasonable access to and use of official resources by union delegates is permitted in accordance with relevant industrial instruments.

You are responsible and accountable for the security of any official property issued to you during the course of your duties.

You must take reasonable care of all equipment, including vehicles and vessels, so that they are safe and reliable for all staff members to use. Private use of fleet vehicles is not permitted except in an emergency, exceptional circumstances or when permitted in agency policy or industrial instruments. In such cases, you must notify your manager as soon as possible. Staff must be in a fit condition when driving fleet vehicles and have a current and appropriate class of licence. Fuel cards must only be used for the specific vehicle for which they are issued.

You are responsible and accountable for the security of any official property issued to you during the course of your duties.



20. Intellectual property

In the course of your duties, you may be authorised to use, or involved in the development of, transport agency intellectual property and confidential information. You must not use this for non-work related purposes including, but not limited to:

- private business activities; or
- in the course of secondary or subsequent employment.

This applies even if the relevant materials were originally created by you for a transport agency.

For further information please refer to the relevant transport agency's policy and/or procedure about intellectual property and confidential information.

Intellectual property (IP) rights include a range of legal rights that protect intellectual and creative output. The most common examples include:

- copyright;
- confidential information and trade secrets;
- trademarks, designs and circuit layout rights; and
- patents.

Intellectual property (IP) rights include a range of legal rights that protect intellectual and creative output.

Transport owns all intellectual property created by you in the course of your employment, including but not limited to any work:

- that is directly or indirectly related to your duties and responsibilities to Transport, regardless of whether or not that work is undertaken at a transport agency workplace or during normal working hours; and
- that involves you using any of the transport agency's information, resources or materials, regardless of whether or not that work is undertaken at a transport agency workplace or during normal working hours.

Intellectual property remains the property of the relevant transport agency unless there is an agreement in writing with an officer of agency with delegated authority to the contrary.



21. Breaches

You are required to read and understand, to the best of your ability, and undertake to abide by: the Transport Code of Conduct; the Code of Ethics and Conduct for NSW government sector employees; and agency policies and procedures.

You should report any concerns about a breach of this Code of Conduct or the Code of Ethics and Conduct for NSW government sector employees, that you believe to be genuine to your manager. If you are not comfortable reporting the breach to your manager, you should refer the matter to a more senior staff member. Such reports will be treated seriously and managed under the principles of procedural fairness and in accordance with agency policies and procedures.

Transport is committed to protecting any person who raises concerns about a breach of the Code of Conduct or the Code of Ethics and Conduct for NSW government sector employees from victimisation or retaliation. Any attempt to take detrimental action against a person who raises a legitimate concern will be treated seriously and may be considered to be a breach of this Code of Conduct.

If you are found to be in breach of this Code of Conduct or the Code of Ethics and Conduct for NSW government sector employees, you may be subject to disciplinary action, up to and including termination of your employment or contract in accordance with agency policies and procedures.

Breaches of the law may also lead to prosecution.

Breaches of the law may also lead to prosecution.



22. Assistance

It is important that you understand and comply with the content of this Code of Conduct. For assistance, contact the relevant authority listed in the table below.

Internal contacts		
General enquiries	HR Advisory	TfNSWHR@transport.nsw.gov.au or 1800 618 445
Confidential counselling	Employee Assistance Program	TfNSW and RMS: 1300 360 364 Sydney Trains/NSW Trains: 1300 364 213 STA: 1800 337 068
Audit and risk or corruption prevention	TfNSW	Confidential Misconduct Reporting hotline: report.misconduct@transport.nsw.gov.au or 1800 302 750
	Sydney Trains, NSW Trains	Corruption Prevention Line CorruptionPrevention@transport.nsw.gov.au or 1800 629 826 Corruption and Misconduct Reporting Line (1800 814 813)
	RMS	Ethics hotline: 1800 043 642
	STA	corruptionprevention@sta.nsw.gov.au
Workplace health and safety	TfNSW	safety@transport.nsw.gov.au
	RMS	Ensafe helpdesk: 1300 131 469
	STA	safety@sta.nsw.gov.au
	Sydney Trains, NSW Trains	Safety Incident Hotline: 1800 772 779 Security Control Centre: 02 9379 4444
External contacts		
For matters of corruption involving NSW public officials	Independent Commission Against Corruption	1800 436 909
For matters relating to maladministration	NSW Ombudsman	02 9286 1000 for the Sydney metropolitan area or 1800 451 524 for regional NSW
For serious and substantial waste	Audit Office of NSW	mail@audit.nsw.gov.au or 02 9275 7100

transport.nsw.gov.au

T 02 8202 2702 | **F** 02 8202 3890

18 Lee Street Chippendale NSW 2008

PO Box K659 Haymarket NSW 1240

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Appendix C – Public Service Commission’s Appointment Standards: Boards and Committees in the NSW Public Sector guideline

Appointment Standards

Boards and Committees
in the NSW Public Sector

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Publication Title **Appointment Standards - Boards and Committees in the NSW Public Sector**

Status Active

Document Number P2013_001

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Mandatory for:

- ☒ NSW Public Service Departments
- ☒ NSW Public Service Other Agencies
- ☒ NSW Non-Public Service Divisions and Special Employment Divisions
- ☒ NSW State Owned Corporations

Category Governance

Sub Category Boards and Committees

Summary Appointment standards for chairs and members of boards and committees in the NSW public sector are issued by the Public Service Commissioner pursuant to section 3F(1)(g) of the *Public Sector Employment and Management Act 2002*.

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Author Public Service Commission

Unit Public Sector Values

Policy Custodian Executive Director, Public Sector Values

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Contact for enquiries enquiries-psc@psc.nsw.gov.au or (02) 9272 6000

These Standards may be varied, withdrawn or replaced at any time without notice

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Revision History

Version	Approval Date	Next Review Date	Amendment notes
1.0	20/June/2013	30/June/2014	Original release

1. Introduction

Boards and committees perform vital governance, management and advisory functions for many NSW Government entities. Their responsibilities cover fields as diverse as infrastructure, fisheries, health care, sentencing policy, cultural institutions, and public transport. Some boards and committees oversee entities with billions of dollars of revenue and/or assets. Others provide Ministers with expert advice on initiatives affecting millions of NSW citizens or an entire industry sector. Whatever their responsibilities, persons appointed to boards and committees must be suitably qualified, and reflect the diversity of the NSW community.

The Public Service Commissioner has a function, under section 3F(1)(g) of the *Public Sector Employment and Management Act 2002*:

to set standards, subject to any legislative requirements, for the selection of persons for appointment as members of boards or committees of public authorities (including Government Business Enterprises).

The Commissioner's *Appointment Standards* are largely principles-based, in order to take account of the great diversity in the composition and functions of boards and committees, and the entities to which they relate.

The *Appointment Standards* provide Ministers with guidance on determining the characteristics required of appointees, having regard to the nature of the board or committee to which the appointment is made. Above all, appointees must have the capacity to think critically, be objective, and to understand and manage conflicts of interest.

The *Appointment Standards* also outline the essential elements of an assessment process which is fair, transparent and documented.

All boards and committees, where appointments require Cabinet approval, are covered by the *Appointment Standards*. They should be read in conjunction with the Department of Premier and Cabinet's guidelines on submitting proposed appointments to Cabinet for approval, which are available on the Department's website.

2. General principles

As well as meeting any specific requirements in the enabling legislation, appointments to NSW Government boards and committees must demonstrate compliance with four general principles.

Merit

Appointments are to be made on demonstrated merit. In all cases, potential appointees should be considered against assessment criteria based on the skills, experience and knowledge required for the role.

Fairness

The process used to assess potential appointees must be transparent, without bias, and open to qualified persons interested in seeking appointment. The same criteria must be used to assess all persons being considered for appointment at that time.

Diversity

To the extent reasonable, appointments to Government boards and committees must reflect the diversity of the NSW community as a whole and be mindful of the entity's purpose and focus. Particular attention must be given to the representation of women. Opportunities to appoint Aboriginal persons, persons with a disability, young people, and persons from culturally and linguistically diverse backgrounds should also be actively explored.

Integrity

Only persons of sound reputation, who are prepared to discharge their responsibilities diligently and with the public interest only in mind, may be appointed. Service on a Government board or committee is, in itself, a significant honour and attracts the respect of the NSW community.

3. Lobbyists

Lobbyists and their employees (as defined in the *Lobbyist Code of Conduct*) are ineligible for appointment to any NSW Government board or committee that has functions which relate to any matter, on which the lobbyist has represented the interests of third parties in the last twelve months. For more information, see Premier's Memorandum 2011-13 *Lobbying of NSW Government Officials*.

4. Public sector employees

Most boards and committees are established to provide independent governance, management or advice to Government entities. Boards and committees are an important vehicle for members of the community to make a contribution to the good government of New South Wales. It is for this reason that public servants usually sit on boards in an ex-officio capacity only. That said, a public servant may seek appointment to a board or committee as a private citizen, subject to the processes which apply to any applicant.

In line with policy decisions against "double-dipping", public sector employees appointed to NSW government boards or committees do not receive fees. In limited circumstances, Ministers may seek an exemption from this policy. For more information on exemptions, see the Department of Premier and Cabinet boards and committees website.

5. Skills, experience and knowledge

The work of boards and committees is essential to good government in NSW. Diligence should be exercised to appoint chairs and members with the right skills, experience and knowledge for the functions they will perform. Critical thinking, proven judgment and objectivity are paramount. Appointing members with specialised skills - financial, legal, strategic, commercial or technical - is useful. However, these skills can always be sourced externally, if specialised advice is required for a specific matter.

Where there is enabling legislation, it may specify the expertise required of board/committee members. If the legislation is silent, or a board/committee is established administratively, it is important that the assessment criteria take account of the range of expertise required.

All appointees should be expected to have the ability to contribute to the effectiveness of the board/committee and listen attentively to others' opinions, analyse information, and make a constructive contribution to discussion.

Persons appointed as chairs must have demonstrated the capacity to lead others, summarise complex information and arguments, and, where appropriate, formulate advice and/or make decisions in a professional and effective manner.

Boards of Governance

Boards of governance bring independent judgment to decisions affecting an organisation. In the NSW public sector, they perform this role for State Owned Corporations, Public Trading Entities, health care institutions, educational institutions, and environmental, cultural and heritage bodies.

The functions of boards of governance include:

- setting strategic directions
- liaising with stakeholders
- ensuring compliance with statutory requirements
- managing risk
- monitoring organisational performance.

Persons appointed to boards of governance must have skills, experience and knowledge which can contribute to the board's collective performance of these functions.

Generally, appointees to boards of governance will have held board or senior management appointments in large public companies or key public sector agencies, and possess a proven record in the exercise of commensurate levels of judgment and accountability.

Advisory Boards

Advisory boards (and like entities) perform a great variety of functions, including advising Ministers on policies or programs, sometimes of the highest importance to the State; overseeing the management of various entities; reviewing regulatory arrangements and critical incidents; and providing a channel for industry and community consultation. The skills, experience and knowledge required of advisory board members will vary widely, depending upon the entity's responsibilities. Appointees to boards with the highest level of responsibility in this group will be expected to have significant professional expertise and judgment, sometimes comparable to that required of members of certain boards of governance.

Tribunals, Quasi-Judicial, Regulatory, Registration, Licensing and Accreditation Entities

In many cases, the qualifications, professional membership, experience and knowledge required for appointment to these entities will be specified in legislation. Additionally, potential appointees should be able to demonstrate judgment, objectivity, impartiality, and the capacity to understand and manage conflicts of interest.

6. Filling a vacancy – the process

Appointments to NSW Government boards and committees are often a matter of considerable public interest. For this reason, it is important that the process used to fill vacancies is transparent, without bias and fully documented. The community expects that appointees will not only be well qualified, but that the process used will be fair and appropriate.

The relevant decision-maker – usually a Minister – must give formal approval, before action to fill a board or committee vacancy can commence. The agency managing the process should provide the decision-maker with the following information, for their consideration:

- a brief description of the role and entity
- the requirements of any enabling legislation, in relation to appointments
- the proposed, or required, method for identifying potential candidates or nominees
- the proposed method for assessing the merit of potential candidates, including criteria
- any mandatory requirements which apply to potential candidates or nominees
- the proposed, or required, composition of any assessment panel.

7. Identifying potential candidates

The process used to identify potential candidates for appointment must be transparent, without bias, and open to qualified persons interested in seeking appointment. Generally, it is preferable that vacancies are advertised. However, there are exceptions to this principle where:

- the enabling legislation provides that the appointee must hold a specified office, or represent a specified group or organisation, or
- advertising the vacancy would be contrary to the public interest, due to urgency or other exigent circumstances.

Where a decision is taken not to advertise, a reason should be given.

Advertising

Advertising a vacancy in the general press may not be necessary where more direct channels exist. For example, the website of an agency, industry group or community organisation may be a better targeted way to reach suitably qualified candidates, where specialised expertise or knowledge is required. Similarly, professional or specialist journals and newsletters should be considered as an alternative to advertising in more general publications.

Any advertising must comply with guidelines for recruitment advertising in the NSW public sector.

Networks

Potential candidates for appointment may also be identified informally by current board or committee members, professional associations, industry groups or community organisations. In some cases, the enabling legislation will require that the vacancy be filled by the nominee of a specified group or organisation.

Executive Search

Sometimes it will be necessary to augment advertising and referrals with executive search. In rare cases – where the role is very specialised, demanding or sensitive – it may be appropriate to rely exclusively on executive search to produce a list of potential candidates. Executive search companies must be carefully chosen and briefed to ensure that the search is cost-effective.

NSW public sector procurement guidelines apply to the engagement of executive search companies.

Department of Premier and Cabinet Register

Persons with a diversity of backgrounds and experiences should have the opportunity to be considered for appointment to boards and committees. A diverse membership is more likely to produce better advice and decision making, and avoid the risk of “group think”.

The Department of Premier and Cabinet maintains a register of persons interested in being appointed as members. The register may be helpful in attracting a more diverse field of potential candidates. It should be noted that persons on the register have not been interviewed or formally assessed to determine their suitability for appointment.

Department of Premier and Cabinet Boards and Committees Website

The Department of Premier and Cabinet boards and committees website is available to agencies and Ministers’ offices to advertise vacancies. Persons on the Department of Premier and Cabinet register are notified of all vacancies advertised on the Department’s website.

Please email boards@dpc.nsw.gov.au for further information on searching the register and advertising on the boards and committees website.

8. Assessment criteria

Persons being considered for appointment, at the same time, should be assessed against the same criteria. These criteria should be developed prior to any action being taken to identify potential candidates.

In addition to the skills, knowledge and experience discussed in Section 4, the following questions should be considered when developing assessment criteria.

1. *Does the board/committee have decision making powers?*

A board/committee which makes decisions, especially where they are not reviewable, requires members with the ability to exercise sound judgment, remain objective, and to understand and manage conflicts of interest.

2. *Does the board/committee advise a Minister directly?*

A board/committee which advises a Minister directly may require of its members a greater level of expertise and judgment than a body which provides advice through, or to, an agency.

3. *Does the board/committee exercise management direction of any kind?*

Some boards/committees have management authority over significant expenditure, revenue, fixed assets and/or financial assets. Persons appointed to such bodies should have board or executive management experience in an organisation of the same or larger size.

4. *Does the board/committee provide a channel for industry and/or community consultation?*

Where a board/committee has the function of engaging with stakeholders, it will be important that appointees have well developed communication, liaison and negotiation skills.

9. Assessment panels

For most appointments, decision-makers will expect to receive the assessment of a properly constituted panel in a written report.

The composition of an assessment panel will depend on the nature of the board/committee. Sometimes the entity's enabling legislation will specify the process which must be followed, including the composition of the panel. Where an appointment is to a board/committee with significant responsibilities, it may be appropriate for the panel to be convened by a Minister, a Director General, or board chairman. In many cases, it will be sufficient for the panel to be convened by an appropriately qualified executive level officer.

It is important that the assessment panel include at least one person with relevant subject matter knowledge. Current board/committee members, community representatives and business representatives may also be invited to sit on the panel, as appropriate. The panel must comprise both men and women.

Whatever the proposed composition of the assessment panel, it must be approved by the decision-maker before the panel is convened.

An assessment panel can decide to conduct interviews or, where it is confident that it has sufficient information, make its assessment "on the papers" alone. In both cases, the panel must prepare a written report which sets out:

1. the assessment criteria
2. persons considered as potential appointees
3. persons shortlisted
4. the panel's assessment of each shortlisted candidate, framed with regard to the criteria and noting any referee comments
5. the panel's recommendations.

The assessment panel's report should then be submitted to the decision-maker for his/her consideration.

10. Direct advice from agencies

In some cases, a decision-maker may ask the relevant agency to provide direct advice on potential appointees, without convening an assessment panel. Where such advice is provided, it must be signed by the agency head.

11. Membership tenure

There are significant benefits in an entity's membership being refreshed, from time to time. 'Group think' is a real risk where a board/committee has seen little change in its membership over a number of years. To avoid this risk, members' tenure should not exceed ten years in total, unless otherwise provided in legislation, or where such limitation would be contrary to the public interest. When establishing a new board/committee, consideration should be given to varying terms of appointment for members, so they do not all expire on the same date. This arrangement provides an opportunity for renewal, but ensures there are always experienced members on the board/committee.

12. General advice to candidates for appointment

Many boards and committees have significant advisory or regulatory functions, manage large financial or fixed assets, or oversee projects which are vital for the State. At the earliest opportunity, candidates for appointment should be informed of the expectations regarding responsibilities, accountability and conduct.

Where available and appropriate, relevant codes of conduct should be provided to interested persons, perhaps as part of a general information package. Advice regarding remuneration and other terms and conditions should also be made available.

13. Further information

Further information on the Appointment Standards is available from the Boards and Committees Team in the Public Service Commission by emailing boardremuneration@psc.nsw.gov.au.

Appendix D – NSW Government Boards and Committees Guideline (Department of Premier and Cabinet, September 2015)



**Premier
& Cabinet**

NSW GOVERNMENT BOARDS AND COMMITTEES GUIDELINES

SEPTEMBER 2015

Version and amendment table

Date	Version	Amendments
July 2013	1.0	Original release
September 2015	2.0	Amendments to incorporate changes to the appointment process

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1 Introduction

Boards and committees form an important part of the public sector, acting under the direction of government, to provide advice on certain areas of interest, support consultation with the community or oversee service delivery.

The *NSW Government Boards and Committees Guidelines* (the Guidelines) have been developed based on best practice principles to:

- Assist department and agency staff in the establishment and operation of NSW Government boards, committees and similar entities
- Provide guidance about the appropriate government oversight and clear accountabilities between boards and committees and the NSW Government entity to which they are aligned
- Clarify the roles and responsibilities of members and other key participants involved in board and committee activities
- Improve the transparency, integrity and accountability of NSW Government boards and committees.

The Guidelines support the NSW Government's commitment to promote accountability and integrity in the public sector.

1.1 Scope

The Guidelines apply to NSW Government boards and committees with at least one member who is external to Government, including boards, committees, commissions and trusts, whether established under statute or administratively with governing and/or advisory functions.

The Guidelines are designed to be flexible to accommodate the diverse needs of individual boards and committees. They must be read in light of any relevant legislative provisions relating to a specific board or committee. Some types of boards and committees may also have other obligations to comply with.¹

Boards and committees that require Ministerial or Cabinet approval of member appointments should also consult the Public Service Commission's *Classification and Remuneration Framework for NSW Government Boards and Committees*.²

The Public Service Commission has also developed principles-based guidance on member appointments as outlined in *Appointment Standards: Boards and Committees in the NSW Public Sector*.³

¹ For example, entities which are defined as a "government business" (including certain boards and committees) should comply with relevant NSW Treasury guidelines and directives including the NSW Treasury Policy Paper 09-2 (TPP09-2) *Commercial Policy Framework: Guidelines for Boards of Government Businesses* available at: www.treasury.nsw.gov.au

² Public Service Commission, *Classification and Remuneration Framework for NSW Government Boards and Committees* available at: www.psc.nsw.gov.au

³ Public Service Commission, *Appointment Standards: Boards and Committees in the NSW Public Sector* available at: www.psc.nsw.gov.au

Members of boards and committees are also subject to other whole of government policies and guidelines that apply to the public sector generally, such as guidance regarding conflicts of interest and working with children checks.

2 Establishing a new board or committee

The inclusion of a board or committee within an entity's governance structure can be of benefit when entities have considerable powers, significant financial or operational risks, or require independence from other entities or office holders.

Factors to be considered when establishing a board or committee include:

- Whether a board or committee is required
- What type of board or committee is most appropriate – a governing board, advisory board or advisory committee
- Objectives, functions, powers and authority of the board or committee
- Process for developing and amending the charter document or terms of reference
- Number of members required and quorum
- Whether decisions are made by consensus, majority or special majority
- Roles and responsibilities of the members including the Chair
- Skills and expertise required of members
- Nomination and selection process for members and who appoints members
- Length of terms of appointment for members
- Whether members will be remunerated and if so, the remuneration arrangements which will apply⁴ and source of funds
- Whether the operation of the board or committee is time-limited
- Process for the termination of appointments (including prior to expiry)
- Frequency of board or committee meetings
- Reporting arrangements including who the board or committee will report to, the type of reporting required and the content and frequency of reports
- Review mechanisms for the board or committee and its members
- Secretariat support required and who will provide and fund it
- Arrangements for dissolving the board or committee

⁴ Please refer to the Public Service Commission's *Classification and Remuneration Framework for NSW Government Boards and Committees* available at: www.psc.nsw.gov.au

3 Key governance and policy documents

Boards and committees require a number of documents to support their effective governance and operation including a Charter, Code of Conduct (see section 7.1), Reports and Business Plan.

3.1. Charter

Each NSW Government board and committee should have and maintain a document outlining its objectives, any powers or authorities it has, the roles and responsibilities of key participants and other relevant factors. The process for amending the document, including who will be responsible for its approval, should also be outlined. These factors may be outlined in a Charter or the establishing legislation for the board or committee as appropriate.

Boards and committees subject to NSW Treasury's Commercial Policy Framework have additional requirements for developing and applying a Charter.⁵

Copies of the Charter must be kept by the board or committee and should be published in accordance with the NSW Government's Open Government policy.⁶

3.2. Reports

Boards and committees may have a range of reporting requirements to comply with. These requirements should be outlined in the establishing legislation and/or Charter document as appropriate. Periodic reports should identify:

- How the board or committee is delivering on its objectives including a summary of key activities undertaken during the period
- Outcomes achieved and key results for the period
- Meetings held during the period and attendance
- Current membership and any changes that have occurred during the period
- Risk management strategies
- Results of any reviews undertaken
- Ratification of the Charter document and any subsequent amendments.

Some boards and committees may have specific financial reporting requirements under legislation such as the *Annual Reports (Departments) Act 1985* or the *Annual Reports (Statutory Bodies) Act 1984*. Some boards and committees may also be subject to the Treasury Commercial Policy Framework or the Treasury Financial Management Framework.

⁵ Please refer to NSW Treasury TPP09-2 *Commercial Policy Framework: Guidelines for Boards of Government Businesses* available at: www.treasury.nsw.gov.au

⁶ Premier's Memorandum M2012-10 *Open Government* dated 22 August 2012 available at: www.dpc.nsw.gov.au

3.3. Reviews

Monitoring the operation of a board or committee ensures that informed decisions can be made about its ongoing relevance and role in supporting the Government to achieve its objectives.

Appropriate review processes, mechanisms and timeframes should be considered at the time of establishing a new board or committee and included in the establishing legislation and/or Charter. Formal reviews should be conducted at arm's length. The outcomes of any reviews should be included in the board or committee reports.

Formal reviews are generally undertaken every five years or as specified in the board or committee's establishing legislation or charter. In addition, a board or committee may wish to undertake more informal reviews on an annual basis.

A formal review of a board or committee and its members may consider whether:

- The board or committee is fulfilling its functions and objectives, its successes and the outcomes of its work in respect of its business plan
- Delivery through the board or committee is the most cost effective approach
- There is an ongoing need for the board or committee, or if its functions could be delivered through another existing board or committee, or other entity
- The board or committee has an appropriate number of members for the functions being performed
- Members have the appropriate mix of skills, experience, and diversity
- Individual members are fulfilling their responsibilities.

Factors that may be considered as part of a formal review or an internal member review include:

- Participation in and contribution to the objectives and workload
- Meeting attendance and engagement with other members
- Clear understanding of the roles and responsibilities of the board or committee, its members and other key participants involved with the board or committee (see section 4), its operating environment and the relationship with Ministers, statutory officers and other key stakeholders
- Any actual or potential conflicts of interest.

3.4. Business Plan

In addition to a Charter, it may be appropriate to have a Business Plan or Statement of Corporate or Business Intent. This is particularly relevant for commercial entities that are governed by a board. The purpose of a Business Plan or Statement of Corporate or Business Intent is to identify the strategies that will be used to achieve the objectives of the entity and the board or committee. This is usually the basis against which performance of both the entity and the board or committee is monitored.

3.5. Internal audit and risk management arrangements

Where relevant, boards and committees should comply with Treasury's requirements for internal audit and risk management, set out in Treasury Policy Paper 15-03 *Internal Audit and Risk Management Policy for the NSW Public Sector*.⁷ Some boards and committees may also be required to apply the audit and risk management requirements for Government Businesses outlined in Treasury Policy Paper 09-2 *Commercial Policy Framework: Guidelines for Boards of Government Businesses*.⁸

3.6. Indemnifying and insuring members

Appropriate insurance and, where appropriate, indemnity arrangements should be in place for board or committee members. Requests for indemnity will be considered on a case by case basis. Only in exceptional circumstances would an indemnity be granted in advance of the commencement of legal process.

Some board and committee members may already have insurance cover under current whole of government arrangements, such as self-insurance arrangements administered by the Treasury Managed Fund. For further information consult the *Treasury Managed Fund – Statement of Cover including the Scheme Structure*.⁹

Additional whole of government arrangements apply, which may be varied from time to time via Ministerial Memoranda and Department of Premier and Cabinet Circulars.

Premier's Memorandum M1999-11 sets out the guidelines for the Provision of ex Gratia Legal Assistance for Ministers, Public Officials and Crown Employees.¹⁰ It emphasises that the assistance which may be provided is ex gratia, or discretionary, in nature and will not be provided as of right.

Members should be advised to seek independent legal advice on these matters.

3.7. Government Information (Public Access) Act 2009

The *Government Information (Public Access) Act 2009* (GIPA Act) contains a right to information system for NSW Government to make government information more readily available and improve openness and accountability.

The GIPA Act applies to all NSW government agencies, including boards and committees. Board and committee members should be appropriately briefed on their obligations under the GIPA Act.

⁷ NSW Treasury, *Policy Paper 15-03 (TPP15-03) Internal Audit and Risk Management Policy for the NSW Public Sector* available at: www.treasury.nsw.gov.au

⁸ NSW Treasury, *Policy Paper 09-2 (TPP09-2) Commercial Policy Framework: Guidelines for Boards of Government Businesses* available at: www.treasury.nsw.gov.au

⁹ *NSW Treasury Managed Fund – Statement of Cover including the Scheme Structure* available at: **Error! Hyperlink reference not valid.**

¹⁰ Premier's Memorandum M1999-11: *Provision of ex Gratia Legal Assistance for Ministers, Public Officials and Crown Employees* available at: www.dpc.nsw.gov.au

Boards and committees are encouraged to proactively release decisions of their meetings in accordance with the NSW Government's Open Government policy¹¹ unless there is an overriding public interest against disclosure.

4 Roles and responsibilities of key participants

A variety of participants contribute to the success of each board and committee and a diverse mix of skills, experience and qualities are required to support effective performance.

A summary of the roles and responsibilities of key participants involved with boards and committees is discussed below.¹² These should be set out in the Charter document for each board and committee.

4.1. Ministers

The roles and responsibilities of Ministers will vary depending on the board or committee and may include:

- Establishing a board or committee and consulting with the Public Service Commissioner about its classification and remuneration as part of the establishment process
- Making recommendations to Cabinet about member appointments and terminations
- Directing a board or committee to provide advice on a particular issue
- Making decisions based on advice provided by a board or committee
- Receiving and reviewing reports such as annual reports and reviews.

A Minister may have a more arm's length relationship with a governing board to provide it with an appropriate level of independence. A Minister may have a similar relationship with an advisory board where the board is established to provide independent advice to the Minister. The nature of such relationships will be defined in the board's establishing legislation.

A Minister may have a higher degree of control over advisory bodies (for example a Ministerial Advisory Committee or Taskforce) which have been established administratively to support a Minister to carry out his or her functions.

4.2. Secretaries

The roles and responsibilities of a Secretary will vary depending on the board or committee. Secretaries are likely to have a more limited role in relation to governing and advisory boards but may play a role supporting the Minister.

¹¹Premier's Memorandum M2012-10 *Open Government* dated 22 August 2012 available at: www.dpc.nsw.gov.au

¹² For further information refer to the Audit Office of NSW Better Practice Guide *On board: Guide to better practice for public sector governing and advisory boards* available at: www.audit.nsw.gov.au

In relation to advisory committees that provide advice to a department or agency, Secretaries may have a role in:

- Establishing a board or committee and approving member appointments and terminations
- Requesting a board or committee to provide advice on a particular issue
- Receiving reports from the board or committee such as annual reports, performance reports, review reports etc.

Secretaries may also be involved in undertaking or supporting periodic reviews of boards and committees and supporting the winding up of boards and committees.

4.3. Chair

The Chair is responsible for leading the activities of the board or committee. A Chair's responsibilities may include:

- Ensuring that the board or committee performs its functions, acting within any relevant statutory powers, legal obligations and complying with policies relevant to the entity (including whole of government policies)
- Facilitating the conduct of meetings to allow frank and open discussion
- Ensuring individual members make an effective contribution
- Developing the capability of the board or committee and its members
- Facilitating the flow of information to members and stakeholders
- Liaising with the relevant Ministers, Secretaries and Chief Executives
- Reviewing the performance and contribution of members
- Ensuring that appropriate secretariat support is provided
- In some circumstances, providing input into the nomination, selection and recruitment process for new members.

4.4. Members

The roles and responsibilities of board and committee members include:

- Supporting the board or committee to perform its functions
- Attending meetings and participating in decision making processes
- Undertaking consultation or research to support and promote discussion of the agenda items.

Members of governing boards should endeavour to reach consensus decisions. Members may express dissenting views and have these minuted, but in the best interests of the board they should defer to the final decision made.

Members of advisory committees who are appointed to represent the views of an organisation may or may not agree with the decisions of the board or committee and may seek to have their views minuted. In these situations, it may also be appropriate for members to continue to hold these views publicly.

4.5. Chief Executive

A Chief Executive, or similar position responsible for the day-to-day management of an entity, may assist the Chair in his or her role by:

- Contributing to the preparation of meeting papers for the board or committee and providing information to support discussions and decisions (where relevant and appropriate)
- Providing information on the entity's corporate, strategic and business plans to members
- Reporting on the entity's compliance with statutory requirements.

For entities with governing boards, the Chief Executive may also hold a position on the board itself.

4.6. Secretariat support

Quality secretariat support is required to support the effective operation of a board or committee. Key secretariat responsibilities may include:

- Working with the Chair to develop agendas, manage meeting papers and prepare a range of documents to support the operation of the board or committee
- Circulating papers in advance of meetings
- Taking minutes of the meeting including decisions, discussion and any dissenting views where appropriate
- Organising meeting facilities and other meeting logistics
- Liaising with members
- Liaising with other government agencies including central agencies to provide information to enable oversight of boards or committees across the sector.

5 Process for appointment of members

A strong appointment process supports the effectiveness and independence of NSW Government boards and committees.

Ministers and government agencies are required to:

- apply the Public Service Commissioner's Appointment Standards and document the appointment process that has been followed for each appointment,
- ensure appropriate probity checks are conducted on the recommended candidate prior to approval,
- seek Cabinet approval of appointments listed in 5.1 below, and
- advise the Department of Premier and Cabinet of all appointments directly approved by a Minister.

These requirements apply to all Ministerial appointments and reappointments to NSW Government boards and committees, including boards of Government Business Enterprises and State Owned Corporations, and to paid and unpaid, and full and part-time positions on these bodies.

Where a board or committee is established under legislation (including under the *Corporations Act 2001*) any appointment processes specified in the legislation should also be followed.

For a new board or committee, where appointments require Ministerial or Cabinet approval, the appointment process should not start until the Public Service Commissioner provides a classification and remuneration recommendation under the Classification and Remuneration Framework.

Cabinet has agreed that all Ministerial appointments to NSW Government boards and committees are required to follow the Public Service Commissioner's principles-based guidance *Appointment Standards – Boards and Committees in the NSW Public Sector*¹³ (Appointment Standards).

The Appointment Standards address a range of issues for consideration including:

- Skills, experience and knowledge required of members
- The process for filling a member vacancy
- Identification of potential candidates
- Criteria for assessing potential candidates
- Assessment panels
- Membership tenure
- General advice for candidates for appointment.

5.1 Cabinet consideration of appointments

From 1 October 2015, Cabinet will approve Ministerial appointments, and reappointments to:

- NSW Government boards and committees classified as Group A, Group B, and at levels 3 and above in Groups C, D, and E in the Public Service Commission's *Classification and Remuneration Framework for NSW Government Boards and Committees*¹⁴ (Classification and Remuneration Framework),
- Category 1 Reserve Trusts,
- An appointment that is required by law to be made by the Governor,
- Any NSW Government board or committee position not in the above categories that is remunerated at greater than \$10,000 per annum,

¹³ Public Service Commission, *Appointment Standards: Boards and Committees in the NSW Public Sector* available at: www.psc.nsw.gov.au

¹⁴ Public Service Commission, *Classification and Remuneration Framework for NSW Government Boards and Committees* available at: www.psc.nsw.gov.au

- Acting positions in the above categories of 12 months or longer,
- A new board or committee where the Public Service Commissioner's classification and remuneration recommendation has been received and inaugural appointments are being made, and
- Any other appointment to a NSW Government board or committee which the Premier or Minister considers warrants Cabinet consideration, with the Premier's approval.

Ministers may directly approve all other NSW Government board and committee appointments.

The following information should be prepared for all appointments. Where Cabinet approval is required an additional Cabinet Submission is not necessary to support Cabinet's consideration of board and committee appointments.

5.1.1 Appointment Form

Information on recommended candidates is captured on the [Appointment Form](#) (Appendix 1).

The Appointment Form includes the following:

- details about the board or committee, including classification under the Classification and Remuneration Framework
- details about the appointment, including position and period of appointment including dates
- details about the candidate, including relevant qualifications and expertise, criteria for and conditions of appointment or reappointment, whether they are a public servant or on the Lobbyist Register, and who is nominating the recommended candidate
- information on the current composition of the board or committee.

5.1.2 Statistical Nomination Form

To monitor the diversity of board and committee members, the [Statistical Nomination Form](#) (Appendix 2) captures information about:

- The candidate's gender
- Whether the candidate is from a culturally or linguistically diverse background
- Whether the candidate is Aboriginal or Torres Strait Islander
- Whether the candidate has a disability
- Whether the candidate is a young person (under 25 years of age).

5.1.3 Appointment Process Information Form

To support a robust and transparent process, information is required to be provided on the appointment process that has been followed for each appointment. This is

collected in the [Appointment Information Process Form](#) (Appendix 3) and includes the following:

- Whether a selection panel was convened
- How/if the vacancy was advertised
- How/if diversity of board composition has been considered
- Whether reference and/or relevant probity checks have been carried out.

5.2 Deadlines for Cabinet submissions

The deadline for receipt of appointments for submission is **nine working days** prior to the Cabinet meeting where the appointment will be considered.

Where appointments are to commence during December and January papers must be submitted earlier than normal, as there is usually a period of several weeks from mid-December when Cabinet may not meet.

5.3 After Cabinet approval

Once Cabinet has made a decision on the proposed appointment, the Ministerial and Correspondence Services Branch in the Department of Premier and Cabinet will provide written advice of the decision to the Minister. Where an appointment requires Executive Council approval and an Executive Council Minute has been provided with the appointment form, Cabinet Secretariat will take the necessary steps to list it on the Executive Council agenda.

If an appointment is deferred by Cabinet it is the responsibility of the Minister to correct any issues and resubmit the appointment. Deferred appointments are not automatically relisted. If an appointment is not approved or it is deferred it cannot proceed to an Executive Council meeting.

5.4 Executive Council and appointments

An [Executive Council Minute](#) (Appendix 4) should be completed for appointments that require the Governor's approval, including:

- An explanatory note
- Appointment form identifying the board or committee, name of appointee, position title, remuneration, period of appointment and commencement date
- A brief resume for each appointee.

As a general principle, it is unacceptable for appointments which have a retrospective effect to be submitted to the Executive Council. It is recognised that on occasion exceptional circumstances will arise. In these instances, Ministers are to include in the explanatory note reasons for the retrospective appointment and ensure measures have been put in place to prevent a recurrence.

Where a retrospective appointment is being put forward, two separate Executive Council Minutes need to be submitted:

- Minute dealing with the retrospective period of the appointment
- Minute covering the period from the Executive Council meeting at which the appointment is approved to the end of the appointment term.

5.5 Direct appointments by Ministers

Unless indicated in 5.1, Ministers can directly approve the appointment of a member to a NSW Government board or committee for which they have responsibility.

Ministers are required to ensure that the appointment process follows the Public Service Commission's *Appointment Standards*. Following approval of an appointment, the Minister is responsible for ensuring that the Appointment Form (described in 5.1.1) and the Appointment Process Information Form (described in 5.1.3) are provided to the Department of Premier and Cabinet, prior to the commencement of the appointment term.

This information should be emailed to: boards@dpc.gov.nsw.au.

5.6 Appointments by departments and agencies

Board and committee appointments which do not require Ministerial or Cabinet approval will still require some level of approval by the department or agency. A submission should be prepared for the approver's consideration (e.g. Secretary or other appropriate approver) which covers the same key points required for Cabinet or a Minister's approval.

5.7 Appointment letter

Once an appointment has been approved, the new member should be advised in writing by the Minister or relevant agency and provided with a copy of the board or committee's code of conduct and induction pack. Members should sign and return a copy of the letter, code of conduct and completed pecuniary interest declaration for inclusion in the board or committee's records.

5.8 Expiry, reappointment and termination of appointments

Members may leave a board or committee for a variety of reasons including where the member's term has expired, the member has resigned or the member has been asked to resign.

5.8.1 Expiry

Board and committee members' terms are for a fixed period. Terms should be monitored to ensure that upcoming vacancies can be filled upon expiry.

5.8.2 Member reappointments

As good practice, members should not serve more than two consecutive terms on a board or committee, unless otherwise stipulated in legislation or where such limitation would be contrary to the public interest.¹⁵

Member reappointments require a submission to be prepared for Cabinet or the appropriate approvers' consideration as per the normal appointment process. For reappointments beyond two terms, the submission should include justification as to why this is recommended.

5.8.3 Terminations of appointments prior to expiry

In some exceptional cases, a member's appointment may need to be terminated prior to the expiry of their term, for example where:

- The member is no longer able to commit adequate time to his or her role
- There has been a disagreement with other members that cannot be resolved
- There is a conflict of interest that cannot be mitigated
- The member no longer meets the membership criteria, such as where the member:
 - was appointed as a representative of another entity and no longer represents that entity
 - is declared bankrupt
 - is convicted of a criminal offence
 - is unable to perform the duties of office due to illness or other commitments
 - has failed to attend an adequate number of meetings
 - breached the board or committee's code of conduct
 - breached the Lobbyist Code of Conduct (see section 5.8 below).

In these circumstances, the matter should be referred to the head of the relevant department or agency and/or the Minister.

Agencies are requested to advise the Ministerial and Correspondence Services Branch in the Department of Premier and Cabinet of terminated appointments by emailing boards@dpc.nsw.gov.au.

5.9 Certain Lobbyists ineligible for appointment

Lobbyists and the employees, contractors or persons otherwise engaged by the lobbyist to carry out lobbying activities are ineligible for appointment to any Government board or committee if the functions of the board or committee relate to any matter on which the lobbyist (or person engaged by the lobbyist) represents the

¹⁵ Public Service Commission, *Appointment Standards – Boards and Committees in the NSW Public Sector* available at: www.psc.nsw.gov.au

interests of third parties, or has represented the interests of third parties in the 12 months prior to the date of the proposed appointment.¹⁶

Lobbyists appointed to Government boards or committees must not represent the interests of a third party to a Government Representative in relation to any matter that relates to the functions of the board or committee. Lobbyists can be removed from the Register for breaches of this requirement.¹⁷

This policy applies to all NSW Government boards and committees, including the boards of State Owned Corporations.

5.10 Privacy and Personal Information Protection Act 1998

NSW public sector entities including boards and committees must observe the *Privacy and Personal Information Protection Act 1998* when collecting and handling information relating to members or potential candidates for membership.

Entities requesting personal information from members or potential candidates must make the person aware of the purposes for which the information is being collected, the intended recipients of the information, why it is necessary for the information to be collected and the right to access and correct the information.

Individuals should be informed that their personal information may be disclosed to other NSW Government departments and agencies, including the Department of Premier and Cabinet, and/or Ministers for the purposes of the appointment process.

The personal information should not be used for any purpose that was not originally disclosed to the person unless the person has consented to that use.

5.11 Working With Children Check

A Working With Children Check is a prerequisite for paid and unpaid child-related work and may be required for membership of some boards and committees. Please contact the Office of the Children's Guardian for more information.¹⁸

5.12 Members contesting elections

Board members are considered to be public sector employees when contesting elections. Members of boards and committees should be aware of arrangements for contesting elections. These are outlined in the joint Department of Premier and Cabinet Circular C2013-04 and Public Service Commission Circular 2013-03 *Contesting Elections*.¹⁹

¹⁶ Premier's Memorandum M2014-13 *NSW Lobbyists Code of Conduct* available at: www.dpc.nsw.gov.au

¹⁷ *NSW Lobbyists Code of Conduct*. For further information, and to view the current list of registered lobbyists, please visit the NSW Electoral Commission website at: www.lobbyists.elections.nsw.gov.au

¹⁸ More information is available at: www.kidsguardian.nsw.gov.au

¹⁹ Department of Premier and Cabinet Circular C2013-04 and Public Service Commission Circular PSCC2013-03 *Contesting Elections* available at: www.dpc.nsw.gov.au

6 Member induction and development

All board and committee members should be appropriately briefed on their role and accountabilities. This should include an induction at the commencement of their membership and ongoing member development opportunities.

6.1 Induction

The induction of new members is an important process that may be delivered by the board or committee and/or department or agency staff.

The induction should include an opportunity to meet with the Chair and other members, relevant training and an induction package. The induction package may include:

- Letter of appointment specifying the term of appointment, roles and responsibilities of the member and level of remuneration
- A copy of the establishing legislation, charter and code of conduct
- A brief history of the board or committee, information about current members and copies of minutes from meetings held over the last 12 months
- A schedule of board or committee meeting dates, attendance requirements, arrangements for notice of absence and upcoming meeting dates
- Relevant information about the public sector and the board or committee's role within the context of government (including an organisation chart)
- For governing boards, an overview of the governed entity, strategic and operational plans, financial statements and annual report
- Information about the board or committee's operating environment, including brief discussion of relevant trends, issues and stakeholder groups
- Copies of any delegations in place
- Arrangements for declaring interests including conflicts of interest
- Government policy statements affecting the board or committee.

7 Conduct of members

As public officials, members of boards and committees have a particular obligation to act in the public interest. All members of NSW Government boards and committees must:

- Comply with the Ethical Framework for the public sector set out in the *Government Sector Employment Act 2013*
- Comply with the board or committee's Code of Conduct
- Have a clear understanding of their public duty and legal responsibilities
- Act for a proper purpose and without exceeding their powers.

The primary source of information on the role and functions of the board or committee is the board or committee's Charter document and/or the legislation which establishes the board or committee and its functions.

Boards and committees must also 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.

All members of NSW Government boards and committees should consider the following factors when carrying out their duties.

7.1 Code of conduct

Each board and committee should have a Code of Conduct defining its values and the minimum standards of behaviour expected of its members. Codes of Conduct should be periodically reviewed and where necessary amended to reflect any changes in circumstances. The Code should be endorsed by the board or committee and signed by each member. For governing boards, consideration should be given to making sure the governed entity also has a Code of Conduct for its staff.

Further guidance may be obtained from the Public Service Commission's *Direction No 1 of 2015*²⁰ and *Behaving Ethically: A guide for NSW government sector employees*.²¹

7.1.1 Lobbying

The *NSW Government Lobbyist Code of Conduct* regulates contact between registered lobbyists and Government representatives and restricts the circumstances in which a lobbyist can be appointed to a NSW Government board or committee.

NSW Government boards and committees should consider incorporating some or all aspects of the Lobbyist Code as part of their own Code of Conduct as appropriate, particularly having regard to the extent of the involvement of members of the board or committee in Government decision-making and policy development.²²

7.2 Public expenditure

Members must ensure the efficient and responsible expenditure of public monies in accordance with legislation and Government policies and guidelines. Members of governing boards must comply with government financial, asset management and procurement requirements. Information on financial and asset management requirements is available from NSW Treasury. Information on procurement requirements is available from the Department of Finance, Services and Innovation.

²⁰ Public Service Commission, *Direction No 1 of 2015* available at: www.psc.nsw.gov.au

²¹ Public Service Commission, *Behaving Ethically: A guide for NSW government sector employees* available at: www.psc.nsw.gov.au

²² For further information, and to view the current list of registered lobbyists, please visit the NSW Electoral Commission website at: www.lobbyists.elections.nsw.gov.au

7.3 Ethical decision making

Decisions of the board or committee should be made in the light of applicable legislation, the code of conduct, Government policy and agency objectives. Decisions and outcomes must be in the public interest and be able to withstand public scrutiny. Conflicts of interest, including personal gain at public expense, must be avoided.

7.4 Conflicts of interest

Members of government boards and committees are appointed for their expertise and skill in particular areas. As a consequence of their expertise in these areas there may be the potential for conflicts of interest to arise between a member's duties to the board or committee, and his or her personal interests (or his or her duties towards others).

A conflict of interest exists when it is likely that a member could be influenced by a personal or business interest. If a conflict of interest leads to partial decision making, it may constitute corrupt conduct. A conflict of interest, whether real, potential or perceived, may arise for example from:

- 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.

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 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. Disclosure should be made at the beginning of a member's term and during the term as necessary. A register of such interests should be maintained by the board or committee and must also be reported to the Minister. A [Member's Pecuniary Interest Declaration Form](#) (Appendix 5) should be used to disclose relevant interests.

7.5 Mechanisms for Avoiding or Managing a Conflict of Interest

Where a conflict of interest has been identified, the matter should be considered by the board or committee. The board or committee should make a decision as to how to manage the conflict of interest and record reasons for that decision.

There are a number of ways of managing conflicts of interest including:

- Agreeing that the member will not to take part in any discussion of the board or committee relating to the interest or issue, not receive any relevant board or committee papers, be absent from the meeting room when any discussion or vote is taking place and not vote on the matter
- Divestment of the interest/issue that is creating the conflict, for example the sale of shares
- Severing the connection, for example resignation from a position in another organisation giving rise to the conflict
- Resignation of the member from the board or committee

The Code of Conduct, particularly the section on conflicts of interest, should address areas of concern or risk to the board or committee and include specific examples where possible. The establishing legislation may also include requirements for managing conflicts of interest. For information on dealing with conflicts of interest, please contact the Independent Commission Against Corruption (ICAC).

7.6 Use of public resources

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 and in accordance with any guidelines or rules about the use of those resources.

7.7 Use of official information

Members must not disclose official information or documents acquired as a consequence of their membership, other than as required by law, or when the member has been given proper authority to do so.

7.8 Gifts and benefits

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. Gifts or hospitality of nominal value may be accepted in limited circumstances where the member's position will not be compromised. A board or committee may establish a Register of Gifts to provide a high degree of transparency. For further information refer to ICAC.

7.9 Reporting suspected corrupt conduct

Corrupt conduct can be generally understood as the dishonest or partial exercise of public official functions. It may also involve the conduct of non-public officials which adversely affects the honest and impartial exercise of a public official's functions. Principal officers are required to report corrupt conduct or suspected corruption to ICAC.²³ A principal officer of a public authority is its most senior officer, usually the

²³ Section 11 of the *Independent Commission Against Corruption Act 1988*

Secretary, Chief Executive Officer, General Manager or Chairperson of a board or committee.

For conduct to be considered corrupt under the *Independent Commission Against Corruption Act 1988* definition it has to be serious enough to involve a criminal offence, a disciplinary offence, be grounds for dismissal or, in the case of Members of Parliament, involve a substantial breach of their Code of Conduct.

A report must be made to the ICAC as soon as you have a reasonable suspicion that corrupt conduct may have occurred or may be occurring. Matters must be reported to the ICAC regardless of any duty of secrecy or other restriction on disclosure. It is important that reports to the ICAC be made without advising the person(s) to whom the report relates and without publicity.

The *Public Interest Disclosures Act 1994* provides protection to public officials who voluntarily report suspected corrupt conduct. Board and committee members can make reports to the Chairperson of the Board or to the principal officer of the relevant public authority where that is available to the board or committee 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

8 Remuneration and other financial considerations

A number of remuneration and financial considerations may arise in respect of boards and committees. Agencies should seek independent professional advice for any specific matters arising in relation to particular boards and committees.

8.1 Classification and Remuneration Framework for NSW Government Boards and Committees

The Public Service Commission has developed a *Classification and Remuneration Framework for NSW Government Boards and Committees*²⁴ covering all boards and committees where appointments require Ministerial or Cabinet approval. The Remuneration Framework provides a consistent, equitable and fiscally responsible approach to determining fees payable to chairs and members.

For board and committee appointments which do not require Ministerial or Cabinet consideration, a recommendation from the Public Service Commissioner is not

²⁴ Premier's Memorandum M2012-18: *Classification and Remuneration Framework for NSW Government Boards and Committees* available at: www.dpc.nsw.gov.au. Guidelines to assist agencies implement the classification and remuneration framework are available at: www.psc.nsw.gov.au

required. Payment of any fees to members of these boards and committees should however be consistent with the Remuneration Framework.

8.2 Payments to individuals

NSW Government policy is that payment of any fees and/or allowances and reimbursement of expenses is to be made to the individual board or committee member.

There may be limited circumstances where the statutory instrument establishing a board or committee or its Charter specifies that a particular organisation is to be represented on the board or committee. In this instance, remuneration may be paid to that organisation instead of the individual member. Members who are required to remit the fees to their organisation should provide written confirmation from the organisation for Pay As You Go (PAYG) withholding purposes.

8.3 Payments to Public Sector Employees

In line with policy decisions against “double-dipping”, public sector employees appointed to NSW government boards or committees do not receive remuneration.

Ministers may seek an exemption from this policy from the Public Service Commissioner in circumstances where public sector employees serving on boards or committees:

- Have the approval of their employing agency to sit on the board or committee
- Are not acting as a representative of their employer or of the Government
- Work for the board or committee concerned will take place outside working hours or approved leave will be taken at the time and
- There is no conflict of interest arising from the combination of their role as a public sector employee and their role on the board or committee.

It should be noted that all employees of NSW public service Departments, statutory bodies outside the public service and State Owned Corporations are considered to be public sector employees for the purposes of this policy.

8.4 Taxation obligations

Agencies may have taxation obligations arising from the remuneration of members of boards and committees including:

- PAYG withholding²⁵
- Superannuation guarantee contributions²⁶
- Fringe Benefits Tax (FBT)²⁷

²⁵ For further guidance please refer to Australian Taxation Office *Taxation Ruling TR 2002/21 Income Tax: Pay As You Go (PAYG) Withholding from salary, wages, commissions, bonuses or allowances paid to office holders (TR 2002/21)* and *Taxation Ruling 2005/16: Income Tax: Pay as You Go – withholding from payments to employees (TR 2005/16)*

²⁶ Obligations may arise under either the *First State Superannuation Act 1992* (NSW) or the *Superannuation Guarantee (Administration) Act 1992* (Cth)

- Goods and Services Tax (GST)²⁸

Taxation obligations will depend on the functions of the board or committee, the manner in which the board or committee is established and the appointment and duties of the member. The starting point for this analysis should be the statutory instrument establishing the board or committee or its terms of reference or other constituting documents.

Agencies should seek independent professional advice for any specific taxation matters arising in relation to particular boards and committees. Further information is also available on the Australian Taxation Office website at www.ato.gov.au.

Members of boards and committees must seek their own professional advice on such matters.

8.5 Out of pocket expenses

Board and committee members may be reimbursed for legitimate expenses incurred while carrying out their duties such as travel, accommodation and meals. Board and committee members may, in some instances, also receive an allowance for the use of a private motor vehicle. Receipts must be provided for all amounts being claimed. Arrangements relating to the reimbursement of expenses and payment of motor vehicle allowances should be stipulated in the board or committee's establishing legislation and/or charter and must comply with relevant Department of Premier and Cabinet Memorandum and Circulars and Public Service Commission Directives.

8.5.1 Travel, accommodation and meals

Board and committee members are entitled to be reimbursed the amount of actual expenses incurred when required to travel on official business. Travel arrangements must comply with NSW Treasury and Finance Circular OFS-2014-07: *Official Travel within Australia and Overseas*.²⁹

Approved daily amounts are published in the NSW Treasury and Finance Circular OFS-2014-08 *Australian and Overseas Travelling Allowances for Official Travel for Senior Officials*.³⁰ The table below summarises the application of these amounts to members of boards and committees.

²⁷ For further guidance please refer to NSW Treasury TPP 13-02 *Fringe Benefits Tax Manual Policy and Guidelines Paper* dated September 2013 available at: www.treasury.nsw.gov.au

²⁸ Members who are independent contractors for tax purposes should provide the paying entity with a valid tax invoice so that the paying entity can claim any GST input tax credit in relation to the payment made to the member

²⁹ NSW Treasury and Finance Circular OFS-2014-07: *Official Travel within Australia and Overseas* available at: www.finance.nsw.gov.au

³⁰ NSW Treasury and Finance Circular OFS-2014-08: *Australian and Overseas Travelling Allowances for Official Travel for Senior Officials* available at: www.finance.nsw.gov.au

Remuneration	Domestic travel	Overseas travel
Classified as level 1 or 2 in any of the Remuneration Framework classification groups or receive a daily sitting fee	Reimbursed the cost of actual expenses incurred up to the maximum daily amounts in Category C in the ATO Table	Receive an allowance at the non-SES daily rate
Classified under one of the remaining levels in any of the Remuneration Framework classification groups	Reimbursed the cost of actual expenses incurred up to the maximum daily amounts in Category 'A' or 'B' in the ATO Table, subject to the portfolio Minister's approval	Receive an allowance at the SES rate or the Department Head Rate, subject to the portfolio Minister's approval

8.5.2 Use of private motor vehicles

The relevant agency head, or other appropriate approver, may authorise a board or committee member to use a private motor vehicle for work where:

- it will result in greater efficiency or involve the Department in less expense than if travel were undertaken by other means; or
- the board or committee member is unable to use other means of transport due to a disability.

The conditions for the payment of these allowances are the same as those under the *Crown Employees (Public Service Conditions of Employment) Reviewed Award 2009*.³¹

³¹ For current rates please refer to Treasury Circular NSWTC 14/30 *Review of Meal, Travelling and Other Allowances* available at: www.treasury.nsw.gov.au

9 Contacts for further information and advice

NSW Government boards and committees are supported by a number of agencies who can be contacted for further information and advice.

9.1 Department of Premier and Cabinet

The Ministerial and Correspondence Services Branch can provide additional assistance to departments and agencies about NSW Government boards and committees. Please contact Ministerial and Correspondence Services Branch at:

Department of Premier and Cabinet
Level 8
52 Martin Place
SYDNEY NSW 2000
Phone: (02) 9228 4199
Email: boards@dpc.nsw.gov.au
Fax: (02) 9228 4004
www.boards.dpc.nsw.gov.au

The Cabinet Secretariat Branch can provide assistance to departments and agencies regarding the Cabinet appointment process. Please contact Cabinet Secretariat Branch at:

Department of Premier and Cabinet
Level 14
52 Martin Place
SYDNEY NSW 2000
Phone: (02) 9228 4605
Email: peggy.phan@dpc.nsw.gov.au

9.2 Public Service Commission

For more information on the Remuneration Framework and Appointment Standards, please contact:

Public Service Commission
Level 14-17, Bligh House
4-6 Bligh Street
SYDNEY NSW 2000
Phone: (02) 9272 6006 or (02) 9228 6051
Email: boardremuneration@psc.nsw.gov.au
www.psc.nsw.gov.au

10 Appendices

Appendix 1: Appointment Form

All sections of this form, the Statistical Nomination form and Appointment Process Information form must be complete

1. Entity details

Entity Name	Portfolio
Cluster	Establishing Instrument
Meeting frequency	New entity
	☐ Yes ☐ No

2. Position details

Position type:	Ex Officio:	Position title: (e.g. Director, Trustee etc.)	Membership type:
☐ Chair ☐ Member	☐ Yes ☐ No		☐ Full-time ☐ Part-time
Does the appointment require:	Reason for appointment		
Cabinet consideration ☐ Yes ☐ No	☐ New Appointment – position was:		
Governor approval ☐ Yes ☐ No	☐ Reappointment – proposed appointee was first appointed in the year:		
Criteria for appointment to position (attach separate sheet if necessary)			

3. Appointee's Details

Title	First Name	Middle Name	Last Name	Post-nominals
Home Address	Gender	Date of Birth		
	☐ Male ☐ Female			
Email address	Telephone	Mobile		
Qualifications and expertise				

Is the appointee:

1. a public sector employee?	☐ No ☐ Yes –
2. on the Lobbyist Register?	☐ No ☐ Yes – refer to M2014-13 for eligibility
3. a member of other Government boards and committees?	☐ No ☐ Yes –

Term of appointment	Start date	Expiry date	Nominee of

4. Public Service Commission Classification and Remuneration Framework (refer to Premier's Memorandum M2012-18)

PSC approval date	Entity Group & Level	Remuneration range for the position type under the Framework
	Group: Level:	☐ Annual range: \$ to \$ ☐ Daily sitting fee of (or up to) \$

Recommended remuneration for the position (as supported by the PSC)

☐ Annual fee of \$	☐ Daily fee of \$	☐ No fee
---	--	---------------------------------

5. Appointee's Remuneration (to be approved by Minister/Cabinet)

Recommended remuneration for the appointee

☐ Annual fee of \$	☐ Daily sitting fee of \$	☐ Unpaid	☐ Other
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6. Existing Members and Term Expiry Dates (attach a separate sheet if necessary)

Name:	Term expiry:	Name:	Term expiry:
Name:	Term expiry:	Name:	Term expiry:
Name:	Term expiry:	Name:	Term expiry:

Appendix 2: Statistical Nomination Form

Department of Premier and Cabinet Nominee Statistical Information Form

This document is to accompany the appointment form and replaces the covering letter. Omission of any information may delay appointments to Cabinet.

- Please list all nominations being put forward for appointment/reappointment and provide statistical information.

NAME	PLEASE TICK
1.	☐ Male ☐ Female ☐ Culturally diverse, specify ancestry _____ ☐ Aboriginal ☐ Person with a disability ☐ Young person
2.	☐ Male ☐ Female ☐ Culturally diverse, specify ancestry _____ ☐ Aboriginal ☐ Person with a disability ☐ Young person
3.	☐ Male ☐ Female ☐ Culturally diverse, specify ancestry _____ ☐ Aboriginal ☐ Person with a disability ☐ Young person
4.	☐ Male ☐ Female ☐ Culturally diverse, specify ancestry _____ ☐ Aboriginal ☐ Person with a disability ☐ Young person
5.	☐ Male ☐ Female ☐ Culturally diverse, specify ancestry _____ ☐ Aboriginal ☐ Person with a disability ☐ Young person

- Name of Board: _____
- What is the current composition of the board or committee: M:F
- What is the proposed composition of the board or committee: M:F
Minister's Offices and Agencies are asked to consider women when putting forward nominations and encouraged to use the Department of Premier and Cabinet's register to find suitable candidates to fill vacancies and advertise on the web site www.boards.dpc.nsw.gov.au

To use the register or advertise please contact boards@dpc.nsw.gov.au or phone 9228 4199

- If there are any questions regarding these appointments Department of Premier and Cabinet should contact:

Name: _____ Phone _____

Email _____

- If your Board/Committee requires remuneration to be set, to claim an exemption for public servants for payment or any other remuneration claim, please contact Public Service Commission on 92726006.

Appendix 3: Appointment Information Process form

Use this form for an appointment to a NSW board or committee.

This information is not required for Statutory Officers, Judicial Officers or ex officio appointments.

Entity name

Candidate name

Merit and Fairness

1. Was the vacancy advertised?

☐ Yes

☐ No –

Advertisement followed guidelines for recruitment advertising in the NSW public sector.

2. Did an assessment panel/committee assess the candidate?

☐ Yes

☐ No –

An approved panel/committee was constituted which included both men and women, and at least one person with relevant subject matter knowledge.

Diversity

3. How was consideration given to the principle of diversity, including the representation of Aboriginal and Torres Strait Islander people, women, people from culturally and linguistically diverse backgrounds, people with a disability and young people?

Integrity

4. Was a referee check conducted on the candidate prior to their nomination?

☐ Yes

☐ No –

5. Were probity checks conducted on the candidate prior to their nomination?

☐ Yes –

☐ No –

The following probity checks were conducted, and did not preclude the candidate's suitability for the position:

- ☐ ASIC Banned and Disqualified search
- ☐ ASIC Enforceable Undertakings Register search
- ☐ Australian Financial Security Authority National Personal Insolvency Index search
- ☐ NSW Police Force National Police Check
- ☐ Office of the Children's Guardian Working with Children Check



Minute Paper for the Executive Council

Subject: - [Insert Subject – Palatino 14 italic]

[Insert Department – Palatino 14]

Document Number: [Insert # – Palatino 10]

*Approved by the
Executive Council,*

I RECOMMEND for the approval of
His Excellency the Governor, with the
advice of the Executive Council, that
[Insert Relevant Text - Palatino 14]

Clerk of the Council.

Minute No.

Date

Approved,

Governor

[Insert Minister's Name – Palatino 14]
**[Insert Minister's Portfolio – Palatino
14 Bold + Underline]**

*His Excellency the Governor
and The Executive Council*

Appendix 5: Member's Pecuniary Interest and Declaration Form

MEMBER'S PECUNIARY INTERESTS DECLARATION AND UNDERTAKING

[INSERT BOARD/COMMITTEE NAME]

I, [INSERT MEMBER'S NAME], give the following undertaking:

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 [Board/Committee], or give rise to any conflict with my responsibilities as a member of that [Board/Committee];
2. I am aware that I must exercise my responsibilities as a member of the [Board/Committee] in accordance with the Code of Conduct for the [Board/Committee].
3. I have the following interests* in corporations, partnerships, businesses or other organisations that may be relevant to the activities of the [Board/Committee]:

Sources of income:

.....
.....

Memberships of Boards and Committees:

.....
.....

Interests and positions in corporations, partnerships and/or businesses:

.....
.....

Interests and positions in trade unions, professional, business or community associations and organisations:

.....
.....

4. I will formally advise the [Board/Committee] and the [Name of Agency] of any significant change in circumstances that affects the accuracy of this declaration and undertaking.

Signature:

Date:

*A member's interests include those of an associate or close relative.

Appendix E – Endorsements and Approvals



30 January 2020

Transport for NSW

Attention to: **Megan Haberley**
Senior Manager Environment
Parramatta Light Rail
130 George St, Parramatta, NSW 2150

**Review of Design Review Panel Terms of Reference
Parramatta Light Rail – Stage 1
(PLR-TFNSW-PJT-AR-STD-000001 Rev 1)**

Pursuant to SSI8285 Condition of Approval A23 (d) ii), as the approved Environmental Representative, I confirm that I have reviewed the Design Review Panel Terms of Reference - Parramatta Light Rail – Stage 1 (PLR-TFNSW-PJT-AR-STD-000001 Rev 1), dated January 2020, prepared by Transport for New South Wales.

In my opinion the aforementioned document is consistent with the requirement of E90 to E96 of the Conditions of Approval for the Parramatta Light Rail (Stage 1) development.

Endorsement by the all members of the Design Review Panel for this revision of the Terms of Reference has been received.

Yours sincerely,

Australian Quality Assurance & Superintendence Pty Ltd (AQUAS)

Gillian Lehn

Environmental Representative
phone: +61 2 9956 9963 | fax: 02 9954 1951 | mobile: +61 438 355 346 |
email: gillian.lehn@aquas.com.au |

Filename : *AQ1148.05 PLR TFNSW DRP ToR endorsement 200130*