



Code of Conduct

August 2018

Planning Panels Code of Conduct
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Code of Conduct

Introduction

This Code of Conduct (Code) applies to all members of Regional Planning Panels and Sydney Planning Panels (planning panels), including:

- chairs,
- state appointed members,
- council nominees, and
- alternates acting for planning panel members.

The Code outlines the standards of conduct expected of panel members. It is the personal responsibility of each panel member to comply with this Code. The Code will be kept under review and will be subject to changes that may be required to reflect the experience of the implementation and operation of the panels.

Purpose of the Code

This Code sets out the minimum requirements of behaviour for planning panel members in carrying out their functions. The Code has been developed to assist planning panel members to:

- a) understand the standards of conduct that are expected while carrying out the functions of a planning panel member,
- b) act honestly, ethically and responsibly,
- c) exercise a reasonable degree of care and diligence, and
- d) act in a way that enhances public confidence in the integrity of the role of panels in the planning system.

As public officials, members of planning panels have a particular obligation to act in the public interest. All members of planning panels must:

- comply with the ethical framework for the public sector set out in the *Public Sector Employment and Management Act 2002* and the *Government Sector Employment Act 2013*,
- have a clear understanding of their public duty and legal responsibilities, and
- act for a proper purpose and without exceeding their powers.

Application of the Model Code of Conduct for Local Councils in NSW (Model Code)

Councils are required under the *Local Government Act 1993* to adopt a code of conduct. Such codes must incorporate the provisions of the 'Model Code' prescribed under the *Local Government (General) Regulation 2005*.

Council's adopted code applies to, amongst others, councillors, the general manager, council staff and members of council committees. The Model Code does not apply to planning panel members. However, parts of the Model Code have been used to assist in the development of this Code, along with other relevant codes of conduct applying to members of state boards and other statutory bodies.

It is recognised that councillors and council staff may undertake functions as a member of a planning panel separate to their ordinary functions as a councillor or member of council staff. When exercising functions as a panel member, councillors and council staff must ensure that they comply with this Code.

Council staff are not subject to this Code where they are responsible for:

- dealing with development matters under the *Environmental Planning and Assessment Act 1979* (EP&A Act),
- preparing assessment reports, and/or

- assisting a planning panel in the exercise of its functions.

The Model Code requires that council staff act lawfully, ethically and fairly. In relation to development decisions, council staff must ensure decisions are properly made and parties involved in the development process are dealt with fairly. People must not use their position to influence other council officials in the performance of their duties or to obtain a private benefit for themselves or for somebody else.

Code of Conduct

1. Key principles

Integrity

- 1.1 You must not place yourself under any financial or other obligation to any individual or organisation that might be reasonably thought to influence you in the exercise of your functions as a planning panel member.

Leadership

- 1.2 You have a duty to promote and support the key principles of this Code by demonstrating leadership and maintaining and strengthening the public's trust and confidence in planning panels and their role in the planning system.

Selflessness

- 1.3 You have a duty to make decisions in the public interest. You must not make a decision or take action that causes or results in you obtaining:
- a financial benefit (including avoiding a financial loss), or
 - other benefits for yourself, your family, friends or business interests.

Impartiality

- 1.4 You should make decisions on merit and in accordance with your statutory obligations when carrying out your functions as a planning panel member.

Accountability

- 1.5 You are accountable to the public for your decisions and actions and should consider issues on their merits, taking into account the views of others.

Openness

- 1.6 You have a duty to be as open as possible about your decisions and actions.

Honesty

- 1.7 You have a duty to act honestly and in good faith for the proper purpose.

Respect

- 1.8 You must treat others with respect at all times.

2. General conduct obligations

General conduct

- 2.1 You must not conduct yourself in carrying out your functions as a planning panel member in a manner that is likely to bring the planning panel into disrepute. Specifically, you must not act in a way that:
- a) contravenes the EP&A Act¹,
 - b) is improper or unethical,
 - c) is an abuse of power,
 - d) causes, comprises or involves intimidation, harassment or verbal abuse, or
 - e) causes, comprises or involves discrimination, disadvantage or adverse treatment.
- 2.2 You must act lawfully, honestly and exercise a reasonable degree of care and diligence in carrying out your functions as a planning panel member, having regard to the statutory obligations under the EP&A Act.

¹ A reference to the *Environmental Planning and Assessment Act 1979* (EP&A Act) includes a reference to the *Environmental Planning and Assessment Regulation 2000*.

Fairness and equity

- 2.3 You must consider issues consistently, promptly, conscientiously and fairly.
- 2.4 You must take all relevant facts known to you, or that you should be reasonably aware of, into consideration and have regard to the particular merits of each case. You must not take irrelevant matters or circumstances into consideration when making decisions.

Making decisions and taking actions

- 2.5 You must ensure that decisions and actions are reasonable, fair and for the proper purpose and that parties involved in the development process are dealt with fairly.
- 2.6 You must ensure that no action, statement or communication between yourself and others (such as applicants, objectors, councillors and members of the public) conveys any suggestion of willingness to provide improper concessions or preferential treatment, or suggests that you are not bringing an open mind to the decision.
- 2.7 You should attend all meetings of the planning panel as far as is possible, and allow the necessary time to prepare for meetings.

3. Conflicts of interests

General

- 3.1 A conflict of interests exists where there is an actual, potential, or reasonably perceived conflict between a panel member's private interests or other duties, and the impartial performance of their functions as a planning panel member.

An 'actual' conflict of interests is where there is a direct conflict between a member's duties and responsibilities and their private interests or other duties.

A 'potential' conflict of interests is where a panel member has a private interest or other duty that could conflict with their duties as a panel member in the future.

A 'reasonably perceived' conflict of interests is where a person could reasonably perceive that a panel member's private interests or other duties are likely to improperly influence the performance of their duties as a panel member, whether or not this is in fact the case.

- 3.2 Panel members must avoid or appropriately manage any conflicts of interests. The onus is on the individual panel member to identify a conflict of interests and take appropriate action.
- 3.3 Any conflicts of interests must be managed to uphold the probity of planning panel decision making. When considering whether or not a conflict of interests exists, panel members should consider how others would view their situation.
- 3.4 Private interests can be of two types: pecuniary or non-pecuniary.
- 3.5 A conflict of duties may also constitute a conflict of interest.

Management of conflicts

- 3.6 Where possible, the source of the conflict of interest should be removed. For example, by way of divestment of the interest / issue that is creating the conflict such as the sale of shares, or by severing the connection, for example resignation from a position in another organisation giving rise to the conflict, or ceasing to provide services.
- 3.7 The overriding principle for managing conflicts of interests is early and complete disclosure to the chair. The onus for this disclosure lies with individual planning panel members.
- 3.8 Where the panel chair considers that an actual, potential or reasonably perceived conflict of interests has not been disclosed or appropriately managed by a panel member, the conflict may be considered by the chair, and wider panel if considered necessary after hearing submissions from the panel member. The chair will make a decision as to how to manage the situation, which can include determining that the panel member should step aside from the panel for that matter, and record reasons for that decision. In making the decision, the chair is to have regard to upholding the reputation of the planning panel. If a panel member fails to step aside where requested their comments or vote is not to be considered in the determination of the matter.
- 3.9 When the conflict of interest arises as a result of an interest of the chair, the deputy chair is to assume the chair's leadership role in the management of the conflict process.

Pecuniary interests

- 3.10 A pecuniary interest is an interest that a person has in a matter because of a reasonable likelihood or expectation of appreciable financial gain or loss to the person².
- 3.11 A person does not have a pecuniary interest in a matter if the interest is so remote or insignificant that it could not reasonably be regarded as likely to influence any decision that person might make³.
- 3.12 A member has a pecuniary interest in a matter if the pecuniary interest is the interest of the member, the member's spouse or de facto partner or a relative⁴ of the member, or a partner or employer of the member, or a company or other body of which the member, or a nominee, partner or employer of the member, is a member.
- 3.13 The obligation on planning panel members with respect to pecuniary interests are set out in clause 27 of Schedule 2 of the EP&A Act (attached at **Appendix A**). All planning panel members must comply with the requirements set out in this provision. In particular:
- (a) If a member has a pecuniary interest in a matter being considered or about to be considered at a meeting of a planning panel and the interest appears to

² The term 'pecuniary interests' adopted by this Code is based on the definition of that term in s.442(1) of the *Local Government Act 1993*.

³ See s.442(2) *Local Government Act 1993* or if it is an interest referred to in s.448(a), (b), (e) or (g) of the *Local Government Act 1993*.

⁴ The term 'relative' adopted by this Code is the definition of that term under s 3 of the *Local Government Act 1993*.

raise a conflict with the proper performance of the member's duties in relation to the consideration of the matter, the member must, as soon as possible after the relevant facts have come to the member's attention, disclose the nature of the interest at or before a meeting of the planning panel.

- (b) After a member has disclosed the nature of an interest in any matter, the member must not, unless the Minister or the planning panel otherwise determines:
- be present during any deliberation of the panel with respect to the matter, or
 - take part in any decision of the panel with respect to the matter.

Non-pecuniary interests

- 3.14 A non-pecuniary interest is a private or personal interest that a person has that may, for example, be based on a family or personal relationship, membership of an association, society or trade union or involvement or interest in an activity which may include an interest of a financial nature⁵.
- 3.15 You should consider possible non-pecuniary interests that may arise while carrying out your duties as a planning panel member. Where possible, the source of potential conflict should be removed.
- 3.16 However, where this is not possible, if a member has a non-pecuniary interest in a matter and the interest appears to raise a conflict with the proper performance of the member's duties, the member must follow the procedures set out in clause 27 of schedule 2 of the EP&A Act in the same manner as if the interest was a pecuniary interest.

Conflicts of duties

- 3.17 A conflict of duties is a conflict between competing and incompatible public duties. For example, a conflict of duties arises where public officials hold more than one official position which requires them to address competing objectives or interests.
- 3.18 Panel members must ensure that any employment, business or other roles or activities they engage in will not:
- a) conflict with, impair or otherwise prevent the full exercise of their functions as a planning panel member,
 - b) involve using confidential information or resources obtained through their role as a planning panel member, or
 - c) discredit, bring into disrepute or disadvantage the reputation of the planning panel.
- 3.19 The following situations are considered to represent a conflict of duties for panel members (however this list is not exhaustive):
- a) members who have current or previous involvement in a specific project, or site, that is subject of a DA for regional development, or a planning proposal that is subsequently reviewed by a planning panel, for example as a consultant,

⁵ The term 'non-pecuniary interest' as adopted by this Code is based on the meaning of that term under the Local Government Model Code of Conduct.

- b) councillors members where they have deliberated or voted on, or otherwise considered, a matter, and/or been present when such consideration is undertaken, in their role at council and that matter, or a related matter, subsequently comes before the panel. Matters which are considered to be related to a panel matter include, but are not limited to:
 - a planning proposal for the site
 - a voluntary planning agreement for the development or planning proposal
 - a Masterplan for the development or planning proposal
 - a Plan of Management for the development
 - property matters related to the site, including leases, licences, purchase of land, disposal of land and management of lands
 - legal matters related to the site, development or proposalconsideration on whether to make a submission to the panel on a DA for regional development
- c) council staff members that have:
 - presented, or been present at a council meeting, that considers an assessment report for the planning panel, or a related matter as per section 3.19(b)
 - been directly or indirectly involved in the preparation of the assessment report for the planning panel
 - approved agenda items for reporting to council meetings, or have been a signatory to correspondence in relation to matters that may come before a panel.

3.20 Members of a particular planning panel will have a close working relationship with each other. Therefore, to avoid a perception of bias, a planning panel member must not represent an applicant, council or submitter at a planning panel meeting for a planning panel of which they are a permanent member or have been used regularly as an alternate member. A planning panel chair must not represent an applicant, council or submitter at any planning panel meeting.

3.21 A planning panel member may not undertake any employment, business or other roles or activities, in relation to a DA, planning proposal or development site for which the member has participated in making a determination on as a panel member, for at least two (2) years following the determination.

3.22 Councillors who have deliberated or voted on a matter in their role at council and that matter, or a related matter, subsequently comes before the panel, are to stand aside from their place on the panel, and allow council's nominated alternative member to take their place, to avoid any perceptions of bias or pre-judgement.

3.23 A councillor must stand aside from their place on the panel if suspended as a councillor for any reason (including under sections 438I, 438W 440C, 440I, 482 or 482A of the *Local Government Act 1993*), for the period of that suspension. This is because the roles and responsibilities of a panel member are so similar to that of a councillor that the continuation of the suspended councillor on the panel during the period of his or her suspension would adversely affect the reputation of the panel.

3.24 A councillor must stand aside from their place on the panel if dismissed as a councillor due to misconduct under section 440B, 482 or 482A of the *Local Government Act 1993*. This is because the roles and responsibilities of a panel

member are so similar to that of a councillor that the continuation of the dismissed councillor on the panel would adversely affect the reputation of the panel.

- 3.25 A conflict of duties may arise for council staff⁶ (including general managers and other senior staff) who are nominated to sit as a member of the planning panel. In selecting its members to a planning panel, council should have regard to the conflict of duties that may be created for a person nominated to the planning panel if they were in any way responsible for or involved in the assessment and recommendation of a matter to be determined by the planning panel, approving agenda items for reporting to council meetings, or being signatory to correspondence in relation to matters that may come before a panel.

Council employees (including general managers and other senior staff) who are nominated to sit as a member of the planning panel must ensure that appropriate measures are in place to manage potential conflicts and ensure they will be able to comply with the requirements of this Code.⁷

Political Donations

- 3.26 Planning panel members should be aware that political contributions or donations may give rise to a pecuniary or non-pecuniary interest. It is the responsibility of planning panel members to determine in each instance whether such an interest arises and whether the provisions of this Code and clause 27 of schedule 2 of the EP&A Act applies.
- 3.27 Where a planning panel member makes a disclosure under clause 27(1)(b) of schedule 2 to the EP&A Act with respect to an interest which arises because of a political donation, the planning panel is required to take this into consideration in determining under clause 27(6) whether it is appropriate for the member to be present during any deliberations or take part in any decision with respect to the matter.

4. Recording declarations of interest

- 4.1 Planning panel members are required to complete and sign a declaration of interest form in relation to each matter which is considered by the panel, either before, or at the commencement of, the panel meeting.
- 4.2 Where any pecuniary or non-pecuniary interest in a matter before the planning panel has been disclosed by a member, whether declared before or at the commencement of the panel meeting, this will be noted in the minutes of the relevant panel meeting, even when the member is not in attendance.

The minutes of all panel meetings will be made available on the planning panels' website.

- 4.3 As a member of a government board or committee, all planning panel members are also required to adhere to the Department of Premier and Cabinet's Guidelines '*Conduct Guidelines for Members of NSW Government Boards and Committees*' ('the DPC Guidelines').

In accordance with the DPC Guidelines, planning panel members are required to disclose interests which include positions and pecuniary interests in corporations,

⁶ A reference in this section to council 'staff' includes a reference to council contractors or consultants.

⁷ In particular Part 6 of the Code.

partnerships or other businesses that may be relevant to the activities of the planning panel.

These declarations will be required to be made by panel members on an annual basis. Taken together, schedule 2 of the EP&A Act and the requirements of the DPC Guidelines ensure that the pecuniary interest disclosure requirements for planning panel members are the same as those for local government councillors.

- 4.4 A register of declarations made by planning panel members, will be maintained by the Planning Panels Secretariat (secretariat), in accordance with the DPC Guidelines.

Upon request, the register of declarations will be available for inspection at the secretariat during normal office hours.

5. Personal benefit

Personal dealings with council

- 5.1 Planning panel members may have reason to have private dealings with a council that is within the region where they are a planning panel member (for example as a ratepayer). Planning panel members must not expect or request preferential treatment in relation to any matter in which they have a private interest because of their role as a planning panel member. Planning panel members must avoid any action that could lead members of the public to believe that they are seeking preferential treatment.

Gifts and benefits

- 5.2 Planning panel members must not:

- a) seek or accept a bribe or other improper inducement,
- b) seek gifts or benefits of any kind,
- c) accept any gift or benefit that may create a sense of obligation on your part or may be perceived to be intended or likely to influence you in carrying out your public duty,
- d) accept any gift or benefit of more than token value, or
- e) accept an offer of money, regardless of the amount.

- 5.3 A gift or benefit is any item, service, prize, hospitality or travel which has an intrinsic value and/or value to the recipient, a member of their family, relation, friend or associate.

- 5.4 Generally speaking token gifts and benefits include:

- a) free or subsidised meals, beverages or refreshments provided in conjunction with:
 - i. the discussion of matters before the planning panel,
 - ii. conferences, or
 - iii. social functions organised by groups.
- b) invitations to and attendance at local social, cultural and sporting events,
- c) gifts of single bottles of reasonably priced alcohol at end of year functions and public occasions, and
- d) ties, scarves, coasters, tie pins, diaries, chocolates or flowers.

- 5.5 Gifts and tokens that have more than a token value include, but are not limited to, tickets to major sporting events, corporate hospitality at a corporate facility at major sporting events, discounted products for personal use, the frequent use of facilities such as gyms, use of holiday homes, free or discounted travel.
- 5.6 As a general rule, any gift from an applicant, objector or associate of an applicant or objector in relation to a matter to be determined by a planning panel would fall into a category referred to in paragraph 5.2(c) and therefore should not be accepted.
- 5.7 The planning panels secretariat is to maintain a register of gifts for each planning panel to ensure the receipt and disposal of gifts is conducted in an open and transparent manner. When offered a gift or benefit, planning panel members must inform the secretariat of the following information for the purposes of making a recording on the register of gifts:
- the person who made the offer and the date on which the offer was made,
 - whether or not you accepted the gift/benefit,
 - whether the gift or benefit was allocated to another person or body, and
 - the value of the gift or benefit.

Planning panel members should also advise the planning panel chair of any such notification to the planning panels secretariat.

6. Relationship between planning panel members, council and council staff

Obligations of planning panel members

- 6.1 Section 2.27 of the EP&A Act provides that a planning panel is entitled:
- a) to have access to, and to make copies of and take extracts from records of the council relevant to the exercise of the planning panel's functions, and
 - b) to the use of staff and facilities of the council in order to exercise the planning panel's functions, and
 - c) to any assistance or action by the council for the purposes of exercising the planning panel's functions.

All such requests for assistance will be made by the planning panel chair to the general manager (or such other staff member nominated by the general manager).

- 6.2 Planning panel members have a responsibility to promote and support an effective and co-operative working relationship with the council, general manager and council staff and contractors.

Inappropriate interactions

- 6.3 Planning panel members must not engage in inappropriate interactions when exercising functions as a planning panel member.
- 6.4 In relation to council staff⁸, planning panel members must not:
- a) approach, make requests of, make enquiries or issue instructions to council staff other than through the planning panels secretariat and in accordance with this Code,

⁸ A reference in this clause to council 'staff' includes a reference to council contractors or consultants.

- b) be overbearing or threatening to council staff,
- c) make personal attacks on council staff in a public forum,
- d) direct or pressure council staff in the performance of their work or recommendations they make, or
- e) influence or attempt to influence staff in the preparation of assessment reports or other information to be submitted to the planning panel.

6.5 If a planning panel member is approached by any person about a development application that is to be determined by the planning panel, the planning panel member must not discuss the development.

6.6 The planning panels' Operational Procedures recognises that there may be some circumstances where it is appropriate for the planning panel to meet with applicants in private. Where this occurs, a record of the meeting, including attendees and matters discussed, will be made publicly available.

However, individual members of the planning panel must not hold private meetings, briefings, site visits or discussions in respect of the matter.

6.7 Where meetings, briefings or site visits occur you should not express any views that would indicate pre-judgement of the matter.

7. Relationship between planning panel members and others

7.1 Planning panel members must adhere to the Key Principles and General Conduct Obligations contained in this Code when dealing with others, including council staff, councillors, Department of Planning and Environment staff and the secretariat.

8. Protecting and using information

8.1 Information must be handled in accordance with section 10.5 of the EP&A Act.

8.2 In addition to the obligations under section 10.5 of the EP&A Act, planning members must:

- a) protect confidential information,
- b) only release confidential information if you have authority to do so,
- c) only use confidential information for the purpose it is intended to be used,
- d) not use confidential information gained through your position as a planning panel member for the purpose of securing a private benefit for yourself or for any other person,
- e) not use confidential information with the intention to cause harm or detriment to the planning panel or any other person or body, and
- f) not disclose any information discussed during a confidential session of a planning panel.

8.3 When dealing with personal information, planning panel members must comply with the *Privacy and Personal Information Protection Act 1998*.

9. Use of public resources

9.1 Planning panel members may be provided with equipment and other resources to perform planning panel functions. All such resources are to be used only for planning panel purposes and in accordance with any guidelines or rules about the use of those resources.

10. Public comment/media

- 10.1 The planning panel chair is responsible for speaking to the media on behalf of the planning panel, to allow its decisions to be properly represented and communicated. The chair can authorise another planning panel member to speak to the media on behalf of the planning panel at any time. Other non-authorised members can speak to the media about planning panel matters however, in doing so, they do not represent the views of the planning panel.

11. Lobbying

- 11.1 All planning panel members must comply with the *NSW Lobbyists Code of Conduct* published on the Department of Premier and Cabinet's website (www.dpc.nsw.gov.au). The Lobbyists Code regulates contact between registered lobbyists and Government representatives and *M2014-13- NSW Lobbyists Code of Conduct* restricts the circumstances in which a lobbyist can be appointed to a NSW Government board or committee.
- 11.2 Members of the planning panel have a responsibility to consider the Lobbyists Code and declare if they could potentially be considered a lobbyist. The application of the Lobbyists Code then takes precedence for further action and decisions and would be monitored by the chair.

12. Breaches of this Code

Reporting suspected breaches

- 12.1 Planning panel members are required to report suspected breaches of the Code to the planning panel chair or the Minister.
- 12.2 Any other person may report a suspected breach of the Code under the planning panels' Complaints Handling Policy.

Reporting possible corrupt conduct

- 12.3 Planning panel members are subject to the *Independent Commission Against Corruption Act 1988* and the *Ombudsman Act 1974*. Planning panel members are urged to report suspected corrupt conduct, as well as maladministration and serious and substantial waste of public resources.
- 12.4 The *Public Interest Disclosures Act 1994* provides protection to public officials who voluntarily report suspected corrupt conduct. Planning panel members can make reports concerning suspected corrupt conduct⁹ to the planning panel chair. The planning panel chair is under a duty to report to the Independent Commission Against Corruption (ICAC) any matter that they suspect on reasonable grounds concerns or may concern corrupt conduct¹⁰.
- 12.5 Planning panel members, or any other persons, can also report directly to the following investigative bodies:
- Corrupt conduct should be reported to the ICAC¹¹,
 - Maladministration¹² should be reported to the NSW Ombudsman, and

⁹ Corrupt conduct has the meaning given to that term under the *Independent Commission Against Corruption Act 1988* ('ICAC Act').

¹⁰ Section 11, ICAC Act.

¹¹ Section 10 of the ICAC Act allows any person to make a complaint to the Independent Commission Against Corruption about a matter that concerns or may concern corrupt conduct.

- Serious and substantial waste of public money should be reported to the NSW Auditor General.

Handling of suspected breaches

- 12.6 Suspected breaches of the Code will be handled in accordance with the planning panels' Complaints Handling Policy.
- 12.7 The planning panel chair may take such steps as s/he thinks appropriate to investigate and take action in respect of the alleged breach.
- 12.8 A person who is alleged to have breached the Code must be given:
- a) the full particulars of the alleged breach¹³,
 - b) an opportunity to respond to the allegations, and
 - c) the right to have a legal or other representative present during any meetings/discussions in respect of the matter.
- 12.9 Serious breaches of the Code may be referred to the Minister in respect of state members or the relevant council with respect to council nominees. Proven breaches of the Code may warrant removal from office.
- 12.10 The Minister may remove a planning panel state member from office at any time and without notice. The Minister must provide a written statement of the reasons for removing the member from office and make that statement publicly available.
- 12.11 The relevant council may remove its nominee/s from office at any time and without notice. The general manager of the applicable council must provide a written statement of the reasons for removing the member from office and make that statement publicly available. The council must also notify the planning panels secretariat.
- 12.12 The Minister may remove any member if the Independent Commission Against Corruption recommends that consideration be given to the removal of the member because of corrupt conduct by the member.

13. Acknowledgement of this Code

- 13.1 On appointment all planning panel members are required to acknowledge in writing that they will abide by the principles, obligations and requirements of this Code.

¹² Maladministration is defined in s 11(2) of the *Public Interest Disclosures Act 1994*

¹³ These particulars should not include the details of the person who made the allegation.

Appendix A

Extract from Schedule 2 of the *Environmental Planning and Assessment Act 1979*

27 Disclosure of pecuniary interests

- (1) If:
- (a) a member has a pecuniary interest in a matter being considered or about to be considered at a meeting of the planning body, and
 - (b) the interest appears to raise a conflict with the proper performance of the member's duties in relation to the consideration of the matter,
- the member must, as soon as possible after the relevant facts have come to the member's knowledge, disclose the nature of the interest at a meeting of the planning body.
- (2) A member has a pecuniary interest in a matter if the pecuniary interest is the interest of:
- (a) the member, or
 - (b) the member's spouse or de facto partner or a relative of the member, or a partner or employer of the member, or
 - (c) a company or other body of which the member, or a nominee, partner or employer of the member, is a member.
- (3) However, a member is not taken to have a pecuniary interest in a matter as referred to in subclause (2) (b) or (c):
- (a) if the member is unaware of the relevant pecuniary interest of the spouse, de facto partner, relative, partner, employer or company or other body, or
 - (b) just because the member is a member of, or is employed by, a council or a statutory body or is employed by the Crown, or
 - (c) just because the member is a member of, or a delegate of a council to, a company or other body that has a pecuniary interest in the matter, so long as the member has no beneficial interest in any shares of the company or body.
- (4) A disclosure by a member at a meeting of the regional panel that the member, or a spouse, de facto partner, relative, partner or employer of the member:
- (a) is a member, or is in the employment, of a specified company or other body, or
 - (b) is a partner, or is in the employment, of a specified person, or
 - (c) has some other specified interest relating to a specified company or other body or to a specified person,
- is a sufficient disclosure of the nature of the interest in any matter relating to that company or other body or to that person which may arise after the date of the disclosure and which is required to be disclosed under subclause (1).
- (5) Particulars of any disclosure made under this clause must be recorded by the regional panel in a book kept for the purpose and that book must be open at all reasonable hours to inspection by any person on payment of the fee determined by the planning body.
- (6) After a member has disclosed the nature of an interest in any matter, the member must not, unless the Minister or the planning body otherwise determines:
- (a) be present during any deliberation of the panel with respect to the matter, or
 - (b) take part in any decision of the panel with respect to the matter.

- (7) For the purposes of the making of a determination by the planning body under subclause (6), a member who has a direct or indirect pecuniary interest in a matter to which the disclosure relates must not:
- (a) be present during any deliberation of the panel for the purpose of making the determination, or
 - (b) take part in the making by the panel of the determination.
- (8) A contravention of this clause does not invalidate any decision of the planning body.
- (9) This clause extends to a council nominee of a Sydney district or regional planning panel, and the provisions of Part 2 (Duties of disclosure) of Chapter 14 of the *Local Government Act 1993* do not apply to any such nominee when exercising functions as a member of the panel.