



Assessment Panel Members – Code of Conduct

Introduction

The Minister has adopted a code of conduct to be observed by members of an assessment panel established under Schedule 3 of the *Planning, Development and Infrastructure Act 2016* (the Act).

This Code of Conduct sets out the standards of conduct and professionalism that are to be observed by all members of assessment panels under the Act and must be read in conjunction with the Act.

All members of assessment panels must carry out, and be seen to carry out, their functions with the highest ethical standards to maintain public confidence in the integrity of the planning and development system. The Code of Conduct is the key tool to ensure that all members of assessment panels act honestly and ethically with a high degree of accountability.

If a member of an assessment panel has any doubt in regard to any function they may perform under the Act, they should seek the advice of the panel's assessment manager or some other appropriate person.

While some members of an assessment panel may also be bound by other codes of conduct or professional standards issued by their respective professional associations, they have no legal status under the Act. If there is a conflict between a requirement in this code of conduct and any other professional code or standard, this code prevails for the purposes of the Act.

Code of conduct requirements

In acting as a member of an assessment panel, a member must comply with the following requirements.

General duties

1. A member of an assessment panel must, in performing, exercising or discharging a function, power or duty under the Act, act in accordance with the general duties as set out in section 15 of the Act.

Professionalism

2. A member of an assessment panel must at all times act in a manner which does not bring their profession or the public's perception of the industry into disrepute.
3. A member of an assessment panel must not exert undue influence, intimidate, bully and harass, or pressure any person while performing their duties.
4. A member of an assessment panel must not discriminate against any person or organisation in performing their duties.

Act in the public interest

5. A member of an assessment panel must act in a manner that promotes or protects the public interest.

Procedures

6. A member of an assessment panel must ensure that the procedures specified in the Act or prescribed in the *Planning Development and Infrastructure (General) Regulations 2017* are complied with.
7. A member of an assessment panel must comply with the panel procedures in relation to public comments and communication with the media.

Regard for honesty

8. A member of an assessment panel must act with integrity, good faith and equity.
9. An assessment panel member must not engage, whether by act or omission, in misleading or deceptive conduct relating to the performance of assessment panel work.
10. A member of an assessment panel must advise the assessment manager and the State Planning Commission immediately if the member:
 - a. is the subject of a formal investigation into, or has been found to have, breached any other code of conduct, ethical standards or similar, either in another State or Territory or through a professional body of which they are a member; and/or

- b. has been found guilty of a breach of any legislation related to planning, building or a development related matter.

Conflict of interest

11. An assessment panel member must take all reasonable steps to avoid direct or indirect conflicts of interest, either actual or perceived, between their panel member duties and their personal or business interests.
12. A member of an assessment panel who has a direct or indirect personal or pecuniary interest in a matter for which the panel is the relevant authority (other than an indirect interest that exists in common with a substantial class of persons) must:
 - a. as soon as he or she becomes aware of his or her interest, disclose the nature and extent of the interest to the presiding member and assessment manager; and
 - b. not take part in any hearings conducted by the panel; and
 - c. must be absent from the meeting when any deliberations are taking place or decision is being made.
13. A member of an assessment panel will be taken to have an interest in a matter for the purposes of item 12 if an associate of the member (within the meaning of section 3(7) of the Act) has an interest in the matter.
14. If an interest has been declared by a member of an assessment panel, the nature of the interest must be recorded in the minutes of the panel meeting.

Bias

15. A member of an assessment panel should always have regard to any affiliation, disposition or any material, pecuniary or other interest that would lead to a reasonable apprehension that they may be biased in carrying out any aspect of their role under the Act.

Making decisions and taking action

16. A member of an assessment panel must take all reasonable steps to obtain all relevant facts and information when making a decision on a matter before the panel.
17. A member of an assessment panel must ensure that the member's decisions and actions are reasonable, fair and appropriate to the circumstances, based on consideration of all relevant facts obtained, and supported by adequate documentation.
18. A member of an assessment panel must not approach or discuss with an applicant or representor any application where the panel is the relevant authority, or where it is likely to come before the panel at some future time, except during the course of a panel meeting.
19. Except where required as part of the assessment of a particular decision (such as a formal panel viewing of a site of a proposed development) an assessment panel member must not enter the site, even if invited by the land owner or a neighbouring property owner or any other person.

20. A member of an assessment panel must not:

- a. engage in consultation outside of the panel process with any party on a proposed development application that is likely to be heard by the panel; and/or
- b. give advice to an applicant or other third party on a development application outside of a panel meeting after the development application has been lodged; and/or
- c. speak at a public meeting for or against a proposal where the purpose of the meeting is to discuss either a proposed development or a development application, unless required by the Act; and/or
- d. express an opinion on a development application for which the panel is the relevant authority, or a proposed development that is likely to come before the panel in the future, outside of a panel meeting; and/or
- e. engage in any other act or omission which may give rise to a reasonable presumption that they have prejudged a development proposal or application for which the panel is the relevant authority.

Public comment

21. Only the presiding member (or another person determined by the panel) is permitted to speak publicly to the media and address the public on behalf of the panel. No other panel member may make comment to the media or the public in relation to any matter before the panel or any decision of the panel.

Proper exercise of power

22. A member of an assessment panel must not take advantage of the member's position, power or duties for the purpose of obtaining, either directly or indirectly, any preferential treatment or other improper advantage for the member or any other person.

Gifts and benefits

23. A member of an assessment panel must not seek or accept a gift or benefit that is intended to, is likely to, or could be perceived as likely to, cause them to act in an unfair or biased manner in the course of the member's duties.

24. A member of an assessment panel must take all reasonable steps to ensure that a person related to the member does not receive gifts or benefits that could appear to be an attempt to influence or secure or have the effect of influencing or securing a favour from the member of an assessment panel.

A person is related to a member of an assessment panel for the purpose of this provision if the person is a spouse, de facto partner, sibling, parent or child of the member of the assessment panel.

25. If a member of an assessment panel is offered or receives a gift or benefit they must disclose this to the assessment manager as soon as practical.

26. If a member of an assessment panel receives a gift or benefit that cannot be reasonably returned or refused, they must surrender the gift or benefit to the assessment manager to be dealt with in line with the organisation's gifts and benefits policy.

Annual disclosure of interests

27. A member of an assessment panel must ensure they formally report all personal or pecuniary interests that could reasonably be seen to constitute a conflict of interest upon appointment to the panel, and on an annual basis.

This disclosure must be made to the relevant official (as defined by the relevant legislation).

Protection and use of information

28. A member of an assessment panel must maintain the integrity and security of confidential information in their possession and must not use confidential information gained by virtue of the member's official position for the purpose of securing a private benefit for the member or any other person.
29. A member of an assessment panel must not disclose information acquired in the course of their professional work other than if consent of the relevant person has been granted or where there is a legal or professional duty to disclose such information.

Legislative framework

Under section 15 of the PDI Act, all members of assessment panels are subject to a statutory duty as described in the section as follows:

- (1) *It is expected that a person or body that—*
- (a) *seeks to obtain an authorisation under this Act; or*
 - (b) *performs, exercises or discharges a function, power or duty under this Act; or*
 - (c) *takes the benefit of this Act or is otherwise involved in a process provided by this Act, will—*
 - (d) *act in a cooperative and constructive way; and*
 - (e) *be honest and open in interacting with other entities under this Act; and*
 - (f) *be prepared to find reasonable solutions to issues that affect other interested parties or third parties.*
- (2) *Without limiting subsection (1), a person or body performing, exercising or discharging a function, power or duty under this Act must—*
- (a) *exercise professional care and diligence; and*
 - (b) *act honestly and in an impartial manner; and*
 - (c) *be responsible and accountable in its conduct; and*

- (d) comply with any code of conduct, service benchmark or other requirement that applies in relation to the person or body.*
- (3) The Minister may, after taking into account the advice of the Commission, establish and maintain service benchmarks for the purposes of this section.*
- (4) The principles and benchmarks under this section—*
 - (a) do not give rise to substantive rights or liabilities; but*
 - (b) may lead to action being taken on account of a breach of a code of conduct or professional standard that applies in relation to a relevant person or body.*