

Memorandum of Understanding

Between the

NSW National Parks and Wildlife Service
of Office of Environment and Heritage
Department of Premier and Cabinet

and

Regional Advisory Committees

2012 - 2017

Regional Advisory Committees provide an important link between the community and the NSW National Parks and Wildlife Service (NPWS) of the Office of Environment and Heritage.

Members are appointed from a cross section of the community by the Minister administering the *National Parks and Wildlife Act 1974* to provide advice on the protection, management, appreciation and enjoyment of parks and reserves gazetted under the Act. New South Wales currently has 14 Regional Advisory Committees and one Historic Site Advisory Committee constituted across the State.

This Memorandum of Understanding (MOU) sets out the respective roles and responsibilities of the NPWS and Regional Advisory Committees in working together towards the conservation of natural and cultural heritage in New South Wales.

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1 PURPOSE OF THIS MEMORANDUM OF UNDERSTANDING

This Memorandum of Understanding sets out the respective roles and responsibilities of Regional Advisory Committees and of National Parks and Wildlife Service (NPWS), Advisory Committee processes as set out in the *National Parks and Wildlife Act 1974* (the Act) and the objectives of Regional Advisory Committees operating across New South Wales.

Appendix 2 contains a copy of the relevant sections of the Act.

2 ROLE OF REGIONAL ADVISORY COMMITTEES

Regional Advisory Committees play an important role in the relationship between NPWS and the community.

Under the Act, a Regional Advisory Committee assists the National Parks and Wildlife Service in the region for which it is constituted by:

- Providing advice and make recommendations where appropriate to the Head, NPWS and the National Parks and Wildlife (NPW) Advisory Council on policies and plans for its administrative region.
- Providing advice and make recommendations where appropriate to the Head, NPWS and the NPW Advisory Council on activities carried out or proposed to be carried out within its region, including visitor facility and information needs.
- Providing advice on draft Plans of Management and advice to the NPW Advisory Council.
- Providing advice to the Head, NPWS on the implementation of plans of management in its region.
- Implementing advisory functions as conferred or imposed on it by the Minister.

In practice, Regional Advisory Committees advise Regional Managers under delegated authority. All actions of Regional Advisory Committees should be conducted through the Regional Manager. Regional Advisory Committees may also report to the Minister regarding Plans of Management through the National Parks & Wildlife Advisory Council.

Consultation with a Regional Advisory Committee is limited to the administrative region for which it was constituted. It does not include Marine Parks, lands reserved under Part 4A of the Act, or areas dedicated as Community Conservation Areas under the *Brigalow and Nandewar Community Conservation Area Act 2005* (NSW).

Regional Advisory Committees do have restrictions in terms of their activities and should keep their formal activities focused to on-park issues. Advice should be sought from the Regional Manager if the committee is uncertain if an issue being addressed is appropriate and relevant to the Regional Advisory Committee. It is not the role of Committees to make comments on independent developments off park.

3 APPOINTMENT OF REGIONAL ADVISORY COMMITTEES

Regional Advisory Committee members are appointed by the Minister administering the Act, as detailed under Sections 24 to 26 and Schedule 8 (Appendix 2) and approved by Cabinet.

A Regional Advisory Committee must comprise at least 12 and not more than 17 members. An eligibility list of additional suitable applicants may be formed from those applicants not successful in gaining initial appointment but who wish to remain available for appointment should a vacancy occur.

Upon the expiry of a term of service on a Regional Advisory Committee, members are eligible to apply for re-appointment for further terms.

3.1 Term of Appointment

Regional Advisory Committees are constituted for a term of four years. New applications from interested persons are sought prior to the conclusion of the current Regional Advisory Committee term.

3.2 Membership Composition

Regional Advisory Committee membership reflects a broad range of community perspectives in line with the requirements of the Act and government policy. The NSW Government actively promotes the participation of Aboriginal people, women, youth, and people from non-English speaking backgrounds on Advisory Committees.

As described in Schedule 8 of the Act a Regional Advisory Committee will consist of:

- at least 12, but not more than 17 members.
- at least two Aboriginal persons.
- a person jointly nominated by the Nature Conservation Council of NSW and the National Parks Association of NSW.
- others persons with qualifications, expertise and experience in areas such as local government, Aboriginal Cultural Heritage, conservation biology, wildlife management or related disciplines, rural or regional issues, agriculture issues, ecotourism or ecologically sustainable visitor use, environmental education or cultural heritage conservation.

4 RESIGNATION FROM OFFICE

To resign from office, a member must submit their signed resignation to the Minister administering the Act.

A member intending to resign should inform the Regional Advisory Committee Chairperson and Regional Manager as early as practicable.

5 FILLING VACANCIES

The Minister may from time to time appoint additional members to any Regional Advisory Committee in order to fill vacancies. Appointments may be made from the eligibility list or through advertisement or invitation.

As Regional Advisory Committee members are appointed by the Minister and approved by Cabinet, temporary filling of vacancies is not appropriate.

6 REMOVAL FROM OFFICE

Under Schedule 8 of the Act, the Minister may, for any cause which to the Minister seems sufficient, remove from office any member of a Regional Advisory Committee. Such removal may include a member of a Regional Advisory Committee who is absent without suitable explanation or permission for three consecutive meetings held by the Regional Advisory Committee over any 12 month period.

In this event the Regional Advisory Committee shall note the absences without notice and the Chairperson, in consultation with the Regional Manager, will initiate action to obtain an explanation from the member. In the absence of a satisfactory explanation, the Chairperson may recommend the termination of an individual's membership of the Regional Advisory Committee.

7 DECLARATION OF PECUNIARY AND NON-PECUNIARY INTEREST

Department of Premier and Cabinet requirements stipulate that all applicants applying to become a member of any NSW Government Board or Committee are required to complete a Declaration of Pecuniary and Non-Pecuniary Interest at the time that their application is lodged. This requirement includes volunteer members.

Under these rules, it is the responsibility of individual nominees to disclose professional, financial or personal circumstances that might constitute a real or perceived conflict of interest. This disclosure must take place before the member is nominated to the Government board or committee.

A conflict of interest exists when it is possible that an individual can be influenced, or be perceived to be influenced, by a personal interest (or interests of others) when carrying out their duties as a member of a Government board or committee.

Conflicts of interest can be caused by a range of private interests that are wider than financial concerns (pecuniary). Examples of non-pecuniary interests that may need to be declared and managed are: personal relationships, family relationships, and sporting, cultural and social associations.

All potential Regional Advisory Committee members are required to submit a Declaration of Pecuniary and Non-Pecuniary Interest (see Appendix 3) for review as part of the application process. Any changes to your interests must be formally advised to the NPWS RAC and NPWS Regional Manager should your situation change.

8 RESPONSIBILITIES OF REGIONAL ADVISORY COMMITTEE

8.1 Members

Regional Advisory Committee members are appointed by the Minister as individuals who bring specific experience and expertise to contribute to the natural and cultural heritage, conservation and management of NSW parks and reserves.

Members are responsible to the Minister for contributing their perspectives on park management with integrity. Regional Advisory Committee members are expected to:

- Maximize effectiveness in providing advice and guidance on natural and cultural heritage conservation matters from a community perspective.
- Respect the confidentiality of Regional Advisory Committee deliberations and any privileged information with which they may be provided.
- Consult and cooperate with Regional Managers.
- Bring to the Regional Advisory Committees attention issues of interest to the community relating to conservation and park management issues.
- Adhere to the principles and guidelines set out in relation to Code of Conduct, Confidentiality and Conflict of Interest. (Please refer to page 10 and 11 for more information on Code of Conduct, Confidentiality and Conflict of Interest. Also refer to page 27 Appendix 2 Conduct Guidelines for Members of Government Boards and Committees and page 38 Appendix 6 Environment and Heritage Portfolio Conflict of Interest Checklist for Appointments to NSW Government Boards and Committees).

8.2 Advisory Committee Planning

In planning a program of activities or topics for discussion, Regional Advisory Committees should ensure that the program is compatible with regional and NPWS objectives and priorities, and consistent with Regional Advisory Committees functions under the Act.

Programs should have the full support of their Regional Manager and Advisory Committee members as well as a member's commitment to participate in agreed program activities.

NPWS will where practical and appropriate endeavor to give Regional Advisory Committees the opportunity to comment on proposals, review programs, provide input on plans of management and other planning issues, familiarise Regional Advisory Committees with operations in the region and interact and liaise with other Regional Advisory Committees where practicable.

The Regional Manager will ensure that the program of activities is practical and realistic in terms of time frames, annual or ongoing projects, and available resources, including financial allocations for their Regional Advisory Committees expenses.

9 RESPONSIBILITIES OF THE NATIONAL PARKS AND WILDLIFE SERVICE

NPWS Regional Managers will:

- Assist and advise their Regional Advisory Committee in relation to its functions and responsibilities.
- Provide their Regional Advisory Committee with information to assist them to exercise the committee's responsibilities.
- Clearly indicate to their Regional Advisory Committee issues that are contentious and where confidentiality is required.
- Consider and, where possible, respond to matters arising from their Regional Advisory Committee, and
- Organise inspection tours and associated matters as necessary, including visits by the NPW Advisory Council to the Region.

The NPWS will appoint **facilitators** who will:

- Provide secretariat support for their Regional Advisory Committee to facilitate the smooth flow of business.
- Provide day-to-day liaison on matters relating to their Regional Advisory Committee.
- Provide routine administrative support to their Regional Advisory Committee on behalf of their Regional Manager.
- Present briefings on behalf of their Regional Manager as appropriate, and
- Assist in the coordination of presenters, briefings and field trips on behalf of their Regional Manager.

NPWS Branch Directors will:

- Ensure that matters that cannot be resolved at the regional level are noted and responded to in an effective and timely manner, and
- Ensure that matters that cannot be actioned at the branch level or that may have statewide implications are referred to the Head, NPWS.

The **Stakeholder Liaison and Group Coordination Unit within NPWS** will:

- Provide statewide coordination, advice and assistance to regions, branches and Regional Advisory Committees including constitution of Regional Advisory Committees, resignations and filling of vacancies.
- Facilitate communication between branches on matters relating to Regional Advisory Committees.
- Act as a point of contact for referral of matters to the Head, National Parks and Wildlife Service if appropriate.
- Act as the point of contact for referral of matters to the National Parks and Wildlife

Advisory Council, coordinating distribution of communications between the National Parks and Wildlife Advisory Council and Regional Advisory Committees.

- Receive minutes of Regional Advisory Committee meetings and report on statewide issues and trends.
- Coordinate state wide meetings of Regional Advisory Committee Chairs and conferences involving all Regional Advisory Committees as appropriate, and
- Assist in identifying issues of concern to Regional Advisory Committees across the State.

10 RESPONSIBILITIES OF THE NATIONAL PARKS AND WILDLIFE ADVISORY COUNCIL TO REGIONAL ADVISORY COMMITTEES

The *National Parks and Wildlife Act 1974* establishes the National Parks and Wildlife Advisory Council to advise the Minister on matters relating to the care, control and management of national parks, nature reserves, historic sites, regional parks and the conservation of wildlife in New South Wales. The Advisory Council includes four members of Regional Advisory Committees.

Members of the Advisory Council contribute to fulfilling the role of the Council by diligent application of their expertise, respecting the confidentiality of the Council's deliberations. Council members participate as individuals, representing the perspective of their constituency as defined by the Act.

Matters of statewide significance or issues that have not been resolved at Regional Manager or branch level may be referred to the Advisory Council.

The National Parks and Wildlife Advisory Council:

- May refer appropriate issues to Regional Advisory Committees for comment via the Stakeholder Liaison and Group Coordination Unit.
- Involves members of the relevant Regional Advisory Committee in Council's review of plans of management and associated field inspections, giving adequate notice of intended site visits.
- Forwards an Advisory Council meeting schedule to all Regional Advisory Committees at the beginning of the year.
- Forwards a summary of Advisory Council meetings to RAC Chairpersons and Branch Directors and places this on the OEH website, and
- Provides feedback to Regional Advisory Committees on issues that may be of interest.

In practice, the National Parks and Wildlife Advisory Council advises the Head, National Parks and Wildlife under delegated authority.

Mutual respect and support will be demonstrated between the NPW Advisory Council and Regional Advisory Committees through discussion and referring of relevant issues, the provision of feedback on issues raised, invitation to relevant field trips relating to review of plans of management as appropriate and being provided with a summary of Council outcomes and recommendations after each Council meeting.

11 RESPONSIBILITIES OF REGIONAL ADVISORY COMMITTEES TO THE NATIONAL PARKS AND WILDLIFE ADVISORY COUNCIL

Regional Advisory Committees:

- Are a valuable resource to the National Parks and Wildlife Advisory Council, informing them in relation to regional issues.
- Refer issues and recommendations with wider NPWS implications or wider policy implications to the National Parks and Wildlife Advisory Council where necessary, and
- Refer any matters considered relevant or likely to be of interest to the National Parks and Wildlife Advisory Council for its information and consideration and for inclusion on the Council agenda if necessary.

12 LIAISON WITH NEIGHBOURS, LOCAL COMMUNITIES AND EXTERNAL STAKEHOLDERS

Regional Advisory Committee members are expected to maintain contact with neighbours, community groups and other stakeholders as part of providing the NPWS with insight into the reserve management issues that are of potential concern to the community.

Contact with local community groups, such as voluntary organizations, tourism committees, historical societies and conservation groups, assists Regional Advisory Committees in gaining a better understanding of management issues affecting their regional area.

Regional Advisory Committees may seek advice directly from other agencies, individuals or other stakeholder groups in order to obtain information that will assist the committee in providing advice to the NPWS (see also page 8 '13.3 Attendance At Meetings').

Prior to seeking such external advice, Regional Advisory Committee members must consult with the Regional Manager to determine whether the matter is regarded as potentially contentious. Where issues are deemed contentious, the NPWS may make contact on behalf of the committee.

Regional Advisory Committees must take care not to commit the NPWS to a position or action in the course of consulting with external stakeholders.

The Regional Manager should be made aware of Regional Advisory Committee liaison with external bodies to ensure that the NPWS is in a position to respond if necessary to issues which may arise.

13 REGIONAL ADVISORY COMMITTEE MEETINGS

13.1 Timing

Regional Advisory Committees are required to hold their first Annual General Meeting within three months of the constitution of the Regional Advisory Committee and conduct regular meetings at least once every three months thereafter.

At each Annual General Meeting, the members must appoint a Chairperson, Deputy Chairperson and, where required, a Secretary. Each committee should develop a protocol detailing the mechanism of how they nominate and elect their committee position holders, as agreed by the committee.

A calendar of meetings for the following year should be endorsed to facilitate efficient and effective working of the Committee and to ensure maximum meeting attendance.

The Head, National Parks and Wildlife Service must be forwarded the particulars of the dates of meetings held, and of members attending each meeting for the past year, not later than 1 January of each year (see also page 12 Annual Report and page 25 Appendix 4 Sample Format of Annual Report).

13.2 Notice of Meeting

Not less than seven days before each meeting the Secretary should circulate to each member an agenda and associated business papers for the upcoming meeting.

13.3 Attendance at Meetings

Regional Managers or their representative(s) should attend their Regional Advisory Committee meetings.

At times a Regional Advisory Committee may require departmental or external specialist advice in order to assist it in its deliberations. Following consultation with the Regional Manager and with the consent of the majority of committee members, Regional Advisory Committees may invite non-members to attend a Regional Advisory Committee meeting. Such attendance should relate to a specific agenda item and shall be restricted to the duration of discussion on that agenda item.

Members should attend committee meetings wherever possible to allow the advisory committee to function effectively and to meet its responsibilities.

13.4 Quorum

A majority of the current members of a Regional Advisory Committee shall form a quorum at any meeting. Meetings can take the form of face to face, video or teleconference. At times a teleconference may be needed to satisfy quorum requirements where sufficient physical numbers are not achievable on a face-to-face basis or to deal with urgent matters or particular issues.

Important items can be discussed out of session via electronic means if required where a quorum cannot be formed at a meeting.

13.5 Conduct of Meetings

Meeting procedures will be consistent with sound meeting practice and ensure that all members are given fair and equal opportunity to participate in the deliberations of their Regional Advisory Committee.

It is important that all representatives attending meetings communicate their views clearly and openly, whilst recognising that there are often a range of views on matters and differences of opinion should be respected.

The carriage of a motion which is proposed and seconded shall be determined by a majority of votes of the members present and voting. The Chairperson will have a deliberative, and in the case of equality of votes, a casting vote. It is, however, desirable that members strive to achieve consensus on matters.

13.6 Minutes

The Regional Advisory Committee is responsible for ensuring that the minutes of each meeting are recorded in written form as a true and accurate record of proceedings.

Minutes should be completed and distributed to all committee members in a timely fashion.

A copy of the minutes should also be forwarded to:

- The Stakeholder Liaison and Group Coordination Unit, for monitoring of statewide issues and trends, and
- The relevant Director, if the subject matter warrants referral.

The full minutes of meetings are confidential, however, a summary of issues discussed at a particular meeting may be provided to interested parties (see also page 11 'Confidentiality').

13.7 Resolutions

Regional Advisory Committees may prepare resolutions in respect to matters relating to the care and management of parks and reserves and any other NPWS responsibilities within the administrative region for which they are constituted.

Resolutions should be well researched and based on sound analysis. They should clearly state what action is recommended.

Resolutions requiring action should be directed to the Regional Manager and may also request that the Regional Manager refer a particular resolution to the Branch Director, the Head NPWS or to the National Parks and Wildlife Advisory Council for formal consideration.

When action from a resolution is sought more broadly than within the particular region, it should be accompanied by a clear recommendation from the Regional Manager and any supporting papers for action. A copy should be sent to the Stakeholder Liaison Officer, Stakeholder Liaison and Group Coordination Unit for information.

Matters referred to the National Parks and Wildlife Advisory Council should be sent to

the Stakeholder Liaison Officer, Stakeholder Liaison and Group Coordination Unit, who will communicate with the Regional Advisory Committee indicating when the matter will be listed for discussion by the National Parks and Wildlife Advisory Council and the process of feedback to the Regional Advisory Committee.

14 CODE OF CONDUCT

Regional Advisory Committee members are subject to the Department of Premier and Cabinet Conduct Guidelines for Members of NSW Government Boards and Committees (see also page 27 Appendix 5 Conduct Guidelines for Members of NSW Government Boards and Committees).

The document outlines fundamental values and principles that define the standards of behaviour expected of members of NSW Government boards and committees.

It also provides sources of information and advice on ethical and other accountability issues of relevance to the NSW public sector.

15 CONFLICT OF INTEREST

Members of NSW Government Boards and Committees are appointed for their expertise and skill in particular areas. As a consequent there may be the potential for conflicts of interest to arise between a member's duties to the committee and his or her personal interests.

A conflict of interest exists when it is possible that an individual can be influenced, or *perceived* to be influence, by a personal interest (or interests of others) when carrying out their duties as a member of a Government board or committee.

Conflicts of interest are not wrong in themselves and can happen without anyone being at fault. However, it is vital that they are disclosed and managed effectively so that individuals that are appointed to Government boards and committees are seen to be performing their duties in a transparent, fair and unbiased way.

It is the responsibility of individuals to disclose any professional, financial or personal circumstances that might constitute a real or perceived conflict of interest.

Each committee must also put in place effective processes for the disclosure and management of real or perceived conflicts of interest in the normal order of business.

It is the responsibility of individuals to disclose professional, financial or personal circumstances that might constitute a real or perceived conflict of interest, before nomination.

At the commencement of a meeting, members must make a full disclosure of interests that might possibly be construed as being in conflict with their responsibilities as Regional Advisory Committee members. Members may need to withdraw from the meeting during a discussion for which a conflict has been declared. Such conflicts of interest must be recorded in the minutes. Members declaring a conflict of interest may be asked by the Chairperson to absent themselves from the meeting or refrain from debate while the issue is discussed, if the majority of other

members feel that course of action is warranted.

Should any doubts exist about a declared conflict of interest and the Regional Advisory Committee is unable to agree whether or not the particular member(s) should refrain from participating in discussions or consideration of the issue, the matter is to be referred to the Regional Manager for determination.

(Please refer to page 10 Conflict of Interest and also page 37 Appendix 6 Conflict of Interest Checklist for Appointments to NSW Government Boards and Committees for more detailed information on Conflict of Interest)

16 CONFIDENTIALITY

Regional Advisory Committees will discuss a wide range of issues, many of which may be complex, sensitive or contentious. To enable members to make an informed decision on a particular matter, it will often be necessary to consider 'privileged' information. Such information should be treated with the utmost confidentiality and kept within the confines of the Regional Advisory Committee.

Regional Advisory Committee members must respect the confidentiality of their deliberations and any privileged information with which they may be provided. Members are asked to maintain confidentiality regarding matters discussed, irrespective of whether they have an affiliation with another group or organisation. However, they may report to the community on Regional Advisory Committee matters where such information would normally be available to the public.

As Regional Advisory Committee members perform a function on behalf of the NPWS, all members are subject to the relevant legislation in NSW including, but not restricted to, the *Privacy and Personal Information Protection Act 1998* and the *Government Information (Public Access) Act 2009*. Key provisions of these acts will be explained in the induction information supplied to RAC members.

17 CONSERVATION AND MANAGEMENT PROGRAMS

The NPWS is committed to ongoing implementation of priority conservation and management programs.

All NPWS regions are required to develop annual operational plans to link their on-the-ground actions to Government priorities and programs. Each region also monitors progress towards achieving these priorities.

Regional Managers may consult with and seek advice from their Regional Advisory Committees on a range of matters including the development of Regional Operations Plans.

Regional Advisory Committees will provide Regional Managers with feedback in the form of written comments or during meeting discussion which should be recorded in the meeting minutes.

18 INFORMATION AND PUBLICITY

The NPWS produces a range of publications, brochures, pamphlets and online promotional material and apps relating to parks and native flora and fauna.

Regional Managers may provide Regional Advisory Committees with the opportunity to comment on specific promotional material or other proposed publications relating to the region for which it was constituted.

Regional Advisory Committees may identify topics where additional information would assist in meeting visitor needs.

19 MEDIA ACTIVITY AND PROMOTION

The publication of news items raises public awareness of conservation and local issues. Regional Advisory Committees may seek to identify opportunities to promote conservation issues in their region or promote the work and activities of the Committee.

All media releases or promotional material should be drafted in consultation with the Regional Manager and be submitted to NPWS for review and approval prior to publication. It should be ensured that privileged or confidential information is not released in the media.

Committee members need to be aware that when having contact with the media as an individual, that comments made are not construed as being on behalf of the committee or representing the views of the committee or NPWS.

20 ANNUAL REPORT

Each Regional Advisory Committee is required to submit to the Head - NPWS, an annual report covering the previous calendar year ending on 31 December. Annual reports are to be completed by and endorsed at the Annual General Meeting and be submitted to the Head - NPWS by 30 June.

In order to achieve consistency the report should follow the format developed by NPWS (see also page 25 Appendix 4 Sample Format of Annual Report). Regional Advisory Committees should strive for brevity (with a maximum length of two A4 pages recommended).

Endorsed annual reports should be forwarded to the Stakeholder Liaison Officer, Stakeholder Liaison and Group Coordination Unit by 30 June each year for review by the Head - NPWS.

21 REGIONAL ADVISORY COMMITTEE MEMBER ENTITLEMENTS

21.1 Expenses

Department of Premier and Cabinet Guidelines on Government Boards and Committees allow for committee members “to be reimbursed the amount of expenses actually incurred.” Rates for travel allowances are set for staff in the NSW public sector, which are to be taken as an indication of the upper limits for reimbursements. The current maximum rates on some relevant allowances are:

Meal Allowances

Breakfast (Sydney Rate)	\$23.65
Dinner (Sydney Rate)	\$45.60
Breakfast (Country Centre Rate)	\$21.15
Dinner (Country Centre Rate)	\$41.65

OEH, as with all public sector organisations, is subject to the scrutiny of Central Agencies such as Treasury, Department of Premier and Cabinet and the Ombudsman’s Office. Regional Advisory Committee members should be mindful of their actions in the expenditure of public monies and should avoid any action or situation which could create the impression that official services or facilities are being improperly used for their own or any other person’s or body’s private benefit or gain. Overall, in relation to the reimbursement of expenses, due economies should be observed and Regional Advisory Committee members should only claim reasonable costs. It should be noted that alcohol purchases and costs associated with the utilisation of mini bar facilities cannot be claimed.

Regional Advisory Committee members must submit claims in a timely manner for expenses as authorised by their Regional Manager.

21.2 Travel and Vehicle Insurance

Choice of mode of transport needs to result in the lowest overall cost. For example air travel for long distances is preferable, since it allows travel to be completed in the shortest time, whereas an overnight stay may be required if travelling by motor vehicle. However, this needs to be balanced with OH&S considerations, flight availability and individual circumstances. OEH will only agree to pay accommodation costs if flights or travel arrangements do not permit for travel to be taken on one day, or the committee member is required to be away from home on official OEH business for more than one day.

When it is necessary for committee members to drive their own cars to attend committee meetings or other official Regional Advisory Committee functions, a mileage allowance can be claimed. Mileage allowance is paid based on the number of kilometres travelled, with the allowance varying according to the engine capacity of the car. Current rates are shown below.

Use of Private Motor Vehicle Official Business Rate:

Engine Capacity

Over 2601cc	75 cents per km
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1600cc to 2700cc	74 cents per km
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under 1600cc	63 cents per km
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To be eligible to claim kilometre allowance, the car that is being used needs to be covered by a motor vehicle insurance policy, which includes an indemnification of the Crown against liability for any loss from use of the vehicle on official business. Insurance companies are usually willing to add the indemnity to a policy as a matter of course. A copy of this policy needs to be provided to the Stakeholder Liaison Officer, Stakeholder Liaison and Group Coordination Unit prior to travel. A new copy of this policy needs to be provided each year after the policy is renewed.

An incident report form must be submitted to the Regional Manager in respect of any personal injury, accident or near miss involving the vehicles of Regional Advisory Committee members.

21.3 Regional Advisory Committee Member Insurance and Liability

Regional Advisory Committee members provide voluntary service and are therefore covered under the OEH Miscellaneous Insurance Policy against any injury sustained while engaged in official duties both on and off park. The benefit payable is in accordance with, and equivalent to, the benefits payable under the NSW Workers Compensation Act 1987 as amended.

As well, given that advisory committee members have no policy determination or operational executive function, they are indemnified against personal liability in relation to claims arising out of the provision of independent comment and advice to the NPWS and the National Parks and Wildlife Advisory Council.

21.4 Annual Pass

All members will be issued with a complimentary All Parks Annual Pass that will provide free entry into all national parks, nature reserves, historic sites, NPWS-managed state recreation areas and regional parks where an entry fee applies. This is to encourage members to visit as many parks as possible and familiarise themselves with parks and reserves across the State, and serves to recognise the valuable voluntary work undertaken by Regional Advisory Committee members.

21.5 Legislation

Regional Managers will assist their Regional Advisory Committee in obtaining access to copies of relevant legislation such as the National Parks and Wildlife Act 1974 and the Regulations under that Act, the Threatened Species Conservation Act 1995 and the Wilderness Act 1987. It is recommended that Regional Advisory Committee members familiarise themselves with the relevant legislation.

21.6 OEH Annual Report, Corporate Plan and Parks and Wildlife Group Strategic Plan 2012 - 2016

Each Regional Advisory Committee member will be provided with access to copies of the Department of Premier and Cabinet Annual Report and Corporate Plan and the Parks and Wildlife Group Strategic Plan. These are a useful source of information about the OEH, its charter and principal activities.

22 GLOSSARY

In this Memorandum, unless the context otherwise require, the following definitions apply:

the Act	The <i>National Parks and Wildlife Act 1974</i> as amended from time to time and any Act replacing the same.
Regional Advisory Committee	A Regional Advisory Committee constituted under Schedule 8 of the Act.
Advisory Council	The National Parks and Wildlife Advisory Council.
Member	A person appointed by the Minister and approved by Cabinet to a Regional Advisory Committee.
Minister	The Minister administering the <i>National Parks and Wildlife Act 1974</i> in the State of New South Wales.
OEH	The Office of Environment and Heritage NSW
Chief Executive	The Chief Executive of the Office of Environment and Heritage, and is the Chief Executive of the National Parks and Wildlife Service as described by the <i>National Parks and Wildlife Act 1974</i> .
Head – National Parks and Wildlife Service	The Deputy Chief Executive of the Office of Environment and Heritage who also leads the National Parks and Wildlife Service.
Region	A geographic area within a defined operational boundary administered by a Regional Manager and containing national parks and other protected areas within the landscape.
Regional Manager	means the officer of the National Parks and Wildlife Service appointed as Manager of the Region in which the Regional Advisory Committee is located, and includes any person for the time being acting as such.
Director	A Director of one of the National Parks and Wildlife Service administered branches (Coastal, Western, Metro & Mountains, Business Reform & Development Branch or Tourism & Partnerships Branch) or Conservation Programs Division.



Appendix 1

Terms of Reference

NSW National Parks and Wildlife Service

Regional Advisory Committees

2012 - 2017

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Office of Environment and Heritage NSW
NSW National Parks and Wildlife Service
PO Box 1967
Hurstville NSW 2220
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Purpose

To provide a consultative forum that can effectively provide advice and input to the National Parks and Wildlife Service, particularly the Regional Manager, on the management of national parks and other protected areas relating to environmental planning and assessment, recreation and education, in their constituted region.

Responsibilities and Objectives

The role of the advisory committee at the regional level is to:

- Provide advice and input to the Regional Manager:
 - On measures to improve the care, control and management of national parks and other protected areas within their region, consistent with the purposes for which they were reserved or dedicated.
 - On plans of management, reserve fire management plans, pest management plans and other operational plans as required, placing focus on the protection and conservation of natural and cultural heritage.
 - In relation to decision making on the protection and conservation of natural and cultural heritage, as it might impact on the reserve system and recognising the special role of Aboriginal communities in management decisions regarding heritage.
 - Where appropriate, on issues of wider concern to on-park conservation such as statewide policy issues or new procedures.
- Consult with the Regional Manager on matters of interest and concern in their local area.
- Facilitate and contribute to building effective relationships between stakeholders, neighbours, the community and the NPWS by:
 - Maintaining contact with other relevant organisations and groups in the local community.
 - Acting as a point of contact for the broader community to communicate their ideas and issues relevant to the NPWS.
 - Encouraging community support and involvement in the conservation of natural and cultural heritage.
- Provide one or more representatives for steering committees for the preparation of various plans as required.
- Raise community awareness and understanding of NPWS policy and management decisions to assist in encouraging community support and involvement in the conservation of natural and cultural heritage.
- Make representations, through the Regional Manager, to NPWS on behalf of the general public, neighbours and visitors and make recommendations to the Head, NPWS for consideration and advice.

- Make recommendations to the National Parks and Wildlife Advisory Council for consideration. The Advisory Council may then forward advice on the matters raised to the Head - NPWS or the Minister, as appropriate.
- Participate in various activities such as field trips and NPWS endorsed consultations to increase knowledge of conservation management requirements, and to gauge the needs and attitudes of the local community and visitors to national parks.

Operating Arrangements

Regional Advisory Committees will:

- Have between 12 and 17 members appointed. A majority of current members will form a quorum at meetings.
- Hold their first Annual General Meeting within three months of being constituted and conduct regular meetings thereafter, at least once every three months.
- Endorse a calendar of meetings for the upcoming coming year to ensure efficiency and maximum attendance.
- Appoint a Chairperson, Deputy Chairperson and where required, a Secretary.
- The Chairperson will preside over meetings. In the absence of the Chairperson, the Deputy Chairperson may preside. In the absence of both the Chairperson and the Deputy Chairperson, another member will be appointed to preside at the start of the meeting by those in attendance.
- The Chairperson presiding over meetings will ensure that discussions remain focused and conclude with clear resolutions, recommendations or outcomes.
- Meeting procedures will be consistent with sound meeting practice and ensure that all members are given a fair and equal opportunity to participate in committee deliberations.
- Where voting is necessary on an issue, a decision will be determined by a majority vote. The person presiding over the meeting will have a second or casting vote in the event of equal votes.
- Chairpersons will ensure that each meeting has written minutes accurately recording the discussions and outcomes of the meeting.
- Chairpersons will provide an Annual Report on RAC activities to National Parks and Wildlife Service each calendar year by 30 June the following year.

Appendix 2

Extracts from National Parks and Wildlife Act 1974

National Parks and Wildlife Act 1974

The following parts of the Act relate to Regional advisory committees:

Division 2 Advisory committees

24 Constitution of advisory committees

- (1) The Chief Executive is to divide the State into administrative regions and may at any time alter or abolish those administrative regions.
- (2) A regional advisory committee is to be constituted for each administrative region.
- (3) Additional advisory committees may be constituted for particular purposes determined by the Minister.
- (4) Schedule 8 has effect.

25 Functions of advisory committees

- (1) A regional advisory committee has the following functions:
 - (a) to provide advice to the Chief Executive and the Council on policies and plans for the administrative region for which it was constituted,
 - (b) to provide advice to the Chief Executive and the Council on activities carried out or proposed to be carried out within the administrative region for which it was constituted,
 - (c) to provide advice to responsible authorities within the meaning of section 71BO on draft plans of management relating to the administrative region for which it was constituted and to the Council on the implementation of such plans of management,
 - (d) To provide advice to the Chief Executive on the implementation of plans of management relating to the administrative region for which it was constituted.
- (2) An advisory committee referred to in section 24 (3) has such advisory functions as are conferred or imposed on it by the Minister.

26 Dissolution of advisory committees

- (1) If an administrative region for which a regional advisory committee is constituted is abolished, the advisory committee is dissolved.
- (2) A person who was a member of the advisory committee immediately before its dissolution is eligible for appointment to another advisory committee constituted for an administrative region that encompasses all or any part of the former administrative region for which the dissolved committee was constituted.

Schedule 8 Advisory committees

1. Composition

- (1) A regional advisory committee will consist of at least 12 members, but not more than 17 members, appointed by the Minister.
- (2) The members are to include at least 2 Aboriginal persons, a person jointly nominated by the Nature Conservation Council of NSW and the National Parks Association of NSW, and such other persons who the Minister decides have one or more of the following qualifications:
 - (a) expertise and experience in local government;
 - (b) expertise and experience in community involvement in conservation;
 - (c) expertise and experience in Aboriginal Cultural Heritage;
 - (d) scientific qualifications in the area of conservation biology, wildlife management or related disciplines;
 - (e) expertise and experience in rural or regional issues;
 - (f) expertise and experience in agriculture and rural issues, being a person nominated by the NSW Farmers' Association;
 - (g) expertise and experience in ecotourism or ecologically sustainable visitor use, enjoyment and appreciation of reserves;
 - (h) expertise and experience in environmental education and community involvement in environmental education, and
 - (i) expertise in non-Aboriginal cultural heritage conservation.
- (3) The Minister is to ensure, as far as is possible, that the composition of the advisory committee reflects the expertise and experience referred to in sub clause (2).
- (4) The Chief Executive is to arrange for a senior officer of the NPWS to attend meetings of each advisory committee and for secretarial support to be available to each advisory committee.

2 Removal from office

- (1) The Minister may for any cause which to the Minister seems sufficient remove from office any member of an advisory committee.
- (2) Without limiting the generality of sub clause (1), the Minister may remove from office a member of an advisory committee who is absent without leave of the advisory committee (or without being excused by the committee) from 3 consecutive meetings held by the advisory committee over any period of 12 months.

3 Vacation of office

A member of an advisory committee shall be deemed to have vacated the member's office if the member:

- (1) dies
- (2) resigns the member's office by writing under the member's hand addressed to the Minister
- (3) becomes a temporary patient, a continued treatment patient, a protected person or an incapable person within the meaning of the *Mental Health Act 1958* or a person under detention under Part 7 of that Act, or
- (4) is removed from office by the Minister.

4 Vacancies and additional members

The Minister may from time to time appoint additional members of any advisory committee or appoint a member to fill any vacancy.

5 Term of office

The members of an advisory committee shall hold office for such period, not exceeding 4 years, as may be specified in their respective instruments of appointment and are eligible, if otherwise qualified, for further appointment under this Schedule.

6, 7 (Repealed)

8 Quorum

- (1) A majority of the members of an advisory committee shall form a quorum at any meeting of the committee and any duly convened meeting of the committee at which a quorum is present shall be competent to transact any business of the committee.
- (2) Questions arising at a meeting of an advisory committee shall be determined by a majority of votes of the members present and voting.

9 Procedure

The procedure for the calling of meetings of an advisory committee and for the conduct of business at those meetings shall, subject to this Schedule and any regulations made in relation thereto, be as determined by the advisory committee.

10 Expenses

A member of an advisory committee shall be entitled to receive such traveling and other expenses (if any) as the Minister may determine in respect of the member.

Appendix 3 Pecuniary Interest Declaration

NATIONAL PARKS AND WILDLIFE SERVICE REGIONAL ADVISORY COMMITTEE MEMBERS PECUNIARY & NON-PECUNIARY INTEREST DECLARATION & UNDERTAKING

I, _____, give the following
undertaking:

1. There is no matter I am aware of concerning my interests* (pecuniary or non-pecuniary), or any activity in which I am or have been engaged, that may call into question the probity of the National Parks & Wildlife Service (NPWS) Regional Advisory Committee, or give rise to any conflict with my responsibilities as a member of that Committee;
2. I am aware that I must exercise my responsibilities as a member of the NPWS Regional Advisory Committee, in accordance with the *Conduct Guidelines for Members of NSW Government Boards and Committees*, including in relation to the confidentiality requirements set out in those Guidelines, as well as any applicable Code of Conduct for the NPWS Regional Advisory Committee;
3. I have the following interests* in corporations, partnerships, businesses or other organisations that may be relevant to the activities of the NPWS Regional Advisory Committee:

Sources of income:

.....
.....
.....

Memberships of Boards and Committees:

.....
.....
.....

Interests and positions in corporations:

.....
.....
.....

Interests and positions in trade unions and professional or business associations:

.....
.....
.....

4. I will formally advise the NPWS Regional Advisory Committee and the NPWS Regional Manager 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 4 Sample Format for Annual Report

Annual Report _____ Region Advisory Committee
Year ending 31 December 20__

Significant highlights

General information on successful activities undertaken.

Membership

Advice of new members or resignations.

Meetings

The number of meetings held during the year, whether meetings held with other Regional Advisory Committees, etc. The attendance/apologies of members are to be recorded in a separate attendance matrix (sample attached).

Field excursions

Areas visited during the year.

Regional management programs

Advice of Regional Advisory Committee involvement in Regional management programs (e.g. pest species management, neighbour relations) and projects initiated within the Region.

Community involvement

Comment on committee activities involving the community, e.g. open days, field days, public meetings, displays.

Ongoing issues

Issues that the committee is continuing to work on, e.g. what steps have been taken so far; what remains to be done.

Conclusion

Opportunity for personal comment from Chairperson.

.....Chairperson

Regional Advisory Committee attendance schedule

..... Regional Advisory Committee
.....meetings held during the period 1 January to
31 December.....

Name	Meetings					

Legend: P=Present A=Apology N=Not in attendance and no apology recorded

Comments

Appendix 5

Conduct Guidelines for Members of NSW Government Boards and Committees



New South Wales Government
Department of Premier and Cabinet

Conduct Guidelines for Members of NSW Government Boards and Committees

Version December 2011

Acknowledgments

This document was prepared by Ministerial and Parliamentary Services Division of NSW Department of Premier and Cabinet in consultation with the Independent Commission Against Corruption. The assistance of the Public Sector Management Office and the Legal Branch of the Cabinet Office is also acknowledged.

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Purpose

This document outlines fundamental values and principles that define the standards of behaviour expected of members of NSW government boards and committees.

It also provides sources of information and advice on ethical and other accountability issues of relevance to the NSW public sector.

Scope

These guidelines apply to both governing and advisory boards and to advisory committees.

Governing Boards are empowered to govern the management of the organisation which are subject to control and direction of the Minister but the circumstances in which ministerial control and direction are exercised are specific.

Advisory Boards provide advice to a portfolio Minister on matters relevant to the management of an authority but the Minister retains unfettered right to control and direct the Board and the CEO.

Advisory Committees, Councils etc provide advice on policy or operational issues with little or no policy determination or operational executive functions.

Code of Conduct

All boards should have a code of conduct defining the standards of behaviour expected of their organisation. For those boards that

do not already have a code of conduct, guidance may be obtained from these guidelines and the document *Code of Conduct* – DPC Policy Document. Members of advisory committees are also encouraged to develop a code of conduct to define their values and behaviour.

The *Code of Conduct* can be accessed from the Department of Premier and Cabinet web site www.boards.dpc.nsw.gov.au or by contacting the Ministerial and Parliamentary Services on (02) 9228 4199.

A code of conduct should be developed as a collaborative undertaking. The process of developing and implementing a code of conduct is an important mechanism for positively shaping the culture of the board or committee. Once developed, the board or committee should formally endorse its code of conduct. Each member should sign and agree to abide by it. A good code of conduct is distinguished by a number of key features including:

- *ownership through a participative process*

To influence behaviour, a code must be an agreed document and one for which all those to whom it is intended to apply have a strong sense of ownership. The way to achieve this is by fully involving members in the development and implementation process. Without this involvement a code will lack legitimacy and authority.

- *support by senior members*

The success of a code is dependent upon obvious and strong support by senior members.

- *ongoing promotion*

On introducing a code it is also important to conduct a well thought out and well resourced implementation plan. The promotion of a particular code should be tailored to the needs of the particular board or committee. Members should understand the importance of a code, how it fits within the operation of their organisation and what it means in the context of their board or committee work.

A code of conduct is not a static document. The board or committee should review the document periodically and amend the code to reflect changing circumstances.

1. Principles of Conduct for the Public Sector

Those who work within the public sector must maintain standards of conduct and ethics that maintain public confidence and trust. Public confidence means that the public has the right to expect that public sector organisations demonstrate the highest integrity and competence treating all citizens fairly, reasonably and equitably.

Members of government boards and committees as public officials are subject to the general principles of conduct that apply to public sector employees. These are set out below and are extracted from the document *Code of Conduct* (DPC Policy Document).

- *Respect for the law and system of government*

This encompasses compliance with any relevant legislative, industrial and administrative requirements and implementation of policies and decisions of the Government of the day in an impartial manner.

- *Respect for people*

Members of the public and colleagues are to be treated fairly and consistently, in a non-discriminatory manner with proper regard for their rights and obligations.

Public officials should perform their duties in a professional and appropriate manner, this encompasses inappropriate conduct, discrimination and bullying. Employees should also ensure that decisions involving individuals should be made on the basis of factual information.

- *Act with honesty and integrity*

In performing their duties public officials should act in a manner which promotes confidence in the integrity of public administration. They should always act honestly and in the public interest, rather than in their private interest, and be aware of any conflict of interest.

- *Use of official resources with economy and efficiency*

Employees are to be economical and efficient in the use and management of public resources. Limited and infrequent use of public resources for personal use is permitted.

Source: *Code of Conduct* – Department of Premier and Cabinet Policy Document, issued by Corporate Governance Branch June 2008.

2. Personal and Professional Behaviour

All board and committee members need a clear understanding of their public duty and legal responsibilities and must act for the 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 enabling legislation ie. the legislation which establishes the board or committee and its functions.

Board and committee members must perform their functions with:

- integrity
- impartiality
- honesty
- conscientiousness
- care
- skill
- diligence and
- loyalty to the public interest

A suggested reference source regarding the legal obligations of board and committee members is the *Australian Institute of Company Directors (AICD), Code of Conduct* and other AICD publications.

3. Accountability

The nature of work in the public sector requires a high standard of

accountability, transparency and fairness.

3.1 For Public Expenditure

Board and committee members must ensure the efficient and responsible expenditure of public funds in accordance with government legislation, policy and guidelines.

For access to relevant legislation, policy, guidelines see NSW Treasury, web site www.treasury.nsw.gov.au

For access to NSW government procurement policy see Department of Services, Technology and Administration web site www.services.nsw.gov.au

3.2 Decision Making

Members should attend all meetings of the board or committee as far as is possible, and allow the necessary time to prepare for meetings. Decisions, reasons for those decisions and processes of the board or committee must be documented and minutes of all official meetings prepared and retained as official records.

4. Use of Public Resources

The relevant agency will provide furniture and equipment and other resources for the board or committee to perform its functions. All such resources are to be used only for board or committee work and in accordance with any guidelines or rules about the use of those resources.

5. Use of Official Information

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

6. Gifts and Benefits

As a board or committee member you are a public official and are required to perform your functions with integrity, impartiality and honesty. During your term of appointment you may be offered certain gifts or benefits.

The receipt of gifts and benefits can compromise employees in that they may be perceived to be unable to make unbiased decisions in the future with respect to the person or organisation that was the source of the gift or benefit.

If a board member is offered a bribe (ie anything given in order to persuade a person to act improperly) they must refuse it.

Any attempt to bribe a board member, or the acceptance of a bribe, is an act of corrupt conduct.

To avoid the possibility of being compromised, only gifts or hospitality of token or nominal value may be accepted in some circumstances. Accepting such gifts or benefits is essentially a matter of judgement. You must be satisfied that your position will not in any way be compromised or appear to be compromised by acceptance. Agency guidelines on the subject must be taken into account.

It is recommended that a Register of Gifts be maintained to enable the receipt and disposal of gifts to be conducted in an open and transparent manner. The information recorded should include who made the offer, who received the gift or benefit, the date, its value and the decision made on its allocation.

For information and advice see the Independent Commission Against Corruption publication *Managing Gifts and Benefits in the Public Sector – Toolkit* (June 2006).

7. Disclosure of Interests

A member must disclose interests to the board or committee (which include positions and pecuniary interests) in corporations, partnerships or other businesses that may be relevant to the activities of the board or committee. A guide declaration form can be obtained from www.boards.dpc.nsw.gov.au for this purpose. A member's interests include those of an associate or

close relative. A register of such interests should be maintained by the organisation. Such interests must also be reported to the Minister.

8. Recognising and Managing 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 the duties or interests of others).

A conflict of interest may arise for example from:

- Other directorships or employment
- Professional and business interests and associations
- Investment interests
- Family relationships

Further to section 7 above **Disclosure of Interests**, a member has a duty to declare any private interest that may impinge upon 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.

Mechanisms for Avoiding or Managing a Conflict of Interest

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. One method may be for the member not to take part in any discussion of the board or committee relating to the interest or issue, and not vote on the matter. This would include a requirement for the member to be absent from the meeting room when any discussion or vote is taking place and to not receive any relevant board or committee papers. This should also be recorded in the board or committee Minutes.

Other means may be more appropriate to the management of the conflict of interest issue:

- In an extreme case this may require resignation by the member from the board or committee
- 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

The code of conduct and in particular the section on conflicts of interest, should address areas of concern or risk to the board or committee and include specific examples where possible.

For information on dealing with conflicts of interest, contact the Independent Commission Against Corruption (ICAC), Corruption Prevention Education and Research Division.

9. Reporting Suspected Corrupt Conduct

A principal officer of a public authority is its most senior officer usually the CEO, Director General, General Manager or Chairperson of a Board or Committee. Principal officers are required to report corrupt conduct or suspected corruption to the Independent Commission Against Corruption (Section 11 of the Independent Commission Against Corruption Act). 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.

For conduct to be considered corrupt under the ICAC Act 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 *Protected Disclosures Act* 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 Independent Commission Against Corruption
- Maladministration should be made to the NSW Ombudsman
- Serious and substantial waste of public money should be made to the NSW Auditor General

However it is recommended that as a first point of contact, you contact the office of the NSW Ombudsman regarding any matter pertaining to the *Protected Disclosures Act*.

10. Lobbying

The NSW Government Lobbyist Code of Conduct regulates contact between registered lobbyists and Government representatives, defined as Ministers, Parliamentary Secretaries, their staff and public servants. Government representatives must not meet with a third party lobbyist who is not

registered. The Code and Premier's Memorandum 2011-13 ([M2011-13 Lobbying of NSW Government Officials](#)) restrict the circumstances in which a lobbyist can be appointed to a Government Board or Committee.

In preparing their own Code of Conduct, Government Boards and Committees should consider whether it is appropriate in the light of the role and functions of the Board or Committee, and particularly having regard to the extent of the involvement of members of the Board or Committee in Government decision-making and policy development, to apply some or all aspects of the Lobbyist Code as part of their own Code of Conduct.

For further information, and to view the current list of registered lobbyists, go to the Department of Premier and Cabinet web site http://www.dpc.nsw.gov.au/prem/lobbyist_register

Relevant Legislation

- Your Board/Committee's enabling legislation
- Anti Discrimination Act 1977
- Crimes Act 1900
- Freedom of Information Act 1989
- Independent Commission Against Corruption Act 1988
- Occupational Health & Safety Act 1983
- Ombudsman Act 1974
- Protected Disclosures Act 1994
- Public Finance & Audit Act 1983
- Public Sector Employment and Management Act 2002

Policy & Guidelines

NSW Department of Premier and Cabinet
Code of Conduct

DPC memo 2007-02 Dignity and Respect: Policy and guidelines on Preventing and Managing Workplace Bullying

Publications

Independent Commission Against Corruption. *The First Four Steps Building Organisational Integrity*

Audit Office NSW. *On Board: Guide to Better Practice for Public Sector Governing and Advisory Boards*

Sources of Information/Advice

NSW Department of Premier and Cabinet

Governor Macquarie Tower,
1 Farrer Place
SYDNEY NSW 2000
Telephone (02) 9228 4199;
Facsimile (02) 9228 4634
Web site address
www.boards.dpc.nsw.gov.au
Information on public sector employment, policy and guidelines; board and committee appointments and remuneration.

Australian Institute of Company Directors New South Wales Office

Level 25, Australia Square,
264-278 George Street
SYDNEY NSW 2000
Telephone (02) 8234 3333
Web site
www.companydirectors.com.au

Australian professional organisation for company directors providing education, information and advocacy.

conferences, courses, and programs concerning public administration.

Independent Commission Against Corruption (ICAC)

191 Cleveland St

Redfern NSW 2016

Telephone (02) 9318 5999

Web site address

www.icac.nsw.gov.au

Information concerning corruption prevention, investigation and ethics.

NSW Ombudsman

Level 24; 580 George St

SYDNEY NSW 2000

Telephone (02) 9286 1000 or

1800 451 524 (toll free)

Web site address

www.ombo.nsw.gov.au

Investigates and reports on complaints about the administrative conduct of NSW government agencies and their employees.

The Audit Office of New South Wales

Level 11; 234 Sussex St

SYDNEY NSW 2000

Telephone (02) 9285 0155;

Facsimile (02) 9285 0100

Web site address

www.audit.nsw.gov.au

Information concerning public sector accountability requirements and corporate governance.

Institute of Public Administration Australia (IPAA) NSW Division

Level 6; 4-6 Bligh St

SYDNEY NSW 2000

Telephone (02) 9228 5225 ;

Facsimile (02) 9241 1920

Web Site address

www.nsw.ipaa.org.au

Association for professionals in the public sector. IPAA runs

Appendix 6

Environment and Heritage Portfolios

Conflict of Interest Checklist for Appointments to NSW Government Boards and Committees

1. Purpose

When considering appointments to boards and committees, staff must observe relevant NSW Department of Premier and Cabinet (DPC) guidelines which can be found at:
<http://www.boards.dpc.nsw.gov.au/>

The purpose of this supplementary note is to guide staff in the Office of Environment and Heritage, the Environment Protection Authority and other entities in the Parks, Gardens, Houses and Zoos mini-cluster in properly identifying and managing the important issue of conflict of interest.

2. Recognising a Conflict of Interest

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

A conflict of interest exists when it is possible that an individual can be influenced, *or perceived* to be influenced, by a personal interest (or interests of others) when carrying out their duties as a member of a Government board or committee.

Conflicts of interest can be caused by a range of private interests that are wider than financial concerns (involving an actual or potential financial gain). Examples of non-pecuniary interests that may need to be declared and managed are: personal relationships, family relationships, and sporting, cultural and social associations.

Examples of situations that may give rise to a conflict of interest when appointments to Government boards and committees are being considered are shown below:

- Having a significant financial interest in a matter in which the Government board or committee is involved (e.g. holding shares in a company, property, etc)
- Having friends or relatives with a significant financial interest in a matter the Government board or committee deals with
- Having friends or relatives that are decision makers in Government on particular matters that are being considered by the Government board or committee
- Allowing personal beliefs or attitudes, not related to the work of the Government board or committee, to influence the impartiality of any advice given or decision made
- Having other employment, or a directorship that may, or may appear to, compromise the Government board or committee's integrity

- Having affiliations with for-profit or not-for-profit organisations, bodies, clubs or associations that may, or may appear to, compromise the Government board or committee's integrity
- Participating in political activities to do with, or making political comments about, the Government board or committee's work.

3. Managing a Conflict of Interest

Conflicts of interest are not wrong in themselves and can happen without anyone being at fault. However, it is vital that they are disclosed and managed effectively so that individuals that are appointed to Government boards and committees are seen to be performing their duties in a transparent, fair and unbiased way.

It is the responsibility of individuals to disclose any professional, financial or personal circumstances that might constitute a real or perceived conflict of interest.

Business units within agencies must put in place effective processes to consider the potential for conflicts of interest before putting forward nominations for appointments to the Minister and to Cabinet.

For example, a lobbyist (as defined by the [NSW Government Lobbyist Code of Conduct](#)) 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 interests of third parties, or has represented the interests of third parties in the 12 months prior to the date of the proposed appointment.

Each board and committee secretariat must also put in place effective processes for the disclosure and management of real or perceived conflicts of interest in the normal order of business.

When determining the best way of dealing with a conflict of interest, it is important to weigh up the interests of the organisation, individual, the nature of the conflict and the public interest. A case by case analysis is required.

Conflicts of interest must be managed fairly and effectively.

The processes for identifying, disclosing and managing conflicts of interest must be transparent - that is, the processes should be open to scrutiny and help maintain accountability.

The need to manage conflicts of interest is based on two propositions. One is that Government board and committee members must avoid situations in which private interests can affect their 'public' duties. The other is that situations where there is the appearance of a conflict must also be avoided.

Key questions to ask are:

1. What is the public duty of the individual concerned?
2. What is his or her private interest?

3. Is there a real or perceived conflict between the two? In the area of conflict of interest perception is all important. The main question is will a reasonable member of the public, properly informed, feel that the conflict is unacceptable?
4. If so, what type of conflict is there?

4. PRE-APPOINTMENT: When considering the appointment of candidates to Government Boards or Committees

The level of pre-appointment checks required varies across boards and committees depending on the role and responsibilities of each board and committee.

Agencies should determine the level and nature of pre-appointment checks relevant to the particular circumstances of each board or committee and manage these checks, having regard to the requirements listed below and any particular statutory requirements that may exist.

Basic requirements for all boards and committees

It is the responsibility of individuals (applicants, people making expressions of interest, etc) to disclose professional, financial or personal circumstances that might constitute a real or perceived conflict of interest, before nomination.

However, agency business units must:

- Give individuals guidance material on what a conflict of interest is;
- Ask individuals to advise of potential conflict of interest issues; and
- Have a formal record (in writing) that agencies have asked individuals and how they have responded.

In so doing, agency staff should recognise that there may be cultural differences in how a conflict of interest is perceived by the individual.

If someone does disclose a conflict of interest issue, the agency business unit must:

- Discuss the issue *confidentially* with senior management;
- Contact the individual to discuss the nature of the issue, consequences, etc; and
- In discussions with senior management, make decisions about whether to proceed with the appointment process and, if so, how to manage any identified issues, who should be notified, etc.

All pre-appointment conflict of interest checks must occur in business units (including checking the Register of Lobbyists) before appointment packages are submitted to OEH's Ministerial and Parliamentary Services Section for progression to the Minister's Office and then Cabinet.

The Cabinet Appointment template must be used to consult Cabinet on proposed ministerial appointments. Every section on the Template is mandatory. This includes questions relating to potential conflicts of interest.

In addition to filling in the template, the covering briefing note for the Minister should specifically provide an assurance that conflict of interest issues have been assessed.

A pre-appointment checklist is provided at Attachment 1 for easy reference.

5. POST-APPOINTMENT: Checklist when conducting Government Board or Committee Meetings

Each Government board or committee should have effective processes in place to deal with conflicts of interests. Broadly:

- The board or committee must ensure that processes are in place to deal with conflicts of interests in members that apply to financial *and* non-financial interests
- A board or committee member has a duty to declare any private interest that may impinge upon a board or committee decision
- The processes must require members to make a full disclosure of interests at board or committee meetings and the disclosure must be recorded
- The board or committee must determine whether the conflict of interests in a matter is material and the action to be taken.

Annual declaration of interests

Particular Government boards or committees will have specific enabling legislation, codes of conduct and should have specific conflict of interest and pecuniary interest declaration forms and hold a register of interests.

For all boards and committees, annually a board or committee member should declare interests to the board or committee that may be relevant to the particular activities of that board or committee. A [guide declaration](#) form is available on the NSW Department of Premier and Cabinet website. A register of such interests must be maintained by the relevant Board or Committee secretariat.

Disclosure of interests as they arise

In the case of individual meetings of boards or committees, a member has a duty to declare any private interest that may impinge upon a board or committee decision. The general practice would be for:

- 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
- The board or committee chair is to call for any potential or actual conflicts of interest at the commencement of the meeting, as a standing item
- Member/s disclose any conflict and the likely impact
- Members discuss how to manage the conflict and make a decision on whether, for example, the member/s participates in, or is excluded on, the particular matter. Other options could include divestment of the interest/issue creating the conflict, or severing a connection with another position giving rise to the conflict
- If the conflict is material, the board or committee must require the member to be absent while the board or committee is considering the matter; prohibit the member from taking part in any decision about the matter; and notify the relevant Minister in writing about the conflict as soon as possible. In an extreme case, the member may be required to resign from the Government board or committee
- Meeting minutes record the disclosure, discussion, decision and action.

Agency staff working with Boards and Committees

It is expected that agency staff and Ministerial staff working with Government boards and committees will also declare any perceived or real conflicts of interest - such as a relationship to a board or committee member (or proposed appointment to a board or committee).

Record keeping

It is essential that detailed record-keeping occurs, particularly concerning:

- Registration of relevant private interests
- Disclosure of the conflict of interest
- Directions given about handling the conflict of interest
- Decisions and arrangements made for resolving the conflict of interest
- Steps taken in implementing the chosen management strategy

A post-appointment checklist is provided at Attachment 2 for easy reference.

7. Resources

Further useful references regarding conflicts of interest include:

- NSW Office of Environment and Heritage Code of Ethical Conduct
<http://www.environment.nsw.gov.au/resources/whoweare/09651ethicalconduct.pdf>
- NSW Department of Premier and Cabinet website:
 - [Guidelines for NSW Board and Committee Members: Appointments and Remuneration \(October 2004\).](#)
 - [Conduct Guidelines for Members of NSW Government Boards and Committees](#)
 - [Boards and Committees](#)
 - [Register of Lobbyists](#)
- NSW Independent Commission Against Corruption (ICAC) Managing Conflicts of Interest in the Public Sector Toolkit
<http://www.icac.nsw.gov.au/preventing-corruption/known-your-risks/conflicts-of-interest/4897>

ATTACHMENT 1

PRE-APPOINTMENT: CONFLICT OF INTEREST CHECKLIST	
1. Has the business unit provided the individual with guidance on what a conflict of interest is?	Yes/No
2. Has the business unit asked the individual to advise in writing of potential conflict of interest issues?	Yes/No
3. Has the individual (applicants, people making expressions of interest, etc) responded to the business unit in writing before nomination?	Yes/No
4. Has the individual disclosed professional, financial or personal circumstances that might constitute a real or perceived conflict of interest?	Yes/No
<p>5. Has the business unit contacted the individual to discuss if there is any matter concerning the individual's interests*, or any activity in which they are or have been engaged, that may call into question the probity of the board or committee, or give rise to any conflict with responsibilities as a member of that board or committee?</p> <p>The following interests* in corporations, partnerships, businesses or other organisations may be relevant to the activities of the board or committee:</p> <ul style="list-style-type: none"> ▪ Sources of income (private business interests) ▪ Memberships of other Boards and Committees ▪ Interests and positions in corporations ▪ Interests and positions in political organisations, trade unions and professional or business associations <p>*A member's interests include those of an associate or close relative.</p>	Yes /No
6. Is the individual aware that he or she must exercise their responsibilities as a member of the board or committee in accordance with the Conduct Guidelines for Members of NSW Government Boards and Committees , including in relation to the confidentiality requirements set out in those Guidelines, as well as any applicable Code of Conduct for the board or committee?	Yes/No
7. Has the business unit searched the NSW Government Register of Lobbyists to determine whether the individual is a registered lobbyist?	Yes/No
8. Is the individual a registered lobbyist?	Yes/No
9. If 'yes', to Item 6 above, has the business unit taken appropriate steps?	Yes/No
10. Has the business unit filled out the conflict of interest part of the Cabinet Appointment template?	Yes/No
11. Has the business unit's covering briefing note for the Minister specifically provided an assurance that conflict of interest issues have been assessed?	Yes/No

ATTACHMENT 2

POST-APPOINTMENT: CONFLICT OF INTEREST CHECKLIST	
1. Are there policies and procedures for identifying and recording a member's disclosure of:	
(a) An actual or perceived conflict of interest?	Yes /No
(b) A pecuniary (financial) interest?	Yes /No
(c) A non-pecuniary interest?	Yes /No
(d) Related party transactions?	Yes /No
2. Do these policies and procedures provide for:	
(a) Disclosure when the members are appointed?	Yes /No
(b) Disclosure at meetings?	Yes /No
(c) Disclosure between meetings?	Yes /No
3. Is there a register of:	
(a) Pecuniary interests that may give rise to an actual or perceived conflict of interest?	Yes /No
(b) Non-pecuniary interests that may give rise to an actual or perceived conflict of interest?	Yes /No
4. When there is an actual or perceived conflict of interest, is there a procedure for a board member:	
(a) Not to receive board papers?	Yes /No
(b) To be excluded from discussion?	Yes /No
(c) To be excluded from voting?	Yes /No