

TASMANIAN PLANNING COMMISSION



Code of Conduct for the Executive Commissioner, Commissioners Delegates and Major Project Panels

January 2021

Tasmanian Planning Commission Code of Conduct – Version Control

Version no.	Date	Description	Approved by Commission
0.1	16 April 2019	Preliminary draft for Commission discussion	
1.0	6 May 2019	Endorsed draft Code subject to amendments to the Conflict of Interest sections.	6 May 2019
1.1	23 May 2019	Revised Code for endorsement	27 May 2019
2.0	4 Dec 2019	Made assessable for publication	05 Dec 2019
3.0	19 Jan 2021	Add Major Assessment Panel s60V LUPAA	19 Jan 2021

This document is available on the website of the Tasmanian Planning Commission at www.planning.tas.gov.au

Introduction

The Executive Commissioner, Commissioners, delegates and any person appointed to a major project Panel under section 60V of the *Land Use Planning and Approvals Act 1993*, (major project Panels) are expected to uphold the integrity of the Tasmanian Planning Commission.

The Commission is an independent review body with a key role as part of Tasmania's Resource Management and Planning System. It has considerable powers that have the potential to materially affect the rights of others, through various statutory decision-making and review processes.

It is important that the Executive Commissioner, Commissioners, delegates and major project Panels maintain the integrity of the Commission's decision-making processes by observing the rules of natural justice, bringing an open and unprejudiced mind to all matters and always abiding by the law.

Its decision-making must also be undertaken in a manner which withstands the closest legal and public scrutiny maintaining the Commission's reputation for independence, fairness and good governance.

Application

This Code of Conduct applies to the Executive Commissioner and Commissioners of the Tasmanian Planning Commission; any persons delegated the roles and functions of the Commission, and major project Panels except where they are employed under the *State Service Act 2000*¹.

The Code reflects the Commission's commitment to uphold the highest standards of ethical behaviour. It engenders the expectation that the Executive Commissioner, Commissioners, and delegates will act honestly, professionally, and with accountability in the performance of the Tasmanian Planning Commission's roles and functions.

Review

This Code was adopted by the Commission on 27 May 2019 and is operational from this date. It will be reviewed when required but at least every four years.

¹ Delegates employed under the *State Service Act 2000* are bound by the requirements and sanctions of the State Service Code of Conduct (section 9 of that Act). They are also subject to the [Department of Justice, Conflict of Interest Policy, August 2016](#) and a range of other relevant policies. A number of these are available on the Department of Justice website.

Conflicts of interest

So as to protect and uphold the public interest, reasonable steps must be taken to avoid, resolve or disclose any conflict of interest² that arises or is likely to arise, between any personal interests and the official duties of the Executive Commissioner, Commissioners, delegates, major project Panels

Any conflict between a personal interest and the official duties of the Executive Commissioner, Commissioners, delegates and major project Panels, which arises must be resolved promptly in favour of the public interest.

Such conflicts of interest are to be declared in writing to the Commission's Output Manager, or at a hearing or Commission meeting, as soon as possible after becoming aware of the conflict.

Commissioners and delegates are individually responsible for avoiding conflicts of interest.

Declaration of personal interests

Each individual bound by this Code is personally responsible for reporting all financial and other interests that could reasonably be seen to constitute a real or perceived conflict of interest to the Commission's Output Manager, or at a hearing or Commission meeting, as soon as possible after becoming aware of the conflict.

The Commission maintains a register of such interests. The Executive Commissioner, Commissioners, and delegates and major project Panels, will be requested to review and update the register on an annual basis and from time to time, following any relevant change in interests or circumstances.

Individuals bound by this Code must take steps to manage their financial and other interests that they, or their partner or dependents may have which could create the impression of a conflict with their official duties. Strategies for managing conflicts of interest may include:

- Restricting your involvement in the matter
- Removing yourself from involvement in the matter
- Relinquishing the personal interest.

² Relevant definitions for conflict of interest are provided in the Department of Justice, conflict of Interest Policy 2016.

Conflict of interest means a situation arising from a conflict between the performance of a public duty and a private or personal interest. A conflict of interest may be actual or perceived.

- Actual:** means there is a conflict between a person's official duties and responsibilities in serving the public interest, and their personal interest.
- Perceived:** means when a reasonable person, knowing the facts, would consider that a conflict of interest may exist, whether or not this is the case.

Personal interest includes the private, professional or business interests of a person, or of the individuals or groups with whom they have a close association, whether it be a positive or negative one. Personal interests may be pecuniary or non-pecuniary.

- Pecuniary:** refers to an actual or potential financial gain or loss for the person, their family, friends or close associates arising from (but not limited to) ownership of shares, trusts, partnerships, real estate, directorships, other assets, other substantial sources of income, liabilities and memberships.
- Non-pecuniary:** refers to an interest that is not financial or monetary but arises from such things as personal relationships, beliefs or involvement in social, cultural, religious or sporting activities. Dislike for someone as well as friendship can give rise to a conflict of interest.

Gifts and benefits

The Executive Commissioner, Commissioners, delegates and major project Panels, must comply with the Gifts, Benefits and Hospitality Policy 2016, Department of Justice, as amended from time to time. Under the Department's policy, there should be no expectation of gifts, benefits or hospitality for doing a job, for which one is already paid by the public to do.

The Executive Commissioner, Commissioners, delegates and major project Panels, must not solicit, encourage or accept gifts, benefits or favours either for themselves or for another person in connection with performing or not performing their official duties.

The offer of a gift, benefit or favour, either directly or indirectly, must be reported to the Commission's Output Manager as soon as practicable. More detailed guidance is given under the Department's policy³.

Improper advantage

The Executive Commissioner, Commissioners, delegates and major project Panels, are not to use their position improperly to gain a direct or indirect personal advantage for themselves or any other person or entity, not enjoyed by the general public.

This includes any information obtained in the course of their official duties used to gain a direct or indirect personal advantage for themselves for any other person or entity, not enjoyed by the general public.

Under this Code, confidentiality of the information received in the official course of duties must be appropriately maintained.

Improper use of public resources

Public resources should not be used or allowed to be used by others, for personal advantage or benefit.

Public resources, including the skills and abilities of public servants, must be used and managed in accordance with any Department of Justice or Commission Output Manager's rules and guidelines regarding the use of those resources.

Each individual must be scrupulous in ensuring the legitimacy and accuracy of any claim for the payment of any allowance or reimbursement of costs.

Advice, comments and statements

The Executive Commissioner, Commissioners, delegates and any major project Panels, must not mislead the public in statements they make and are obliged to correct the public record in a manner that is appropriate to the circumstances as soon as possible after any incorrect or misleading statement is made.

Statements made in public by the Executive Commissioner, Commissioners, delegates and major project Panels, should not undermine the impartiality and independence of the Commission.

³ Available on the Department of Justice website at <https://www.justice.tas.gov.au/about/policies>

Fairness of decision making

Commissioners must maintain and strengthen the integrity of the Commission's decision making processes by observing the rules of natural justice, bringing an open and unprejudiced mind to all matters and always abiding by the law.

The Executive Commissioner, Commissioners, delegates and major project Panels, must not only act lawfully but also in a manner which withstands the closest legal and public scrutiny.

Any decisions are to be unaffected by bias or irrelevant considerations.

Respect for persons

The Executive Commissioner, Commissioners, delegates and major project Panels, are to treat employees, clients and members of the public with respect and courtesy without partiality, harassment, victimisation or discrimination.

Public officials

Commissioners must not by their decisions, directions or conduct encourage or induce public officials to break the law, or to fail to comply with an applicable code of conduct.

Upholding the Code

As part of demonstrating a commitment to upholding this Code, conduct that is not consistent with this Code is to be identified and reported.

Behaviour that is not consistent with the Code is to be reported to the Executive Commissioner, in the case of Commissioners, delegates and major project Panels, and is to be dealt with in a fair, transparent and consistent manner.

In the event that the behaviour of the Executive Commissioner is identified to be inconsistent with this Code, it may be reported to the Secretary, a Deputy Secretary, or the Director of Human Resources of the Department of Justice.

If conduct is confirmed as constituting a breach of the Code, the Executive Commissioner or Secretary of the Department of Justice is to determine the appropriate course of action. The appropriate sanction will depend on the nature and seriousness of the breach and may include:

- Requiring a formal apology be issued by the officer;
- Requiring the officer to take remedial action;
- Requiring the officer engage in counselling;
- Issuing a formal reprimand;
- The officer standing aside or being stood down from any or all responsibilities for a period of time;
- Requesting the officer tender their resignation; or
- Dismissal.