Organisation chart of the Western Australian Planning Commission

**Strategic Plan**
The WAPC will take a lead role in shaping the future of Western Australia in a sustainable manner through leading a whole of government approach in integrated strategic and statutory land use planning, land development and infrastructure coordination.

**Role and function**
The WAPC is the statutory body with statewide responsibility for urban, rural and regional integrated strategic and statutory land use planning and land development.

**Statutory Planning Committee**
Is the Commission’s regulatory decision-making body.

**Infrastructure Coordinating Committee**
Advises the WAPC on planning for the provision of strategic physical and community infrastructure throughout the state.

**Executive Finance and Property Committee**
Performs the administrative, financial and property functions of the WAPC.

**Central Perth Planning Committee**
Established to oversee and provide direction for strategic land use planning in the Perth central area.

**Infrastructure Steering Group**

**Audit and Risk Management Committee**

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The Department of Planning, Lands and Heritage provides statutory and policy services to the WAPC under the Service Delivery Agreement.
Executive Summary

The Western Australian Planning Commission (WAPC) Governance Guide

The WAPC Governance Guide is a tool to aid WAPC Board and committee members to understand their role and responsibilities, obligations and scope as public sector board members so that they may contribute effectively to the WAPC.

In seeking to consolidate key governance documents, this WAPC Governance Guide incorporates the following:

1. Board Charter (adopted by the WAPC on 9 August 2017);
2. Standing Orders (adopted by the WAPC on 8 March 2017);
3. Code of Conduct (adopted by the WAPC on 9 August 2016);
4. Policies; and
5. Important References.

The Western Australian Planning Commission (WAPC)

The WAPC has statewide responsibility for urban, rural and regional integrated strategic and statutory land-use planning and land development.

It responds to the strategic direction of State Government and is responsible for:

- advising the Minister for Planning on strategic land-use planning and land development, legislative reform and local planning schemes;
- making statutory decisions on a range of planning applications;
- implementing the State Planning Strategy to provide a vision for the future development of Western Australia;
- developing integrated land-use planning strategies for the coordinated provision of transport and infrastructure for land development;
- preparing and reviewing region schemes to cater for anticipated growth;
- monitoring and forecasting land supply throughout the State and developing strategies for the timely supply of affordable residential land;
- undertaking research and developing planning methods and models relating to land-use planning, land development and associated matters; and
- acquiring land for public requirement reservations in region planning schemes and compensating affected landowners.

The WAPC is a statutory authority and operates with the support of the Department of Planning, Lands and Heritage which provides professional and technical expertise, administrative services and corporate resources to assist its decision-making.

The Committees of the WAPC currently operating are:

Statutory Planning Committee (SPC)

The SPC performs a wide variety of regulatory and statutory planning and approval functions of the WAPC under the Act and other written laws. This statutory committee meets fortnightly and is the WAPC’s regulatory decision-making body. Its functions include the approval of the subdivision of land, approval of leases and licenses, approval of strata schemes, advice to the Minister on local planning schemes and scheme amendments, and the determination of certain development applications under the Metropolitan Region Scheme.
Infrastructure Coordinating Committee (ICC)

The ICC advises the WAPC on planning for the provision of the physical and community infrastructure throughout the State. This statutory committee meets annually.

Infrastructure Steering Group (ISG)

The ISG was established to provide advice and make recommendations to the WAPC, on behalf of the Infrastructure Coordinating Committee, on the planning, coordination and provision of physical and community infrastructure throughout the State. This group coordinates the preparation of the urban Development Program and plans for the coordinated provision of transport and infrastructure for land development.

Executive, Finance and Property Committee (EF&P)

The EF&P perform the administrative, financial and property functions of the WAPC as well as any other functions delegated to it by the WAPC. This statutory committee meets monthly. Its responsibilities include the preparation, adoption and management of budgets, the management of finances and assets, the approval of development projects, the acquisition and disposal of property and considering vacancies on the WAPC.

Audit and Risk Management Committee (ARMC)

The ARMC was established as a sub-committee of the EF&P. It meets on an as-needs basis and consists of three members with expertise in audit, risk management and governance. The key role of the ARMC is to assess and consider the implication of internal and external audits and to report on risk management. The ARMC is authorised by the Board to approve a program of internal auditing of WAPC-related business activity based on risk exposure, obligations and any specific requests by the WAPC.

The ARMC plays a central role in the oversight of the WAPC’s financial and non-financial risks. Some of these risks include management complexity in terms of stewardship and accountability; clarity of objectives; skill gaps on the Board; and conflicts of interest. The Chair must take responsibility for managing the key risks identified above and keep Members informed of their obligations and responsibilities.

Central Perth Planning Committee

The CPPC was established to oversee and provide direction for strategic land use planning in the Perth central area. The WAPC directed that the CPPC shall operate in the following manner:

1) Government agency members will support the CPPC by ensuring that their officers work collaboratively on strategic issues and matters, and bring items of significant to the Committee;
2) On strategic matters, the CPPC will make decisions on a consensus basis, rather than by vote.
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1. Introduction

1.1 Document Purpose

The Western Australian Planning Commission (WAPC) Board Charter documents the role, composition and processes relating to the key governance activities of the board. The Board Charter defines:

- The respective roles, responsibilities and authorities of the Minister, the WAPC Board, the Chairperson, committees, members of the board and of the Chief Executive of the Department of Planning, Lands and Heritage.
- The size, structure and composition of the board and committees, including the skills, knowledge, expertise and position required of members; independence and tenure; and expectations of performance.
- The functional process for governance activities including board and committee meetings, board and deputations.
- Provisions for board effectiveness including the conduct required of members, disclosures, remuneration and advice.

The Board Charter will be reviewed every two years and updated as relevant legislation and policies change.

1.2 Definitions

<table>
<thead>
<tr>
<th>Term</th>
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<td>Act</td>
<td>The Planning and Development Act 2005 (the Act).</td>
</tr>
<tr>
<td>Board</td>
<td>The board of management of the WAPC, established under the Act.</td>
</tr>
<tr>
<td>Board member</td>
<td>A member of the board.</td>
</tr>
<tr>
<td>CEO</td>
<td>The chief executive officer of the department principally assisting in the administration of the Act: the Director General of the Department of Planning, Lands and Heritage.</td>
</tr>
<tr>
<td>Chairperson</td>
<td>The position of Chairperson of a WAPC board or committee is the highest office holder of the board or committee.</td>
</tr>
<tr>
<td>Charter</td>
<td>The WAPC Board Charter: a written policy document that clearly defines the roles, responsibilities, composition and authorities of the board, and processes relating to the key governance activities.</td>
</tr>
<tr>
<td>Committee</td>
<td>A committee of the WAPC established under the Act.</td>
</tr>
<tr>
<td>Committee Member</td>
<td>A member of a WAPC committee.</td>
</tr>
<tr>
<td>DG</td>
<td>Director General of the Department of Planning, Lands and Heritage</td>
</tr>
<tr>
<td>DPLH</td>
<td>Department of Planning, Lands and Heritage</td>
</tr>
<tr>
<td>Gazette</td>
<td>Western Australian Government Gazette.</td>
</tr>
<tr>
<td>Minister</td>
<td>The Minister responsible for administering the Act.</td>
</tr>
<tr>
<td>PSC</td>
<td>Public Sector Commission.</td>
</tr>
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</table>
### 1.3 Governing Legislation, Functions and Powers

The WAPC is established under Section 7 of the Act. The WAPC is an agent of the State and has the status, immunities and privileges of the State.

The WAPC is the statutory authority with state-wide responsibilities for urban, rural and regional land use planning and land development matters. The WAPC is a corporate entity, accountable to the responsible Minister, with its management by way of a board.

- The WAPC’s functions are defined in Section 14 of the Act.
- The WAPC’s powers are specified in Section 15 of the Act.
- The power of the WAPC can be delegated under Section 16 of the Act.

### 1.4 Policies and Procedures

A key role for the board is to ensure that the WAPC is operating efficiently and effectively to fulfil its statutory role. The board is responsible for establishing and monitoring controls that ensure the WAPC is compliant with legislation, government policy and proper administrative procedures for the expenditure of public funds and stewardship of public resources. It therefore has a duty to approve policy that will bind and obligate the WAPC.

The Public Sector Commission’s Publication, *Board Essentials: Good governance guide for public sector boards and committees* served as a key guiding document in writing this Board Charter.

### 2. Defining governance roles

#### 2.1 Board composition

The WAPC’s membership is defined in detail in Section 10 of the Act.

##### 2.1.1 Associate Membership

The WAPC’s associate membership is defined in detail in Section 11 of the Act. The board has a provision for associate members for regions, appointed by the Governor on the nomination of the Minister upon the recommendation of the Regional Minister. When a regional matter is to be considered at a meeting of the board, the associate member for that region may attend the meeting for that item.

##### 2.1.2 Terms of Office

The WAPC’s terms of office are defined in Schedule 1, Section 2 of the Act. A member or associate member is appointed on a casual basis for a term not exceeding five years and is eligible for reappointment at the end of their term.
### 2.1.3 Vacancies

The WAPC’s provisions for vacancies on the board and for removal from office are defined in Schedule 1, Section 4 of the Act. The office of a member becomes vacant if the member resigns by written notice to the Minister; is insolvent; ceases to hold office on the council of local government; fails to attend three consecutive meetings without leave approval from the Minister; or is removed from office by the Governor.

The WAPC website invites members of the public to express their interest in appointment to the WAPC by submitting a copy of their Curriculum Vitae (CV). CVs received by the WAPC are held for one year and considered when vacancies arise during that time.

### 2.1.4 Appointments

In accordance with the Act, Ministerial approval is required for all appointments to the WAPC board and on statutory committees. Furthermore, convention requires Cabinet consideration of all proposals for appointment. Members of the WAPC board are appointed by the Governor on the Minister's nomination, and this is by way of submission to Executive Council.

### 2.2 Roles and Relationships

Members must acquire an understanding of the roles, responsibilities and reporting arrangement between stakeholders which include:

- the Minister responsible for the portfolio in which the board operates;
- Chairperson of the board;
- Board members;
- the CEO of each public sector body affected by the board's operations;
- the Secretary;
- the role of the PSC, where relevant, as the employing authority of the CEO.

#### 2.2.1 Responsible Minister

The responsible minister is accountable to the Parliament of Western Australia for the operation of the public sector bodies and boards within their portfolio(s). The responsible Minister for the WAPC is the Minister for Planning. Some of the Minister’s planning and governance responsibilities are to:

- shape enabling legislation;
- approve the WAPC annual budget and strategic plan;
- review operations and performance with the Chairperson;
- accept the annual report;
- make recommendations to the Governor (via Cabinet) with respect to the appointment of board members; and
- approve the appointment of members to Committees established under schedule 2, clauses 3 to 9 of the Act.

The Minister may also provide direction to the WAPC, and is entitled to have any information in the possession of the WAPC. These powers are detailed in Section 17 and 18 of the Act.
2.2.2 Board Chairperson

The Chairperson of the board is appointed by the Governor on the nomination of the Minister in accordance with Section 10(1)(a) of the Act. The Chairperson is required to lead the board, ensure the board operates effectively, maintain a strategic focus, monitor overall performance and manage its principal relationships. The Chairperson must ensure board members, the Minister, stakeholders and the community have confidence in their leadership and in the competence of the board they lead. The role includes:

1. providing leadership and support for Members, developing their skills as public officials, and building group cohesion and effectiveness;
2. liaising with the CEO and the Minister, and facilitating the flow of information between the Minister, the Board, and the Department of Planning, Lands and Heritage, on behalf of the WAPC;
3. building an effective board with the high quality skills, knowledge and experience;
4. establishing and maintaining an effective Board Charter;
5. ensuring relevant information and policies are brought to the attention of members to support the board’s performance, objectives and governance framework;
6. leading board meetings efficiently, encouraging members rather than directing them and seeking consensus when making decisions;
7. mapping out broad timelines for WAPC business and shaping agendas to reflect goals, strategy and budgets;
8. leading by example in modelling behaviours desired of members, including professionalism, punctuality, respectful communications, integrity and confidentiality;
9. motivating members and, where appropriate, addressing underperformance; and
10. managing risk and reporting concerns to the responsible Minister.

The Chairperson must develop strong working relationships with ministerial officers and members of senior management across the Public Sector.

2.2.3 Board Secretary

The Secretary of the board of the WAPC is appointed in accordance with Section 21 of the Act. The Secretary executes documents on behalf of the WAPC and manages all probity responsibilities. The Secretary works closely with the Chairperson regarding the business of the WAPC board and its committees and matters of probity, statutory compliance and good practice of the WAPC. The Secretary, on behalf the WAPC, and the Chief Financial Officer, on behalf of the Department of Planning, Lands and Heritage; develops, negotiates and monitors a Service Delivery Agreement. The Secretary is usually an employee of the public sector body that provides direct support to the Board. The Secretary should have a detailed knowledge of the enabling legislation of the public sector body, the Public Service Management Act 1994, the Financial Management Act 2006 and other legislation and government policies that affect the public sector body and the Board.

Under the direction of the Chairperson, the Secretary’s duties may also include:
1. coordinating the provision of administrative support, such as preparing meeting agendas, taking meeting minutes, circulating papers, tracking actions arising from meetings and liaising between the board and the CEO;
2. facilitating the induction of newly appointed board members;
3. coordinating the professional development program for the Board;
4. ensuring effective information flows within the board, between the board and its committees, and between the board and the public sector body's management;
5. advising members on corporate governance principles and plans, and the implementation of corporate governance programs, such as risk management and performance assessment; and
6. carrying out the instructions of the board, assisting in implementing board and corporate strategies and giving practical effect to decisions of the board.

### 2.2.4 Chief Executive Officer

The Public Sector Commissioner is the employing authority of all department and Senior Executive Service (SES) organisation CEOs who are appointed under Section 45 of the *Public Sector Management Act 1994*. Broadly CEOs are responsible for the efficient and effective day-to-day management of the public sector body, which includes:

1. providing leadership and strategic direction;
2. providing advice to government and delivering government desired outcomes;
3. establishing and maintaining productive relationships with stakeholders;
4. planning, undertaking and monitoring the body's financial administration;
5. ensuring the appropriate structure and use of resources within the body;
6. ensuring proper records are maintained;
7. managing and directing employees, including their recruitment and remuneration; and
8. ensuring employees have equal opportunities, as well as access to appropriate training and development and grievance processes, and have a safe workplace.

The functions of CEOs are further outlined in section 29 of the *Public Sector Management Act 1994* and the *Financial Management Act 2006*.

The CEO in the context of the WAPC is the Director General (DG) for the Department of Planning, Lands and Heritage (DPLH). The DG is the primary link between the board and the DPLH and manages the DPLH's day-to-day operations. The DG is an ex officio member of the board of the WAPC in accordance with section 10(1)(c)(i) of the Act.

The Department provides the WAPC with a range of administrative, financial and technical services, implements the decisions of the Board and performs many of the WAPC’s day to day functions, under delegated authority. The DG is responsible for effective and efficient delivery of the services provided to the WAPC as determined by the Service Delivery Agreement between the WAPC and the DPLH. The board and the Chairperson should seek to maintain a strong and positive relationship with the DG and develop mutual trust and respect, to identify and examine the most significant issues facing the Department and influencing its future.
2.2.5 Board members

Public sector board members acting in a fiduciary capacity have an obligation to:

- act honestly and to exercise powers for their proper purposes;
- manage conflicts of interest;
- act in good faith; and
- exercise diligence, care and skill.

All members of the WAPC must understand the purpose, function and responsibilities of the board or committee to which they are appointed. They have a duty to exercise care and diligence to ensure that the WAPC is meeting its financial, legal, contractual and reporting obligations and operating as economically, efficiently and effectively as possible. Importantly, members should understand that the Board’s strategic role of direction, oversight and advice to the responsible Minister, is distinct from the role of the CEO (DG), who is responsible for managing the day-to-day operations of the public sector body.

All board members are expected to:

1. make a full contribution to the board and to operate as part of an effective group;
2. be familiar with the WAPC Governance Guide and their legal and statutory obligations; and
3. comply with the WAPC’s Standing Orders (Chapter 2) and Code of Conduct (Chapter 3) and lead by example in their dealings with stakeholders.

Members are encouraged to adopt a long-term strategic perspective to better enable them to anticipate and respond to changes in the external environment. Members must take reasonable steps to ensure they are informed about the business of the board to enable them to make informed decisions. Members are collectively responsible for board decisions, but they also have an individual responsibility to ensure that the board is undertaking its responsibilities and to work constructively, cooperatively and respectfully with other board members as well as senior management.

Members have an obligation to act in the best interest of the WAPC. This obligation manifests from several sources:

1. The Public Sector Management Act 1994 (WA);
2. The Statutory Corporation (Liability of Directors) Act 1996 (WA);
3. The Public Interests Disclosure Act 2003 (WA);
4. The Integrity (Lobbyists) Act 2016 (WA);
5. The Financial Management Act (2006) (WA); and

Members may be appointed as independent experts or representatives of another public sector body. However, it is essential that Members understand that by law each Member is obliged to act only in the interest of the Board to which they have been appointed. A Member's primary obligation is to support the agreed strategic direction of the WAPC once agreed. There is room for advocacy and contested viewpoints within the Boardroom when establishing strategic policy and direction, but once set, it is not appropriate for a Member to publicly petition against or act contrary to that position. Members who continue to have concerns
should seek to resolve these through the Chairperson in the first instance and if unsuccessful, with the assistance of the Public Sector Commission.

2.2.6 Board skills, knowledge and experience

The WAPC operates most effectively when its members have a range of skills, knowledge and experience. The WAPC is committed to principles of good governance by regularly evaluating the mix of skills, knowledge and experience required to best complement board effectiveness. The WAPC must ensure it has the competence to deal with the current, emerging and long-range issues of strategic land use planning.

For effective decision making, the WAPC board requires some specific skills, knowledge and experience. This requirement contrasts between board members, depending on the means of their appointment. In addition to these specific virtues, there are skills, qualities and experiences that all Board members should possess. These include:

1. an understanding of the public sector environment;
2. integrity and ethical behaviour;
3. ability to think strategically;
4. sound judgement;
5. commitment; and
6. communication skills.

2.2.7 Skills Matrix

The WAPC has devised a skills matrix that identified the skills, knowledge and experience the Board should hold collectively. These are as follows:

<table>
<thead>
<tr>
<th>Skills</th>
<th>Qualities</th>
</tr>
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<tbody>
<tr>
<td>Strategic thinking</td>
<td>Integrity and standing in the community</td>
</tr>
<tr>
<td>Planning and leadership</td>
<td>Demonstrated honesty</td>
</tr>
<tr>
<td>Risk management and audit</td>
<td>Tolerance of different views</td>
</tr>
<tr>
<td>Reading and understanding financial statements</td>
<td>A track record of acting in good faith and in the best interests of an organisation</td>
</tr>
<tr>
<td>Legal, financial and other professional skills</td>
<td>Ability to listen, analyse, think clearly and work well with others</td>
</tr>
<tr>
<td>Marketing and communication</td>
<td>Willingness to attend meetings, ask questions and take responsibility</td>
</tr>
<tr>
<td>Industry-specific skills and knowledge</td>
<td></td>
</tr>
<tr>
<td>Stakeholder management</td>
<td></td>
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<th>Working on a Board</th>
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<td></td>
<td>Networking and dealing with stakeholders</td>
</tr>
<tr>
<td></td>
<td>Working in a regional, rural or remote context</td>
</tr>
<tr>
<td></td>
<td>Performing at high levels in relevant fields of expertise</td>
</tr>
<tr>
<td></td>
<td>Previous experience as a Chairperson (if the person is to be the Chairperson)</td>
</tr>
</tbody>
</table>

2.3 Board Committees

The WAPC primarily operates through various committees, through the delegation of aspects of its work. This allows the board to efficiently distribute its workload and ensure that matters are considered thoroughly by committee members with specific skills and expertise. The board, not the committee, is accountable for all decisions, even if a committee has the power of delegated authority from the WAPC. The board must continually monitor the activities of each committee as part of its duty of care, diligence and good faith. The primary function of a WAPC committee is to bring objective scrutiny to planning decisions.

The WAPC’s committees comprise of Statutory Committees (committees required to be established under the Act); Regional Planning Committees (committees that perform the functions within a particular region as defined by the Act); District Planning Committees (committees for particular districts within the metropolitan region); and Special Purpose Committees (committees established to perform a particular purpose). Statutory Committees are established under Schedule 2 of the Act. They perform a range of executive functions and activities that support the decision-making process of the WAPC. Each committee’s terms of reference should be evaluated annually to ensure it is appropriately focused and that the committee is fulfilling its functions.

In addition to the committees established under Schedule 2, the WAPC may establish other committees to assist it in the performance of its functions. The WAPC may prescribe the constitution of the committee. Members may include persons who are not members of the board. The board shall set the committee’s terms of reference, determine the Chairperson, and specify its quorum.

Subject to the direction of the board and to the terms of any delegation in accordance with the Act, a committee may determine its own procedures.

A full list of the WAPC Committees that are currently operating can be found in the Executive Summary of this WAPC Governance Guide.

3. Key Board Functions

3.1 Role of the Board

The functions and Powers of the WAPC are defined in Division 2, Sections 14 and 15 of the Act.

The WAPC is a board of management with a vast and broad scope of responsibilities. These can be categorised as follows:

1. Strategic Planning;
2. Statutory Planning;
3. Asset Management;  
4. Financial and Risk Management; and  
5. Governance.  

3.1.1 Strategic Planning  

The development of strategy is one of the WAPC’s primary functions. The WAPC is unique among WA government authorities in its role and ability to undertake long-term integrated strategic land-use planning.

The WAPC’s role with respect to strategy includes:

1. Preparation, approval and integration of strategies for land use, transport planning and land development at local, regional and State level;
2. Setting the broad strategy and direction for the DPLH to ensure the WAPC will meet its objectives and performance targets;
3. Production of an Annual Report, procedures and policies;
4. Approving strategic initiatives such as commercial ventures, significant acquisitions and disposals;
5. Ensuring the WAPC’s strategies are appropriately resourced and that the WAPC’s financial viability is maintained;
6. Reconsideration of assumptions and strategies that underpin the preparation of financial and strategic plans. These include assumptions about population growth, CPI trends and economic development. Relevant strategies include those underpinning income, expenditure management, borrowing, debt management, and service delivery levels; and
7. Approval of the annual budget for the WAPC.

3.1.2 Statutory Planning  

Statutory planning is concerned with the regulation and management of land use and development.

The WAPC plays a role in creating or approving statutory planning instruments and can be responsible for making decisions under such instruments. Such instruments include region planning schemes, local planning schemes, improvement schemes, regional interim development orders, local interim development orders, and planning control areas. They serve as mechanisms which control land use and development.

Furthermore, the Act mandates that all subdivision must be approved and vests responsibility for this function in the WAPC.

Accordingly, the WAPC (or its delegates) routinely determine subdivision applications; approve structure or activity centre plans and issue recommendations to the Minister on how to determine proposals concerning schemes or their amendment.

3.1.3 Asset Management  

The WAPC is responsible for the acquisition, management and disposal of properties reserved under the Metropolitan, Peel and Greater Bunbury region schemes. Such land is dealt with for purposes related to primary and other regional roads, parks and recreation, regional open space areas, special uses
including planning control areas and improvement plans, and major land development projects.

### 3.1.4 Risk and Financial Management

The board is ultimately responsible for the WAPC’s approach to risk. Managing risk is an integral part of good governance and the board recognises risk management is an iterative process that must be embedded into existing practices or business processes. For this reason, the board is responsible for ensuring the WAPC has an adequate risk management framework in place. A best practice approach would aim to achieve consistency with current Australian and New Zealand Standards.

Consistent with this approach, the board will review the risk profile of the WAPC at least annually, and has implemented a risk reporting framework that identifies and tracks governance, strategic and operational risks.

The WAPC’s specific responsibilities with respect to risk management include:

1. Integrating risk management into the WAPC’s strategic planning process;
2. Achieving a balance between managing risk and encouraging innovation and vision;
3. Notifying the Minister of known risks to the effective operation of the Board;
4. Monitoring and reviewing the effectiveness and currency of internal financial and operational risk management, compliance and reporting systems;
5. Reviewing the risk profile of the WAPC at least annually;
6. Ensuring the WAPC operates within the establishing legislation, within any delegations and within rules and procedures relating to the use of public funds; and
7. The establishment of an Audit and Risk Management Committee (ARMC) to provide specific oversight of risk and to make recommendations to the board regarding risk management or changes to the risk approach.

Board members must understand and comply with government financial requirements, including requirements set by the Department of Treasury, the Department of Finance and the Financial Management Act 2006. Members have a responsibility to read, understand and interpret the financial information contained in financial statements. For instance, they should enquire into, and be satisfied by any explanation of, a significant deviation in a budget. If uncertain about matters contained in financial statements, members must seek advice and clarification from the Chairperson and/or Chief Financial Officer of DPLH.

For guidance on understanding the aspects of public sector financial management in relation to revenue, the budget and financial statements, members should first seek advice from the Board Chairperson and seek additional information from the Department of Treasury and the Department of Finance, or the PSC.
3.1.5 Governance

The board is the governing body of the WAPC and so it has a performance management and oversight function. The WAPC’s responsibilities with respect to governance include:

1. Setting key performance indicators for the WAPC;
2. Establishing and monitoring governance arrangements, including reporting systems to meet the information needs of the Minister and the Board;
3. Establishing and reviewing all land use planning policies and delegations regularly;
4. Applying the Code of Conduct; and
5. Evaluation of the performance of the board and the DPLH in its support of the Board.

3.2 Delegations

A delegation is where a party with authority to exercise a power to do something authorises another party to act on the first party’s behalf. It is normal for boards to delegate certain powers to other parties and the WAPC is no exception. Delegating powers or functions does not absolve the Board or its members from accountability for those powers or functions. A person who holds a delegation must take care to comply strictly within the limits of the delegation and any conditions placed on the delegation.

Subject to restrictions, in Section 16, Part 3 of the Act, the WAPC may delegate functions to any of its members, a committee, the CEO, an employee of the DPLH or a local government. Any delegation of its functions or powers is recorded in an Instrument of Delegation. These are gazetted and published on the Department’s website.

3.3 Execution of Documents

The WAPC has a Common Seal and when affixed to a document in accordance with the requirements of Section 24 of the Act, that document is executed as a deed. The Secretary is to have charge of the common seal of the WAPC and is responsible for the safe custody and proper use of it. The use of the common seal must be recorded in the WAPC’s Seal Register and is reported at each board meeting as a standing agenda item.

4. Board Processes

4.1 Board Meetings

The WAPC has discretion under Schedule 1, clause 12 of the Act, to determine its own meeting proceedings.

The WAPC Standing Orders 2017 (Chapter 2 of this Governance Guide) provide the rules for the conduct of meetings of the board and committees of the WAPC. These Standing Orders set out the standards and rules for effective meetings and the Chairperson is responsible for their execution. Meetings are referred to in the Standing Orders in:

Part 1 - Calling and Convening Meetings;

Part 2 – Business of the meeting;
Part 3 – Participation and access to agenda material;

Part 4 – Disclosure of interests;

Part 5 – Quorum;

Part 6 – Conduct of Members; and

Part 7 – Preserving order.

4.2 Frequency of Meetings

The WAPC Board meets regularly. A special meeting of the board may be convened by the Chairperson on reasonable notice to members. The frequency of committee meetings is defined in the terms of reference for each Committee.

4.3 Attendance

Board and committee members are expected to attend all scheduled and special meetings. If a member is unable to attend a meeting, an apology must be submitted to WAPC Commission Support in advance. In some instances, a committee member may nominate an alternative person who can attend on their behalf. Committee support can advise if this option is available. Persons formally acting in the role of an ex-officio member (whilst the substantive occupant is on leave) can attend meetings as the ex officio member.

4.4 Board Agenda

Agendas for board and committee meetings are referred to in the WAPC Standing Orders 2017:

Part 2 – Business of the meeting;

Part 3 – Participation and access to agenda material;

4.4.1 Agenda Setting

A formalised process for agenda setting supports quality control of reports that members must consider to make decisions. It requires that reports are viewed, considered and commented on by the DPLH’s Executive Management prior to placement on any WAPC agenda. The agenda is structured to maximise the efficiency of the meeting. Matters involving significant and strategic decisions are scheduled early on the agenda where practicable. Members may submit requests to the Chairperson for items to be included on agendas and the Chairperson approves all agendas.

4.4.2 Reports

All matters requiring board decisions are to be set out in a report template. Reports submitted to the WAPC or one of its Committees play a vital role in achieving a variety of planning outcomes for the Department and the State. All reports must be written to a high standard, and include all the necessary information and data required to fully consider the recommendation. The report must be prepared in accordance with the WAPC’s universal report template and in accordance with the Report Guidelines.
4.5 Deputations and Presentations

Administrative law entitles a person to be heard before a decision is taken that could affect their rights or property. The WAPC affords such persons the right to be heard at its meetings, in accordance with the process set up in its standing orders. These submissions are called “deputations” and are dealt with in Section 2.6 of the Standing Orders and the Deputations and Presentations Guidelines.

5. Board Effectiveness

5.1 Conduct

Members have statutory duties under the Statutory Corporations (Liability of Directors) Act 1996. These duties are enforceable by the Minister.

Board and Committee members of the WAPC:

1. have an obligation, at all times, to comply with the law and relevant codes and standards;
2. must act honestly; exercise reasonable care and diligence; and not make improper use of the information obtained in their positions;
3. owe a fiduciary duty to act in the best interests of the WAPC and not allow personal interests, or the interest of any associated person, to conflict with the interests of the WAPC;
4. will undertake diligent analysis of proposals placed before them, apply their specific expertise generously, and act with a level of skill expected from members of a statutory authority;
5. have an obligation to act independently and to take all reasonable steps to ensure commercially sound and rational decision making;
6. will not disclose information except where disclosure is authorised or legally mandated;
7. will not use their position for personal gain or to compete with the WAPC;
8. will make reasonable enquiries to ensure the WAPC is operating efficiently, effectively and legally towards achieving its objectives;
9. will not engage in conduct likely to discredit the WAPC; and
10. will encourage the reporting of unlawful or unethical behaviour and actively promote ethical behaviour and protection for those who report violations.

5.1.1 Code of Ethics

The Code of Ethics refers to the WA Public Sector Commissioner’s Instruction No.7: Code of Ethics. The Code of Ethics applies to all public sector employees, including chief executive officers, employees, Ministerial staff and public sector bodies as defined by the Public Sector Management Act 1994. This includes WAPC members.

5.1.2 Code of Conduct

In addition to this overarching Code of Ethics, the WAPC has established its own Code of Conduct, applicable to Members of the Board and Committees. The standards of conduct expressed in the Code of Conduct are detailed in Chapter 3 of this Governance Guide.
5.1.3 Accountable and Ethical Decision Making

The WAPC has committed to the *Accountable and Ethical Decision Making Program*. Board and committee members are required to undertake training in recognition of the role they play as custodians of decisions of the State.

5.1.4 Conflict of Interests and Disclosure

The requirement of members to disclose interests is defined in the WAPC Code of Conduct and in Part 4 of the WAPC Standing Orders.

A conflict of interest arises where there is a conflict between the performance of a public duty and private, or personal, interests. Confidence in the board’s functions is dependent upon the accountable and ethical decision making of board members in applying the best interests of the community before their own private interests. As such, all potential, perceived or actual conflicts of interest should be identified and appropriately managed.

It is not always possible for Members to avoid a situation where a conflict of interest could be perceived to exist. In some situations, particularly in small communities and specialist industries, a conflict of interest can be almost inevitable. It is how these conflicts are managed that is most important.

On appointment, board and committee members must declare any conflict of interests and these are recorded in the WAPC’s Register of Ongoing Conflicts of Interests, managed by the Secretary. All conflicts of interests declared must also be recorded in meeting minutes. Any amendments to conflicts of interest already recorded on the Register of Ongoing Conflicts of Interest must also be recorded in the minutes. To ensure Members have an opportunity to disclose new conflicts of interest, each agenda has a standing item inviting disclosure of conflicts of interests. Members who have a material personal interest in a matter being considered or about to be considered by the board must, as soon as practicable after the relevant facts have come to the Member’s knowledge, disclose the nature and extent of the interest at a board meeting.

A board member has a material personal interest in a matter if either the board member, or a person with whom the board member is closely associated, has a direct or indirect financial interest in a matter, or a proximity interest in a matter. Should the board consider a member to have a material personal interest in a matter under consideration, that member must not vote on the matter, nor be present while the matter is being considered at the meeting.

5.1.5 Bias

In addition to the statutory obligation of disclosure on board members in respect of material personal interests, a board member has an independent common law obligation to disqualify herself/himself from voting or being present in any discussion which may give rise to a reasonable apprehension of bias. A reasonable apprehension of bias is not established unless a fair-minded lay observer might reasonably apprehend that a decision-maker might not bring an impartial mind to the assessment of the matter.

Almost all functions performed by a board can potentially lead to conflict of interest situations. If in doubt, the Board member should consult the Chairperson or the Secretary.
When considering circumstances in which the disqualification by reason of the appearance of bias applies, it is useful to consider the following four categories:

- disqualification by interest (direct or indirect, pecuniary or otherwise) giving rise to a reasonable apprehension of partiality, prejudice or prejudgment;
- disqualification by conduct, either in the course of or outside the matter;
- disqualification by association from a direct or indirect contact, relationship or experience with a person(s) interested or involved in the matter; and
- disqualification by extraneous information (i.e., knowledge of some prejudicial but inadmissible fact or circumstance).

5.2 Hospitality and Gifts

The Western Australian community trusts public officers, including Board members, to perform their duties impartially and with integrity. In some cases, accepting or giving a gift, benefit or hospitality could create the impression an officer will favour a particular person or organisation when making decisions. This may not be the intention, but perceptions do matter.

The WAPC Code of Conduct (Chapter 3) prescribes the required conduct of members; and this is also reflected in the WAPC Policy on Conflicts of Interests – Gifts, Benefits and Hospitality (Chapter 4).

5.3 Financial Disclosure

5.3.1 Primary Returns

A Primary Return is the disclosure of the return of each parcel of real property in which you have an interest on the date of appointment and the return of each source of income you reasonably expect to receive over the primary return period. Income includes employment, trusts, shares, interests and positions in corporations, debts and discretionary disclosures. Within three months of appointment, a new Board or Committee Member must lodge a Primary Return with the Secretary. This does not apply to a person who has lodged a return within the previous financial year, or who ceases to be a Member within three months.

5.3.2 Annual Returns

Each year, a Member must lodge with the Secretary an Annual Return in the prescribed form for the return period by 31 August of that year. “Return period” means –

- if the last return lodged by a Member was a primary return, the period commencing on the day after the start day for the primary return and ending on 30 June in that year; or
- if the last return lodged by the relevant person was an annual return, the period of 12 months ending on 30 June in that year.

5.3.3 Related Party Disclosures (AASB 124)

AASB 124 requires disclosure of summarised details about Key Management Personnel's (KMP, which include WAPC members) remuneration and certain transactions with related parties. KMP are required to complete a declaration form at year end to provide:
details of their close family members and any controlled (or jointly controlled) entities; and
details of any transactions, to the best of their knowledge, between themselves or their related parties and the WAPC.

5.4 Board Evaluation

The WAPC will undertake an annual evaluation of board performance. The evaluation methodology and the process will review how the board is tracking against standards within this Charter and principles of good governance as defined by the PSC. The evaluation outcomes will be considered at a meeting and result in an actionable plan for continuous improvement.

The WAPC is committed to setting and achieving the highest standards of board performance and governance. This commitment will provide great benefit to the WAPC, the DPLH, the public service and the people of Western Australia. Rigorous and continuous evaluation of board performance will ensure the WAPC is best placed to achieve its strategic objective, while also offering a meaningful experience for board members.

5.5 Board member Remuneration

The Minister, on the recommendation of the Public Sector Commissioner, may from time to time determine the remuneration, travelling and other allowances of Boards and Committee members.

In accordance with Premier’s Circular 2010/02 State Government Boards and Committees, fees may not be paid to Board and Committee members if they are:

- on the public payroll, including all current full time State, Commonwealth and Local Government employees; Members of Parliament; current and retired judicial officers; and current non-academic employees of public academic institutions; or
- a former Member of Parliament and less than 12 months has passed since sitting in Parliament.

Part-time public servants; elected Local Government councillors and university academics are eligible for fees when sitting on State Government Boards and Committees. Eligible Board and committee members’ fees (less tax) are payable fortnightly or monthly. Board and committee members are required to complete tax declaration forms and are entitled to superannuation. Eligible Board and committee members are also reimbursed travel expenses incurred as a result of their attendance at meetings. For vehicle expenses the “current cents per kilometre car expense payments” rate set by the Australian Tax Office applies.

5.6 Insurance

In accordance with Section 15 of the Statutory Corporations Liability of Directors Act 1996 the WAPC may pay a premium to insure current or former members against certain liabilities. The WAPC Directors' and Officers’ insurance is arranged through RiskCover.
5.7 Independent Legal Advice

Board members may, with the approval of the Chairperson, seek legal advice from the State Solicitor’s Office on matters presented to the Board. The Chairperson is responsible for authorising the WAPC to pay any costs relating to legal advice costs for members.

5.8 Board Member Development

The WAPC has a commitment to the ongoing development of its members, in the pursuit of advancing the quality of the work of the WAPC. In order to continually improve board performance, all Board members are encouraged to undergo ongoing professional training and development. Members are required to undertake the Accountable and Ethical Decision Making program and encouraged to undertake the AICD (Australian Institute of Company Directors) Company Directors Course.

5.9 Board Member Induction

New members will receive a full introduction to their roles on the Board or relevant committee. Information conveyed to new board members will include:

1. A letter of appointment;
2. Planning and Development Act 2005;
3. WAPC Governance Guide, including;
4. Board Charter;
5. Standing Orders;
6. Code of Conduct;
7. WAPC Policies;
8. Current WAPC Strategic Plan;
9. WAPC Budget;
10. Service Delivery Agreement between the WAPC and DPLH;
11. Remuneration schedule;
12. List of delegations;
13. List of Members of Board and Committees;
14. Terms of Reference for Committees;
15. Most recent Annual Report;
16. eScribe Guide and training;
17. Attain Guide and training; and
# CHAPTER 2 – WAPC STANDING ORDERS

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Chapter 2 – Standing Orders

Under the powers conferred by the Planning and Development Act 2005, and under all other powers enabling it, the Board of the Western Australian Planning Commission (WAPC) resolved on 8 March 2017 to make these Standing Orders.

1. Preliminary

1.1 Title

1. This document may be cited as the WAPC Standing Orders 2017.
2. In the clauses to follow, this document is referred to as the “Standing Orders”.

1.2 Preamble

1. The Planning and Development Act 2005 (the Act) provides for the establishment and operation of the WAPC in the following terms -
   a. a body called the WAPC is established and is a body corporate with perpetual succession;
   b. the WAPC is to have a Board of management (the Board) which is the governing body of the WAPC;
   c. the Board, in the name of the WAPC, is to perform the functions of the WAPC under the Act or any other written law; and
   d. subject to the Act, the Board is to determine its own procedures.
2. The Board has adopted the Standing Orders as the procedures relevant to the conduct of meetings.

1.3 Purpose and Intent

1. These Standing Orders provide the rules for the conduct of meetings of the Board and Committees of the WAPC.
TheseStanding Orders should enable:
   a. effective decision-making at meetings;
   b. the orderly and efficient conduct of meetings;
   c. greater community and industry understanding of the business of the WAPC; and
   d. greater clarity of members and employees responsibilities relating to the WAPC’s meeting procedures.

1.4 Application

These Standing Orders apply to all meetings of the Board and any Committees of the WAPC.

1.5 Interpretation

1. In the Standing Orders –

| Absolute Majority | (a) in relation to the Board, means more than half the votes of the total number of members of the Board, whether they are present or not, as opposed to a simple majority; and |
| | (b) in relation to a Committee, means more than |
half the votes of the total number of mandatory and appointed members of the Committee, whether they are present or not, as opposed to a single majority.

- **Act** means the *Planning and Development Act 2005*
- **Board** means the Board of management of the WAPC established under the Act;
- **Chairperson** means the Chairperson of the Board;
- **Committee** means a Committee of the WAPC established under the Act;
- **WAPC** means the WAPC established under the Act;
- **Department** means the Department of Planning, Lands and Heritage;
- **Deputation** means a verbal submission at a Board or Committee meeting on an agenda item made by a person who has a direct interest in the agenda item;
- **Deputy Member** has the meaning given to it under the Act;
- **Employee** means a person employed by the DPLH in accordance with the Act;
- **Implement** in relation to a decision, includes –
  (a) communicate notice in writing of the decision to a person affected by, or with an interest in, the decision; and
  (b) take other action to give effect to the decision;
- **Member** means –
  (a) in relation to the Board, a member of the Board;
  (b) in relation to a Committee, a member of a Committee;
- **Minister** means the Minister responsible for administering the Act;
- **Presentation** means a talk or briefing at a Board or Committee meeting giving information about something;
- **Presiding Member** means –
  (a) in respect of the Board, the Chairperson; and
  (b) in respect of a Committee, the person appointed to Chair the Committee;
- **Primary Motion** means an original motion or an original motion as amended, but does not include an amendment motion or a procedural motion;
- **Policy** means any policy adopted by the WAPC and the Department of Planning, Lands and Heritage;
- **Order** means the proper conduct of and compliance with
the Standing Orders by, a Member, employee or other person in attendance at the meeting so that the meeting is conducted in an orderly and decorous manner;

- **Ordinary Meetings**
  are those Board and Committee meetings of the WAPC called for the transaction of the ordinary business of the Board or Committee;

- **Secretary**
  means the Secretary of the WAPC appointed under the Act;

- **Simple Majority**
  means a majority of those present and entitled to vote at a meeting. An abstention shall not be included in the count of those present and entitled to vote;

- **Special Meetings**
  are those called to consider special business, the nature of which shall be notified in the notice concerning the meeting;

- **Revocation Motion**
  means a motion to revoke or change a decision made at a Board or Committee meeting; and

- **Urgent Business**
  means business dealt with in accordance with clause 4.13.

2. Unless otherwise defined herein the terms and expressions used in the Standing Orders are to have the meaning given to them in the Act.

1.6 **Repeal**

The Standing Orders adopted by the Board on 28 April 2009, and as subsequently amended on 21 September 2010 and 26 May 2015, are repealed.

1.7 **Ordinary and special Board meetings**

1. Ordinary and special Board meetings are dealt with in the Act.

   *Note: Clause 8 (1) of schedule 1 of the Act as follows:*
   1. subject to sub clause (2), meetings are to be held at such times and places as the Board determines.
   2. a special meeting of the Board may, on reasonable notice to all members, be convened by the Chairperson or any 2 members.

2. An ordinary meeting of the Board, as determined by the Board, is for the purpose of considering and dealing with the ordinary business of the WAPC.

3. A special meeting of the Board is held for the purpose of considering and dealing with WAPC business that is urgent, complex in nature or for a particular purpose.

1.8 **Calling Board meetings**

A meeting of the Board is to be held -

1. In the case of a special meeting, if called for in a verbal or written notice to the Secretary by the Chairperson, setting out the date and purpose of the proposed meeting;

2. In the case of a special meeting, if called for by at least 2 members of the Board in a written notice to the Secretary, setting out the date and purpose of the proposed meeting; or
3. In the case of an ordinary or special meeting, if so decided by the Board.

1.9 Ordinary and special Committee meetings

An ordinary meeting of the Committee, as determined by the Committee, is for the purpose of considering and dealing with the ordinary business of the WAPC and is relevant to the purpose for which the Committee is established by the Board.

A special meeting of the Committee is held for the purpose of considering and dealing with WAPC business that is urgent, complex in nature or for a particular purpose and is relevant to the purpose for which the Committee is established by the Board.

1.10 Who can call Committee meetings

A meeting of a Committee is to be held -

1. In the case of a special meeting, if called for in a verbal or written notice to the Secretary by the presiding member, setting out the date and purpose of the proposed meeting;

2. In the case of a special meeting, if called for by at least one third of the members of the Committee in a written notice to the Secretary, setting out the date and purpose of the proposed meeting; or

3. In the case of an ordinary or special meeting, if so decided by the Board or the Committee.

1.11 How ordinary and special meetings are convened

1. Subject to sub clause (2) the Secretary is to convene an ordinary or special meeting of the Board or a Committee by giving each member at least three days' notice of the date, time, place and an agenda for the meeting.

2. Where in the opinion of the presiding member that there is a need to meet urgently, the Secretary may give a lesser period of notice of the date, time, place and agenda for the meeting mentioned in sub clause (1).

3. The Secretary is to give notice of meetings referred to in sub clauses (1) and (2) to every member of the Board or Committee as the case requires.

1.12 Resolution without meeting

1. Resolutions by the Board without a meeting are dealt with in the Act.

   Note: Clause 9 of schedule 1 of the Act as follows:

   Resolution without meeting

   A written resolution signed by each member or assented to by each member by letter or facsimile is as effectual as if it had been passed at a meeting of the Board.

2. Resolutions by Committees without a meeting require a written resolution signed by an absolute majority of members.

1.13 Telephone or similar meetings

Telephone and similar meetings are dealt with in the Act.

Note: Clause 10 of schedule 1 of the Act as follows:

Telephone or similar meetings

A communication between a majority of the members by telephone, audio visual or other electronic means is a valid meeting of the Board if:
(a) each participating member is capable of communicating with every other participating member instantaneously at all times during the proceedings; and
(b) all members were advised that the communication would be taking place and were given the opportunity to participate.

1.14 Who presides at Board meetings

Who presides at a Board meeting is dealt with in the Act.

Note: Clause 8(3) of schedule 1 of the Act as follows:
The Chairperson is to preside at all meetings of the Board at which he or she is present, or in which he or she is participating under clause 10.

1.15 When a deputy Chairperson can preside at a Board meeting

When the deputy Chairperson can preside is dealt with in the Act.

Note: Clause 6(4) of schedule 1 of the Act as follows:
Where the Chairperson is unable to act because of sickness, absence or other cause, the deputy Chairperson is to act in the Chairperson’s place.

1.16 Who presides if no Chairperson or deputy Chairperson at a Board meeting

Who presides if the Chairperson or deputy Chairperson is absent or unavailable is dealt with in the Act.

Note: Clause 8(4) of schedule 1 of the Act as follows:
If both the Chairperson and the deputy Chairperson are not present or participating, the members present or participating are to appoint a member to preside.

1.17 Who presides at Committee meetings

Note: the appointment of a Committee’s presiding member should occur at its inception.

If, in relation to the presiding member of a Committee -
1. the office of presiding member is vacant; or
2. the presiding member is not available or is unable or unwilling to perform the functions of presiding member, then the deputy presiding member, if any, may perform the functions of presiding member.

1.18 Who acts if no presiding member or deputy presiding member at Committee meetings

If the presiding member and deputy presiding member of a Committee are absent or unavailable the members present or participating are to appoint a member to preside.

2. Business of the Meeting

2.1 Business to be specified in agenda

1. No business is to be transacted at any ordinary meeting of the Board or a Committee other than that specified in the agenda without the approval of the presiding member or a decision of the Board or Committee, except matters which the Standing Orders permits to be dealt with without notice.
2. No business is to be transacted at a special meeting of the Board or Committee other than that specified in the agenda, and to which notice as to the purpose of the meeting has been given.
3. No business is to be transacted at an adjourned meeting of the Board or a Committee other than that -
   (a) specified in the agenda of the meeting which had been adjourned; and
   (b) which remains unresolved, except in the case of an adjournment to the next ordinary meeting of the Board or the Committee, when the business unresolved at the adjourned meeting is to be the first business to be considered at that ordinary meeting.

4. Despite sub clauses (1)-(3), the Secretary, with the approval of the presiding member, may include on the agenda of a Board or Committee meeting in an appropriate place within the order of business any matter which must be decided, or which he or she considers is appropriate to be decided, by that meeting including the tabling of any late reports.

2.2 Meeting to proceed to business

A meeting is to proceed to business as soon after the time stated in the notice as a quorum is constituted.

2.3 Order of business

1. Unless otherwise decided by the Chairperson of the Board or presiding member of a Committee, the order of business at an ordinary meeting of the Board or Committee is to be substantially as follows:
   (a) declaration of opening;
   (b) apologies;
   (c) members on leave of absence and applications for leave of absence;
   (d) disclosure of interests;
   (e) declaration of due consideration;
   (f) announcements by the Chairperson without discussion;
   (g) confirmation of minutes;
   (h) deputations and presentations;
   (i) governance items for decision;
   (j) strategic items for decision;
   (k) statutory items for decision;
   (l) project reports;
   (m) general items – publications, briefings and updates;
   (n) director general DPLH report
   (o) stakeholder engagement and site visits
   (p) urgent or other business
   (q) items for consideration at a future meeting;
   (r) closure.

2. Unless otherwise decided by the Chairperson of the Board or Presiding member of a Committee, the order of business at any special meeting of the Board or a Committee is to be the order in which that business stands in the agenda of the meeting.
2.4 Leave of absence

2.4.1 Leave of absence from the Board

The grant of leave of absence from the Board is dealt with in the Act.

*Note: Clause 5 of schedule 1 of the Act as follows:*

*Leave of absence*

*The Minister may grant leave of absence to a member on such terms and conditions as the Minister thinks fit.*

2.4.2 Leave of absence from a Committee

1. A Committee may, by resolution, grant leave of absence, to a relevant Committee member.

2. Leave is not to be granted to a member in sub clause (1) in respect of more than three consecutive ordinary meetings of the Committee without the approval of the Board.

3. The granting of the leave, or refusal to grant the leave and reasons for that refusal, is to be recorded in the minutes of the meeting.

2.5 Declaration of due consideration

1. Any member who is not familiar with the substance of any report or other information provided for consideration at a Board or Committee meeting must declare that fact at the time declarations of due consideration are called or otherwise before the meeting considers the matter.

2. In the event of a declaration made in sub clause (1) the relevant matter shall be deferred for later consideration at that meeting so as to allow an opportunity for any member making a declaration to become familiar with the relevant report or other information.

3. If the delay in sub clause (2) has not allowed sufficient time for the member to give due consideration to the matter, the member is to leave the meeting room before the matter is considered and is put to the vote.

4. Where a member withdraws from a meeting of the Board or a Committee, the presiding member may invite the withdrawn member’s deputy, if present, to participate as a member of the Board or Committee in place of the member during the consideration of that item only.

2.6 Deputations and presentations

The process for the receipt and conduct of deputation and presentation requests to the Board and Committees, as approved by the Chairperson, is detailed in the Deputations and Presentations Guidelines.

All requests for deputations and presentations are to be approved by the presiding member. The presiding member may delegate the approval of deputations and presentations to the Secretary, WAPC, should the presiding member be unable to act due to sickness, absence or other cause.

Once the deputation has been given, those people giving the deputation must then leave the meeting room, unless permitted to remain by the presiding member.

2.7 Announcements by the Chairperson without discussion

At any meeting of the Board or Committee the presiding member may announce or raise any matter of interest or relevance to the business of the Board or Committee.
2.8 Confirmation of minutes

1. The presiding member at a meeting of the Board or a Committee is to cause minutes to be kept of the meeting’s proceedings.

2. The content of minutes of a meeting of the Board or a Committee is to include -
   (a) the names of the members present at the meeting;
   (b) where a member enters or leaves the meeting during the course of the meeting, the time of entry or departure, as the case requires, in the chronological sequence of the business of the meeting;
   (c) details of each motion moved at the meeting, the mover, the seconder and the outcome of the motion;
   (d) details of each decision made at the meeting;
   (e) written reasons for each decision made at the meeting that is significantly different from the relevant written recommendation of a Committee or an employee (but not a decision to only note the matter or to return the recommendation to the Committee for further consideration);
   (f) in relation to each disclosure made at a meeting under part 4 of the Standing Orders, the type of interest and where the extent of the interest has also been disclosed, the extent of the interest.

3. The minutes of a meeting of a Board or a Committee are to be submitted to the next ordinary meeting of the Board or the Committee, as the case requires, for confirmation.

4. When minutes of a meeting are submitted to an ordinary meeting of the Board or Committee for confirmation, if a Member is dissatisfied with the accuracy of the minutes, then he or she is to:-
   (a) state the item or items with which he or she is dissatisfied; and
   (b) propose a notice of motion in writing clearly outlining the alternative wording to amend the minutes.

5. The presiding member at the meeting at which the minutes are confirmed is to sign the minutes and certify the confirmation.

6. When minutes are being confirmed, discussion is not to be permitted other than discussion as to their accuracy as a record of the proceedings.

2.9 Questions of which due notice has been given without discussion

1. A member who wishes to ask a question at a meeting of the Board or committee as to the work or procedure of the Board or committee is to give to the Secretary written notice of the text of the question at least four clear working days before the meeting, and the question is to, as far as practicable, be answered in writing at that meeting.

2. As far as practicable, the Secretary is to ensure that a written answer to a question under sub clause (1) is to be given at the meeting.

3. If the Secretary considers that the question breaches or may breach the Standing Orders or any other law -
   (a) the Secretary is to refer the question to the presiding member;
   (b) the presiding member is to exclude the question if he or she concurs with the view of the Secretary; and
   (c) if the question is excluded, the Secretary is to give all members, as soon as practicable but not later than the next ordinary meeting, the reasons for the exclusion.
7. Notice of a question that is not excluded is to be included, if practicable, in the agenda, or is otherwise to be tabled at the meeting.

8. Every question and answer is to be submitted as briefly and concisely as possible, and no discussion is to be allowed thereon, unless with the consent of the presiding member.

2.10 Reports

1. The presiding member may prepare for presentation to any meeting a report dealing with any matter which in the opinion of the presiding member should be drawn to the attention of the meeting.

2. Where a report has been prepared in accordance with sub clause (1), the Secretary is to deliver the report to members of the Board or the Committee (as the case may be) or, in the case of urgency or other special circumstances, table the report at the meeting.

3. The report is to be provided to each member in sufficient time before the commencement of the meeting.

4. The presiding member may withdraw an item or report listed in the agenda.

2.11 Motions of which previous notice has been given

1. Unless the Act, or these Standing Orders otherwise provide, a Member may raise at a meeting of the Board or committee such business as he or she considers appropriate, in the form of a motion, of which notice has been given in writing to the Secretary.

2. A notice of motion under sub clause (1) is to be signed by the member and given to the Secretary at least four clear working days before the meeting at which the motion is to be moved.

3. A notice of motion must relate to a matter for which the Board or committee is responsible.

4. The presiding member—
   (a) may exclude from the notice paper any notice of motion deemed to be out of order; or
   (b) may on his or her own initiative make such amendments to the form but not the substance thereof as will bring the notice of motion into due form; and
   (c) may under his or her name provide relevant and material facts and circumstances pertaining to the notice of motion on such matters as policy, financial and legal implications.

5. The Secretary -
   (a) may with the concurrence of the presiding member, exclude from the agenda any notice of motion that they consider to be out of order; or
   (b) may after consultation with the member who gave notice of the motion, make such amendments to the form but not the substance to bring the notice of motion into due form; and
   (c) must provide relevant and material facts and circumstances pertaining to the notice of motion on matters such as policy, financial and legal implications.

6. If a notice of motion is excluded under sub clause (4)(a) or (5)(a), the Secretary is to provide the reason for its exclusion to all members as soon as practicable.

7. A motion of which notice has been given is to lapse unless –
(a) The member who gave notice thereof, or some other member authorised by him or her in writing, moves the motion when called on; or
(b) The Board or Committee on a motion agrees to defer consideration of the motion to a later stage or date.
(c) If a notice of motion is given and lapses, a notice of motion in the same terms or to the same effect may be given for consideration at a subsequent meeting of the Board or committee, but if the motion again lapses, the Board or committee is not to consider a motion in the same terms or to the same effect at a subsequent meeting until at least three months have elapsed from the date of the meeting at which the motion last lapsed.

8. For the purposes of clarification, where a notice of motion is moved and seconded at a meeting of the Board or committee, it is to be treated as a primary motion.

2.12 Urgent business

1. Subject to the following, in cases of extreme urgency or other special circumstance, matters may be raised without notice at the meeting.

2. A member, at an ordinary meeting, may move a motion involving business that is not included in the agenda for that meeting if the presiding member has first consented to the business being raised because the presiding member considers that either -
(a) the nature of the business is such that the business cannot await inclusion in the agenda for the next meeting; or
(b) the delay in referring the business to the next meeting could have adverse legal or financial implications for the WAPC.

3. If a member objects to a motion moved under sub clause (1), the motion is to be of no effect unless it is agreed to by an absolute majority.

4. Sub clauses (1) and (2) do not apply to a revocation motion being considered as urgent business in accordance with clause 10.2.

5. A motion moved without notice, shall be worded so as to refer to a particular matter for investigation and report to the Board or Committee for consideration of the Board or Committee at a later date, except where the Board or Committee is satisfied that sufficient information has been provided and that the urgency of the matter is such as to warrant an immediate decision by the Board or Committee.

2.13 Confidential items

1. The presiding member may, at any time, recommend that a meeting or part of a meeting be closed to discuss any items of a confidential nature –
(a) identified in the agenda of Board or Committee meeting under the item Confidential; and
(b) Any person in receipt of confidential information must treat that material in accordance with any obligations imposed upon them under any Code of Conduct, contract of employment or statutory appointment.

2. If a resolution under sub clause (1) is carried -
(a) the presiding member is to direct everyone to leave the meeting except -
   (i) the members; and
   (ii) any officer specified by the presiding member; and
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2.14 Closure

At the conclusion of all business or when otherwise determined by the meeting, the presiding member is to declare the meeting closed and the closing time is to be recorded in the minutes of the meeting.

3. Participation and access to agenda material

3.1 Attending Committee meetings as an observer

1. A Board member may attend any meeting of a Committee as an observer, even if the Board member is not a member of that Committee.

2. A Board member may, with the consent of the presiding member, speak, but cannot vote, on any motion before the Committee.

3.2 Public access to agenda materials

1. The Chairperson has the authority to decide if the WAPC or any of its' Committees agendas and minutes of meetings will be published on the WAPC website.

2. Subject to (1) above, the agendas and minutes of any Board or Committee to be published to the WAPC website are to be an abridged version of the full agendas and minutes. The abridged versions may not include items relating to the following:

   (a) Policy (matters of state strategic interest i.e. State Planning Strategy, where sign off is required from the Minister);

   (b) Local or Regional Planning Schemes/Amendments/Improvement schemes;

   (c) Subdivisions / Amalgamations (includes Structure Plans, Outline Development Plans);

   (d) General Items / Other Matters (includes Tribunal responses);

   (e) Minor Local or Regional Planning Schemes / Local Planning Scheme Amendments (includes local planning strategies and local interim development orders);

   (f) Minor Local or Regional Planning Schemes / Local or Regional Planning Scheme Amendments (Council has resolved not to proceed with the amendment);

   (g) Developments / Subdivisional / Survey Strata Items (includes revised plans, reconsiderations, appeal & Structure Plans);

   (h) Preliminary Subdivisional / Survey Strata;

   (i) Matters for consideration by Cabinet.

3. Subject to (1) above, the Board or any Committee is to ensure that its abridged agenda is posted on the WAPC website when the agenda is made available to members;
4. Subject to (1) above, the Board or any Committee is to ensure that the abridged unconfirmed minutes of each Board or Committee meeting are posted on the WAPC website, within a reasonable time after the meeting;

5. Nothing in sub-clauses (3) or (4) entitles members of the public to inspect the information referred to in that clause if, in the Chairperson’s opinion, the meeting or that part of the meeting to which the information deals with any of the following:
   (a) a matter affecting an employee or employees;
   (b) the personal affairs of any person;
   (c) a contract entered into, or which may be entered into, by WAPC and which relates to a matter to be discussed at the meeting;
   (d) legal advice obtained, or which may be obtained, by WAPC;
   (e) a matter that if disclosed, would reveal —
      (i) a trade secret;
      (ii) information that has a commercial value to a person; or
      (iii) information about the business, professional, commercial or financial affairs of a person, where the trade secret or information is held by, or is about, a person other than the WAPC;
   (f) a matter that if disclosed, could be reasonably expected to —
      (i) impair the effectiveness of any lawful method or procedure for preventing, detecting, investigating or dealing with any contravention or possible contravention of the law;
      (ii) endanger the security of government property; or
      (iii) prejudice the maintenance or enforcement of a lawful measure for protecting public safety;
   (g) information which is the subject of a direction given under section 23(1a) of the Parliamentary Commissioner Act 1971;

   Note: Section 23(1a) Parliamentary Commissioner Act 1971
   The Commissioner may in writing direct the person to whom a document is sent by the Commissioner not to disclose to any other person any information contained in the document except for the purposes of the investigation to which the document relates, and a person to whom such a direction is given shall comply with the direction.
   (h) such other matters as may be prescribed in these Standing Orders.

3.3 Confidentiality of information withheld

1. Subject to clause 3.2 and 3.4, all matters dealt with by the Board or a Committee must be treated as confidential and must not, without the prior authority of the presiding member be disclosed to any person other than members or officers serving the agencies and local government represented, and in the case of those officers, only so far as may be necessary for the performance of their duties.

2. Information withheld from members of the public, is to be -
   (a) marked “Confidential” in the agenda;
   (b) identified in the agenda under the item “Confidential Items”; and
   (c) kept confidential by members and employees until the Board resolves otherwise.

3.4 Release of information

Where the conditions of personal privacy, commercial in confidence or commercial sensitivity no longer apply or cease to apply to a matter dealt with by the Board, the Chairperson may release information.
3.5 Recording of meeting prohibited
A person must not use any electronic, visual or audio recording device or instrument to record the proceedings of the Board or Committee meeting.

3.6 Prevention of disturbance
1. A reference in this clause to a person is to a person other than a member.
2. A person addressing the Board or a Committee must extend due courtesy and respect to the Board or Committee and the processes under which it operates and must comply with any direction from the presiding member.
3. A person must not interrupt or interfere with the proceedings of any meeting of the Board or a Committee, whether by expressing approval or dissent, by conversing or by any other means.
4. The presiding member may warn a person who fails to comply with this clause.
5. If -
   (a) after being warned, the person again acts contrary to this clause, or to the Standing Orders; or
   (b) a person refuses or fails to comply with a direction by the presiding member, the presiding member may expel the person from the meeting by ordering him or her to leave the meeting room.
6. A person who is ordered to leave the meeting room and fails to do so may, by order of the presiding member be removed from the meeting room and, if the presiding member orders, from the premises.

4. Disclosure of interests

4.1 Framework for managing conflicts of interest
Conflicts of interest need to be considered within an ethical framework that requires you to act with integrity, impartiality, in good faith and in the best interests of the board you serve. In some cases boards are required by law to manage conflicts of interest in a particular way. The legislation applicable to managing conflicts of interest includes the Public Sector Management Act 1994 (particularly the public sector principles set out in Part 2), the Financial Management and Accountability Act 1997 and the State Supply WAPC Act 1991 as well as PSC’S Instruction No. 7 – Code of Ethics (outlined in the ‘Accountability and governance’ section of the “Board Essentials – Good Governance guide for public sector boards and Committees” document produced by the PSC.)

4.2 Terms used in this part
In this part, unless the contrary intention appears -
1. “extent” in relation to an interest, includes the value and amount of the interest;
2. “direct pecuniary interest” is one where a member has an interest in a matter where it is reasonable to expect that the matter if dealt with by the Board or a Committee, or an employee in a particular way, will result in a financial gain, loss, benefit or detriment for the member;
3. “indirect pecuniary interest” refers to an interest in a matter where a financial relationship exists between a member and another person who requires a WAPC decision in relation to the matter;
4. “proximity interest” refers to an interest of a member, or close associate of the member, in a matter if the matter concerns -
(a) a proposed change to a planning scheme affecting land that adjoins the person’s land;
(b) a proposed change to the zoning or use of land that adjoins the person’s land; or
(c) a proposed development, maintenance or management of the land or of services or facilities on the land that adjoins the person’s land;

5. “impartiality interest” means an interest that could, or could reasonably be perceived to, adversely affect the impartiality of the member having the interest and includes an interest arising from kinship, friendship, partnership or membership of an organisation or an association with any decision-making process relating to a matter for discussion before the Board or a Committee;

6. “disclosure of representation” means where a member has had verbal communication with or on behalf of a person with an interest in a matter which is before a meeting, the member is to disclose the interest. Where a member is in receipt of relevant written material (including email) from or on behalf of a person with an interest in a matter which is before a meeting, the member is to table the material at the meeting for the information of members.

7. “Reasonable Apprehension of Bias” the ‘rule against bias’ essentially requires a decision-maker to be neutral and free from bias when making a decision. Bias includes both pecuniary (monetary) interests and non-pecuniary (usually family and societal relationship) interests. This rule is usually applied in two possible ways:
   - A decision-maker must not have an actual bias; and
   - A decision-maker must not have a perceived apprehension of bias, when making a decision.

A reasonable apprehension of bias is not established unless a fair minded lay observer might reasonably apprehend that a decision maker might not bring an impartial mind to the assessment of a matter. The question of whether a decision maker might not bring an independent impartial mind to the relevant matter is one of possibility (real and not remote) and not of probability.

Therefore if a member believes there is a real possibility that in considering a matter, an observer may reasonably apprehend that the member may not bring an impartial mind to the assessment of a matter, the member should disclose this and abstain from consideration of the matter.

4.3 Closely associated persons

1. For the purposes of this part a person is to be treated as being closely associated with a member if -
   (a) the person is in partnership with the member;
   (b) the person is an employer of the member;
   (c) the person is a beneficiary under a trust, or an object of a discretionary trust, of which the member is a trustee;
   (d) the person is a body corporate -
      (i) of which the member is a director, secretary or executive officer; or
      (ii) in which the member holds shares having a total value exceeding -
         1. $10,000; or
         2. 1 per cent of the total value of the issued share capital of the company, whichever is less;
   (e) the person is the spouse, de facto partner, close relative or child of the member; or
(f) the person has a relationship specified in any of paragraphs (a) to (e) in respect of the member’s spouse or de facto partner if the spouse or de facto partner is living with the member.

4.4 When a member has an interest

For the purposes of this part, a member has an interest in a matter if either-

1. the member; or
2. a person with whom the member is closely associated, has -
   (i) a direct pecuniary interest or indirect pecuniary interest in the matter; or
   (ii) a proximity interest in the matter.

4.5 Disclosure of members’ direct and indirect pecuniary interests

The disclosure of direct and indirect pecuniary interests by members and their participation at meetings is dealt with in the Act.

Note: Section 266 (3) of the Act as follows:

Where a matter is before a meeting for consideration and a member participating in the meeting has a direct or indirect pecuniary interest in the matter, the member

(a) as soon as possible after the relevant facts have come to the member’s knowledge is to disclose that the member has such an interest to the other members participating in the meeting; and

(b) after disclosure of the interest is not to;
   (i) be present during any consideration or discussion of the matter; or
   (ii) vote on the matter.

Penalty: $5 000.

4.6 Disclosure of members proximity interests

1. A member who has a proximity interest in any matter to be discussed at a Board or Committee meeting that will be attended by the member must disclose the nature of the interest -
   (a) in a written notice given to the secretary or presiding member before the meeting; or
   (b) at the meeting immediately before the matter is discussed.

2. If a member has disclosed an interest in sub clause (1) in a written notice given to the Secretary before a meeting then -
   (a) before the meeting the Secretary is to cause the notice to be given to the person who is to preside at the meeting; and
   (b) at the meeting the person presiding is to bring the notice and its contents to the attention of the persons present immediately before the matters to which the disclosure relates are discussed.

3. A member who makes a disclosure under sub clause (1) must not -
   (a) preside at the part of the meeting relating to the matter; or
   (b) participate in, or be present during, any discussion or decision-making procedure relating to the matter.

4.7 Invitation to return to provide information

1. Where a member has disclosed an interest in clause 4.5 or clause 4.6, and has departed from the meeting room, the presiding member may invite the member to
return to provide information in respect of the matter or in respect of the extent of the member's interest in the matter.

2. A member invited to return under sub clause (1) must withdraw after providing the information.

4.8 Substitution of deputy member at meetings

Where a member discloses an interest on an item under clause 4.5 or clause 4.6 and withdraws from a meeting of the Board or a Committee, the presiding member may invite the disclosing member's deputy, if present, to participate as a member of the Board or Committee in place of the disclosing member during the consideration of that item only.

4.9 Disclosure by members who are observers at Committee meetings

The obligation to disclose an interest in clause 4.5 or clause 4.6 is to apply to all members present at Board and Committee meetings, including a Board member attending a Committee meeting in the capacity of an observer.

4.10 Disclosure of impartiality interests

1. A member who has an impartiality interest in any matter to be discussed at a meeting he or she attends must disclose the nature of the impartiality interest -
   (a) in a written notice given to the presiding member before the meeting; or
   (b) at the meeting immediately before the matter is discussed.

2. Sub clause (1) does not apply if -
   (a) a member fails to disclose an impartiality interest because the member did not know he or she had an impartiality interest in the matter; or
   (b) a member fails to disclose an impartiality interest because the member did not know the matter in which he or she had an impartiality interest would be discussed at the meeting and the member disclosed the impartiality interest as soon as possible after the discussion began.

3. If, under sub clause (1)(a), a member discloses an impartiality interest in a written notice given to the presiding member before a meeting then at the meeting the presiding member is to bring the notice and its contents to the attention of the members present immediately before a matter to which the disclosure relates is discussed.

4. If -
   (a) under sub clause (1)(b) or (2)(b) a member's impartiality interest in a matter is disclosed at a meeting; or
   (b) under sub clause (3) notice of a member's impartiality interest in a matter is brought to the attention of the members present at a meeting, the nature of the impartiality interest is to be recorded in the minutes of the meeting.

5. Subject to sub clause (6) a member who makes a disclosure under sub clause (1) must not -
   (a) preside at the part of the meeting relating to the matter; or
   (b) participate in, or be present during, any discussion or decision-making procedure relating to the matter.

6. If a member has disclosed, under sub clause (1), an impartiality interest in a matter, the members present at the meeting who are entitled to vote on the matter -
(a) may resolve to allow the disclosing member to be present during any discussion and/or decision-making procedure relating to the matter; and

(b) may allow, to the extent decided by those members, the disclosing member to preside at the meeting (if otherwise qualified to preside) or to participate in discussions and the decision-making procedures relating to the matter if -

(i) the disclosing member also discloses the extent of the impartiality interest; and

(ii) those members decide that the impartiality interest is so trivial or insignificant as to be unlikely to influence the disclosing member's conduct in relation to the matter.

7. A decision under this clause is to be recorded in the minutes of the meeting relating to the matter together with the extent of any participation in any discussion relating to a matter resolved by the Board or Committee.

4.11 Disclosure of representations

1. Where a member has had verbal communication with or on behalf of a person with an interest in a matter which is before a meeting, the member is to disclose the communication in accordance with clause 4.10.

2. Where a member is in receipt of relevant written material (including email) from or on behalf of a person with an interest in a matter which is before a meeting, the member is to table the material at the meeting for the information of members.

4.12 On-going disclosure required

The obligation to disclose an interest under this part applies in regard to each meeting at which the matter the subject of the interest arises.

5. Quorum

5.1 Quorum for meetings

1. The quorum for Board meetings is dealt with in the Act. *Note: Clause 8(5) of schedule 1 of the Act as follows:* At any meeting of the Board a number of members equal to at least one half of the number of members provided for by section 10 constitute a quorum.

2. Subject to sub clause (3) a quorum for a meeting of a Committee is at least 50 per cent of the number of current offices of members of the Committee.

3. In the case of the Executive, Finance and Property Committee established under the Act, a quorum for a meeting is at least 50 per cent of the number of current offices of members of the Committee, at least one of whom is a member appointed under subsection 10(1)(a) or (b) of the Act.

5.2 Quorum to be present

1. The quorum for meetings is dealt with in the Act.

2. The Board or a Committee is not to transact business at a meeting unless a quorum is present.

5.3 Loss of quorum during a meeting

If at any time during the course of a meeting of the Board or Committee a quorum is not present – In relation to a particular matter because of a Member or Members leaving the
meeting after disclosing an interest, the matter is adjourned until either;

1. A quorum is present to decide the matter; or

2. The presiding member allows a disclosing Member or Members to participate in the meeting under the Act and a quorum, including the Member or Members, is present to decide the matter; or

3. If at any time during a meeting a quorum is not present, the presiding member upon becoming aware of that fact is to suspend the proceedings of the meeting for up to 15 minutes.

4. If a quorum is not present at the expiration of the period in sub clause (1), the presiding member may suspend the proceedings of the meeting for a further period of up to 15 minutes or adjourn the meeting to a future time and date.

5. A record is to be taken of all those who have spoken on the subject under consideration at the time of the adjournment.

5.4 Debate on motion to be resumed

1. Where the debate on any motion is interrupted at a Board or Committee meeting which is adjourned under clause 5.3, that debate is to be resumed at the next meeting at the point where it was so interrupted.

2. Where the interruption in sub clause (1) occurs at a Board or Committee meeting the resumption is to be at the next ordinary meeting unless a special meeting is called earlier for the purpose.

3. Where the interruption in sub clause (1) is at a special meeting, the resumption is to be at the next special meeting called to consider the same business or at the next ordinary meeting if it occurs before a special meeting can be called.

5.5 Names to be recorded

At any meeting -

1. at which there is not a quorum of members present; or

2. which is adjourned under clause 5.3, the names of the members then present are to be recorded in the minutes of the meeting.

6. Conduct of members

6.1 Obligations of members

Ethical behaviour is required of all members at board and or committee meetings, official visits and at events where they represent the WAPC.

Board or Committee members shall:

1. Act with care and diligence and make decisions that are honest, fair, impartial, and timely, and consider all relevant information.

2. Treat people with respect, courtesy and sensitivity and recognise their interests, rights, safety and welfare.

The obligations of members in the performance of their duties on the Board or a Committee, is dealt with in the Act.

Note: Section 266 (2) of the Act as follows: 266 (2) A member must at all times act honestly in the performance of a function. **Penalty: $5 000.**

Members obligations are comprehensively addressed in material such as the PSC’s
“Conduct guide for public sector Boards and Committees” and “PSC’s Instructions No.7 – Code of Ethics”.

Members hold a position of trust and owe the same fiduciary obligations to the WAPC or Committee on which they are a member, equivalent to those owed by a director to a company. This imposes a positive obligation upon members to meet their duty of good faith and loyalty to the WAPC and avoid any conflicts of interest. This requires members to prefer the interests of the Board over the interests or mandate of the agency they serve. This proposition is expressly reinforced in the PSC’s publication referred to above.

6.2 Official titles to be used

A speaker, when speaking or referring to a member or employee must use the title of that person’s office.

6.3 Members not to interrupt

A member must not interrupt another member while speaking unless -

1. to raise a point of order under clause 7.2;
2. to call attention to the absence of a quorum;
3. to make a personal explanation under clause 9.8; or
4. to move a procedural motion that the member be no longer heard (under clause 11.1(7) and 12.8).

6.4 No adverse reflection on decision

1. A member must not reflect adversely on a decision of the Board or a Committee except on a motion that the decision be revoked or changed.
2. A member must not -
   (a) reflect adversely on the character or actions of another member or employee; or
   (b) impute any motive to a member or employee, unless the Board or Committee resolves, without debate, that the motion then before the Board or Committee cannot otherwise be adequately considered.

6.5 Offensive language

1. A member must not use offensive or objectionable expressions in reference to any member, employee, or other person.
2. If a member specifically requests, immediately after their use, that any particular words used by a member be recorded in the minutes, the presiding member is to cause the words used to be taken down and read to the meeting for verification and then to be recorded in the minutes.

6.6 Direction to withdraw

A member who, in the opinion of the presiding member and in the absence of a resolution under clause 6.5(2) -

1. reflects adversely on the character or actions of another member or employee;
2. imputes any motive to a member or employee; or
3. uses an expression that is offensive or objectionable, must, when directed by the presiding member, withdraw the reflection, imputation or expression and make a satisfactory apology.
6.7 Members who wish to speak
A member who wishes to speak -
1. is to indicate his or her intention to speak by show of hands or other method agreed upon by the presiding member; and
2. when invited by the presiding member to speak, must address the meeting through the presiding member.

6.8 Priority of speaking
If 2 or more members of the Board or a Committee indicate, at the same time, their intention to speak, the presiding member is to decide which member is to be heard first.

6.9 The presiding member may take part in debates
The presiding member may take part in a discussion of any matter before the Board or Committee as the case may be.

6.10 Relevance
1. A member must restrict his or her remarks to the motion or amendment under discussion, or to a personal explanation or point of order.
2. The presiding member, at any time, may -
   (a) call the attention of the meeting to any irrelevant or repetitious remarks by a member; or
   (b) direct that member, if speaking, to discontinue his or her speech.
3. A member must comply with the direction of the presiding member under sub clause (2) by immediately ceasing to speak.

6.11 Limitation on members speaking
1. Only the mover of a motion or an amendment may speak twice on the same motion or the same amendment, unless permitted by the Standing Orders.
2. The mover of a motion or an amendment -
   (a) is to speak to that motion or amendment first, after it has been seconded; and
   (b) has the right of reply and in exercising that right must confine the reply to previous speakers’ comments and not introduce any new matters.
3. A member must not speak on any motion or an amendment after the mover has replied and the motion or amendment is to be immediately put to the vote by the presiding member.
4. A member may speak on a motion or an amendment, or reply, for a period of only 5 minutes, unless an extension of time is granted by the Board or Committee without debate, but a member’s total speaking time must not exceed 10 minutes.

6.12 Questions during debate
1. A member may ask a question at any time during the debate on a motion or an amendment before the mover of the motion or amendment has replied.
2. Subject to sub clause (3), a member who asks one or more questions will not be taken to have spoken on the matter.
3. Where the presiding member considers that a question asked is not succinct and to the point, but is prefaced by comment or other information, the presiding member
may rule that the member has spoken on the matter and, in that event, the member must not speak again on the matter.

6.13 Re-opening discussion on decisions
A member must not re-open discussion on any decision of the Board or Committee, except for the purpose of moving a revocation motion under clause

7. Preserving order

7.1 Presiding member to preserve order
1. The presiding member is to preserve order and, whenever he or she considers it necessary, may call any member or other person to order.
2. When the presiding member wishes, during the progress of a debate, to raise or rule on a point of order, any member or person then speaking, or offering to speak, is to be silent so that the presiding member may be heard without interruption.

7.2 Points of order
Without limitation, the following acts are to be taken as being out of order -
1. discussion of a matter not before the meeting;
2. the use of offensive or objectionable language; or
3. the violation of any written law, including the Standing Orders provided that the member making the point of order states the written law believed to be breached.

7.3 Procedures on a point of order
1. Upon a matter of order arising during the progress of a debate, any member may raise a point of order with the presiding member including interrupting the speaker.
2. Any member who is speaking when a point of order is raised in sub clause (1) is to immediately stop speaking while the presiding member listens to the point of order.
3. A member raising a point of order is to specify one of the grounds of the breach of order before speaking further on the matter.
4. A member who is expressing a difference of opinion or contradicting a speaker is not to be taken as raising a point of order.

7.4 Continued breach of order
If a member -
1. persists in any conduct that the presiding member had ruled is out of order; or
2. fails or refuses to comply with a direction from the presiding member, the presiding member may direct the member to refrain from taking any further part in that meeting, other than by voting, and the member must comply with that direction.

7.5 Presiding member may adjourn meeting
1. For the purpose of preserving or regaining order, the presiding member may adjourn the meeting for a period of up to 15 minutes.
2. On resumption, the debate is to continue at the point at which the meeting was adjourned.
3. If, at any one meeting, the presiding member adjourns the meeting more than once for the purpose of preserving or regaining order, the second or subsequent adjournment may be to a later time on the same day or to another day.

4. If there is an adjournment under this clause, the names of the members who have spoken on the matter before the adjournment are to be recorded.

8. Motions and amendments

8.1 Recommendations in reports

1. Where the Board or a Committee adopts a recommendation contained in a report, either with or without amendment, the recommendation so adopted is taken to be a decision of the Board or the Committee (as the case may be).

2. Where a motion, if carried, would be significantly different from the relevant written recommendation of an employee or Committee, the reason for the decision is to be recorded in the minutes of the meeting.

3. Where a Committee makes a recommendation for consideration by the Board, the Secretary must prepare or cause to be prepared a report to the Board with respect to the recommendation.

8.2 Adoption of recommendations en bloc

A member may move a motion to adopt by one resolution, all the recommendations or a group of recommendations from a report or several reports, without amendment or qualification after having first identified those recommendations, if any -

1. which require adoption by an absolute majority vote;

2. in which an interest has been disclosed;

3. that has been subject of a deputation;

4. which any member has indicated the wish to debate; and

5. in which any member has indicated the wish to ask a question or to raise a point of clarification, and, each of those recommendations referred to in paragraphs (1), (2), (3), (4) and (5) must be considered separately.

8.3 Motions

1. A member who wishes to move a primary motion, or an amendment to a primary motion -

   (a) is to state the substance of the motion before speaking to it; and

   (b) is to put the motion or amendment in writing if –

   (i) in the opinion of the presiding member, the motion or amendment is significantly different from the relevant written recommendation of a Committee or an employee; or

   (ii) the member is otherwise required to do so by the presiding member.

2. The written terms of the motion or amendment are to be given to the presiding member who is to ensure that they are recorded in the minutes.

3. The presiding member may require that a complex primary motion, or a complex amendment to a primary motion, is to be broken down and put in the form of more than one motion, each of which is to be put in sequence.
8.4 Motions to be seconded
1. A motion, or an amendment to a motion, is not open to debate until it has been seconded.
2. A motion to revoke or change a decision made at a Board or Committee meeting is not open to debate unless the motion has the support required under clause 10.1.
3. A member seconding a motion has the right to speak on the motion later in the debate.
4. A motion is not to be amended by the mover without the consent of the seconder.

8.5 Unopposed motions
1. Immediately after a motion has been moved and seconded, the presiding member may ask the meeting if any member opposes it.
2. If no member opposes the motion, the presiding member may declare it carried without debate and without taking a vote.
3. A motion carried under sub clause (2) is to be recorded in the minutes as a unanimous decision of the Board or the Committee.
4. If a member opposes a motion, the motion is to be dealt with according to this Part of the Standing Orders.
5. This clause does not apply to any motion or decision to revoke or change a decision that has been made at a Board or Committee meeting.

8.6 Withdrawing motions
1. A motion or amendment may be withdrawn by the mover, with the consent of the seconder, and no member is to speak on it after it has been withdrawn.
2. If an amendment has been proposed to a primary motion, the primary motion cannot be withdrawn, except by consent of the majority of members, until the amendment proposed has been withdrawn or lost.

8.7 One motion at a time
The Board or a Committee –
1. is not to accept a substantive motion while another substantive motion is being debated; and
2. is not to consider more than one substantive motion at any time.

8.8 Permissible motions on recommendation from Committee
A recommendation made by a Committee may be –
1. adopted by the Board without amendment;
2. rejected by the Board and replaced by an alternative decision;
3. subject to clause 8.9(2), amended, and adopted as amended by the Board; or
4. referred back to the Committee for further consideration.

8.9 Amendments
1. A member may move an amendment to a primary motion at any time during debate on the motion, except;
(a) if the mover has been called by the presiding member to exercise the right of reply; or
(b) if the member has already spoken to the primary motion;
(c) if another amendment is being debated, or has not been withdrawn, carried or lost; or
(d) during debate on a procedural motion.

2. An amendment must be relevant to the primary motion to which it is moved and must not have the effect of negating the primary motion.

3. An amendment to a primary motion is to take only one of the following forms -
   (a) that certain words be omitted;
   (b) that certain parts be omitted and others substituted or added; or
   (c) that certain words be added.

4. Only one amendment is to be debated at a time, but as often as an amendment is withdrawn, carried or lost, another amendment may be moved before the primary motion is put to the vote.

5. Where an amendment is carried, the primary motion as amended is, for all purposes of subsequent debate, to be treated as a primary motion.

6. An amendment must be read by the mover before being seconded.

9. Debate of motions

9.1 Order of call in debate

1. The presiding member is to call speakers to a motion or amendment in the following order -
   (a) the mover to state the motion;
   (b) a seconder to the motion;
   (c) the mover to speak to the motion;
   (d) the seconder to speak to the motion;
   (e) other speakers against and for the motion, alternating in view, if any; and
   (f) the mover takes right of reply which closes debate.

2. A member seconding a motion is to be taken to have spoken on the motion unless at the time seconding it the Member reserves the right to speak on the motion later in the debate.

9.2 Limit of debate

The presiding member may offer the right of reply and put the motion to the vote if he or she believes sufficient discussion has taken place even though all members may not have spoken.

9.3 Member may require motion to be read

A member may require the question or matter or motion under discussion to be read at any time during a debate, but not so as to interrupt any other member who is speaking.

9.4 Amendments must not negate original motion

1. No amendments to a motion can be moved which negates the original motion or the intent of the original motion.
2. An amendment shall be relevant to the motion on which it is moved.
9.5 Substantive motion
If an amendment to a substantive motion is carried, the motion as amended then becomes the substantive motion.

9.6 Withdrawal of motion and amendments
The Board or Committee may, without debate, grant leave to withdraw a motion or amendment upon request of the mover of the motion or amendment and with the approval of the seconder provided that there is no voice expressed to the contrary view by any Member, in which case discussion on the motion or amendment is to continue.

9.7 Limitation of withdrawal
Where an amendment to a substantive motion has been proposed, the substantive motion is not to be withdrawn, except by consent of the majority of Members present, until the proposed amendment has been determined.

9.8 Personal explanation
No Member is to speak at any meeting of the Board or Committee except upon the matter before the Board or Committee, unless it is to make a personal explanation. Any Member of the Board or Committee who is permitted to speak under these circumstances is to confine his or her comments to a succinct statement relating to the matters they wish to explain. When a member of the Board or Committee is making an explanation, no reference is to be made to matters unnecessary for that purpose.

1. Personal explanation – when heard;
2. A Member of the Board or Committee wishing to make a personal explanation of matters referred to by any Member of the Board or Committee then speaking, is entitled to be heard immediately, if the Member of the Board of Committee then speaking consents at the time, but if the Member of the Board of Committee who is speaking declines to give way, the explanation is to be offered at the conclusion of that speech.
3. Ruling on questions of personal explanation;
4. The ruling of the Presiding member on the admissibility of a personal explanation is final unless a motion of dissent with the ruling is moved before any other business proceeds.
5. Right of reply;
   (a) the mover of a substantive motion has the right of reply. After the mover of the substantive motion has commenced the reply, no other Member is to speak on the question.
   (b) the right of reply is to be confined to rebutting arguments raised by previous speakers and no new matter is to be introduced.
6. Right of reply provision;
   The right of reply is governed by the following provisions:
   (a) If no amendment is moved to the substantive motion, the mover may reply at the conclusion of the discussion on the motion;
   (b) If an amendment is moved to the substantive motion the mover of the substantive motion is to take the right of reply at the conclusion of the vote on any amendments;
(c) If there be an amendment the mover of such amendment shall have the right of reply to discussion of the amendment and in so doing shall be bound by the requirements of the Standing Orders.

(d) Once the right of reply has been taken, there shall be no further discussion, nor any other amendment and the original motion or the original motion as amended is immediately put to the vote.

9.9 Voting

1. Voting at meetings of the Board including the casting vote of the person presiding is dealt with in the Act.

   Note: Clause 8 (6) & (7) of schedule 1 of the Act as follows:

   8 (6) Questions arising at a meeting of the Board are to be decided, in open voting, by a majority of the votes of members and associate members present.
   8 (7) If the votes of members and associate members present at a meeting and voting on a question are equally divided, the person presiding has a casting vote in addition to a deliberative vote.

2. Each member of a Committee who is present at a meeting of the Committee is entitled to one vote which is to be conducted so that no voter's vote is secret.

3. Each member of the Board or Committee who is present at a meeting of the Board or Committee is to vote.

4. If the votes of members present at a Committee meeting are equally divided, the person presiding is to cast a second vote.

5. If a member of the Board or a Committee specifically requests that there be recorded -
   (a) his or her vote; or
   (b) the vote of all members present,
   (c) on a matter voted on at a meeting of the Board or the Committee, the person presiding is to cause the vote or votes, as the case may be, to be recorded in the minutes.

6. A person who fails to comply with subsection (2) or (3) commits an offence.

9.10 Motion – when put

Immediately after the debate on any question is concluded and the right of reply has been exercised, the presiding member -

1. is to put the motion to the meeting; and

2. if requested by a member, is again to state the terms of the motion.

9.11 Method of taking vote

1. The presiding member, in taking the vote on any motion, is to -
   (a) put the motion, first in the affirmative and then in the negative;
   (b) determine whether the affirmative or the negative has the majority of votes; and
   (c) declare the result of the vote.

2. The motion put under sub clause (1) may be put as often as is necessary to enable the presiding member to determine whether the affirmative or the negative has the majority of votes.
3. The result of voting is to be determined on the count of raised hands but it may be
determined on the voices unless a member calls for a show of hands.

9.12 Independence of vote

Members must exercise their vote independently and based on the information provided
and or debated must not be fettered by the policy or positions adopted by other
organisations to which they belong.

10. Revocation motions

10.1 Requirements to revoke or change decisions

1. If a decision has been made at a Board or a Committee meeting then any motion to
   revoke or change the decision must be supported -
   (a) in the case where an attempt to revoke or change the decision had been
       made within the previous 3 months but had failed, by an absolute majority; or
   (b) in any other case, by at least one third of the number of offices (whether
       vacant or not) of members of the Board or Committee, inclusive of the mover.

2. If a decision has been made at a Board or a Committee meeting then any decision
to revoke or change the first-mentioned decision must be made by an absolute
majority.

10.2 Revocation motion at the same meeting – procedures

1. A member who moves a revocation motion at the same meeting where the decision
   is made must -
   (a) clearly identify the decision to be revoked or changed; and
   (b) clearly state the reason for the decision to be revoked or changed.

2. If the presiding member receives a notice of a revocation motion to revoke a
decision made at a meeting before the close of that meeting, the presiding member
   is to advise the substance of the revocation motion and raise it as an item of urgent
business under clause 2.12.

3. Where the presiding member is advised of a revocation motion under sub clause
(2), he or she is to -
   (a) advise the meeting of the notice;
   (b) state the substance of the revocation motion;
   (c) determine whether there is sufficient support under clause 10.1; and
   (d) if there is sufficient support, deal with the revocation motion.

10.3 Revocation motion after meeting – procedures

A member wishing to move a revocation motion at a future meeting of the Board or a
Committee must give to the Secretary five working days’ notice of the revocation motion,
which is to -

1. be in writing;
2. specify the decision proposed to be revoked or changed;
3. include a reason or reasons for the revocation motion;
4. be supported by the number of members required under clause 10.1;
5. specify the date of the ordinary or special meeting of the Board or the Committee
where it is to be presented, as the case may be; and
6. be given to the Secretary in accordance with the notice of motion provisions in clause 2.11.

7. Any notice of revocation motion given to the Secretary must be dealt with in accordance with 2.11 and in five working days.

10.4 Implementation of a decision

If a valid notice of motion to revoke or change a decision of the Board or a Committee is received before any action has been taken to implement that decision, then no steps are to be taken to implement or give effect to that decision until such time as the motion or revocation or change has been dealt with, except that –

1. if a notice of motion to revoke or change a decision of the Board or a Committee is given during the same meeting at which the decision was made, the notice of motion is of no effect unless the number of Members required to support the motion under the Act indicate their support for the notice of motion at that meeting; and

2. if a notice of motion to revoke or change a decision of the Board or a Committee is received after the closure of the meeting at which the decision was made, implementation of the decision is not to be withheld unless:
   (a) the notice of motion has the support in writing of the number of Members required to support the motion under the Act; and
   (b) if the effect of the change proposed in the notice would be that the decision would be revoked or would become substantially different.

11. Procedural motions

11.1 Permissible procedural motions

In addition to the right to move an amendment to a primary motion, a member may move any of the following procedural motions -

1. that the motion be deferred;
2. that the meeting now adjourn;
3. that the debate be adjourned;
4. that the motion be now put;
5. that the meeting proceed to the next item of business;
6. that the ruling of the presiding member be overruled;
7. that the member be no longer heard; or
8. that the item be referred back to the (appropriate) Committee.

11.2 No debate on procedural motions

1. The mover of a motion stated in each of paragraphs (1), (2), (3), (5), (7) and (8) of clause 11.1 may speak to the motion for not more than five minutes, the seconder is not to speak other than to formally second the motion, and there is to be no debate on the motion.

2. The mover of a motion stated in each of paragraphs (4) and (6) of clause 11.1 may not speak to the motion, the seconder is not to speak other than to formally second the motion, and there is to be no debate on the motion.
11.3 Who may move

With the exception of sub clause 11.1(6), a member who has moved, seconded, or spoken for or against the primary motion, or any amendment to the primary motion, cannot move any procedural motion which, if carried, would close the debate on the primary motion or amendment.

11.4 Procedural motions - right of reply on primary motion

The carrying of a procedural motion which closes debate on the primary motion or amendment and forces a decision on the primary motion or amendment does not deny the right of reply to the mover of the primary motion.

12. Effect of procedural motions

12.1 The motion be deferred - effect of motion

1. If a motion “that the motion be deferred” is carried, then all debate on the primary motion and any amendment is to cease and the motion or amendment is to be resubmitted for consideration at a time and date specified in the motion.

2. A member must not, at the same meeting, move or second more than one motion “that the motion be deferred” in respect of the same item.

12.2 Item be referred back to Board or Committee - effect of motion

1. If a motion “that the item be referred back to the Board or Committee” is carried, debate on the primary motion and any amendment is to cease and the primary motion, excluding any amendment, is to be referred back to the appropriate Committee for further consideration.

2. If the motion in sub clause (1) is lost, debate on the primary motion or amendment is to continue.

12.3 The meeting now adjourn - effect of motion

3. If a motion “that the meeting now adjourn” is carried then the meeting is to be adjourned to a time and date specified in the motion, or where no time and date is specified, to such time and date as the presiding member declares, or to the next ordinary meeting.

4. Where debate on a motion is interrupted by an adjournment under sub clause (1) -
   (a) the debate is to be resumed at the date and time specified as required in sub clause (1) and at the point where it was so interrupted; and
   (b) the names of members who have spoken on the matter prior to the adjournment are to be recorded in the minutes; and
   (c) the provisions of clause 7.11 apply when the debate is resumed.

5. If a motion “that the meeting now adjourn” is lost, no similar motion is to be moved until -
   (a) after the conclusion of the business under discussion at the time the motion was moved; or
   (b) if the motion was moved on the conclusion of an item of business, after the conclusion of the next item of business; or
   (c) after the conclusion of any other business allowed precedence by the meeting.

6. A member must not, at the same meeting, move or second more than one motion for the adjournment of the meeting.
12.4 The debate be adjourned - effect of motion

1. If a motion “that the debate be adjourned”, is carried –
   (a) all debate on the primary motion or amendment is to cease and is to continue at a time and date specified in the motion;
   (b) the names of members who have spoken on the matter are to be recorded in the minutes; and
   (c) the provisions of clause 6.11 apply when the debate is resumed.

2. A member must not, at the same meeting, move or second more than one motion “that the debate be adjourned” in respect of the same item.

12.5 The motion be now put - effect of motion

1. If a motion “that the motion be now put” is carried during discussion of a primary motion, the presiding member is to offer the right of reply and then immediately put the motion to the vote without further debate.

2. If the motion “that the motion be now put” is carried during debate of an amendment, the member presiding member is to put the amendment to the vote without further debate.

3. If the motion “that the motion be now put” is lost, debate is to continue.

12.6 Meeting to proceed to the next item of business - effect of motion

The motion “that the meeting proceed to the next item of business”, if carried has the effect that –

1. the debate on the substantive motion or amendment ceases immediately;

2. no decision is made on the substantive motion;

3. the meeting moves to the next item of business; and

4. there is no requirement for the matter to be raised again for consideration.

12.7 Ruling by the presiding member be overruled - effect of motion

If a motion “that the ruling of the presiding member be overruled” is carried, that ruling is to have no effect and the meeting is to proceed accordingly.

12.8 Member be no longer heard - effect of motion

If a motion “that the member be no longer heard” is carried, the speaker against whom the motion has been moved must not speak further on the current primary motion, or any amendment relating to it, except to exercise the right of reply if he or she is the mover of the primary motion.

13. Establishment of a Hearing Committee

13.1 Hearing Committees

1. The Board may establish a hearing Committee, from time to time, for the purpose of considering evidence or any public submissions on an amendment to a region scheme.

2. Membership on a hearing Committee established under sub clause (1) is to consist of a minimum of three members and may include –
   (a) a member of the relevant regional Committee established under schedule 2 of the Act that is affected by the amendment; and
(b) such other persons that the Board considers appropriate that may include but not limited to persons with -
   (i) both general and local knowledge of the issues;
   (ii) a close connection with the community; or
   (iii) appropriate skills and knowledge, subject to the person not having any direct or indirect pecuniary interest.

3. Members appointed under sub clause (2) are to declare any impartiality interests in accordance with clause 4.10 and clause 4.11.

14. Administrative matters

14.1 Presiding member to ensure compliance

The presiding member of a meeting is to ensure compliance with the Standing Orders and that -

1. all material relevant to a decision has been made available to all members;
2. all matters are well considered;
3. all members are able to contribute to the discussion of any matter; and
4. the decision on the matter is understood by all.

14.2 Suspension of Standing Orders

1. A member may, at any time, move that the operation of one or more of the clauses of the Standing Orders be suspended.
2. A member moving a motion under sub clause (1) is to identify the clause or clauses to be suspended, and state the reasons for the motion, but no other discussion is to take place.
3. A motion under sub clause (1) which is seconded and carried is to suspend the operation of the clause or clauses to which the motion relates for the duration of the meeting, unless the meeting earlier resolves otherwise.

14.3 Cases not provided for in Standing Orders

1. In situations where –
   (a) these Standing Orders have been suspended; or
   (b) a matter is not regulated by the Act or these Standing Orders; the presiding member is to decide questions relating to the conduct of the meeting.
2. The decision of the presiding member under sub clause (1) is final, except where a motion of dissent is moved and carried under clause 11.1(6).

14.4 Breach of standing orders

Any breach of the Standing Orders is to be brought to the attention of the Secretary. The Secretary is to advise the Chairperson or respond in line with public sector requirements.

14.5 Relevant legislation

For the purposes of information, the following Acts confer powers and duties on the WAPC and the department other than the Act -

1. *Land Administration Act 1997*;
2. Strata Titles Act 1985;
3. Metropolitan Region Improvement Tax Act 1959;
7. Fair Trading Act 2010
10. Occupational Safety and Health Act 1984
11. Parliamentary Commissioner Act 1971
13. Public Sector Management Act 1994
CHAPTER 3 – WAPC CODE OF CONDUCT

MESSAGE FROM THE CHAIRMAN

To ensure the community and government have confidence in the Western Australian Planning Commission (WAPC), we must act with integrity. All Board and Committee members have a personal and collective responsibility to make accountable and ethical decisions.

The Western Australian Code of Ethics applies to members on government boards and committees. The WAPC Code of Conduct complements the Code of Ethics and applies to all WAPC Board and Committee members.

The code ensures we deliver the WAPC’s vision to shape the future of Western Australia by performing our duties and making decisions to the highest standard of ethics, integrity, impartiality and professional conduct.

Ethical behaviour is required of all members at board and committee meetings, official board visits and at events where you represent the WAPC.

Please read and familiarise yourself with the Code of Conduct and continue to refer to it as you perform your role as a Board and/or Committee member. If you have any questions in relation to your obligations under this code, please seek clarification from myself.

Eric Lumsden
Chairman
Western Australian Planning Commission
August 2016
PERSONAL BEHAVIOUR

As Members of the WAPC, we will understand the role of our board/committee and public duties by actively learning and staying informed about:

- the role and purpose of our board/committee and the statutory, regulatory and policy requirements that apply when carrying out our public duties;
- the political and social environment in which our board/committee operates; and
- all relevant issues and activities affecting our board/committee.

As board/committee members, we will put the public interest first, ahead of our own personal and pecuniary interests, and act with loyalty, in good faith, ethically and with integrity by:

- exercising our powers and discharging our duties in the best interests of the entity of which we are members;
- making decisions fairly, impartially and promptly and considering all available information, legislation, policies, procedures and ethical codes;
- being accountable and transparent;
- not using our public position for personal gain or to cause detriment to others;
- doing our job lawfully, with reasonable care, diligence and efficiency;
- treating members of the public, stakeholders and fellow board/committee members with respect, courtesy, honesty and fairness; having proper regard for their interests, rights, safety and welfare;
- fulfilling our board/committee’s statutory purposes and requirements and, to the extent permitted by the Planning and Development Act 2005, serving the Government of the day;
- maintaining and contributing to a harmonious, safe and productive work environment and professional relationships;
- undertaking Accountable and Ethical Decision Making training as required by the Chairperson of the WAPC; and
- understanding the consequences of misconduct and actions that may be taken if we do not comply with the code and associated policies.

As board/committee members we will make an active contribution by:

- participating and working cooperatively with fellow board/committee members and stakeholders to achieve agreed goals;
- diligently preparing for meetings by reading and considering papers circulated with the agenda;
- expressing our concerns to the Chairperson or other relevant authority about consultations decisions or actions we believe may be contrary to the board/committee’s public duty; and
- attending all board/committee meetings and complying with Standing Order 2.4, Leave of Absence.

COMMUNICATION AND OFFICIAL INFORMATION

As board/committee members, we will:

- maintain confidentiality and not divulge information deemed confidential or sensitive, other than as required by law or where proper authorisation is given. If we are unsure, we will seek direction from the Chairperson;
- not make improper use of information obtained in the course of our board/committee duties, or use information for direct or indirect personal or commercial gain, or to do harm to other people or the board/committee, for example, speculating on shares on the basis of confidential information or disclosing the contents of any official papers to unauthorised persons;
• respect confidential information and observe any restrictions agreed by the board (subject to Freedom of Information Act 1992 requirements);
• respect the privacy of individuals and the security of personal information;
• protect intellectual property;
• raise concerns of improper communications or use of information with the Chairperson, or other relevant authority; and
• not enter into any contract or arrangement contrary to section 81 of the Financial Management Act 2006.

COMMUNICATION AND PUBLIC COMMENT

As board/committee members, we will:

• adhere to applicable legal requirements, policies and all other lawful directives regarding communication with parliament, Ministers, ministerial staff, lobbyists, the media and members of the public;
• not make public comment on behalf of the board/committee to the media or outside organisations. Only the Chairperson is authorised to make public comments; and
• understand how we may use social media in an official capacity, if at all, and in line with the Public Sector Commissioner’s Circular 2011-04 Social Media Guidelines for the WA Public Sector.

FRAUDULENT OR CORRUPT BEHAVIOUR

As WAPC Members, we will:

• not engage in any fraudulent or corrupt behaviour; and
• report any information about actual or potentially fraudulent, corrupt or illegal activities to the Chairperson or, if necessary, to the Corruption and Crime WAPC for serious misconduct, and to the PSC for minor conduct.

USE OF PUBLIC RESOURCES

As WAPC Members, we will:

• use the resources/funds of the State for board/committee business in an effective and economical manner;
• comply with applicable legislation, whole of government requirements and board policies;
• not use public resources for personal gain or party political work;
• use equipment and property of the WAPC for intended purposes and in accordance with the manufacturer’s specifications, whilst maintaining it in good condition and storing it securely;
• report any damage to, or loss of, property or equipment immediately to the Chairperson, Secretary, or responsible employee of the Department of Planning, Lands and Heritage; and
• ensure requests by an external party, such as a charitable organisation, to use WAPC facilities are referred to the Chairperson for approval.

INCURRING EXPENDITURE

As WAPC Members, we will:

• not approve our own expenditure for travel claims, reimbursements, credit card payments, private telephone subsidies; and
• maintain accurate records of all expenditure on WAPC business and provide documentation in a timely manner for processing and approval to relevant WAPC staff (note: expenditure will be acquitted in line with the Financial Management Act 2006).
TRAVEL AND ACCOMMODATION

As WAPC Members, we will:

- comply with Premier's Circular: 2014/02 Guidelines for official air travel by Ministers, Parliamentary Secretaries and Government Officers including that:
  - choice of airline will be based on the ‘best fare of the day’ principle; and
  - we will not use frequent flyer points or benefits under incentive or loyalty schemes accumulated in the course of business air travel for private purposes; and
- obtain approval for travel from the Chairperson and record this in the Board’s minutes; and
- understand the WAPC’s arrangements for the reimbursement of travel and accommodation expenses, if applicable.

PROVIDING HOSPITALITY

- Any hospitality provided by the board must be consistent with the board’s genuine needs and public duty, in compliance with PSC’s Circular: 2009-18 Guidelines for expenditure on official hospitality.
- If the WAPC is providing hospitality, it is to be approved by the Chairperson or Manager, Commission Business.

USE OF PHONES

WAPC Members with access to phones should:

- keep personal calls to a minimum and not make private commercial business calls; and
- reimburse the costs of personal calls in excess of permissible personal use allowances (if any).

ENGAGING CONSULTANTS OR CONTRACTORS

Following government guidelines and procedures will ensure consistency when engaging consultants or contractors.

RECORD KEEPING AND USE OF INFORMATION

All documents produced by the board form part of the public record. Board members must ensure records are properly organised, used for intended purposes and securely stored. Board members also have individual responsibility for any document or electronic record in their custody.

DOCUMENTING DECISIONS

As WAPC Members, we will:

- ensure we follow procedures to accurately document board decisions, events and transactions; and
- prepare and retain minutes for all official board meetings, including recording any dissent.

SECURITY OF INFORMATION

As WAPC Members, we will:

- ensure recorded information under our control, in both paper and electronic form, is kept in a secure place, including when stored on laptops, tablets and USB devices;
be diligent in handling board records and secure sensitive documents;
avoid discussing board business in public places where there is a likelihood of being overheard; and
dispose of duplicate copies of records and confidential documents in accordance with record keeping and archive procedures.

AMENDMENT OR FALSIFICATION OF RECORDS

As WAPC Members, we will not:

- falsify, destroy, alter or damage any public record; and
- back-date information or remove folios from files.

FREEDOM OF INFORMATION

As WAPC Members, we will:

- comply with the Freedom of Information Act 1992 to assist the public to gain access to documents and to check personal information in documents;
- allow prompt access and ensure personal information held is accurate, complete, up-to-date and not misleading;
- record salient facts in documents;
- avoid recording inappropriately disparaging remarks and unsubstantiated personal opinions about individuals in official documents; and
- refer all enquiries related to public access to documents where Freedom of Information (FOI) is concerned to the FOI Coordinator.

CONFLICTS OF INTEREST AND GIFTS AND BENEFITS

CONFLICTS OF INTEREST

As WAPC Members, we will:

- keep our private, commercial, organisational or political interests separate from our official board role; and
- openly declare, in the first instance to the Chairperson (or in the case of the Chair him/herself, to the Deputy Chairperson), matters relating to an interest that may conflict, be perceived to conflict, or potentially conflict with our public duty.

Part 4 of the WAPC Standing Orders provides the regulatory framework for managing conflicts of interests.

GIFTS AND BENEFITS

As WAPC Members, we will:

- carefully consider any offers of gifts, benefits or hospitality and ensure any decision to accept is done openly, placed on the record, and is consistent with the WAPC Board and Committee Members Conflict of Interest – Gifts, Benefits and Hospitality Policy;
- not accept gifts, benefits or hospitality:
  - likely to place us under an actual or perceived financial or moral obligation to other organisations or individuals; and
  - if they could reasonably be seen by the public, knowing the full facts, as intended or likely to cause us to act in a particular way or deviate from our public duty;
declare and record all gifts, benefits and hospitality offered, be they accepted or otherwise. Appropriate documentation needs to be provided to the WAPC Support team for inclusion on the WAPC register;

not demand or accept in connection with our official duties any fee, WAPC, reward, gratuity or remuneration of any kind which is outside the scope of our entitlements; and

not use our public position for personal benefit or gain or to cause detriment to others.

PRIVATE INTERESTS

As WAPC Members, we acknowledge that conflicts between personal, financial or political interests and public duties can arise in, but are not limited to, for example, the following situations where a WAPC member:

- stands to make a financial gain from a member’s decision;
- holds membership of another organisation likely to benefit from, or be disadvantaged by, a board decision; and/or
- has a spouse, children, close relatives or associates who stand to make a financial gain or loss or are members of an organisation affected by a Member’s decision.

COMPETING INTERESTS

As WAPC Members, we will remember:

- loyalty to the board overrides any responsibility a member may have as an individual nominated to represent the interests of a particular group or sector. This includes a public officer who may have been appointed to a board to represent their employer.
- that when conducting the business of the board, the public officer’s duty as a member prevails if a conflict arises with the performance of his or her other public sector duties.

OTHER INFORMATION

- Please see WAPC Standing Orders Part 4 Disclosures of Interest
- Please refer to WAPC Board and Committee Members Conflict of Interest – Gifts, Benefits and Hospitality Policy at Chapter 4 of this Governance Guide.

REPORTING SUSPECTED BREACHES OF THE CODE

As WAPC Members, we will:

- familiarise ourselves with the WAPC’s reporting mechanisms; and
- report suspected breaches of the code of conduct.

Suspected breaches of this Code can be reported within the WAPC and externally where appropriate. Reports of suspected breaches of the code can be reported directly to the Chairperson or a Public Interest Disclosure Officer.

The Chairperson is responsible for reporting serious misconduct matters to the Corruption and Crime WAPC and minor misconduct to the PSC under the Corruption, Crime and Misconduct Act 2003.
APPLICABLE LEGISLATION

- Planning and Development Act 2005
- Public Sector Management Act 1994
  - Section 7 – Public administration and management principles
  - Section 8 – Human resource management
  - Section 9 – Principles of conduct by public sector bodies et cetera
    - Act with integrity when performing official duties, be scrupulous in the use of official information, equipment and facilities
  - Section 74 – Relationships between ministerial officers et cetera. and employees of departments et cetera.
  - Section 85 – Falsification of records by a public officer
  - Section 102 – Employees not to be employed outside Government et cetera without permission
- Auditor General Act 2006
- Australian Constitution
  - Section 44 – Disqualification, officers of the crown standing for federal elections
- Corruption, Crime and Misconduct Act 2003
- Criminal Code
  - Chapter XII – Corruption and abuse of office
  - Section 25 – Any person may report misconduct
  - Section 28 – Certain officers obliged to notify misconduct
  - Section 81 – Disclosing official secrets
  - Section 82 – Bribery of a public officer
  - Section 83 – Corruption
  - Section 88 – Bargaining for public officer
- Disability Services Act 1993
- Electoral Act 1907 and Electoral Regulations 1996
  - Regulation 28(3) – Public employees
- Environmental Protection Act 1986
- Equal Opportunity Act 1984
- Financial Management Act 2006
- Freedom of Information Act 1992
- Occupational Health and Safety Act 1984
- Public Interest Disclosure Act 2003
- State Records Act 2000
- State Supply WAPC Act 1991
- Statutory Corporations (Liability of Directors) Act 1996
- Department of Finance, ‘Delivering community services in partnership policy’

Other References

- WAPC Standing Orders
- WAPC Board members’ Governance Guide – Principles for Good Board Governance (May 2011)
- WAPC – Primary and Annual Return Information Guide
- Public Sector Commissioner’s Instruction No. 7 – Code of Ethics
- Public Sector Commissioner’s Instruction No. 8 – Codes of conduct and integrity training
- Public Sector Commissioner’s Circular 2009-13 - Contact with lobbyists code and the register of lobbyists
- Public Sector Commissioner’s Circular: 2009-18 Guidelines for expenditure on official hospitality
- Integrity Coordinating Group – Conflicts of Interest – Guidelines for the WA public sector
- PSC ‘Ticket & Hospitality – Integrity Controls Checklist’
- Gifts, benefits and hospitality – A guide to good practice, Integrity Coordinating Group
- Board Essentials, PSC
- WAPC Strategic Plan 2015-17
- Notification of Misconduct in Western Australia – Corruption and Crime WAPC/PSC.
- Guidelines for Notification of Serious Misconduct for Principal Officers of Notifying Authorities – Corruption and Crime WAPC
- State Supply WAPC: Sponsorship in Government Guidelines – A handbook to assist public authorities.
CHAPTER 4 – WAPC POLICIES

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1. Conflicts of Interest - Gifts, Benefits and Hospitality

Policy Statement

This policy requires the WAPC (WAPC) Chairman, Board and Committee Members to identify and manage the risks associated with the offer and acceptance of gifts, benefits and hospitality, to ensure the integrity of the WAPC is maintained.

Scope

This policy applies to the WAPC Chairperson, Board and Committee members.

Purpose of the Policy

This policy supports the WAPC Code of Conduct for Board and Committee members, and outlines the requirements for identifying, declaring and managing an actual, perceived or potential conflict of interest that may arise from the acceptance of gifts, benefits or hospitality.

Policy Requirements

Board and committee members may at times be offered gifts, benefits or hospitality. WAPC Board and Committee members are to declare each and every offer of gifts, benefits and hospitality. Whilst declining every offer is simpler, it is more important to consider the nature of the gift or hospitality on its merits. If it is considered appropriate to accept an offer of a gift or hospitality, a board or committee member should discuss the situation with the WAPC Board or Committee Chairperson or the Manager, Commission Business prior to accepting, where possible.

Offers of gifts, benefits or hospitality must be declared and recorded, whether or not they are accepted. If gifts, benefits or hospitality are accepted, a board or committee member must complete a management plan to the satisfaction of WAPC Board or Committee Chairperson.

To reduce the risks associated with accepting gifts, benefits and hospitality, the following applies:

a. gifts, benefits or hospitality should never be demanded or solicited;
b. a board or committee member must not accept in connection with their official duties any fee, WAPC, cash, reward, gratuity or remuneration of any kind which is outside the scope of their entitlements;
c. gifts, benefits or hospitality likely to place a board or committee member under an actual or perceived financial or moral obligation to other organisations or individuals should not be accepted;
d. family members or associates should not accept a gift, benefit or hospitality on a board or committee member’s behalf;
e. any hospitality received should be appropriate to the occasion and in accordance with the normal business practices of the host organisation;
f. advice from the Chairperson WAPC or the Manager, Commission Business should be obtained if a member is unsure how to respond to any offers;
g. board and committee members are to undertake Accountable and Ethical Decision Making training as required by the Chairperson WAPC; and
h. if the WAPC is providing hospitality it is to be approved by the Chairperson WAPC or Manager, Commission Business.
Reporting

To ensure transparency and accountability:

a. all offers of gifts, benefits and hospitality, whether or not they are accepted, must be declared on the Conflicts of Interest (Gifts, Benefits and Hospitality) Disclosure Form – WAPC as soon as practicable;
b. if a gift, benefit or hospitality is accepted, a management plan to the satisfaction of WAPC Board or Committee Chairperson must be completed;
c. all gifts that are offered, including any issues of conflict and the steps taken to manage the conflict, must be recorded in the relevant Committee meeting minutes; and
d. the Chairperson WAPC will ensure a register is maintained recording all offers of gifts, benefits and hospitality; and
e. board and committee members must maintain an individual record.

Reference Links (Legislation, Government Policy, Delegations)

- Corruption, Crime and Misconduct Act 2003
- Planning and Development Act 2005
- Public Sector Management Act 1994
- State Records Act 2000
- Criminal Code
- Electoral Act 1907
- Electoral Regulations 1996
- Australian Constitution
- WAPC Standing Orders
- WAPC Code of Conduct
- PSC Tickets and hospitality: Integrity controls checklist
- Sponsorship Policy

Supporting Information (Procedures, Guidelines, Forms, Templates)

- Conflicts of Interest (Gifts, Benefits and Hospitality) Disclosure Form - WAPC
- State Supply WAPC, ‘Sponsorship in government guidelines’
- Gifts, benefits and hospitality – A guide to good practice, Integrity Coordinating Group
- Conflicts for Interests – Guidelines for the WA Public Sector, Integrity Coordinating Group
- Conflicts for Interest, Scenario 3 – Wearing two hats – dual roles as a public officer, Integrity Coordinating Group
- PSC’s Instruction No. 7 – Code of Ethics
- PSC’s Instruction No. 8 – Codes of conduct and integrity training
- PSC’s Circular 2009-13 - Contact with lobbyists code and the register of lobbyists - Lobbying is only permitted by those listed on the lobbyist register
- PSC’s Circular: 2009-18 Guidelines for expenditure on official hospitality
- PSC’s Circular: 2012-02 Self-managed superannuation funds (SMSF) - outside employment
- Premiers Circular 2014-02 Guidelines for official air travel by ministers, parliamentary secretaries and government officers
- Board Essentials, PSC
- WAPC Strategic Plan 2015-17
- Sponsorship Strategic Plan
## Definitions

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<thead>
<tr>
<th>Term / Acronym</th>
<th>Definition</th>
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<tr>
<td>Conflict of interest</td>
<td>A conflict of interest is a situation arising from conflict between the performance of public duty and private or personal interests. Conflicts of interest may be actual, or be perceived to exist, or potentially exist at some time in the future.</td>
</tr>
<tr>
<td>Benefit</td>
<td>Benefits relate to preferential treatment, privileged access, favours or other advantages. Benefits are generally intangible and can include things such as personal service, job offers and invitations to sporting or other events.</td>
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<tr>
<td>Gift</td>
<td>A gift is anything of value offered outside the scope of board and committee member entitlements. Gifts can be of token value, such as a box of chocolates, or of a significant value, such as a holiday. In certain circumstances an authority may also offer a gift, for example, to a visiting delegation or speaker. Gifts are generally tangible and include items such as consumer goods, promotional materials, samples, discounts on goods and services and cash.</td>
</tr>
<tr>
<td>Hospitality</td>
<td>Hospitality relates to entertaining stakeholders, conference delegates and other official visitors. Examples of hospitality may include offers of meals, invitations to events, sponsored travel or accommodation. Hospitality may be offered by a public authority to stakeholders to support and facilitate the business of the authority or government. Hospitality may also be offered to an officer by an external party as part of conducting the business of the authority or government.</td>
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### Authority / Owner

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<td>09/08/2016</td>
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<td>09/08/2016</td>
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<td>09/08/2018</td>
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### Policy Owner

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<tr>
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<td>Objective File Number:</td>
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2. External Funding and Other Agreements Policy

Policy Objectives

Compliance with this policy will improve WAPC’s governance processes and accountability for WAPC funds, and will assist the WAPC to:

- demonstrate the required standard of accountability for expenditure of public monies on funding arrangements; and
- ensure that the funded subject, event, organisation, project or otherwise is compatible with the WAPC’s legislation, role, business, goals, objectives and image.

Definitions of Agreements to be considered by the WAPC

a. Sponsorship is the right to associate the sponsor’s name, products or services with the sponsored organisation’s service, product or activity, in return for negotiated and specific benefits such as cash or in-kind support or promotional opportunities. It involves a negotiated exchange and should result in tangible, material and mutual compensation for the principal parties to the arrangement. Sponsorship can take the form of cash and/or in-kind support.

b. Grants or funding, which are monies or goods provided to a recipient through a formally recognised program for a specified purpose. A grant is normally understood as a form of financial assistance that assists an individual or organisation to develop a specific project, with no expectation of a commercial return or benefits.

c. Joint ventures, consultancies or partnerships in which the organisations share ownership and responsibility for the ultimate outcome or product;

d. Projects such as displays and exhibitions in which the sponsor does not receive genuine and measurable value for money;

e. Gifts, donations, bequests, endowments and prizes; and

f. Scholarships and research projects except where it could relate to, or influence public policy.

Policy requirements

The WAPC should consider the following principles when entering into one of the above agreements:

a. an agreement should not imply conditions that would limit, or appear to limit ability of the WAPC to carry out its functions fully and impartially;

b. there should be no actual conflict between the objectives and/or missions of the WAPC and the requesting organisation;

c. in general, the WAPC should not consider agreements with people and organisations which are, or may become subject to regulation or inspection by the public authority during the life of the agreement;

d. sponsorship in the public sector should not involve explicit endorsement of the sponsor or sponsor’s products;

e. where sponsorship involves the sponsor providing a product to the WAPC, the public authority should evaluate that product for its fitness for purpose against objective criteria that are relevant to the public authority needs;

f. it is inappropriate for any employee of the WAPC to receive a personal benefit from an agreement;

g. the WAPC should make its opportunities known and base them on open and fair processes;
h. WAPC should assess proposals against the criteria of delivering under the *Planning and Development Act 2005*, and the WAPC Strategic Plan;
i. all funding arrangements are contracts and should be described in a written agreement;
j. all funding arrangements should be approved by a designated senior officer of the public authority;
k. monitoring and evaluation of the effectiveness of the agreement should be regularly undertaken during and at the conclusion of the arrangement;
l. funding arrangements should also be included in the WAPC annual report.

**Legislation Policies, Guidelines and Codes**

- State Supply WAPC Act 1991 – Sponsorship covers a range of activities that public authorities regularly undertake;
  1. Where a public authority engaged in providing sponsorship is also purchasing a good or a service, the State Supply WAPC Act 1991 may apply. In this situation the transaction involved with the sponsorship activity may be viewed as a contract under this legislation. However, activities such as the provision of money, naming rights, sponsorship recognition on letterheads or similar will not under normal arrangements, be considered as contracts for goods or services and would be outside the provisions of the State Supply WAPC Act 1991; and
  2. Where a public authority considers that the Act may apply to a sponsorship activity or arrangement it should seek advice from the State Supply WAPC or the State Solicitor’s Office, before proceeding with the sponsorship arrangement.

- Goods and Services Tax Act 1999 – all arrangements are subject to this Act;
- Financial Management Act 2006 – Sets out public authorities’ obligations in relation to financial administration and the collection of and accounting for public monies;
- Treasurer’s Instruction 825 – Sets out the obligations of public authorities in relation to establishing suitable risk management practices and policies, due diligence and risk management;
- Public Sector Management Act 1994 – Sets out Chief Executive Officer’s functions and obligations in relation to managing the development of and the conduct of matters such as sponsorship activities, of Government Departments;
- Freedom of Information Act 1992 – All arrangements are subject to this Act.
- State Supply WAPC Procurement Policies:
  - Probity and Accountability;
  - Value for Money; and
  - Open and Effective Competition;
- Buy Local Policy;
- Any Government contract disclosure policy requirements;
- Western Australian Public Sector Code of Ethics; and

**Authority / Owner**

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1. **WAPC State Planning Framework**

WAPC State Planning Framework

The WAPC prepares and keeps under review the State Planning Strategy, and planning policies and strategies as the basis for coordinating and promoting land use planning, transport planning and land development in a sustainable manner, and for the guidance of public authorities and local governments. The WAPC Planning Framework provides an overview of the key documents that comprise the Framework.

2. **WAPC State Planning Framework Policy**

WAPC State Planning Framework Policy (Variation No.2)

State Planning Policy 1 provides a comprehensive list of all WA Planning WAPC (WAPC) policies and outlines how they relate to each other to guide integrated decision-making across all levels of planning. State Planning Policy 1 was first gazetted on 22 December 1998. The current version (Variation 2) was gazetted in February 2006. Variation 3 is in draft form. Submissions closed 24 December 2016.

3. **WAPC Strategic Plan**

WAPC Strategic Plan

The WAPC Strategic Plan establishes a three-year rolling strategic direction for the DPLH in the delivery of planning services delegated to it by the WAPC. The State Planning Strategy, as the lead strategic planning document within government, was used to inform the development of the WAPC’s Plan. In particular, the WAPC ensures that all of the State Planning Strategy principles are reflected in its Strategic Plan Objectives.

4. **WAPC Service Delivery Agreement with the Department of Planning, Lands and Heritage**

The Service Delivery Agreement is available for members upon request

The DPLH provides various services to the WAPC on an annual and ongoing basis in exchange for funding agreed in accordance with the published budget of the Department and the WAPC. A Service Level Agreement between the WAPC and the DPLH exists to regulate certain aspects of this arrangement, in particular the provision of services.

5. **WAPC Instrument of Delegation**

WAPC Resolutions and Instruments of Delegation

Many of the WAPC’s day-to-day statutory functions are undertaken by the DPLH officers under delegated authority, permitted under s16 of the Act. This enables the WAPC to respond to the strategic direction of the government and focus on strategic planning of the State, while ensuring its comprehensive workload is properly managed and its responsibilities met in a timely and professional way. The WAPC adopts a best practice approach to the delegation of authority. As such, instruments of delegation are routinely examined to ensure they remain accurate and appropriate.
6. **WAPC Meetings - Calendar, Agenda and Minutes**

**WAPC Website (for current meeting calendar)**

**eScribe**

**Committee Members Internet Portal (CMIP)**

Meeting dates for WAPC Board and Committee meetings are available on the public website. The public can access agendas and minutes (excluding confidential items) for the Statutory Planning Committee. Members of the WAPC access their agendas and minutes through eScribe and the Committee Members Internet Portal.
Development Assessment Panel

Code of Conduct

2017

Under the
Planning and Development
(Development Assessment Panels)
Regulations 2011

August 2017
I, Gail McGowan, interim Director General of the Department of Planning, Lands and Heritage, make this Code of Conduct under regulation 45 (1) of the Planning and Development (Development Assessment Panels) Regulations 2011.

Gail McGowan
Introductory statement

This Code of Conduct (the Code) sets out principles to guide the behaviour of members of Development Assessment Panels (DAPs) established under Part 11A of the Planning and Development Act 2005 (the Act).

DAP members are required, under regulation 45 (2) of the Planning and Development (Development Assessment Panels) Regulations 2011 (DAP Regulations), to comply with this Code.

Other legal requirements applying to DAP members are contained in the Act and DAP Regulations.

Where requirements of the Act or DAP Regulations are relevant to matters dealt with in this Code of Conduct, the relevant provisions are referred to in the text of the Code for information purposes. However, the references in this Code, Act or DAP Regulations are not intended to be a comprehensive statement of all legal obligations applying to DAP members.

It remains the responsibility of each DAP member to be aware of the legal obligations that apply to them in the performance of their functions under the Act.
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1.1 Citation

This Code of Conduct may be cited as the Development Assessment Panel Code of Conduct 2017.

1.2 Purpose

This Code of Conduct establishes a set of principles to guide the behaviour of members of DAPs.

1.3 Application of Code

1.3.1 This Code of Conduct applies to a person performing functions as a DAP member.

Note: see regulation 45 (2) of the DAP Regulations

1.4 Definitions

1.4.1 In this Code, unless otherwise defined, words and phrases have the same meanings as they have in the Act, the DAP Regulations and the Development Assessment Panel Standing Orders 2017 (DAP Standing Orders).

1.4.2 In particular:

DAP means a development assessment panel established under Part 11A of the Planning and Development Act 2005.

DAP member means a specialist member, a local government member, or a deputy member, of a DAP.

DAP regulations means the Planning and Development (Development Assessment Panels) Regulations 2011.


DAP secretariat means the departmental officer or officers made available to provide services to a DAP or DAPs under regulation 49 of the DAP Regulations.

Department means the Department of Planning, Lands and Heritage.

Director General means the Director General of the Department.

presiding member means the DAP member presiding at a meeting of a DAP under regulation 27 of the DAP Regulations.

relevant DAP, in relation to a DAP member, means the DAP of which the member is a member.

the Act refers to the Planning and Development Act 2005.
Part 2 - Personal behaviour and communication

Division 1
personal behaviour

2.1 DAP member behaviour

2.1.1 Each DAP member, when carrying out the member’s functions as a DAP member, must:
   a. act with due care and diligence;
   b. act honestly, ethically and responsibly;
   c. be open and accountable to the public;
   d. consider issues consistently, comprehensively, promptly and fairly;
   e. base decisions on relevant and factually correct information;
   f. treat others with respect and fairness;
   g. uphold the highest standards of professional behaviour;
   h. not seek to improperly influence other DAP members;
   i. not engage in fraudulent or corrupt behaviour; and
   j. act in accordance with the law and the provisions of this Code of Conduct.

Note: Section 266(2) of the Act requires a DAP member, at all times, to act honestly in the performance of a function under the Act. There is a $5,000 penalty for non-compliance with section 266.

2.1.2 A local government member of a DAP is not bound by any previous decision or resolution of the local government in relation to the subject-matter of a DAP application. The member must exercise independent judgment, and consider the application on its planning merits, in deciding how to vote.

2.1.3 A DAP member is not bound by any confidential discussions that occurred as part of a State Administrative Tribunal process. The member must exercise independent judgment, and consider the application on its planning merits, in deciding how to vote.

2.1.4 A DAP member must not make improper use of the member’s position:
   a. to gain, directly or indirectly, an advantage for the member or for any other person; or
   b. to cause detriment to the DAP or to any other person.

2.1.5 A DAP member must not make improper use of information obtained in the course of their member duties, or use such information for direct or indirect personal or commercial gain, or to harm another person.

Note: see section 266 (6) of the Act

2.1.6 No specialist member, in their private capacity, is to represent an applicant in relation to a DAP application that is before the relevant DAP.

2.1.7 A DAP member must not make any statement that is critical, or that could be understood as being critical, of the Minister, the Director General, a local government, a local government employee, departmental employee, a DAP or another DAP member.

2.1.8 Any departmental resources provided for use in the performance of the member’s duties under the Act must be used effectively and economically.

2.1.9 A DAP member must not use any departmental resources provided for use in the performance of the member’s duties under the Act for private purposes, unless such use is authorised in writing by the Director General.
Division 2

communication

2.2 Definitions

In this division, an applicant, in relation to a development application, includes the person making the application and a representative or associate of that person.

2.3 Communication with local government and departmental staff

2.3.1 A DAP member, other than a local government member performing functions as a member of the local government, is not to have any involvement with a development application that is before the relevant DAP, or which the member is aware may come before that DAP in future, during the assessment of the application by the local government or the Department.

2.3.2 A DAP member must not, in relation to a development application that is before the relevant DAP or which the member is aware may come before that DAP in the future, attempt to direct the action or influence the conduct of a person who is a local government or departmental employee, in the person’s capacity as an employee.

2.3.3 A DAP member who is a ratepayer or an elector in a local government district in relation to which the relevant DAP is constituted:

a. must not request preferential treatment by the local government due to his or her membership of the DAP; and

b. must avoid making any statement, doing or omitting any act that could suggest to a member of the public that such preferential treatment has been received.

2.4 Communication in relation to applications

2.4.1 A DAP member is not to approach an applicant in relation to any application that is before the relevant DAP, or which the member is aware may come before that DAP in the future, otherwise than in the circumstances set out in the provisions of the DAP Standing Orders.

2.4.2 A DAP member must not make a representation to any person that the member commits, or purports to commit, his or her vote on an application that is before the relevant DAP or which the member is aware may come before that DAP in the future.

2.4.3 If a DAP member is approached with a request to commit his or her vote on an application the member must inform the presiding member of the DAP of the details of the approach.

2.4.4 Subject to 2.4.5, a DAP member is not to accept an invitation from an applicant to attend any meeting in relation to an application that is before the relevant DAP or which the member is aware may come before that DAP in the future.

2.4.5 A DAP member must not participate in:

a. a discussion with an applicant, formally or informally, in person or otherwise; or

b. a site visit, private meeting, briefing, discussion or similar event with any other DAP member

in respect of a development application that is before the relevant DAP or which
the member is aware may come before that DAP in future, UNLESS the discussion, visit, meeting or similar event has been consented to by the presiding member of the relevant DAP and arranged by the DAP secretariat.

2.4.6 In the case of DAP members participating in a site visit, private meeting, briefing, discussion or similar event:

a. no DAP member may express a view that may suggest pre-judgment of the relevant development application; and

b. the members must ensure that a written record of the event is prepared and submitted to the DAP secretariat for discussion at the next DAP meeting during which the relevant application is discussed.

2.4.7 If a DAP member participates in a site visit, private meeting, briefing, discussion or similar event and later becomes aware that a DAP application has been made that relates to the meeting, briefing, discussion or event, the member is to ensure that a written record of the event is prepared and submitted to the DAP secretariat for discussion at the DAP meeting during which the relevant application is discussed.

2.4.8 Nothing in this Code of Conduct prevents DAP members from communicating with local government or departmental staff members in accordance with Part 3 of the DAP Standing Orders prior to a DAP meeting, or during the discussion of any matter at a DAP meeting.

2.4.9 Nothing in this clause prevents a local government member from performing functions as a member of a local government.

2.4.10 Nothing in this clause prevents a DAP member from performing functions as part of the State Administrative Tribunal process.

2.5 Communication with the general public

2.5.1 Only the presiding member of a DAP may publicly comment on the operations or determinations of the DAP.

Note: This is a requirement under regulation 48 of the DAP Regulations.

2.5.2 If a member of the public attempts to initiate discussion on the operations or determinations of a DAP with a DAP member, the DAP member is not to make any comment.

2.6 Protecting confidential or sensitive information

2.6.1 A DAP member must maintain confidentiality and not divulge information deemed confidential or sensitive, other than as required by law or where proper authorisation is given.

2.6.2 A DAP member is to respect confidential information and observe any restrictions agreed by the presiding member (subject to Freedom of Information Act 1992 requirements).
Part 3 - Conflicts of interest and disclosure procedures

3.1 Definitions

3.1.1 In this section:

close associate of a DAP member means a person who:

a. operates a business in partnership with the member, employs the member or is a beneficiary under a trust, or an object of a discretionary trust, of which the member is a trustee; or

b. is a body corporate; or

c. is a director, secretary or executive officer where the member holds shares with a total value exceeding $10,000 or one per-cent of the total value of the issued share capacity of the body corporate, whichever is the lesser; or

d. is the spouse, de facto partner, child or close relative of the member; or

e. has a relationship of a kind specified in any of paragraphs (a) to (d) in relation to the member’s spouse or de-facto partner if the spouse or de-facto partner is living with the member.

3.1.2 For the purposes of this part, a DAP member has an interest in a matter if either:

a. that DAP member; or

b. a close associate of that DAP member, has:

i. a direct or indirect pecuniary interest in the matter;

ii. a proximity interest in the matter; or

iii. an impartiality interest in the matter.

direct pecuniary interest is one where it is reasonable to expect that a person may receive a benefit or incur a loss, measurable in monetary terms, as a consequence of a benefit received or loss incurred by another person who has a direct or indirect interest in the matter.

impartiality interest means an interest that could, or could reasonably be perceived to, adversely affect the impartiality of a member with such an interest and includes an interest arising from kinship, friendship, partnership, or membership of an association, that is connected to a development application that is before the relevant DAP or which the member is aware may come before that DAP in future.

proximity interest, in relation to a DAP member, means an interest of the member, or of a close associate of the member, in a development application if the application concerns land that is adjoining the person’s land or is directly across a thoroughfare from the person’s land.

3.2 Members to identify conflicts and interests

3.2.1 As a general principle, a conflict of interest exists when a person has a private interest that could corrupt or undermine his or her performance of a public duty. As a decision maker must bring an open mind to deliberations, he or she cannot be affected by an improper influence. For this reason, DAP members must be alert to any private circumstances which could affect, or be seen to affect, the exercise of their judgment. Such interests must be declared and may be of a sufficient magnitude to preclude the member from participating in the decision.
3.2.2 On account of the principles above, a DAP member must identify any:
   a. direct or indirect pecuniary interest; or
   b. impartiality interest

   that the member has, or may reasonably be perceived to have, in relation to any development application that is before the relevant DAP or which the member is aware may come before that DAP in the future.

3.2.3 A DAP member must identify any proximity interest that the member has in relation to any development application that is before the relevant DAP or which the member is aware may come before that DAP in the future.

3.3 Disclosure of conflicts of interest

3.3.1 Pecuniary or Proximity interests

   Before a meeting:
   a. A DAP member who identifies he or she has a pecuniary or proximity interest should disclose this to the DAP secretariat as soon as possible.
   b. Such interests can give rise to a reasonable apprehension that the DAP member may be biased and so unable to bring an impartial mind to the deliberations.
   c. Accordingly, the DAP secretariat may arrange for another member to participate in deliberations on the matter which gives rise to the conflict of interest.
   d. The DAP member can perform his or her functions in relation to any other applications before the same meeting, if no conflict of interest arises in relation to those applications.

   During a meeting:
   a. A DAP member who identifies he or she has a pecuniary or proximity interest in the application being considered:
      i. is to disclose the interest to the other members as soon as possible after the relevant facts have come to the member’s knowledge; and
      ii. following the disclosure, is not to be present during any consideration or discussion of the relevant matter or to vote on the matter.

   Note 1: This is a requirement under section 266(3) of the Act. There is a $5,000 penalty for non-compliance with section 266.

   Note 2: The size of person’s pecuniary interest appears irrelevant. The Act simply states applies to “direct or indirect financial interests.” So disclose any financial interest, be it of one dollar or a million.

3.3.2 Impartiality interests

   Before a meeting:
   a. A DAP member who identifies he or she has an impartiality interest should disclose this to the DAP secretariat as soon as possible.
   b. The presiding member will decide whether the interest is of a magnitude that could give rise to a reasonable apprehension that the DAP member may be biased and so unable to bring an impartial mind to the deliberations.
   c. If the interest is considered sufficient to give rise to such an apprehension, the DAP secretariat may arrange for an alternative member to perform the members functions in relation to that application.
d. The DAP member can perform his or her functions in relation to any other applications before the same meeting, if no conflict of interest arises in relation to those applications.

e. If the presiding member does not consider the impartiality interest significant, the DAP member can continue to participate in the matter.

**During a meeting:**

a. A DAP member who becomes aware that he or she has an impartiality interest should disclose the existence, and nature, of the interest to the other members as soon as possible.

b. The presiding member will determine whether the interest is sufficient to preclude the member from further participation.

3.3.3 Part 6 of the Standing Orders contain further technical details on the disclosure process.

### 3.4 Disclosure of communication

If a DAP member has engaged in verbal communication with a person, or the representative of a person, who has a direct or indirect pecuniary interest in a development application that is to come before a meeting of the relevant DAP, the member, as soon as possible after the relevant facts have come to the member’s knowledge is to make a record of the communication and disclose it to the DAP secretariat, as if it were correspondence, in accordance with item 3.6 of the DAP Standing Orders.
Part 4 - Gifts

4.1 General principles relating to gifts

4.1.1 A DAP member is not to seek any gift for themselves or any other person in connection with the exercise of the member’s functions under Part 11A of the Act.

4.1.2 A DAP member is not to accept any gift from a person in connection with the exercise of the member’s functions under Part 11A of the Act, otherwise than in the circumstances set out in regulation 46 of the DAP Regulations.

4.2 Notifiable gifts and prohibited gifts

4.2.1 As provided in regulation 46 (1) of the DAP regulations:
   a. a notifiable gift is:
      i. a gift worth more than $50 and less than $300; or
      ii. a gift that is one of two or more gifts given to a DAP member by the same person within a period of six months that are, in total, worth more than $50 and and less than $300;

   b. a prohibited gift is:
      i. a gift worth $300 or more; or
      ii. a gift that is one of two or more gifts given to a DAP member by the same person within a period of six months that are, in total, worth $300 or more.

4.2.2 As provided in regulation 46 (2) of the DAP Regulations, a DAP member must not accept a prohibited gift from a person who is undertaking, seeking to undertake, or is reasonable to believe is intending to undertake development that will require the determination of a development assessment by a DAP.

4.2.3 As provided in regulation 46 (3) of the DAP regulations, a DAP member who accepts a notifiable gift from a person who is undertaking, seeking to undertake, or it is reasonable to believe is intending to undertake development that will require the determination of a development assessment by a DAP, is required to notify the Director General of the acceptance of the gift. Notification is to accord with regulation 46 (4) of the DAP Regulations.

4.2.4 As provided in regulation 46 (5) of the DAP Regulations, the Director General is to maintain a register of notified gifts.

Note: Regulation 46 of the DAP Regulations imposes requirements, as summarised above, in respect to notifiable and prohibited gifts. These requirements are based on the provisions regarding gifts that local government councillors are subject to under the Local Government Act 1995 and associated regulations.
Part 5 - Dealing with misconduct and breaches of this Code

5.1 Reporting suspected breaches of the Code

Suspected breaches of this Code can be reported by DAP members and externally where appropriate in accordance with the complaint-handling procedures set out in the DAP Member Procedures Manual.

5.2 Application of Corruption, Crime and Misconduct Act 2003

5.2.1 The Corruption and Crime Commission (CCC) has statutory powers to investigate and deal with allegations of serious misconduct by public officers as defined in section 4 (a), (b) or (c) of the Corruption, Crime and Misconduct Act 2003 (CCM Act) including where a public officer:

a. acts corruptly or corruptly fails to act in the course of his or her duties; or
b. corruptly takes advantage of his or her position for the benefit or detriment of any person; or
c. commits an offence which carries a penalty of two or more years imprisonment.

5.2.2 The Public Sector Commission (PSC) has statutory powers to investigate and deal with allegations of minor misconduct by public officers as defined in section 4 (d) of the CCM Act. Minor misconduct occurs if a public officer engages in conduct that:

a. adversely affects the honest or impartial performance of the functions of a public authority or public officer, whether or not the public officer was acting in their public officer capacity at the time of engaging in the conduct;
b. involves the performance of functions in a manner that is not honest or impartial;
c. involves a breach of the trust placed in the public officer; or
d. involves the misuse of information or material that is in connection with their functions as a public officer, whether the misuse is for the benefit of the public officer or the benefit or detriment of another person; and
e. constitutes, or could constitute, a disciplinary offence providing reasonable grounds for termination of a person’s office or employment.

5.2.3 The main difference between serious and minor misconduct is that serious misconduct must involve corrupt intent and/or criminal conduct.

5.2.4 DAP members are public officers within the meaning of the CCM Act.

5.2.5 Accordingly, DAP members may be subject to the scrutiny of the CCC and the PSC in relation to the exercise of their functions under the Act.

5.3 Consequences of misconduct or contravention of Code

5.3.1 Section 266 of the Act imposes penalties for DAP members in relation to:

a. failure to act honestly in the performance of a function under the Act (s 266 (2));
b. unlawful disclosure of information acquired in connection with the carrying out of functions under the Act (s 266(5));
c. making improper use of information to gain an advantage or to cause a detriment.
5.3.2 Under regulation 32 (1) of the DAP Regulations, a DAP member’s office automatically becomes vacant on the following grounds (among others):
   a. conviction for an offence punishable by imprisonment for at least 12 months; or
   b. conviction for an offence against section 266 of the Act.

5.3.3 The Minister may, under regulation 32 (3) of the DAP Regulations, remove a DAP member from office on the following grounds (among others):
   a. neglect of duty; or
   b. misconduct or incompetence.
Development Assessment Panel Practice notes:

DAP Standing Orders 2017

Under the Planning and Development (Development Assessment Panels) Regulations 2011

November 2017
I, Gail McGowan, Director General of the Department of Planning, Lands and Heritage, make this Standing Orders under regulation 40(5) of the Planning and Development (Development Assessment Panels)

February 2017
Introductory statement

These Practice Notes contain Standing Orders that set out procedures for the efficient administration and operation of meetings of Development Assessment Panels (DAPs) established under Part 11A of the Planning and Development Act 2005 (the Act).

DAPs are required, under regulation 40(5) of the Planning and Development (Development Assessment Panels) Regulations 2011 (the DAP Regulations), to operate in compliance with these Practice Notes.

Where requirements of the Act or DAP Regulations are relevant to matters dealt with in these Practice Notes, the relevant provisions are referred to in the text for information purposes. However, the references in these Practice Notes to requirements of the Act or Regulations are not intended to be a comprehensive statement of all legal obligations applying to DAPs or to individual DAP members.

Other legal requirements applying to individual DAP members are contained in the Act and Regulations and in the Development Assessment Panel Code of Conduct 2017.

It remains the responsibility of each DAP member to be aware of the legal obligations that apply to them in the performance of their functions under the Act.
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1.1 Citation

These Practice Notes may be cited as the Development Assessment Panel Standing Orders 2017.

1.2 Purpose

1.2.1 These Practice Notes set out the procedures for the efficient administration and operation of DAP meetings.

1.2.2 The aim of these Practice Notes is:
   a. to standardise certain DAP secretariat procedures; and
   b. to increase community and industry understanding of DAP meeting procedures; and
   c. to facilitate the orderly and efficient conduct of DAP meetings; and
   d. to clarify DAP members’ responsibilities in relation to the conduct of DAP meetings.

1.3 Application of Practice Notes

1.3.1 These Practice Notes apply to the conduct of meetings of DAPs.

1.3.2 DAPs are required to comply with these Practice Notes under regulation 40(5) of the DAP regulations.

1.3.3 DAP members are required to comply with the DAP Code of Conduct. The DAP Code of Conduct contains provisions that apply to members’ conduct in the course of DAP meetings. DAP members should ensure they are familiar with their obligations under the DAP Code of Conduct.

1.4 Definitions

1.4.1 In these Practice Notes, unless otherwise defined, words and phrases have the same meanings as they have in the Act, the DAP Regulations and the DAP Code of Conduct.

1.4.2 In particular:
   a. alternate local government member means a person appointed to be an alternate member for a local government member under regulation 28(1)(a) or (b) of the DAP regulations.
   b. alternate member includes an alternate local government member and an alternate specialist member.
   c. alternate specialist member means a person appointed to the pool of alternate members for specialist members under regulation 28(1)(c) of the DAP regulations.
   d. DAP means a development assessment panel established under Part 11A of the Planning and Development Act 2005, and includes a JDAP and an LDAP.
   e. DAP application means:
      (i) a development application that is a mandatory DAP application under regulation 5 of the DAP regulations; or
      (ii) a development application that is an optional DAP application under regulation 6 of the DAP regulations and in relation to which the applicant has elected, under regulation 7 of the DAP regulations, to have the application determined by a DAP.

Note 1: A mandatory DAP application is a development application that:

is not an excluded development application: that is, an application for approval of:
   (i) construction of:
• a single house and any associated carport, patio, outbuilding and incidental development;
• less than 10 grouped dwellings and any associated carport, patio, outbuilding and incidental development;
• less than 10 multiple dwellings and any associated carport, patio, outbuilding and incidental development; or

(ii) development in an improvement scheme area; or

(iii) development by a local government or the Commission; or

(iv) development in a district for which -

• a DAP is not established at the time the application is made; or

• a DAP has been established for less than 60 days at the time the application is made.

In the case of an application for development in the district of the City of Perth - is for the approval of development that has an estimated cost of $20 million or more; and

In the case of an application for development outside the district of the City of Perth - is for the approval of development that has an estimated cost of $10 million or more.

Note 2: An optional DAP application is a development application that:

(i) is not an excluded development application as defined in Note 1; and

(ii) in the case of an application for development outside the district of the City of Perth - is for the approval of development that has an estimated cost of $2 million or more and less than $20 million; and

(iii) development of a warehouse in any district that has an estimated cost of $2 million or more.

Note 3

(i) A development application for the approval of a warehouse anywhere, which is estimated to cost $2 million or more, is not to be treated as mandatory DAP application. Rather, the applicant has the option to submit it to a DAP. See regulation 4A of the DAP Regulations.

(ii) Local government has the ability to delegate its power to determine certain development applications to the DAP under regulation 19. If this has occurred, the DAP must determine the application even if the application would normally be considered an ‘optional DAP application’ and has been submitted to the local government. This is the effect of regulation 4A(2) of the DAP Regulations.


g. DAP fee means the fee payable under regulation 10 of the DAP regulations.

h. DAP member means a specialist member, a local government member, or an alternate member of a DAP.

i. DAP regulations means the Planning and Development (Development Assessment Panels) Regulations 2011.

j. DAP secretariat means the departmental officer or officers made
available to provide services to a DAP or DAPs under regulation 49 of the DAP regulations.

k. **DAP website** means the website established under regulation 51 of the DAP regulations.

l. **Department** means the Department of Planning, Lands and Heritage.

m. **deputy presiding member** means the DAP member performing the functions of a presiding member under regulation 27 of the DAP regulations.

n. **JDAP** means a Joint Development Assessment Panel established under section 171C of the Act.

o. **LDAP** means a Local Development Assessment Panel established under section 171C of the Act.

p. **local government member** means:

   (i) in relation to an LDAP - a person appointed under regulation 23(1)(a) of the DAP regulations; and

   (ii) in relation to a JDAP - a person whose name is included on the register of local government members established under regulation 26 of the DAP regulations for that JDAP for the relevant local government.

q. **presiding member** means the DAP member presiding at a meeting of a DAP under regulation 27(1) of the DAP regulations. A reference to a presiding member includes a reference to a deputy presiding member when the deputy presiding member is performing the functions of the presiding member.

r. **specialist member** means a person appointed as a specialist member of a DAP under regulation 37 of the DAP regulations.

s. **the Act** means the Planning and Development Act 2005.

1.5 **Relationship to DAP regulations**

1.5.1 If there is any inconsistency between a provision of these Practice Notes and a provision of the DAP regulations, the provision of the DAP regulations prevails to the extent of the inconsistency.

1.5.2 Notes in the text of these Practice Notes containing reference to relevant provisions of the DAP regulations are included for reference purposes only. Any relevant provisions of the DAP regulations may contain additional material and should be consulted in addition to the Practice Notes.
Part 2 - Attendance at DAP meetings

2.1 Entitlement to sit as DAP member

A DAP member who has a conflict of interest in relation to a DAP application to be considered at a DAP meeting is not entitled to attend or vote at the meeting. Conflicts of interest are dealt with in more detail in Part 6 of these Practice Notes and in Part 3 of the DAP Code of Conduct.

2.2 Quorum

At a meeting of a DAP, a quorum is constituted by 3 DAP members, one of whom is the presiding member.

Reference: r. 41

2.3 Attendance of members generally

2.3.1 If a member will be unable to attend a DAP meeting in relation to which the member has confirmed his or her availability to attend, the member is to inform the DAP secretariat as soon as practicable after becoming aware of the fact.

2.3.2 If a member will be unable to attend two or more consecutive DAP meetings, the member must seek leave of absence from the Minister under regulation 33 of the DAP regulations, and in accordance with item 2.9 of these Practice Notes.

Reference: r. 33

2.3.3 With the consent of the presiding member, the business of a DAP meeting may be conducted with one or more members attending by way of teleconference.

Reference: r. 43

2.4 Attendance of presiding members and deputy presiding members

2.4.1 The presiding member of a DAP must preside at all meetings of the DAP at which the member is present. If the presiding member is not present at a meeting of the DAP, the deputy presiding member is to act in the presiding member’s place.

Reference: r. 27(2), (3) and (3A)

2.4.2 If neither the presiding nor the deputy presiding member will be present at a proposed DAP meeting, the Director General can appoint the presiding member of another DAP to act as presiding member of the DAP.

Reference: r. 27(2), (3) and (3A)

2.4.3 If neither the presiding member, the deputy presiding member nor a presiding member of another DAP pursuant to r. 27(3A) will be present at a proposed DAP meeting, the meeting cannot be convened as a quorum will not be formed.

Reference: r. 41

2.5 Attendance of specialist members

At a meeting of a DAP, the following specialist members are to attend:

a. one specialist member who is the presiding member or deputy presiding member; and

b. two other specialist members.

Reference: r. 23(1)(b); r. 25(1)(b)
2.6 Attendance of alternate specialist members

2.6.1 At a meeting of a DAP where a specialist member is unable to attend, an alternate specialist member may attend in the absent member’s place, where sufficient notice is provided in accordance with the procedure set out in 2.3.1.

2.6.2 The presiding member of a DAP at which an alternate specialist member is to or may attend is to select an appropriate alternate specialist member from the register established under regulation 28(1) (c) of the DAP regulations. When selecting an appropriate alternate specialist member, the presiding member is to have regard to the expertise of the absent member and, so far as is possible, is to select an alternate specialist member with similar expertise.

2.7 Attendance of local government members

2.7.1 At a meeting:
   a. of an LDAP - two of the members are to be members of the council of the local government of the district for which the DAP is established; and
   b. of a JDAP - two of the members are to be members of the council of the local government of the district to which the DAP application to be determined relates.

   Reference: r. 23(1)(a); r. 25(1)(a)

2.7.2 At a meeting of a JDAP at which more than one application is to be determined, and the applications relate to development in more than one local government district, the presiding member must ensure that the JDAP is, at all times, constituted with two local government members representing the local government of the district to which the DAP application being determined relates. This is referred to, in these orders, as the required constitution of a JDAP.

2.7.3 The required constitution of a JDAP is to be achieved by rotating local government members on and off the JDAP as appropriate.

2.7.4 A local government member who is attending a DAP meeting in order to enable the required constitution of a JDAP to be achieved:
   a. may attend and observe the business of the meeting while the member is not sitting as a member of the JDAP; and
   b. is not entitled to vote on any application or to otherwise address or participate in the meeting otherwise than at a time when the member is sitting as a member of the JDAP.

2.8 Attendance of alternate local government members

2.8.1 At a meeting of a DAP at which a quorum would otherwise be unable to be formed because of the absence of a local government member, an appropriate alternate local government member is to attend in the absent member’s place.

2.8.2 At a meeting of a DAP meeting where a local government member is unable to attend, an alternate local government member may attend in the absent member’s place, where sufficient notice is provided in accordance with the procedure set out in 2.3.1.

Reference: r. 28
2.9 Leave of absence

2.9.1 If a member will be unable to attend two or more consecutive DAP meetings, the member must seek leave of absence from the Minister under regulation 33 of the DAP regulations.

2.9.2 A DAP member’s leave of absence is to be included as an item on the next meeting agenda of the relevant DAP to ensure that it is noted in the DAP minutes.

2.10 Attendance of responsible authority representative

A DAP is to invite the responsible authority officer preparing a report for a development application to attend, or to send a representative to, a DAP meeting at which the application is to be determined.

2.11 Public attendance

DAP meetings are to be open to the public, unless otherwise directed by the Presiding Member for meetings held by teleconference to determine an application to amend or cancel an existing approval.

Reference: r. 40(2)
Part 3 - Arrangements to be made before DAP meetings

Division 1
Convening a DAP meeting

3.1 DAP meeting agenda

3.1.1 The DAP secretariat is to prepare an electronic agenda (the meeting agenda) for each DAP meeting.

3.1.2 At least seven days before a DAP meeting, the DAP secretariat is to circulate the meeting agenda to:
   a. each member of the DAP who is to attend the meeting;
   b. the responsible authority that is the author of a responsible authority’s report relating to a DAP application to be determined at the meeting;
   c. each applicant in relation to a DAP application to be determined at the meeting;
   d. any person who has been invited, in accordance with 3.5, to make a submission or present information at the meeting;
   e. each local government of a district in respect of which the DAP will be considering a DAP application.

3.1.3 At least seven days before a DAP meeting:
   a. the DAP secretariat is to publish the meeting agenda on the DAP website; and
   b. each local government of a district in respect of which the DAP will be considering a DAP application is to publish the meeting agenda on the local government’s website.

Reference: r. 39

Division 2
Arrangements for reports, presentations or deputations to be considered or heard at DAP meeting

3.2 Provision of responsible authority’s report

3.2.1 The responsible authority for a DAP application is to provide to the DAP secretariat a responsible authority’s report on the application, in the form required by regulation 12 of the DAP regulations.

3.2.2 The responsible authority’s report is to be provided to the DAP secretariat within the timeframes set out in regulation 12(3):

   Note 3: Regulation 12(3) states:

   The report must be given –
   a. if the DAP application is made to the Commission or is not required to be advertised under a local planning scheme or local interim development order – within 48 days after the date on which the application was made; or
   b. if:
      (i) the DAP application is required to be advertised under a local planning scheme or local interim development order; and
      (ii) the scheme or order provides that the application is deemed to be refused if it is not determined within a period of 90 days or more after the application is made, within the period that ends 12 days before the day on which the application would be deemed to be refused; or
d. otherwise – within 78 days after the date on which the application was made.

In calculating when a responsible authority report is due, exclude the days upon which the authority requested further information from the application and exclude the days the applicant took to comply with this request.

3.2.3 The responsible authority’s report is to include the material required by regulation 12(5) of the DAP regulations. Specifically, this includes:

a. a recommendation as to how the application should be determined; and

b. copies of any advice received by the responsible authority from any other statutory, public or planning authority consulted in respect of the application; and

c. any other information that the relevant authority considers is relevant to determining the application.

Reference: r. 12(5)

3.2.4 On receipt of a responsible authority’s report and associated material, the DAP secretariat is to:

a. inform both the responsible authority in writing that the report has been received; and

b. insert the report and associated material, into the relevant meeting agenda at which the application is to be determined.

3.3 Consideration of responsible authority’s report and requests for further information

3.3.1 On receipt of a meeting agenda, a DAP member is to review the responsible authority’s report and associated material.

3.3.2 If, following review of the material, a DAP member requires further information:

a. from the applicant - the member’s request is to be made to the Presiding member who may put the request to the applicant in writing, via by the DAP secretariat; or

b. from the responsible authority - the DAP secretariat is to issue a direction in writing from the presiding member of the DAP to provide technical advice or assistance, or further information in writing (a regulation 13(1) direction).

Reference: r. 13(1)

3.3.3 The regulation 13(1) direction is to specify the service required and the time within which the responsible authority is to comply with the direction.

Reference: r. 13(2)

3.4 Delay in providing responsible authority’s report or further information

3.4.1 If the DAP secretariat becomes aware that:

a. a responsible authority’s report under 3.3 will not be provided in time; or

b. further information requested will not be provided in sufficient time for it to be considered before the DAP meeting at which the relevant application is to be considered;
3.4.2 If a responsible authority’s report on a DAP application is not provided in time for inclusion as part of the meeting agenda, the DAP may determine the application in the absence of the report.

Reference: r. 12(7)

3.5 Submissions or presentations at DAP meeting

3.5.1 The presiding member of a DAP may invite a person to be present at a meeting of the DAP to advise or inform, or make a submission to, the DAP.

Reference: r. 40(3)

3.5.2 A person who, or group of persons which, wishes to be present at a meeting of a DAP to make a verbal submission to the DAP must provide a request in writing (a presentation request) to the DAP secretariat, at least 72 hours before the commencement of the meeting. The presentation request is to be accompanied by a written document setting out the substance of the submission the person or group proposes to make.

3.5.3 A presentation request is to:
   a. identify the DAP application in respect of which a submission is sought to be made, and
   b. summarise the content of the submission, and
   c. contain contact details, including telephone and email contacts, for the person or a representative of the group.

3.5.4 As soon as practicable on receipt of a presentation request, the DAP secretariat is to forward it to the presiding member of the relevant DAP. If the presiding member is not available, the DAP secretariat is to forward the application to the deputy presiding member.

Reference: r. 12(7)

3.5.5 As soon as practicable on receipt of a presentation request, the presiding member or deputy is to:
   a. approve or decline the request, and
   b. inform the DAP secretariat as to whether the request is approved or declined.

3.5.6 As soon as practicable on being informed under 3.5.5 the DAP secretariat is to advise the person or representative as to whether the request has been approved or declined.

3.5.7 Advice that a request has been approved is taken to be an invitation for the purposes of regulation 40(3) of the DAP regulations.

3.6 DAP correspondence

3.6.1 Any correspondence received by a DAP member relating to a DAP application or otherwise to the business of a DAP (DAP correspondence) is to be forwarded to the DAP secretariat.

3.6.2 DAP correspondence that relates to a DAP application to be determined by a DAP is to be forwarded to the presiding member of the DAP.

3.6.3 On receipt of correspondence forwarded under 3.6.2, the presiding member is to determine whether or not the correspondence requires a specific response.
   a. if the correspondence does not require a specific response, a standard response is to be sent to the correspondent by the DAP secretariat.
b. if the correspondence does require a specific response, the presiding member is to instruct the DAP secretariat as to the content of the response. The DAP secretariat is then to arrange for a response to be prepared by the appropriate departmental officer in line with the presiding member’s instruction. The draft response is to be circulated to all members of the relevant DAP and sent to the correspondent.
Part 4 - Order of business during DAP meetings

4.1 Order of business

4.1.1 Unless otherwise decided by informal resolution of the DAP members present, the order of business is to be conducted as follows:

a. declaration of opening;
b. apologies;
c. members in leave of absence;
d. noting of minutes;
e. declaration of due consideration in accordance with 4.5;
f. disclosures of interest in accordance with Part 6;
g. submissions and presentations by persons invited to advise, inform, or make a submission to a DAP in accordance with 3.5;
h. consideration of responsible authorities’ reports and determination of DAP applications;
i. report of the presiding member on minor amendments of DAP determinations in accordance with regulation 17 of the DAP regulations;
j. report of the presiding member on SAT reviews;
k. general business (as specified in the meeting agenda), including consideration of any correspondence;
l. closure.

4.1.2 Business that is not specified in the relevant DAP meeting agenda cannot be transacted at a DAP meeting.

4.2 Item: declaration of opening

A DAP meeting is open once a quorum is formed, a minute taker is confirmed and all DAP members confirmed to be attending are present.

4.3 Item: leave of absence

Any leave of absence granted by the Minister under regulation 33 of the DAP regulations is to be noted in the minutes.

4.4 Item: noting of previous minutes

The confirmed minutes of the previous meeting are to be made available for noting by DAP members.

4.5 Item: declaration of due consideration

4.5.1 Any DAP member who is not familiar with the substance of any report or other information provided for consideration at a DAP meeting must declare that fact at the time declarations of due consideration are called or otherwise before the meeting considers the matter.

4.5.2 In the event of a declaration made under 4.5.1 the relevant matter may be deferred for later consideration at that DAP meeting so as to allow an opportunity for any DAP member making a declaration to become familiar with the relevant report or other information.

4.5.3 If the delay in 4.5.2 has not allowed sufficient time for the DAP member to give due consideration to the matter, the DAP member is to leave the meeting room before the matter is considered and is put to the vote.

4.5.4 Where a DAP member withdraws from a DAP meeting, the presiding member may invite the withdrawn DAP member’s alternate member, if the alternate member is present, to participate in accordance with 5.14.2.
4.6  
**Item: disclosures of interest**

4.6.1  Disclosures of interest made under Part 6 are to be called for, and any disclosures made, including details of the type and extent of the interest disclosed, are to be recorded in the minutes.

4.6.2  Notwithstanding 4.6.1, a disclosure of interest made under Part 6 may be made at any time during the meeting if a member becomes aware of the existence of a conflict.

4.7  
**Item: submissions or presentations by external parties**

4.7.1  Any person, or group of persons, invited by the DAP to advise, inform, or make a submission to the DAP (an external party), should be given the opportunity to provide the advice, information or a submission prior to the DAP application being determined at a DAP meeting.

4.7.2  Any verbal submission being made by an external party who is attending the DAP meeting following a written request under 3.5 is not to exceed five minutes, unless an extension of time is granted by the presiding member.

4.7.3  A representative of a responsible authority or departmental staff member attending a DAP meeting in relation to a DAP application that is the subject of advice or information or a submission from an external party may, on the request of the presiding member, make a comment or provide advice on any matters raised by the external party.

4.7.4  The meeting minutes are to record the names of any external party attending at a DAP meeting.

4.7.5  The applicant, or a representative of the applicant, and a representative of the responsible authority, is entitled to be present whenever an external party is present at a DAP meeting in relation to the applicant’s DAP application.

Reference: r. 40(3)

4.8  
**Item: consideration of responsible authorities’ reports and determination of DAP applications**

4.8.1  The DAP is to determine a development application before it as if it were the responsible authority making a decision under the Act and the planning instrument under which the application is made.

Reference: r. 8(1)

4.8.2  In its consideration of a responsible authority’s report, a DAP is to have regard to, but is not bound to give effect to, the recommendation included in the report.

Reference: r. 12(6)

4.9  
**Item: presiding member’s report on minor amendments**

4.9.1  A DAP may amend a previous DAP determination, on application by the applicant, if the DAP considers that the amendment is of a minor nature. The procedure for dealing with minor amendments is dealt with at 7.2.

Reference: r. 17

4.9.2  If the DAP has amended a determination in accordance with regulation 17 of the DAP regulations, the meeting minutes are to reflect the content of the report.
4.9.3 If the DAP has amended a determination at a meeting not open to the public, in accordance with regulation 40(4) of the DAP regulations, the presiding member of the DAP is to report on the amendment at the next occurring DAP meeting, and the meeting minutes are to reflect the content of the report.

4.10 Item: presiding member’s report on SAT review

4.10.1 An applicant for development approval may apply to the State Administrative Tribunal (SAT) for a review of a determination of a DAP.

Reference: r. 18

4.10.2 The presiding member is to report at a DAP meeting on the outcome of any SAT review of a DAP determination that has been decided by the SAT since the last occurring meeting of the DAP.

4.11 Item: general business and consideration of correspondence

4.11.1 A DAP member may raise any item of general business at a DAP meeting. A member addressing the meeting as to general business is to confine remarks to the business raised, and not digress.

4.11.2 An item of general business can only be raised if it is specified on the relevant meeting agenda.

4.12 Item: meeting closure

At the conclusion of all business, or at a time otherwise determined by the members present at a meeting, the presiding member is to declare the meeting closed, and the closing time is to be recorded in the minutes.
Part 5 - Conduct of business during DAP meetings

Division 1
DAP minutes

5.1 DAP minutes

5.1.1 The local government hosting a DAP meeting is to ensure that accurate minutes are taken of the meeting, unless the Director General approves of a person other than a local government officer keeping minutes.

Reference: r. 44

5.1.2 The content of minutes of a DAP meeting must include the following:

a. the names of the DAP members present at the meeting;
b. the time of entry and departure of any DAP member;
c. details of each motion moved at the meeting, the mover and the outcome of the motion;
d. details of each decision made at the meeting and the reasons given for each decision;
e. any other matter that these Practice Notes state is to be recorded in the minutes of a meeting.

Reference: r. 44(1A) identifies that the content in 5.1.2(d) is mandatory

5.1.3 In the case of a meeting of a JDAP in which local government members are to be rotated to ensure a required constitution, as referred to in 2.7.2, the minutes are to contain sufficient detail that the identity of members considering and voting on a particular DAP application can be readily ascertained.

5.1.4 Regulation 44 (1) requires accurate minutes to be kept. If, at any point in the proceedings, the minute taker requires further information to ensure the accuracy of the minutes, the minute taker is to request the information from the presiding member.

5.1.5 The local government hosting the DAP meeting, or the person taking the minutes, is to provide the DAP secretariat with a draft of the minutes within five ordinary days after the meeting.

Reference: r. 44(2)

5.1.6 On receipt of the draft minutes, the DAP secretariat is to circulate the draft to all DAP members within 24 hours. DAP members are to advise the DAP secretariat of any suggested changes to the draft minutes. The DAP secretariat is then to forward the amended draft minutes to the presiding member for confirmation and signature.

5.1.7 Within ten ordinary days of a DAP meeting, the minutes are to be:

a. confirmed and signed by the presiding member, and
b. published on the DAP website.

Reference: r. 44(4)
Division 2
Determination of DAP applications and acceptance of recommended conditions

5.2 Determination of DAP applications
A DAP application may be determined by resolution of the DAP in one of the following ways:

a. by approving the application subject to conditions;
b. by approving the application without any conditions;
c. by refusing the application with reasons.

5.3 Adoption of recommendations in reports

5.3.1 If a DAP adopts a recommendation contained in a responsible authority's report, either with or without amendment, the recommendation so adopted is taken to be a determination of the DAP.

5.3.2 A DAP may approve, by a single resolution, all the recommendations or a group of recommendations from a responsible authority's report, without amendment, after having first identified whether any of the recommendations:

a. are related to an interest disclosed by a member;
b. have been the subject of a submission or presentation to the DAP;
c. have been identified by a member as a matter requiring further discussion or clarification.

5.3.3 A DAP must consider any of the matters referred to in 5.3.2 (a), (b) or (c) separately.

Division 3
Motions

5.4 Definitions
In this Division:

amending motion means a motion that proposes an amendment to a primary motion.
motion includes a primary motion, amending motion and procedural motion.
mover, in relation to a primary or amending motion, means the DAP member who first moved the motion.

primary motion means a motion that is not an amending motion or a procedural motion.

seconder, in relation to a primary or amending motion, means the DAP member who seconded the motion.

5.5 Moving a motion

5.5.1 A DAP member wishing to move a motion in relation to a DAP application being considered by the DAP is to:

a. state the substance of the motion before speaking on it, and
b. put the motion in writing if:

(i) in the opinion of the presiding member, the motion or amendment represents a significant departure from the relevant recommendation of a responsible authority's report; or
(ii) the presiding member otherwise requires it.

5.5.2 The terms of a written motion are to be given to the presiding member and recorded in the minutes.
5.5.3 The presiding member may require a complex motion to be broken down and put in the form of more than one sequential motion.

5.5.4 No motion is to be put while another motion is being debated.

5.5.5 Only one motion is to be debated at any one time.

5.6 Motions to be seconded

5.6.1 A motion is not to be debated until it has been seconded.

5.6.2 A member seconding a motion retains the right to speak on the motion later in the debate.

5.6.3 A motion is not to be amended by the mover without the consent of the seconder.

5.7 Opposed and unopposed motions

5.7.1 Immediately after a motion has been moved and seconded, the presiding member is to ask the meeting if any other member opposes the motion. If no member opposes the motion, the presiding member may declare it carried without debate or voting.

5.7.2 If a member opposes a motion:
   a. it is to be debated in accordance with this Division; and
   b. the minutes are to record the identity of the member or members opposing.

5.8 Withdrawing a motion

5.8.1 A motion may be withdrawn by the mover, with the consent of the seconder. No member is to speak on a motion after it has been withdrawn.

5.8.2 If an amending motion has been made, the primary motion it proposes to amend cannot be withdrawn, other than by consent of a majority of members, until the amending motion has been itself withdrawn or, after a vote, is not carried.

5.9 Amending motions

5.9.1 A DAP member may move an amending motion at any time during debate on a primary motion, except:
   a. if the mover has been called by the presiding member to exercise the right of reply, or
   b. if the member has already spoken on the primary motion, or
   c. if another amendment to the primary motion is being debated, or has not been withdrawn, carried or lost.

5.9.2 A DAP member moving an amending motion must first state the reasons for the amending motion.

5.9.3 An amending motion must be relevant to the primary motion it proposes to amend and must not have the effect of negating that primary motion.

5.9.4 An amending motion may not be moved in relation to a procedural motion made under 5.10.

5.9.5 An amending motion must take one of the following forms:
   a. that certain words be omitted from a primary motion;
b. that certain parts be omitted from a primary motion and other parts substituted or added;
c. that certain words be added to a primary motion.

5.9.6 Only one amending motion is to be debated at a time, but there is no limit to the number of sequential amending motions that may be moved to a primary motion before the primary motion is put to the vote.

5.9.7 If an amending motion is carried, the primary motion as amended is to be treated as the primary motion for the purposes of subsequent debate.

5.10 Procedural motions

5.10.1 A member may move any of the following procedural motions:
   a. that a motion be deferred; or
   b. that the meeting now adjourn; or
   c. that the debate now close; or
   d. that the motion be now put; or
   e. that the meeting proceed to the next item of business; or
   f. that a member be no longer heard; or
   g. that an item be dealt with behind closed doors; or
   h. that Standing Orders be suspended.

5.10.2 If carried, a procedural motion:
   a. that a motion be deferred - has the effect that all debate on the relevant motion is to cease and the motion is to be resubmitted at a time and date specified in the motion;
   b. that the meeting now adjourn - has the effect that the meeting is adjourned to the time and date specified in the motion or, where no time or date is specified, the next ordinary meeting;
   c. that the debate now close - has the effect that all debate on the relevant motion is to cease and the matter is to be put to vote;
   d. that the motion be now put - has the effect that the presiding member is to offer the right of reply and then immediately put the matter to vote without further debate;
   e. that the meeting proceed to the next item of business – has the effect that debate on the relevant motion is to cease;
   f. that a member be no longer heard - has the effect that the speaker against whom the motion is moved may not speak any further on the relevant motion, except to exercise any right of reply if he or she was the mover of the relevant motion;
   g. that an item be dealt with behind closed doors - has the effect that the matter is considered privately or other means necessary as may be required for the purposes of compliance with a direction or requirement of the State Administrative Tribunal Act 2004, or any other statutory requirement or to receive and consider legal advice; and
   h. that Standing Orders be suspended - has the effect that further debate can continue, allowing members to speak more than once on the same item.

5.10.3 A member moving a procedural motion is to speak on the motion for no more than two minutes. A member seconding a procedural motion is not to speak other than to formally second the motion.
5.10.4 There is to be no debate on a procedural motion.

5.10.5 A member who has moved, seconded, or spoken on a primary motion or amending motion may not move any procedural motion which, if carried, would close the debate on the primary motion or amendment.

Division 4
Debate and voting on DAP applications

5.11 Law governing determination of DAP applications

A DAP’s determination of a DAP application is made under the Act and the applicable local planning scheme. Accordingly, the DAP must comply with the provisions of the Act and the applicable scheme when making a determination.

5.12 Order of call in debate

Except where modified by a procedural motion, the presiding member is to call speakers to debate a motion or amendment in the following manner -

a. the mover to state the motion;
b. a seconder to the motion;c. the mover to speak to the motion;d. the seconder to speak to the motion;e. other speakers against and for the motion, alternating in view, if any;f. the mover takes right of reply which closes debate; andg. the matter is put to the vote.

5.13 Voting on DAP applications

5.13.1 Each DAP member, including the presiding member, has a single vote on a decision to be made on the DAP, except in the case of an equality of votes, in which case the presiding member has a casting vote.

Reference: r. 42(1)
Division 5
Other matters relating to conduct of meeting

5.14 Loss of quorum during meeting

5.14.1 If, for any reason, a member (the departing member) leaves a meeting with the result that a quorum is no longer present (for instance, following disqualification on disclosure of interest), the presiding member is to suspend the meeting as soon as practicable after becoming aware of the fact.

5.14.2 The presiding member is then to invite the departing member’s alternate member, if the alternate member is present, to participate in the meeting in place of the departing member for the duration of that member’s absence.

5.14.3 If the departing member’s alternate member is not present a quorum cannot be formed and the presiding member is to adjourn the meeting to a future time and date.

5.15 DAP member attending meeting as observer

5.15.1 A DAP member may attend the meeting of any DAP as an observer.

5.15.2 A DAP member attending a DAP meeting as an observer may, with the consent of the presiding member, speak at the meeting, but:

a. is not entitled to vote on any motion before the DAP, and

b. must sit in an area set aside for observers and separated from the sitting DAP members.
5.15.3 The requirements of the DAP Code of Conduct, and of Part 6 of these Practice Notes, relating to identification and disclosure of conflicts of interest, apply to a DAP member attending a DAP meeting as an observer in the same way they apply to a DAP member attending a meeting in the performance of the DAP member’s functions under the Act.

5.16 No recording of meeting

A person must not use any electronic, visual or audio recording device or instrument to record the proceedings of a DAP meeting unless the presiding member has given permission to do so.

If the presiding member permits the minute taker to record the meeting for the purposes of preparing the minutes, the presiding member must be aware that such recording may need to be retained for up to 1 year to comply with obligations under the State Records Act 2000.

5.17 Conduct of DAP members at meetings

During a DAP meeting, a DAP member must not:

a. make a statement that a local government or departmental employee is incompetent or dishonest; or
b. use any offensive or objectionable expression in reference to a local government or departmental employee.

Reference: r. 47

5.18 Presiding member to preserve order

5.18.1 The presiding member is to preserve order and, whenever he or she considers it necessary, may call any member or other person to order. Conduct that is out of order includes, without limitation, the following:

a. discussion of a matter before the meeting;
b. offensive or objectionable language;
c. comments which adversely reflect on the character or actions of another member or employee of the department or local government;
d. conduct contravening any law or the DAP Standing Orders.

5.18.2 Depending on the nature of the point of order, the presiding member may request that the member withdraw a comment and make a satisfactory apology.

5.18.3 If a member:

a. persists in any conduct that is out of order; or
b. fails to comply with a direction from the presiding member,

the presiding member may direct the member to refrain from taking any further part in that meeting, other than by voting, and the member must comply with that direction.
5.19 Prevention of disturbance

5.19.1 A reference in this clause to a person is to a person other than a DAP member.

5.19.2 A person addressing the DAP must extend due courtesy and respect to the DAP and the processes under which it operates and must comply with any direction from the presiding member.

5.19.3 A person must not interrupt or interfere with the proceedings of any DAP meeting, whether by expressing approval or dissent, by conversing or by any other means.

5.19.4 The presiding member may warn a person who fails to comply with this clause.

5.19.5 If:
   a. after being warned, the person again acts contrary to this clause; or
   b. a person refuses or fails to comply with a direction by the presiding member,

the presiding member may expel the person from the meeting by ordering him or her to leave the meeting room.
Part 6 - Disclosure of conflict of interest before and during DAP meetings

6.1 Disclosure of interest generally

6.1.1 Section 266 of the Act, and Part 3 of the DAP Code of Conduct, set out specific obligations on DAP members relating to the identification and disclosure of conflicts of interest.

As a general principle, a conflict of interest exists when a person has a private interest that could corrupt or undermine his or her performance of a public duty. As a decision maker must bring an open mind to deliberations required by a particular statute, he or she cannot be affected by such an improper influence. For this reason, DAP members must be alert to any private circumstances which could affect, or be seen to affect, the exercise of their judgement. Such interests must be declared and may be of a sufficient magnitude to preclude the member from participating in the decision.

This section is written to assist members to identify when they may have such an interest in a matter. Members can then consider whether the existence of that private interest places them in a position of conflict vis-a-vis their public duty as a DAP member and, as a general rule, should always declare such interests to the presiding member.

6.1.2 In this Part:

**close associate** of a DAP member means a person who:

a. operates a business in partnership with the member; or
b. employs the member; or
c. is a beneficiary under a trust, or an object of a discretionary trust, of which the member is a trustee; or
d. is a body corporate:
   (i) of which the member is a director, secretary or executive officer; or
   (ii) in which the member holds shares with a total value exceeding $10,000 or 1 per cent of the total value of the issued share capacity of the body corporate, whichever is the lesser; or

e. is the spouse, de facto partner, child or close relative of the member; or
f. has a relationship of a kind specified in any of paragraphs (a)–(e) in relation to the member's spouse or de facto partner if the spouse or de facto partner is living with the member.

For the purposes of this part, a DAP member has an interest in a matter if either -

(a) that DAP member; or
(b) a close associate of that DAP member, has -
   (i) a direct or indirect pecuniary interest in the matter;
   (ii) a proximity interest in the matter; or
   (iii) an impartiality interest in the matter.

**direct pecuniary interest** is one where a person has an interest in a development application where it is reasonable to expect that the application, if dealt with by a DAP, will result in a financial gain, loss, benefit or detriment for the person.

**indirect pecuniary interest** is one where it is reasonable to expect that a person may receive a benefit or incur a loss, measurable in monetary terms, as a consequence of a benefit received or loss incurred by another person who has a direct or indirect interest in the matter.
**impartiality interest** means an interest that could, or could reasonably be perceived to, adversely affect the impartiality of a member with such an interest and includes an interest arising from kinship, friendship, partnership, or membership of an association, that is connected to a development application that is before the relevant DAP or which may come before that DAP in future.

**proximity interest**, in relation to a DAP member, means an interest of the member, or of a close associate of the member, in a development application if the application concerns land that is adjoining the person’s land or is directly across a thoroughfare from the person’s land.

*Reference: Part 3, DAP Code of Conduct*

### 6.2 Disclosure of interest identified before DAP meeting

#### 6.2.1 A DAP member who identifies a direct or indirect pecuniary interest, an impartiality interest or a proximity interest, relating to any DAP application to be determined at a DAP meeting that the member is to attend, is to notify the DAP secretariat in writing of the existence and nature of the conflict it poses as soon as practicable after becoming aware of the conflict.

*Reference: item 3.3, DAP Code of Conduct*

#### 6.2.2 A DAP member who notifies the DAP secretariat of a direct or indirect pecuniary interest, or a proximity interest is not entitled to be present during the consideration or discussion of the application, or to vote on the application.

*Reference: item 3.3, DAP Code of Conduct*

6.2.3 On receipt of a notification under 6.2.1, the DAP secretariat is to:

a. notify the presiding member of the relevant DAP of the existence and nature of the pecuniary, impartiality interest or proximity interest, and

b. in the case of a direct or indirect pecuniary interest or a proximity interest - make arrangements for a suitable alternate member to attend the relevant DAP meeting to perform the functions of the member making the notification in relation to the DAP application giving rise to the conflict or proximity interest.

6.2.4 A DAP member who has a direct or indirect pecuniary interest or proximity interest relating to an application to be determined at a DAP meeting is not prevented from performing the member’s functions under the Act in relation to any other application to be determined at the same meeting in relation to which the member does not have a conflict of interest.

6.2.5 Upon being notified of an impartiality interest, the presiding member (or, if the member disclosing the interest is the presiding member, the deputy presiding member) is to decide whether the interest is sufficient to give rise to a reasonable perception that the member’s decision may not be made impartially. If the presiding member or deputy presiding member decides that the interest is sufficient:

a. the member disclosing the interest is not entitled to be present during the consideration or discussion of the application, or to vote on the application, but is not prevented from performing the member’s functions in relation to any other application to be determined at the same meeting in relation to which the member does not have an impartiality interest;
6.3 Disclosure of interest identified during DAP meeting

6.3.1 Section 266 of the Act:
   a. requires a DAP member who has a direct or indirect pecuniary interest in a DAP application to be determined at a DAP meeting to disclose the interest as soon as possible after the relevant facts have come to the member’s notice to the other members participating in the meeting; and
   b. prohibits the member from being present during any further consideration or discussion of the application, and from voting on the matter.

6.3.2 Contravention of section 266 of the Act is an offence with a maximum penalty of $5,000.

   Reference: s. 266 of the Act

6.3.3 The DAP Code of Conduct:
   a. requires a DAP member who identifies an impartiality interest or a proximity interest relating to any DAP application during the meeting at which the application is being considered to notify the presiding member as soon as possible after the relevant facts have come to the member’s attention, and
   b. in the case of a proximity interest, prohibits the member from exercising the member’s functions in relation to the application, and
   c. in the case of an impartiality interest, prohibits the member from exercising the member’s functions in relation to the application if the interest is sufficient to give rise to a reasonable perception that the member’s decision may not be made impartially.

   Reference: item 3.3, DAP Code of Conduct

6.3.4 If a member discloses an impartiality interest during the course of a DAP meeting, the presiding member (or, if the member disclosing the interest is the presiding member, the deputy presiding member) is to decide whether the interest is sufficient to give rise to a reasonable perception that the member’s decision may not be made impartially. If the presiding member or deputy presiding member decides that the interest is sufficient, the member disclosing the interest is not entitled to be present during the consideration or discussion of the application, or to vote on the application, but is not prevented from performing the member’s functions in relation to any other application to be determined at the same meeting in relation to which the member does not have an impartiality interest.

   Reference: item 3.3, DAP Code of Conduct
7.1 Notification of development application determination

As soon as practicable after the DAP has made a determination on a DAP application and the minutes of the relevant meeting have been confirmed and signed as required by regulation 44 of the DAP regulations, the DAP secretariat is to:

a. ensure compliance with the making and notification requirements of the planning instrument under which the DAP application was made; and

b. give a copy of any written notice to the responsible authority.

Reference: r. 16

7.2 Applications for amendment to a DAP determination

Following the determination of a DAP application, the applicant can apply for an amendment of the determination in certain respects. This application is designed to permit amendments to a determination which are of a minor nature.

Reference: r. 17

7.3 Public comment

Only the presiding member may publicly comment on the operations or determinations of a DAP. However, the presiding member may nominate others such as a DAP member to speak on specific matters concerning the DAP.

Reference: r. 48

7.4 Presiding member to ensure compliance

The presiding member is to ensure compliance with the DAP Standing Orders and that:

a. all material relevant to a decision has been made available to all members; and

b. all matters are well considered; and

c. all members are able to contribute to the discussion of any matter; and

d. the decision on the matter is understood by all DAP members.
LandCorp and Metropolitan Redevelopment Authority (MRA) Joint Code of Conduct
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Foreword

Success can be summarised as the sum of many parts.
For an organisation to achieve success relies on a number of interrelated factors.
The more tangible of these are easily recognised such as great projects and a skilled and engaged workforce.
However, also at play in the quest for success are the often intangible factors which play an equally and arguably more important role in ensuring success is not fleeting, but can stand the test of time.
LandCorp and MRA share common ground in their previously separate and now intertwined vision to be the best versions of ourselves we can be.
Our behaviour is on show in the way we interact with others. It impacts the way we are viewed by stakeholders and the broader community who expect a high level of integrity and respect when working with us to identify, plan, design and develop the communities of tomorrow. Organisational trust and reputation, essential elements in building success, are positively affected by our approach to the work we undertake on behalf of the Government of Western Australia.
We are also aware of how important it is to provide and maintain a safe, supportive, fair and accountable work place for our staff who are deserving of the same level of respect and reward for reflecting our shared Code of Conduct.
LandCorp and the Metropolitan Redevelopment Authority (MRA) staff and executive officers; Board Directors and Committee members; and internal contractors and consultants agree to, and are expected to comply with, the principles outlined in this Code of Conduct and conduct business practices in accordance with relevant legislation, standards and the Public Sector Commissioner’s Instructions.
We take pride in our commitment to providing high quality outcomes which meet the needs of the community and government.
By underpinning the evolution of LandCorp and MRA into one entity with a strong, skilled team who share values and behaviours, we can draw on our proud, collective histories to confidently embrace the future and take the State’s land and infrastructure development to a new and exciting level.
Introduction

LandCorp and the MRA are currently going through a transition period. It is important that both agencies work to the same standards and principles during this time.

The MRA is governed by the Public Sector Management (PSM) Act 2004 and LandCorp by the Western Australian Land Authority (WALA) Act 1992 which requires LandCorp to have regard for the principles of the PSM Act.

These principles are contained in the Public Sector Code of Ethics which outlines the standards of conduct and integrity to be complied with by all Western Australian public sector employees:

- **Personal Integrity**
  - We act with care and diligence and make decisions that are honest, fair, impartial, and timely, and consider all relevant information.

- **Relationships with others**
  - We treat people with respect, courtesy and sensitivity and recognise their interests, rights, safety and welfare.

- **Accountability**
  - We use the resources of the State in a responsible and accountable manner that ensures the efficient, effective and appropriate use of human, natural, financial and physical resources, property and information.

All public sector bodies are required to develop, implement and promote a code of conduct and ensure compliance with that code.

Scope

This Joint Code of Conduct applies to all MRA and LandCorp staff and executive officers; Board Directors and Committee members; and internal contractors and consultants established under their respective legislation.

Purpose

The purpose of the Joint Code of Conduct is to guide staff and executive officers; Board Directors and Committee members; and internal contractors and consultants to make responsible and appropriate decisions according to set standards of conduct and integrity and is an integral part of the accountability framework. It is drawn from the rules, laws and policies that apply to public sector bodies and sits alongside existing policies and procedures of LandCorp and the MRA already in place to guide, direct or set standards of behaviour.
Code of Conduct

Conduct expectations of staff and executive officers; Board Directors and Committee members; and internal contractors and consultants are:

1. Personal behaviour
   • Act honestly and with integrity in the performance of duties.
   • Not engage in harassment, bullying or discrimination against colleagues or members of the public.
   • Maintain and contribute to a safe and productive work environment.
   • Treat members of the public and colleagues with respect, courtesy, honesty and fairness, having proper regard for their interests, rights, safety and welfare.
   • Make decisions fairly, impartially and promptly, and consider all available information, legislation, policies and procedures.
   • Serve the government of the day professionally and impartially and provide timely, well-considered information and policy advice in accordance with relevant Acts.
   • Understand the consequences of misconduct and actions that may be taken if non-compliance to the Code of Conduct and associated policies.

2. Communication and official information
   • Not disclose official information or documents acquired in the course of employment, other than as required by law or where proper authorisation is given.
   • Not misuse official information for personal gain or commercial gain.

3. Fraudulent or corrupt behaviour
   • Not engage in fraud or corruption.
   • Report any information about actual or potentially fraudulent, corrupt or illegal activities through the appropriate mechanisms.
   
   Definition: Fraud is a dishonest activity that causes actual or potential financial loss to any person or public sector body. Corrupt conduct occurs when someone uses or attempts to use their position for personal advantage.

4. Use of public resources
   • Be accountable for expenditure (including the use of Authority money for hospitality and travel).
   • Use the resources of the Authority with diligence and efficiency, including office facilities and equipment, vehicles and credit cards.
   • Not to use Authority resources for party political work or for private financial gain.
   • Follow legislation and procurement policies to engage contractors and suppliers.
   • Purchase goods and services following applicable Authority’s policies.

5. Record keeping and official information
   • Record actions and decisions to ensure transparency.
   • Ensure the secure storage of sensitive or confidential information.
   • Know how and when information may be released.
   • Ensure personal information is accurate, complete, up to date and not misleading.
6. **Conflicts of interest, gifts and benefits**
   - Identify, declare and manage conflicts of interest in the public interest.
   - Maintain knowledge of what gifts and benefits, if any, can be received and the requirement to report/register the receipt of gifts and benefits.

   **Definition:** Conflicts of interest arise where there is a conflict between the performance of Authority duty and private or personal interests. Conflicts may involve personal, financial or political interests and may be perceived, potential or actual. Conflict situations may result from the holding of shares, business interests, secondary employment, family relationships, private affiliations, sponsorship and the receipt of gifts and benefits.

7. **Reporting suspected breaches of the code**
   - Report suspected breaches of this Code, improper conduct or misconduct which has been, or may be occurring in the workplace.

**Board Members**

In addition to the generic principles outlined above, the Boards of both agencies have adopted industry best practice as outlined by the Australian Institute of Company Directors’ Code of Conduct.

A member should comply with the following standards of conduct.

- Act honestly, in good faith and in the best interests of LandCorp/MRA as a whole.
- Use care and diligence in fulfilling the functions of office and exercising the powers attached to that office.
- Use the powers of office for a proper purpose, in the best interests of the company as a whole.
- Recognise that the primary responsibility is to the LandCorp/MRA as a whole but may, where appropriate, have regard for the interest of all stakeholders of LandCorp/MRA.
- Not make improper use of information acquired as a director to gain, directly or indirectly, an advantage for the director or any other person to the detriment of LandCorp/MRA.
- Not take improper advantage of the position of director to gain, directly or indirectly, an advantage for the director or any other person to the detriment of LandCorp/MRA.
- Properly manage any conflict with the interests of LandCorp/MRA.
- Be independent in judgement and actions and to take all reasonable steps to be satisfied as to the soundness of all decisions taken by the board of directors.
- Ensure confidential information received in the course of the exercise of directorial duties remains the property of LandCorp/MRA and not to improperly disclose it, or allow it to be disclosed, unless that disclosure has been authorised by LandCorp, or the person from whom the information is provided, or is required by law.
- Not engage in conduct likely to bring discredit upon LandCorp/MRA.
- Comply with the spirit, as well as the letter, of the law and with the principles of this Code at all times.

**Policies, Charters and Government Instruments**

All staff and executive officers; Board Directors and Committee members; and internal contractors and consultants must abide by and make themselves aware of the following in relation to their role and/or function and to the discharge of their duties:

- Authority policies and codes; and
- applicable legislation, Commissioner’s Instructions and Circulars; Treasurer’s Instructions; Premier’s Circulars; and other Government instructions (such as Department of Commerce Circulars).
Training

Training in accountable and ethical decision making (AEDM) is provided to all staff, including chief executive officers and Board members to support public sector employees to make accountable and ethical decisions.

Monitoring Compliance and Review

The Joint Code of Conduct relies on staff and executive officers; Board Directors and Committee members; and internal contractors and consultants taking responsibility for their own behaviour. In relying on the integrity of each staff and executive officers; Board Directors and Committee members; and internal contractors and consultants both agencies acknowledge that no series of rules can completely cover the many challenges facing people in an increasingly complex work environment, where they may have considerable discretion to make decisions. As a result, this Code of Conduct is subject to review in response to changing circumstances.

Monitoring compliance with the Joint Code of Conduct will be undertaken through performance management and internal/external audit procedures.

Breaches of this Code

Breaches of this Joint Code of Conduct will be dealt with as a disciplinary matter according to the relevant Authority’s policy.

Further information

If you require any further advice and information, or have comments or suggestions in relation to this Code of Conduct, the MRA Legal and Governance directorate and the LandCorp HR team are available to provide advice and clarification as required. Board Directors and Committee members should refer to the Board or Committee Chairperson in the first instance.

Related Documents

- Public Sector Management Act 1994
- Western Australian Land Authority Act 1992
- Metropolitan Redevelopment Authority Act 2011
- Commissioner’s Instruction No.7 – Code of Ethics
- Commissioner’s Instruction No. 8 – Codes of conduct and integrity training
- WA Public Sector Code of Ethics
- WA Public Sector Standards in Human Resource Management
- LandCorp Human Resource Management Standards

Evaluation and Review

Formally considered: February 2018
Next scheduled review: February 2019
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<td>Human Resources Policy 7.51: Pre-Screening Requirements</td>
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<td>Occupational Health and Safety Policy 10.5: Health Safety and Wellbeing</td>
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<td>Communication Agreement between the Minister for Lands and the LandCorp (CONFIDENTIAL)</td>
<td>Information Services Policy No. 9.01: Freedom of Information</td>
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<tr>
<td>Ministerial Policy 1.1: Ministerial Communication Protocol</td>
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<td>Communications Policy No. 4.01: Media Liaison</td>
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<td>Communications Policy No. 4.05: Social Media</td>
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<td>Communications Policy 5.6: Contact with Lobbyists</td>
<td>Board Policy No. 2.05: Contact with Lobbyists</td>
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<td>Communications Policy 5.7: Social Media</td>
<td>Communication Agreement between the Minister for Planning and the MRA (Internal)</td>
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<td>Human Resources Policy 7.17: Confidentiality</td>
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<td>Administration Policy 8.03: Freedom of Information (FOI)</td>
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<td>Administration Policy 8.08 Records Management</td>
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<th>3. Fraudulent and corrupt behaviour</th>
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<td>Administration Policy 8.11 Information Systems Usage</td>
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| 5. Record keeping and use of information | Board Charter | Board Charter |
| | Administration Policy 8.03: Freedom of Information (FOI) | Information Services Policy No. 9.01: Freedom of Information |
| | Administration Policy: 8.08 Records Management | Information Services Policy No. 9.02: Services Users |
| | Administration Policy 8.11 Information Systems Usage | Information Services Policy No. 9.03: Security |
| | Administration Policy 8.15: Office Security | Information Services Policy No. 9.04: Recordkeeping |
### 6. Conflicts of interest, gifts and benefits

| Policy/Chart | Board Charter | Audit and Risk Management Committee Charter | Governance and Remuneration Committee Charter | Statutory Planning Committee Charter | Financial Policy No. 6.3: Entertainment Expenditure | Human Resources Policy 7.19: Conflict of Interest | Board, Staff and Consultants (Internal) Register of Ongoing Conflicts of Interests (CONFIDENTIAL) | Gift Register | Invitation Register | Board Charter | Audit and Risk Committee Charter | Board Register of Ongoing Conflicts of Interests (Internal to Governance) | Staff Member Declaration of Interest Register (Internal to Governance) | Governance Policy 7.02: Gifts and Hospitality | Gift Decisions Register (Internal to Governance). |

### 7. Reporting suspected breaches of the code

| Policy/Chart | Human Resources Policy 7.40: Public Interest Disclosure (PID) | Code of Conduct |

- Public Interest Disclosure internal procedures
- Public Interest Disclosure rights and obligations public information guide