

## Joint Planning Board Members – Code of Conduct

### Introduction

Under Schedule 3 of the *Planning, Development and Infrastructure Act 2016* (PDI Act) the Minister for Planning may adopt a code of conduct to be observed by members of a Joint Planning Board established under the PDI Act. This code of conduct sets out standards of conduct and professionalism that are to be observed by all members of Joint Planning Boards under the PDI Act. This code of conduct must be read in conjunction with the PDI Act.

For the purposes of the PDI Act, a key requirement is that all members of Joint Planning Boards must carry out, and be seen to carry out, their functions with the highest ethical standards so as to maintain public confidence in the integrity of the boards functions and powers under the PDI Act.

The code of conduct is the key tool to ensure that all members of Joint Planning Boards act honestly and ethically with a high degree of accountability.

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

### Legislative framework

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

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

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

## **Code of conduct requirements**

In acting as a member of a Joint Planning Board, a member must comply with the following requirements.

### **General duties**

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

### **Act in the public interest**

2. A member of a Joint Planning Board must act in a manner that promotes or protects the public interest.

### **Procedures**

3. A member of a Joint Planning Board must take reasonable steps to ensure compliance with the procedures specified in the PDI Act or prescribed in the *Planning Development and Infrastructure (General) Regulations 2017*, insofar as they apply in relation to the member or the activities of the Board.
4. A member of a Joint Planning Board must comply with the board procedures in relation to public comments and communication with the media.

### **Regard for honesty**

5. A member of a Joint Planning Board must act with integrity, good faith and equity, and must not discriminate toward any person in performing their duties.
6. A member of a Joint Planning Board must advise the Minister for Planning and any other party to the agreement immediately if the member:
  - a. is the subject of a formal investigation into, or have been found to have, breached any other code of conduct, ethical standards or similar, either in another state or through a professional body of which they are a member; or
  - b. has been found guilty of a breach of any Act related to planning, building or a development related matter.

### **Conflict of interest**

7. A member of a Joint Planning Board who has a direct or indirect personal or pecuniary interest in a matter before the a Joint Planning Board (other than an indirect interest that exists in common with a substantial class of persons)—
  - a. must, as soon as he or she becomes aware of his or her interest, disclose the nature and extent of the interest to the Board; and

- b. must not take part in any deliberations or decision of the Board on the matter and must be absent from the meeting when any deliberations are taking place or decision is being made.
- 8. A member of a Joint Planning Board will be taken to have an interest in a matter for the purposes of item 7 if an associate of the member (within the meaning of section 3 (7) of the PDI Act) has an interest in the matter.
- 9. If an interest has been declared by a member of a Joint Planning Board the nature of the interest must be recorded in the minutes of the meeting.

**Protection and use of information**

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

**Proper exercise of power**

- 12. A member of a Joint Planning Board must not take advantage of the member's position, power or duties for the purpose of obtaining, either directly or indirectly, any preferential treatment or other improper advantage for the member or any other person.

**Gifts and benefits**

- 13. A member of a Joint Planning Board must not seek or accept a gift or benefit that is intended to, is likely to, or could be perceived as likely to, cause them to act in an unfair or biased manner in the course of the member's duties.
- 14. A member of a Joint Planning Board must take all reasonable steps to ensure that a person related to the member does not receive gifts or benefits that could appear to be an attempt to influence or secure or have the effect of influencing or securing a favour from the member of the Board. A person related to a member of a Joint Planning Board for the purpose of this provision is if the person is spouse, de facto partner, sibling, parent or child of the member of the Joint Planning Board.

**Bias**

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