



Office of
Environment
& Heritage

National Parks and Wildlife Advisory Council Handbook

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1 Introduction

1.1 Purpose of this Handbook

This Handbook has been developed based on the Department of Premier and Cabinet (DPC) Government Boards and Committees Guidelines. The Guidelines require that each board or committee develop a charter, business plan and code of conduct and undergo a five yearly review.

The Handbook is designed to assist members of the National Parks and Wildlife Advisory Council (the Advisory Council) to perform their role by setting out details of how legislation, policies, administrative arrangements and conventions affect the roles, responsibilities and duties of the Advisory Council.

The Handbook fulfils the requirements in the DPC Boards and Committees Guidelines for a charter, and incorporates the Code of Conduct which applies to Advisory Council members. It also serves as a key tool in the induction of new members and to guide the effective governance and operation of Advisory Council meetings.

A separate Statement of Strategic Intent (called a business plan in the DPC Boards and Committees Guidelines) has been developed in accordance with the principles in this Handbook and the DPC Guidelines.

Information about annual reporting of Advisory Council activities and performance and the regular performance review of the Advisory Council is at Section 4.

1.2 Review of this Handbook

This handbook will be reviewed within five years of formal adoption by the Advisory Council or at an earlier time if requested by the Advisory Council.

2 Background

2.1 Establishment of the Advisory Council

The National Parks and Wildlife Act (NPW Act) was introduced in 1974 by the Liberal/National coalition government of Sir Robert Askin. The legislation brought together the protection of national parks, native plants, native fauna and 'Aboriginal relics' under the National Parks and Wildlife Service.

A number of advisory bodies were established under the legislation, including the National Parks and Wildlife Advisory Council, the Aboriginal Relics Advisory Committee and the National Parks Advisory Committee of Architects. While there is little mention in the Parliamentary debate about the intended role of these bodies, comments by the Labor opposition indicate that they were jointly expected to ensure that 'all matters relating to national parks and wildlife in the State will be thoroughly ventilated.'

In 2001 a significant review was undertaken of the NPW Act which, amongst other things, overhauled the membership of the Advisory Council and clarified its functions. The second reading speech indicates that the legislation intended the Council to provide expert advice to the Minister on strategic, state-wide issues. This legislation established the provisions under which the Council operates today.

National Parks and Wildlife Amendment Bill Second Reading, 6 December 2001

The Hon. Ian Macdonald (Parliamentary Secretary)

'The Bill will restructure the National Parks and Wildlife Advisory Council. The membership of the Council will largely be based on expertise in areas of relevance to the management of the national park estate and the carrying out of the Minister's and National Parks and Wildlife Service's other functions under the Act. This will include expertise in local government and rural and regional issues. Major conservation groups will continue to be members of the Council. The Council will advise the Minister on strategic, state-wide issues.'

NSW Parliamentary Hansard, page 19770

Further amendments were undertaken in 2010 which extended Council's role in reviewing leases and licences on reserved lands.

2.2 Legislation

Section 23 of the NPW Act sets out the functions of the Advisory Council.

The Advisory Council has a legislated role under the NPW Act to provide specific advice to the Minister on:

- draft conservation agreements (s. 69K)
- plans of management for reserves (s. 73A and 73B)
- leases or licences involving: erection of permanent structures, significant permanent physical changes, or for a term that exceeds 10 years (s. 151G)
- head leases over Perisher Valley, Smiggin Holes or Guthega (s.151H)
- if the Minister requests, lease for permanent residential occupation (other than staff or caretaker accommodation) (s. 151I)

- draft guidelines on the granting of an easement, right of way or licence for access to inholdings (s. 153C).

The Advisory Council provides advice to the Minister about strategies, policies and plans directed towards attaining or achieving the objects of the Act. Its functions can also extend to advising the Minister about the promotion of 'off park' conservation and the protection of wildlife.

2.2.1 Membership of the Advisory Council

Schedule 7 Section 1 of the NPW Act sets out the composition of the Advisory Council as follows.

1. The Council is to consist of 19 members appointed by the Minister (referred to in this Schedule as members).
2. The members are to comprise the following:
 - a) 4 members of advisory committees representing the geographic spread of the reserve system
 - b) 2 persons with expertise in non-government organisations concerned with the conservation of nature, one of whom is to be selected from a panel of 3 nominees of the National Parks Association of NSW Inc. and one of whom is to be selected from a panel of 3 nominees of the Nature Conservation Council of NSW
 - c) 1 person with expertise and experience in Aboriginal cultural heritage conservation
 - d) 2 persons with scientific qualifications in areas associated with the conservation of nature
 - e) 1 person with qualifications in cultural heritage research
 - f) 1 person with expertise and experience in ecotourism or the sustainable visitor or tourist use, enjoyment and appreciation of reserves
 - g) 1 person representing peak recreational bodies, selected from a panel of 3 nominees of bodies that, in the opinion of the Minister, are peak recreational bodies
 - h) 1 person with expertise and experience in environmental education and community involvement in environmental education
 - i) 1 person with expertise and experience in rural and regional development and planning issues
 - j) 1 person with expertise and experience in agriculture and rural issues, being a person nominated by the New South Wales Farmers' Association
 - k) 1 person with expertise and experience in bush fire management
 - l) 2 persons with experience in planning and local government, to be selected from a panel of 4 persons nominated by the Local Government and Shires Association (Local Government NSW)
 - m) 2 persons who are members of the Aboriginal Cultural Heritage Advisory Committee and have been nominated by that Committee.

NB: Whilst the Act indicates that Council should consist of 19 members, 20 categories are provided.

2.3 Role of the Advisory Council

The Advisory Council seeks to inform the Minister's response to issues and supports transparency and accountability in decision-making.

The Advisory Council provides independent, informed technical expert advice inclusive of stakeholder groups to the Minister on a wide range of strategic matters including:

- policies related to state-wide operations or issues
- proposed changes to legislation
- proposed reservation or revocation of parks and reserves
- draft plans of management
- draft conservation agreements
- proposed long-term leases and licences (greater than 10 years)
- high-impact or state-wide issues impacting on the implementation of the NPW Act.

2.4 Responsibilities and commitments

2.4.1 Commitment of Advisory Council Members

Members of the Advisory Council contribute to fulfilling the role of the Advisory Council by diligent application of their expertise. This includes:

- supporting the Advisory Council to perform its functions
- attending meetings and participating in decision making processes
- undertaking consultation or research to support and promote discussion of the agenda items.

Specifically, Advisory Council members are committed to:

- recognise the primacy of the objectives of the NPW Act in all their deliberations
- provide professional and timely advice to the Minister
- attend all meetings of the Council as far as is possible
- allow the necessary time to prepare for meetings
- provide well prepared, balanced, reasoned and informed input to Council deliberations based on their area of expertise
- respect the diverse interests of the community and Council members
- respect the integrity and confidentiality of Council at all times, subject to decisions to publicly release meeting summaries or other documents as agreed by the Advisory Council under 4.3 of this Handbook
- ensure that confidential Council papers are disposed of appropriately
- demonstrate respect towards each other, the staff of the Office of Environment and Heritage (OEH), of which NPWS is a part, and any other person involved in Advisory Council matters at all times
- abide by the OEH and NSW Government Board and Committee Members Code of Conduct and standards of ethical behaviour expected of NSW Government Board and Committee members
- play an advocacy role in the community to support the work of the Council
- cooperate with other members of Council, Regional Advisory Committees and OEH representatives to execute the objects of the Act.

Council members will respect the confidentiality of the Council's deliberations. Items of a confidential nature will be specifically identified, but may include:

- items which are of a commercial in confidence nature
- Government policies under formulation.

Advisory Council members participate as individuals, taking into account the expertise and perspective of the stakeholder interest which has led to their appointment to the Advisory Council where relevant (refer to Schedule 7, clause 1 of the NPW Act).

Where an Advisory Council member has been nominated by a particular stakeholder interest, it is expected that the member will maintain contact with that stakeholder group for the purpose of maintaining expertise and accurate understanding of the constituency to contribute effectively to formulating the positions of the Advisory Council. Communication to that stakeholder interest about Advisory Council business must not breach any decisions of the Advisory Council about matters that are to remain confidential.

Wherever possible, the Advisory Council will seek to operate by consensus decision making. Where consensus is not possible, members who do not support the majority position may ask to have their dissenting views minuted. In these situations, it may also be appropriate for members to express their dissenting views publicly if the Advisory Council has agreed to the matter for decision being publicly discussed.

The potential for conflicts of interest to arise in Advisory Council business is significant given that many Council members are members of, and are nominated by, organisations that wish to influence government policy around matters in which the Advisory Council has a formal role in providing advice to the Minister.

Guidance for managing actual or perceived conflicts of interest is provided in the Code of Conduct section of this Handbook.

As provided by Schedule 7 of the NPW Act, a member may not hold office for more than eight years, whether as two consecutive terms or otherwise.

2.4.2 Commitment of the Chairperson

The Chairperson is responsible for leading the activities of the Advisory Council including:

- ensuring that the Advisory Council performs its functions, acting within relevant statutory powers, legal obligations and complying with relevant policies (including whole of government policies)
- facilitating the conduct of meetings to allow frank and open discussion
- ensuring individual members make an effective contribution
- work collectively with OEH to induct and mentor new members
- facilitating the flow of information to members and stakeholders
- liaising with the relevant Ministers, Secretaries and Chief Executives
- as requested by the Minister or Chief Executive, represent the Advisory Council at meetings.

Specifically, the Advisory Council Chairperson is committed to:

- establish a sound working relationship with the Minister, the Chief Executive of OEH and the Deputy Chief Executive (DCE) of the National Parks and Wildlife Service
- preside over and conduct Council meetings in accordance with this Handbook
- provide all members with the opportunity to effectively contribute to discussions
- ensure all members are informed of the Chairperson's activities

- ensure that Council discussions remain focussed and conclude with clear resolutions and/or recommendations
- encourage feedback from members
- implement actions arising from Council meetings e.g. approval and signing of correspondence
- liaise with Advisory Council secretariat staff to set agendas and finalise minutes
- participate in the Regional Advisory Committees' Conference
- represent the interests of Council in public and private forums as requested by the Minister or Chief Executive.

In the absence of the Chairperson, the authority of the Chairperson resides with the Deputy Chairperson.

2.4.3 Commitment of the DCE National Parks and Wildlife Service

The Chief Executive of OEH has, under section 23 (2) of the Act, responsibility for providing to Council:

'...full information in relation to any matters arising out of the administration of this Act which the Council may require.' This responsibility is limited only by the Chief Executive's accountability to the Minister under section 8(10) of the Act.

The Chief Executive has delegated this responsibility to the DCE National Parks and Wildlife Service. The DCE National Parks and Wildlife Service has a role in:

- establishing the Advisory Council and recommending member appointments and terminations
- requesting the Advisory Council to provide advice on a particular issue
- receiving reports from Advisory Council such as annual reports or performance review reports
- undertaking or supporting periodic review of the Advisory Council and supporting the implementation of review outcomes.

The DCE National Parks and Wildlife Service is committed to:

- ensuring appropriate senior management representation at all meetings of the Advisory Council
- making effective use of the Advisory Council by seeking its advice through an established work program and on emerging issues
- wherever possible, early consultation when strategy and policy matters are being developed
- ensuring that the Minister is made aware of the Advisory Council's advice
- providing feedback on the outcome of Advisory Council advice in a timely manner
- ensuring the recommendations of the Advisory Council are acted upon by the Minister
- providing adequate administrative support to ensure papers are circulated in sufficient time prior to meetings, and that minutes are prepared and distributed
- expeditiously seeking nominations to fill Advisory Council vacancies and forwarding these to the Minister for consideration
- supplying incoming members with an induction package covering the role of the Advisory Council as set out in this Handbook
- participating in the annual performance review of the Advisory Council
- support the Council Chairperson and members to undertake their duties.

2.5 Relationship with Regional Advisory Committees

The NPW Act gives specific responsibilities to the Advisory Council relative to the Regional Advisory Committees (RACs), and provides for representation from RACs on the Council.

A RAC has the following functions relating the Advisory Council under the NPW Act (section 25):

- a) to provide advice to the Chief Executive and the [Advisory] Council on policies and plans for the administrative region for which it was constituted,
- b) to provide advice to the Chief Executive and the [Advisory] Council on activities carried out or proposed to be carried out within the administrative region for which it was constituted,
- c) to provide advice to responsible authorities within the meaning of section 71BO on draft plans of management relating to the administrative region for which it was constituted and to the [Advisory] Council on the implementation of such plans of management.

In regard to plans of management, the NPW Act states:

73A (4) The appropriate regional advisory committee must consider the plan of management and representations and provide the [Advisory] Council with such advice as the committee considers appropriate.

73A (6) The [Advisory] Council must send a copy of any advice it provides to the Minister to the appropriate regional advisory committee and the appropriate regional advisory committee may provide comments to the Minister within 30 days of receiving the copy of the advice.

Although bringing different perspectives, the two bodies are expected to coordinate and work closely together, demonstrating mutual respect and support through:

- discussion of issues brought forward by RACs at Advisory Council meetings
- referring issues to RACs for comment where appropriate
- providing feedback to RACs on issues raised by them or issues on which their advice was sought
- inviting the Chairperson, or other relevant members, of RACs to field inspections conducted as part of the Advisory Council's review of draft plans of management
- attending major RAC gatherings or conferences to report on relevant Advisory Council outcomes and contribute to debate on issues of strategic importance
- providing a copy of minutes from the Advisory Council for distribution to RACs following each Advisory Council meeting.

3 Governance

3.1 Induction

The Advisory Council provides an induction program to new members consisting of an information pack and a series of introductory sessions.

The standard Information Pack for incoming Advisory Council members will contain:

- NSW Government priorities, the OEH Corporate Plan and any other relevant strategic direction
- National Parks Establishment Plan
- flow charts showing the process for plan of management preparation
- geographical maps of NPWS reserves and NPWS administrative boundaries
- organisational chart with key contacts
- information about agency responsibilities outside but impacting on NPWS
- contact list for all Advisory Council members
- meeting schedule
- this Handbook
- Code of Conduct Guidelines for Members of NSW Government Boards and Committees and OEH Code of Conduct
- Tax File Number forms.

Should any significant updates be made, these documents will also be made available to all existing Council members.

This information may be supplemented by a series of introductory sessions coordinated by the Advisory Council Chairperson. These may include:

- meeting with the Chairperson
- introductory session with key NPWS staff
- site visit to a reserve, hosted by local staff (if appropriate).

3.2 Operating framework

The following are the standard procedures for operation of the Advisory Council. These procedures may be amended by formal resolution of the Advisory Council, except where provided for in legislation.

3.2.1 Meetings

The Advisory Council will normally meet four times throughout the year. Traditionally there is a mid-year meeting to coincide with the OEH strategic planning cycle for the following year.

The DCE National Parks and Wildlife Service and Council Chairperson will agree the annual calendar of meeting dates, following consultation with Advisory Council members. A draft calendar will be circulated at the last Advisory Council meeting of the year and agreed before the first Advisory Council meeting of the following year. Changes to meeting dates may occur with the agreement of the DCE National Parks and Wildlife Service and the Advisory Council

Chairperson. Where NPWS needs to cancel a meeting, it will endeavour to give at least one month's notice.

Extraordinary meetings may be held if required in order for the Advisory Council to fulfil its role and if agreed to by the DCE National Parks and Wildlife Service or requested by the Minister.

Council meetings may be attended by telephone or video conference.

3.2.2 Attendees

The Minister will be welcome at every Advisory Council meeting.

Other OEH representatives and other external experts may be invited to Advisory Council meetings as appropriate for consultation on strategic matters of state-wide significance.

3.2.3 Chairperson and Deputy Chairperson

As defined by Schedule 7 of the NPW Act, a Chairperson and Deputy Chairperson will be appointed by the Minister from a panel of at least three members nominated by the Advisory Council.

The term of office for the Chairperson is not more than two years, after which time new nominations will be called. Members may hold office as Chairperson up to a maximum of four years (whether as two consecutive terms or otherwise)

The Chairperson will preside over meetings. In the absence of the Chairperson, the Deputy Chairperson will preside. In the absence of both the Chairperson and Deputy Chairperson, members present at the meeting will elect another member to preside.

3.2.4 Decision-making

A quorum will consist of eight members (Schedule 7 NPW Act).

The diversity of opinion of Advisory Council members is respected. Where possible, a consensus view is sought. However, in the absence of a consensus view, the Advisory Council may choose to provide a range of views for consideration by the Minister.

Members who do not agree with the advice of the Advisory Council may seek to have their views minuted. Where voting is required on an issue, a decision will be determined by a majority vote. The person presiding over the meeting will have a second or casting vote in the event of equal votes.

3.2.5 Agenda

The agenda for regular meetings of the Advisory Council will:

- invite members to declare any real, perceived or anticipated conflicts of interest
- address matters on the Advisory Council work program, including the priorities for committees
- discuss issues of strategic or emerging significance for the management of parks and reserves
- be reviewed in accordance with NSW Government priorities, the OEH Corporate Plan and any other relevant strategic direction.

Members will have the opportunity to raise other issues at an Advisory Council meeting by way of:

- raising the matter initially with the Chairperson, but no less than three weeks prior to the meeting if it requires the circulation of papers for the meeting
- raising a matter outside of a meeting with the Deputy Chief Executive if they are not satisfied with the response of the Chairperson
- raising an item at the meeting in general business.

The Advisory Council will determine whether or how the issue will be pursued.

3.2.6 Minutes

Minutes of each meeting will be recorded and distributed to all members of the Advisory Council and the DCE National Parks and Wildlife Service. Draft meeting minutes will be circulated within three weeks. Any early response may be sought for matters relating to priority issues where the Advisory Council is confirming decisions as part of its advice to the Minister. Minutes will ordinarily be presented for adoption at the subsequent meeting. Direct extracts from the minutes are provided to the Minister to convey the advice of the Council. Minutes are also provided to other key OEH advisory groups, including Aboriginal Cultural Heritage Advisory Committee (ACHAC), Joint Management Custodians etc.

3.2.7 Secretariat

Secretariat staff assigned by NPWS will provide executive and administrative support to the Advisory Council for the conduct of its meetings.

3.3 Committees

The Advisory Council carries out much of its work through committees. There are two standing committees, one to review draft Plans of Management (Planning Committee), and the other to address a range of strategic policy issues (Priorities and Issues Committee).

Ad hoc working groups may be established by the Advisory Council for a defined period of time to cover specific issues, as required. Meetings of ad hoc working groups require approval by the DCE National Parks and Wildlife Service if sitting fees are to be incurred.

The establishment of any additional committee requires approval by the DCE National Parks and Wildlife Service.

3.3.1 Operating framework for committees

The priorities for committees will be determined by the Advisory Council as part of its work program, primarily through its Statement of Strategic Intent, and from emerging issues raised at its meetings. It is the responsibility of committee Convenors to alert the Advisory Council if and when those priorities need to be reviewed.

Unless otherwise delegated by the Advisory Council, reports and recommendations of committees will be referred back to the Advisory Council for ultimate determination. The Advisory Council has current arrangements for certain draft plans of management and draft lease and licence matters to be considered by a committee without the need for referral to a scheduled meeting of the Advisory Council.

Where a matter must be resolved in a timeframe that does not fit within the meeting cycle of the Advisory Council, or at the Advisory Council's discretion, the ability to provide advice to the Minister may be delegated to the relevant committee.

OEH will appoint a liaison officer for each committee to provide reasonable and timely executive and administrative support. In establishing and operating committees, the Advisory

Council will be mindful of minimising the impact and cost of their servicing requirements on OEH.

Committee meeting dates will be set when the Advisory Council's meeting schedule is set. When possible, subcommittee meeting dates will align with those of the Advisory Council.

The maximum size for a committee is five members and the minimum is three members. The quorum for a committee is three members.

Committee meetings may be attended by telephone or video conference.

Any matters or issues that require broader consideration than provided for by a committee's terms of reference or members' experience and expertise will be referred back for consideration at a subsequent meeting of the Advisory Council.

A Convenor will be elected for each committee by members of that committee. Elections for the convenor positions will be held at least every two years.

The Convenor will preside over committee meetings. In the absence of the Convenor, the committee members present at the start of the meeting may nominate an alternate to preside as Convenor at that meeting.

Convenors will develop the committee meeting agenda and review draft minutes for each meeting. Committee members will strive to achieve consensus in their decisions. Where voting is necessary on an issue, a decision will be determined by a majority vote. The person presiding over the meeting will have a second or casting vote in the event of equal votes.

The Convenor or the person presiding over the meeting will ensure that discussions remain focussed and conclude with clear resolutions and/or recommendations.

Convenors will provide a report to each Advisory Council meeting on committee outcomes and recommendations held since the previous Advisory Council meeting.

3.4 Terminations

3.4.1 Expiry, reappointment and termination of appointments

Members may leave the Advisory Council for a variety of reasons including where the member's term has expired or the member has resigned. The Governor may for any cause which to the Governor seems sufficient remove from office any member.

3.4.2 Terminations prior to expiry

In some exceptional cases, a member's appointment may be reviewed and possibly terminated prior to the expiry of their term, for example where:

- the member is no longer able to commit adequate time to his or her role
- there has been a disagreement with other members that cannot be resolved
- there is a conflict of interest that cannot be mitigated in accordance with the hierarchy of strategies identified at 6.3
- the member no longer meets the minimum standards of participation such as:
 - no longer maintains appropriate contact with their relevant stakeholder interest to the extent the member is unable reflect the expertise and perspective of that constituency specific to their appointment criteria
- is declared bankrupt
- is convicted of a criminal offence
- is unable to perform the duties of office due to illness or other commitments

- has failed to attend two meetings in a row without providing an apology to the Advisory Council Chairperson
- in the opinion of the Advisory Council Chairperson and/or the Deputy Chief Executive Parks and Wildlife has breached the Advisory Council or OEH Code of Conduct
- has breached the Lobbyist Code of Conduct (www.lobbyists.elections.nsw.gov.au/registeroflobbyists).

In these circumstances, the matter should be referred to the DCE National Parks and Wildlife Service and the Minister by the Advisory Council Chairperson, or by a delegation of at least three Advisory Council members. The Minister and Governor are not prevented from acting in the absence of a referral from the Advisory Council.

The Advisory Council Chairperson or the DCE National Parks and Wildlife Service may provide advice to the Governor seeking that the Governor exercise the power under Schedule 7 (Clause 5) to remove a member 'for any cause which to the Governor seems sufficient'.

Schedule 7 (Clause 6) of the NPW Act states that a member of the Advisory Council shall be deemed to have vacated the member's office if the member:

- a) dies
- b) resigns the member's office by writing under the member's hand addressed to the Minister
- c) becomes a temporary patient, a continued treatment patient, a protected person or an incapable person within the meaning of the *Mental Health Act 1958* or a person under detention under Part 7 of that Act
- d) ceases to hold the qualification by virtue of which the member was appointed, or
- e) is removed from office by the Governor.

4 Business planning

4.1 Advisory Council Statement of Strategic Intent

The Advisory Council will develop and implement an annual business plan, called a Statement of Strategic Intent, aligned with NSW Government priorities, the OEH Corporate Plan and any other relevant strategic direction.

The Advisory Council will develop the business plan incorporating consultation and input from the Minister, senior NPWS staff, external stakeholders and their own research.

The Statement of Strategic Intent is to include:

- a statement of the Advisory Council's goals and priorities for the coming year
- a list of the major strategic issues to be addressed by the Advisory Council
- a schedule of routine items including plans of management for review and endorsement
- performance indicators to support evaluation of the effectiveness of the Advisory Council.

The statement is to be formally adopted by the Advisory Council at an ordinary meeting and reviewed as part of its annual strategic planning cycle, usually at its June meeting.

The statement will remain flexible to address emerging priorities. The statement may be amended by resolution of the Advisory Council at a normal meeting following appropriate notice and consultation.

The endorsement of the Minister may be sought for the statement including, if appropriate, the referral by the Minister of specific issues for advice from the Council.

4.2 Performance monitoring

The Advisory Council will provide an annual review to the Minister that includes evaluation of the effectiveness of the Advisory Council against performance indicators established in the Statement of Strategic Intent. If requested by the Advisory Council, a draft review will be prepared by the Council's executive and administrative support staff based on advice provided by the Advisory Council.

Performance indicators in the statement will include both specific targets and goals for the relevant year and routine performance indicators which can be tracked across several years.

4.2.1 Advisory Council performance indicators

A standard Advisory Council Statement of Strategic Intent should include the following routine indicators of performance effectiveness:

- priorities and measurable targets are identified and reached within the agreed timeframes, including statutory timeframes
- advice is provided in a timely manner, based on informed assessment and includes practical recommendations for action
- emerging and important issues are identified early and advice prepared for the attention of the Minister, utilising the expertise of the Advisory Council
- the Minister seeks the advice of the Advisory Council on issues of strategic significance related to the administration of the NPW Act

- where appropriate, Advisory Council members play an advocacy role in the community to support the work of the National Parks and Wildlife Service and the Advisory Council
- members maintain current and active contact with their stakeholder interests related to their nomination to the Advisory Council where relevant
- new members are well informed about the functions of the Advisory Council.

4.2.2 Process indicators

A standard Advisory Council Statement of Strategic Intent should include the following routine indicators of process effectiveness, primarily driven by the executive and administrative support responsible for Advisory Council matters:

- Advisory Council papers are circulated to members at least two weeks prior to each meeting
- draft minutes are circulated within three weeks of the meeting
- resolutions and any background material are forwarded to the Minister expeditiously.

4.3 Public reporting

NSW Government boards and committees are encouraged to proactively release decisions of their meetings in accordance with the NSW Government's Open Government policy unless there is an overriding public interest against disclosure.

In keeping with this advice, the Advisory Council will consider including in the Statement of Strategic Intent:

- preparation of a public annual report, included in Departmental reporting
- whether to make copies of Advisory Council advice, meeting summaries or meeting minutes available to the public, including through proactive disclosure under the *Government Information (Public Access) Act 2009* through the OEH website or otherwise

If requested by the Advisory Council, a draft public annual report can be prepared by the executive and administrative support for consideration by the Advisory Council.

As a courtesy, the Advisory Council Chairperson may choose to notify the Minister of arrangements relating to the disclosure of categories of information or specific document(s).

The *Government Information (Public Access) Act 2009* (GIPA Act) contains a right to information system for NSW Government to make government information more readily available and improve openness and accountability. The GIPA Act applies to all NSW government agencies, including boards and committees.

5 Resources

5.1 Remuneration

5.1.1 Classification and remuneration framework for NSW Government Boards and Committees

The Public Service Commission has developed a *Classification and Remuneration Framework for NSW Government Boards and Committees* (the Framework) covering all NSW Government boards and committees. The Remuneration Framework provides a consistent, equitable and fiscally responsible approach to determining fees payable to chairpersons and members.

The Advisory Council is remunerated at C2i level according to the Framework. This level entitles members to an annual fee of up to \$5000 and up to \$10,000 annual fee for the Chair. Due to the low time commitment required (less than three days per month), Council members are remunerated using a daily sitting fee of \$220 per day and the Chair is entitled to a daily sitting fee of \$350 per day.

5.1.2 Payments to individuals

NSW Government policy is that payment of any fees and/or allowances and reimbursement of expenses is to be made to the individual Advisory Council member.

5.1.3 Payments to public sector employees

In line with policy decisions against 'double-dipping', public sector employees appointed to NSW government boards or committees do not receive remuneration. Ministers may seek an exemption from this policy from the Public Service Commissioner in certain circumstances.

5.1.4 Taxation obligations

Office of Environment and Heritage has taxation obligations arising from the remuneration of members of the Advisory Council including PAYG withholding and Superannuation Guarantee Contributions. Advisory Council members must seek their own professional advice on taxation obligations arising from remuneration related to their obligations as members.

5.1.5 Out of pocket expenses

Advisory Council members may be reimbursed for legitimate expenses incurred while carrying out their duties such as travel, accommodation and meals. Advisory Council members may, in some instances, also receive an allowance for the use of a private motor vehicle.

Receipts must be provided for all amounts being claimed.

Arrangements relating to the reimbursement of expenses and payment of motor vehicle allowances must comply with relevant Department of Premier and Cabinet Memorandum and Circulars and Public Service Commission Directives.

On occasion the Advisory Council Chairperson may receive invitations to attend meetings as part of a wider government consultation processes. Payment of sitting fees or out of pocket expenses will only occur in these situations with the prior agreement of the Deputy Chief Executive Parks and Wildlife Service or their nominee.

5.1.6 Travel, accommodation and meals

Advisory Council members are entitled to be reimbursed the amount of actual expenses incurred when required to travel on official business, such as attending Advisory Council and its committee meetings. Travel arrangements must comply with NSW Treasury and Finance Circular OFS-2014-07 *Official Travel in Australia and Overseas*.

Advisory Council members will make every effort to minimise costs to Office of Environment and Heritage.

Under the *Classification and Remuneration Framework for NSW Government Boards and Committees*, the following entitlements apply to Advisory Council members:

Remuneration	Domestic travel	Overseas travel
Classified as level 1 or 2 in any of the Remuneration Framework classification groups or receive a daily sitting fee	Reimbursed the cost of actual expenses incurred up to the maximum daily amounts in Category C in the ATO Table	Receive an allowance at the non-SES daily rate

Approved daily amounts are published in the Public Service Commission Circular PSCC2012-08 *Australian and Overseas Travel Allowances for Official Travel* by Senior Officials.

5.1.7 Use of private motor vehicles

The DCE National Parks and Wildlife Service, or other appropriate approver, may authorise an Advisory Council member to use a private motor vehicle when required to travel for official business where:

- it will result in greater efficiency or involve OEH in less expense than if travel were undertaken by other means or
- the Advisory Council member is unable to use another means of transport due to a disability.

The conditions for the payment of these allowances are the same as those under the *Crown Employees (Public Service Conditions of Employment) Award 2009*.

5.2 Secretariat support

Quality secretariat support is required to support the effective operation of the Advisory Council. The Office of Environment and Heritage will make resources available to ensure appropriate levels of service are provided.

Secretariat responsibilities include:

- preparing induction packages for incoming Advisory Council members
- regularly asking members to update their Pecuniary Interest Declaration Form
- maintain the Advisory Council's Register of Gifts, which may form a part of the equivalent NPWS register

- working with the Chairperson to develop agendas, manage meeting papers and prepare a range of documents to support the operation of the Advisory Council
- circulating papers in advance of meetings
- Council members with the option to receive large documents/files in either electronic or hardcopy formats
- taking minutes of the meeting including decisions, an overview of relevant discussion of the item and any dissenting views where appropriate
- preparing a meeting summary for publication on the OEH website preparing a meeting summary for publication on the OEH website
- organising meeting facilities and other meeting logistics
- if requested by the Advisory Council, preparing a draft Statement of Strategic Intent and annual review
- liaising with members to support the functions above.

6 Code of Conduct

This section defines the values and minimum standards of behaviour expected of Advisory Council members. By accepting appointment to the Advisory Council, each member has committed to abide by this Code of Conduct.

6.1 Expectations of conduct

As public officials, Advisory Council members have a particular obligation to act in the public interest. All members of NSW Government boards and committees must have a clear understanding of their public duty and legal responsibilities and always act for a proper purpose and without exceeding their powers.

Decisions of the Advisory Council should be made in the light of applicable legislation, the Office of Environment and Heritage (OEH) and NSW Boards and Committees Code of Conduct, Government policy and agency objectives.

Decisions and outcomes must be in the public interest and be able to withstand public scrutiny. Conflicts of interest, including personal gain at public expense, must be avoided.

Advisory Council members, as public officials, are subject to the NSW Government *Conduct Guidelines for Members of NSW Government Boards and Committees*. Advisory Council members are also expected to comply with the *OEH Code of Ethical Conduct* where it is relevant to their activities.

Without limiting the application of these requirements, Advisory Council members must:

- reflect on and reveal the values behind opinions offered and positions formed
- perform functions with integrity, impartiality, honesty, conscientiousness, care, skill, diligence and loyalty to the public interest
- ensure efficient and responsible expenditure of public funds in accordance with government legislation, policy and guidelines, including in regard to travel arrangements, out of pocket expenses and payment of sitting fees
- attend all or as many Advisory Council meetings as practicable, and allow the necessary time to prepare for meetings, and to arrange for an apology to be provided if unable to attend an Advisory Council or committee meeting
- not disclose official information otherwise noted as confidential or documents acquired as a consequence of membership of the Advisory Council other than is required by law or when the member has been given proper authority to do so
- neither represent, appear to represent nor speak on behalf of the Advisory Council unless delegated to do so, when making public comment on issues
- not accept gifts, benefits or hospitality, which might be construed as compromising the member or Advisory Council's position on particular issues and where appropriate arrange for entries to be made in the Advisory Council's Register of Gifts
- as soon as practicable, disclose to the Advisory Council Chairperson and the Minister in writing any real, perceived or potential conflict of interest, in relation to the member's position or interest in an organisation or as an individual that might possibly conflict with the member's function and role on the Advisory Council
- report any corrupt conduct or suspected corruption to the Advisory Council Chairperson, the Minister, the Independent Commission Against Corruption, NSW Ombudsman, or the NSW Auditor-General, as appropriate.

The Advisory Council must also comply with a broad range of whole of government regulations and policies including those stipulated in legislation, regulations, Ministerial Memoranda, Department of Premier and Cabinet Circulars, Treasury publications and Public Service Commission policy documents. This includes the Government Information (Public Access) Act, the Independent Commission Against Corruption Act, working with children checks (if required), rules relating to the contesting of elections, the lobbyist code of conduct, ethical decision making, management of conflicts of interest, efficient public expenditure and the adherence of a code of conduct.

6.2 Respectful behaviour

Members of the Advisory Council have the right to be treated with respect in the exercise of their functions, and have an obligation to treat others with respect in the workplace. Advisory Council members are expected to meet the standards set out in the OEH Respectful Workplace Policy (2015), which states:

Respect at work means treating others as we would like them to treat us. To do this we must not treat others differently because of their sex, race, disability, marital status, pregnancy, sexual preference, age, carer responsibilities or gender status. We must act in a courteous and professional manner at all times and respect the right of others to express a view that might differ from our own view. We must also ensure that, by our actions at work, we don't make others feel uncomfortable, isolated or unsupported.

The following definitions of unacceptable behaviour apply to Advisory Council members:

- **Bullying.** Any behaviour that is unreasonable or undesirable at the place of work or outside of work, and that is intimidating, humiliating or undermining. Bullying is generally repeated, unwelcome or unsolicited. The target considers the behaviour to be offensive, intimidating, humiliating or threatening as would others who witness it or are affected by it.
- **Discrimination.** Any behaviour that treats someone differently because of their sex, race, disability, marital status, pregnancy, sexual preference, age or carer's responsibilities. These characteristics apply whether presumed or perceived, and also apply to an associate or a relative.

Harassment is a form of unlawful discrimination. In accordance with the *Anti-Discrimination Act 1977* (NSW) section 22A, sexual harassment includes any situation where there is a sexual advance, a request for a sexual favour or conduct of a sexual nature and where the advance, request or conduct is unwelcome, and a reasonable person would have anticipated that this would cause offence, humiliation or intimidation.

- **Harassment.** Unwelcome or unreciprocated behaviour which intimidates, offends or belittles. Harassment can occur in any work location, including places outside the usual place of work, and may occur while staff are in departmental premises, doing department work but not in departmental premises (such as field work or an overnight trip), participating in a social event organised by the employer including those held in the workplace (such as a Christmas party) or elsewhere (for example unwelcome visits, phone calls or letters to a person's home).

It is unlawful to discriminate in employment or in providing a service. It includes sexual or racist comments, taunts, propositions, jokes, questions about sex life, distribution of material such as cartoons, posters, emails and videos, and leering, sexual gestures, kissing, hugging or other touching of a sexual nature.

- **Intimidation.** Any behaviour that frightens someone.

- **Victimisation.** Any behaviour that exploits, excludes, isolates or treats someone so that they are a victim, scapegoat or belittled.
- **Vilification.** Any behaviour that tries to encourage hatred or contempt.

6.3 Conflicts of interest

Members of the Advisory Council are appointed for their expertise and skill in particular areas. As a consequence there may be the potential for conflicts of interest to arise between a member's duties to Advisory Council, and his or her personal interests (or his or her duties towards others).

A conflict of interest exists when it is likely that a member could be influenced by a personal or business interest. If a conflict of interest leads to partial decision making, it may constitute corrupt conduct. A conflict of interest, whether real, potential or perceived, may arise for example from:

- other directorships or employment
- professional and business interests and associations
- investment interests or the investment interests of friends or relatives
- family relationships
- participation in party political activities
- personal beliefs or attitudes that affect impartiality.

A member has a duty to declare any private interest that may impinge on an Advisory Council deliberation. When an issue arises, the Advisory Council member must as soon as practicable disclose full and accurate details of the interest or issue to the Advisory Council.

A member must disclose interests to the Advisory Council (which include positions and pecuniary interests) in corporations, partnerships or other businesses or organisations that may be relevant to the activities of the Advisory Council. A member's interests include those of an associate or close relative.

Disclosure should be made at the beginning of a member's term and during the term as necessary. A register of such interests is to be maintained by the Advisory Council and reported to the Minister. The Member's Pecuniary Interest Declaration Form is available to disclose relevant interests.

Advisory Council members should consider the following strategies to manage conflicts of interest: [Note: This is adapted from ICAC guidelines]

Strategy	What this strategy means	When it is most suitable
Register	You formally register details of the existence of a possible or potential conflict of interest	<ul style="list-style-type: none"> • For very low-risk conflicts of interest • Where recording the conflict of interest is sufficient to maintain transparency
Restrict	Restrictions are placed on involvement in the matter to oversee part or all of the process that deals with the matter	<ul style="list-style-type: none"> • Members can be officially separated from parts of the activity or process • The conflict of interest is not likely to arise frequently
Recruit	Use the expertise of a disinterested third party to oversee all or part of the process that deals with the matter	<ul style="list-style-type: none"> • It is not feasible or desirable for you to remove yourself from the decision-making process • In small or isolated communities where your particular expertise is necessary and genuinely not easily replaced

Strategy	What this strategy means	When it is most suitable
Remove	You choose to remove yourself completely from the matter	<ul style="list-style-type: none"> For ongoing serious conflicts of interest, where restriction or recruitment of others is not appropriate
Relinquish	You relinquish the private interest that is creating the conflict	<ul style="list-style-type: none"> Where your commitment to public duty outweighs your attachment to your private interest
Resign	You resign from your position on the Advisory Council	<ul style="list-style-type: none"> No other options are workable Where you cannot or will not relinquish your private interest Where you prefer this course as a matter of personal principle

6.4 Public resources

6.4.1 Use of public resources

Furniture, equipment, staff and other resources may be provided to the Advisory Council to perform its functions and should be used only in relation to those functions and in accordance with any OEH guidelines or rules about the use of those resources.

6.4.2 Use of official information

Members must not disclose official information or documents acquired as a consequence of their membership of the Advisory Council, other than as required by law, or when the member has been given proper authority to do so.

6.4.3 Gifts and benefits

Members should be aware that it is illegal to seek, offer or receive money or gifts in order to obtain a benefit or favour. Members must also not accept gifts or benefits that could place them under an actual or perceived financial or moral obligation to another organisation or individual.

Gifts or hospitality of nominal value may be accepted in limited circumstances where the member's position will not be compromised. Advisory Council members may access the OEH Register of Gifts to provide a high degree of transparency.

6.4.4 Public expenditure

Members must ensure the efficient and responsible expenditure of public monies in accordance with legislation and Government policies and guidelines.

6.5 Corrupt conduct and maladministration

Corrupt conduct can be generally understood as the dishonest or partial exercise of public official functions. It may also involve the conduct of non-public officials which adversely affects the honest and impartial exercise of a public official's functions.

For conduct to be considered corrupt under the *Independent Commission Against Corruption Act 1988* definition it has to be serious enough to involve a criminal offence, a disciplinary

offence, be grounds for dismissal or, in the case of Members of Parliament, involve a substantial breach of their Code of Conduct.

The Advisory Council Chairperson is required to report corrupt conduct or suspected corruption to the Independent Commission Against Corruption (ICAC). A report must be made to the ICAC as soon as you have a reasonable suspicion that corrupt conduct may have occurred or may be occurring. Matters must be reported to the ICAC regardless of any duty of secrecy or other restriction on disclosure. It is important that reports to the ICAC be made without advising the person(s) to whom the report relates and without publicity.

The *Public Interest Disclosures Act 1994* provides protection to public officials who voluntarily report suspected corrupt conduct. Advisory Council members can make reports to the Chairperson or to the Chief Executive of OEH. Members can also report directly to the following investigative bodies:

- disclosures concerning corrupt conduct should be made to the ICAC
- disclosures concerning maladministration should be made to the NSW Ombudsman
- disclosures concerning serious and substantial waste of public money should be made to the NSW Auditor General.

7 References

The following resources have been consulted in preparation of this Handbook:

Advisory Council Review 2011, *Draft Outcomes Paper*

Audit Office of NSW 1998, *on board: guide to better practice for public sector governing and advisory boards*

Department of Premier and Cabinet (DPC) 2013, *Government Boards and Committees Handbook*

Department of Premier and Cabinet Conduct 2011, *Guidelines for Members of NSW Government Boards and Committees*

Department of Premier and Cabinet 2013, *NSW Government Boards and Committees Guidelines*

Environment and Heritage Portfolio 2015, *Respectful Workplace: Policy and procedures for addressing workplace issues and formal grievances*

Independent Commission Against Corruption 2012, *Identifying and managing conflicts of interest in the public sector*

Memorandum of Understanding between the National Parks and Wildlife Advisory Council and the NSW Department of Environment and Climate Change 2008

Office of Environment and Heritage 2014, *Code of Ethical Conduct*

Public Service Commission 2013, *Appointment Standards Boards and Committees in the NSW Public Sector*