



NSW GOVERNMENT
Department of Planning

PROBITY PLAN

FOR

PRECINCT ACCELERATION PROTOCOL

STAGE 1

Date: November 2006

CONTENTS

1. DESCRIPTION OF THE PROJECT.....	3
2. PROBITY PRINCIPLES.....	4
3. DECISION MAKING PROCESS.....	5
5. SECURITY OF INFORMATION	9
6. DATA CABINET	10
7. COMMUNICATION WITH PROPONENTS.....	11
8. STAFF GUIDELINES	13
9. RECORD KEEPING	14

1. Description of the Project

Sydney Region Growth Centres – Precinct Acceleration Protocol: Stage 1

Project Objective: To assess proposals against established criteria and recommend appropriate proposals for progression to Stage 2 of the Precinct Acceleration Protocol process.

Background

In July 2006, the Government formally announced the first tranche of precincts to be released within the Growth Centres. These precincts were chosen following recommendations from the Growth Centres Commission (GCC) which has been tasked with overseeing the orderly sequencing of development within the Growth Centres.

The Government also endorsed a Precinct Acceleration Protocol that allows precinct releases within the Growth Centres to be accelerated earlier than proposed by the GCC. The Protocol can be found at (www.planning.nsw.gov.au)

The key condition for acceleration of a precinct is that there will be no cost to Government. The Government also formed a Precinct Acceleration Control Group (PACG) to oversee the process of considering precinct acceleration proposals. At this time, the Group comprises:

- Sam Haddad, Director General, Department of Planning.
- David Richmond, NSW Infrastructure Group, Premiers Department
- Hugo Harmstorf, NSW Treasury.

The Precinct Acceleration Control Group (PACG) is publishing these guidelines in order to provide information in relation to each of the criteria relating to Stage 1 of the Precinct Acceleration Protocol and to indicate how the PACG will assess proposals with regard to these criteria.

As indicated in the Precinct Acceleration Protocol, the PACG will make recommendations to the Government on the outcome of its considerations of the proposals. The Group's role is advisory in that context.

2. Probity Principles

INTRODUCTION

In its commercial dealings, the PACG will observe the highest standards of probity. As a body representing the NSW Government its operations must be fair, open and demonstrate the highest levels of integrity consistent with the public interest.

There are a number of key requirements to promote probity. The PACG should consider these key requirements throughout all stages of the process. The key requirements are:

- **Fairness and Impartiality**

Proponents are to be treated equally and must have the same opportunity to access information and advice.

- **Consistency and Transparency of Process**

Proponents are to be evaluated in a systematic manner against explicit predetermined assessment criteria.

- **Security and Confidentiality**

The processes adopted for receiving and managing proponent information are to ensure the security and confidentiality of intellectual property and proprietary information.

- **Identification and Resolution of Conflicts of Interest**

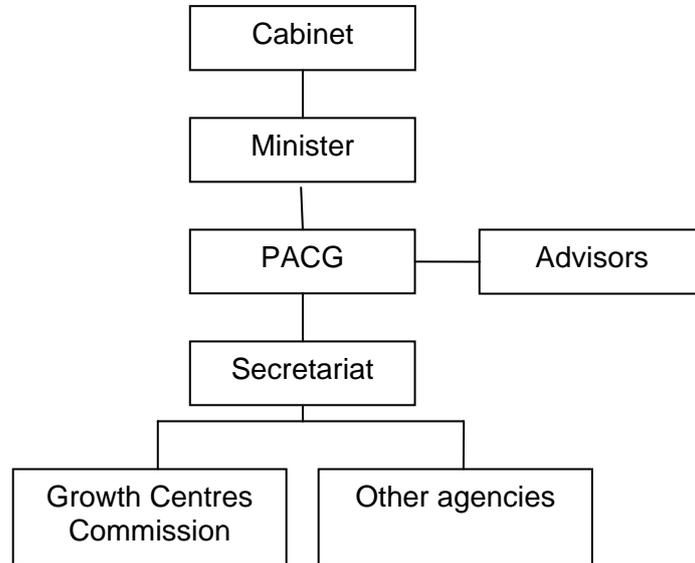
Any person involved in the application process is to declare and address any actual or perceived Conflict of Interest prior to providing any advice or assessment.

These key requirements are intended to achieve an equitable, justifiable and sound process according equal opportunity for all proponents rather than an approach that is necessarily procedurally perfect. The process should be applied with common sense, with flexibility in process design where appropriate, so that the task of assessing proposals in a fair and equitable manner takes priority.

In the event that an error or omission in the submission process nevertheless occurs, the PACG should seek legal advice and not enter into any immediate communications with proponents(s) until strategy options have been considered to address the concern. Options for legal and/or other solutions should then be adopted to address any potential problems at later stages of the process. Proponents should be informed of any changes to the process or new factors which may affect their offers.

Probity of the submission process is the responsibility of all members of PACG and PACG Secretariat and it is their duty to ensure that the process is **open and fair**.

3. Decision Making Process



3.1 SECRETARIAT – MAKEUP

The Secretariat consists of the following members:

- *Peter Goth, Department of Planning (Manager)*
- *Larissa Wedd, Department of Planning*
- *Mary Attuquayefio, Department of Planning*

3.2 SECRETARIAT – ROLES AND RESPONSIBILITIES

- Register the submission
- Provide a receipt to applicant
- Assess and summarise submissions for the PACG

3.3 PACG - MAKEUP

The PACG consists of the following members:

- *Sam Haddad, Department of Planning (Chairperson)*
- *David Richmond, Premiers Department*
- *Hugo Harmstorf, NSW Treasury*

3.4 PACG - ROLES AND RESPONSIBILITIES

The PACG will undertake a detailed assessment of each submission received. The specific terms of reference for the PACG are as follows:

- Evaluate the submissions in accordance with all relevant criteria
- Undertake an initial review of each submission
- Invite proponents to make detailed presentations, if necessary
- Identify clarifications required from the proponents
- Review responses to clarification questions, advisors' analysis, undertake reference checks if required
- Hold meetings with proponents for clarification purposes, where required
- Score all submissions against agreed criteria as per agreed methodology
- Summarise the assessment results and recommend the proponent or proponents who should proceed to Stage 2.
- Recommend, if appropriate, terms and conditions relating to negotiating with a proponents or proponents
- Sign the final Assessment Report
- Assessment Report should briefly address
 - executive summary;
 - composition of the PACG;
 - advisors (if any) and the extent of their involvement;
 - outline of methodology;
 - outline of the responses received; and
 - PACG findings and recommendations.

The PACG may obtain additional advice from appropriate sources as and when required keeping in mind Confidentiality and Conflict of Interest management.

3.5 ADVISOR GROUP

Advisors are not members of the PACG. Advisors provide expert advice to the PACG for its consideration in the assessment. The following agencies have been nominated to assist in the assessment:

- *Sydney Water*
- *Integral Energy*
- *Growth Centres Commission*
- *NSW Department of Education and Training*
- *Roads and Traffic Authority*
- *Department of Health*

The membership of this group may change from time to time.

3.6 PROBITY ADVISOR

The Probity Advisor is independent of the assessment process. The Probity Advisor is responsible for reviewing the assessment process in relation to following probity principles:

- accountability
- transparency
- conflict of interest management
- confidentiality management

The Probity Advisor will liaise with the Secretariat to review documents and decisions, following initial assessment. The Probity Advisor will attend the second PACG meeting, and provide a final probity report to submit to the Minister with the PACG recommendation.

3.7 EXPERT ADVISOR

The Expert Advisor is responsible for reviewing submissions against the Growth Centres Infrastructure Plan and any other relevant documents. The Expert Advisor will provide a summary report on each submission, and attend PACG meetings when required.

The Expert Advisor will also provide advice relating to the Growth Centres Infrastructure Plan directly to proponents, subject to guidelines for providing information to proponents in section 7.

3.8 RECEIPT OF RESPONSES

The submissions are to be lodged at the Department Tender Box located at Level 9, 10 Valentine Ave, Parramatta.

3.9 REQUESTS FOR CLARIFICATION

It is possible that some aspects of submissions will require clarification to enable a thorough assessment. It is important that aspects requiring clarification are identified early so that requests can be issued to the proponents to enable their written responses to be received as soon as possible.

3.10 FINALISATION OF ASSESSMENT

The PACG will meet to finalise the assessment. The PACG should, through discussions, seek to reach a consensus on each criteria, for each proponent. Following the completion of the assessment, the PACG will confirm its recommendation that will be included in the Assessment Report to the Minister.

4.1 CONFIDENTIALITY

A significant quantity of confidential information is generated as a result of the assessment process. The following procedures will be followed to ensure that the unauthorised release of confidential information does not occur.

Confidential Documents

The following items are to be maintained as confidential:

- Contents of submissions from proponents
- Clarification questions and responses
- Confidential information produced as part of the assessment process (e.g. meeting minutes and assessment reports)
- Other information related to the process that is not publicly available.

Confidentiality Undertaking

A Confidentiality Undertaking is to be signed by each member of the assessment team that has access to confidential information. A register of persons who have signed the Confidentiality Undertaking is to be maintained by the Secretariat.

4.2 CONFLICTS OF INTEREST

Conflicts of interest arise when persons are influenced, or appear to be influenced by personal interest when doing their job. Conflicts of interest of persons involved in the assessment or decision making process result in a lesser standard of independence than that required to maintain the integrity of the assessment process.

No Conflicts of Interest Allowed

All members and participants in the assessment process must have no conflicts of interest, which would, or appear to, adversely affect the impartiality of the assessment process. PACG members and stakeholder are responsible for bringing any actual or potential conflicts of interest to the attention of the Secretariat/Chair of the PACG.

Conflict of Interest Undertaking

The Secretariat will be responsible for ensuring that people involved in providing input to the assessment process, including advisors to the assessment committee and the committee members themselves sign a “Conflict of Interest Undertaking” form prior to assessing any confidential information or offering comments or views. The signed “Conflict of Interest Undertaking” are to be maintained by the Secretariat

Register of Interest

The Secretariat will maintain a Register of all related interests reported during the tender process. All entries in this Register will be discussed with the Probity Advisor and the action taken to resolve the issue will be clearly documented.

Meeting Agenda Item

The Secretariat/Chair of the PACG will remind members and advisors to the Secretariat/PACG of their responsibility to avoid conflicts of interest and to confirm on a regular basis that members do not have any conflicts.

5. Security of Information

- General

Notwithstanding any assurances that the Government provides on the *public* disclosure of sensitive information, proponents may be concerned to ensure that information they provide does not leak out. A lack of proponent confidence on security could deter them from submitting or reduce the detail and volume of information provided in support of submissions – neither of which would be in the Government’s interests. In particular, the Secretariat and PACG are required to follow the rules below:

- Documents which contain submission-related, commercially sensitive information are to be stored at all times in secure conditions, with access only for authorised persons
- Only authorised staff with a direct “need to know” are to be privy to submission-related commercially sensitive information
- Limited numbers of copies of submission-related documents are to be produced, and each copy should be numbered. In the case of emailed documents, records of the circulation arrangements needs to be maintained.
- No submission information is to be removed from the assessment office without written approval from the Secretariat, unless the security of the documents can be guaranteed.
- Should any proponent request a copy of any document, approval must be obtained from the Secretariat prior to delivery.
- Under no circumstances will any person answer any questions or provide any information to the media in regard to the Precinct Acceleration Protocol without the express permission in writing of the Secretariat or Chair.

All submission information, both paper and electronic, is to be secure at all times.

- *Receiving and recording submissions*

- The Secretariat arranges for a tender box located at Level 9, 10 Valentine Ave, Parramatta.
- 5 copies of the submissions are requested
- Submissions will be registered and all copies numbered.
- Lodgement receipt will be issued
- Lodgement fee will be issued to Department of Planning finance

- *Information*

Information is to be kept in a secure place, which is only accessible by the Secretariat. Extra copies are not to be produced unless absolutely necessary.

- *Ground Rules for Proprietary Information*

- Where Secretariat receives information (either as inquiry or submission), Proprietary Information will not be provided to third parties.
- Proponent will be asked to identify Proprietary Information if possible that is not to be made available to a third party.
- When agencies are asked to assess submissions, they will be asked to ensure the security of Proprietary Information.

6. Data Cabinet

The data cabinet is to be a secured and separated from the general staff. It is to be either supervised or locked at all times. In particular:

- Access to the data cabinet must be restricted to authorised persons.
- Details to be recorded include names of all team representatives of the submission entering the data room as well as arrival and departure times.
- Commercial-in-confidence information must be clearly marked as such. Copies of this information is not permitted without written authorisation of the Secretariat.
- Any requests for further information should be documented along with the response provided. If appropriate, if additional information is provided to a proponent, other proponents may need to be informed of the availability of this information.

7. Communication with Proponents

General

Any information that is not general public knowledge must only be communicated to a proponent if it is communicated to all proponents. Communication of such information should be in writing and forwarded through a person nominated by the Secretariat.

No discussion should be held with any known proponent about the Precinct Acceleration Protocol, in relation to any aspect of a protocol, or the assessment process, without the prior approval or at the direction of the Secretariat or PACG.

Personnel must provide consistent information if making presentations to proponents. This information must be supplied to all parties who request it to ensure that no proponent receives any advantage over another proponent. The information presented must be based upon information approved for distribution in advance, by the Secretariat.

No proponent should receive, or be perceived to have received, additional information to that which is publicly available in respect of the assessment process unless this information is expressly released by an appropriate authority as nominated by the Secretariat.

Proponents should be advised to deal directly with the Secretariat or his nominee in all matters in relation to any proposed submission, their proposal or its current status. You should refuse to enter discussions of this nature.

Details of any discussions with those who are actual or potential proponents should be minuted, and copies of all correspondence should be copied to the Secretariat, even where meetings and correspondence relating to a submission are of a non specific nature.

Should any personnel be asked a specific question during a presentation or interview you should provide only a factual answer. You should not under any circumstances provide a personal opinion. Should you believe that the information provided in your answer is relevant to all proponents and could be perceived as providing an unfair advantage to that proponent please advise the Secretariat immediately.

Where inappropriately persistent inquiries or comments are made, the meeting should be terminated. A file note should be prepared detailing the conversation. A copy of this file note should be forwarded immediately to the Secretariat.

Should any proponent request a copy of any document relating to the assessment process, approval must be obtained from the Secretariat prior to delivery. To ensure that no proponent receives an advantage, all other proponents for whom the document is relevant should be advised of the availability of this document.

Routine business meetings and social activities continue as usual, but advisors to the Secretariat and State Government employees must exercise caution, and must not discuss the assessment or contents of any submission.

Where any party in an unrelated business meeting or social situation seeks to raise issues in respect of the assessment or contents of any submission, the Secretariat, advisor or employee should indicate that it is not appropriate to discuss such matters. Such incidents should be reported to Secretariat

If a proponent requests a meeting with the Secretariat, its advisors, PACG or any of the Government agencies during the proponent assessment process, the matters addressed in the meeting must be clearly identified and submitted in writing to the Secretariat at least 5 working days after the meeting.

Interviews with proponent

Interviews with proponents may be held, where there is a need to clarify specific information regarding a proposal. It is expected that some interviews may be longer than others, depending on the level of clarification required. The decision to conduct interviews will be at the discretion of the PACG. Questions of clarification specific to a submission are expected.

All proponents need to be given the same amount of notice of the interview time. Invitations should be confirmed, and names of all representatives attending recorded.

Records of interview in the form of a letter from the interviewees may be used if they clearly state the important matters discussed and raised.

Growth Centres Commission (GCC) – Infrastructure Plan

It should be noted that, at this stage, the GCC's Infrastructure Plan is not publicly available. Where proposals are submitted on the basis of assumptions that differ markedly from the GCC's assumptions, or where information from the GCC's Infrastructure Plan needs to be made available to the proponents to ensure their financial (or other) modelling is sound, relevant information will be provided to the proponent by the PACG or Expert Advisor. Proponents are encouraged to include in their proposals requests for specific information from the GCC's Infrastructure Plan that will enable them to refine their proposal. The PACG will exercise its own discretion in determining what information will be provided to proponents. Records will be kept of information provided to the proponent and submitted to Secretariat.

Providing information to Proponents

Following an email enquiry, if a response to the query needs to be circulated more broadly, an email response will first be sent to the proponent advising them that the issues raised in the query will be distributed and asking them to confirm that no Proprietary Information will be at risk.

8. Staff Guidelines

Outside parties with whom the Department of Planning has a business relationship may contact staff (who do not have a direct involvement in the Precinct Acceleration Protocol) as part of the normal day to day relationship.

Prior to publication of the 'Guidelines for Applicants' document, relevant staff from Department of Planning (DoP) and the Growth Centres Commission (GCC) have been instructed to issue the following information in response to queries.

The Government has agreed to consider proposals for acceleration of precinct within the Growth Centres.

A Control Group comprising representatives from DoP, Treasury and the Premier's Department has been formed to establish process for consideration of such proposals and, once proposals are submitted, provide advice to the Minister for Planning.

Once the Control group has developed these proposals, it is expected that invitations for submission of acceleration proposals will be called for. Further information will be posted on the Department of Planning's website in the near future.

It is important that staff follow the following guidelines throughout the entire process:

- All queries should be submitted via email to precinctacceleration@planning.nsw.gov.au.
- No discussion should be held with any proponent about the assessment process in relation to any aspect of any Precinct Acceleration Protocol or the assessment process without the prior approval or at the direction of the Secretariat or his or her nominee.
- No proponent should receive or be perceived to have received additional information to that which is publicly available in or respect the assessment process.
- Proponents should be advised to deal directly with the Secretariat in all matters in relation to the assessment process, their submission or its current status. You should refuse to enter discussions of this nature.
- Should any proponent request a copy of any document, he/she should be referred to the Secretariat. No documents should be provided by staff.
- Unusual or exceptional invitations from any party with a declared interest in the project should not be accepted.
- Routine business meetings and social activities continue as usual, but Government managers and employees must exercise caution, and must not discuss the evaluation or assessment procedures, or contents of any submission.
- Where any party in an unrelated business meeting or social situation seeks to raise issues in respect of the evaluation and assessment procedures or contents of any submission the employee should indicate that it is not appropriate to discuss such matters.
- Secretariat members will provide information that is already publicly available, and refer other queries to the Secretariat Manager.
- The Secretariat Manager will answer referrals and may refer issues to the PACG.
- A record will be kept of all verbal conversations with potential proponents.

9. Record Keeping

Documentation

A database of all contact with potential proponents should be maintained by the Secretariat.

The notes attached to this database should include details of all discussions with proponents and matters such as their interest in particular businesses.

Minutes of any meetings with potential proponents should be retained recording the substantive issues of the discussion, with a copy provided to potential proponents.

The database should be continually updated throughout the process and all issues identified by parties addressed by the appropriate committee on a timely basis.

Minutes of PACG meetings

All key issues discussed and action then agreed at PACG meetings will be recorded including:

- meeting details
- attendance
- confirmation that PACG members have no conflict of interest
- reminder of confidentiality obligations
- decisions and recommendations made
- actions agreed
- responsibility and time frame

The Chair will arrange for Minutes to be maintained.

Records of the assessment process must be maintained in order to allow for independent audit and review. The maintenance of appropriate records increases the accountability and transparency of the assessment process.