



Maritime Advisory Council Terms of Reference

July 2023

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Context

NSW Government

Transport for NSW

On 1 December 2019, Roads and Maritime Services and Transport for NSW joined together to create one integrated Transport for NSW to co-ordinate safe, integrated and efficient transport systems for the people of NSW. The integrated model operates with the customer at the centre of planning, strategy, policy, procurement and other non-service delivery functions across all modes of transport.

Legislative framework

The Maritime Advisory Council (MAC) was established under the *Ports and Maritime Administration Act 1995* (NSW) (PAMA) with the responsibility for advising the Minister for Transport and Roads, jointly with the Minister for Regional Transport and Roads.

Both Ministers have dual accountability for the Act, currently the Minister for Transport leads on state-wide maritime matters.

Strategic maritime agenda

The NSW Government's strategic maritime agenda is articulated across three publicly committed documents:

- *Maritime Safety Plan 2026* – contains actions to reduce the rate of fatalities and serious injuries on NSW waterways by 30 per cent by the end of 2021 and zero by 2056.
- *Maritime Infrastructure Plan 2019 – 2024* – outlines the Government's strategic approach to planning, prioritising and delivering investment in maritime infrastructure.
- *Marine Estate Management Strategy 2018 – 2028* – contains initiatives to improve management of the marine estate as a single system and protect it from key threats, including a specific focus on safe and sustainable boating.

Centre for Maritime Safety

The Centre for Maritime Safety in TfNSW's Safety, Environment and Regulation Division (SER) – is responsible for leading the development and coordination of state-wide, evidence-based strategy, policy, regulation and reform relating to maritime safety, infrastructure, sustainability and access, as well as major behavioural campaigns and key stakeholder engagement.

NSW Maritime

NSW Maritime – part of TfNSW's Greater Sydney Division (GS) – is responsible for delivering measurable customer value by promoting safe behaviour, protecting the marine environment and providing waterway access and amenity for the people of

NSW. NSW Maritime is responsible for leading the strategic direction of operational and customer facing programs including maritime regulatory services, safety campaigns, infrastructure, services to the boating public, environmental services, pollution response, and customer and stakeholder engagement.

Maritime Advisory Council

Objective

The objective of the MAC is to provide independent expert advice to the Minister for Transport on maritime related matters in NSW.

Functions

The MAC, as prescribed by the Act, is to provide advice to the Minister on any matter that the Minister has referred to it, in connection with the operation of the marine legislation or the National Law, noting that the NSW Freight Advisory Council provides advice to the Minister on shipping matters. The Council is also required to advise and make recommendations to the Minister on maritime safety and expenditure priorities for the exercise of the functions of NSW Maritime in connection with maritime infrastructure and maritime research.

Membership

The MAC is comprised of Members appointed by the Minister under 63 of the Ports and Maritime Administration Regulation 2012.

The Council may comprise:

- Members with expertise across the recreational, commercial or maritime property sectors and,
- The Secretary for the Department Transport or their nominee who must be a person employed in the Transport Service.

Following the development of the Marine Safety Plan 2026, the Maritime Infrastructure Plan 2019 – 2024 and the establishment of the Marine Estate Management Authority, member expertise could also include safety, sustainability and maritime infrastructure.

Members are appointed for their expertise as individuals, rather than as representatives of organisations and should possess relevant and diverse experience to provide the Minister with effective and appropriate advice.

The Minister will appoint a Chairperson and a Deputy Chairperson from among the membership of the Council. A member of the Public Service or an employee of any public authority cannot be appointed Chairperson.

A maximum of 9 members will be appointed.

Terms of Office

Members are appointed for a maximum of three years. After this period members are eligible for re-appointment at the discretion of the Minister. Alternatively the Minister may elect to refresh the membership of the Council.

Vacancies

If a Member's position on the Council becomes vacant, the Minister may appoint another person to fill the vacancy for the remainder of the member's term.

A Member's position on the Council becomes vacant if the member:

- Dies;
- Completes the term of their appointment and is not re-appointed;
- Resigns in writing, addressed to the Minister;
- Becomes bankrupt;
- Becomes mentally incapacitated; or
- Is convicted of an offence, punishable by imprisonment of 12 months or more.

The Minister may also remove a Member and/or Chairperson/Deputy Chairperson from their position(s) at any time and for any or no reason.

Invited Advisors

The Regulation only allows for the Secretary of the Department of Transport or one nomination to be a member of the Council. The Executive Director for CRMS and Executive Director for NSW Maritime jointly attend meetings of the Council as invited advisors.

Council Procedures

Meetings

The council shall meet up to two times a year, at a date called by the Minister, in consultation with the Chair and members.

The Secretariat will coordinate with the Minister, Chair and members to draft the agenda for Minister's endorsement.

The Secretariat will issue a call for papers where members can submit issues they wish to be discussed. Proposed items must be accompanied by a short briefing note (see Appendix 1) and will be considered under Agenda standing item "MAC Members' Items on Notice".

All meetings shall be minuted and subject to confirmation by the Council after which time they will be published on the TfNSW website. The Secretariat will circulate minutes to all Members, and the Minister, as soon as practical after the meeting.

The Council should aim to develop a consensus view on matters before the meeting. Where consensus is not achievable, the differing views of members may be recorded.

Recommendations of the Council are not binding on the Minister, or any NSW Government entity.

Matters raised at Council meetings may, at the discretion of the Chairperson, be referred to the Minister.

The Chairperson (or if absent the Deputy Chairperson) is to preside at a meeting of the Council. If both the Chairperson and the Deputy Chairperson are absent a person nominated by the Minister is to preside at the meeting.

It is the responsibility of members to:

- (a) Attend all meetings. Where a Member is unable to attend an apology may be given; and
- (b) Provide expert advice in relation to the issue being discussed

Quorum

A quorum for a Council meeting is a majority of its members.

Secretariat Support

The Centre for Maritime Safety, as MAC Secretariat, will facilitate correspondence between the Council and other organisations.

The Director of CMS will nominate an individual officer to provide secretariat functions.

Expenses and Related Allowances

Members of the Council will not be remunerated for participation. Members may be entitled to a travel and subsistence allowance incurred when attending meetings.

The Minister may reimburse expenses incurred by Members participating in extraordinary activities, approved by the Council, noted in the Minutes. Such activities include, but are not limited to, field trips, visits and meetings at locations other than where the Council normally meets. All expenses incurred must directly relate to MAC and must be supported by receipts.

All claims for travel and subsistence allowances are to be lodged with the Secretariat.

Code of Conduct

Personal and Professional Behaviour

MAC members will undertake their role using due care, honesty and integrity.

Members will always perform the functions associated with membership diligently, impartially and conscientiously to the best of their ability. Communication will be open and constructive.

Members will behave in a way that does not directly or indirectly lead to dishonest or improper use of their Maritime Advisory Council position.

Members will not use any information to which they have access to gain an improper advantage, or in a way which may be disadvantageous to the NSW Government, any government entity, the Council or its interests.

Public Comment

Members will not make public comment on behalf of the Minister or the Council without the specific agreement of the Minister's Office. It is understood that as a citizen and in performing other professional roles, members have the right to make comments and enter into public debate, providing it is not perceived to be an official comment on behalf of the Council or the NSW Government.

Conflict of Interest

A conflict of interest arises when a Council Member is influenced, or appears to be influenced, by personal or commercial interests. The perception of a conflict of interest can be as damaging as an actual conflict because it may undermine public confidence in the integrity of the Council and its members.

Members will consciously avoid any conflict of interest and will not allow personal interest or the interests of any particular person, group or association to conflict with their role as a Council Member.

A declaration of a conflict of interest can occur before a meeting for a determination.

Where a conflict of interest arises at a meeting, a member shall declare such conflict.

Where a conflict of interest is declared at a meeting, the Secretary of the Department of Transport (or their nominee to the MAC) will decide whether the member should withdraw from the meeting while the matter is discussed.

Pecuniary and Non-Pecuniary Interests

To maintain confidence that members are not biased, all Council members are required to declare their interests – pecuniary and non-pecuniary.

Pecuniary interests are defined as those that relate in any way to Transport for NSW, the Centre for Maritime Safety or NSW Maritime businesses and for which the Member receives payment including salary or other payments from a position, dividends and interest from share and securities portfolio, income received from a rental property, as well as ownership or part-ownership of property or a vessel. Pecuniary interests will be disclosed annually in a register, and declared at a meeting if the matter under discussion is one whereby there could be a conflict of interest.

Non-pecuniary interests are a conflict of interest that does not have a financial component.

Non-pecuniary interests include membership of an organisation / association, or any interest where bias or conflict could impinge on advice.

Non-pecuniary interests are to be declared at a meeting when a matter is under discussion or can be declared before the meeting.

Confidentiality

Members of the Council will, from time to time, have access to confidential information. Material which is confidential and must not be disclosed will be marked "Confidential" and/or "Embargoed".

Members agree to be bound by this protocol both during the term of their membership and following the completion of their term of office.

Should a Member or group of members breach confidentiality, Transport for NSW reserves the right to take legal action to restrain the Member or group of members from compromising the integrity of Transport for NSW.

Intellectual Property

Transport for NSW retains copyright of any written work produced by the Maritime Advisory Council.

Evaluation and Review

The Terms of Reference for the Maritime Advisory Council should be reviewed every three years.

Appendix 1: Agenda item template



AGENDA ITEM: # tba

Insert Title of Briefing Note: *(One line that states what the briefing note is about).*

Purpose

Dot point explanation of issue.

Background

Outline of any historical information that provides context to issue.

Current Position

Explanation of costs involved, consultation undertaken, and current issue and challenges for which a resolution or awareness is required.

Recommendation

Specific request of the Maritime Advisory Council.