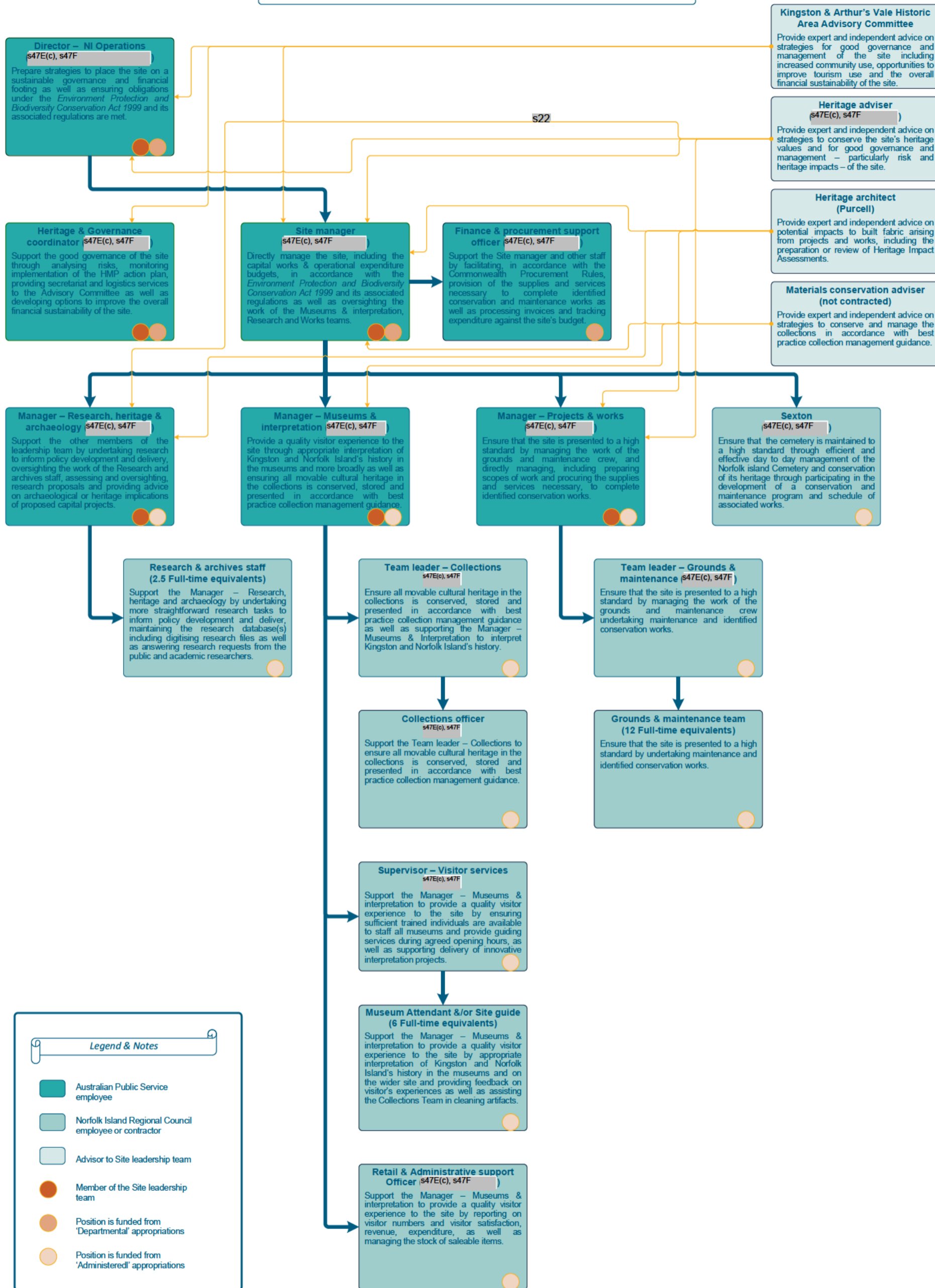


Kingston & Arthur's Vale Historic Area — Management & Operational Responsibilities





Australian Government

Department of Infrastructure, Transport,
Regional Development, Communications and the Arts

TERRITORIES DIVISION / NORFOLK ISLAND BRANCH / KAVHA ADVISORY COMMITTEE

KAVHA Advisory Committee

Terms of Reference

March 2024



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Background

The Kingston and Arthur's Vale Historic Area (KAVHA) is a World Heritage site located on Norfolk Island. The site is a living showcase of Polynesian, convict and Pitcairn Islander history and is one of Australia's most interesting and important heritage sites. KAVHA is also a traditional focal point for the Norfolk Island community and continues to contribute to the life, identity and culture of the Norfolk Island community.

The KAVHA site was included on the Norfolk Island Heritage Register in 2003, Australia's National Heritage List and the Commonwealth Heritage List in 2007, and added to the World Heritage List in 2010 as one of 11 historic sites that together form the Australian Convict Sites World Heritage Property.

The Department of Infrastructure, Transport, Regional Development, Communications and the Arts (the Department) manages the Australian Government's interests on Norfolk Island and is responsible for the management of KAVHA. The KAVHA Advisory Committee (the Committee) provides expert and community input to the Department to guide management of KAVHA.

The Department established the KAVHA Advisory Committee in November 2015 to replace the previous KAVHA Management Board established under a 1989 Memorandum of Understanding (revised in 1994) between the Commonwealth of Australia and the then Norfolk Island Government.

Work to determine an improved governance and decision-making structure for KAVHA is a key ongoing priority for the Committee and the Department.

In January 2019 the Department established the KAVHA Community Advisory Group (the Group) to provide members of the community greater input to the management and conservation planning and actions at KAVHA. The Group, currently nine Norfolk Island community members, meets at regular intervals, at least four times a year. All Group decisions are recommendations to the Department through the KAVHA Advisory Committee. The Terms of Reference for the Group can be found at <https://www.kavha.gov.au/heritage-management/site-management/advisory-group>.

1. The Committee

1.1 Function of the Committee

- (a) The function of the Committee is to provide expert and independent advice to the Department on:
1. best practice techniques to conserve the existing fabric and heritage objects present on the site
 2. actions that will protect and present, with authenticity, the rich and interwoven natural and cultural landscape of KAVHA
 3. strategies to achieve effective governance and good management
 4. opportunities to improve tourism use and the financial sustainability of the site
 5. approaches for facilitating enduring community partnerships.
- (b) The Committee has no executive powers in relation to the operations of KAVHA. The Committee does not have the power to enter into contracts or authorise expenditure.

1.2 Membership of the Committee

The Committee consists of:

- (a) the Chair
- (b) no less than two Norfolk Island community members
- (c) no less than two expert members with skills and experience in heritage, public land management and/or cultural tourism and /or Norfolk Culture¹

1.3 Committee Chair

- (a) The Chair is the Administrator of Norfolk Island.
- (b) The role of the Chair is to:
 1. liaise with the Committee Secretariat to assist and provide input to meeting preparation and agenda development
 2. exercise leadership at Committee meetings to ensure meetings are conducted in an efficient manner and to ensure the active participation of all members
 3. provide advice and assistance in planning associated with Committee business
 4. provide a verbal report to the KAVHA Community Advisory Group on Committee meeting outcomes.

1.4 Committee member responsibilities

The responsibilities of Committee members include:

- (a) attending Committee meetings and workshops (including those held on Norfolk Island)
- (b) actively participating in the overall business of the Committee including all discussions and activities
- (c) contributing to the work of the Committee through dialogue at Committee meetings

¹ Membership of an expert in Norfolk Island Culture shall be the nominated representative of the Norfolk Island Council of Elders

- (d) utilising their networks and other organisational memberships to gather information on current issues
- (e) providing expert and informed advice to the Department on plans and strategies as guided by the KAVHA Heritage Management Plan
- (f) maintaining open and effective communication and liaison with other Committee members as appropriate
- (g) participating in the development of the annual Operational Plan
- (h) contributing to engagement activities with key stakeholders including the Chair of the Advisory Committee, landholders, heritage collection owners, tourism industry representatives and the general community.

1.5 Other attendees

- (a) The following representatives of the Department of Infrastructure, Transport, Regional Development, Communications and the Arts will attend meetings:
 - a. The Commonwealth Heritage Manager, or their equivalent
 - b. One Senior Executive of the Territories Division
 - c. At least one member of the KAVHA Advisory Committee Secretariat.
- (b) The Committee may agree to invite other KAVHA stakeholders to meetings as observers.
- (c) Prior to making invitations, the Secretariat will discuss with the Chair who will canvass the opinion of the members.
- (d) The Committee will consider the information provided by observers when developing its recommendations to the Department.
- (e) Observers will not have voting rights in Committee recommendations.

1.6 Reporting

- (a) The Committee reports directly to Senior Executives within the Territories Division, Department of Infrastructure, Transport, Regional Development, Communications and the Arts (Senior Executives).
- (b) Meetings will be minuted and the minutes provided to Senior Executives.
- (c) A Communique will be prepared for each meeting and made publicly available once cleared for release by the Chair.
- (d) Reports may be prepared by the Committee with Secretariat assistance to provide information on issues relevant to the management of KAVHA.

2. Selection and appointment of members

2.1 Expression of interest (EOI)

- (a) Committee members will be recruited through an Expression of Interest (EOI) process coordinated by the Department.
- (b) EOIs will be advertised on island for community member roles.
- (c) A pool of appropriately skilled experts will be approached directly to submit EOIs for the expert membership roles. EOIs for expert member roles may also be advertised in relevant networks, forums and publications.

2.2 Assessment process

- (a) The Department will shortlist the expressions of interest received and make recommendations to the Assistant Secretary Norfolk Island Branch (Assistant Secretary) for member appointments.
- (b) A merit list of applicants will be created from the EOI process.
- (c) In the event that the Department does not receive suitable EOIs from residents of Norfolk Island, the Department has the discretion to directly approach residents and experts.

2.3 Assessment criteria

(a) Community members

Through their EOIs, persons interested in being a community member of the Committee must demonstrate they:

1. are a resident of Norfolk Island
2. have relevant skills and experience in liaison and representation, including with members of the Norfolk Island community, private sector and government agencies
3. have proven ability to respect diverse points of view
4. are willing to participate effectively in a formal meeting setting, including experience in convening community meetings
5. have a strong and long-standing interest in improving and conserving KAVHA.

(b) Expert members

Expert members must demonstrate a high degree of skills and experience in one or more of the following:

1. heritage conservation
2. archaeology
3. collection management
4. land use management and planning
5. tourism and related business development
6. Norfolk Island Culture

and be able to demonstrate their:

7. proven ability to respect diverse points of view
8. relevant skills and experience in liaison and representation, including with community stakeholders, private sector and government agencies
9. willingness to participate effectively in a formal meeting setting
10. strong interest in improving and conserving KAVHA.

2.4 Appointment of members

- (a) The Assistant Secretary will appoint Committee members from a shortlist of candidates with consideration to:
 - (i) the balance of skills and gender on the Committee
 - (ii) the key priorities of the KAVHA Advisory Committee and the Australian Government.
- (b) Where vacancies become available during the two-year membership cycle, applicants from the merit list may be approached to confirm their continued interest in the position and their names provided to the Assistant Secretary for consideration.

2.5 Term of office of members

- (a) A Committee member is appointed on a part-time basis.
- (b) Committee members are appointed for a two-year term commencing from the date of appointment.
- (c) Committee member's appointments may be extended for one to three more terms at the discretion of the Assistant Secretary.
- (d) Membership on the Committee will not exceed eight consecutive years.

2.6 Resignation

A member may resign his or her appointment by giving the Senior Executives a written resignation.

2.7 Termination of appointment members

The Assistant Secretary has the authority to dismiss members for failure to comply with the Department's expectations and Committee code of conduct.

2.8 Succession planning

- (a) Succession planning of the Committee will ensure that each Committee meeting includes representatives who have knowledge of past issues discussed, meeting protocols and advice given.
- (b) The experienced members will be able to assist in mentoring and provide support to new incoming members.
- (c) A transition model is used to allow a new member to be appointed and an experienced member to leave approximately every two years as determined by the Assistant Secretary.

3. Member fees and allowances

- (a) Members receive fees and allowances as determined by the Department.
- (b) The KAVHA Advisory Committee Travel Expense Reimbursement Guidelines provide guidance on travel expenses related to Committee business.
- (c) Members who do not reside at the meeting location will have travel and accommodation arranged by the KAVHA Secretariat.
- (d) A person employed on a full-time basis by the Commonwealth (e.g. an Australian Public Service employee or a public office holder) may not receive remuneration as a Committee member but can receive travelling allowance for official travel associated with fulfilling the requirements of the appointment. This is based on sub-section 7(11) of the [Federal Register of Legislation - Remuneration Tribunal Act 1973](#) (the Act). The restriction also applies to a person holding any office or appointment or who is otherwise employed, on a full-time basis, in the service or employment of the Commonwealth, the Administration of a Territory, a public statutory corporation, an incorporated company referred to in paragraph 3(4)(da) of the Act or an incorporated company all the stock or share in the capital or which is or are beneficially owned by the Commonwealth or by a public statutory corporation.
- (e) Whether a State public servant can receive payment as a Committee Member is a matter for the relevant State government.

4. Committee operations

4.1 Secretariat support

- (a) Secretariat support will be provided by the Norfolk Island Team of the Department. The Secretariat will:
1. Develop meeting agendas, take and distribute minutes, develop required papers and arrange logistical requirements with regard to meeting requirements.
 - i. Agendas will be circulated at least two weeks before meetings with papers being provided at least one week before meetings.
 - ii. Minutes will be circulated within two weeks of a meeting and finalised within three weeks.
 - iii. An Action Log, including responsibilities and timeframes for completion will be included in the minutes.
 2. Arrange meeting logistics, including travel arrangements for Committee members.
 3. Be an effective liaison and conduit between the Committee members, the Chair of the Committee, Senior Executives, the Department and the Office of the Administrator.
 4. Assist in achieving actions agreed to by the Assistant Secretary.

5. Committee meetings

5.1 Meeting frequency and location

- (a) The Committee is to hold meetings as necessary for the efficient performance of its functions.
- (b) Meetings are to be held at the times and places determined by the Department, in consultation with Committee members.
- (c) The Committee will meet no less than two times per year, with at least two meetings being face-to-face meetings on Norfolk Island. Other meetings may be via tele or video conference.
- (d) Committee members are required to attend all scheduled Committee meetings. In the event of personal circumstances preventing attendance, Committee members may be able to attend via tele or video conference.

5.2 Committee recommendations

- (a) Recommendations of the Committee will be by majority vote of the Committee members.
- (b) The Chair will have the casting vote.

6. Dispute resolution, complaints and grievance protocols

In the event of a dispute, complaint or grievance, the process outlined in **Attachment One** will be followed.

7. Code of conduct

- (a) Details about the Committee code of conduct principles and conflicts of interest are outlined at **Attachment Two**.
- (b) Committee members are required to sign a code of conduct form prior to their appointment.
- (c) The Chair and members are required to complete a private interests' declaration prior to their appointment. This declaration requires members to identify any matter in which they may have, or be perceived to have, a conflict of interest.

8. Review of Committee handbook

The Committee Terms of Reference Handbook is reviewed every two years. The review is undertaken by the KAVHA Secretariat in consultation with Senior Executives and Committee members.

Attachment One

Dispute resolutions, complaints and grievance procedures

It is recognised that tensions and disputes may arise in a group situation. Identifying and addressing disputes and complaints helps to ensure that the rights of all individuals are respected and that an effective working environment is maintained. In the event of a dispute or complaint, the below procedures will be followed:

Step One: Talk to the person with whom you have a dispute/disagreement to resolve the issue;

Step Two: If the issue remains unresolved, discuss the issue with the Secretariat or the Chair to obtain assistance in resolving the issue;

Step Three: If the issue still remains unresolved decide if you wish to submit a formal complaint;

Step Four: The nature of the complaint must be outlined in writing and forwarded to the Secretariat for consideration and action. A recommendation will be made on how to address the complaint.

Grounds for complaints can include but not be limited to:

- inappropriate behaviour;
- not meeting agreed responsibilities;
- harassment or bullying;
- breach of confidentiality; or
- breach of code of conduct.

Complaints relating to the Secretariat should be addressed through writing to the Assistant Secretary responsible for the Norfolk Island Team within the Department.

Currently this is:

Assistant Secretary, Norfolk Island Branch

Department of Infrastructure, Transport, Regional Development, Communications and the Arts
GPO Box 594
CANBERRA ACT 2601

Attachment Two

Code of conduct

1. Principles

Advisory Committee members and observers are expected always to act in the best interests of KAVHA in the performance of their duties and functions by:

- being honest and exercising all due care and diligence in the performance of their duties and functions
- maintaining the confidentiality of information made available in the course of their duties
- never making improper use of their position, or the information gained through that position, to the advantage of themselves or any other person
- never taking any course of action that would bring into disrepute or otherwise disadvantage the Advisory Committee, the Commonwealth, the Commonwealth Minister or the Administrator
- disclosing any material or personal conflict of interest in Advisory Committee meetings and subsequently abstaining from any discussion or vote on those issues
- demonstrating loyalty to the public interest
- providing authorised persons, fellow members and auditors when asked, with complete, accurate and correct information, which is not misleading in any respect.

2. Personal and professional behaviour

Duties must be performed diligently, impartially and conscientiously to the best of each member's ability. Members and observers must abide by all relevant Commonwealth and state and territory legislation.

3. Fairness and equity

It is important that the principles of fairness and equity are both complied with and are seen to be complied with. These principles are:

- taking all relevant information into consideration and not taking any irrelevant information or opinion into consideration
- dealing with like situations in a consistent and fair manner, but treating each matter on its merits
- acting in a reasonable, just and non-discriminatory manner
- taking all reasonable steps to ensure that the information provided is factually correct and that all relevant information has been obtained and considered
- only acting for proper and relevant purposes, and on proper and relevant grounds.

4. Use of information

Information is provided to the Advisory Committee on the understanding it will be treated as confidential, commercial-in-confidence and/or sensitive. It is important to ensure the integrity and security of official documents for which Committee members are responsible and to respect the rights of the providers of information. All information obtained by a person in their role as a Committee member or observer should be considered to be confidential, unless indicated otherwise. Confidential information must not be released unless:

- required by law

- the provider has consented to the release
- freedom of information legislation requires the release
- permission has been granted by the Australian Government.

5. Conflicts of interest

(a) Overview

It is essential that the Advisory Committee undertake its activities in a fair, non-biased and apolitical manner and that there are no actual or perceived conflicts of interest in advice provided by the Advisory Committee.

The Advisory Committee members and observers are required to manage all conflicts within an ethical, open and transparent framework. The Advisory Committee members and observers are required to act with integrity, impartiality, good faith and in the best interests of the Advisory Committee at all times.

Transparency is fundamental to the principles of good governance and managing conflicts of interest. The Advisory Committee should build an ethical culture by consistently requiring conflicts to be identified, recorded and dealt with properly.

Declaration and discussion of conflicts of interest should occur before discussion on any substantive issues.

In addition, the Chair and members are required to complete a Private Interests Declaration prior to their appointment. This declaration requires members to identify any matter in which they may have, or be perceived to have, a conflict of interest.

(b) Defining a conflict of interest

A conflict is defined as any matter, circumstance, interest or activity affecting a member or observer of the Advisory Committee, which may or which may appear to impair the ability of the member to carry out the work of the Advisory Committee diligently and independently. When assessing conflicts of interest, members and observers of the Advisory Committee should always take a conservative approach, and carefully consider the perception of a conflict by the “man on the street”. The test should always be:

- Would a member of the community, on the face of it and with limited information, consider the matter to be a conflict of interest?

(c) Identifying a conflict of interest

A conflict of interest arises when a member or observer of the Advisory Committee:

- has a personal, business, or financial interest that could be considered to influence their work with the Advisory Committee, their contribution to discussions as part of the Advisory Committee, and/or approaches taken by the Advisory Committee
- uses information and/or contacts gained through membership of the Advisory Committee to benefit their own personal business interests in any way, or inform other organisations that they are involved in outside the Advisory Committee where those organisations could benefit directly or indirectly from the information.

Conflicts of interest can be direct or indirect, for example:

- a member of the Advisory Committee owning or having an interest in a business that may benefit in future from recommendations or approaches made by the Advisory Committee

- a member of the Advisory Committee participating in providing advice that results in their gaining an economic or financial benefit or a non-financial benefit, such as a gift being given to the individual involved in recommending a decision
- progressing personal business or personal business relationships through the course of the Advisory Committee's functions.

(d) Disclosing a conflict of interest

If, while performing Advisory Committee business, the Chair believes that they have a conflict or potential conflict of interest, they must disclose the nature of the conflict to the Advisory Committee. Similarly, members and observers must disclose any real, perceived or potential conflict to the Chair as soon as that conflict or potential conflict becomes apparent. Such declarations should be made immediately after the Advisory Committee has received the agenda and papers for its next meeting. The interests of immediate family members and close associates should also be disclosed to the extent that they are known and could be considered to lead to a conflict of interest. All disclosures, discussions and decisions on conflicts of interest must be recorded in the Minutes of the relevant Committee meeting.

If a situation arises where any member of the Advisory Committee believes that there is an undisclosed conflict or potential conflict of interest, the matter should, in the first instance, be raised with the Chair of the Advisory Committee.

Following disclosure, the remaining Advisory Committee members must determine whether or not there is a conflict of interest. Where it is determined that a conflict of interest exists, or may be perceived to exist, the Advisory Committee must determine a course of action which ensures that any subsequent actions are, and are seen to be, free of undue influence or bias, such as precluding the member with the identified conflict from:

- receiving any subsequent or related papers
- being present and/or participating in the consideration, discussion or debate on the matter.

The decision of the Advisory Committee (and the steps taken to resolve or deal with the perceived or actual conflict of interest) must be recorded in the Minutes.

Where a conflict of interest arises or is perceived to arise, a Senior Executive may investigate the circumstances of the conflict to determine that the action taken to address the conflict is appropriate.

(e) Managing an ongoing conflict of interest

A different situation arises when a conflict of interest is ongoing and may continue to affect an individual's ability to perform Advisory Committee business.

In the case of ongoing conflicts of interest, the Advisory Committee should conduct an initial investigation into the conflict, including the evaluation of any potential remedies, and a risk assessment which:

- identifies the risks
- evaluates the nature of the risks (for example, if the risk eventuated, would the consequences be serious?)
- evaluates the likelihood of the risks (for example, is it probable that the risk will occur?)
- considers whether the risk may be acceptable to the Australian Government and the Norfolk Island community
- determines whether the proposed remedies (if any) would adequately resolve or otherwise manage the risk.

All action taken to address these situations must be documented and readily accessible. Where the risk cannot be mitigated, the Chair, Advisory Committee member or observer should be excluded from all discussion on the matter, including receiving papers and records of discussion and decision.

Given the small community of residents and experts, membership on the Committee will not exclude members from tendering for works related to their business or expertise; however members will not be able to provide advice or participate in discussions and decisions on the works in question.

The Advisory Committee does not have the power to enter contracts or authorise expenditure. This responsibility rests with Senior Executives.

6. Gifts and benefits

An Advisory Committee member or observer must never demand or request any gift or benefit for themselves or anyone else in connection with their Advisory Committee work. A member or observer should not accept any gift or benefit if they, or a reasonable person, thinks that the person offering the gift is likely to expect the member or observer to be influenced in the way that they perform their Advisory Committee work as a result of the gift.

7. Public comment

Whilst it is recognised that Advisory Committee members and observers as members of the community have the right to make public comment and enter into public debate on political and social issues, care must be taken not to convey the impression that such comment, if personal, is an official comment made in their capacity as an Advisory Committee member or observer. If it is not possible for the Advisory Committee member or observer to make it clear that they are speaking personally, it may be appropriate not to make any public comment.

8. Corrupt and unethical conduct

If an Advisory Committee member or observer is aware of any possible corrupt or unethical conduct by any Committee member(s) or observer, it must be reported to the Chair of the Advisory Committee. The person does not need to have proof that corruption or unethical conduct is occurring. They need merely to suspect it on reasonable grounds. Corrupt and unethical conduct can also be reported to a Senior Executive. People who report possible corrupt or unethical conduct will not be penalised for reporting possible misconduct.

9. Breaches of the code of conduct

Breaches of the code of conduct are likely to result in disciplinary action. Sanctions, including termination of appointment by the Assistant Secretary, will be considered in the event of a serious breach of the code.

Advisory Committee members are required to sign a code of conduct form prior to their appointment.

10. Allegations of impropriety

It is important that the conduct of Advisory Committee members and observers is at all times perceived in the community to reflect the principles and ethical requirements set out in this code of conduct. If allegations concerning the conduct of a member or observer are made or aired in the public domain that, if true, would constitute a breach of the code of conduct, the member or observer concerned must stand down from the Committee upon request by the Assistant Secretary.

Allegations made in the public domain include being:

- referred to in sworn evidence (either oral or written) in any court or tribunal proceeding

- the subject of or named as a person of interest in any investigation by the state or territory Ombudsman or Commonwealth Ombudsman
- the subject of or named as a person of interest in any investigation or proceedings by any other governmental or quasi-governmental body in any jurisdiction.

The member or observer may resume his or her role on the Advisory Committee when the relevant court, tribunal or other body makes a finding of fact that the allegations are unfounded, or otherwise when the Assistant Secretary so determines.



KAVHA Advisory Committee Roles and Responsibilities

- **PURPOSE:** *for noting – this paper is in response to the Committees request to define the role of the KAVHA Advisory Committee members*

KEY POINTS

- The KAVHA Terms of Reference outline the committee's roles and responsibilities.
- The function of the committee is to provide expert and independent advice to the department on:
 - a) best practice techniques to conserve the existing fabric and heritage objects present on the site
 - b) actions that will protect and present, with authenticity, the rich and interwoven natural and cultural landscape of KAVHA
 - c) strategies to achieve effective governance and good management
 - d) opportunities to improve tourism use and the financial sustainability of the site
 - e) approaches for facilitating enduring community partnerships

The Committee has no executive powers in relation to the operations of KAVHA. The Committee does not have the power to enter into contracts or authorise expenditure.
- From time to time the Committee may be asked to comment on other Commonwealth Heritage listed properties outside of KAVHA but with direct links to the site's rich history, an example of this is the Arched Building at Longridge.
- The Responsibilities of the Committee members include:
 - a) attending Committee meetings and workshops (including those held on Norfolk Island)
 - b) actively participating in the overall business of the Committee including all discussions and activities
 - c) contributing to the work of the Committee through dialogue at Committee meetings
 - d) utilising their networks and other organisational memberships to gather information on current issues
 - e) providing expert and informed advice to the Department on plans and strategies as guided by the KAVHA Heritage Management Plan
 - f) maintaining open and effective communication and liaison with other Committee members as appropriate
 - g) participating in the development of the annual Operational Plan



- h) contributing to engagement activities with key stakeholders including the Chair of the Advisory Committee, landholders, heritage collection owners, tourism industry representatives and the general community.

ALIGNMENT WITH HERITAGE MANAGEMENT PLAN 2016

Recommendation 76: The KAVHA Advisory Committee should be appointed by the interim KAVHA Steering Group. It should include a minimum of five members with no less than two Norfolk Island community members (including landholder representation), no less than two expert members (with skills in place management, heritage, cultural tourism and /or collections), and a senior Australian Government Official as chair.

Recommendation 77: A mechanism should be established to provide the Australian Government with expert and stakeholder advice on matters relating to KAVHA, including governance. Opportunities should be provided for the community and landholders to have their opinions considered, including through consultative forums.