

Extract of NSW Government’s Inquiry Report relating to APESB’s evidence

Introduction

On 29 May 2024, the NSW Government issued a [Report](#) on its inquiry into the use and management of consulting services by the NSW Government agencies.

Refer below to a table depicting extracts of the report where APESB or its representatives are mentioned, listed by their corresponding page number and paragraph number in the Report.

Page no.	Para no.	References to APESB or its representatives in the Report	Technical Staff Comments
Chapter 1 – Overview of how the NSW Government engages Consulting Services			
12	1.47	A number of independent bodies regulate the accounting profession and set out mandatory codes of ethics, practices and standards for their members. Members of these bodies must adhere to these professional requirements, based on the Australian Code (APES 10), which follows global best practice as set out in the International Code of Ethics. Whilst the following policies apply to chartered accountant members, it should be noted that consulting services are often provided by non-accountants. These organisations are examined in Chapter 5.	<p>Chapter one of the report provides an overview of how the NSW Government engages consulting services and the role of external standards and regulation bodies.</p> <p>Identification that the accounting profession has a mandatory Code of Ethics that is based on global best practice.</p> <p>Technical Staff note that it should refer to APES 110 instead of APES 10.</p>

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Accounting Professional & Ethical Standards Board			
13	1.48	<p>The Accounting Professional & Ethical Standards Board (APESB) is an independent, national body which sets the mandatory code of ethics and professional standards for accounting professionals who are members of Certified Practising Accountants Australia (CPA), Chartered Accountants Australia and New Zealand (CAANZ) or the Institute of Public Accountants (IPA).⁷⁰</p> <p>⁷⁰ Accounting Professional & Ethical Standards Board, 'About APESB', https://apesb.org.au/about-apesb/</p>	<p>The report notes APESB's mandate as the independent National Standards Setter of the accounting profession.</p>
13	1.49	<p>The APESB issues and maintains professional and ethical pronouncements, all of which are applied to the above three major Australian professional accounting bodies. Members of APESB are required to apply all APESB pronouncements to any accounting firms they establish, as well as apply pronouncements to professional services they provide. This includes services provided to the public sector.⁷¹ The APESB is equally funded by CPA Australia, CAANZ and the IPA.⁷²</p> <p>⁷¹ Submission 12, Accounting Professional & Ethical Standards Board, p 1.</p> <p>⁷² Accounting Professional & Ethical Standards Board, 'About APESB', https://apesb.org.au/about-apesb/</p>	<p>Description of APESB's role in the co-regulatory framework and acknowledgement that the professional standards also address the public sector.</p> <p>Note that the three accounting bodies fund APESB.</p>
13	1.50	<p>The standards outline the fundamental responsibilities of professional accountants when they are performing their role. Each standard contains information on the scope and application of the standard, definitions and the date the standard takes effect. Failure to comply with standards issued by the APESB may lead to disciplinary proceedings being initiated by the professional accounting body to which the member belongs.⁷³</p> <p>⁷³ Accounting Professional & Ethical Standards Board, 'FAQs', https://apesb.org.au/about-apesb/faqs</p>	<p>Introduction to APESB Standards, its scope, and the fundamental principles and consequences of non-compliance with the standards.</p>
13	1.51	<p>APESB's authority does not include monitoring and enforcement. The three professional accounting bodies and regulatory authorities (i.e. the Australian Securities & Investments Commission and the Australian Tax Office) are responsible</p>	<p>Based on the APESB's submission, it is identified that the Board's mandate does not include monitoring and enforcement,</p>

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		<p>for monitoring and enforcing compliance of professional accountants, including conducting disciplinary actions for breaches of APESB standards.⁷⁴</p> <p>⁷⁴ Submission 12, Accounting Professional & Ethical Standards Board, p 2.</p>	<p>which is the province of the professional bodies and regulators.</p>
13	1.52	<p>Whilst APESB pronouncements apply to consulting services provided by its members, consulting services are often provided by non-accountants, and other codes of conduct may apply. In the absence of a professional code of conduct for consultants of a specific discipline, there may not be a generally recognised framework to manage a conflict of interest.</p>	<p>Acknowledge that the APESB standards are applicable only to members of the accounting bodies and that it is important to have a generally recognised framework to manage conflict of interest for all consultants.</p>
13	1.53	<p>APESB issues the Australian Code (APES 110) which is based on the International Code of Ethics, issued by International Ethics Standards Board for Accountants. APES 110 is a key standard and possesses a broad scope to address the diverse range of professional services that accountants can supply. The professional obligations and ethical requirements imposed on members are based on the fundamental principles of integrity, objectivity, professional competence and due care, confidentiality and professional behaviour. APES 110 also includes rules and prohibitions regarding conflicts of interest.⁷⁵</p> <p>⁷⁵ Accounting Professional & Ethical Standards Board, 'Code of Ethics', https://apesb.org.au/standards-guidance/apes-110-code-of-ethics/</p>	<p>Identifies that APES 110 is based on a global standard issued by IESBA and the five fundamental principles of the Code.</p>
Chapter 1 – Chartered Accountants Australia and New Zealand			
14	1.56	<p>All CAANZ members are bound by the same standards of professional conduct and ethics enshrined in APES 110 Code of Ethics (including Independence Standards) issued by the APESB, regardless of profession or discipline.⁷⁸</p> <p>⁷⁸ Submission 13, Chartered Accountants Australia and New Zealand, p 1.</p>	<p>Reference was made to the CA ANZ's submission and CA ANZ Members' obligations to be bound by APES 110.</p>
Chapter 1 – Certified Practising Accountants Australia			

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14	1.58	CPA advocates and promotes the accounting profession's standards, ethics and integrity. Members of CPA are held to the standards in APES 110 Code of Ethics for Professional Accountants (including Independence Standards).	CPA Australia acknowledges its Members' obligations to be bound by APES 110.
Chapter 4 – Conflicts of Interest			
64	4.5	<p>Certain professional associations have specific conflicts of interest standards. For example, section 310 of the <i>Accounting Professional and Ethical Standards Code of Ethics for Professional Accountants</i> (APES110) sets out the requirements for identifying circumstances that may create a conflict of interest.³³⁵ However, while pronouncements by the Accounting Professional and Ethical Standards Board apply to Chartered Accountants and Australia New Zealand, CPA Australia, and the Institute of Public Accountants,³³⁶ a large number of consultants are not accountants and may not be a member of a professional association.</p> <p>³³⁵ Submission 12, Accounting Professional and Ethical Standards Board, p 4.</p> <p>³³⁶ Submission 12, Accounting Professional and Ethical Standards Board, p 1.</p>	<p>Chapter 4 of the report examines how the NSW Government and consulting services manage real and perceived conflicts of interest in their engagements.</p> <p>The Committee referred to Section 310 of APES 110 in arriving at recommendations 16 and 17 on the identification and management of potential and perceived conflicts of interest applicable to members of the professional bodies (i.e., CA ANZ, CPA Australia and IPA).</p> <p>Recognises the gap that APES 110 is not applicable to a large number of consultants who are not members of the professional bodies.</p>
64	4.6	<p>The major consultancies told the committee about their conflict of interest policies and procedures. For the most part, each discussed their responsibilities under APES 110 and detailed how their various codes of practices, values and specific conflict of interest policies seek to identify and manage conflicts of interests.³³⁷</p> <p>³³⁷ See, Submission 8, EY, p 13; Evidence, Mrs Leigh Walker, Oceania Risk and Independence Leader, EY Oceania, 5 February 2024, p 28; Submission 6, KPMG, pp 9-10; Evidence, Mr Nathan Schlesinger, National Health Industry Leader, PwC Australia, 26 June 2023, p 27.</p>	<p>Major consultants' statements on how their conflict of interest policies and procedures are set to identify and manage conflicts of interest based on the requirements and guidance in APES 110.</p>

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Managing Conflicts of Interest			
70	4.29	<p>EY highlighted how APES 110 Code of Ethics identifies the separation of engagement teams as a core safeguard for managing a conflict of interest and complying with confidentiality requirements. This requires the use of information barriers to prevent the exchange of confidential and sensitive information between separate client teams.³⁶¹ As part of the team separation process, EY typically requires discussions and telephone calls about the engagement to be held in secure locations. Access to documentation is restricted with electronic information stored on a controlled access file. EY also use confidential project rooms in certain circumstances, with the engagement team performing all work from that room.³⁶²</p> <p>³⁶¹ Submission 8, EY, p 16.</p> <p>³⁶² Submission 8, EY, p 16.</p>	<p>EY’s statement on how EY is managing Conflict of Interest and complying with the confidentiality requirements of APES 110.</p>
Chapter 5 – Monitoring and enforcement			
81	5.1	<p>A number of mechanisms are used to ensure that consultants behave in an ethical way. These include structures built into the procurement process itself, such as confidentiality requirements as well as ethical standards encompassed in the Supplier Code of Conduct. In addition, certain consultants are subject to the standards set by the Accounting Professional and Ethical Standards Board (APESB). Many consultants, notably those within the accounting profession, operate within a co-regulatory environment overseen by the APESB, together with the three professional accounting bodies – Chartered Accountants Australia and New Zealand (CA ANZ), CPA Australia and the Institute of Public Accountants – as well as the Australian Securities and Investments Commission (ASIC) and the Australian Taxation Office (ATO). However, the framework that applies to consultants is generally fragmented, with some not being subject to any overarching supervisory body at all.</p>	<p>Chapter 5 provides an overview of various enforcement and monitoring mechanisms used to ensure ethical behaviour of consultants.</p> <p>Describe the co-regulatory framework applicable to accountants and note that some consultants are not subject to a supervisory body.</p>

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85	5.20	<p>As discussed in Chapter 1, the Accounting Professional and Ethical Standards Board (APESB) publishes ethical standards that emphasise the responsibility of the accounting profession to act in the public interest.⁴¹⁸</p> <p>⁴¹⁸ Evidence, Ms Nancy Milne OAM, Chairman, Accounting Professional and Ethical Standards Board, 9 August 2023, p 36.</p>	<p>Recognises the responsibility of the accounting profession to act in the public interest.</p>
85 86	5.21	<p>One of these standards, <i>APES 320 – Quality management for firms that provide non-assurance services</i>, specifies the 'mandatory obligations of a firm in respect of establishing and maintaining a system of quality management for non-assurance services'.⁴¹⁹ It is designed to help prevent conflicts of interest, breach of contract, and unethical behaviour.⁴²⁰ Amongst other requirements, APES 320 discusses the need for monitoring and remediation:</p> <p style="padding-left: 40px;">APES 320 addresses monitoring and remediation measures and creates a professional obligation on firms to establish a monitoring process to provide them with reasonable confidence that the system of quality management is operating effectively. The Standard also imposes requirements on firms to have processes to investigate complaints and allegations and take appropriate remedial actions when findings of the monitoring process or investigations indicate deficiencies in the firm's system of quality management.⁴²¹</p> <p>⁴¹⁹ APESB, APES 320 Quality management for firms that provide non-assurance services, February 2022, p 3. https://apesb.org.au/wp-content/uploads/2022/02/APES_320_reissued_Feb_2022.pdf</p> <p>⁴²⁰ Submission 13, Chartered Accountants Australia and New Zealand, p 6.</p> <p>⁴²¹ Submission 12, Accounting Professional and Ethical Standards Board, p 5.</p>	<p>Identifies APES 320 and the firms' responsibility to establish a quality management system designed to ensure compliance with applicable professional and ethical standards. The Quality Management System also needs to address monitoring and remediation.</p>
86	5.22	<p>Members of the three accounting professional bodies – CAANZ, CPA Australia and the Institute of Public Accountants – must comply with APESB's code of ethics and ethical standards. However, APESB's mandate does not include the monitoring and enforcement of these standards as that is the responsibility of the member bodies, as well as ASIC and the ATO.⁴²² The regulatory environment also includes the Auditing and Assurance Standards Board and the Australian Accounting Standards Board.⁴²³ Nonetheless, APESB does seek to engage with the quality review functions</p>	<p>This is because APESB's mandate does not include monitoring and enforcement. However, the report notes that APESB does seek to engage with the quality review functions to assess whether its standards have been complied with and</p>

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		<p>of these bodies to determine whether there has been compliance with its standards and whether further enhancements are needed.⁴²⁴</p> <p>⁴²² Evidence, Ms Milne, 9 August 2023, p 36.</p> <p>⁴²³ Submission 12, Accounting Professional and Ethical Standards Board, p 1.</p> <p>⁴²⁴ Submission 12, Accounting Professional and Ethical Standards Board, p 7.</p>	<p>whether further enhancements are needed.</p>
86	5.23	<p>Ms Nancy Milne, Chairman of APESB, described how CA ANZ, CPA, and IPA are responsible for monitoring the standards set by the APESB:</p> <p style="padding-left: 40px;">They each run a quality review system or regime whereby, as far as we know, they actually do review most of the smaller and medium practices within the accounting profession. I don't know whether it is worthwhile for the inquiry to actually look at the quality review regimes a little bit more. As ASIC has performed an annual review of the big four firms as part of their yearly audit inspection program, CA ANZ performs periodic reviews to avoid duplication of efforts.⁴²⁵</p> <p>⁴²⁵ Evidence, Ms Milne, 9 August 2023, p 41.</p>	<p>Refers to Nancy Milne's statement about the quality review processes of CA ANZ, CPA, and IPA, as well as ASIC's audit inspection program.</p>
86	5.24	<p>In addition, the Professional Standards Councils of Australia reviews the processes of these bodies for monitoring compliance of APESB standards by their members.⁴²⁶</p> <p>⁴²⁶ Submission 12, Accounting Professional and Ethical Standards Board, p 7.</p>	<p>This refers to the fact that the Professional Standards Councils of Australia review compliance with APESB standards by the members of the professional bodies.</p>
87	5.27	<p>The CA ANZ by-laws bind members to the standards prescribed by the Australian Accounting Standards Board, Auditing and Assurance Standards Board, and APESB, including the APES 110 Code of Ethics.⁴³⁰ CA ANZ by-laws allow for investigation and disciplinary action in the event of a breach.⁴³¹ CA ANZ is structured to include various disciplinary bodies that are independent of its board and management, namely the Professional Conduct Committee (PCC), Disciplinary Tribunal (DT), and Appeal Tribunal (AT).⁴³² Anyone can lodge a complaint about a member, and all complaints are assessed.⁴³³</p>	<p>Describes the process of how the by-laws bind members of CA ANZ to comply with applicable accounting, auditing and ethical standards and the applicable disciplinary and investigative bodies within CA ANZ who can investigate complaints against a member.</p>

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		<p>⁴³⁰ Submission 13, Chartered Accountants Australia and New Zealand, p 3.</p> <p>⁴³¹ Submission 13, Chartered Accountants Australia and New Zealand, p 1.</p> <p>⁴³² Submission 13, Chartered Accountants Australia and New Zealand, p 2.</p> <p>⁴³³ Evidence, Ms Chapman, 28 July 2023, p 10.</p>	
90	5.39	<p>EY, noting that APES 110 Code of Ethics is embedded in its global code of conduct, similarly argued that it has numerous mechanisms in place to prevent unethical behaviour:</p> <p style="padding-left: 40px;">At EY, our comprehensive processes, procedures and enforcement of these are very effective at preventing unethical behaviour by our professionals. Our sophisticated learning and development program keeps them up to date on their responsibilities and we regularly test compliance with these. Where we identify an issue or concern, we follow up swiftly and over time to make sure this is resolved.⁴⁴⁸</p> <p>⁴⁴⁸ Submission 8, EY, p 18.</p>	<p>EY notes that APES 110 is embedded in its global code and that they have comprehensive processes and monitoring mechanisms in place to address and prevent unethical behaviour.</p>
91	5.46	<p>The APESB suggested that a code of conduct for consultants, similar to APES 110, be developed to provide an appropriate framework for those consultants who are not subject to another professional body.⁴⁵⁹</p> <p>⁴⁵⁹ Submission 12, Accounting Professional and Ethical Standards Board, p 3.</p>	<p>The committee notes APESB's suggestion for the development of an appropriate framework for consultants who currently do not have a professional code of conduct.</p>
93 94	5.57	<p>Another option is strengthening the enforcement powers as they relate to current standards. Mr Channa Wijesinghe, Chief Executive Officer, APESB, suggested that the APESB ethical standards be given legislative backing. In addition, he suggested that APESB develop a standard focused on large firm culture, developing a professional standard for management consulting.</p> <p>He then went on to describe mechanisms that would improve transparency as it relates to large firms:</p>	<p>The committee notes APESB's suggestion to provide legislative backing for a Code to strengthen the regulatory framework.</p>

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		<p><i>“Enhance transparency of large firms by requiring them to prepare general purpose financial reports, including remuneration disclosures, and subject them to audit, and establish an independent body to monitor all professional accountants who are not subject to statutory regulation or regulatory oversight, including taking enforcement actions where appropriate. This body should prepare an annual report of its monitoring and enforcement activities to enhance public trust.”⁴⁷⁵</i></p> <p>⁴⁷⁵ Evidence, Mr Channa Wijesinghe, Chief Executive Officer, APESB, 9 August 2023, p 36.</p>	<p>APESB’s evidence on mechanisms that would enhance the transparency of large firms and establish an independent body to monitor those who are not subject to statutory or regulatory oversight noted in the report.</p>
95	5.65	<p>The committee acknowledges the work of the APESB and CA ANZ in attempting to ensure the ethical behaviour of their members. We also appreciate their awareness of areas needing improvement and the work they are doing as a result. Similarly, the committee recognises that many consulting firms have their own codes of conduct, and have processes in place to encourage the ethical behaviour of their employees. However, the committee is alarmed by the large number of recent scandals involving all of the Big Four firms. While there are some exceptions where consulting firms have identified issues themselves, we are uneasy that there appears to be a tendency for unethical behaviour to come to light primarily as a result of whistleblowers and investigative journalists. It is obvious that the current monitoring and enforcement measures are lacking, and that something different is needed in terms of regulation.</p>	<p>The committee acknowledges the work of the APESB and CA ANZ in attempting to ensure the ethical behaviour of members.</p> <p>The Committee notes that the current monitoring and enforcement measures are lacking, and a different regulatory approach is needed.</p> <p>In conclusion, the committee has provided recommendations 21 and 22 that the NSW Government:</p> <ul style="list-style-type: none"> • conduct a thorough review of the procurement process and policies as they relate to the engagement of consulting services, especially the mechanisms for monitoring the engagement and enforcing compliance with its

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			<p>requirements for ethical behaviour</p> <ul style="list-style-type: none"> • implement the necessary changes to the procurement process and policies that are identified by the review. • establish an enforceable code of conduct tailored to managing consulting engagements; • publicise those consulting services that sign the code
Appendix 2 – Witnesses at hearings			
103	n/a	That Ms Nancy Milne OAM, Chairman, Accounting Professional & Ethical Standards Board, and Mr Channa Wijesinghe, Chief Executive Officer, Accounting Professional & Ethical Standards Board, listed as witnesses at a public hearing on 9 August 2023 at the Macquarie Room, Parliament House, Sydney.	The Chairman and CEO were listed as witnesses of the hearing on 9 August 2023.
Appendix 3 – Minutes			
120	n/a	<ul style="list-style-type: none"> • 17 July 2023 – Email from Mr Channa Wijesinghe, Chief Executive Officer, Accounting Professional & Ethical Standards Board, to the secretariat, declining an invitation to appear at a public hearing on 28 July 2023 and noting availability to appear on another date 	Apology for attending a public hearing on a date when the CEO was overseas and offering to appear on an alternative date.
128	n/a	<p>Public hearing</p> <p>The following witnesses were sworn and examined:</p>	Meeting minutes of the 9 August 2023 hearing.

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		<ul style="list-style-type: none"> • Ms Nancy Milne, Chairman, Accounting Professional and Ethical Standards Board • Mr Channa Wijesinghe, Chief Executive Officer, Accounting Professional and Ethical Standards Board. <p>The evidence concluded and the witnesses withdrew.</p> <p>The public hearing concluded at 3.12 pm. The public and the media withdrew.</p>	
132	n/a	<ul style="list-style-type: none"> • 15 August 2023 – Letter from Ms Nancy Milne OAM, Chairman, Accounting Professional & Ethical Standards Board Limited, to the committee, providing correction to evidence given at the public hearing on 9 August 2023 	Receipt of the letter from the Chairman correcting the evidence provided at the public hearing on 9 August 2023.
133	n/a	<p>Resolved, on the motion of Dr Kaine, That the committee:</p> <ul style="list-style-type: none"> • authorise the publication of correspondence from Ms Nancy Milne OAM, Accounting Professional & Ethical Standards Board Limited, received 14 August 2023, providing corrections to evidence given at the public hearing on 9 August 2023 	Authorised the publication of the correspondence provided by the Chairman on the correction to the evidence provided at the hearing on 9 August 2023.
140	n/a	<p>Transcript corrections</p> <p>Resolved, on the motion of Mr Primrose: That the committee authorise the insertion of footnotes at the relevant points in the transcript of 9 August noting that correspondence clarifying the evidence had been received from Ms Nancy Milne, Chairman, Accounting Professional & Ethics Standards Board, and providing a hyperlink to the published correspondence.</p>	Corrections to the transcript based on the correspondence provided by the APESB.