

Conflict of Interest Policy

Independent Expert Panels (IEPs) are established to bring skill and independence to assessment and decision-making regarding the potential adverse environmental impacts of major projects. IEPs play a significant part in building and maintaining community confidence in the State's planning system and the delivery of sound, robust planning decisions.

The Independent Expert Advisory Panel on Energy Transition Panel's members are highly experienced academics and professionals who bring significant knowledge to their tasks. They have each worked on a wide range of relevant matters throughout their careers in academia and/or the private and public sectors.

Given the limited number of widely-recognised experts in the fields of interest, it is inevitable that many will have worked in some way connected with the industries which will be the subject of their advice. This is likely to involve a mix of working to advise or review the work of proponents or operators in the industry, undertaking research into the impacts of or protective measures used by the industry, and/or for government bodies that are regulating or assisting the industry. Indeed, it is unlikely that a person would have acquired the necessary expertise if they had not worked in such capacities either in NSW or elsewhere.

The NSW Government must have access to the same level of advisory skills and experience utilised by industry to support sound, robust planning decisions. It is therefore critical to be able to access the best experts while also ensuring that they meet the high ethical standards and professional integrity required when serving the public interest. Most obviously, this includes avoiding and/or minimising conflicts of interest. This document provides guidance to managing the potential for such conflicts.

WHAT IS A 'CONFLICT OF INTEREST'?

A 'conflict of interest' is any situation where a member of the Panel's decision-making capacity and/or impartiality could be affected by other interests, thereby compromising their neutrality and independence. In other words, it refers to a situation where a member's commitment to objectivity and the public interest might be in competition with their other interests.

There are three types of conflict of interest that must be considered:

1. **Actual** conflict of interest: where there is a direct conflict (or competition) between the private interests of a member, and the performance of official duties and responsibilities.
2. **Perceived** conflict of interest: where it could *appear* that a member's private interest would influence the performance of their official duties and responsibilities – whether or not this is actually occurring.
3. **Potential** conflict of interest: where a member has private interests that could potentially interfere with the performance of official duties and future responsibilities.

'Private interests' mean the following:

1. **Pecuniary** interests involve actual or potential financial gain or loss, or other material benefits or losses. Conflict arises when pecuniary interests affect the Panel's advice on a particular matter. Interests may result from: owning property, controlling shares, accepting gifts, or receiving other sources of income.
2. **Non-pecuniary** interests are real but do not have a financial or material aspect. They may arise in connection with personal, familial or professional relationships, or involvement in social, cultural or sporting activities. Conflicts of interest can result in a tendency towards

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differential treatment due to friendship, animosity, reputation, professional opportunity, or other personal involvements.

All conflicts of interests that are 'material' are regulated under this policy. Matters considered irrelevant are those that a reasonable and disinterested person would readily agree are so trivial, remote or insignificant that they could not be expected to have a significant impact on a panel member's impartiality or objectivity.

DUTIES OF PANEL MEMBERS AND THE PANELCHAIR

Following appointment to the Panel, all members must carefully consider all matters set out in Table 1 and make a written declaration to the Panel Chair of all private interests that might be relevant to working on the Panel. All members must resubmit this information annually, or whenever their private interests change.

The Panel Chair must maintain current lists of members' declarations and consider them when making appointments to any Panel subcommittee. The Panel Chair must also discuss potential conflicts of interest with the proposed members of each subcommittee prior to appointment, to ensure that all are disclosed and subsequently managed appropriately.

The Panel Chair must:

- not appoint a member to an advisory subcommittee who has an actual conflict of interest; and
- end the appointment of a member if an actual conflict arises after their appointment; and
- decide whether a member should be appointed to an advisory subcommittee in the case of material perceived or potential conflict of interest. In such cases, the Panel Chair must document any management measures thought necessary and ensure these are communicated to and accepted by the member.

It is the responsibility of the Panel Chair to follow the guidance provided in this policy to prevent inadequately managed conflicts of interest that would impair the work of the panel or undermine its public credibility. The possibility of material conflicts of interest is further reduced by the Panel Chair being an ex officio member of all Panel advisory subcommittees.

If the Panel Chair believes that they might have a conflict of interest, they must notify NSW Planning, which may appoint an alternative chair for that matter or apply management measures that it deems necessary.

GUIDANCE FOR USE BY THE CHAIR

Table 1 below provides the Panel Chair with guidance for identifying actual, perceived and potential conflicts of interest and for systematically avoiding or managing these, as the case may be, when panel subcommittees undertake their advisory tasks.

Table 1 sets out a broad range of conflicts of interest that members may face. However, it is recognised that particular circumstances (eg urgency, availability and relevant expertise) may limit the opportunity for alternate Panel members to serve on a particular advisory subcommittee.

In such cases, the Panel Chair will become a formal member of that subcommittee and be its convenor. This will enable the advisory tasks to be undertaken with an appropriate level of scrutiny and assurance to both Government and the community.

Table 1: Conflicts of Interest Management Matrix¹

PRIVATE INTEREST	WHEN IS THERE A CONFLICT?	INTENDED OUTCOME
Ownership roles (either whole or partial control) directly held by the member or their spouse/partner; and/or Board positions held by the member or their spouse/partner	Actual. Interest is currently held in: a) the applicant; or b) a supplier that has worked on the particular application.	Exclusion.
	Perceived. An 'actual' interest as above that has ended.	Exclusion for 2 years following cessation of the interest.
Shareholdings or equivalent interests directly held by the member or their spouse/partner (must be below the 'ownership' threshold of whole or partial control as above); and/or Shareholdings or equivalent interests directly held by a trust, company or self-managed superannuation fund in which the member or their spouse/partner has influence over investment/divestment decisions. ²	Actual. Interest is currently held in: a) the applicant; or b) a supplier that has worked on the particular application.	Exclusion.
	Perceived. An 'actual' interest as above that has ended.	No automatic exclusion, but issue to be reviewed by Chair and appropriate management action activated and documented.
Employee, contractor or consultant engaged by the applicant in respect of the particular application	Actual. Position currently held.	Exclusion.
	Perceived/Potential. Position previously held.	Exclusion for 2 years following cessation of the interest.
Employee, contractor or consultant engaged by the applicant in respect of activities separate from the activities that are the subject of the application	Actual. Position currently held.	Exclusion.
	Perceived/Potential. Position previously held.	Exclusion for 1 year following cessation of the interest.
	Actual. Position currently held.	Exclusion.

¹ In this table 'applicant' includes any entity that is financially associated with the applicant (eg subsidiaries, parent or other group entities, and joint ventures) and a 'current interest' includes cases where there has been an offer or understanding of a future interest or material benefit.

² This excludes 'blind' trusts and investment vehicles where the member and their spouse/partner have no control over investment/divestment decisions.

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<p>Employee, contractor or consultant of a supplier which has, is or will be working on the particular application</p>	<p>Perceived/Potential. Position previously held.</p>	<p>Exclusion for 2 years following cessation of the interest.</p>
<p>Employee, contractor or consultant of a supplier which has, is or will be working on activities conducted by the applicant but which are not the subject of the application.</p>	<p>Perceived/Potential. Position currently held.</p>	<p>No automatic exclusion, but issue to be reviewed by Chair and appropriate management action activated and documented.</p>
	<p>Perceived/Potential. Position previously held.</p>	<p>No exclusion.</p>
<p>Special or Personal non-pecuniary Interest</p>	<p>Actual. Member has or wishes to make public comment on or a representation about the application or the applicant's activities.</p>	<p>Exclusion.</p>
	<p>Perceived/Potential. (eg membership of an environmental or industry advocacy group).</p>	<p>No automatic exclusion, but issue to be reviewed by Chair and appropriate management action activated and documented.</p>
<p>Interests of associates (immediate family members, close friends or shared financial interests)</p>	<p>Perceived/Potential. Associate currently holds:</p> <ul style="list-style-type: none"> a) an ownership role; or b) a board position; or c) a shareholding <p>in the applicant or in a supplier which has worked on the application.</p>	<p>Exclusion.</p>
	<p>Perceived/Potential. Associate previously held:</p> <ul style="list-style-type: none"> a) an ownership role; or b) a board position; or c) a shareholding <p>in the applicant or in a supplier which has worked on the application.</p>	<p>No automatic exclusion, but issue to be reviewed by Chair and appropriate management action activated and documented.</p>