

DISCLOSING INTERESTS AND MANAGING CONFLICTS OF INTEREST

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POLICY

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Related Documents	<i>Disclosing Interests and Managing Conflicts of Interest Procedures</i> Declaration of Interest Form
Superseded document	<i>Disclosing Interests and Managing Conflicts of Interest, August 2016</i>

1. Introduction

This *Disclosing Interests and Managing Conflict of Interest (Managing Conflict of Interest)* policy outlines the standards and behaviour expected of staff in the Department of Planning & Environment (**Department**).

While it is preferable that the NSW Government agencies that form part of the Planning & Environment cluster will also comply with this *Managing Conflict of Interest* policy, cluster agencies are free to implement and follow their own conflict of interest policy if so desired by their agency head.

Managing Conflict of Interest applies to all permanent, temporary and casual staff, volunteers and other Government sector employees who are on secondment or assigned to the Department.

All contractors, consultants and volunteers to the Department who work at Department workplaces must comply with *Managing Conflict of Interest*, when working on or participating in Departmental processes, such as regulatory, procurement or recruitment processes.

For the purposes of *Managing Conflict of Interest*, “employees” refers to all people to whom *Managing Conflict of Interest* applies.

In addition to complying with *Managing Conflict of Interest*, employees must also comply with the Public Service Commission’s *Code of Ethics and Conduct for NSW Government Sector Employees* and the Department *Code of Ethics and Conduct*.

2. Purpose

The purpose of the *Managing Conflict of Interest* policy is to:

- Provide a framework for employees to perform their official duties in a fair and unbiased way without regard to self-interest or personal gain; and
- Outline the standards required to guide employees’ participation in Departmental processes and decision-making transparently, responsibly and ethically.

3. Managing Conflict of Interest Principles

A conflict of interest is a conflict between an employee's private interest and the performance of their duties in the public interest. A conflict of interest can be:

- **Actual** – where there is a direct conflict of interest between the private interests of a person and the performance of their official duties and responsibilities;
- **Potential** – where a person has private interests that could interfere with the performance of their official duties and responsibilities in the future;

or

- **Reasonably perceived** – where it might appear to others that a person's private interests could improperly influence the performance of their official duties and responsibilities, whether or not this in fact the case.

A conflict of interest can relate to:

- **Pecuniary interests** – for example, arising from property or share ownership, secondary employment, the receipt of gifts benefits or hospitality, or other sources of income;

or

- **Non-pecuniary interests**, which can lead to personal feelings affecting an employee's judgement, duties or decisions – for example, personal or family relationships, or involvement in sporting, social or cultural activities, or workplace relationships.

Customers, stakeholders and colleagues have a right to expect that employees at all levels perform their duties in a fair and unbiased way, and that decisions they make are not affected by self-interest, private affiliations, or the likelihood that they or people or organisations close to them, will financially gain or lose.

The Department must promote confidence in the integrity of public administration and always act in the public interest, not in individuals' private interests. The perception that a conflict of interest has influenced the outcome of a process may undermine confidence in the integrity of the organisation and of the individual.

4. Managing Conflict of Interest Responsibilities

Employees must:

- Avoid a conflict of interest when performing their official duties; and
- Where it is not possible to completely avoid a conflict of interest, take appropriate steps to manage the conflict.

Employees are responsible for:

- Understanding and following this policy;
- Determining whether they have any private interests that may conflict with their official duties;

- Declaring any conflict of interest (which may include a 'nil' declaration) using the *Declaration of Conflict of Interest* form;
- Ensuring their status is up-to-date by renewing a declaration of conflict of interest every six months and nil declarations annually;
- Ensuring their manager is informed about any actual, reasonably perceived, or potential conflict of interest; and
- Taking appropriate action to manage any conflict.

Managers (director level and above) are responsible for:

- Ensuring all employees they manage are aware of the *Managing Conflict of Interest* policy and complete the *Declaration of Conflict of Interest* form;
- Being aware of the kinds of conflict that might arise in the work of the employees they manage;
- Being alert as to how conflicts of interest might be perceived outside the Department;
- Advising employees how to address conflicts of interest;
- Taking appropriate action when a staff member is unable or unwilling to address a conflict of interest satisfactorily;
- Identifying significant or sensitive projects that might warrant specific declarations of conflict of interest; and
- Addressing any concerns about conduct, should they consider there might be a breach of the Conflict of Interest policy.

Senior Executives

In addition to their obligations under the *Managing Conflict of Interest* policy, all senior executives must make a declaration of private financial, business, personal or other interests or relationships on the Department's *Declaration of Private Interests* form located on PEcan. Declarations must be made annually to the Secretary and as soon as practicable following any relevant change to the person's interests or following the person's assignment to a new role or responsibility. The Secretary will provide his or her Declaration to the Secretary, Department of Premier and Cabinet.

The **Director Governance** is responsible for maintaining a Register of Conflicts of Interest and the electronic *Declaration of Conflict of Interest* form, and providing regular reports to senior executive managers about compliance with this policy.

5. Managing conflict of interest

The *Procedure for Disclosing Interests and Managing Conflict of Interest* contains further detail about how to deal with a conflict of interest, including a checklist for identifying and options that may be taken to resolve a conflict of interest. Employees should seek guidance and support from their supervisor or manager in identifying and dealing with any conflict of interest.

Employees must follow the Department *Procedure for Disclosing Interests and Managing Conflict of Interest*.

The following steps, outlined in the *Procedure for Disclosing Interests and Managing Conflict of Interest*, must be followed:

- Identification and Assessment;
- Making a Declaration; and
- Determining the best solution to avoid or manage the conflict of interest.

Depending on the severity of a conflict of interest, solutions may range from registering the conflict, to placing restrictions on an individual's involvement in the matter, to removal from the matter, relinquishing the private interest or resigning from the Department's employment.

6. Breaches of the Managing Conflict of Interest policy

Failing to identify, declare and actively manage conflicts of interest can affect the reputation and working relationships of individual employees, as well as that of the Department.

Behaviour that is contrary to the *Managing Conflict of Interest* policy will be dealt with in a manner that is proportionate to the seriousness of the matter. This may require a discussion with an employee to clarify the responsibilities of the employee. More serious breaches may result in disciplinary action.

The *Government Sector Employment Act 2013* and the *Government Sector Employment Rules* (and, in particular, Part 8) establish procedures for dealing with allegations of misconduct, and actions that may be taken. Those actions may range from a caution to termination of employment.

7. Monitoring the Managing Conflict of Interest Policy

The Secretary, senior executive managers and managers are responsible for the effective management of the Managing Conflict of Interest policy. The effectiveness of the Managing Conflict of Interest policy will be reviewed at least every two years.

DEFINED TERMS
in the *Managing Conflict of Interest* policy

Conflict of interest	means an actual, potential, or reasonably perceived conflict between an employee’s private interests and the impartial performance of their official duties.
Direct interest	means an employee’s personal interest that is in conflict with an employee’s official duties.
Indirect interest	means where an employee does not personally have an interest, but their immediate family or a person with whom they are closely associated (including a supervisor) does, and the interest is known to the employee.
Non-pecuniary interest	means an interest that does not have a financial component.
Pecuniary interest	means an actual or potential financial gain or loss, or their material benefit.
Public interest	means treating all people with whom an employee interacts in the course of their work equally without prejudice or favour, and with honesty, consistency and impartiality.
Senior executive	means a person employed under Division 4 of the <i>Government Sector Employment Act 2013</i>
Senior executive manager	means: <ul style="list-style-type: none"> • In relation to the Secretary’s direct reports – the Secretary; and • In relation to all other employees – Deputy Secretaries, the Chief Financial and Operating Officer, and other senior executives reporting directly to the Secretary.