

The Independent Expert Advisory Panel for Mining (the Panel) was established to bring skill and independence to decision-making in planning processes relating to mining projects which may cause adverse environmental impacts. The Panel plays a significant part in building and maintaining community confidence in the State's planning system and the delivery of sound, robust planning decisions.

The 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.

Consequently, in many cases, it is inevitable that this will include extensive experience in working for the mining industry. There are a limited number of widely-recognised experts in the relevant fields of mining engineering, mine subsidence prediction and management, and the behaviour of groundwater systems, surface water systems, ecology, biodiversity and geochemistry in complex mining environments. Where experts have these skills and experience, it is very likely that they will have been already recognised by the mining industry and accessed for the purposes of undertaking studies and assessments, doing peer reviews and providing other advisory services.

The NSW Government must have access to the same level of skills and experience in high-level advisory services 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 demanded of the position. Most obviously, this includes avoiding and/or minimising conflicts of interest.

WHAT IS A 'CONFLICT OF INTEREST'?

A 'conflict of interest' means 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. There are three types of conflict of interest:

1. **Actual** conflict of interest: There is a direct conflict between the private interests of a member, and the performance of official duties and responsibilities.
2. **Perceived** conflict of interest: It appears a member's private interest could influence the performance of official duties and responsibilities – whether or not this is true.
3. **Potential** conflict of interest: A member has private interests that could 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, and 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 other sources of income.
2. **non-pecuniary** interests: Do not have a financial or material aspect. They may rise from personal or familial relationships, or involvement in social, cultural or sporting activities, and include tendency towards favour from friendship, animosity or other personal involvement.

DUTIES OF PANEL MEMBERS AND THE CHAIR

Following appointment to the Panel, all members must carefully consider all matters set out in Table 1 and make a full declaration to the Chair of all private interests which might be relevant to working

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on the Panel. All members must resubmit this information annually, or as their private interests materially change.

The Chair must consider panel members' declarations of private interests when making appointments to any Panel subcommittee tasked with preparing advice to Government. The Chair must also discuss with the proposed members of that subcommittee their most recent declaration of private interests and identify any private interest (whether pecuniary or non-pecuniary) which may present a conflict of interest (whether actual, perceived or potential) in carrying out that task.

The Chair must:

- not appoint a member to an advisory subcommittee, if an actual conflict of interest arises; and
- decide whether a member should be appointed to an advisory subcommittee, in the case of material perceived or potential conflicts of interest.

If an actual conflict of interest is identified after a member has been appointed to an advisory subcommittee, the Chair must replace that member.

These processes place significant weight on the Chair to avoid actual conflicts of interest and to exercise sound judgement in minimising material perceived or potential conflicts of interest.

However, the establishment of the Panel as an 'independent' body requires that this duty rests with the Panel itself, rather than with Government. The possibility of material conflicts of interest is further reduced by the Chair being an *ex officio* member of all Panel advisory subcommittees.

GUIDANCE FOR USE BY THE CHAIR

Table 1 below provides the Chair with guidance for identifying actual, perceived and potential conflicts of interest and for avoiding or minimising 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 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

PRIVATE INTEREST	NATURE OF CONFLICT	INTENDED OUTCOME
Shareholdings or equivalent interests directly held by the member or their spouse/partner.	Actual. Currently held in the applicant or in a consultancy which has worked on the particular application.	Exclusion.
	Perceived. Previously held in the applicant or in a consultancy which has worked on the particular application.	No exclusion, but issue to be reviewed by Chair
Shareholdings or equivalent interests directly held by a trust, company or self-managed superannuation fund in which the member or their spouse/partner has control over investment/divestment decisions. ¹	Actual. Currently held in the applicant or in a consultancy which has worked on the particular application.	Exclusion.
	Perceived. Previously held in the applicant or in a consultancy which has worked on the particular application.	No exclusion, but issue to be reviewed by Chair
Ownership role (whether whole or partial) directly held by the member or their spouse/partner.	Actual. Currently held in: a) the applicant; or b) a consultancy which worked on the particular application.	Exclusion
	Perceived. Previously held in the applicant or in a consultancy which has worked on the particular application.	Exclusion for 2 years following cessation of the interest
Board position held by the member or their spouse/partner.	Actual. Currently held in: a) the applicant; or b) a consultancy which worked on the particular application.	Exclusion
	Perceived/Potential. Previously held in the applicant or in a consultancy which has worked on the particular application.	Exclusion for 2 years following cessation of the interest.

¹ 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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PRIVATE INTEREST	NATURE OF CONFLICT	INTENDED OUTCOME
Employee, contractor or consultant to the applicant in respect of the affected mine	Actual. Position currently held.	Exclusion
	Perceived/Potential. Position previously held.	Exclusion for 2 years following cessation of the interest.
Employee, contractor or consultant to the applicant in respect of a separate mine	Actual. Position currently held.	Exclusion
	Perceived/Potential. Position previously held.	Exclusion for 1 year following cessation of the interest.
Employee, contractor or consultant to a consultancy which worked on 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 to a consultancy which worked on other applications for either the same applicant or a closely related party.	Perceived/Potential. Position currently held.	No exclusion, but issue to be reviewed by Chair.
	Perceived/Potential. Position previously held.	No exclusion.
Special Interest Group involvement (eg membership of an environmental or industry advocacy group)	Perceived/Potential.	No exclusion, but issue to be reviewed by Chair.
Immediate family member (ie mother, father, sibling, child) interests	Perceived/Potential. Immediate family member currently holds: a) an ownership role; or b) a board position, in the applicant or in a consultancy which has worked on the application.	Exclusion
	Perceived/Potential. Immediate family member previously held: a) an ownership role; or b) a board position,	No exclusion, but issue to be reviewed by Chair.

	in the applicant or in a consultancy which has worked on the application.	
Non-pecuniary interests relating to non-immediate family members, close friends and colleagues	Perceived/Potential. Relevant person currently holds: a) an ownership role; or b) a board position, in the applicant or in a consultancy which has worked on the application.	Exclusion
	Potential. Relevant person previously held: a) an ownership role; or b) a board position, in the applicant or in a consultancy which has worked on the application.	No exclusion.