

Conflict of interest

(5) Declaration of Private Interests form

Template for boards of major DELWP agencies

This *Declaration of Private Interests* (DOPI) form is for use by board members of the over 100 major public entities and other statutory boards, committees, councils, panels, etc. in the Department of Environment, Land, Water and Planning (DELWP) portfolio, including large (category 1 and 2) committees of management of crown land reserves. It does not apply to small (category 3) committees of management.

What is this form used for?

Your board is expected to have a *Conflict of Interest* policy which complies with its obligations and with good governance practice. This includes the requirement in the *Appointment and Remuneration Guidelines* issued by the Department of Premier and Cabinet to lodge an annual DOPI.

To assist, DELWP offers a model policy, which your board's *Conflict of Interest* policy should be consistent with.

The attached DOPI form is Appendix 1 of the model policy. It should form part of your board's policy.

The form is available from the [Conflict of Interest](#) support module on DELWP's governance website, On Board (www.delwp.vic.gov.au/onboard), together with the model policy and related guidance notes.

When and why is this form used?

After being appointed or reappointed to a board, a board member fills in this form and lodges it with the chair of the board. The board member updates and re-lodges the form annually, or sooner if their circumstances change.

The information provided by a board member in this form is used to ensure that:

- the board's *Register of Interests*, which lists the interests of each board member that may cause a conflict of interest which their role as a board member, is complete and correct; and
- any serious probity issues that arise (e.g. a board member becoming bankrupt or being charged with a serious (indictable) criminal offence) are brought to the attention of the Minister and the Secretary of DELWP.

Conflict of interest – (5) Declaration of Private Interests form

This document is available from the internet at www.delwp.vic.gov.au/onboard

For more information contact the DELWP Customer Service Centre 136 186

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www.delwp.vic.gov.au/onboard

[insert name of agency]

Annual Declaration of Private Interests (board member)

This form is the annual *Declaration of Private Interests* which you must complete in accordance with the board's policy on *Conflict of Interest*.¹ The form is first completed when you commence as a board member (after appointment or reappointment) and then again each year, or sooner if your circumstances change in the meantime. Lodge the completed form with the chair. Any private interests declared on this form that are not already recorded in the *Register of Interests* will be added to the register.

1. Person making this declaration

Full name:.....

My role is: chair deputy-chair board member

I declare as follows in relation to the questions asked, statements made, and undertakings in this form:

2. Register of interests

The *Register of Interests* is a record of the interests of board members that may result in a conflict of interest with their role as a board member (i.e. it is not a record of all their interests).

Question A:

Are the entries in the *Register of Interests* in respect to you complete and correct?

- YES
- NO – I have attached updated details of my interests that may result in a conflict of interest.
- This is the **first time** I have completed this form since my (re)appointment to the board.
I have attached details of my interests that may result in a conflict of interest so they can be entered into the register.

(If you are unsure about what level of information to provide please check with the chair and/or look at the register. For information on what interests 'may result in a conflict of interest' and should be declared for inclusion in the register please see the explanatory notes on page 3.)

3. Probity

The purpose of this question is to establish whether any of the following events have occurred about which the Minister and the Secretary of the Department of Environment, Land, Water and Planning (DELWP) have not yet been notified:

Events:

- being declared bankrupt or the subject of any order under the Bankruptcy Act 1966;
- being a director or executive officer of a corporation which becomes insolvent;
- being disqualified from acting as a director or acting in the management of an incorporated association;
- contravening any civil penalty provision under the *Corporations Act 2001*;
- contravening the *Associations Incorporation Reform Act 2012* or any equivalent in another jurisdictions;
- being found guilty of any offence in relation to corporate or regulatory matters;
- being found guilty of a criminal offence (includes a conviction, fine associated with a criminal charge, good behaviour bond, undertaking or a community based order, even where no conviction was recorded.);
- being party to criminal or civil proceedings before a court, tribunal or other adjudication body (e.g. professional, registration or licensing body) which could reasonably raise an expectation of a material interference with your public duties or expecting to become so in the next year;

¹ The requirement to make an annual *Declaration of Private Interests* is set out in the board's *Conflict of Interest* policy. It originates from item 11.5 of the *Appointment and Remuneration Guidelines* issued by the Department of Premier and Cabinet.

- i) to the best of your knowledge, being the subject of an inquiry/investigation by:
- a department or agency of the Commonwealth or a State or Territory of Australia;
 - a professional association or a regulatory agency;
 - your current or a previous employer; or
 - a consumer protection organisation.

Question B:

Since you last completed and lodged this form have any of the above events occurred?

YES NO Not applicable, this is the first time I have lodged this form since being (re)appointed to the board.

If the above answer is 'yes', have the Minister and the Secretary of DELWP been notified?

YES NO, but I shall do so immediately Not applicable

4. Probity undertaking

I undertake to notify the Minister and the Secretary of DELWP as a matter of urgency if any of the events listed above in '3. Probity' occur at any time during my appointment.

5. Register of interests undertaking

I undertake to ensure that my entries in the *Register of Interests* are current and complete throughout my term of appointment.

6. True and correct

I declare that, to the best of my knowledge, the information I have provided in this declaration is correct.

7. Consent for use

I consent to the information in this declaration being held and used on a confidential basis in accordance with *Privacy and Data Protection Act 2014* and the *Public Records Act 1973*. I understand that:

- the information I have provided in response to 'Question A' in relation to my interests will be used by the chair (or his/her agent) to update the *Register of Interests* and may be used by the board to determine how best to manage any conflicts of interest I have in relation to any item on a meeting agenda and for related purposes;
- the information I have provided in response to 'Question B' in relation to probity may be provided to DELWP and that for certain issues (e.g. becoming bankrupt) may automatically result in my ceasing to be a board member and for other issues may or may not (depending on the seriousness and circumstances) result in in action being taken to remove me as a board member; and
- this form will be provided to DELWP upon its request or at the discretion of the chair for conflict of interest/probity purposes.

I also understand that if I provide any information in response to 'Question A' about other people's interests then it is my responsibility to make them aware of this, offer them details of how to apply to see the information I have provided about their interests (i.e. as recorded in this declaration form and in the *Register of Interests*), and advise them that the information will be held and used on a confidential basis in accordance with the *Privacy and Data Protection Act 2014* and *Public Records Act 1973*.

8. Signature and witnessing of Declaration

| | |
|---------------------------------------------|----------------------------------------------|
| Signature of person making this declaration | Signature of witness (aged 18 years or over) |
| Name (please print): | Name (please print): |
| Date: | Date: |

Explanatory notes

What interests need to be declared?

- You only need to declare interests that **may result in a conflict of interest** – i.e. not all your interests need to be declared.
- *Carefully consider* which interests (direct or indirect) have the potential to result in a conflict of interest, or to be perceived as doing so, now or in the future. If in doubt, *err on the side of caution* and declare the interest, so that it can be entered into the *Register of Interests*.
- This is a standard form for use by all DELWP major agencies. If your agency's establishing Act requires you to submit a 'primary return' upon appointment and an 'ordinary return' annually thereafter (e.g. **water corporations** and **catchment management authorities**), please attach your primary/ordinary return to this DOPI form and submit them together. If you have other interests that may result in a conflict of interest but are not yet recorded in the register, please list these on a separate attachment. If you need to update the register during the year, simply updating this DOPI form will suffice (there is no need to submit more than one 'ordinary return' per year).

The definitions below are extracts from DELWP's model policy on [Conflict of Interest](#), which is available from the *Conflict of Interest* support module on DELWP's governance website, On Board (www.delwp.vic.gov.au/onboard).

What is a conflict of interest?

A conflict of interest is a conflict between a board member's

- **public duty** to act in the best interests of the organisation and
- their **private interests**.

Conflict of duty

A 'conflict of duty' (also known as a 'conflict of role') is a conflict of interest that can occur *even if a board member does not have any private interest at stake*. It is a conflict between a board member's **public duty** to act in the best interests of the organisation and their duty to **another public sector or private organisation**. It exists due to the board member's role with the other organisation (e.g. as a committee member, employee, volunteer, or organisation member).

How broad is the definition?

The following applies to all conflicts of interest, including conflicts of duty:

Real, potential or perceived

A conflict of interest exists whether it is:

- **real** – it currently exists;
- **potential** – it may arise, given the circumstances; or
- **perceived** – members of the public could reasonably form the view that a conflict exists or could arise that may improperly influence the board member's performance of his/her duty to the organisation, now or in the future.

Direct or indirect

A private interest can be direct or indirect. A direct interest is held by the board member. An indirect interest is held by a relative or close associate of the board member, for example:

- an immediate family member (e.g. spouse, partner, child, parent, sibling);
- a regular household member (i.e. someone who normally resides with the board member); or
- another close associate (e.g. friend, relative, business associate, rival, enemy).

Pecuniary or non-pecuniary

A private interest can be pecuniary (financial) or non-pecuniary (non-financial), or a mixture of both. It can arise from a wide range of personal or professional/business-related sources.

Pecuniary interests - include actual, potential, or perceived financial gain or loss. Money does not need to change hands. The interest exists if the board member (or a relative or close associate):

- owns property;
- holds shares, investments or other business interests;
- has a position in a company bidding for government work;
- receives benefits such as concessions, discounts, gifts or hospitality from a particular source;
- holds office in a corporation (public, private or trustee), incorporated association, or other entity; or
- has any other relevant financial interest, for example:
 - is entitled to receive income derived from a contract;
 - is a beneficiary or trustee of a trust; or
 - is entitled to receive income from an office held for payment/reward or from a trade, vocation, or profession.

Non-pecuniary interests - may arise from personal or family relationships, or from involvement in sporting, social, or cultural activities, etc. They include a tendency towards favour or prejudice resulting from friendship, animosity, or other personal involvement with another person or group. If personal values are likely to impact on the proper performance of public duty, this can also lead to a conflict of interest. Enmity as well as friendship can give rise to a conflict of interest.