Conflict of interest

NSW has more than 34,000 Crown reserves—land set aside on behalf of the community for a wide range of public purposes such as environmental and heritage protection, recreation and sport, community halls and open space.

The Crown reserve system is owned by the NSW Government on behalf of the people of NSW. The broader community expects that Crown reserves will be managed with transparency, integrity and good governance. The NSW Department of Industry appoints Crown land managers (CLMs) who are responsible for the care, control and management of Crown reserves.

This guide on conflict of interest is part of a suite resources designed to help CLMs administer their duties and enable a consistent approach to the governance of Crown reserves. The resource provides a brief overview on conflict of interest as well as a sample policy document and related templates.

This resource is aligned to the Crown reserve code of conduct—a guide for a minimum standard of behaviour and ethical decision making. In reference to conflict of interest, the code states:

“We should not participate in activities that involve a conflict of interest between our personal interests and our duties and obligations to the Crown reserve”

The department expects all Crown reserve stakeholders to uphold these values and comply with the code of conduct in the performance of their duties.

Definition of conflict of interest

A conflict of interest for CLMs occurs when private interests may improperly influence public duty.

A conflict of interest is not ‘wrong’. Public officials (which include CLMs) are also private individuals, and there will be occasions when private interests are in conflict with their duty to put the interests of the public. Having a private interest in conflict with public duty may not be a problem, as long as the conflict of interest is managed in a transparent and accountable manner.

Conflict of interest categories

Conflicts of interest can be categorised as one or both of the following:

- **Pecuniary (financial) interests** include potential, perceived or actual financial gain or loss. However, this does not necessarily mean that money need change hands.
- **Non-pecuniary interests** may arise from personal or family relationships that do not amount to a pecuniary interest.

Types of conflict of interest

Table 1 highlights the different types of conflict of interest: actual, perceived and potential

<table>
<thead>
<tr>
<th>Actual</th>
<th>Perceived</th>
<th>Potential</th>
</tr>
</thead>
<tbody>
<tr>
<td>A public official</td>
<td>is in a position to be influenced</td>
<td>is in a position to appear to be influenced</td>
</tr>
<tr>
<td>is in a position where they may be influenced in the future</td>
<td>by their private interests when doing their job.</td>
<td></td>
</tr>
</tbody>
</table>
Conflict of interest examples

The progressive scenario in Table 2 demonstrates types of conflict of interest. These examples are indicative only and there may be other situations that can lead to potential, perceived or actual conflicts of interest of a pecuniary and/or non-pecuniary nature.

Table 2 Examples of conflicts of interest

<table>
<thead>
<tr>
<th>Scenario</th>
<th>Type of conflict</th>
<th>Explanation</th>
</tr>
</thead>
<tbody>
<tr>
<td>You are a CLM board member with no affiliations who performs tasks for the CLM</td>
<td>No conflict</td>
<td>Your appointed duties as a CLM have no relevance to your private interests so there will be no conflict on carrying out these duties.</td>
</tr>
<tr>
<td>You are a CLM board member who performs tasks for the CLM and has an acquaintance who owns a catering company</td>
<td>Potential conflict</td>
<td>Your private interests are currently not relevant to your appointed duties, but they could be in the future if the catering company wishes to, for example, hire the reserve’s kitchen facilities.</td>
</tr>
<tr>
<td>You are a CLM board member who performs tasks for the CLM and has a close friend or family member who owns a catering company</td>
<td>Perceived conflict</td>
<td>Some may consider your private interests are relevant to, and may have influenced, final decisions related to the catering company, for example, hiring the reserve kitchen facilities.</td>
</tr>
<tr>
<td>You are a CLM board member who performs tasks for the CLM and who also owns a catering company</td>
<td>Actual conflict</td>
<td>Your private interests are relevant to your CLM role and could improperly influence a decision. For example, your catering company is a related body who stands to benefit or lose by decisions made by the CLM.</td>
</tr>
</tbody>
</table>

Other resources


Process flow—steps in dealing with conflicts of interest

1. Identify
   Assess the situation and surrounding circumstances

   Is there a conflict of interest?
   Yes
   No → No action required

2. Disclose
   Report
   Record
   Review

   Is further management required?
   No → Record
   Yes

3. Manage
   Choose a resolution strategy

   1. Register
      All conflicts of interest should be registered

   2. Restrict
      Restrictions placed on the person/s involved

   3. Recruit
      Disinterested third party is used to oversee the process

   4. Remove
      Where person/s choose to be removed

   5. Relinquish
      Where person/s relinquishes the private interest

   6. Resign
      Where the person/s resigns from their position on the board

   Record

   Is an additional strategy required?
   Yes
   No → Implement

   Is the change significant?
   Yes
   No → Record

4. Monitor
   Review