

**Senate Standing Committee on Economics**  
**ANSWERS TO QUESTIONS ON NOTICE**  
Innovation, Industry, Science and Research Portfolio  
Supplementary Budget Estimates Hearing 2009-10  
21 October 2009

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**AGENCY/DEPARTMENT:** INNOVATION, INDUSTRY, SCIENCE AND RESEARCH

**TOPIC:** Green Car Innovation Fund

**REFERENCE:** Question on Notice (Hansard 21 October 2009, E53)

**QUESTION No.:** SI-33

**Senator ABETZ**—In relation to the Green Car Innovation Fund: there is a council that administers these funds or makes recommendations in relation to these funds –is that correct?.....

**Senator ABETZ**—I do not need them named. How many of them are actually industry representatives? I confess that the names would not necessarily indicate to me as to whether—

**Mr Peel**—There are people on the committee who obviously had experience with the automotive industry. I do not know that we would call them—

**Senator ABETZ**—Did you say had?

**Mr Peel**—Have and have had, experience in the motor vehicle industry. I would not necessarily call them representatives of the industry.

**Senator ABETZ**—I am sorry, that was loose language. I accept that they do undertake their role independently.

**Mr Peel**—They are independent in the activity that they undertake in assessing applications. There are strict conflict of interest rules which would prevent them from representing a particular case.

**Senator ABETZ**—How many people with current and ongoing industry experience are on this council?

**Mr Peel**—The members of the council are.....

**Senator ABETZ**—The reason I have been asking is that somebody has indicated to me that they are apprehensive to make application to the Green Car Innovation Fund because on the council judging these applications are people from the manufacturing sector and they are concerned about their—

**Senator Carr**—It is about manufacturing, Senator.

**Senator ABETZ**—Can I finish? They are concerned that among the members who are manufacturing executives and thus he would not wish to divulge his technology to these individuals, even under the confidentiality agreements that are supposedly in place. From the list you read out I must say on the face of it looked pretty kosher, and I will go back to that source.

**Mr Peel**—As I said, we do have strict conflict of interest guidelines in place.

**Mr ABBOTT**—Are you able to provide them to me on notice please?

**Mr Peel**—I will if we can.

**Senator ABETZ**—That would be helpful and then I will send them off as well, and that

**ANSWER**

Disclosure of Interest Guidelines for the operation of Innovation Australia and its committees (including the Green Car Innovation Committee) are at Attachment A.

#### **4.1 DISCLOSURE OF INTEREST (DOI) GUIDELINES<sup>1</sup>**

In running its programs Innovation Australia (the Board) wishes to observe statutory requirements and generally applicable standards concerning the management, handling and recording of relevant interests. Accordingly the Board wishes to address indirect and direct pecuniary interests as the Act requires but also intends the scope of these guidelines to cover other personal or family interests.

The Board is conscious that perceptions of conflict of interest may be as important as actual conflict. The following describes the procedures, based on the Code of Conduct adopted by the Board, that are to be followed.

Section 16 of the Industry Research and Development Act 1986 (the Act) requires Board Members to disclose at a meeting of the Board the nature of any direct or indirect pecuniary interest in matters considered or about to be considered by the Board. The Act requires such disclosures to be recorded in minutes of meetings. This process also applies to Members of the Board's committees (section 24).

The Board has also adopted a process whereby Board and committee Members (upon appointment) prepare and lodge with the Secretariat a disclosure statement of known pecuniary (and other personal) interests of themselves and of their immediate family/spouse. The contents of the statement are recorded, electronically, on the Register of Private Interests.

In addition, the Board has established formal procedures for the handling of matters involving actual or potential conflicts of interest, which it requires all Board and committee Members to meet. These are set out below.

A member who has issues or concerns about potential conflict of interest matters may wish, prior to a relevant meeting, to discuss them with the Departmental officer who is nominated to assist the Board in these respects.

To assist in maintaining a close focus on conflict of interest issues, an early agenda item at each Board and committee meeting should involve formal enquiry in relation to the disclosed interests of Members and the determination of any potential conflicts.

##### **Disclosure of Member Interests**

Where a Board or committee member is aware of an actual or potential conflict of interest, pecuniary or otherwise, the member must advise the meeting prior to that item being discussed. Where the interests of a member of his/her immediate family are involved, the member should disclose those interests, to the extent they are known to them. The member must then leave the room and this must be recorded in the minutes.

Members are required to refrain from discussing any aspects of applications with customers unless the application has been prepared by colleagues and the member has previously disclosed their interest to the Board.

The Board or committee has an ability to decide, in the absence of the member, that where a conflict situation exists, the member concerned may nonetheless be present during discussion of the matter (and take part in the discussion) or even take part in the decision making. The decision on

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<sup>1</sup> *The Disclosure of Interest Guidelines were reviewed by the Australian Government Solicitor in June 2008. The review confirmed that no additional conflict of interest or procedural requirements are required as a result of Innovation Australia's broadened scope of responsibilities.*

this could turn on whether the nature of the interest is determined to be material or immaterial (insignificant).

If the nature of the member's disclosed interest is judged as immaterial, the member may be invited back in to take part in the discussions and, if appropriate, the decision-making. If the nature of the member's disclosed interest is judged as material, there should be no further involvement of the member.

Occasion may arise where a member having a material conflict has some technical knowledge, not available elsewhere, that could warrant an invitation back into the room simply to answer specific pre-determined question(s) in relation to the technology. (This would be an exceptional circumstance.) Upon providing comments to the questions, the member would again leave the room and take no part in the discussion or decision-making in relation to the item.

#### Recording a disclosure of interest

The Secretariat should endeavour to determine, with respect to a forthcoming meeting, whether any Members are likely to disclose an interest about any matters on the draft agenda. To assist in this process, the Secretariat will provide a copy of the meeting agenda, along with appropriate further identification, to all Members prior to the distribution of papers. Members would be requested to advise if they are likely to disclose an interest in relation to any of the items listed for consideration, and to disclose the nature of that interest. Papers relating to individual applications will not be forwarded to Members until the Secretariat receives advice that they are unlikely to disclose an interest in relation to the items listed for consideration.

Where a member's disclosure is subsequently determined to be of a material nature, then that member will not receive reports or information in relation to the item under consideration.

The minutes of the meeting will record: the member disclosing the interest; the nature of the interest; if it is judged material or immaterial by the Board or committee; and the departure of Members from the room.

Discussions regarding an item against which a member has disclosed an interest will be deleted from the member's copy of the minutes, unless the Board or committee has decided that the nature of the interest is immaterial and that the member should be present during relevant discussion and decision making.

#### Matters which shall be referred to the Board for determination

If a committee has no quorum as a consequence of conflicts of interest of Members, then the matter shall be referred to the Board for determination.

Where the committee agrees that, because of conflict of interest issues, the matter is of a particularly sensitive nature, that matter shall be referred to the Board for determination.

### Independent Expert Assessments

Where a material conflict of interest arises as a consequence of a direct link between a Board or Committee member and a matter being considered (ie, specifically where a member holds an operational management role in an applicant company, or is or has been a consultant to an applicant company, or is a member of the board of an applicant company), then that matter shall be referred to the Board for consideration. In such instances, an independent expert assessment of the matter will be undertaken to provide advice with regard to the technical aspects of the project.

Requests from applicant companies for limited distribution of papers

In general, a request from an applicant company that a certain member not see the papers relating to that particular application is to be accepted, provided that the Board or committee considers that the request is reasonable.

### Determining if a conflict exists<sup>2</sup>

When considering whether a material conflict of interest exists Members should have regard to the following questions:

- would the average member of the public, of ordinary intelligence, looking at the relevant facts and circumstances, think that there was a real, sensible possibility of conflict?
- with human nature being what it is, is there a danger that an average member of the public, of ordinary intelligence, may be swayed by this kind of personal interest rather than by duty?

*(Disclosure of Interest Guidelines were considered and approved by the Board 12 August 2008).*

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<sup>2</sup> *The Innovation Australia Conflict of Interest Guidelines* were reviewed by the Australian Government Solicitor in June 2008. The review confirmed that no additional conflict of interest or procedural requirements are required as a result of Innovation Australia's broadened scope of responsibilities.