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## RESPONSIBLE ENTITY DIRECTORS' CONFLICT OF INTERESTS POLICY

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### (a) Purpose

This policy sets out the procedures to be adopted in circumstances where a director has or where there is a realistic possibility that the director may have:

- (a) a material personal interest in a matter that is being considered or will be considered at a meeting of the Board of BWP Management Limited ("the Board") or at a meeting of a Committee of the Board; or
- (b) a conflict or perceived conflict between the duties which he or she may owe to another entity of which he or she is a director or salaried officer and his or her duties as a director of the BWP Management Limited in considering a matter that is to be brought before a meeting of the Board or its Committees.

### (b) Scope

This policy has been adopted by the Board as governing the conduct of the directors of BWP Management Limited ("Responsible Entity") in its capacities both as:

- (a) a public company which is a wholly owned subsidiary company within the Wesfarmers Limited Group of companies; and
- (b) the Responsible Entity for the BWP Trust ("BWP" or "Trust");

and should be accepted by each director subsequently appointed to the Board as part of his or her consent to join the Board.

### (c) Legislative Framework

#### Corporations Act

Section 181 of the Corporations Act ("the Act") obliges a director to exercise their powers and discharge their duties in good faith in the best interests of the corporation and for a proper purpose.

Section 182 of the Act provides that a director of a corporation must not improperly use his or her position to gain personal advantage or advantage for someone else or to cause detriment to the corporation.

Section 183 of the Act provides that a person who obtains information because he or she is, or has been, a director of a corporation must not improperly use that information to gain personal advantage or advantage for someone else or to cause detriment to the corporation.

Section 191 of the Act provides that a director of a company who has a material personal interest in a matter that relates to the affairs of the company must give the other directors notice of that interest unless a section 191(2) exception applies. Compliance with section 192 of the Act is one those exceptions.

Section 192 of the Act permits a director of a company who has an interest in a matter to give the other directors "standing notice" of the nature and extent of the interest in accordance with the Act.

Sections 191 and 192 have effect in addition to, and not in derogation of any general law about conflicts of interest and any provision in a company's constitution.

Subject to the exception referred to below, section 195 of the Act provides that a director of a public company who has a material personal interest in a matter that is being considered at a directors' meeting must not be present while the matter is being considered at the meeting or vote on the matter.

Section 195(2) of the Act permits the director with a material personal interest in a matter to be present and vote if directors who do not have a material personal interest in the matter have passed a resolution that:

- (a) identifies the director, the nature and extent of the director's interest in the matter and its relation to the affairs of the company; and
- (b) states that those directors are satisfied that the interest should not disqualify the director from voting or being present.

Section 601FD(1)(c) requires the officers of the Responsible Entity of a registered scheme to act in the best interests of the members and, if there is a conflict of interest between the members' interests and the interests of the Responsible Entity, give priority to the members' interests.

Section 601FD(1)(d) states that officers of a Responsible Entity must not make use of information acquired through being an officer of the Responsible Entity in order to gain an improper advantage for the officer or another person or cause detriment to the members of the scheme.

Section 601FD(1)(e) states that the officers of a Responsible Entity must not make improper use of their position as an officer to gain, directly or indirectly, an advantage for themselves or for any other person or to cause detriment to the members of the scheme.

### **ASX Listing Rules**

Under the ASX Listing Rules, the Company must advise ASX without delay of any material contract involving directors' interests, including the names of the parties to the contract, the name of the director (if not a party to the contract) interested in the contract, the particulars of the contract and the director's interests in the contract.

### **Responsible Entity's Memorandum of Association ("Constitution")**

Clause 75.2 of the Responsible Entity's Constitution states that a director who has a material personal interest in a matter that is being considered at a meeting of directors may not:

- (a) vote on; or
- (b) be present at the meeting while the Board considers;

that matter, or a resolution exempting a director from disqualification in respect of that matter, except where permitted by the Act (including without limitation with the approval of other directors under section 195(2) of the Act).

Clause 75.4 of the Company's Constitution reinforces directors' obligations to comply with section 191 of the Act.

### **Responsible Entity's Compliance Plan**

The Responsible Entity is required by its Compliance Plan to maintain a Conflicts Management Policy that sets out the procedure for managing conflicts of interest by controlling, avoiding, and disclosing conflicts of interest.

Under the Compliance Plan's Conflicts Management Policy, the Responsible Entity's directors are required to comply with the Directors' Conflict of Interests Policy and the Responsible Entity's Securities Dealing Policy.

**(d) "Material Personal Interest"**

"Material personal interest" is not defined in the Corporations Act. The materiality of an interest will depend on the circumstances of each case and for practical purposes, relies in part, on the judgement of the relevant director.

Case law suggests that the word "material" means a capacity to influence the vote of a particular director upon the decisions to be made, bearing in mind that the conflict of interest must be of a real or substantial kind.

The interest need not necessarily be of a financial or pecuniary nature. For example, a director's charitable, political and educational associations may be relevant if they are "material" and if, for instance, the company was considering making a donation to that association. The interest may be held by the director as trustee or beneficiary of a trust.

Importantly, a director's material personal interests may have implications in terms of the director's capacity to be present and to vote on matters before the Board.

**(e) Disclosure of Material Personal Interests – guiding principles**

(a) A director should disclose to the Board:

- (i) any material personal interest they may have in a matter that relates to the affairs of the Responsible Entity and the Trust, and
- (ii) any other interest that the director believes is appropriate to disclose in order to avoid an actual conflict of interest or the perception of a conflict of interest.

(b) The disclosure should be made in writing as soon as practicable after the director becomes aware of their interest or the need to make a disclosure. (Verbal disclosure of a material personal interest would be acceptable in the event that the director becomes aware of the interest at a meeting of directors, but should be followed up with written notice where the interest is material, relates to the affairs of the Responsible Entity or Trust and has not previously been disclosed in writing).

(c) Where a director is uncertain as to whether an interest should be disclosed in accordance with this Policy, the director may consult the Managing Director or Company Secretary.

**(f) Section 192 Standing Notices**

Section 192 of the Corporations Act provides that a director of a company who has an interest in a matter may give the other directors a "standing notice" of the interest in the matter.

The notice may be given at any time:

- (a) whether or not the matter relates to the affairs of the company (or the Trust) at the time the notice is given; and
- (b) may be given before the interest becomes a material personal interest.

Standing notices should:

- (a) provide details of the nature and extent of the interest in a matter; and
- (b) indicate whether the matter relates to the affairs of the company (or Trust) at the time the notice is given, and if yes, how it relates to the affairs of the company (or Trust).

Standing notices:

- (a) take effect immediately they are given;
- (b) cease to have effect when a new director is appointed, but commence to have effect again when the notices are provided to the new director; and
- (c) cease to have effect in relation to a particular interest if the nature or extent of the interest materially increases above that disclosed in the notice.

A standing notice may be given:

- (a) at a directors' meeting (orally or in writing); or
- (b) to the other directors individually in writing, following which the notice must be tabled at the next directors' meeting.

Directors must ensure that the nature and extent of the interest disclosed in the standing notice is recorded in the minutes of the meeting at which the standing notice is given or tabled.

Non-compliance with standing notices procedures as prescribed by the Act may result in the notices ceasing to have effect.

#### **(g) Responsible Entity's Directors' Standing Notices Requirement**

The Responsible Entity requires its directors:

- (a) to complete a standing notice on appointment to the Board;
- (b) to disclose as soon as practicable any change to an interest notifiable under a director's standing notice;
- (c) to update the standing notice with the details of the change in interest in the manner prescribed by the Act and submit this Notice to the Company Secretary for:
  - (i) tabling at the next Board meeting;
  - (ii) recording in the minutes; and
  - (iii) recording in a consolidated register of all interests.

For practical purposes, and ease of review, the Responsible Entity's Company Secretary maintains a consolidated register ("Register of Directors' Interests") that contains the relevant information extracted from the standing notices provided by the directors. This Register of Directors' Interests is a standing item included in the Board papers at all scheduled Board meetings.

In addition to the obligation to provide standing notices and updates of these notices, the Responsible Entity's directors are required to review the Register of Directors' Interests each time it is circulated to ensure the company has an up-to-date record of all of their notifiable interests.

**(h) Responsible Entity's Procedures for Handling a Conflict of Interest**

A director who has:

- (a) a material personal interest in a matter that relates to the affairs of the Responsible Entity or the Trust; or
- (b) any other interest that may give rise to an actual conflict of interest or a material perception of conflict of interest;

may not:

- > be present or take part in discussions at a meeting while a matter is being considered;
- > vote on the matter; or
- > exercise any influence over other members of the Board or Committee,

unless a majority of the directors who do not have such an interest in the matter have approved a resolution that:

- > identifies the director, the nature and extent of the director's interest in the matter and its relation to the affairs of the Responsible Entity or the Trust; and
- > states that those directors are satisfied that the interest should not disqualify the director from voting or being present.

The minutes of the meeting should record the decision taken by the directors who do not have an interest in the matter.

The Board reserves the right to determine in advance those matters that directors with a conflict of interest, or perceived conflict of interest, may as a matter of course, be permitted to be present for. Such determinations require the passing of a unanimous resolution of all directors who do not have a conflict of interest in relation to that matter.

These determinations remain in effect only until:

- (a) a new director is appointed to the Board or Committee;
- (b) there is a material change in the nature and extent of that director's interests; or
- (c) a director requests that the advance determination no longer applies.

**(i) Meeting Agendas and Conflict of Interests Management**

Board meeting agendas are determined with reference to the Register of Directors' Interests and current standing notices.

The Company Secretary identifies meeting agenda items relating to matters in which a director has declared an interest, and whether or not the interest is considered "material" and notifies the Chairman of the Board ("Chairman") and Managing Director.

The Chairman, in consultation with the Company Secretary, is responsible for determining when it would be appropriate to withhold from a director papers and minutes relating to a matter where that director has a conflict of interest.

The Company Secretary is responsible for ensuring that the requirements of this Policy are adhered to.

Individual directors who have identified an item on a Board or Committee agenda where they have a material personal interest (whether disclosed previously or not) are responsible for ensuring that the matter is not dealt with by the Board or Committee in their presence without prior consideration of the procedures to be applied under section 8 of this Policy.

**(j) Dispute Handling Procedures**

A director who disagrees with a determination that they may have a conflict of interest, and who is aggrieved at:

- (a) not being sent Board (or Board Committee) papers or other information; and/or
- (b) being requested to withdraw from any discussion at any Board meeting (or meeting of a Board Committee),

may refer their complaint to the Chairman for his or her review and ruling. Any director dissatisfied with such ruling, may take the complaint before the Board and the Board's decision will be final and binding in the matter.

Where it is the Chairman of the Board who has the "conflict of interest" and disputes the decision, the complaint will be referred to the Chairman of the Responsible Entity's Audit and Risk Committee.

If the Chairman of the Board is dissatisfied with such ruling, he or she may take the complaint before the Board and the Board's decision will be final and binding in the matter.

**(k) Significant Conflicts**

If a significant conflict of interest with a director exists and cannot be resolved, the director is expected to tender their resignation after consultation with the Chairman.

**(l) Directors' Code of Conduct and Securities Dealing Policy**

This Policy should be read in conjunction with the directors' Code of Conduct and the Responsible Entity's Securities Dealing Policy.

**(m) Policy review**

This policy is subject to regular review to ensure that it complies with applicable laws and appropriate governance standards.

*Adopted by the Board of the Responsible Entity on 16 February 2010*

*Last amended by the Board of the Responsible Entity on 18 June 2015*