

# Corporate Governance

## Statement as at 31 March 2023



### OVERVIEW

#### ASX Principles of Corporate Governance

The Company, as a listed entity, must comply with the Corporations Act 2001 (*Cth*), the Australian Securities Exchange Limited ("ASX") Listing Rules ("ASX Listing Rules"), and other laws applicable in Australia and in countries where the Company operates.

ASX Listing Rule 4.10.3 requires ASX listed companies to report on the extent to which they have followed the Corporate Governance Principles and Recommendations ("ASX Principles") 4<sup>th</sup> Edition released by the ASX Corporate Governance Council on 27 September 2019, which take effect for the Company from 1 July 2020. The ASX Principles require the Board to consider carefully the development and adoption of appropriate corporate governance policies and practices founded on the ASX Principles.

#### Compliance with ASX Principles of Corporate Governance

The Company's corporate governance practices were in place throughout the period ended 31 December 2022 and comply in all material respects with the ASX Principles unless otherwise stated.

As the Company's activities develop in size, nature and scope the implementation of additional corporate governance structures will be given further consideration.

Details of the Company's compliance with the ASX Principles are set out below.

Copies of corporate governance policies are accessible on the Company's website at <http://www.tmkenergy.com.au>.

### PRINCIPLE 1: LAY SOLID FOUNDATIONS FOR MANAGEMENT AND OVERSIGHT

A listed entity should establish and disclose the respective roles and responsibilities of its board and management and how their performance is monitored and evaluated.

**RECOMMENDATION 1.1:** A listed entity should have and disclose a board charter setting out:

- a. the respective roles and responsibilities of its board and management; and
- b. those matters expressly reserved to the board and those delegated to management.

#### The Company's practice:

The Board considers that the essential responsibility of directors is to oversee the Company's activities for the benefit of its shareholders, employees and other stakeholders and to protect and enhance shareholder value. Responsibility for the management of the Company's business is delegated to the Chief Executive Officer, who is accountable to the Board.

Further, the Board takes specific responsibility for:-

- Contributing to the development of and approving corporate strategy;
- Appointing, assessing the performance of and, if necessary, removing the Chief Executive Officer;
- Reviewing and approving business plans, the annual budget and financial plans including available resources and major capital expenditure initiatives;
- Overseeing and monitoring:
  - Organizational performance and the achievement of strategic goals and objectives
  - Compliance with the Company's code of conduct
  - Progress of major capital expenditures and other corporate projects including acquisitions, mergers and divestments;
- Monitoring financial performance including approval of the annual, half-yearly and quarterly reports and liaison with the auditor;

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- Ensuring there are effective management processes in place, including reviewing and ratifying systems of risk identification and management, ensuring appropriate and adequate internal control processes, and that monitoring and reporting procedures for these systems are effective;
- Enhancing and protecting the Company's reputation;
- Approving major capital expenditure, capital management, acquisitions and divestments;
- Reporting to shareholders;
- Appointment of directors; and
- Any other matter considered desirable and in the interest of the Company.

**RECOMMENDATION 1.2:** A listed entity should:

- a. undertake appropriate checks before appointing a director or senior executive or putting someone forward for election as a director; and
- b. provide security holders with all material information in its possession relevant to a decision on whether or not to elect or re-elect a director.

### **The Company's Practice**

Going forward, the Company will ensure that appropriate checks as to character, experience, education, are undertaken before it appoints a person, or puts forward to security holders a new candidate for election, as a director. In addition, the Company will provide the following information to security holders in relation to all candidates standing for election or re-election as a director: biographical details, including qualifications, experience and skills, details of any other material directorships held by the candidate, any material adverse information revealed by the relevant checks, and details of any factors that may influence the candidate's capacity to bring an independent judgement to bear on issues before the Board.

In addition, security holders are provided with the following information in the case of all candidates standing for re-election: the term of office currently served by the director, a statement as to whether the Board considers the candidate to be an independent director, and whether the Board supports the re-election of the candidate.

**RECOMMENDATION 1.3:** A listed entity should have a written agreement with each director and senior executive setting out the terms of their appointment.

### **The Company's Practice**

The Company ensures that contracts are in place for all directors setting out the terms of their appointment.

**RECOMMENDATION 1.4:** The company secretary of a listed company should be accountable directly to the Board, through the chair, on all matters to do with the proper functioning of the Board.

### **The Company's Practice**

The company secretary of the Company is accountable to the Board, through the chair, and is responsible for advising the Board on governance matters, monitoring that Board policy and procedures are followed, coordinating the timely completion and despatch of Board papers, ensuring that the business at Board meetings is accurately captured in the minutes, and helping to organise and facilitate the induction and professional development of directors.

**RECOMMENDATION 1.5:** A listed entity should:

- a. have and disclose a diversity policy;
- b. through its board or a committee of the board set measurable objectives for achieving gender diversity in the composition of its board, senior executives and workforce generally; and
- c. disclose in relation to each reporting period:
  - i. the measurable objectives set for the period to achieve gender diversity;
  - ii. the entity's progress towards achieving those objectives; and

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iii. either:

- (1) the respective proportions of men and women on the board, in senior executive positions and across the whole workforce (including how the entity has defined “senior executive” for these purposes); or
- (2) if the entity is a “relevant employer” under the Workplace Gender Equality Act, the entity’s most recent “Gender Equality Indicators”, as defined in and published under that Act.

### The Company’s Practice

The Company has adopted a Diversity Policy, available on the Company’s website, which includes a requirement that the Board set measurable objectives for achieving gender diversity that is appropriate for the Company. The Board has set measurable objectives for the Company’s Diversity Policy, which are reviewed and assessed on an annual basis at a Board level. The measurable objectives for the financial period ending 31 December 2022 are available on the Company’s website.

As at the balance date, the respective proportions of men and women on the Board, in senior executive positions and across the whole organisation are as follows:

	Board	Senior Executives	Whole Organisation
Men	3	2	15
Women	1	0	10

The Company is not a “relevant employer” under the Workplace Gender Equality Act, as it is not a non-public sector employer with 100 or more employees in Australia.

**RECOMMENDATION 1.6:** A listed entity should:

- a. have and disclose a process for periodically evaluating the performance of the board, its committees and individual directors; and
- b. disclose for each reporting period, whether a performance evaluation has been undertaken in accordance with that process during or in respect of that period.

### The Company’s Practice

The Company has adopted a Nomination Policy which sets out the process of an annual evaluation of the Board.

Evaluation of the Board is carried out on a continuing and informal basis.

A performance evaluation of the Board will be carried out annually in accordance with the process set out in the abovementioned policy.

**RECOMMENDATION 1.7:** A listed entity should:

- a. have and disclose a process for periodically evaluating the performance of its senior executives at least once every reporting period; and
- b. disclose for each reporting period whether a performance evaluation has been undertaken in accordance with that process during or in respect of that period.

### The Company’s Practice

The Company has adopted a Nomination Policy which sets out the process of an annual evaluation of the Company’s senior executives.

An informal assessment of progress is undertaken during each reporting period, and all senior executives are subject to an annual performance evaluation.

## PRINCIPLE 2: STRUCTURE THE BOARD TO ADD VALUE

A listed entity should have a board of an appropriate size, composition, skills and commitment to enable it to discharge its duties effectively.

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**RECOMMENDATION 2.1:** The board of a listed entity should:

- a. have a nomination committee which:
  - (1) has at least three members, a majority of whom are independent directors; and
  - (2) is chaired by an independent director;and disclose:
  - (3) the charter of the committee;
  - (4) the members of the committee; and
  - (5) as at the end of each reporting period, the number of times the committee met throughout the period and the individual attendances of the members at those meetings; or
- b. if it does not have a nomination committee, disclose that fact and the processes it employs to address board succession issues and to ensure that the board has the appropriate balance of skills, knowledge, experience, independence and diversity to enable it to discharge its duties and responsibilities effectively.

**The Company's Practice:**

Given the Company's current size and stage of development, it is not considered necessary to have a separate Nomination Committee. The Board as a whole will identify candidates and assess their skills in deciding whether an individual has the potential to add value to the Company. The Board may also seek independent advice to assist with the identification process.

The Nomination Committee Policy has been adopted by the Board which provides for the proper assessment of prospective directors and includes but is not limited to, their relevant experience and achievements, compatibility with other Board members, credibility within the Company's scope of activities, and intellectual and physical ability to undertake Board duties and responsibilities.

**RECOMMENDATION 2.2:** A listed entity should have and disclose a board skills matrix setting out the mix of skills that the board currently has or is looking to achieve in its membership.

**The Company's Practice:**

The Board considers that the composition of the existing Board is appropriate given the scope and size of the Company's operations and the skills matrix of the existing Board members, however, the Board does not consider it necessary to maintain a Board "skills matrix" at this stage of the Company's development.

The skills, experience and expertise of each of the Company's Directors are set out in the Directors' Report of the Annual Report.

**RECOMMENDATION 2.3:** A listed entity should disclose:

- a. the names of the directors considered by the board to be independent directors;
- b. if a director has an interest, position, association or relationship of the type described in the ASX Principles but the board is of the opinion that it does not compromise the independence of the director, the nature of the interest, position, association or relationship in question and an explanation of why the board is of that opinion; and
- c. the length of service of each director.

**The Company's Practice:**

The Board considers Mr Brett Lawrence, Mr Tim Wise and Prof. John Warburton to be independent Directors of the Company. Ms Gema Gerelsaikhon is not considered independent given her close family relationship to Mr. Tsetsen Zantav, the Company's major shareholder.

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The length of service of each director is as follows:

Director	Title	Appointment Date	Length of Service
Brett Lawrence	Non-executive Director	1 February 2015	8 years, 2 months
Timothy Wise	Non-executive Director	4 November 2019	3 years, 5 months
Prof. John Warburton	Non-executive Director	7 March 2023	1 month
Gema Gerelsaikhan	Non-executive Director	15 February 2022	1 year, 2 months

**RECOMMENDATION 2.4:** A majority of the board of a listed entity should be independent directors.

**The Company's Practice:**

The Board currently consists of three independent Directors and one non-independent Director. Given the scope and size of the Company's current operations and the skills matrix of the existing Board members, the Board considers that the composition of the existing Board is appropriate.

**RECOMMENDATION 2.5:** The chair of the board of a listed entity should be an independent director and, in particular, should not be the same person as the Chief Executive Officer of the entity.

**The Company's Practice:**

The Company does not currently have a formally appointed Chairman at this stage of development of the Company and often Mr Brett Lawrence will often undertake the role of Chairman when needed.

**RECOMMENDATION 2.6:** A listed entity should have a program for inducting new directors and for periodically reviewing whether there is a need for existing directors to undertake professional development to maintain the skills and knowledge needed to perform their role as directors effectively.

**The Company's Practice:**

The Board regularly and informally reviews whether the Directors as a group have the skills, knowledge and familiarity with the Company and its operating environment requirement to fulfil their role on the Board effectively. If any gaps are identified, the Board will consider what training or development could be undertaken to fill those gaps.

Where necessary, the Company will provide resources to help develop and maintain the Directors' skills and knowledge.

### PRINCIPLE 3: ACT ETHICALLY AND RESPONSIBLY

A listed entity should instil a culture of acting lawfully, ethically, and responsibly.

**RECOMMENDATION 3.1:** A listed entity should articulate and disclose its values.

**RECOMMENDATION 3.2:** A listed entity should:

- a. have and disclose a code of conduct for its directors, senior executives and employees; and
- b. ensure that the board or a committee of the board is informed of any material breaches of that code.

**The Company's Practice:**

The Company has established a formal code of conduct to guide the Directors, the Managing Director (or equivalent), management and employees with respect to the practices necessary to maintain confidence in the Company's integrity, the practices necessary to take into account legal obligations and reasonable expectations of stakeholders, and the responsibility and accountability of individuals for reporting and investigating reports of unethical practices. The code of conduct is disclosed on the Company's website.

**RECOMMENDATION 3.3:** A listed entity should:

- a) have and disclose a whistleblower policy; and
- b) ensure that the board or a committee of the board is informed of any material incidents reported under that policy.

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### **The Company's Practice:**

The Company is committed to the highest standards of conduct and ethical behaviour in all business activities and to promoting and supporting a culture of honest and ethical behaviour, corporate compliance and good corporate governance. The Company encourages the reporting of any instances of suspected unethical, illegal, fraudulent or undesirable conduct. The Company provides protection to those persons who make a report, to ensure they may do so confidentially and without fear of intimidation, disadvantage or reprisal.

**RECOMMENDATION 3.4:** A listed entity should:

- a) have and disclose an anti-bribery and corruption policy; and
- b) ensure that the board or a committee of the board is informed of any material breaches of that policy.

### **The Company's Practice:**

The Company encourages the reporting of suspected unethical, illegal, corrupt, fraudulent or undesirable conduct involving its business. High standards of ethical behaviour and compliance with laws and regulations are essential to protecting the reputation and long-term success. The Company is aware that any incident of Bribery or Corruption involving, or relating to, the Company could give rise to material adverse legal consequences and would cause damage to its reputation, impede business growth and potentially affect the share price.

## **PRINCIPLE 4: SAFEGUARD INTEGRITY IN CORPORATE REPORTING**

A listed entity should have formal and rigorous processes that independently verify and safeguard the integrity of its corporate reporting.

**RECOMMENDATION 4.1:** The board of a listed entity should:

- a. have an audit committee which:
  - (1) has at least three members, all of whom are non-executive directors and a majority of whom are independent directors; and
  - (2) is chaired by an independent director, who is not the chair of the board,and disclose:
  - (3) the charter of the committee;
  - (4) the relevant qualifications and experience of the members of the committee; and
  - (5) in relation to each reporting period, the number of times the committee met throughout the period and the individual attendances of the members at those meetings; or
- b. if it does not have an audit committee, disclose that fact and the processes it employs that independently verify and safeguard the integrity of its corporate reporting, including the processes for the appointment and removal of the external auditor and the rotation of the audit engagement partner.

### **The Company's Practice:**

The Board considers that due to the current size and scope of operations of the Company, it does not merit the establishment of a separate audit committee. Until the situation changes the Board carries out any necessary audit committee functions.

The Board meets on a regular basis and discusses matters normally captured under the terms of reference of an audit committee, being company risk, controls and general and specific financial matters.

The appointment and removal of the Company's external auditor are subject to the approval of the Board and the security holders, and the Company's current external auditors rotate the relevant audit engagement partner every five (5) years.

**RECOMMENDATION 4.2:** The board of a listed entity should, before it approves the entity's financial statements for a financial period, receive from its Chief Executive Officer and Chief Financial Officer a declaration that, in their opinion, the financial records of the entity have been properly maintained and that the financial statements comply

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with the appropriate accounting standards and give a true and fair view of the financial position and performance of the entity and that the opinion has been formed on the basis of a sound system of risk management and internal control which is operating effectively.

### **The Company's Practice:**

The Company ensures that a declaration is issued by the Chief Executive Officer and the Chief Financial Controller in accordance with the abovementioned requirement.

**RECOMMENDATION 4.3:** A listed entity should disclose its process to verify the integrity of any periodic corporate report it releases to the market that is not audited or reviewed by an external auditor.

### **The Company's Practice:**

The Company reports periodically as required by the ASX Listing Rules. These periodic reports are generally prepared by qualified accounting staff and reviewed by both the Chief Financial Officer and the Board prior to their release to the market. The process to ensure accuracy includes standard accounting practices such as reconciliation of cash and general ledger reports. Detailed accounting policies and procedures are disclosed in the Company's annual report.

## **PRINCIPLE 5: MAKE TIMELY AND BALANCED DISCLOSURE**

A listed entity should make timely and balanced disclosure of all matters concerning it that a reasonable person would expect to have a material effect on the price or value of its securities.

**RECOMMENDATION 5.1:** A listed entity should have and disclose a written policy for complying with its continuous disclosure obligations under the listing rule 3.1.

### **The Company's Practice:**

The Company has a formal Continuous Disclosure Policy as required by Recommendation 5.1. This policy was introduced to ensure the Company achieves best practice in complying with its continuous disclosure obligations under the Corporations Act and ASX Listing Rules and ensuring The Company and individual officers do not contravene the Corporations Act or ASX Listing Rules. A full copy of this policy can be found on the Company's website.

The Company is required to immediately tell the ASX once it becomes aware of any information concerning it that a reasonable person would expect to have a material effect on the price or value of the entity's securities.

Therefore to meet this obligation the Company undertakes to:

- (a) Notify the ASX immediately it becomes aware of any information that a reasonable person would expect to have a material effect on the price and value of the companies securities unless that information is not required to be disclosed under the listing rules;
- (b) Disclose notifications to the ASX on the Company website following confirmation of the publishing of the information by the ASX; and
- (c) Not respond to market speculation or rumour unless the ASX considers it necessary due to there being, or likely to be, a false market in the Company's securities.

The Chief Executive Officer and the Company Secretary are responsible for coordinating the disclosure requirements. To ensure appropriate procedure all directors, officers and employees of the Company coordinate disclosures through the Chief Executive Officer and the Company Secretary, including:

- (a) Media releases;
- (b) Analyst briefings and presentations; and
- (c) The release of reports and operational results.

**RECOMMENDATION 5.2:** A listed entity should ensure that its board receives copies of all material market announcements promptly after they have been made.

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### **The Company's Practice:**

The Company Secretary circulates draft copies of all material market announcements to the Board prior to them being released for comment. Upon release, each Director receives a copy of all material market announcements promptly after they have been made.

**RECOMMENDATION 5.3:** A listed entity that gives a new and substantive investor or analyst presentation should release a copy of the presentation materials on the ASX Market Announcements Platform ahead of the presentation.

### **The Company's Practice:**

The Company has a policy of ensuring that any presentation made at conferences, broker presentations or any other form of investor or analyst presentation is released on the ASX Market Announcements Platform ahead of the presentation.

## **PRINCIPLE 6: RESPECT THE RIGHTS OF SHAREHOLDERS**

A listed entity should respect the rights of its security holders by providing them with appropriate information and facilities to allow them to exercise those rights effectively.

**RECOMMENDATION 6.1:** A listed entity should provide information about itself and its governance to investors via its website.

### **The Company's Practice:**

The Company has established and regularly maintains and updates a website at <http://tmkenergy.com.au>, which provides information to security holders and members of the public regarding the Company's project, profile, Board, management, corporate governance, ASX releases and reports and analyst reports.

**RECOMMENDATION 6.2:** A listed entity should have an investor relations program that facilitates effective two-way communication with investors.

### **The Company's Practice:**

The Company has adopted a Shareholder Communication Policy, which sets out the Company's communications strategy with its stakeholders including the effective use of an electronic distribution list.

**RECOMMENDATION 6.3:** A listed entity should disclose how it facilitate and encourages participation at meetings of security holders.

### **The Company's Practice:**

The Board encourages the attendance of shareholders at the General or Annual General Meetings and sets the time and place of each General or Annual General Meeting to allow maximum attendance by shareholders.

Notices of Meeting are released to ASX and mailed out or emailed to all security holders in advance of all General or Annual General Meetings.

**RECOMMENDATION 6.4:** A listed entity should ensure that all substantive resolutions at a meeting of security holders are decided by a poll rather than by a show of hands.

### **The Company's Practice:**

The Company invites representatives from its share registry to undertake and verify voting polls of all substantive resolutions at a meeting of security holders.

**RECOMMENDATION 6.5:** A listed entity should give security holders the option to receive communications from, and send communications to, the entity and its security registry electronically.

### **The Company's Practice:**

The Company and its security registry provide all security holders with the option to receive communications from, and send communications to, the Company and the security registry.



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### PRINCIPLE 7: RECOGNISE AND MANAGE RISK

A listed entity should establish a sound risk management framework and periodically review the effectiveness of that framework.

**RECOMMENDATION 7.1:** The board of a listed entity should:

- a. have a committee or committees to oversee risk, each of which:
  - (1) as at least three members, a majority of whom are independent directors; and
  - (2) is chaired by an independent director,and disclose:
  - (3) the charter of the committee;
  - (4) the members of the committee; and
  - (5) as at the end of each reporting period, the number of times the committee met throughout the period and the individual attendances of the members at those meetings; or
- b. if it does not have a risk committee or committees that satisfy (a) above, disclose that fact and the processes it employs for overseeing the entity's risk management framework.

#### **The Company's Practice:**

The Board considers that due to the current size and scope of operations of the Company, it does not merit the establishment of a separate risk management committee. Until such time as determined by the Board, the Board of Directors is responsible for overseeing and approving policies for the management and oversight of material business risks, internal compliance and internal controls.

The Board meets on a regular basis and discusses matters normally captured under the terms of reference of a risk management committee, including recognition and management of company risk, implementation and review of risk management practices, and management of risk that may impact the Company, its security holders and other stakeholders such as employees, suppliers, creditors and the broader community in which the Company operates.

The objectives of the Company's risk management program are contained in the Risk Management Policy which is available on the Company's website.

**RECOMMENDATION 7.2:** The board or a committee of the board should:

- a. review the entity's risk management framework at least annually to satisfy itself that it continues to be sound and that the entity is operating with due regard to the risk appetite set by the Board; and
- b. disclose, in relation to each reporting period, whether such a review has taken place.

#### **The Company's Practice:**

The Board manages the implementation of the risk management and internal control system to manage the Company's material business risks and report to it on whether those risks are being managed effectively. The Board reviews, on at least an annual basis, the Company's risk management framework and as to the effectiveness of the Company's management of its material business risks.

**RECOMMENDATION 7.3:** A listed entity should disclose:

- a. if it has an internal audit function, how the function is structured and what role it performs; or
- b. if it does not have an internal audit function, that fact and the processes it employs for evaluating and continually improving the effectiveness of its risk management and internal control processes.

#### **The Company's Practice:**

The Company does not have an internal audit function, however, it has in place a system of risk management that identifies and categorises and manages material business risks faced by the Company.

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The Board has delegated responsibility for establishing and maintaining effective management strategies for material business risk to the Chief Executive Officer, to whom the Company's Financial Controller reports. The Board requires that the Chief Executive Officer reports regularly as to the effectiveness of the Group's risk management systems.

The Board recognises that no cost effective internal control system will preclude all errors and irregularities. The Board of Directors reviews the business and financial risk management systems and internal control systems implemented by management to obtain reasonable assurance that the entity's assets are safeguarded and that the reliability and integrity of its financial information is maintained.

**RECOMMENDATION 7.4:** A listing entity should disclose whether it has any material exposure to environmental or social risks and, if it does, how it manages or intends to manage those risks.

### **The Company's Practice:**

Any exposure to economic, environmental, social sustainability and any other risks are disclosed periodically, and as otherwise required, by the Company in its Quarterly, Half-Yearly and Annual Reports to ASX and regular ASX announcements regarding the Company's project.

## **PRINCIPLE 8: REMUNERATE FAIRLY AND RESPONSIBLY**

A listed entity should pay director remuneration sufficient to attract and retain high quality directors and design its executive remuneration to attract, retain and motivate high quality senior executives and to align their interests with the creation of value for security holders.

**RECOMMENDATION 8.1:** The board of a listed entity should:

- a. have a remuneration committee which:
  - (1) has at least three members, a majority of whom are independent directors; and
  - (2) is chaired by an independent director,and disclose:
  - (3) the charter of the committee;
  - (4) the members of the committee; and
  - (5) as at the end of each reporting period, the number of times the committee met throughout the period and the individual attendances of the members at those meetings; or
- b. if it does not have a remuneration committee, disclose that fact and the processes it employs for overseeing for setting the level and composition of remuneration for directors and senior executives and ensuring that such remuneration is appropriate and not excessive.

### **The Company's Practice:**

The Board considers that due to the current size of the Company and its operations, it does not merit the establishment of a separate remuneration committee. Until the situation changes the Board of TMK Energy will carry out any necessary remuneration committee functions. The Board undertakes this role with the assistance of any external advice which may be required from time to time.

**RECOMMENDATION 8.2:** A listed entity should separately disclose its policies and practices regarding the remuneration of non-executive directors and the remuneration of executive directors and other senior executives.

### **The Company's Practice:**

The Company has a Remuneration Policy relating to the remuneration of Non-Executive Directors as opposed to Executive Directors and Senior Executives. These policies provide a basis for distinguishing the type of remuneration which is suitable for the two classes.

The level of remuneration packages and policies applicable to directors are detailed in the Remuneration Report which forms part of the Directors' Report in the Company's Annual Report.

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**RECOMMENDATION 8.3:** A listed entity which has an equity-based remuneration scheme should:

- a. have a policy on whether participants are permitted to enter into transactions (whether through the use of derivatives or otherwise) which limit the economic risk of participating in the scheme; and
- b. disclose that policy or a summary of it.

**The Company's Practice:**

The Company does not currently have an equity-based remuneration scheme, however certain non-executive directors and senior executives have been issued with equity-based remuneration for incentive purposes, as outlined in the Company's Remuneration Report.