

# CORPORATE GOVERNANCE STATEMENT

## INTRODUCTION

This statement reflects Babcock & Brown Power's (BBP) corporate governance framework as at 31 August 2008.

A copy of this statement and other documents (or summaries thereof) can be accessed and downloaded from the Corporate Governance section on our website at [www.bbpower.com](http://www.bbpower.com).

BBP comprises:

- Babcock & Brown Power Limited ACN 116 665 608 (BBPL), an Australian public company;
- Babcock & Brown Power Trust ARSN 122 375 562 (BBPT), an Australian trust of which Babcock & Brown Power Services Limited ACN 118 165 156, AFSL No 299943 (BBPS) is the responsible entity; and
- the respective subsidiary entities of BBPL.

Any reference contained in this statement to BBPS is a reference to BBPS in its capacity as responsible entity of BBPT, unless otherwise indicated.

Each BBPL share is stapled to a BBPT unit and vice versa. BBP Stapled Securities are quoted on the Australian Securities Exchange under the market code ASX:BBP.

The BBPL Board, together with the BBPS Board (the **Boards**), is responsible for overseeing the rights and interests of all investors and is accountable to them for the overall governance and management of BBP. The BBPL Board, in consultation and agreement with the BBPS Board, formulates and approves the strategic direction, investment objectives and goals of BBP.

The establishment of a sound framework of corporate governance and the implementation of the corresponding governance culture and processes throughout BBP is one of the primary responsibilities of the Boards. The Boards recognise that they are accountable to securityholders for the performance of BBP and, to that end, are responsible for instituting and ensuring BBP maintains a system of corporate governance that operates in the best interests of securityholders whilst also addressing the interests of other key stakeholders. A comprehensive corporate governance framework and good governance policies and procedures can add to the performance of BBP, the creation of securityholder value and engender the confidence of the investment community.

The ASX Limited's Corporate Governance Council issued in August 2007 a revised set of guidelines entitled *Corporate Governance Principles and Recommendations*. These guidelines articulate eight core principles (**ASX Principles**) that the Council believes underlie good corporate governance, together with 27 recommendations (**ASX Recommendations**) for implementing effective corporate governance.

The ASX Listing Rules require listed entities such as BBP to include a statement in their annual report disclosing the extent to which they have followed the eight ASX Principles and 27 ASX Recommendations during the reporting period, identifying any ASX Recommendations that have not been followed and giving reasons for that variance. BBP's Corporate Governance Statement is structured with reference to the ASX Recommendations. Areas not fully complied with are disclosed under the relevant principle. All of the corporate governance practices referred to herein were in place for the entire year ended 30 June 2008 unless otherwise indicated.

In addition, the Babcock & Brown Group, of which the Manager of BBP is a member, recognises that effective and transparent governance practices within the funds which it manages is essential to the preservation of securityholders' and stakeholders' interests and the continued success of those funds. To this end, Babcock & Brown Limited has established a robust corporate governance framework for the management of the Babcock & Brown specialised funds. This framework includes a number of key principles for the governance of those funds with a view to protecting the interests of each fund's securityholders and other stakeholders. A summary of the corporate governance framework adopted by Babcock & Brown can be found on pages 109 to 111 of the Babcock & Brown Limited 2007 Annual Report. The Manager of BBP has had close regard to this framework in assisting the BBP Boards to formulate their respective corporate governance practices.

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### INTERACTION BETWEEN THE ROLES OF BBPL AND BBPS

Although in practice BBPL was primarily responsible for conducting the day-to-day operations of BBP during the 2008 Financial Year, it did and will continue to consult and exchange information with and seek the agreement of BBPS when making decisions in relation to BBP in accordance with the terms of the stapling deed (**Stapling Deed**).

The Stapling Deed sets out the terms and conditions of the relationship between BBPL and BBPS in respect of BBP, for so long as the units in BBPT and shares in BBPL remain stapled. In summary, the Stapling Deed provides that each of BBPL and BBPS must:

- co-operate in respect of all matters relating to BBP and consult with the other prior to causing any act to be done or omission to be made which may materially affect the value of BBP Stapled Securities (including the announcement or payment of a dividend or trust distribution);
- make available to the other all information in its possession necessary or desirable to fulfil its respective obligations under the Stapling Deed (e.g. making available to the other all information and providing all assistance in relation to the preparation of financial accounts);
- co-operate with the other to ensure that each complies with its obligations under the ASX Listing Rules (including disclosure obligations), co-ordinate disclosure to the ASX and investors, and liaise with the ASX in relation to ASX Listing Rule matters;
- perform its obligations under the Stapling Deed and its respective Constitution with a view to enhancing the market value of BBP Stapled Securities;
- notify the other of an intention to acquire or sell assets where the value of those assets is greater than 5% of the entity's net tangible assets;
- act consistently with the investment strategy of BBP as agreed between them and consult with the other on implementation of this strategy and any changes to its implementation;
- not borrow or raise any money unless the other agrees;
- co-operate to ensure that BBPL securityholder and BBPT unitholder meetings are held concurrently or, where necessary, consecutively;
- consult with the other in relation to any reorganisation or restructure of capital or any changes to stapling arrangements;
- co-operate on the terms and timing of all new issues, bonus and rights issues, placements, redemptions, buy-backs and any dividend or distribution reinvestment plans; and
- co-operate with the other to ensure that BBPL has a common subgroup of Directors with BBPS.

Therefore, as indicated, it is by operation of the Stapling Deed that the Boards of BBPL and BBPS (as responsible entity of BBPT) are together responsible for overseeing the rights and interests of securityholders in BBP and accountable to securityholders for the overall corporate governance and management of BBP.

### COMPLIANCE WITH THE ASX RECOMMENDATIONS

As at the date of this Corporate Governance Statement, each of the Boards of BBP advise that their corporate governance practices are in compliance with the Recommendations, except where specifically noted in this Corporate Governance Statement.

#### ACHIEVEMENTS IN 2007/2008:

- The BBP Boards undertook a review of the BBP corporate governance framework and has revised a number of their Charters and Policies including the Security Trading Policy.
- The BBP Boards have elected to "adopt early" the ASX's revised *Corporate Governance Principles and Recommendations* which took effect from 1 January 2008.

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

### **Companies should establish and disclose the respective roles and responsibilities of board and management**

#### **Role of the BBP Boards and Management**

##### **ASX Recommendation 1.1: Companies should establish the functions reserved to the board and those delegated to senior executives and disclose those functions**

Each of the BBP Boards is assisted in its management of the affairs of BBP by the Manager, Babcock & Brown Power Management Pty Ltd (BBPM or **Manager**). In accordance with the respective Management Agreements with each of BBPL and BBPS, the Manager provides comprehensive management services to each of the two entities comprising BBP. These services include identifying and recommending investment opportunities for BBP, managing BBP's investments and advising in respect of any exit from those investments. In addition to these more strategic services, the Manager has specific operational management duties and carries out management services for BBP on a day-to-day basis. The Manager's appointment by each of BBPL and BBPS is exclusive and is for a term of 25 years from its appointment in 2006. This arrangement is commonly referred to as an "externally managed" fund.

Under the Management Agreements, BBPM as the Manager has established a dedicated management team comprising individuals performing the following functions: chief executive officer; chief financial officer and other accounting, tax and treasury personnel; chief operating officer and other operations management personnel; corporate counsel and company secretary; investor relations; and risk and compliance personnel. The chief executive officer leads the management team which reports to the Board of BBPM. As an externally managed entity, the management team also effectively acts in the same capacity for BBP as in their appointed functional role for BBPM as Manager.

The Management Agreements contain provisions which require the Manager, as a primary obligation, to give priority to the interests of BBP and, consequently, the BBP securityholders. In accordance with the terms of the Management Agreements, the BBP Boards must consider any recommendations put to them by the Manager and determine whether the recommended action is in the best interests of BBP securityholders.

The BBP Boards have each adopted a formal Board Charter which details the functions and responsibilities of the relevant Board and distinguishes such functions and responsibilities from those which have been delegated to the Manager. A summary of the Board Charters is available in the Corporate Governance section on BBP's website at [www.bbpower.com](http://www.bbpower.com).

As outlined in the respective Board Charters, the BBP Boards are together responsible for the management of the affairs of BBP. In acquitting their functions, the Boards, amongst other things:

- (a) contribute to and approve BBP's corporate strategy;
- (b) evaluate and approve capital expenditure, acquisitions, divestitures and other corporate transactions of BBP above the delegated levels set out in the Management Agreements;
- (c) determine BBP's distribution policy and the amount and timing of all distributions paid to BBP's securityholders;
- (d) approve major BBP policies, including BBP's Code of Conduct, Security Trading Policy, Continuous Disclosure Policy and other compliance-related policies;
- (e) approve all accounting policies, financial reports and material reporting by or on behalf of BBP;
- (f) monitor the performance of the Manager;
- (g) in consultation with the Manager, approve the appointment or removal of BBPM's Chief Executive Officer (CEO);
- (h) in consultation with the Manager, develop a succession plan for the CEO, and approve succession plans for other senior management positions in the BBPM management team;
- (i) in consultation with the Manager, monitor the performance of the CEO and the other key management personnel in the BBPM management team;
- (j) in consultation with the Manager, note the remuneration strategy and policies and the total level of remuneration for the CEO and other key management personnel in the BBPM management team;

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- (k) consider recommendations of Board Committees (e.g. Audit, Risk & Compliance Committees and the BBPL Nomination & Remuneration Committee);
- (l) approve the appointment and terms of appointment of the external auditor;
- (m) consider, approve and monitor the effectiveness of BBP's overall risk management and control framework, through, among other steps, regular reports to the Board through the Audit, Risk & Compliance Committees from the Head of Risk and regular updates (as required) from management on significant risk issues;
- (n) review the performance and effectiveness of BBP's corporate governance policies and procedures and consider any amendments to those policies and procedures;
- (o) monitor BBP's compliance with ASX continuous disclosure requirements;
- (p) subject to the constituent document of the relevant BBP entity, approve the appointment of Directors to the relevant Board and to Committees established by the Board; and
- (q) at least annually, review and evaluate the performance and effectiveness of the Boards, each Board Committee and each individual Director against the relevant charters, corporate governance policies and agreed goals and objectives of BBP.

The Board has delegated a number of these responsibilities to its Committees. The responsibilities of these Committees are detailed in Principle 2 below.

The Board Charters also sets out the specific powers and responsibilities of the Chairman and the CEO (see Principle 2 below).

Each of the two BBP Boards acts separately and independently of each other and where there is a joint responsibility between BBPL and BBPS over aspects of BBP's operations, the BBP Boards will only have responsibility to the extent of their own specific involvement in those operations. However, the BBP Boards will co-operate to the extent required under the Stapling Deed in meeting those joint responsibilities to ensure that the interests of BBP securityholders are met.

The Board Charters also include a summary of the responsibilities of each Director. To assist Directors to understand BBP's expectations of them, all Independent Non-Executive Directors have entered into formal letters of appointment and been provided with copies of relevant Board Charters and policies. Non-Independent Directors have formal letters governing their employment through the Babcock & Brown Group.

### **ASX Recommendation 1.2: Companies should disclose the process for evaluating the performance of senior executives**

The Nomination & Remuneration Committee of the BBPL Board has responsibilities relating to the review and monitoring of the performance of the BBP Boards, the Chairman and other individual members of the BBP Boards, and for establishing key performance indicators against which the performance of the CEO and other key management personnel in the BBPM management team are evaluated.

During FY2008, the CEO and other key management personnel in the BBPM management team agreed with the BBP Boards, individual key performance indicators against which their performance will be evaluated. The review of the performance of these key executives is undertaken by the Manager. In respect of the most senior executives, the outcome of such review is also discussed with the Nomination & Remuneration Committee.

The Remuneration Report contains details of Babcock & Brown's remuneration philosophy and policies including other key performance conditions that are assessed in determining the total remuneration of the CEO and other key management personnel in the BBPM management team.

A performance evaluation for CEO and other key management personnel in the BBPM management team was undertaken in relation to FY2008 and details of their total remuneration including bonuses are set out in the Remuneration Report.

### **ACHIEVEMENTS IN 2007/2008:**

- The CEO and other key management personnel in the BBPM management team agreed with the BBP Boards specific key performance indicators against which their performances were evaluated for purposes of their performance review and determination of their 2008 total remuneration.

## ASX PRINCIPLE 2: STRUCTURE THE BOARD TO ADD VALUE

**Companies should have a Board of an effective composition, size and commitment to adequately discharge its responsibilities and duties**

### Structure of the Board

#### ASX Recommendation 2.1: A majority of the board should be independent directors

The size and composition of each of the BBP Boards is determined in accordance with the Constitution of the relevant entity and the governance framework applied by Babcock & Brown to its specialised fund activities, as in force from time to time. It is intended that each of the BBP Boards will comprise Directors with a broad range of skills, expertise and experience from a diverse range of backgrounds, and will comprise either a majority of Independent Directors or, at a minimum, an equal number of Independent and Non-Independent Directors.

Overall, the BBP Boards are comprised of Directors with a broad range of skills, expertise and experience from a diverse range of backgrounds. The BBP Boards consider that collectively, the Directors have the range of skills, experience and expertise necessary to appropriately govern BBP.

Details of the Directors' skills, experience and expertise relevant to their position and their term in office and of their attendance at Board and/or Committee meetings are set out in the Directors' Report on pages 53 to 67 of the 2008 Annual Report.

The Directors appointed to the respective BBP Boards, along with their appointment dates, are set out below:

Name	Position	BBPL Board Appointment	BBPS Board Appointment
Len Gill	Independent Non-Executive Chairman	29/10/06	01/07/08
Warren Murphy	Non-Executive Director	04/04/06	03/02/06
Peter Hofbauer	Non-Executive Director	14/10/05	03/02/06
Peter Kinsey	Independent Non-Executive Director	29/10/06	n/a
John Fletcher	Independent Non-Executive Director	29/10/06	29/10/06

Len Gill was appointed Independent Chairman of BBP on 1 July 2008. As a consequence of that appointment, Peter Kinsey resigned as a Director of BBPS and Len Gill was appointed in his place, with both changes being effective from 1 July 2008. Subsequent to the date of this statement, Warren Murphy and Peter Hofbauer have resigned as Directors of the BBP Boards. John Bowyer, a senior executive from Babcock & Brown, has been appointed to the BBP Boards as a result.

The continued tenure of each individual Director is subject to re-election from time to time in accordance with the Constitution of BBPL.

The BBP Boards have each determined the independent status of each Director utilising the criteria set out in Recommendation 2.1. As shown in the table above, the Board of BBPS had equal numbers of Independent Directors and Non-Independent Directors during FY2008. This does not comply with ASX Recommendation 2.1, which recommends that the Board comprise a majority of Independent Directors. The BBPL Board has a majority of Independent Directors and did so for the entirety of FY2008.

The BBP Boards recognise the importance of Independent Directors, particularly the external perspective and advice that these Directors can provide. The BBPS Board, however, considers the composition of its Board during FY2008, and in particular the equality of Independent and Non-Independent Directors appropriate, given the management arrangements with Babcock & Brown and in view of:

- the fact that the composition of both the BBP Boards was fully disclosed to securityholders in the Prospectus & Product Disclosure Statement issued in relation to the listing of BBP; and
- the fact that the Stapling Deed requires co-operation and consultation on all material matters between BBPL and BBPS. This means that, in aggregate, a majority of Independent Directors will generally be considering all material matters, given that five out of the nine aggregate Board seats (i.e. a majority) are occupied by Independent Directors. Of course, since the resignation of Warren Murphy and Peter Hofbauer, the BBPS Board now has a majority of Independent Directors.

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## Board Committees and Membership

The BBP Boards have established Committees to support an effective governance framework and to advise and support the BBP Boards in carrying out their respective duties. The Chairman of each Committee reports on any matters of substance at the next full Board meeting and all Committee minutes are provided to the Board. The Committees in existence at the date of this report are as follows:

- The BBPL & BBPS Audit, Risk & Compliance Committees;
- The BBPL Nomination & Remuneration Committee; and
- The Committee of Independent Directors of each of the BBPL and BBPS Boards.

Each Committee has its own Charter setting out the authority under which each Committee operates and the responsibilities as delegated by the BBP Boards. Charters are reviewed annually and membership criteria are based on a Director's skills and experience as well as their ability to add value to the Committee. The CEO attends all Committee meetings by invitation and Non-Executive Directors may attend any meeting of a Committee.

The Board Committees and their membership as at 31 August 2008 are set out in the following table:

	Audit, Risk & Compliance Committees	Nomination & Remuneration Committee
Len Gill		✓
Warren Murphy	✓	✓
Peter Hofbauer		✓
Peter Kinsey	✓	Chair
John Fletcher	Chair	✓

Throughout FY2008, the Committee of Independent Directors of each Board regularly met separately to review and discuss issues in the absence of Non-Independent Directors and the Manager.

### ASX Recommendation 2.2: The chairperson should be an independent Director

Len Gill was appointed as Independent Chairman of BBP on 1 July 2008.

However, throughout FY2008, the office of Chairman of both the BBP Boards was held by a Non-Independent Director (initially by Peter Hofbauer, and thereafter by Warren Murphy). This differed from ASX Recommendation 2.2, which recommends that the Chairman should be an Independent Director.

The Directors of each of the BBP Boards had considered it appropriate under the management arrangements for the Chairman of the BBP Boards to be an executive from Babcock & Brown. Messrs Hofbauer and Murphy are not executives of BBP, rather they are senior executives of Babcock & Brown, and therefore performed the role of Chairman of each of the BBP Boards as a Non-Executive Director. During the period when the office of Chairman of BBP was held by a Non-Independent Director, each BBP Board had appointed a Lead Independent Director, Peter Kinsey, as contemplated by the ASX Principles. The Lead Independent Director:

- had authority to call Board meetings or meetings of Independent Directors, as appropriate;
- chaired any meetings of the Independent Directors;
- was the primary spokesman for the Independent Directors at any General Meeting of BBP securityholders;
- represented the views of the Independent Directors to the BBP Boards, the CEO and the Manager; and
- was the primary channel of communication and point of contact between Independent Directors and the BBP Boards, the CEO and the Manager.

However, following a review and recommendation by the BBPL Nomination & Remuneration Committee and the unanimous approval of the BBP Boards, Len Gill was appointed as Independent Chairman of BBP effective from 1 July 2008. Accordingly, the role of Lead Independent Director of BBP ceased to apply as from that date as well.

To ensure that there is an appropriate balance in the manner in which the Directors discharge their responsibilities and an independent review of the performance of management, the BBP Boards have:

- established Audit, Risk & Compliance Committees comprising of a majority of Independent Directors and a Nomination & Remuneration Committee comprising of a majority of Independent Directors;
- established protocols for dealing with conflicts of interest. In particular, the BBP Boards have put in place a range of internal policies designed to ensure that the interests of securityholders are at all times preferred to those of Directors and that any actual or potential conflicts of interest are promptly disclosed and dealt with by the Directors. These include the Board Charter, the Code of Conduct and the Security Trading Policy;
- ensured that significant matters affecting BBP are reserved for consideration by the full Board, for example, major strategic decisions, capital expenditure above specified thresholds and expenditure outside the ordinary course of business; and
- any Director is entitled to seek independent professional advice (including, but not limited to, legal, accounting and financial advice) at BBP's expense on any matter connected with the discharge of his or her responsibilities, in accordance with the procedures set out in the Board Charter. No Director availed himself of this right during FY2008.

**ASX Recommendation 2.3: The roles of chair and chief executive officer should not be exercised by the same individual**

The roles of Chairman and CEO are not exercised by the same individual for BBP. The Board Charters provide that the roles of the Chairman and CEO must not be exercised by the same person. The respective roles and responsibilities of the Chairman and the CEO are described in the Board Charters.

**ASX Recommendation 2.4: The board should establish a nomination committee**

The BBPL Board has established a Nomination & Remuneration Committee which is responsible for advising the BBP Boards on the composition of the Boards and their Committees, and reviewing the performance of the Boards, their Committees and individual Directors. In making recommendations to the BBP Boards regarding the appointment of Directors, the Nomination & Remuneration Committee periodically assesses the appropriate mix of skills, experience and expertise required on the relevant Board and assesses the extent to which those skills and experience are represented. As BBP develops its existing asset base and continues to seek further investment opportunities, the Nomination & Remuneration Committee will review the composition of the BBP Boards to ensure they remain appropriate.

The Nomination & Remuneration Committee is comprised of all five members of the BBPL Board, and thus contains a majority of Independent Non-Executive Directors. The Committee is chaired by an Independent Non-Executive Director.

The attendance of the Committee members at Committee Meetings is disclosed in the Directors' Report.

The Nomination & Remuneration Committee was established on 25 June 2007, and met four times during FY2008.

The Nomination & Remuneration Committee has adopted a Charter, a copy of which is available on BBP's website. The responsibilities of the Committee pursuant to its Charter include:

**Nomination**

In relation to its nomination function the Committee will:

- critically review the performance and effectiveness of the Chairman, the Boards and the permanent Committees of the Boards and their individual members;
- have oversight of the BBP Boards' annual performance evaluation process;
- review and make recommendations to the BBP Boards as appropriate on the composition, strategic function and size of the BBP Boards;

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- providing confirmation of the Directors to retire annually by rotation in accordance with the provisions of the Constitution of BBPL;
- having regard to the desired composition of and the skills represented on the BBP Boards, identify and make recommendations to the BBP Boards on candidates considered appropriate for appointment as Directors, and make recommendations to the BBP Boards on whether the Board should support the re-appointment of any retiring Director;
- periodically assess the skills required to competently discharge the BBP Boards' duties and obligations, and make recommendations to the Chairman about how those skill levels could be enhanced;
- identify any specific responsibilities of individual BBP Board members, including the Chairman; and
- provide input to the Manager with regard to succession planning for the CEO and other key management personnel in the BBPM management team.

### Remuneration

- consult with the Manager in respect of the key performance indicators for the CEO and other key management personnel in the BBPM management team, and provide input and advice about their remuneration;
- approve BBP's remuneration disclosures; and
- make recommendations to the BBP Boards in relation to the level of remuneration to be paid to Independent Directors.

### Other

- monitor and review the performance of the Manager under the Management Agreements.

### **ASX Recommendation 2.5: Companies should disclose the process for evaluating the performance of the board, its committees and individual directors**

The Nomination & Remuneration Committee informs the BBPL Board of the names of Directors who are retiring in accordance with the provisions of the Constitution of BBPL and makes recommendations to the BBPL Board as to whether it should support the re-nomination of such retiring Directors. In order to make such recommendations, that Committee first reviews the retiring Director's performance during the period in which the Director has been a member of the BBPL Board.

The Nomination & Remuneration Committee also reviews the membership and performance of the various Committees established by the Board and makes recommendations to the BBP Boards in that regard. A member of the Committee will not participate in the review of their own performance and must not be present for discussions at a Committee meeting on, or vote on a matter regarding, his or her election, re-election or removal.

The Nomination & Remuneration Committee undertook a performance evaluation of the Board as a whole, its Committees and individual members during FY2008. Each Director completed a detailed questionnaire that was consolidated by the Company Secretary and the Nomination & Remuneration Committee as a whole (i.e. comprising all members of the BBP Boards) reviewed the findings. The Nomination & Remuneration Committee was satisfied with regard to the individual and collective performance of the Directors and there were no significant issues that required immediate attention.

The Nomination & Remuneration Committee is also responsible for establishing and facilitating an induction program for new Directors and making available to them sufficient information and advice to allow them to participate fully and actively in Board decision-making at the earliest opportunity.

The BBP Boards and their Committees may seek advice from independent experts whenever it is considered appropriate. As noted above, individual Directors may seek independent professional advice on any matter connected with the discharge of their responsibilities, at BBP's expense.

### **ACHIEVEMENTS IN 2007/2008:**

- A Board Performance Review was completed during FY2008.

### **ASX PRINCIPLE 3: PROMOTE ETHICAL AND RESPONSIBLE DECISION-MAKING**

**Companies should actively promote ethical and responsible decision-making**

#### **Code of Conduct**

**ASX Recommendation 3.1: Companies should establish a code of conduct and disclose the code or a summary of the code**

The BBP Boards are committed to delivering strong returns and securityholder value whilst also promoting securityholder and general market confidence in BBP and to fostering an ethical and transparent culture within BBP.

To this end, each BBP Board has adopted a formal Code of Conduct which is designed to ensure that:

- high standards of corporate and individual behaviour are observed by all Directors and Babcock & Brown employees seconded to the Manager in the context of their employment and in relation to all of BBP's activities; and
- Babcock & Brown employees seconded to the Manager are aware of their responsibilities to BBP under their contract of employment with Babcock & Brown and always act in an ethical and professional manner and in the best interests of BBP securityholders.

The Code of Conduct requires Directors and Babcock & Brown employees seconded to the Manager, among other things, to:

- avoid conflicts of interest between their personal interests and those of BBP and its securityholders;
- not take advantage of opportunities arising from their position for personal gain or in competition with BBP; and
- comply with BBP's Security Trading Policy and other policies.

The Code of Conduct requires Directors, the Manager and Babcock & Brown employees seconded to the Manager, to report any actual or potential breach of the law, the Code of Conduct or other BBP policies. In accordance with Babcock & Brown's Whistleblowing Policy, BBP promotes and encourages ethical behaviour and provides protection for those who report violations. A summary of the Code of Conduct is available on BBP's website.

In addition to the Code of Conduct, the Board Charters require that all Directors conduct their duties with the highest level of honesty and integrity, observe the rule and spirit of the law, comply with any relevant ethical and technical standards, not make improper use of any confidential information, and set a high standard of fairness, diligence and competency in their position as a Director.

BBP recognises that it has a number of legal and other obligations to its non-securityholder stakeholders, including employees, financiers, suppliers and the wider community.

As outlined above, BBP has established a Code of Conduct requiring Directors and employees seconded to the Manager to observe high standards of corporate and individual behaviour. The objectives of the Code include ensuring that employees seconded to the Manager, securityholders, competitors and other stakeholders can be assured that BBP will conduct its affairs in accordance with ethical values and practices. Employees seconded to the Manager are required to comply with both the spirit as well as the letter of the ASX Listing Rules and all laws which govern the operations of BBP. The Code of Conduct specifically requires all employees seconded to the Manager to always deal with securityholders, customers, suppliers, competitors and other employees in a manner that is lawful, diligent, fair and with honesty, integrity and respect.

In accordance with its Code of Conduct, Babcock & Brown aims to provide a work environment in which all employees (including those seconded to the Manager entities of each of its managed funds) can excel regardless of race, religion, age, disability, gender, sexual preference or marital status. In this regard, Babcock & Brown maintains various policies relating to the workplace, including in respect of non-discrimination and occupational health and safety issues.

These principles of fairness, honesty and propriety are essential elements of the various policies which have been adopted by BBP.

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## **Security Trading Policy**

**ASX Recommendation 3.2: Companies should establish a policy concerning trading in company securities by directors, senior executives and employees, and disclose the policy or a summary of that policy**

BBP has implemented formal Securities Trading Policies which regulate the manner in which Directors and employees seconded to the Manager can buy or sell BBP securities, and require that they conduct their personal investment activities in a manner that is lawful and avoids conflicts between their own interests and those of BBP.

These policies are specifically designed to raise awareness and minimise any potential for breach of regulations relating to insider trading contained in the Corporations Act. The policies are also designed to minimise the chance that misunderstandings or suspicions arise regarding employees seconded to the Manager trading while in possession of non-public price-sensitive information. The policies are applicable to all BBP Directors and employees seconded to the Manager, as well as key executives of BBP's subsidiary companies.

The policies specify trading windows as the periods during which trading in BBP stapled securities can occur. These trading windows will generally be:

- four to eight week periods following the release of BBP's full year or half year results;
- a period commencing on the second trading day following lodgement of BBP's Annual Report with the ASX and continuing for up to one month after the holding of BBP's Annual General Meeting; and
- the offer period under any prospectus or similar offer document.

Trading is prohibited despite a window being open if the relevant person is in possession of non-public price-sensitive information regarding BBP. The BBP Boards may authorise the opening of trading windows at other times. The CEO and other key management personnel of the Manager are required to notify the Company Secretary (who in turn notifies the Chairman) of any proposed trading by them in securities issued by BBP and the details of any completed trades.

Further, Babcock & Brown also has a policy which regulates the manner in which its Directors and employees may buy or sell shares in other companies, which may be affected by the activities of Babcock & Brown (including BBP). This policy is called the Employee Investment Policy.

A summary of BBP's Securities Trading Policy is available on BBP's website.

### **ACHIEVEMENTS IN 2007/2008:**

- The BBP Boards undertook a detailed review of their respective Securities Trading Policies and revised policies were adopted by the BBP Boards in February 2008.

**ASX PRINCIPLE 4: SAFEGUARD INTEGRITY IN FINANCIAL REPORTING**

**Companies should have a structure to independently verify and safeguard the integrity of their financial reporting**

**Audit, Risk & Compliance Committee****ASX Recommendation 4.1: The board should establish an audit committee**

The BBP Boards are committed to the basic principle that BBP's financial reports are true and fair and comply with the relevant accounting standards. To assist the BBP Boards with this commitment, they have each established an Audit, Risk & Compliance Committee which are responsible for advising the BBP Boards on internal controls and appropriate standards for the financial management of BBP. It is the BBP Boards' responsibility to ensure that an effective internal control system is in place across BBP. This includes internal controls to deal with both the effectiveness and the efficiency of significant business processes, the safeguarding of assets, the maintenance of proper accounting records and the reliability of financial information. The BBP Boards have delegated the responsibility for overseeing the establishment and maintenance of BBP's system of internal control to the Audit, Risk & Compliance Committees.

Each Committee oversees the financial reporting process, the systems of internal control and risk management, the audit process and BBP's processes for monitoring compliance with laws and regulations.

The Audit, Risk & Compliance Committees provide advice to the BBP Boards and report on the status of the business risks to BBP through its risk management processes aimed at ensuring risks are identified, assessed and properly managed.

Each Committee works on behalf of the BBP Boards with the external auditor and reviews non-audit services provided by the external auditor to confirm that they are consistent with maintaining external audit independence.

**ASX Recommendation 4.2: The audit committee should be structured so that it:**

- consists only of non-executive directors;
- consists of a majority of independent directors;
- is chaired by an independent chair, who is not the chair of the board; and
- has at least three members

The Audit, Risk & Compliance Committees are comprised of a majority of Independent Non-Executive Directors.

The attendance of the Committee members at Committee Meetings is disclosed in the Directors' Report.

For the entire FY2008, the Audit, Risk & Compliance Committees comprised John Fletcher (Independent Non-Executive Committee Chairman), Peter Kinsey (Independent Non-Executive Committee Member) and Warren Murphy (Non-Executive Committee Member). All members possess the requisite financial expertise.

The structure of each Audit, Risk & Compliance Committee accords with ASX Recommendation 4.2 in that the Committees comprise a majority of Independent Directors, have an Independent Chairman who is not the Chairman of the BBP Boards and have at least three members.

The Audit, Risk & Compliance Committees generally meet as required but normally meet not less than six times per year. The Audit, Risk & Compliance Committees report to the full BBP Boards following each Committee meeting, including making any recommendations that require Board approval or action.

**ASX Recommendation 4.3: The audit committee should have a formal charter**

The Audit, Risk & Compliance Committees have each adopted a Charter. The responsibilities of the Committees pursuant to their Charters include:

**Financial Reports for the half year and full year**

- review and consider the financial reports for the half year and full year;
- consider in connection with the half year and full year financial reports the CEO and CFO letter of representation to the BBP Boards;
- review the financial sections of the annual report and related regulatory filings before release;
- review with management and the external auditors the results of the financial audit;

**Internal Control**

- review the effectiveness of BBP's internal controls regarding all matters affecting BBP's financial performance and financial reporting, including information technology security and control;
- review the scope of internal and external auditors' review of internal control, review reports on significant findings and recommendations, together with management's responses, and recommend changes from time to time as appropriate;

# CORPORATE GOVERNANCE STATEMENT

## **Internal Audit**

- review with the Manager and the internal auditor, the charter, plans and activities of the internal audit function;
- meet with the internal auditor to review reports and monitor management response;
- meet separately with the internal auditors, when necessary, to discuss any matters that the Committees or internal audit believes should be discussed privately;
- review the effectiveness of the internal audit function;
- ensure there are no unjustified restrictions or limitations on the internal auditor, and review and concur in the appointment, replacement or dismissal of the internal auditor;

## **External Audit**

- review the external auditors' proposed audit scope and approach;
- meet with the external auditors to review reports, and meet separately, at least once a year, to discuss any matters that the Committees or auditors believe should be discussed privately;
- establish policies as appropriate regarding independence of the external auditors;
- review and confirm the independence of the external auditors;
- review the performance of the external auditors, and consider the re-appointment and proposed fees of the external auditor and, if appropriate, conduct a tender of the audit. Any subsequent recommendation following the tender for the appointment of an external auditor will be put to the BBP Boards;

## **Compliance**

- obtain regular updates from the Compliance Manager and management regarding compliance matters;
- review the effectiveness of the system for monitoring compliance with laws and regulations affecting BBP and the results of management's investigation and follow-up (including disciplinary action) of any instances of non-compliance;
- monitor the extent to which BBP complies with its Compliance Plan;
- review the findings of any examinations by regulatory agencies;

## **Risk Management**

- oversee the development of risk management policies and review BBP's overall risk management framework and its effectiveness in meeting sound corporate governance principles and keep the BBP Boards informed of all significant business risks;
- review with the Manager the system for identifying, managing and monitoring the key risks of BBP;
- review with management the operation of business continuity and disaster recovery plans;
- obtain reports from management on the status of any key risk exposures or incidents;
- review the scope, status and cost of the insurance coverage for BBP;

## **Reporting Responsibilities**

- regularly report to the BBP Boards about Committee activities, issues and related recommendations;
- provide an open avenue of communication between internal audit, the external auditors and the BBP Boards. For the purpose of supporting the independence of their function, the external auditors and the internal auditor have a direct line of reporting access to the Committees;
- report annually to the securityholders on matters relating to Committee responsibilities as required by law or the ASX Listing Rules;
- review any other reports BBP issues that relate to Committee responsibilities.

The Committees meet at least six times a year and report to the full BBP Boards following each meeting, including in respect of recommendations of the Committees that require BBP Board approval or action.

Under the oversight of the BBP Risk Manager, BBP continued to enhance the BBP risk management framework during the year with the various underlying businesses of BBP further developing risk management plans so as to further strengthen the control framework (refer to Principle 7 below).

To assist the BBP Boards and the Audit, Risk & Compliance Committees discharge their respective responsibilities, the CEO and the Chief Financial Officer are required to provide the BBP Boards with a letter of representation in connection with the half year and full year financial statements of BBP. Such letter of representation confirms to the BBP Boards that BBP's financial reports present a true and fair view, in all material respects, of BBP's financial condition and operational results and are in accordance with relevant accounting standards. The letter describes the process and evidence that the CEO and Chief Financial Officer have adopted to satisfy themselves on these matters.

In respect of the 12 months ended 30 June 2008, the CEO and Chief Financial Officer provided such a letter to the Board.

### Internal Audit

The BBP Boards have overall responsibility for BBP's systems of internal control, supported by the Audit, Risk & Compliance Committees and the Manager. The BBP Boards are assisted in discharging this responsibility by BBP's internal audit function which operates under a written charter approved by the Audit, Risk & Compliance Committees. The BBP Boards have outsourced the internal audit function to Ernst & Young who act as the BBP internal auditor.

The BBP internal auditor reports jointly to the Chairman of the Audit, Risk & Compliance Committees and the Chief Financial Officer. The BBP internal auditor discusses significant issues from Internal Audit Reports at meetings of the Audit, Risk & Compliance Committees and distributes Internal Audit Reports to Committee members and senior management of BBP. During the year, the internal audit program reviewed a number of BBP's internal controls with a view to ensuring that they are operating effectively and efficiently in accordance with financial reporting requirements, good operational and governance practices and in compliance with regulations, to assist BBP in achieving business objectives.

### Audit Governance

BBP's external auditor is PricewaterhouseCoopers who were appointed by securityholders at the 2007 Annual General Meeting in accordance with the provisions of the Corporations Act 2001. The BBP Boards have a policy whereby the responsibilities of the lead audit engagement partner and review audit partner cannot be performed by the same people for a period longer than five consecutive years. The present PricewaterhouseCoopers lead audit engagement partner is Marc Upcroft who assumed the role during 2007. The current audit review partner is Ross Gavin who also assumed the role during 2007.

The external auditor receives all Audit, Risk & Compliance Committee papers and attends all meetings. The Committees also periodically meet with the external auditor without management being present and also meet with management without the external auditor being present. Committee members are able to contact the external auditor directly at any time.

### Certification and discussions with the external auditor on independence

The Audit, Risk & Compliance Committees require that the external auditor confirm every six months that they have maintained their independence and have complied with applicable independence standards promulgated by regulators and professional bodies. The Audit, Risk & Compliance Committees annually review the independence of the external auditor and have confirmed this assessment with the BBP Boards. A copy of the external auditor's certification of independence is set out on page 68 of the 2008 Annual Report.

### Restrictions on non-audit services by the external auditor

To avoid possible independence or conflict issues, the external auditor is not permitted to carry out certain types of non-audit services for BBP, including:

- bookkeeping or other services relating to the accounting records or financial statements;
- appraisal or valuation services;
- secondments to management positions;
- internal audit of financial controls;
- internal control design or implementation;
- implementation or design of financial information systems or other information technology systems;
- legal or litigation support services; and
- strategic or structural tax planning.

Further, PricewaterhouseCoopers will not provide unsolicited tax "products" or tax "solutions" for implementation in respect of the BBP corporate group. If any taxation advisory services are to be provided by PricewaterhouseCoopers, those services will generally be limited to providing independent taxation advice regarding transactions proposed by BBP. During FY2008, PricewaterhouseCoopers did not provide a material amount of taxation services in respect of the BBP corporate group.

For all other non-audit services, use of the external audit firm must be assessed in accordance with our pre-approval policy, which requires that all non-audit services be pre-approved by the Audit, Risk & Compliance Committees, or by delegated authority to a sub-committee consisting of one or more members where appropriate.

The breakdown of the aggregate fees billed by the external auditor in respect of each of the two most recent financial years for audit, audit-related, tax and other services is provided in Note 34 on page 128 of the 2008 Annual Report.

A summary of the Audit, Risk & Compliance Committee Charters is available in the Corporate Governance section on BBP's website.

### ACHIEVEMENTS IN 2007/2008:

- Ongoing detailed review of BBP's Risk Management Framework.

# CORPORATE GOVERNANCE STATEMENT

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

**Companies should promote timely and balanced disclosure of all material matters concerning the company**

### **Continuous Disclosure Policy**

**ASX Recommendation 5.1: Companies should establish written policies designed to ensure compliance with ASX Listing Rule disclosure requirements and to ensure accountability at a senior executive level for that compliance and disclose those policies or a summary of those policies**

BBP is committed to complying with its continuous disclosure obligations pursuant to the Corporations Act and the ASX Listing Rules. BBP's Continuous Disclosure Policy is designed to ensure that all investors have equal and timely access to material information concerning BBP. BBP has complied at all times with the ASX Listing Rules on continuous disclosure.

The policy is designed to ensure that material price sensitive information arising from any part of BBP is immediately notified to the ASX in a complete, balanced and timely manner, unless it falls within the scope of the limited exemptions contained in Listing Rule 3.1A.

A Disclosure Committee comprised of various Directors and senior executives operates pursuant to the Continuous Disclosure Policy. The Disclosure Committee is responsible for reviewing information which is or may be material, making disclosures to the ASX and issuing media releases and other written public statements on behalf of BBP.

In addition, the BBP Boards are actively and regularly involved in discussing disclosure obligations in respect of all major matters that come before it.

The Company Secretary is primarily responsible for communications with the ASX and for overseeing and maintaining the Continuous Disclosure Policy.

A summary of the Continuous Disclosure Policy is available in the Corporate Governance section on BBP's website.

### **Continuous Disclosure Processes**

The specific processes adopted by BBP in relation to its continuous disclosure responsibilities are as follows:

- **website:** all information released to the ASX is posted on the Investor Information section of BBP's website as soon as practicable;
- **authorised spokespersons:** communication with the media, share analysts and the market generally in relation to BBP activities will normally be undertaken only by the Chairman, the CEO, the Chief Financial Officer or Head of Investor Relations;
- **media releases:** no media release of a material nature is to be issued unless it has first been sent to the ASX;
- **trading halts:** on occasions, it may be necessary for BBP to request a trading halt from the ASX. The Disclosure Committee makes decisions in relation to a trading halt;
- **close periods:** BBP observes a number of "close" periods during the year to protect against the inadvertent disclosure of price sensitive information. During these close periods, BBP will not make any comment on:
  - analysts' earnings estimates, other than to acknowledge the range and average estimates in the market; and
  - the financial performance of BBP unless the information has already been released to the market.

The close periods operate in the periods 45 days before the preliminary announcement of BBP's half year and full year results; and

- **analyst and investor briefings:** BBP recognises the importance of the relationship between BBP, investors and analysts. From time to time BBP conducts analyst and investor briefings and in these situations the following protocols apply:
  - no price-sensitive information will be disclosed at these briefings unless it has been previously, or is simultaneously, released to the market;
  - questions at these briefings that relate to price-sensitive information not previously disclosed will not be answered; and
  - if any price-sensitive information is inadvertently disclosed, it will immediately be released to the ASX and placed on BBP's website.

### **ACHIEVEMENTS IN 2007/2008:**

- BBP made 63 ASX announcements in FY2008.

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

**Companies should respect the rights of shareholders and facilitate the effective exercise of those rights**

### **Communications with Shareholders**

**ASX Recommendation 6.1: Companies should design a communications policy for promoting effective communication with shareholders and encouraging their participation at general meetings and disclose their policy or a summary of that policy**

Consistent with our Continuous Disclosure Policy, BBP is committed to communicating with its securityholders in an effective and timely manner to provide them with ready access to information relating to BBP. In this regard, BBP maintains a website ([www.bbpower.com](http://www.bbpower.com)) which provides access to the following information of interest to BBP securityholders:

- detailed information regarding the Board, executive management and the business groups and activities of BBP;
- all BBP announcements and media releases, which are posted to the website promptly following release;
- copies of full-year and half-year financial reports;
- summaries of Board and Committee Charters and relevant corporate governance policies;
- copies of BBP's Annual Reports;
- copies of disclosure documents relating to BBP's capital raisings; and
- a link to the website of BBP's Share Registry, Link Market Services.

BBP encourages securityholders to utilise its website as their primary tool to access securityholder information and disclosures. In addition, the Annual Report facilitates the provision to securityholders by BBP on a yearly basis of detailed information in respect of the major achievements, financial results and strategic direction of BBP.

BBP has a practice that information to be given by BBP at analyst briefings is first released to the ASX to ensure that the market operates on a fully informed and equal basis.

Securityholders are strongly encouraged to attend and participate in general meetings of BBP, especially the Annual General Meeting. BBP provides securityholders with details of any proposed meetings well in advance of the relevant dates.

BBP's external auditor is always requested to attend the Annual General Meeting and be available to answer securityholder questions about the conduct of the audit and the preparation and content of the auditor's report. This allows securityholders an opportunity to ask questions of the auditor and reinforces the auditor's accountability to securityholders.

#### **ACHIEVEMENTS IN 2007/2008:**

- BBP adopted the policy of electronic distribution of shareholder communications unless a securityholder requests hard copy. Approximately 88% of shareholders receive communications electronically.

# CORPORATE GOVERNANCE STATEMENT

## **ASX PRINCIPLE 7: RECOGNISE AND MANAGE RISK**

**Companies should establish a sound system of risk oversight and management and internal control**

### **Risk Management Policy**

**ASX Recommendation 7.1: Companies should establish policies for the oversight and management of material business risks and disclose a summary of those policies**

Management of risk continues to be a primary objective of BBP in all its business activities. BBP is committed to ensuring that its system of risk oversight, management and internal control complies with the ASX Principles and that its culture, processes and structures facilitate the realisation of BBP's business objectives, including potential opportunities, while managing adverse effects.

The BBP Boards are ultimately responsible for overseeing and managing the material risks of BBP. The Audit, Risk & Compliance Committees assist them in this role. In accordance with their Charters, the role of the Audit, Risk & Compliance Committees include reviewing and managing the system for identifying, managing and monitoring the key risks of BBP, obtaining reports from the Manager on the status of any key risk exposures or incidents and ensuring key controls are in place and are effective. In undertaking these responsibilities, the Committees principally rely on the resources and expertise of the Manager to implement and report upon the risk management systems and procedures implemented, such that the Committees are able to keep the BBP Boards informed of all material business risks.

BBP undertakes regular reviews of its risk management framework and has adopted a Risk Management Policy consistent with Australia/New Zealand Standard 4360, which clearly defines responsibilities for managing risk under BBP's risk management process. The material risks of BBP's business, including operational, financial, market and regulatory compliance risks have been identified and are required to be regularly managed, monitored and reported. Methods for treating and mitigating risks include transferring, reducing, accepting or passing on risk following assessment using a variety of methods. A summary of the Risk Management Policy is available on BBP's website.

The Audit, Risk & Compliance Committees include amongst their responsibilities:

- consideration of the overall risk management framework of BBP and the review of its effectiveness in meeting sound corporate governance principles;
- keeping the BBP Boards informed of all significant business risks;
- reviewing in conjunction with the Manager the system for identifying, managing and monitoring the key risks of BBP; and
- obtaining reports from the Manager on the status of any key risk exposures or incidents.

The role of the Manager also plays an important part in the management of risk. In accordance with the Management Agreements, the Manager first reviews, evaluates and recommends substantial investments before they are considered by the BBP Boards.

One of the cornerstones of BBP's risk management approach is a well defined system of delegated authorities with respect to the commitment of capital and an investment approval process which brings rigour to the selection, assessment and approval of investment risks assumed under BBP's principal investment activities. Matters such as legal, accounting, tax and general risk assessment issues are considered in each case. In addition to requiring a recommendation from the Manager for all investment decisions, the Manager's most senior executives are involved in major investment decisions, and all capital investments above specified thresholds require approval of the BBP Boards.

The Audit, Risk & Compliance Committees have also implemented a robust ongoing internal audit program. The internal auditor reports directly to the Audit, Risk & Compliance Committees at each meeting of the Committees.

**ASX Recommendation 7.2: The board should require management to design and implement 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 should disclose that management has reported to it as to the effectiveness of the company's management of its material business risks.**

BBP's Risk function plays a key role in developing and building an approach to assist BBP and its Boards in identifying, monitoring and treating risk and in reporting material risks to the Audit, Risk & Compliance Committees. Under the direction of BBP's Risk Manager, BBP has continued to enhance its risk management framework which articulates the standards and responsibilities for risk management across and at all levels of the BBP business. The standards include the requirement for all business units, businesses, projects, regions and assets to report risks quarterly as an input to the BBP Risk Manager's consolidated quarterly reporting to the Audit, Risk & Compliance Committees, and to maintain risk registers and risk treatment plans for all identified "top risks".

BBP's Compliance Function promotes a compliance conscious culture while ensuring BBP complies with regulatory requirements across its businesses, functions and group entities.

To facilitate monitoring and evaluation of the effectiveness of internal controls, BBP has established accounting policies, reporting, risk management and compliance systems to keep the Audit, Risk & Compliance Committees informed of strategic, reputational, financial and operational risks facing the BBP corporate group. Quarterly management reporting confirms that appropriate internal controls are in place and that the BBP Risk Management Policy and other key guidelines and procedures are being observed.

BBP's internal audit function, operating under a written charter from the Audit, Risk & Compliance Committees, provides independent reporting to the Audit, Risk & Compliance Committees with respect to the management of risk and also provides comment on the effectiveness of the design and operation of controls across the BBP corporate group.

**ASX Recommendation 7.3: The board should disclose whether it has received assurance from the chief executive officer (or equivalent) and the chief financial officer (or equivalent) that the declaration provided in accordance with section 295A of the Corporations Act is founded on a sound system of risk management and internal control and that the system is operating effectively in all material respects in relation to financial reporting risks.**

As outlined above, and in accordance with Recommendation 7.3, the CEO and Chief Financial Officer have stated to the BBP Boards in writing that internal compliance and control systems applicable to the BBP corporate group's business lines and functional groups were operating efficiently and effectively in all material respects during the period to 30 June 2008.

#### **ACHIEVEMENTS IN 2007/2008:**

- Ongoing detailed review of BBP's Risk Management Framework.

## CORPORATE GOVERNANCE STATEMENT

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

**Companies should ensure that the level and composition of remuneration is sufficient and reasonable and that its relationship to performance is clear**

#### **Remuneration Policy**

The remuneration policies of BBP have been structured to be competitive in the industry and global marketplace and to ensure that BBP can attract and retain the talent needed to achieve both short and long term success, while maintaining a strong focus on team work, individual performance and the interests of securityholders.

The Non-Independent Directors of BBPL and BBPS, Warren Murphy and Peter Hofbauer (as at the date of this statement), are employees of the Babcock & Brown Group. Similarly, employees who are secondees to the Manager are also employees of the Babcock & Brown Group. As such, all of these personnel are remunerated not by BBPL or BBPS but rather by the Babcock & Brown Group.

The policies and principles which are applied to determine the nature and amount of remuneration paid to the Directors and key management personnel of BBP are set out in detail in the Remuneration Report.

Total remuneration of Non-Independent Directors and Manager secondees by the Babcock & Brown Group is delivered through a combination of base salary, an annual performance bonus and, for some executives, through an equity incentive plan of Babcock & Brown Limited. Babcock & Brown continually reviews the remuneration philosophy and framework as it applies to BBP to ensure alignment of the interests of the Manager with those of BBP securityholders.

The BBP Boards acknowledge that the remuneration of the Non-Independent Directors by the Babcock & Brown Group is also partly determined by reference to the performance of that group and their individual performance in connection with that group. In this regard, the Boards recognise that there is scope for potential conflicts of interest to arise, both in terms of the Babcock & Brown Group's dealings with BBP and in terms of the dual roles of the Non-Independent Directors and certain staff. For instance, the Babcock & Brown Group is expected to earn fees and other income from its management of and other dealings with BBP, and the remuneration of the Non-Independent Directors by the Babcock & Brown Group may be partly determined by reference to the level of such fees and income.

In such cases, the BBP Boards implement steps to ensure that such conflicts of interest are declared, managed and, where practicable, removed. Such steps include ensuring that Non-Independent Directors declare an interest in circumstances where there are dealings between the Babcock & Brown Group and BBP and that, in those cases, Non-Independent Directors abstain from voting on all such matters. Other steps may include seeking independent third party advice in some cases or having matters considered by a Committee of the Board comprising solely the Independent Directors. These measures are designed to ensure that, in the event of a conflict of interest, the interests of securityholders are given priority over the interests of the Babcock & Brown Group and the Non-Independent Directors.

## Remuneration Committee

### ASX Recommendation 8.1: The board should establish a remuneration committee

As noted above in relation to ASX Recommendation 2.4, in order to assist the BBP Boards in achieving fairness and transparency in relation to remuneration issues and overseeing the remuneration and human resources policies and practices of BBP, the BBPL Board has established a Nomination & Remuneration Committee.

The BBPL Nomination & Remuneration Committee has adopted a Charter which is available on BBP's website. The responsibilities of the Committee pursuant to the Charter in relation to remuneration include:

- making recommendations to the relevant Board for determining the level of remuneration to be applied to Non-Executive Directors of BBPL. The Committee may engage external advisors to provide information to the Boards to be considered in their deliberations for the purpose of recommending an appropriate level of remuneration for Non-Executive Directors. All fees paid to Non-Executive Directors are disclosed in BBP's annual financial statements to the extent required by law; and
- in order to discharge its duties and responsibilities to securityholders in respect of matters relevant to remuneration of key management personnel of the Manager, the Committee will, taking into account the fact that the Manager bears ultimate responsibility for meeting its obligations under the Management Agreement and that the key management personnel's remuneration is set by the Manager under Babcock & Brown Group's remuneration principles and practices:
  - (a) consult with the Manager in respect of the key performance indicators for each of the Manager's key management personnel as determined by the Manager and provide feedback to the Manager about their respective performance against such key performance indicators;
  - (b) provide input and advice to the Manager about remuneration of key management personnel or other individuals, as requested by the Manager, based on the Babcock & Brown Group's remuneration principles and practices;
  - (c) approve the Remuneration Report to be disclosed in the Directors' Report;
  - (d) monitor any amendments to the Babcock & Brown Group's remuneration principles and practices to the extent that they affect BBP and report such amendments to the BBPL Board as appropriate;
  - (e) consider for approval the formulation of any long-term incentive plans (LTI Plans) recommended by the Manager involving the issue of BBP Stapled Securities; and
  - (f) monitor and review any LTI Plans for compliance with changes to legislation, regulation and market expectations or practices.

The BBPL Nomination & Remuneration Committee consists of five members, a majority of whom are Independent Directors of BBP. The members of the Committee as at the date of this statement are Peter Kinsey (Chairman), Len Gill, John Fletcher, Warren Murphy and Peter Hofbauer.

## Non-Executive Director Remuneration

### ASX Recommendation 8.2: Companies should clearly distinguish the structure of non-executive directors' remuneration from that of executives

The total remuneration paid to the Independent Non-Executive Directors to 30 June 2008 is set out in the Remuneration Report. Independent Non-Executive Directors are paid an annual fee according to which Boards and Committees they sit on. Non-Executive Directors' fees for BBPL are determined within a Non-Executive Director's aggregate fee pool limit which has been approved by securityholders. The maximum aggregate sum for BBPL has been set at \$750,000 annually.

Non-Executive Directors are not provided with retirement benefits other than statutory superannuation and did not receive options or other equity incentives, or bonus payments.

Payment of Non-Independent Director fees is paid to the Manager and not to Warren Murphy and Peter Hofbauer. These form part of the base management fees payable to the Manager (and also count against the aggregate fee pool limit referred to above). Warren Murphy and Peter Hofbauer are employees of Babcock & Brown and are separately remunerated by Babcock & Brown.