

## **1 Introduction**

1.1 The purpose of this Policy is to ensure that the Company complies with its continuous disclosure obligations under the Corporations Act and the ASX Listing Rules. This Policy outlines the processes to be followed by the Company to ensure that:

- (a) information that may be market sensitive and may require disclosure is brought to the attention of the Board, is promptly assessed to determine whether it requires disclosure under the Listing Rule 3.1; and
- (b) if the information does require disclosure, that disclosure is made promptly to the ASX.

1.2 This is achieved by ensuring that:

- (a) the market is provided with timely and equal access to accurate information known to the Company which is likely to impact upon its share price;
- (b) the Company, through adherence to and regular review of this Policy, seeks to achieve and exceed best practice;
- (c) the ASIC "Better Disclosure to Investors" guidance principles (RG 62) and the ASX guidance note "Continuous Disclosure: Listing Rule 3.1" are appropriately incorporated into this Policy; and
- (d) personnel with key roles under this Policy are educated in their obligations and responsibilities under the Policy.

1.3 The Company is committed to:

- (a) ensuring that its Shareholders, stakeholders and the market are provided with full and timely disclosure of material information about the Company's activities; and
- (b) complying with its periodic reporting and continuous disclosure requirements contained in the Corporations Act and Listing Rules.

## **2 Application of this Policy**

This Policy applies to the Directors and all employees of the Group (including individuals under contract or consultancy agreements).

## **3 Principles – ASX Listing Rules**

3.1 The continuous disclosure requirements within the Listing Rules are founded in Listing Rules 3.1, 3.1A and 3.1B, and state:

3.1 Once an entity is or 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, the entity must immediately tell ASX that information.

3.1A Listing rule 3.1 does not apply to particular information while all of the following are satisfied.

3.1 A.1 One or more of the following 5 situations applies.

- ) It would be a breach of a law to disclose the information;
- ) The information concerns an incomplete proposal or negotiation;
- ) The information comprises matters of supposition or is insufficiently definite to warrant disclosure;

- ) The information is generated for the internal management purposes of the entity;
- ) The information is a trade secret; and
- 3.1 A.2 The information is confidential and ASX has not formed the view that the information has ceased to be confidential.
- 3.1 A.3 A reasonable person would not expect the information to be disclosed.
- 3.1B If ASX considers that there is or is likely to be a false market in an entity's securities, and asks the entity to give it information to correct or prevent a false market, the entity must give ASX the information it asks for.

## 4 Roles & responsibilities

- 4.1 Responsibility for compliance with the continuous disclosure obligations and this Policy fall on all employees of the Company. However, the responsibilities vary depending upon the person's role within the Company. The following personnel have key responsibilities with respect to disclosure as summarised below.

Role	Responsibility
Board of Directors	It is the Board's role to take responsibility for the maintenance and review of this Policy and, where applicable, the signing off on significant ASX
Company Secretary and Directors	Responsible for administering this Policy and communicating with the ASX.
Authorised Spokespersons	Communicating publicly with third parties on behalf of the Company.
All employees	Obligation to report to the Company Secretary any information of which he or she gains knowledge which has the potential to amount to materially price sensitive information and therefore is required to be disclosed. This obligation extends to the reporting of leaks or inadvertent disclosures of information that come to the employee's attention.

- 4.2 In addition to the above responsibilities, the Company Secretary is also responsible for:
- (a) ensuring the Group is compliant with this Policy and its continuous disclosure requirements;
  - (b) overseeing and coordinating disclosure of information to the ASX, analysts, brokers, Shareholders, the media and the public;
  - (c) reporting regularly to the Board regarding continuous disclosure issues;
  - (d) keeping a record of all ASX and other announcements the Company has made;
  - (e) monitoring the application of this Policy including the understanding of employees of the general principles of continuous disclosure and its importance, including the underlying principles behind the need for

continuous disclosure, and, where necessary, arranging appropriate training and education sessions for employees; and

- (f) monitoring all information disclosures by the Company in advance for example, monitoring the information that is to be presented at private briefings to minimise the risk of breaching the continuous disclosure requirements.

## **5 What information must be disclosed by the Company?**

- 5.1 The Company must disclose information concerning the Company that a reasonable person would expect to have a material effect on the price or value of the Company's securities (i.e. market sensitive information).
- 5.2 "Information" extends beyond pure matters of fact and includes matters of opinion and intention. In addition, "information" is not limited to information from any one source. Information may come from other sources (for example, a joint venture partner or an unlisted subsidiary in which the Company has an interest or the decision of a government body) where that information has a material impact on the Company.

## **6 When is information "market sensitive"**

- 6.1 The test for determining whether information is market sensitive and needs to be disclosed is whether a reasonable person is taken to expect information to have a material effect on the price or value of the securities and if it would, or would be likely to, influence persons who commonly invest in securities in deciding whether or not to subscribe for, buy or sell securities.
- 6.2 A useful test in determining whether information may be market sensitive is to ask:
  - Would this information influence my decision to buy or sell securities in the Company at their current market price?
  - Would I feel exposed to an action for insider trading if I were to buy or sell securities in the Company at their current market price, knowing this information had not been disclosed to the market? (refer to the Company's Securities Trading Policy for an explanation as to what constitutes insider trading).
- 6.3 If the answer to either question is "yes", then that should be taken as an indication that the information may be market sensitive and require disclosure.
- 6.4 This is an objective test so the fact that an employee of the Company may honestly believe that the information is not market sensitive and does not need disclosure will not avoid a breach of the Listing Rules, if that view is later found to be incorrect. Consequently, if any person to whom this Policy applies is not sure whether such information is market sensitive, they should immediately seek guidance from the Company Secretary or Director.
- 6.5 This Policy imposes upon the Company Secretary and Directors the responsibility for determining what information is to be disclosed. Where there is doubt as to the obligation to disclose the information, the Company Secretary and the Director must consult the Board and Senior Executives and, if necessary, obtain external advice.
- 6.6 The Company Secretary and Director must at all times bear in mind the requirement to disclose the information in a timely manner and that the continuous disclosure obligations are not suspended merely because legal or accounting advice is being obtained prior to disclosure.
- 6.7 Determining whether information is materially price sensitive is a question of fact requiring consideration to be given to all of the circumstance surrounding the

information and the Company at the relevant point in time. ASX will give weight to judgments that are logically and honestly made.

**7 When does the Company become aware of information?**

- 7.1 The Company will become aware of information, if, and as soon as, an officer of the Company has, or ought reasonably to have, come into possession of the information in the course of performance of his or her duties as an officer of the Company.
- 7.2 This means that the Company is deemed to be aware of information if it is known by anyone within the Company and it is of such significance that it ought reasonably to have been brought to the attention of an officer of the Company in the normal course of performing his or her duties. It is for this reason that Company's employees have reporting obligations under this Policy.
- 7.3 Once a Director or Senior Executive becomes aware of information, he or she must immediately consider whether that information should be given to the ASX. Due to the elements of constructive knowledge on the part of the Company (or rather its Directors and executive officers) and the immediacy of the disclosure requirements, this Policy incorporates a system to identify material information and to decide if that information needs to be disclosed.

**8 What are the exemptions to disclosure of market sensitive information?**

- 8.1 The Listing Rules contain exemptions to the obligation to disclose market sensitive information. In certain prescribed circumstances, the Company is not required to disclose market sensitive information where the information is confidential and the ASX has not formed the view that the information has ceased to be confidential and a reasonable person would not expect the information to be disclosed.
- 8.2 The prescribed circumstances are:
- (a) it would be a breach of law to disclose the information - to fall within this category the relevant information must constitute a breach of a specific statute, regulation, rule, administrative order or court order binding on the Company;
  - (b) the information concerns an incomplete proposal or negotiation – generally speaking an agreement is not legally binding until it is signed or formally adopted;
  - (c) the information comprises matters of supposition or is insufficiently definite to warrant disclosure – information will be insufficiently definite to warrant disclosure if it is vague, imprecise, the veracity of the information is open to doubt or the likelihood of the matter occurring, or its impact is so uncertain;
  - (d) the information is generated for the internal management purposes of the Company  
– management documents such as budgets, forecasts, management accounts, business plans, strategic plans, contingency plans, decision papers and minutes of management meetings fall within this category. Professional advice from lawyers, accountants and financial advisers also usually fall within this category; or
  - (e) the information is a trade secret – the term “trade secret” refers to something which has economic value to the Company because it is not generally known or easily discoverable by observation and for which efforts have been made to maintain secrecy.

## 9 When is the Company required to disclose information to the ASX?

- 9.1 The Company is required to disclose market sensitive information immediately upon the Company becoming aware of the information (unless it falls within an exemption).
- 9.2 This means that the Company must disclose market sensitive information “promptly and without delay”. ASX recognises that how quickly an entity can give an announcement depends on the circumstances confronting the Company at the relevant time.
- 9.3 ASX expects the Company to act particularly quickly:
- (a) if ASX asks the Company to make an announcement because of a sudden and significant movement in the market price or traded volumes of its securities or otherwise to correct or prevent a false market in its securities; and
  - (b) if the information to be announced is especially damaging and likely to cause a significant fall in the market price of the Company's securities.
- 9.4 If the Company is not in a position to issue its announcement to the market straight away, ASX will generally expect the Company to request a trading halt.

## 10 How should information be disclosed?

Once disclosure is required to be made, disclosure of the information must be made to ASX before dissemination of that information at large. The Company must not disclose information that is for release to the market to anyone until it has given the information to the ASX and the Company has received an acknowledgment from ASX that the information has been received.

## 11 Procedure for deciding when disclosure should be made

### Reporting & escalation of information

- 11.1 It is the duty of all employees and not just Directors and Senior Executives to immediately notify the Company Secretary and/or Director as soon as he or she becomes aware of information that a reasonable person may expect to have an effect on the price or value of the Company's securities (“Potentially Price Sensitive Information”).
- 11.2 The escalation and reporting of Potentially Price Sensitive Information by employees should be made by way of an internal memo e-mailed to the Company Secretary and Director, marked as being of high priority. Where the information comes first to the knowledge of the Company Secretary and/or Director, no such memo is required.
- 11.3 All Potentially Price Sensitive Information must be reported. Whether or not an exemption with respect to its disclosure applies is a question for the Company Secretary or a Director.
- 11.4 The duty to consider the application of the continuous disclosure obligations to the reported Potentially Price Sensitive Information is the responsibility of the Company Secretary and the Director.

### Review by Company Secretary & Director

- 11.5 Upon receipt of the Potentially Price Sensitive Information, the Company Secretary and a Director must:
- (a) review the information;
  - (b) conduct further inquiries if required;

- (c) determine in consultation with other Company officers, Senior Executives and other senior employees, whether the information has to be disclosed to ASX; and
  - (d) prepare and co-ordinate the disclosure of the information should it be determined as being materially price sensitive.
- 11.6 No person may communicate with the ASX or any other party about price sensitive information except the Company Secretary and the Directors.

#### Timing

- 11.7 Continuous disclosure issues are intensely time critical. Therefore, if there is likely to be any significant delays in the investigation of Potential Price Sensitive Information or the preparation and lodgement of announcements to the ASX, the Board should consider whether a trading halt or voluntary suspension is warranted. A trading halt or voluntary suspension will ensure that the Company's securities are not trading on the ASX on an uninformed basis.
- 11.8 A trading halt may be necessary in the following situations:
- (a) there are indications that the information may have been leaked ahead of the announcement and it is having a material effect on the market price or traded volumes of the Company's securities;
  - (b) the Company has been asked by the ASX to provide information to correct or prevent a false market;
  - (c) the information is especially damaging and likely to cause a significant fall in the market price of the Company's securities;
  - (d) where the market is trading and the Company is not in a position to give an announcement to ASX straight away;
  - (e) where the market is not trading and the Company will not be in a position to give an announcement before trading next resumes;
  - (f) where the Company considers the announcement to be so significant that it ought to be approved by its Board before it is released to the market, but due to the unavailability of Directors, a Board meeting is not able to be held promptly and without delay; and
  - (g) where the situation is uncertain or evolving but is likely to resolve itself within a relatively short period and the Company considers that it would be better for the announcement to be delayed until there is greater certainty or clarity around the outcome.
- 11.9 A voluntary suspension is generally only appropriate in the following situations:
- (a) the Company has been in a trading halt but the relevant disclosure issue has not been resolved within the maximum period permitted for the trading halt;
  - (b) the situation would warrant the granting of a trading halt but the Company does not believe that the relevant disclosure issue would be resolved within the maximum period permitted for a trading halt; and
  - (c) the Company is in serious financial difficulties and it is reasonably of the view that continued trading in its securities is likely to be materially prejudicial to its ability to successfully complete a complex transaction that is, or a series of interdependent transactions that are, critical to its continued financial viability.

#### Dissemination of information to the ASX

- 11.10 If the Company Secretary and a Director form the opinion that the Potentially Price Sensitive Information must be disclosed in accordance with this Policy, the Company Secretary must prepare a draft announcement for lodgement with the ASX. The announcement must be factual, relevant and expressed clearly, objectively and unemotionally.
- 11.11 The Company Secretary or a Director must disseminate the draft announcement to the Board for comment and approval.
- 11.12 The Company Secretary or a Director must lodge the announcement electronically with the ASX as soon as possible.
- 11.13 The Company Secretary must ensure that immediately after the announcement is released to the ASX that a copy of the announcement is sent to the Board and Senior Executives by email.
- 11.14 The Board may delegate authority to the Company Secretary or other Senior Executives to approve certain administrative announcements from time to time.

#### Dissemination of Information to third parties

- 11.15 The Company must not disclose to third parties any information released to the ASX in a formal announcement until such time as the Company has received confirmation from the ASX of the release of that announcement.
- 11.16 As soon as practicable after receipt of confirmation from the ASX but in any event no later than 24 hours after receipt of confirmation, the Company Secretary must arrange for the announcement to be published on the Company's website in a manner whereby the nature of the information is clear to its reader and the information is published in an area that is not associated with the company's promotional or product material.
- 11.17 In addition to posting the information on the company website, the Company Secretary must ensure that the announcement is disseminated to major stakeholders and interested parties. This can be done via e-mail or a fax or if appropriate, a media release. The emphasis on this further release should at all times be equality of access to the information and dissemination of the information across the broadest spectrum of the market.

#### Shareholder engagement

- 11.18 Apart from adhering to this Policy regarding continuous disclosure and maintaining a comprehensive up-to-date website which Shareholders may access, the Company will ensure that:
  - (a) meetings of Shareholders are convened at times and places which give Shareholders adequate opportunity to attend those meetings;
  - (b) documents sent to Shareholders regarding matters for consideration at Shareholder meetings shall be presented in a clear manner to enable informed consideration; and
  - (c) Shareholders requiring clarification of any announcements made or documents sent to Shareholders shall be afforded reasonable access to Senior Executives and/or Directors as appropriate to obtain such clarification.

#### Official Spokesperson

- 11.19 No employee of the Company is authorised to discuss the Company's business operations or any price sensitive information with third parties. Such action is strictly prohibited.

- 11.20 A Director, Chairman and any other person authorised by the Board from time to time are permitted to speak with third parties in accordance with this Policy.
- 11.21 When discussing the Company with third parties the authorised spokesperson:
- (a) must limit comments to information that is already within the public domain;
  - (b) should consult the Company Secretary prior to the discussions in order to become better briefed on information previously disclosed to the ASX;
  - (c) clarify with the Company Secretary previous announcements to the ASX but must not disclose material price sensitive information which has not previously been released;
  - (d) must advise the Company Secretary of the nature of the information that the spokesperson intends to discuss with the third party;
  - (e) should limit discussions to areas of the spokesperson's expertise wherever possible; and
  - (f) should report to the Company Secretary after the discussions if there is any doubt as to whether information has been disclosed which should not have been.

## **12 Analysts & Media**

- 12.1 The application of this Policy with respect to spokespersons generally, also applies to briefings with analysts and the media.
- 12.2 Prior to meeting with analysts, any slides or presentations intended to be used as part of the briefings should be given to the ASX for immediate release to the market and should be posted on the Company's website.
- 12.3 When dealing with analysts' questions that raise issues outside of the intended scope of the briefing, spokespersons should not discuss information that has not been released through the ASX. Where answering a question requires the disclosure of price sensitive information, the spokesperson must decline to answer the question or take it on notice. If the Company intends to respond to the question, the relevant price sensitive information must be announced to the ASX beforehand and receipt of confirmation of the release of the announcement must occur prior to a response being given. This ensures that no one person or group of persons has access to information for any period of time prior to the information being readily available to the market at large.
- 12.4 Any comments made in relation to an analyst's financial projections should be limited to correcting factual errors and underlying assumptions. Responses that in any way address issues of the Company's projections as being incorrect should be avoided. Any changes in the Company's projections must be announced through the ASX.
- 12.5 A minimum of two Company representatives must be present at briefings with analysts. If two representatives are not present, the spokesperson who is present should endeavour to tape record the briefing. Comprehensive file notes of the discussion must be kept and provided to the Company Secretary for verification.

## **13 Market Rumours**

- 13.1 The Company has a "no comment" policy with respect to market rumours, however it will issue an announcement in response to market speculation and rumour where it is necessary to comply with its continuous disclosure obligations.
- 13.2 If there is market rumour or speculation which is creating a false market, the ASX may request the Company to respond to that speculation to ensure that the market is trading

on a fully informed basis. The ASX is likely to consider that there is or is likely to be a false market in the Company's securities if:

- (a) the Company has information that has not been released to the market;
- (b) there is a reasonably specific rumour or media comment in relation to the Company that has not been confirmed or clarified by an announcement to the market; and
- (c) there is evidence that the rumour or comment is having, or the ASX forms a view that the rumour or comment is likely to have an impact on the price of the Company's securities.

- 13.3 To avoid the emergency of a false market in the Company's securities, the Company monitors media by reviewing investor blogs and other media known to regularly include postings about the Company. The Company will focus on monitoring media when a market sensitive announcement is pending or when the Company is close to finalising a market sensitive transaction.

## **14 Leaks & Inadvertent Disclosures**

- 14.1 The disclosure of information that is of a material, price sensitive nature through means other than an ASX announcement may amount to a breach of the ASX Listing rules and/or the Corporations Act. To reduce the consequences of a leak or inadvertent disclosure of information, the Company Secretary must prepare and lodge an announcement with the ASX as soon as practicable after the fact of the disclosure comes to the attention of the Company.
- 14.2 It is important to note that the disclosure of previously confidential information is sufficient to deprive that information of the exemption from disclosure that may otherwise have been afforded to it under ASX Listing Rule 3.1A.

## **15 Maintaining confidentiality of corporate information to avoid premature disclosure**

- 15.1 The Company safeguards the confidentiality of corporate information to avoid premature disclosure by adopting policies and procedures to ensure that the confidentiality of market sensitive information is maintained until such time as it is required to be disclosed to the market.
- 15.2 In particular, the Company adopts practices such as:
- (a) the "need to know" principle;
  - (b) physical document management and information barriers; and
  - (c) inclusion of confidentiality provisions in employment and consultancy agreements; and
  - (d) staff training.
- 15.3 Where the Company is relying on the confidentiality exemption for the purposes of non-disclosure the Company monitors whether there are any indicators that the information may no longer be confidential. The Company reviews major national and local newspapers, enquiries from the media or analysts and the market price of its securities and the securities of any other listed entity involved in the particular matter.

## **16 Contravention & Breach**

- 16.1 If the Company breaches its continuous disclosure obligations by failing to notify the ASX of information required to be disclosed, and such contravention is intentional, reckless or negligent, the Company and its officers may be guilty of an offence under the Corporations Act.
- 16.2 The consequences for the Company being found guilty include:
- (a) criminal liability with monetary fines;
  - (b) civil liability for any loss or damage suffered by any person as a result of the Company's failure to disclose the information to the ASX;
  - (c) de-listing from the ASX.
- 16.3 The Company's officers, employees and advisors (which can include accountants, lawyers and financial advisors) who are involved in a contravention by the company, may also face criminal (monetary fine and/or 5 years' imprisonment) and civil liability for any loss or damage suffered by any person as a result of non-disclosure. ASIC may also take steps to disqualify the offending officer from managing a company.
- 16.4 In addition, there is a penalty system of infringement notices as a means of addressing what ASIC considers to be less serious breaches of continuous disclosure obligations. Infringement notices represent a swifter form of punishment of offenders and result in fines set with reference to the market capitalisation of the offending company.

## 17 Endorsement

This policy was adopted by the Board and a copy of this Policy has been provided to all Directors and Senior Executives and is available on the Company's website.

## 18 Review

The Board will periodically review this Policy to ensure that it remains effective in ensuring accurate and timely disclosure in accordance with the Company's disclosure obligations.

## 19 Definitions

In this policy:

ASX	means ASX Limited ACN 008 624 691 or the securities exchange operated by it (as the case requires).
Board	means the board of the Company.
Chairman	means the Director of the Company appointed as the Chairman of the Board from time to time.
Company	means Benjamin Hornigold Ltd ACN 614 854 045.
Company Secretary	means the person appointed company secretary of the Company.
Corporations Act	means the Corporations Act 2001 (Cth).
Director	means a director of the Company.
Group	means the Company and its controlled entities.
Listing Rules	means the listing rules of ASX.
Managing Director/CEO	means the managing director (or if there is no managing director, the CEO) or equivalent officer (by whatever title known) of the Company. As at the date of this document, the Board acknowledges this role is being undertaken by the Executive Chairman.
Policy	means this Continuous Disclosure and Shareholder Communication Policy.
Senior Executives	means the senior management team (excluding Board members), from time to time, being those engaged who have the opportunity to materially influence the integrity, strategy and operation of the Company, and its financial performance.
Shareholders	means shareholders of the Company.