



## **CONTINUOUS DISCLOSURE POLICY**

September 2018

### **1. INTRODUCTION**

- 1.1 The Board of Berkeley Energia Limited (“Company”) has adopted a Continuous Disclosure Policy for Directors to promote accurate, timely and suitable disclosure of information by the Company’s Officers.
- 1.2 This policy outlines the disclosure obligations of the Company as required under the Corporations Act 2001, the Australian Securities Exchange (“ASX”) Listing Rules and the Disclosure Guidance and Transparency Rules of the United Kingdom Financial Conduct Authority (“DTRs”). The policy is designed to ensure that procedures are in place so that the securities exchange in which the Company’s securities are listed is properly informed of matters which may have a material impact on the price at which the securities are traded.
- 1.3 The Company is committed to:
  - (a) complying with the general and continuous disclosure principles contained in the Corporations Act, the ASX Listing Rules and the DTRs;
  - (b) preventing the selective or inadvertent disclosure of material price sensitive information;
  - (c) ensuring shareholders and the market are provided with full, timely and accurate information about the Company’s activities; and
  - (d) ensuring that all market participants have equal opportunity to receive externally available information issued by the Company.

### **2. DISCLOSURE OFFICERS**

- 2.1 The Managing Director/Chief Executive Officer (“CEO”) and the Company Secretary have been appointed as the Company’s disclosure officers responsible for implementing and administering this policy (“Disclosure Officers”). The Disclosure Officers are responsible for all communication with ASX, London Stock Exchange (“LSE”) and Spanish Stock Exchanges (“BdM”) and for making decisions on what should be disclosed publicly under this policy.
- 2.2 In the absence of the Managing Director/CEO and Company Secretary, any matters regarding disclosure issues are to be referred to the Chairman.

### **3. MATERIAL INFORMATION**

- 3.1 In accordance with the ASX Listing Rules, the Company must immediately notify the market (via an announcement to the ASX and other exchanges) of any information concerning the Company which a reasonable person with experience in the industry in which the Company operates would expect to have a material effect on the price or value of the Company’s securities.
- 3.2 Information need not be disclosed if:



- (a) the information is confidential and the ASX has not formed the view that the information has ceased to be confidential; and
- (b) one or more of the following applies:
  - (i) it would breach the law to disclose the information,
  - (ii) the information concerns an incomplete proposal or negotiation,
  - (iii) the information comprises matters of supposition or is insufficiently definite to warrant disclosure,
  - (iv) the information is generated for internal management purposes, or
  - (v) the information is a trade secret; and
- (c) a reasonable person would not expect the information to be disclosed;

3.3 The Company is also required to disclose information if asked to do so by the ASX, to correct or prevent a false market.

3.4 Note that the Company is deemed to have become aware of information where a director or executive officer has, or ought to have, come into possession of the information in the course of the performance of his duties as a director or executive officer.

3.5 The Corporations Act defines a material effect on price or value as being where a reasonable person would be taken to expect information to have a material effect on the price or value of securities if the information would, or would be likely to, influence persons who commonly invest in securities in deciding whether to acquire or dispose of the securities.

#### **4. INSIDE INFORMATION**

4.1 In accordance with the DTRs, the Company is to ensure the immediate release of inside information which might reasonably be expected to have a material effect on the market and to keep the public and shareholders fully informed about the position of the Company.

4.2 Inside information is any information that is not generally available, relates directly or indirectly to the Company or the Company's shares and, if made public, would have a significant effect on the price of the shares or other financial instruments issued by the Company or related investments whose price or value depends on the price or value of the Company's shares or other financial instruments.

4.3 All inside information must be notified as soon as possible and must be available on the Company's website by the close of the business day following the day of the announcement is made.

4.4 In accordance with the DTRs, the Company may delay the disclosure of inside information such as not to prejudice its legitimate interests provided that:

- (a) the omission is not likely to mislead the public;
- (b) immediate publication could adversely affect the Company's legitimate interests;



- (c) any person receiving the information owes the Company a duty of confidentiality; and
- (d) it is able to ensure the confidentiality of the information.

4.5 all employees (including directors and officers) shall not disclose Inside Information to third parties, except when disclosure is made in the normal exercise of their work, profession, position or duties.

4.6 Additionally, employees (including directors and officers) that have access to inside information shall be required to:

- (a) Safeguard it, without prejudice to their duties of communication and cooperation with judicial and administrative authorities under the terms set forth in the applicable legal provisions; and
- (b) Adopt appropriate measures designed to prevent such Inside Information from being improperly or unfairly used.

During each transaction or internal process that may constitute or entail access to Inside Information, the following rules shall be observed:

- (a) Knowledge of the Inside Information shall be strictly limited to such persons within or outside the organization who absolutely require it.
- (b) For each transaction or internal process that may constitute or entail access to Inside Information, the Company Secretary shall keep an insiders list identifying all the persons who have access to Inside Information.

The list shall be drawn up in electronic format and in accordance with the templates legally established for this purposes and shall contain the following information:

- i. The name of the person with access to Inside Information;
- ii. The reason for including such person in the insiders list;
- iii. The date and time at which the person obtained access to Inside Information; and
- iv. The date on which the insiders list was created and updated.

The insiders list shall be updated when there is a new person with access to Inside Information, when the reason for including a person in the list changes or when a person ceases to have access to Inside Information.

The insiders list shall be divided into separate sections for different Inside Information. Each section will include only the details of those persons who have access to the Inside Information to which that section relates. The Company may include in its insiders list an additional section containing the details of those persons who have permanent access to Inside Information (the persons appearing in that section must not be included in other sections of the insiders list)

The details included in the List of Insiders must be kept for at least five years from the date of creation or from the last update if applicable.



The Company Secretary shall expressly warn the persons included in the insiders list of the confidential nature of the information and of their duty of confidentiality in relation thereto, of the prohibition on its use and of the infringements and penalties, if any, arising from the misuse of the Inside Information. Furthermore, The Company Secretary must inform the interested parties of their inclusion in the insiders list and, where appropriate, all other aspects envisaged in the data protection legislation applicable from time to time.

4.7 The Company shall make public the Inside Information directly concerning it as soon as possible, in the legally required form and in a way that allows quick access and a full, correct and appropriate assessment of the information by the public. The content of the disclosure must be truthful, clear and comprehensive so as not to be confusing or misleading.

4.8 In order to ensure that the Inside Information is disclosed to the market in a symmetrical and fair manner, and without prejudice of the exemption included in the Market Abuse Regulations, all employees (including directors and officers) shall refrain from providing analysts, shareholders, investors or the press with information whose content must be published through regulatory disclosures and which has not been previously or simultaneously provided to the market as a whole.

## **5. ROLE OF THE COMPANY SECRETARY**

4.1 The Company has nominated the Company Secretary as the person with the primary responsibility for all communication with the ASX, LSE and BdM in relation to Listing Rule and DTR matters. In particular the Company Secretary is responsible for:

- (a) liaising with the ASX, LSE and BdM in relation to continuous disclosure issues;
- (b) the lodging of announcements with the ASX, LSE and BdM in relation to continuous disclosure matters;
- (c) implementing procedures to ensure that the Company's PIN and individual passwords are secure;
- (d) ensuring senior management are aware of the Company's Disclosure Policy and related procedures, and of the principles underlying continuous disclosure;
- (e) ensuring this Disclosure Policy is reviewed and updated periodically as necessary; and
- (f) maintaining an accurate record of all announcements sent to the ASX, LSE and BdM, and all correspondence with ASIC, the FCA and CMNV in relation to the Company's continuous disclosure obligations.

## **6. ROLE OF THE BOARD**

6.1 The usual procedure for making disclosures to all stock exchanges is through the CEO as outlined in section 11 'Reporting Of Disclosable Information'.

6.2 Board approval and input will only be required in respect of matters that are clearly within the reserved powers of the Board (and responsibility for which has not been delegated to management) or matters that are otherwise of fundamental significance to the Company. Such matters are included in Schedule 1.



- 6.3 When Board approval is required, draft news releases should be circulated as soon as practicable. Periodic reporting should be circulated to the Board for review as follows:
- (a) Annual Financial Report – at least five business days before scheduled approval by the Board;
  - (b) Half Year Financial Report – at least four business days before scheduled approval by the Board; and
  - (c) Quarterly Activities Reports – at least three business days before scheduled release to the market.
- 6.4 Subject to the following paragraph, for matters reserved for the Board, formal Board approval in the form of minutes / written resolution is not required before the announcement is released to all stock exchanges. However, it is expected that all Board members will be sent a copy of the proposed final (or near final) news release and should then reply back in writing to the person circulating the draft release (if this is not possible, then confirmation by phone or text message will suffice).
- 6.5 However, formal Board approval in the form of minutes / written resolution is required if:
- (a) Required by law;
  - (b) Required by the ASX Listing Rules or DTRs;
  - (c) Required by a standing order or policy of the Company; or
  - (d) Requested by the Chair; CEO or Company Secretary.
- 6.6 Where an announcement is to be considered and approved by the Board, the Company Secretary, the Chief Financial Officer (“CFO”) (where applicable) and the CEO must ensure that the Board is provided with all relevant information necessary to ensure that it is able to fully appreciate the matters dealt with in the announcement.
- 6.7 Other announcements are not required to be referred to the full Board for approval (as opposed to simply being circulated to directors ‘for their information’ prior to or after the announcement has been made).
- 6.8 In the event that an announcement that would ordinarily require Board approval must immediately be disclosed to the market in order for the Company to comply with its continuous disclosure obligations under all relevant stock exchanges the Company is listed on, all reasonable effort must be made to have the announcement urgently considered and approved by the Board prior to release (and in particular, seek input from the Chairman of the Company).
- 6.9 However, if such approval cannot be obtained in advance, the usual procedure for making disclosures is to be followed to ensure compliance with the Company’s continuous disclosure laws and obligations. The announcement must then be considered by the Board at the first possible opportunity following its release to determine what, if any, further steps need to be taken by the Company.



## **7. BREACH OF CONTINUOUS DISCLOSURE POLICY**

Breaches of this policy will be subject to disciplinary action, which may include termination of employment.

## **8. REVIEW OF COMMUNICATIONS FOR DISCLOSURE**

8.1 The Disclosure Officers and other appropriate executives/consultants will review all communications to the markets to ensure that they are complete and accurate and comply with the Company's obligations. Such communications may include:

- (a) media releases;
- (b) analyst, investor or other presentations;
- (c) prospectus; and
- (d) other corporate publications.

8.2 Examples of information or events that are likely to require disclosure include:

- (a) financial performance and material changes in financial performance or projected financial performance;
- (b) exploration results;
- (c) changes in relation to directors and senior executives, including changes in the independence of directors;
- (d) mergers, acquisitions, divestments, joint ventures or material changes in assets;
- (e) significant developments in new projects or ventures;
- (f) material changes to the Company's security position;
- (g) material information affecting joint venture partners, customers or non-wholly owned subsidiary companies;
- (h) media or market speculation;
- (i) analyst or media reports based on inaccurate or out of date information;
- (j) industry issues which have, or which may have, a material impact on the Company; and
- (k) decisions on significant issues affecting the Company by regulatory authorities.

8.3 Once a draft of the proposed release is sufficiently complete, it must be forwarded to directors (including the Chairman) nominated by the Board for their review allowing a reasonable timeframe for review and discussion, given the circumstances.

8.4 Where there is any doubt as to whether an issue might materially affect the price or value of the Company's securities, the Disclosure Officers will assess the circumstances with appropriate senior executives and if necessary, seek external professional advice.



8.5 All presentations to analysts and investors will be released to the ASX, LSE and BdM and then be included on the Company's website.

## **9. AUTHORISED SPOKESPERSONS**

9.1 Unless specifically authorised by the Board, the only Company representatives authorised to make a public statement on behalf of, or attributable to, the Company (including posting content on social media platforms) are:

- Chair
- CEO (or equivalent)

9.2 Other than the Chair and the CEO, the only Company representatives authorised to speak to the media and/or post content on social media platforms (and subject to paragraph 8.4 below) regarding the Company's projects are those who only have the prior approval of the CEO or the Board.

A list of approved representatives will be maintained by the Company Secretary.

9.3 Subject to paragraph 9.4, the only Company representatives authorised to speak on behalf of the Company to investors, stockbroking analysts, governments and to conduct community presentations and/or post content on social media platforms are:

- Chair
- CEO
- CFO
- Chief Commercial Officer (or equivalent)
- Chief Operating Officer (or equivalent)
- Project Manager (or equivalent)
- Company Secretary
- Communications Officer (or equivalent)

9.4 Company representatives and authorised spokesperson may only speak with the media, investors, stockbroking analysts, governments and local communities and/or post content on social media platforms in accordance with this policy and with the directions and instructions given to them from the Board or CEO (instructions may be in writing or verbal) and only within the prescribed timeframe (if any) given to the Company representative by the Board or CEO.

9.5 Authorised spokespersons must not provide any material price sensitive information that has not already been announced to the market nor make comment on anything that may have a material effect on the price or value of the Company's securities.

9.6 No guidance on actual or forecast financial performance will be provided to any external party that has not already been provided to the market generally.



9.7 Any questions or enquiries from the financial community (whether received in writing, verbally or electronically including via the website) should be referred in the first instance to the CEO and if not available, then one of the other authorised persons listed above.

9.8 No employees or consultants are permitted to comment publicly on matters confidential to the Company. Any information which is not public must be treated by employees and consultants as confidential until publicly released.

## **10. DETERMINING IF THE INFORMATION IS REPORTABLE**

10.1 It is a standing agenda item at all Board meetings to consider whether any matters reported to or discussed at a Board meeting should be disclosed to the market pursuant to the Company's continuous disclosure obligations. Continuous disclosure is also a standing agenda item at executive meetings for the purpose of monitoring compliance with the Company's obligations.

10.2 If management becomes aware of any information at any time that should be considered for release to the market, it must be reported immediately to the CEO or if the CEO is not contactable, then the CFO or the Company Secretary. Executives must ensure they have appropriate procedures in place within their areas of responsibility to ensure that all relevant information (i.e. any information that could be materially price sensitive) is reported to them immediately for onforwarding in accordance with this policy.

10.3 It is important for management and employees to understand that just because information is reported to the CEO (or his delegate) that does not mean that it will be disclosed to the stock exchanges. It is for the CEO and Company Secretary to determine whether information is material and requires disclosure. Accordingly, the Company's policy is for all potentially material information to be reported to the CEO (or their delegates as above) even where the reporting officer or employee is of the view that it is not in fact 'material'. The employee's view on materiality may be shared with the CEO (or his delegate) but will not be determinative.

10.4 A similar reporting obligation also arises where a non-executive director (in their capacity as a director of the Company) becomes aware of information that should be considered for release to the market.

10.5 Where any information is reported as referred to above, the CEO in conjunction with the Company Secretary will (as appropriate):

- review the information in question;
- urgently seek any advice that is needed to assist the CEO and Company Secretary to interpret the information (provided that disclosure of the information cannot be delayed if the information is clearly materially price sensitive on its face);
- determine whether any of the information is required to be disclosed to all stock exchanges;
- urgently seek any advice that is needed to assist the CEO and Company Secretary to understand if the information should be considered material and/or complete (eg may require input from the Company's lawyer and/or also a corporate advisor)
- consider any applicable contractual requirements regarding the disclosure (eg Confidentiality Agreements or confidentiality provisions of applicable agreements). It is important to note that the continuous disclosure obligations of the ASX will generally override any confidentiality provisions of an agreement / licence but contractual provisions regarding confidentiality and/or



public announcements still need to be considered as they may impact commercially on the Company and on the process prior to release or post release of the information;

- consider whether confidential information remains confidential;
- consider whether it is necessary to seek any third-party consents to the release of the information, in particular competent persons in accordance with JORC code (see below);
- consider if all appropriate quality control and quality assurance measures have been undertaken prior to the release of the information;
- consider whether it is necessary to seek a trading halt to facilitate an orderly, fair and informed market in the Company's securities;
- consider whether a holding announcement should be made if the Company believes there is a danger of material information leaking before the facts of such information and their impact can be confirmed; and
- coordinate the actual form of disclosure with the relevant members of management.

10.6 If the information is reported to a delegate of the CEO, and the CEO is not available to immediately action, the Company Secretary and the CEO's delegates should immediately contact the Chairman and discuss with the circumstances with the Chairman and act in accordance with his instructions.

10.7 If the CEO and Chairman are both not available to immediately action, the Company Secretary and the CEO's delegates have authority to put in place a trading halt or make a holding announcement whilst making contact with the CEO and Chair.

10.8 Where any information is reported as referred to above, and the CEO and Company Secretary determines that the circumstances are developing but the information is not presently disclosable, the CEO and Company Secretary must oversee the preparation of an appropriate draft announcement to facilitate timely disclosure of the information if it later becomes disclosable (for example, as a result of confidentiality being lost through a 'leak').

10.9 In addition, the Company has a duty not to disclose information in a way that could mislead the market. Appropriate care must therefore be taken to ensure that the content of any announcement accurately discloses the material information.

10.10 Where any information is to be reported and deals with exploration, development or mining activities / results, then the Disclosing Officers must ensure that:

- (a) the Competent Person has reviewed the release and any comments have been dealt with and agreed with the Competent Person;
- (b) the release includes all information required under Chapter 5 of the Listing Rules, in particular in compliance with the disclosure requirements of JORC Code as outlined in Table 1;
- (c) the necessary QA/QC procedures have been completed;
- (d) the necessary Competent Person approvals have been received.



- 10.11 All announcements to stock exchanges will be made through the Company Secretary.
- 10.12 All deliberations of the CEO and Company Secretary will be shared without delay with the Chairman or, in their absence, the Chair of the Audit Committee (if applicable). Where open briefings or public speeches are to be made and, in accordance with this policy, relevant presentation materials and speeches are to be lodged with the stock exchanges, prior approval will be obtained from the Chairman and CEO.

## **11. REPORTING OF DISCLOSABLE INFORMATION**

- 11.1 If it appears that information will probably be required to be disclosed to the ASX, LSE and BdM, where possible the Disclosure Officers should commence drafting a suitable release, notwithstanding that many material facts / information will not be finalised or yet suitable for release. The purpose of the early drafting of a release is to enable the information to be finalised and released to the stock exchanges in a timely manner and immediately upon being finalised.
- 11.2 Once the requirement to disclose information has been determined and a suitable release to the stock exchanges has been finalised, the Disclosure Officers are the only persons authorised to release that information to the stock exchanges.
- 11.3 Information to be disclosed must be lodged immediately with the relevant market that is open at such time and that the Company should then distribute it for release in the other relevant jurisdictions when the relevant exchange opens. The disclosure of any such information should be synchronised as closely as possible in all jurisdictions in which the Company has a listing. Information must not be released to the general public until the Company has received formal confirmation of lodgement by the ASX, however the Company may release information that is for release to the market, to an overseas exchange (i.e LSE or BdM) that requires such information. In this case, the Company must give the announcement to the ASX market announcements platform at the same time it is lodged with an overseas exchange.
- 11.4 All information disclosed to the stock exchanges in compliance with this policy must be, if appropriate, promptly placed on the Company's website (if applicable).

## **12. MARKET SPECULATION AND RUMOURS**

As a guiding principle, the Company has a "no comment" policy on market speculation and rumours, which must be observed by all employees. However, the Company will comply with any request by the ASX, LSE or BdM to comment upon a market report or rumour.

## **13. ASX PRICE QUERY LETTERS**

- 13.1 The ASX can issue a price query letter if there is a material movement in the Company's share price that is not explained by an announcement or by information that is generally observable. The ASX will give the Company a short period (often no more than a few hours) to respond and will publish both the query and the Company's response on the CAP platform.
- 13.2 The questions that the ASX may ask in conjunction with a price query can be quite broad. The preparation of a response can be particularly difficult in the period leading up to the Company's results announcement because of the heightened possibility that the Company may be forced to make a premature announcement of incomplete information.
- 13.3 In order to be in a position to deal promptly with any price query, the Company Secretary should have a system in place which will enable rapid discussion by contacting as many other authorised



persons and other Executives to understand the status of any potentially material events or information. A draft of the proposed response should then be circulated to the authorised persons and, where appropriate, the Company's lawyer for review and comment prior to being released to the market. Draft language should also be prepared in advance where a development can be anticipated as being likely to occur.

13.4 Any response to the ASX should be mindful of any likely future announcements so that the response will not appear, with the benefit of hindsight, to have been less than clear and transparent.

#### **14. TRADING HALTS**

14.1 The Company may, in exceptional circumstances, request a trading halt on ASX to maintain orderly trading in the Company's securities and to manage any disclosure issues.

14.2 No employee of the Company is authorised to seek a trading halt except for the Disclosure Officers.

#### **15. MEETINGS AND GROUP BRIEFINGS WITH INVESTORS AND ANALYSTS**

15.1 The CEO is primarily responsible for the Company's relationship with major shareholders, institutional investors and analysts and shall be the primary contact for those parties.

15.2 Any written materials containing new price-sensitive information to be used in briefing media, institutional investors and analysts are to be lodged with the stock exchanges prior to the briefing commencing. Upon confirmation of receipt by the relevant exchanges, the briefing material will be posted to the Company's website. Briefing materials may also include information that may not strictly be required under continuous disclosure requirements.

15.3 The Company will not disclose price sensitive information in any meeting with an investor or stockbroking analyst before formally disclosing it to the market. The Company considers that one-on-one discussions and meetings with investors and stockbroking analysts are an important part of pro-active investor relations. However, the Company will only discuss previously disclosed information in such meetings.

15.4 The Company may conduct visits to its sites from time to time which involve the presence of members of the financial community.

15.5 Nothing will be disclosed during these site visits which may have a material effect on the price or value of the Company's securities unless it has already been announced to the ASX, LSE or BdM. This must be reinforced to all staff involved before the site visit commences.

15.6 If possible, the Company Secretary or their representative should be in attendance at such site visits.

#### **16. PERIODS PRIOR TO RELEASE OF FINANCIAL AND /OR TECHNICAL STUDY RESULTS**

16.1 During the time between the end of the financial year or half year and the actual results release, the Company will not discuss financial performance, broker estimates and forecasts and particularly, any pre-result analysis with stockbroking analysts, investors or the media, unless the information to be discussed has already been disclosed to the stock exchanges.



16.2 Should the Company be undertaking a material technical study (including feasibility studies, drilling programmes, mineral resource estimates) prior to the end of the technical study the Company will not discuss possible or expected results of the technical studies, broker estimates and forecasts and particularly, any pre-result analysis with stockbroking analysts, investors or the media, unless the information to be discussed has already been disclosed to the stock exchanges.

## **17. WEB-BASED COMMUNICATION**

17.1 The Company's website features discrete sections for shareholders and investors to ensure that such information can be accessed by interested parties. Such information will include

- (a) annual reports and results announcements,
- (b) all other company announcements made to the ASX, LSE and BdM,
- (c) speeches and support material given at investor conferences or presentations,
- (d) company profile and company contact details, and
- (e) all written information provided to investors or stockbroking analysts.

17.2 Announcements lodged with the ASX, LSE and BdM will be placed on the Company's website as soon as practicable after ASX confirms receipt of that information.

17.3 Shareholders may be offered the option of receiving information via e-mail instead of post.

## **18. ANALYSTS REPORTS AND FORECASTS**

18.1 Stockbroking analysts frequently prepare reports on listed companies that typically detail their opinion on strategies, performance and financial forecasts. To avoid inadvertent disclosure of information that may affect the Company's value or share price, the Company's comments on analyst reports will be restricted to:

- (a) information the Company has issued publicly; and
- (b) other information that is in the public domain.

18.2 Given the level of price sensitivity to earnings projections, the Company will only make comment to correct factual errors in relation to information publicly issued by other parties and Company statements.



## Schedule 1 – Board Reserved Matters

For the purposes of this Policy, the following matters are reserved for the Board (and responsibility for which has not been delegated to management) to approve prior to release to the ASX LSE and BdM.

- company-transforming events;
- significant changes in resource/reserve estimates;
- significant project milestones;
- significant profit upgrades or downgrades;
- significant changes to the Company's Officers (appointments or resignations);
- dividend policy or declarations;
- significant contracts (supplier/rail/port);
- Annual Reports;
- Annual Financial Reports;
- Communication (other than procedural) with Shareholders;
- Half Yearly Financial Reports;
- Quarterly Activities Report; and
- any other matters that are determined by the CEO or the Chair to be of fundamental significance to the Company.