



# CONFLICTS OF INTEREST AND RELATED PARTY TRANSACTIONS POLICY

MIRVAC GROUP

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## 1.0 Background

The Mirvac Group is an ASX-listed real estate group (**ASX code: MGR**) specialising in the ownership, management and development of real estate. The Mirvac Group comprises Mirvac Limited (**ML**) and Mirvac Funds Limited (**MFL**) as responsible entity of Mirvac Property Trust (**MPT**). Shares in ML are stapled to the units in MPT and dealt with as a stapled security.

The members of the boards of ML and MFL are the same and are referred to as the **Mirvac Group Board** in this Conflicts of Interest and Related Party Transactions Policy (**Policy**).

## 2.0 Purpose

The purpose of this Policy is to provide guidance to assist entities within the Mirvac Group (including companies, trusts and schemes) (**Mirvac Entities**) and their employees, non-executive directors, consultants and contractors (collectively referred to as Mirvac's **Workplace Participants**), and the related parties of the Mirvac Group (see section 4.2 below) in identifying and managing, and if applicable, avoiding certain conflicts which may arise in respect of:

- related party transactions: including the entry into, amendment or termination of, or waiver of rights under, arrangements entered into between Mirvac Related Parties;
- potential, actual or perceived conflicts of interest: arising as a result of the various roles undertaken by Mirvac Entities, including where a Mirvac Entity:
  - > owns interests in property (directly or indirectly) with other Mirvac Entities or third parties;
  - > owns interests in a trust or scheme managed by another Mirvac Entity;
  - > provides services in relation to a property owned by another Mirvac Entity; and/or
  - > provides services to a trust or scheme for which a Mirvac Entity acts as trustee, responsible entity or manager; and
- potential, actual or perceived conflicts involving Workplace Participants.

As a number of entities within the Mirvac Group are Australian financial services licence holders, the Mirvac Group is also required to have in place adequate arrangements to manage conflicts of interest that may arise either wholly or partially in relation to its activities as providers of financial services.

This policy applies to ML, MFL and the subsidiaries of these companies and to all of Mirvac's Workplace Participants. It has been created to ensure that the process for dealing with conflicts of interest and related party transactions are clearly stated.

## 3.0 Roles performed by Mirvac Entities

Through its business units, Mirvac owns property in a number of ways and provides a range of services both to itself and to third parties including:

- acting as responsible entity, trustee, manager or advisor for a registered or unregistered managed investment scheme or trust;
- acting as an investment manager, property manager, development and construction manager for other Mirvac Entities, external third parties or for Mirvac managed trusts or schemes;
- owning property alongside other co-owners who are either another Mirvac Entity, a trust or scheme for which a Mirvac Entity acts as trustee or responsible entity or a third party; and

- acting as a joint venture partner with another Mirvac Entity or external third party.

The integrated nature of Mirvac Group's operations means that there is potential for conflicts of interest and related party transactions to arise.

In all situations, it is essential that each Mirvac Entity:

- manages related party transactions in accordance with:
  - > the principles outlined in this Policy;
  - > fiduciary obligations;
  - > legislative requirements; and
  - > the Deed of Co-operation (see section 6.6 below);
- where it is a responsible entity or trustee, acts in the best interests of the trust or scheme for which it is the responsible entity or trustee or where it provides services to a client as a fiduciary, acts in the best interests of the client for which it provides services to; and
- manages all potential, actual or perceived conflicts of interest in accordance with the principles outlined in this Policy.

## 4.0 Related Party Transactions

### 4.1 Regulatory Framework

#### 4.1.1 Corporations Act requirements

The related party provisions of the *Corporations Act 2001 (Cth)* (**Corporations Act**) provide that public companies in the Mirvac Group (or an entity that the public company controls) and any Mirvac Entity that acts in a responsible entity capacity<sup>1</sup> (**Mirvac Responsible Entity**) must not give a financial benefit to a related party without the approval of the members (being the securityholders of the relevant company or scheme as the case may be), unless the giving of that benefit falls into one of the exceptions listed in the legislation (set out in section 4.1.2 – Exceptions).

#### 4.1.2 Exceptions

Generally, a transaction involving the giving of a financial benefit to a related party will not require member approval under the Corporations Act if the terms of the transaction would be reasonable if the parties were dealing 'at arm's length' (see section 4.4 – What is evidence of an arms' length transaction?).

The Corporations Act also provides for a number of other exceptions to the requirement to obtain member approval which apply in certain circumstances.

#### 4.1.3 ASX Listing Rule requirements

In addition to the Corporations Act requirements for related party transactions, ML and MFL as responsible entity of MPT must comply with the ASX Listing Rules on transactions involving the disposal of a substantial asset from, or disposal of assets to, persons in a position of influence as described in the ASX Listing Rules.

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<sup>1</sup> Mirvac Funds Limited is the responsible entity of Mirvac Property Trust, which is a registered managed investment scheme.

#### 4.2 Who is a related party of the Mirvac Group?

Related parties of the Mirvac Group (**Mirvac Related Parties**) include:

- Mirvac Limited and its subsidiaries;
- a trust or managed investment scheme for which any Mirvac Entity acts in a trustee or responsible entity capacity;
- any entity controlled by a trust or scheme referred to in paragraph (b) (including registered and unregistered managed investment schemes, or a trust, company or joint venture);
- the directors (and their immediate families) of any of the entities in paragraphs (a), (b) and (c);
- any entity which has the ability to control any Mirvac Entity as well as its directors and their immediate families; and
- any other person who is a related party of the Mirvac Group prescribed by the Corporations Act.

#### 4.3 What is a financial benefit?

The definition of a financial benefit is broad. A financial benefit includes giving a financial benefit directly or indirectly through an interposed entity, making an informal, oral or non-binding agreement to give the benefit, and giving a benefit that does not involve paying money.

Examples of “giving a financial benefit” to a related party include (but are not limited to):

- giving or providing finance or property;
- buying an asset from or selling an asset;
- leasing an asset from or to a related party;
- supplying services to or receiving services from a related party such as (but not limited to) asset management, investment management, property management, development and construction management services;
- issuing securities or granting an option; and/or
- taking up or releasing an obligation of a related party.

#### 4.4 What is evidence of an arm's length transaction?

‘Arm’s length’ refers to transactions conducted as if the parties were not related. In general, ‘arm’s length’ terms and conditions will be determined by Mirvac Entities in accordance with the following principles:

- in the case of acquisitions of assets by or from a Mirvac Related Party, by reference to independent valuations of the purchase price and by reference to a sign-off from an external law firm confirming the arm’s length nature of the legal terms of the transaction;
- in the case of acquisitions by way of co-investments between Mirvac Related Parties, the terms will be by reference to comparable agreements reached with an unrelated third party vendor;
- in the case of services being provided by a Mirvac Entity to a property portfolio managed or advised by the Mirvac Group, all fees and expenses being charged will require substantiation either by comparison with a range of similarly qualified unrelated service providers or a review and report by a qualified external party; and/or

- where appropriate or where no other method of determination exists, by reference to the opinion of a suitably qualified independent expert that the terms are fair and reasonable.

## 5.0 Conflicts of Interest

### 5.1 Regulatory Framework

The Corporations Act requires that:

- the directors of a public company must exercise their powers and discharge their duties in good faith in the best interests of the company and for a proper purpose; and
- when acting as responsible entity of a registered managed investment scheme, the responsible entity must act in the best interests of the scheme's members and, if there is a conflict between the scheme members' interests and the interests of the responsible entity, give priority to the scheme members' interests.

However, note that ML and MFL have ASIC relief which allow them to act in the best interests of the stapled entity (i.e. Mirvac Limited and Mirvac Property Trust), rather than just the company or just the members of the scheme.

Chapter 7 of the Corporations Act requires responsible entities, as holders of Australian financial services licensees, to have in place adequate arrangements for the management of conflicts of interest that may arise in relation to the activities undertaken by the relevant responsible entity as part of their financial services businesses. This Policy forms part of the arrangements that each Mirvac Responsible Entity has put in place in order to ensure it continues to meet this requirement. For this purpose, conflicts of interest usually arise where some or all of the interests of people to whom the responsible entity provides financial services (i.e. scheme members) are inconsistent with, or diverge from, some or all of the interests of the responsible entity. This includes potential, actual or perceived conflicts of interest.

In addition to the conflict management requirements specified under the Corporations Act, the Mirvac Group recognises that there is potential for conflicts to arise as a consequence of the various roles undertaken and capacities of Mirvac Entities, and the potentially divergent duties of those entities. These conflicts are similarly addressed in this Policy.

### 5.2 How can conflicts of interest arise?

Potential, actual or perceived conflicts of interest may arise for a Mirvac Entity, where that entity:

- acquires or disposes of a property, from or to, another Mirvac Entity;
- acts as responsible entity, trustee, manager or advisor for a registered or unregistered managed investment scheme or trust which another Mirvac Entity owns an interest in;
- acts as an investment manager, property manager, development and construction manager for other Mirvac Entities, external third parties or trusts or schemes for which Mirvac acts as trustee, responsible entity or manager;

- owns property alongside other co-owners who are either another Mirvac entity, a trust or scheme for which Mirvac acts as trustee, responsible entity or manager or an external third party; and/or
- is a joint venture partner with another Mirvac entity or external third party.

### **5.3 What is the required conduct in relation to the Mirvac Group's conflicts of interest?**

#### **5.3.1 General conduct**

In circumstances where a potential, actual or perceived conflict of interest is identified for a Mirvac Entity, it is essential that the relevant entity:

- conducts transactions on an arm's length basis at all times in accordance with the principles outlined in section 4.4; and
- has regard to the investment parameters of the particular property portfolio, trust or scheme in relation to which the conflict has been identified (see section 5.5.1 - Property); and
- in certain circumstances, the relevant entity may be required to avoid the conflict by withdrawing from or suspending the situation or transaction giving rise to the conflict (see section 5.7 - Avoiding Conflicts of Interest).

#### **5.3.2 Fiduciary arrangements**

In addition to the general conduct requirements outlined above:

- where a Mirvac Entity is a responsible entity, trustee or manager, it must act in the best interests of the members of the relevant trust or scheme for which it acts as the trustee, responsible entity or manager or where a Mirvac Entity provides services to a client as a fiduciary, it must act in the best interests of the client for which it provides services to; and
- if a conflict exists between the interests of the members of a registered managed investment scheme and the interests of the Mirvac Responsible Entity, the relevant Mirvac Responsible Entity must give priority to the members' interests; and in exercising its powers and carrying out its duties, each Mirvac Responsible Entity is required to comply with requirements of the Corporations Act and ASIC Regulatory Guidance relating to the duties of responsible entities.

### **5.4 How are potential, actual or perceived conflicts of interest identified within the Mirvac Group?**

Potential, actual or perceived conflicts of interest are identified by the Mirvac Entities in the following ways:

- from declarations of interest made by Workplace Participants (see section 5.5 - How does the Mirvac Group assess and manage conflicts of interest?);
- from declarations by directors of the Mirvac Group Board of any potential, actual or perceived conflicts of interest in accordance with the Mirvac Group Board Charter (see section 6.1 – Mirvac Group Board Charter);
- by Workplace Participants bringing the conflict of interest to the attention of senior management (who then determine or recommend an appropriate course of action);

- via analysis of all proposed transactions (as part of the decision making and approval process outlined in section 5.5.2 – Property Transactions);
- via ongoing management of property and investment portfolios;
- via due diligence processes;
- via analysis of trust and scheme structures; and
- via anonymous reporting using the Mirvac Open Line (see section 6.5 – Mirvac Group Open Line Policy).

As required by Mirvac's Code of Conduct (see section 6.2 – Mirvac Group Code of Conduct), all Workplace Participants are prohibited from engaging in behaviours which could give rise to a potential, actual or perceived conflict of interest.

## 5.5 How does the Mirvac Group assess and manage conflicts of interest?

If a potential, actual or perceived conflict is identified, the Mirvac Group will implement an appropriate response to that conflict by either:

- resolving the conflict so it no longer applies;
- disclosing the conflict; or
- avoiding the conflict.

All Workplace Participants that are members of Mirvac Leadership Team must disclose all potential, actual or perceived conflicts of interest. The Group General Manager Risk & Audit ensures all disclosed conflicts are recorded and maintained in Mirvac's Declaration of Interest Register (**Declarations Register**). While the obligation to disclose all potential, actual or perceived conflicts of interests is an ongoing one, on an annual basis the Group General Manager Risk & Audit conducts a review of the Declarations Register and prompts each relevant Workplace Participants to refresh any declarations on the Declarations Register.

Mirvac Group Compliance maintains a register of related party transactions (**Related Party Transactions Register**) identified during the Property Transaction decision making and approval process set out in section 5.5.2 – Property Transactions.

The Mirvac Group adopts the following specific principles for managing conflicts of interest arising in relation to particular types of transactions/arrangements.

### 5.5.1 Property

The Mirvac Group maintains the following in respect of each property it owns an interest in:

- an agreed investment objective, strategy and guidelines; and
- an annual business, budget and/or asset plan.

All proposed transactions relating to a property (including acquisition, sales, leasing, securing property services, re-development and so on) must be managed in a manner necessary to promote the interests, objectives and strategy of the property. Any potential, actual or perceived conflicts of interest issues will be addressed and considered as part of the decision making process outlined in section 5.5.2 - Property Transactions.



### 5.5.2 Property Transactions

All proposed property transactions are managed in accordance the following decision making process:

- The proposed transaction is initially reviewed by the relevant Fund Manager and/or the relevant Due Diligence Committee established for a project (if applicable).
- A recommendation is then prepared and presented to, depending on the size/nature of the proposed transaction, either the relevant business unit committee or the Mirvac Group Investment Committee.
- All potential, actual or perceived conflicts of interest and related party transactions identified in relation to the proposed transaction must be set out in the relevant committee papers. If the conflict or related party involves a public company (or an entity the public company controls) or a registered managed investment scheme, the following considerations must be set out in the papers:
  - > how the terms of the overall transaction compare with those of any comparable transactions on an arm's length basis;
  - > the nature and content of the bargaining process;
  - > the impact of the transaction on the company or registered managed investment scheme;
  - > any other options available to the entity; and
  - > any expert advice received by the entity.
- The relevant committee will consider each proposed transaction in light of the investment objectives and guidelines for each property portfolio as well as the agreed business, budget and/or asset plans (see section 5.5.1 – Property above). The relevant committee must ensure that all property transactions involving Mirvac Related Parties will be transacted on commercial arm's length terms in accordance with the principles outlined in section 4.4 above.
- In the case of an actual conflict of interest, the affected Mirvac Entities must implement appropriate information barriers or confidentiality protocols to preserve the confidentiality of any confidential information of the parties and to ensure that the relevant stakeholders' (for example, clients to which a Mirvac Entity provides services to or unitholders/members of a trust or registered managed investment scheme of which a Mirvac Entity is the trustee or the responsible entity) interests are adequately represented.
- If approved by the relevant committee, the committee will submit the proposed transaction for final approval by the board of the relevant Mirvac Entity, if required, or it will be approved under a Delegation of Authority from board to management.
- All related party transactions approved by the relevant Mirvac Entity are to be advised to Mirvac Group Compliance so they can be recorded in Mirvac's Related Party Transactions Register.

All property transactions entered into will be evidenced in writing between the parties and evidence of the arm's length nature of the transaction must also be documented unless the Deed of Co-operation is relied upon.

### 5.5.3 Co-ownership Arrangements

Mirvac Entities may purchase property on a co-ownership basis with third parties or with other Mirvac Entities or investment vehicles managed or advised by Mirvac Entities.

When considering entering into such co-ownership arrangements Mirvac Entities will:

- where the Mirvac Entity participates in a co-ownership arrangement in more than one capacity (such as the manager for more than one portfolio within the arrangement), it must fulfil each of its roles diligently and with due care;
- direct all co-owner participants to obtain their own independent advice including (but not limited to) accounting, taxation, legal and valuation advice;
- any agreement setting out the terms of the co-ownership arrangement may contain an acknowledgement that the relevant Mirvac Entity will comply with this Policy, or may contain a restriction preventing the relevant Mirvac Entity from voting on related party transactions or matters involving other conflicts of interest; and
- where a Mirvac Entity proposes to sell its interests in a property which is co-owned and subject to a co-ownership arrangement, the Mirvac Entity will follow any pre-emptive right process and time frames for notice of sale that apply under the relevant co-ownership agreement.

#### **5.5.4 Investment Opportunities**

The Mirvac Group Asset Allocation Policy (see section 6.3) sets out the manner in which asset allocation decisions are to be determined on a group wide basis.

#### **5.6 Will Mirvac Entities disclose conflicts of interest to its clients?**

Each Mirvac Entity must ensure that its clients are adequately informed about any material conflict that may affect the provision of its services to them. Adequate disclosure means providing enough detail on material conflicts in a clear, concise and effective format so that its clients are able to make informed decisions about how the conflict may affect the services being provided.

With this in mind, the relevant Mirvac Entity must ensure that the disclosures:

- are written, timely, prominent and meaningful to its clients;
- will occur before the service is provided so that the client will always have time to assess the effect of the conflict on the service or transaction; and
- refer to the actual service the relevant Mirvac entity is providing at the time.

#### **5.7 When will Mirvac Entities avoid conflicts of interest?**

If the Mirvac Group believes that it cannot adequately or appropriately manage a conflict of interest situation, then it will avoid the conflict of interest by refraining from or deferring the transaction or providing the service that relates to the conflict of interest.

#### **5.8 What happens if a conflicts arises in respect of a director or employee that cannot be avoided?**

The Mirvac Group Board Charter (see section 6.1) contains guidelines which must be followed by directors where a conflict of interest arises in respect of a director that cannot be avoided.

If a conflict of interest arises in respect of an employee that cannot be avoided, the conflict must be managed in accordance with the guidelines set out below:

- clear disclosure concerning the conflict;
- abstaining from voting on, making or influencing decisions or proposals;
- withdrawing from discussion or relevant proposals;
- having their access restricted to information related to the conflict; and/or
- having their access denied to sensitive documents or confidential information related to the conflict.

Where a person abstains from voting or leaves the room in order to avoid being placed in a situation of conflict, the abstention or absence of that person from the proceedings of a meeting shall be recorded in the minutes of the relevant meeting.

## 6.0 Other Policies, Agreements and Charters

The Mirvac Group has a number of other policies, charters and agreements in place that support, or are related to, this Policy and should be read in conjunction with this Policy. These policies and charters are:

### 6.1 Mirvac Group Board Charter

The Mirvac Group Board Charter deals with Directors conflicts of interest and stipulates how directors must act in relation to any potential, actual or perceived conflicts of interest which may exist and to ensure compliance with the Corporations Act provisions on disclosing interests and restrictions on voting at board meetings.

### 6.2 Mirvac Group Code of Conduct

The Code of Conduct deals with conflicts of interest of Mirvac's Workplace Participants and their families, friends or business associates who may have a personal interest in a business decision involving the Mirvac Group.

### 6.3 Mirvac Group Asset Allocation Policy

The Mirvac Group Asset Allocation Policy sets out the manner in which asset allocation decisions are to be determined where Mirvac has varied ownership and management interests that could, in the absence of the Policy, impact how the Mirvac Group deals in real estate assets.

### 6.4 Mirvac Group Leasing Conflict Policy

The Mirvac Group Leasing Conflict Policy provides guidance as to how Mirvac Entities must identify, manage and if applicable, avoid potential actual or perceived conflicts of interest in respect of the leasing of real estate assets.

### 6.5 Mirvac Group Open Line Policy

The Mirvac Group Open Line Policy assists in creating a safe, anonymous environment where employees and others can report concerns and improper conduct via the 'Mircvac Open Line' (an external third party service), including conduct which is inconsistent with this Policy without fear of repercussion because of their report.

## 6.6 Mirvac Group Deed of Co-operation

ML and MFL as responsible entity of MPT are parties to a Deed of Co-operation which facilitates those entities and their controlled entities in operating on a co-operative basis for the benefit of holders of the stapled securities as a whole. Although transactions between Mirvac Entities are usually conducted on an arms' length basis, the Deed of Co-operation does allow entities within the Mirvac Entity to provide financial benefits to related parties from time to time.

The Deed of Co-operation was approved by stapled securityholders in 2005 at the time that the stapling of units in MPT and shares in ML occurred.

## 7.0 Policy Maintenance and Review

Mircvac Group Compliance is responsible for ensuring that this Policy is reviewed at least every two years.

## 8.0 Approval

This policy was approved and adopted by the Mirvac Group Board on 26 May 2017.