

3 May 2024

ASX Compliance (Sydney)
20 Bridge St
Sydney NSW 2000

Email: ListingsComplianceSydney@asx.com.au

Attention: ASX Compliance

Reference: 93382 - Newmark Property REIT (NPR): Appendix 3X & Appendix 3Z – Director's Interest Notice Query

We refer to your above referenced ASX Request for Information dated 2 May 2024 under Listing Rule 18.7 and respectfully provide the following clarification and responses to the questions contained therein.

Our clarification

On 22 April 2024, NPR Management Limited (NPRML), as responsible entity for Newmark Property REIT (NPR), lodged the following late notifications with ASX:

- a. Appendices 3X (Notices of initial director's interest) for Fiona Harris and Mark Scatena who were appointed to the board of NPRML on 27 March 2024
- b. Appendices 3Z (Notices of final director's interest) for Mark Allen, Andrew Erikson, Christopher Langford, Melinda Snowden, each of whom retired from the board of NPRML on 27 March 2024
- c. Appendix 3Y (Notice of change of director's interest) for continuing NPRML director, Michael Doble, who on 21 March 2024 accepted BWP's Offer to acquire all of his securities in NPR in exchange for units in BWP.

We accept and acknowledge that the due date for the lodgement of the above listed Appendices 3X and 3Z was 5 April 2024, and the due date for lodgement of the above Appendix 3Y was 28 March 2024.

We have responded to each of your queries as per below.

1. Please explain why the Appendices 3X and 3Z were lodged late.

The Appendices 3X and 3Z (and 3Y) were lodged late due to administrative oversight. Immediately the oversight was detected, the notices were prepared and lodged without further delay.

At the time of the oversight, NPR was (and remains) subject to a takeover offer by BWP Trust (BWP). In conjunction with the takeover, BWP Management Limited acquired 100% of the shares in NPR Management Limited (NPRML) (formerly known as Newmark REIT Management Limited or NRML) along with the management rights for NPR. The completion date for the acquisition of NPRML and the management rights was 27 March 2024.

This was a complex transaction with many moving parts requiring the:

- negotiation, execution and implementation of various agreements between the transacting parties and external service providers;
- detailed due diligence on the target entities;
- the obtaining of independent expert opinions on financial, taxation, legal, compliance and contractual matters;

- exchange of consideration between the purchaser and vendor;
- handover of all the management company and ASX-listed scheme and property asset records both electronic and paper-based between Melbourne and Perth;
- activation of modifications to websites of both NPR and BWP;
- transfer between management teams of access to multiple regulatory portals (ASX included) some of which require more than a day to register and activate;
- submitting various ASIC and ASX lodgements and related communications according to strict sequencing requirements;
- simultaneous application to ASIC for variations to two AFS Licences;
- appointment, and approval by ASIC, of new Responsible Managers to both AFS Licences;
- co-ordination of the variations to the two AFS licences, appointments of Responsible Managers and change of Company name to coincide precisely with the handover date of 27 March 2024;
- appointment of custodians for the NPR scheme assets;
- extensive communications with the banks of both NPR and BWP and their respective legal teams in relation to assumption of NPR debt;
- communications with all stakeholders including securityholders, ultimate parent entities, both share registries, property management companies, and property tenants;
- holding of two NPRML Board meetings on 27 March 2024 to formally approve every aspect of the acquisition and transition of NPRML to new management;
- ongoing parallel management of the BWP-NPR merger transaction which launched in February; and
- continued running of the day-to-day operations of the respective entities.

The BWPM and NPRML management teams were each supported by their respective transaction advisors and legal advisory teams. Extensive timetables and checklists were prepared by the respective teams with each team interdependent on every other team to ensure that, between all participating actors, no critical aspects of the transaction were overlooked. All teams were operating at capacity for most of the time with some 24 hour days and several 7 day weeks required leading up to, and during, the handover week.

Regrettably for all, the one oversight from all teams' checklists was the preparation and lodgement of the ASX Appendices which, ordinarily, would have been timed for lodgement on 27 March 2024. The 27 March 2024 handover tasks overflowed into 28 March 2024, following which workflows were then disrupted by the Easter break during which some team members who had been working on the transaction since December 2023 took some overdue leave.

We consider the responsibility for the administrative oversight of the late appendices to be shared by both the outgoing and incoming management teams. In our view, the outgoing and incoming directors are not at fault as they had quite reasonably assumed that the respective management teams, together with their legal advisers, were attending to the timely lodgements of all notices connected with this highly complex transaction, including the directors' changes in interests.

2. What arrangements does NPR have in place under Listing Rule 3.19B with its directors to ensure that it is able to meet its disclosure obligations under Listing Rule 3.19A?

We are not able to comment on the arrangements that were in place prior to 27 March 2024 between the previous NRML management team and its outgoing directors. As the late Appendix 3Zs all relate to directors that have now resigned from the NPRML board, we do not consider this to have any further relevance for our assurances regarding future compliance.

In relation to current NPRML directors, Fiona Harris, Mark Scatena and Michael Doble, each is subject to agreements signed at the time of appointment that requires them to comply with their disclosure obligations in relation to ASX Listing Rule 3.19A and 3.19B. Under these agreements, the directors are required to notify the Company in advance of intentions to deal in the securities of the listed entity and related body corporates, and to notify the Company within 3 business days of dealing in order that notices of change of interest can be advised to ASX within the required 5 business days or earlier.

NPR

NPRML also has a Securities Trading Policy that further reinforces the directors' disclosure obligations.

We are satisfied that each NPRML director is an experienced director of ASX-listed entities and each understands their disclosure obligations under this listing rule.

As this listing rule breach was an administrative oversight that occurred at the respective management team level, we do not believe any additional arrangements or training of current directors is warranted in this instance.

3. If the current arrangements are inadequate or not enforced, what additional steps does NPR intend to take to ensure compliance with Listing Rule 3.19B.

We believe that the current arrangements as outlined are adequate and are appropriately enforced. Our directors are conscientious and proactive with their notifications of their intentions to deal and in following up with the details of those dealings. Our company officers are also highly experienced in listing rule compliance and under ordinary circumstances an omission of this nature would not have occurred.

In summary, we believe that this breach was an unfortunate, one-off, administrative oversight caused by the sheer volume of time-critical tasks required to be completed in a short time frame by multiple professional teams working co-operatively, but separately, across different time zones and from different offices, to achieve a successful outcome for the benefit of the many stakeholders to this transaction.

We are also confident that the experience of this one oversight has served only to sharpen our resolve to ensure it is not repeated.

Please contact the writer if you have any further questions.

Yours sincerely,



Mark Scatena
Managing Director
NPR Management Limited
as responsible entity for NPR



2 May 2024

Reference: 93382

Ms Karen Lange
Compliance Manager & Communication Person
Newmark Property REIT
Level 14
Brookfield Place Tower 2
123 St Georges Terrace
Perth WA 6000

By email

Dear Ms Lange

Newmark Property REIT ('NPR'): Appendix 3X (Initial Director's Interest Notice) & Appendix 3Z (Final Director's Interest Notice) Query

ASX refers to the following:

1. NPR's Appendix 3X lodged on the ASX Market Announcements Platform ('MAP') on 22 April 2024 for Ms Fiona Harris;
2. NPR's Appendix 3Z lodged on ASX Market Announcements Platform ('MAP') on 22 April 2024 for Mr Mark Allan,

(together, the 'Notices');
3. Listing Rule 3.19A which requires an entity to tell ASX the following:

3.19A.1 *'The notifiable interests of a director of the entity (or in the case of a trust, a director of the responsible entity of the trust) at the following times.*

- *On the date that the entity is admitted to the official list.*
- *On the date that a director is appointed.*

The entity must complete Appendix 3X and give it to ASX no more than 5 business days after the entity's admission or a director's appointment.

3.19A.3 *The notifiable interests of a director of the entity (or in the case of a trust, a director of the responsible entity of the trust) at the date that the director ceases to be a director. The entity must complete Appendix 3Z and give it to ASX no more than 5 business days after the director ceases to be a director.'*

4. Listing Rule 3.19B which states that:

'An entity must make such arrangements as are necessary with a director of the entity (or in the case of a trust, a director of the responsible entity of the trust) to ensure that the director discloses to the entity all the information required by the entity to give ASX completed Appendices 3X, 3Y and 3Z within the time period allowed by listing rule 3.19.A. The entity must enforce the arrangements with the director.'

As the Appendix 3X indicated that Ms Harris was appointed on 27 March 2024, it appears that the Appendix 3X should have been lodged with ASX by 5 April 2024. As the Notice was lodged on 22 April 2024, it appears that

NPR may have breached Listing Rules 3.19A and/or 3.19B. It also appears that Ms Harris may have breached section 205G of the *Corporations Act 2001* (Cth).

As the Appendix 3Z indicated that Mr Allan ceased to be a director on 27 March 2024, it appears the Appendix 3Z should have been lodged with ASX by 5 April 2024. As it was lodged on 22 April 2024, it appears that NPR may have breached Listing Rules 3.19A and/or 3.19B. It also appears that Ms Allan may have breached section 205G of the *Corporations Act 2001* (Cth).

Request for Information

Under Listing Rule 18.7, we ask that you answer each of the following questions having regard to Listing Rules 3.19A and 3.19B and *Guidance Note 22: Director Disclosure of Interests and Transactions in Securities - Obligations of Listed Entities*.

1. Please explain why the Appendices 3X and 3Z were lodged late.
2. What arrangements does NPR have in place under Listing Rule 3.19B with its directors to ensure that it is able to meet its disclosure obligations under Listing Rule 3.19A?
3. If the current arrangements are inadequate or not being enforced, what additional steps does NPR intend to take to ensure compliance with Listing Rule 3.19B?

When and where to send your response

This request is made under Listing Rule 18.7. Your response is required as soon as reasonably possible and, in any event, by no later than **9:30 AM AEST Tuesday, 7 May 2024**. You should note that if the information requested by this letter is information required to be given to ASX under Listing Rule 3.1 and it does not fall within the exceptions mentioned in Listing Rule 3.1A, NPR's obligation is to disclose the information 'immediately'. This may require the information to be disclosed before the deadline set out in the previous paragraph and may require NPR to request a trading halt immediately.

Your response should be sent to me by e-mail at ListingsComplianceSydney@asx.com.au. It should not be sent directly to the ASX Market Announcements Office. This is to allow me to review your response to confirm that it is in a form appropriate for release to the market, before it is published on the ASX Market Announcements Platform.

Trading Halt

If you are unable to respond to this letter by the time specified above, you should discuss with us whether it is appropriate to request a trading halt in NPR's securities under Listing Rule 17.1. If you wish to request a trading halt, you must tell us:

- the reasons for the trading halt;
- how long you want the trading halt to last;
- the event you expect to happen that will end the trading halt;
- that you are not aware of any reason why the trading halt should not be granted; and
- any other information necessary to inform the market about the trading halt, or that we ask for.

We require the request for a trading halt to be in writing. The trading halt cannot extend past the commencement of normal trading on the second day after the day on which it is granted. You can find further information about trading halts in *Guidance Note 16 Trading Halts & Voluntary Suspensions*.

Suspension

If you are unable to respond to this letter by the time specified above, ASX will likely suspend trading in NPR's securities under Listing Rule 17.3.

Listing Rules 3.1 and 3.1A

In responding to this letter, you should have regard to NPR's obligations under Listing Rules 3.1 and 3.1A and also to Guidance Note 8 *Continuous Disclosure*: Listing Rules 3.1 – 3.1B. It should be noted that NPR's obligation to disclose information under Listing Rule 3.1 is not confined to, nor is it necessarily satisfied by, answering the questions set out in this letter.

Release of correspondence between ASX and entity

ASX reserves the right to release all or any part of this letter, your reply and any other related correspondence between us to the market under Listing Rule 18.7A.

Kind regards

ASX Compliance

CC: Mr David Hawkins, NPR