

# Corporate Governance Statement

FOR THE YEAR ENDED 30 JUNE 2009

This statement reflects MaxiTRANS Industries Limited's ('MaxiTRANS') corporate governance policies and practices as at 30 June 2009 and which, unless otherwise stated, were in place throughout the year. The essential corporate governance principles incorporating the best practice recommendations of the ASX Corporate Governance Council ('Council'), and MaxiTRANS' policies and procedures and the Company's compliance with the Council recommendations, are as follows:

## 1. PRINCIPLE 1: LAY SOLID FOUNDATIONS FOR MANAGEMENT AND OVERSIGHT

### Recommendation 1.1:

**Formalise and disclose the functions reserved to the Board and those delegated to management**

#### Role and responsibility of the Board and management

The Board acts on behalf of shareholders and is accountable to shareholders for the overall direction, management and corporate governance of the Company. The MaxiTRANS Board Charter formally defines the role and responsibilities of the Board.

The Board is responsible for:

- overseeing the Company, including its control and accountability systems;
- appointing and removing the Managing Director;
- monitoring the performance of the Managing Director;
- ratifying the appointment and, where appropriate, the removal of the Chief Financial Officer and Company Secretary;
- ratifying other senior executive appointments, organisational changes and senior management remuneration policies and practices;
- approving succession plans for the management team;
- monitoring senior management's performance and implementation of strategy, and ensuring appropriate resources are available;
- providing strategic advice to management;
- reporting to shareholders and ensuring that all regulatory requirements are met;
- input into and final approval of management's development of corporate strategy and performance objectives;
- reviewing and ratifying systems of risk management and internal compliance and control, codes of conduct, and legal compliance to ensure appropriate compliance frameworks and controls are in place;
- monitoring compliance with regulatory requirements and the Company's own ethical standards and policies;
- determining dividend payment and financing dividend payment;
- approving and monitoring the progress of major capital expenditure, capital management, and acquisitions and divestitures;
- approving and monitoring financial and other reporting; and
- monitoring and ensuring compliance with best practice corporate governance requirements.

#### Role and responsibility of senior management

Responsibility for the day to day management and administration of MaxiTRANS is delegated by the Board to the Managing Director and the executive management team. The management team manages MaxiTRANS in accordance with the strategy, plans and policies approved by the Board. The Board has in place procedures to assess the performance of the management team.

MaxiTRANS has a Managing Director and Chief Financial Officer (CFO).

- The Managing Director plans and directs all aspects of MaxiTRANS' policies, objectives and initiatives, and is responsible for the short and long term profitability and growth of MaxiTRANS.

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- The Managing Director demonstrates expertise in a variety of concepts, practices, and procedures and relies on extensive experience and judgment to plan and accomplish goals.
- The Managing Director has an excellent understanding of MaxiTRANS, its products and the market in which it operates.
- The Managing Director leads and directs the work of others employed by MaxiTRANS. A wide degree of creativity and latitude is expected of the Managing Director to ensure the continued success of MaxiTRANS.
- The CFO is responsible for directing MaxiTRANS' overall financial policies and reports to the Managing Director.
- The CFO oversees all financial functions including accounting, budgeting, credit, insurance, tax, and treasury. In this role, the CFO designs and coordinates a wide variety of accounting and statistical data and reports.
- A wide degree of creativity and latitude is expected, and the CFO is expected to have considerable experience to be able to contribute to the ongoing success of MaxiTRANS.
- The Managing Director and CFO are appointed under formal letters of appointment that describe their duties, rights and responsibilities and entitlements on termination.

## Recommendation 1.2:

### Disclose the process for evaluating the performance of senior executives

Refer to the Remuneration Report on page 30 of the Report of the Directors.

## Recommendation 1.3:

An evaluation of the performance of senior executives was undertaken during the year in accordance with the process determined by the Board

## 2. PRINCIPLE 2:

### STRUCTURE THE BOARD TO ADD VALUE

#### Recommendation 2.1:

#### A majority of the Board should be independent directors

MaxiTRANS presently has four non-executive directors, three of whom are considered by the Board to be independent, and one executive director.

#### Non-Executive Directors

Mr. Ian Davis (Chairman) – Independent

Mr. James Curtis (Deputy Chairman) – Not independent

Mr. Geoff Lord – Independent

Mr. Robert Wylie – Independent

#### Executive Director

Mr. Michael Brockhoff (Managing Director) – Not Independent

The MaxiTRANS Board Charter defines independence in accordance with the principles set out in the Council's best practice recommendations. The Board has established a 5% threshold for material dealings or associations with MaxiTRANS.

At the date of this report, a majority of the MaxiTRANS Board is independent. The Board has formalised a number of measures to ensure that all directors exercise independent judgement in decision making:

- Directors are expected to cast their vote on any resolution in accordance with their own judgement.
- Directors are expected to comply with their legal, statutory and equitable duties when discharging their responsibilities as directors. Broadly, these are duties to:
  - (i) Act in good faith and in the best interests of MaxiTRANS as a whole
  - (ii) Act with care and diligence
  - (iii) Act for proper purposes
  - (iv) Avoid a conflict of interest or duty
  - (v) Refrain from making improper use of information gained through the position of director and taking improper advantage of the position of director.
- Directors may access information and seek independent advice that they consider necessary to

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fulfil their responsibilities and to exercise independent judgement in decision making.

- Directors are expected to be sensitive to conflicts of interest that may arise and be mindful of their fiduciary obligations to MaxiTRANS and:
  - (i) Disclose to the Board any actual or potential conflicts of interest which may exist or might reasonably be thought to exist as soon as the situation arises
  - (ii) Take steps as are necessary and reasonable to resolve any conflict of interest
  - (iii) Comply with the Corporations Act 2001 provisions on disclosing interests and restrictions on voting
  - (iv) If a conflict situation exists, it is expected that where a matter is being discussed by the Board to which the conflict relates, the director will be absent from the room.

The MaxiTRANS Board is well balanced, comprising directors who are proficient in all of MaxiTRANS' business portfolios with an appropriate range of skills, experience and expertise to complement the MaxiTRANS business, who have a proper understanding of and are competent to deal with current and emerging issues relevant to the transport industry and who can effectively review and challenge the performance of management and exercise independent judgement.

Refer to the Report of the Directors on pages 28 and 29 for details of directors' skills, experience and expertise.

The Board acknowledges that all Directors, whether independent or not, should bring independent judgement to bear on all Board decisions. To facilitate this, each Director has access in appropriate circumstances to independent professional advice at the expense of the Company.

## **Recommendation 2.2:**

### **The Chairperson should be an independent director**

MaxiTRANS' Chairman, Mr. Ian Davis, is considered by the Board to be an independent director.

## **Recommendation 2.3:**

### **The roles of chairperson and chief executive officer should not be exercised by the same individual**

The roles of chairperson and managing director are exercised by Mr. Ian Davis and Mr. Michael Brockhoff respectively.

## **Recommendation 2.4:**

### **The Board should establish a nomination committee**

The MaxiTRANS Nomination Committee was formally constituted on 27 June 2003. Committee members at the date of this report are Messrs Ian Davis (Chairman), James Curtis and Geoff Lord.

The committee's responsibilities are to review and make recommendations to the Board regarding:

- Assessment of the necessary and desirable competencies of Board members
- Review of Board succession plans
- The appointment and removal of directors

## **Recommendation 2.5:**

### **The Board should establish and disclose a process for performance evaluation of the Board, its committees and individual directors, and key executives.**

The Board reviews the performance of key executives against measurable and qualitative indicators to ensure that the full potential of MaxiTRANS is being met.

New Board members will be offered induction programs to allow them to fully and actively participate in decision making at the earliest opportunity. The induction programs are designed to ensure that any new director has a comprehensive knowledge of MaxiTRANS, the industry and the market in which it operates.

Directors and key executives are encouraged to continually update and enhance their skills and knowledge. Directors and key executives are encouraged to become members of relevant industry groups and professional organisations.

For the purposes of evaluating its own performance and assisting the Board in its responsibilities in relation to corporate governance, the Board has established a Corporate Governance Committee.

At the date of this report the members of the MaxiTRANS Corporate Governance Committee are Messrs. Ian Davis (Chairman), James Curtis, Robert Wylie and Geoff Lord. Refer to the Report of the Directors on page 30 for details of attendance by directors at Corporate Governance Committee meetings.

The committee's responsibilities are to review and make recommendations to the Board regarding:

- The annual review of MaxiTRANS' corporate governance policies and procedures

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- Review and assessment of appropriate performance benchmarks for the Board and management.

It is the Board's policy that the Board should at least annually:

- review the performance of the Board, the Company, and management
- review the allocation of the work of the Company between the Board and management
- review the criteria for success and the assessment of the performance of the Company.

The Board has conducted a formal evaluation of its performance for the year ended 30 June 2009 in accordance with the process determined by the Board.

### 3. PRINCIPLE 3: PROMOTE ETHICAL AND RESPONSIBLE DECISION MAKING

#### Recommendation 3.1:

**Establish a code of conduct to guide the directors, the chief executive officer (or equivalent), the chief financial officer (or equivalent) and any other key executives as to:**

- The practices necessary to maintain confidence in the Company's integrity**
- The practices necessary to take into account their legal obligations and reasonable expectations of their stakeholders.**
- The responsibility and accountability of individuals for reporting and investigating reports of unethical practices**

MaxiTRANS recognises the need for directors and employees to observe the highest standards of behaviour and business ethics when engaging in corporate activity.

MaxiTRANS intends to maintain a reputation for integrity. The Board has adopted a Code of Conduct which sets out the principles and standards with which all officers and employees are expected to comply in the performance of their respective functions in respect of responsibilities to shareholders, customers, clients, consumers and the community. The Code also sets guidelines in respect of

employment practices, fair trading and dealing as well as conflicts of interest.

A key element of that Code is the requirement that officers and employees act in accordance with the law and with the highest standards of propriety. The Code and its implementation are reviewed each year.

#### Recommendation 3.2:

#### **Disclose the policy concerning trading in Company securities by directors, officers and employees**

The Board encourages directors to own shares in MaxiTRANS. Directors (and relevant employees) must comply with the MaxiTRANS Code of Practice when dealing in MaxiTRANS securities. The essential provisions of the Code of Practice are set out below:

Directors are not permitted to deal in the Company's securities:

- In circumstances where the director is in possession of unpublished price-sensitive information
- In closed periods. A closed period is defined as the two month period preceding the announcement of the full-year or half-year results, or if sooner, from the end of the financial period to the announcement of the full-year or half-year results. Only in exceptional circumstances may the Chairman provide clearance for any director to deal in the Company's securities during a closed period.

With suitable clearance from the Chairman, the most appropriate period to deal in MaxiTRANS securities is in the four week period following the annual general meeting and the announcement of the full-year or half-year results.

Directors must advise the disclosure officer of any dealings in MaxiTRANS securities within two business days of the dealing.

Directors must seek to prohibit closely associated persons from dealing in MaxiTRANS securities in circumstances where the director would not be permitted to do so. It is incumbent on the director to inform closely associated persons of the circumstances in which they are permitted to deal in the Company's securities.

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## 4. PRINCIPLE 4: SAFEGUARD INTEGRITY IN FINANCIAL REPORTING

### Recommendation 4.1:

**The Board should establish an audit committee**

The MaxiTRANS Audit Committee was established in 1994 and renamed Audit and Risk Management Committee during the year to reflect amendments to the Committee Charter.

### Recommendation 4.2:

**Structure the audit and risk management committee so that it consists of:**

- Only non-executive directors
- A majority of independent directors
- An independent chairperson, who is not chairperson of the Board
- At least three members.

At the date of this report the members of the MaxiTRANS Audit and Risk Management Committee are Messrs. Robert Wylie, (Chairman), independent non-executive director, James Curtis, non-executive director, Ian Davis, independent non-executive director and Geoff Lord, independent non-executive director. Details of attendances by directors are to be found in the Report of the Directors on page 30.

The members of the Committee are well qualified to perform their duties as set out in the Charter with strong financial, legal and industry expertise.

At the date of this report, the composition of the MaxiTRANS Audit and Risk Management Committee complies with Best Practice recommendation 4.2 in all respects.

The external auditor met with the Audit and Risk Management Committee four times during the year without management being present. The Audit and Risk Management Committee intends for the 2010 financial reporting period to have the auditor meet at least twice with the Audit Committee without management being present.

### Recommendation 4.3:

**The Audit and Risk Management Committee should have a formal charter**

The revised charter of the MaxiTRANS Audit and Risk Management Committee adopted by the Board in August 2008 clearly sets out the committee's role and responsibilities, composition, structure and membership requirements. The Audit and Risk Management Committee has the right to access management and seek independent professional advice in accordance with the Board Charter.

The primary role of the Committee is to assist the Board in fulfilling its corporate governance and oversight responsibilities. In particular, the Committee will focus on:

- verifying and safeguarding the integrity of the Company's financial reporting
- internal management processes and controls
- the removal, selection and appointment of the external auditor and the rotation of the external audit engagement partner
- review of risk management and internal compliance and control systems

## 5. PRINCIPLE 5: PROVIDE TIMELY AND BALANCED DISCLOSURE OF ALL MATERIAL MATTERS CONCERNING THE COMPANY

### Recommendation 5.1:

**Establish written policies and procedures designed to ensure compliance with ASX Listing Rule disclosure requirements and to ensure accountability at a senior management level for that compliance.**

MaxiTRANS has adopted a Continuous Disclosure Protocol. The Company Secretary has been appointed the Disclosure Officer and is required to collate and, subject to advising the Board, disclose share price sensitive information.

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The Continuous Disclosure Protocol provides guidelines on:

- what must be disclosed
- responsibilities of the Board in relation to disclosure matters
- responsibilities of the Disclosure Officer
- responsibilities of senior management in relation to disclosure matters

The Managing Director and Chief Financial Officer are the only authorised personnel to engage in media contact and comment in relation to matters relevant to continuous disclosure.

## 6. PRINCIPLE 6: RESPECT THE RIGHTS OF SHAREHOLDERS

**Recommendation 6.1:**  
**Design and disclose a communications strategy to promote effective communication with shareholders and encourage effective participation at general meetings.**

The Company respects the rights of shareholders and seeks to facilitate the effective exercise of those rights. The Company does this by communicating effectively with shareholders, giving shareholders ready access to balanced and understandable information about the Company and corporate records and making it easy for shareholders to participate in general meetings.

The Company publishes all ASX announcements on the MaxiTRANS website, and also sends information to shareholders by mail or e-mail (where nominated). The MaxiTRANS website contains important information on the Company which is of use to shareholders in obtaining a greater understanding of the Company.

Notices of meeting are drafted in plain English to be easy and clear to understand. They are honest, accurate and not misleading. Meetings are held during normal business hours and at a place convenient for the greatest possible number of shareholders to attend.

The MaxiTRANS website also provides to shareholders and other stakeholders the facility to read and download annual reports, ASX announcements and corporate governance policies and procedures.

## 7. PRINCIPLE 7: RECOGNISE AND MANAGE RISK

**Recommendation 7.1:**  
**The Board or appropriate Board committee should establish policies on risk oversight and management of material business risks.**

The Board is responsible for reviewing and ratifying systems of risk management and internal compliance and control. The Board has delegated to the Audit and Risk Management Committee the responsibility for establishment of policies on risk oversight and management. Specifically, the Audit and Risk Management Committee has responsibility for:

- Review of management programs for monitoring and identifying significant areas of risk for the Company, (including sustainability risk)
- Review and assess management information systems and internal control systems
- Review the insurance program for the MaxiTRANS Group
- Review of occupational health and safety practices and compliance with legislation

**Recommendation 7.2:**  
**The Board should require management to design and implement the risk management and internal control system to manage the Company's material business risks and report to it on whether those risks are being managed.**

Management has established and implemented the risk management system for assessing, monitoring and managing material business risks, including sustainability risk.

Management has provided a report to the Audit and Risk Management Committee that outlines the material business risks to the Company and reports on the status of the risks and effectiveness of controls through integrated risk management programs aimed at ensuring risks are identified, assessed and properly managed. Each business operational unit is responsible and accountable for implementing and managing the standards required by the program.

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## Recommendation 7.3:

**Require the chief executive officer (or equivalent) and the chief financial officer (or equivalent) to state in writing to the Board that the Company's financial reports present a true and fair view, in all material respects, of the Company's financial condition and operational results; and are in accordance with relevant accounting standards; and are founded on a sound system of risk management and internal compliance and control which implements the policies adopted by the Board**

In accordance with the MaxiTRANS Audit and Risk Management Committee Charter, the Managing Director and Chief Financial Officer of MaxiTRANS are required to state in writing to the Board that MaxiTRANS' financial reports present a true and fair view, in all material respects, of the Company's financial condition and operational results and are in accordance with relevant accounting standards. The statements are underpinned by representations from executive management and relevant accounting officers.

The statement of the Managing Director and Chief Financial Officer, given in accordance with best practice recommendation 7.3 (the integrity of financial statements), confirms the existence of a sound system of risk management and internal compliance and control which implements the policies adopted by the Board and also confirms that MaxiTRANS' risk management and internal compliance and control system is operating efficiently and effectively in all material respects.

## 8. PRINCIPLE 8:

### REMUNERATE FAIRLY AND RESPONSIBLY

#### Recommendation 8.1: Remuneration Committee

##### 8.1.1 The Board should establish a remuneration committee.

The MaxiTRANS Remuneration Committee was established in 1994.

At the date of this report the members of the MaxiTRANS Remuneration Committee are Messrs. Ian Davis (Chairman), Michael Brockhoff (Managing Director), James Curtis and Geoff Lord. Refer to the Report of the Directors on page 30 for details of attendance by directors at Remuneration Committee meetings. The committee's responsibilities are to review and make recommendations to the Board regarding:

- The remuneration of the Managing Director, other senior executives and the non-executive directors
- The remuneration policies and practices for the Company including participation in the incentive plan, share scheme and other benefits
- Superannuation arrangements.

##### 8.1.2 Provide disclosure in relation to the Company's remuneration policies to enable investors to understand (i) the costs and benefits of those policies and (ii) the link between remuneration paid to directors and key executives and corporate performance.

The level and composition of remuneration offered by MaxiTRANS is designed to attract and maintain talented and motivated directors and employees.

MaxiTRANS has adopted a transparent policy in relation to remuneration reporting. The Corporations Act 2001 requires annual disclosure by the Company of the nature and amount of each element of the fee or salary of each director and each of the five highest paid officers of the Company. This includes disclosure in respect of non-monetary components such as options.

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MaxiTRANS has a clear distinction between non-executive director remuneration and executive director remuneration. Non-executive directors receive a fixed fee, no termination benefits, and no bonuses. Executive directors have access to salary, termination benefits, superannuation benefits, a vehicle allowance, bonus and options entitlements.

Executive directors and senior executives may receive bonuses based on performance hurdles that are a blend of the consolidated entity's and each relevant segment's budgeted operating result being achieved or exceeded.

The letters of appointment for directors clearly set out all relevant entitlements as applicable to executive and non executive directors.

## **Recommendation 8.2: Remuneration structure**

### **8.2.1 Clearly distinguish the structure of non-executive directors' remuneration from that of executives.**

Non-executive directors receive a fixed fee, no termination benefits, and no bonuses. Fees paid to non-executive directors are benchmarked against similar sized companies operating in similar industries. Non executive directors are not entitled to participate in any executive option or executive share scheme.

The aggregate amount of directors' fees payable to non-executive directors must not exceed the maximum amount permitted under the MaxiTRANS Constitution of \$400,000, as approved by shareholders on 25 February 1998.

Executive directors have access to salary, termination benefits, superannuation benefits, a vehicle allowance, bonus and options entitlements.

The letters of appointment for directors clearly set out all relevant entitlements as applicable to executive and non executive directors.

The level of remuneration paid to executive directors, non-executive directors and key management personnel is set out in the Remuneration Report on pages 33 and 34.

### **8.2.2: Ensure that payment of equity-based executive remuneration is made in accordance with thresholds set in plans approved by shareholders.**

The maximum number of securities, including options, which may be issued under the MaxiTRANS Executive Option Plan, is limited to 5% of the number of ordinary securities on issue. The MaxiTRANS Executive Option Plan was approved by shareholders on 19 October 2007.

Refer to Note 21 of the financial statements and pages 35 and 36 of the Remuneration Report for details of shares or options which have been issued or granted under the above plans in the period under review.