

# Corporate Governance Statement

## As at 31 December 2021



The Directors of Cyclopharm are responsible for the corporate governance of the Cyclopharm Group (“Cyclopharm” or the “Company”). The Board guides and monitors the business and affairs of the Company on behalf of the Shareholders by whom they are elected and to whom they are accountable.

The Company’s main corporate governance practices are applicable to all subsidiaries and are summarised below.

### 1 Compliance with ASX Corporate Governance Council best practice recommendations

The ASX Listing Rules require listed companies to include in their Annual Report or on its website, a statement which discloses the extent to which they have complied with the ASX Corporate Governance Council’s Corporate Governance Principles and Recommendations – 4<sup>th</sup> Edition (“ASX Recommendations”) during the reporting period.

Where there is non-compliance, this is primarily due to the current size, scale and nature of Cyclopharm’s operations as it is uneconomic for smaller companies such as Cyclopharm to follow the same rules as Australia’s largest listed companies.

### 2 The Board of Directors

#### (a) Membership

The Board has a range of relevant financial and other skills, experience and expertise to meet its objectives. The current Board composition, including details of director backgrounds is contained within the Directors’ Report in the 2021 Annual Report. A board skills matrix summarises the mix of skills that the Board currently has:

SKILLS		
Senior management experience	Public company experience	Finance and capital management
Global operating experience	Pharmaceutical industry experience	Risk management
Government relations	Corporate Governance	Strategy
Stakeholder engagement	Intellectual property	Licensing

The Company’s Constitution requires a minimum of 3 Directors and a maximum of 9 Directors. As at 31 December 2021, there were two non-executive Directors and one executive director. The Chairman, Mr Heaney, is a non-executive director.

The terms and conditions of appointment and retirement of Directors are set out in the Company’s Constitution. The Board believes that its membership should have enough Directors to serve on various committees of the Board without overburdening the Directors or making it difficult for them to fully discharge their responsibilities.

#### (b) Board role and responsibilities

The Board is responsible to Shareholders and investors for the Group’s overall corporate governance.

The Board has established and approved a Board Charter. Under this Charter the Board is responsible for:

- Considering and approving the corporate strategies proposed by the Managing Director and monitoring their implementation;
- Approving, overseeing and monitoring financial and other reporting to Shareholders, investors, employees and other stakeholders of the Company;

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- Ensuring that the Company has the appropriate human, financial and physical resources to execute its strategies;
- Appointing and monitoring the performance of, and removing the Managing Director;
- Ratifying the appointment, and where appropriate, the removal of the Chief Financial Officer (or equivalent) and / or Company Secretary; Reviewing the effectiveness of the Company's policies and procedures regarding risk management, including internal controls and accounting systems; and
- Ensuring appropriate governance structures are in place including standards of ethical behaviour and a culture of corporate and social responsibility.

The Board has delegated to the Managing Director all of the necessary power and authority to manage the business of the Company on a day-to-day basis with the assistance of senior management. This includes execution of the strategy approved by the Board, managing performance and risk management.

Directors have the opportunity to meet with management to gain a better understanding of the Company's business and operations and are encouraged to undertake professional development to enable them to develop and maintain the skills and knowledge needed to effectively perform their roles as Directors.

#### (c) Chairman

The Chairman, Mr Heaney, satisfies the requirements for an independent director under *ASX Recommendation 2.3* as he is a non-executive director, and has a relevant interest in approximately 0.26% of the Shares as at 31 December 2021 (Recommendations permit 5%).

The Chairman is elected by the full Board of Directors and is responsible for:

- Leadership of the Board;
- The efficient organisation and conduct of the Board's functions;
- The promotion of constructive and respectful relations between Board members and between the Board and management;
- Contributing to the briefing of Directors in relation to issues arising at Board meetings;
- Facilitating the effective contribution of all Directors; and
- Committing the time necessary to effectively discharge the role of the Chairman.

#### (d) Independent Directors

The Company recognises that independent Directors are important in assuring Shareholders that the Board is properly fulfilling its role and is diligent in holding senior management accountable for its performance. The Board assesses each of the Directors against specific criteria to decide whether they are in a position to exercise independent judgement.

Directors are considered to be independent if they are independent of management and free from any business or other relationship that could materially interfere with, the exercise of their unfettered and independent judgement. Materiality is assessed on a case-by-case basis by reference to each director's individual circumstances rather than general materiality thresholds.

In assessing independence, the Board considers whether the director has a business or other relationship with the Company, directly or as a partner, shareholder or officer of a Company or other entity that has an interest or a business relationship with the Company or another Cyclopharm group member.

As Managing Director, Mr McBrayer is not considered to be an independent director.

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As noted in section 2(c), Mr Heaney is considered to be an independent director.

Ms Angus satisfies the requirements for an independent director under *ASX Recommendation 2.3* as she is a non-executive director, and has no relevant interest in Shares as at 31 December 2021.

The structure of the Board complies with *ASX Recommendation 2.4* as two thirds of the members satisfy the requirements as an independent director.

#### **(e) Avoidance of conflicts of interest by a director**

In accordance with the Corporations Act 2001 and the Company's Constitution, Directors must keep the Board advised of any interest that could potentially conflict with those of the Company.

In the event that a conflict of interest may arise, involved Directors must withdraw from all deliberations concerning the matter. They are not permitted to exercise any influence over other Board members. Further, when that matter is being considered, the Director may not vote on that matter, in accordance with the Corporations Act 2001.

#### **(f) Board Meetings**

The Board regularly monitors the operational and financial performance of the Company and the economic entity against budget and other key financial risks. Appropriate risk management strategies are developed to mitigate all identified risks of the business.

The number of times the Board has formerly met and the number of meetings attended by Directors during the financial year are reported in the Directors' Report in the 2021 Annual Report. The Board Charter dictates that the Board will hold 8 scheduled meetings each year and, other meetings may be held at short notice as required.

#### **(g) Review of Board Performance**

The process for conducting the Board's annual performance review was agreed by the Board and was performed by the Chairman of the Board. Matters covered in the annual performance review include:

- The Board's contribution to developing strategy and policy;
- Interaction between the Board and management, and between Board members;
- The Board's processes to monitor business performance and compliance, control risk and evaluate Management;
- Board composition and structure; and
- The operation of the Board, including the conduct of Board meetings, Board Committee meetings and group behaviours.

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#### **(h) Nomination and appointment of new Directors**

Recommendations for nominations of new Directors are made by the Board Nominations Committee and considered by the Board in full. All current members of the Board are members of the Board Nominations Committee and Mr Heaney is Chairman of the Committee. Board membership is reviewed annually by the Committee to ensure the Board has appropriate mix of qualifications, skills and experience. External advisers may be used in this process. Candidates are appointed by the Board and must stand for election at the next general meeting of Shareholders. If a new director is appointed during that year, that person will stand for election by Shareholders at the next annual general meeting. Shareholders are provided with relevant available information on the candidates for election. The Nominations Committee reviews appointment criteria from time to time and makes recommendations concerning the re-election of any director by Shareholders.

#### **(i) Retirement and re-election of Directors**

The Company's Constitution states that one-third of Directors excluding the Managing Director must retire each year. The maximum term that each director can serve in any single term is three years. A director appointed during the year must, under the Constitution, retire at the next annual general meeting. At that meeting, they can stand for re-election. The Board Nominations Committee conducts a peer review of those Directors during the year in which that director will become eligible for re-election.

### **3 Board Committees**

To assist the Board in fulfilling its duties and responsibilities, it has established the following committees:

- Audit and Risk Committee;
- Board Nominations Committee; and
- Remuneration Committee.

#### **(a) Audit and Risk Committee**

The Audit and Risk Committee is governed by its charter, as approved by the Board. The Charter is available within the Corporate Governance section on Cyclopharm's website, at [www.cyclopharm.com](http://www.cyclopharm.com). The Audit and Risk Committee comprises two non-executive Directors, Mr Heaney and Ms Angus as of 1 December 2021. Mr Heaney is the acting Chairman of the Audit and Risk Committee subsequent to Mr McDonald's cessation as a director of the Board from 1 December 2021. The qualifications of the Committee members are located on pages 18 to 19 of the Directors' Report in the 2021 Annual Report. The Audit and Risk Committee's responsibilities include:

- Reviewing procedures, and monitoring and advising on the quality of financial reporting (including accounting policies and financial presentation);
- Reviewing the proposed fees, scope, performance and outcome of external audits. However, the auditors are appointed by the Board;
- Reviewing the procedures and practices that have been implemented by management regarding internal control systems;
- Ensuring that management have established and implemented a system for managing material financial and non-financial risks impacting the Company;
- Reviewing the corporate governance practices and policies of the Company; and
- Reviewing procedures and practices for protecting intellectual property ("IP") and aligning IP to strategy.

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The Committee does not comply with the ASX Recommendation that it should be chaired by an independent director who is not the chairperson of the Board. The Board believes that Mr Heaney is the most appropriate person currently to be the chairperson of the Committee.

In addition, the Committee does not comply with the ASX Recommendation that it has at least 3 members. The Board believes that the experience that Mr Heaney and Ms Angus have in the finance industry and as senior management of public companies adequately mitigates this non-compliance.

The number of times the Audit and Risk Committee has formerly met and the number of meetings attended by Directors during the financial year are reported within the Directors' Report in the 2021 Annual Report.

The Audit and Risk Committee monitors and reviews:

- The effectiveness and appropriateness of the framework used by the Company for managing operational risk;
- The adequacy of the Company's internal controls including information systems controls and security;
- The adequacy of the process for reporting and responding to significant control and regulatory breaches;
- The effectiveness of the compliance function in ensuring adherence to applicable laws and regulations, including the actioning of legal and regulatory developments which may have a significant impact;
- Operational risk issues; and
- Action plans to address control improvement areas.

The Company's Auditor, is required to attend the Annual General Meeting and to be available to answer Shareholders' questions about the conduct of the audit and the preparation and content of the Auditor's Report.

*ASX Recommendations 4.1, 4.3, 7.1, 7.2*

#### **(b) Board Nominations Committee**

The Board Nominations Committee is governed by its charter, as approved by the Board. The Charter is available within the Corporate Governance section on Cyclopharm's website, at [www.cyclopharm.com](http://www.cyclopharm.com). All current Directors are members of the Committee and Mr Heaney (who is an independent Director) is the Chairman of the Committee. The qualifications of the Committee members are located within the Directors' Report in the 2021 Annual Report on pages 18 to 19.

The primary function of the Committee is performing review procedures to assist the Board in fulfilling its oversight responsibility to Shareholders by ensuring that the Board comprises individuals best able to discharge the responsibilities of Directors having regard to the law and the highest standards of governance. The Committee as delegated by the Board, is responsible for:

- developing and reviewing policies on Board composition, strategic function and size;
- performance review process of the Board, its Committees and individual Directors;
- developing and implementing induction programs for new Directors and ongoing education for existing Directors;
- developing eligibility criteria for nominating Directors;
- recommending appointment of Directors of the Board;
- reviewing director independence; and
- succession planning for the Board.

The structure of the Board Nominations Committee complies with ASX Recommendation 2.1(a)(i) as two thirds of the Committee members comprise of independent directors.

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The Board has considered the competencies and experience of each of the Directors and is considering appointing additional members to bring added skills and experience to support the impending US market entry and ongoing work to expand the use of Technegas™ Beyond PE. The number of times the Board Nominations Committee has formerly met and the number of meetings attended by Directors during the financial year are reported within the Directors' Report in the 2021 Annual Report.

#### **(c) Remuneration Committee**

The Remuneration Committee is governed by its charter, as approved by the Board. The Charter is available within the Corporate Governance section on Cyclopharm's website, at [www.cyclopharm.com](http://www.cyclopharm.com). The Remuneration Committee comprises two non-executive Directors, namely Mr Heaney and Ms Angus. Mr Heaney (who is an independent Director) is the Chairman of the Committee. The qualifications of the Committee members are located within the Directors' Report in the 2021 Annual Report on pages 18 to 19.

The Remuneration Committee advises the Board on remuneration policies and practices generally, and makes specific recommendations on remuneration packages and other terms of employment for executive Directors, senior executives and non-executive Directors. Each member of the senior executive team signs a formal employment contract at the time of their appointment covering a range of matters including their duties, rights and responsibilities. Executive remuneration and other terms of employment are reviewed annually by the Committee having regard to personal and corporate performance contribution to long-term growth, relevant comparative information and independent expert advice. As well as base salary, remuneration packages may include superannuation and retirement and termination entitlements.

The Remuneration Report, which has been included in the Directors' Report in the 2021 Annual Report, provides information on the Group's remuneration policies and payment details for Directors and key management personnel.

The Committee does not comply with the ASX Recommendation that it has at least 3 members. The Board believes that the experience that Mr Heaney and Ms Angus have in the finance industry and as senior management of public companies adequately mitigates this non-compliance.

The number of times the Board Remuneration Committee has formerly met and the number of meetings attended by Directors during the financial year are reported within the Directors' Report in the 2021 Annual Report.

#### **4 Recognising and managing risk**

A range of factors and risks some of which are beyond the Company's control can influence performance. The Company has in place a range of procedures to identify, assess and control risks which are reviewed by the Audit and Risk Committee and also by the Board periodically.

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#### **(a) Board oversight of the risk management system**

The Board is responsible for approving and overseeing the risk management system. The Board reviews, at least annually, the effectiveness of the implementation of the risk management controls and procedures.

The Company recognises four main types of risk:

- Market risk, relates to the risk to earnings from changes in market conditions including economic activity, interest rates, investor sentiment and world events.
- Operational risk, relates to inadequacy of or a failure of internal processes, people or systems or from external events.
- Credit risk, relates to the risk that the other party to a transaction will not honour their obligation; and
- Regulatory risk, relates to the risk that there may be changes to legislation (including but not limited to laws which relate to corporations and taxation) in the future which restricts or limits in some way the Company's activities.

The Board, based on the recommendations of the Managing Director, Mr McBrayer, makes decisions on investments for the Company. The Board considers that the general retention by it of the power to make the final investment or divestment decision by majority vote provides an effective review of the investment strategy.

A majority of the Directors must approve any modification to the investment parameters applying to the Company's assets. Any proposed major change in investment strategy is first put to Shareholders for their approval.

The Board is also responsible for identifying and monitoring areas of significant business risk. Internal control measures currently adopted by the Board include:

- monthly reporting to the Board in respect of operations and the Company's financial position, with a comparison of actual results against budget; and
- regular reports to the Board by appropriate members of the management team and/or independent advisers, outlining the nature of particular risks and highlighting measures which are either in place or can be adopted to manage or mitigate those risks.

#### **(b) Risk management roles and responsibilities**

The Board is responsible for approving and reviewing the Company's risk management strategy and policy. Executive management is responsible for implementing the Board approved risk management strategy and developing policies, controls, processes and procedures to identify and manage risks in all of the Company's activities.

#### **(c) Managing Director and Chief Financial Officer Certification**

The Managing Director and Chief Financial Officer (or equivalent) provide to the Board written certification that in all material respects:

- The Company's financial statements present a true and fair view of the Company's financial condition and operational results and are in accordance with relevant accounting standards;
- The statement given to the Board on the integrity of the Company's financial statements is founded on a sound system of risk management, internal compliance and controls which implements the policies adopted by the Board; and
- The Company's risk management, internal compliance and control system is operating efficiently and effectively in all material respects.

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#### **(d) Internal audit, review and risk evaluation**

Due to its size, Cyclopharm does not have an internal audit function. Assurance is provided to the Board by senior management on the adequacy and effectiveness of management controls for risk. The external auditors will provide a report communicating significant deficiencies identified in internal controls during the audit to the board and management.

## **5 Remuneration**

### **(a) Overview**

The Remuneration Committee is responsible for reviewing the compensation arrangements for the Managing Director and other key personnel. The Remuneration Committee is also responsible for reviewing management incentive schemes, superannuation, retirement and termination entitlements, fringe benefits policies, and professional indemnity and liability insurance policies. The nature and amount of each element of the fee or salary of each director and key management personnel of the Company are set out in the Remuneration Report of the 2021 Annual Report on pages 24 to 31. Non-executive Directors' fees and payments are reviewed annually by the Board. Executive Directors are, subject to the information above, paid in salary or fees.

### **(b) Equity-based key management personnel remuneration**

The Long Term Incentive Plan (LTIP) was approved by Shareholders at the Annual General Meeting held on 8 May 2007 with an updated LTIP approved by Shareholders on 29 May 2018 and 4 May 2021. The purpose of the LTIP is to attract, retain and motivate employees and officers of the Company to drive performance at both the individual and corporate level. Any further participation by Directors in the LTIP will require Shareholder approval in accordance with the ASX Listing Rules.

## **6 Timely and balanced disclosure**

The Company believes that all Shareholders should have equal and timely access to material information about the Company including its financial situation, performance, ownership and governance. The Company's market disclosure policy approved by the Board governs how the Company communicates with Shareholders and the market. Shareholders are encouraged to participate in general meetings.

### **(a) Market disclosure policy and practices**

The Continuous Disclosure and Market Communication Policy is available within the Corporate Governance section on Cyclopharm's website, at [www.cyclopharm.com](http://www.cyclopharm.com).

This policy includes provision for communications by the Company to:

- Be factual and subject to internal vetting and authorisation before issue;
- Be made in a timely manner;
- Not omit material information;
- Be expressed in a clear and objective manner to allow investors to assess the impact of the information when making investment decisions; and
- Be in compliance with ASX Listing Rules continuous disclosure requirements

The policy also contains guidelines on information that may be price sensitive. The Company Secretary has been nominated as the person responsible for communications with the Australian Securities Exchange (ASX). This role includes responsibility for ensuring compliance with the continuous disclosure requirements with the ASX Listing Rules and overseeing and coordinating information disclosure to the ASX.

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#### **Policy concerning trading in Company securities**

On 19 February 2009, the Board resolved to adopt a Policy concerning trading in Company securities with an update on 30 June 2020. An executive, director or relevant employees ('employee') must not trade in any securities of the Company at any time when they are in possession of "inside information" that is not generally available and, if made public, would be likely to have a material impact on the price or value of Company securities. An employee should not deal in securities of Cyclopharm without receiving clearance from a Committee comprised of the Managing Director and the Chairman (or in the absence of either of these two directors by any other director) who has ensured that there is no unpublished price sensitive information.

Generally, an employee must be given clearance to deal in any securities of Cyclopharm during the following blackout periods:

- (a) The period from year end and preliminary announcement of the full year results (usually 1 February to end February);
- (b) The period from half year end and preliminary announcement of the half year results (usually 1 August to end August);
- (c) The period five working days prior to an Annual General Meeting;
- (d) Directors and employees should wait at a full day of trading after the relevant release of any price sensitive announcement so that the market has had the time to absorb the information before any dealing in shares; and
- (e) Any other periods advised to employees by the Board (via the Company Secretary).

As required by the ASX Listing Rules, the Company notifies the ASX of any transaction conducted by directors in the securities of the Company.

#### **Verification of periodic corporate reports**

Periodic corporate reports are drafted by staff with expertise in the subject matter. The information is then reviewed by senior management who have the knowledge and skills to verify the accuracy and completeness of the information provided. The Board reviews and approves significant corporate reports prior to release to the market.

#### **(b) Communication strategy**

The Company publishes on its website the annual reports, profit announcements, press releases and notices to meeting to encourage shareholder and investor participation in Cyclopharm. The Company Secretary generally deals with analysts, investors, media and other. Presentations are lodged with the ASX before the presentations commence and are available promptly at [www.cyclopharm.com](http://www.cyclopharm.com). All announcements lodged with the ASX are emailed promptly to email subscribers which include all Directors.

Shareholders are encouraged to provide questions or comments ahead of the AGM so that these can be addressed. Voting at the AGM is by way of a poll with one vote for each fully paid share.

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#### 7 Instil a Culture of Acting Lawfully, Ethically and Responsibly

##### (a) Values

The Company's patient centric healthcare offerings are founded on each individual's commitment to ethics, collaboration, accountability and responsiveness.

##### (b) Code of Ethics and Conduct

The Board endeavours to ensure that the Directors, officers and employees of Cyclopharm act with integrity and observe the highest standards of behaviour and business ethics in relation to their corporate activities. All officers and employees are expected to:

- comply with the law;
- act in the best interests of the Company;
- be responsible and accountable for their actions; and
- observe the ethical principles of fairness, honesty and truthfulness, including prompt disclosure of potential conflicts.

The Code is complemented by the Company's Whistleblower Policy and Anti-bribery and Corruption Policy.

#### 8 Diversity

The Company publishes its Diversity Policy within the Corporate Governance section on Cyclopharm's website at [www.cyclopharm.com](http://www.cyclopharm.com).

The proportion of women employees within the following three levels as at 31 December 2021 are:

- |                              |     |
|------------------------------|-----|
| • Whole organisation         | 33% |
| • Senior executive positions | 30% |
| • Board                      | 33% |

The Board has set the following objectives which are reviewed annually:

- Establish a Diversity Committee to oversee selection of new board members and senior executives;
- For vacancies at the Board and Senior Management level ensure that a diverse candidate pool and input from a diverse selection pool; and
- Establish a senior mentoring program overseen by the Managing Director for all female senior managers.