

16 April 2023

Alan Zhao  
Compliance Officer, Listings Compliance  
ASX Compliance Pty Ltd  
20 Bridge Street  
Sydney NSW 2000

By email only

Dear Mr Zhao,

### **Immutep Limited – Response to Query Letter**

I refer to your letter dated 5 April 2023 in relation to the ASX Query Letter. Immutep Limited (**Immutep or IMM**) provides the following responses to the questions in your letter.

- 1. Question. Does IMM consider the Information to be information that a reasonable person would expect to have a material effect on the price or value of its securities?**

**Response.** Yes.

- 2. Question. If the answer to question 1 is “no” please:**
  - 2.1 Explain the basis for that view.**
  - 2.2 Explain why IMM lodged the Announcement as ‘market-sensitive’ on MAP.**

**Response.** Not applicable.

- 3. Question. If the answer to question 1 is “yes”:**

#### **3.1 When did IMM first become aware of the Information?**

**Response.** Immutep became “aware” (in the sense that this term is referenced by the ASX) of the Information (being the confirmed results of the data analysis and interpretation of the 2<sup>nd</sup> line NSCLC data from the TACTI-002 trial) and its potential market price sensitivity (which required further analysis, as outlined in the next section of this response) on completion of the conference presentation slides concerning the Information. Such completion occurred on 15 March 2023, following “data cleaning” (i.e. proper verification and checks performed under customary quality control procedures) and analysis as well as comparison of the data to relevant benchmarking information.

**3.2 If IMM first became aware of the Information before 31 March 2023, please explain why IMM did not release an announcement at that time. Additionally, please explain the basis for IMM's apparent view that it was compliant with its obligation under Listing Rule 3.1 to 'immediately' disclose material information.**

**Response.** Immutep was unable to release the Information prior to 31 March 2023 for the reasons as outlined below.

Although the conference presentation slides were finalised on 15 March 2023, Immutep went through an ongoing process of stress testing what was to be presented and analysing the implications and degree of market sensitivity of the data while preparing the ASX announcement continuing up to 31 March. It was necessary to ensure that the ASX Announcement explaining the Information to the market was carefully prepared to ensure that the Announcement was accurate, complete and not misleading. This included approval by the Immutep Board as part of its standard approval process for material announcements.

The process of preparing the ASX announcement included seeking and including quotes from the presenting clinical trial investigator, Margarita Majem, M.D., Ph.D., as well as Immutep's CSO and CMO, Prof. Frederic Triebel, M.D and CEO, Marc Voigt to help explain and put the Information in the conference presentation slides into context for a non-scientific investor audience.

This process also included consulting with and seeking approval from Immutep's collaboration partner for the TACTI-002 clinical trial, Merck & Co., Inc., Kenilworth, NJ, USA (known as "MSD" outside the United States and Canada), given the trial is evaluating the results from the combination of eftilagimod alpha with MSD's anti-PD-1 therapy KEYTRUDA® (pembrolizumab). Final approval from MSD was not received until 30 March 2023.

Finally, the Information was under strict embargo (i.e confidential) until 31 March 2023 when it was presented at ESMO's European Lung Cancer Congress 2023 (ELCC) in a Mini Oral presentation.

The details of this conference, including the expected time and date of the Mini Oral presentation at ELCC and key highlights of the data were released to the ASX on 23 March 2023, following the lifting of the ELCC conference embargo for announcing accepted abstracts. The ELCC embargo policy required information beyond what was included in the accepted abstracts e.g., full data sets, to only be made public at the start of the official program session during which the data was to be presented. Accordingly, the additional final data on safety and efficacy including Overall Survival (OS) from Part B of TACTI-002 was embargoed (i.e remained confidential) until the Mini Oral presentation at ELCC on 31 March 2023.

Having clinical data selected for presentation to an audience of industry experts at prestigious cancer conferences is important as it allows the data to be subjected to peer review and to attract more industry interest, including from pharmaceutical companies and clinical trial investigators who may wish to collaborate with Immutep to develop our candidates further.

Presentation spots at prestigious cancer conferences are limited and hence the process of having data selected by a conference's judging panel for presentation is highly competitive. Presentation spots are awarded to applicants only if the quality of the data in their application is considered by the judging panel to be compelling relative to other applicants and oral presentation spots are usually reserved only for the most compelling data.

Failure to comply with the ELCC embargo policy would have jeopardised the ability of Immutep's clinical data to be presented not only at the 2023 event but also future events. Note the following, extracted from the ELCC conference website: *"The ELCC organisers reserve the right to exclude any entity that fails to adhere to this policy from the current event, at its own complete cost, and from any future event."*

Accordingly, Immutep submits that prior to the release of the ELCC conference embargo on 31 March 2023 and Immutep's contemporaneous lodgement of the ASX Announcement, the Information was:

- insufficiently definite to warrant disclosure and/or an incomplete proposal or negotiation (analysis and 3<sup>rd</sup> party input were ongoing until 31 March 2023); and
- confidential (due to it being subject to embargo until 31 March 2023); and
- that a reasonable person would not have expected the information to be disclosed.

**3.3 If IMM is of the view that it was not aware of the Information prior to 31 March 2023, please explain why the finalised presentation published on 31 March 2023 does not appear to have been edited since 15 March 2023.**

**Response.** Not applicable.

**4. Question. Please confirm that the Entity is in compliance with the Listing Rules and, in particular, Listing Rule 3.1.**

**Response.** Immutep is compliant with the Listing Rules, including Listing Rule 3.1. Immutep also acknowledges the recommendations provided by the Code of Best Practice for Reporting by Life Sciences Companies in respect of its continuous disclosure obligations.

**5. Question. Please confirm that IMM's responses to the questions above have been authorised and approved in accordance with its published continuous disclosure policy or otherwise by its board or an officer of IMM with delegated authority from the board to respond to ASX on disclosure matters.**

**Response.** Immunetep confirms its responses to the above questions have been duly authorised in accordance with its Continuous Disclosure Policy.

Yours sincerely,



Deanne Miller  
COO, General Counsel & Company Secretary



5 April 2023

Reference: 72090

Ms Deanne Miller  
Immutep Limited  
Level 12, 95 Pitt Street  
Sydney NSW 2000

By email: [deanne.miller@immutep.com](mailto:deanne.miller@immutep.com)

Dear Ms Miller

### **Immutep Limited ('IMM'): Query Letter**

ASX refers to the following:

- A. IMM's announcement titled 'Abstract accepted for ESMOs European Lung Cancer Congress', released on the ASX Market Announcements Platform ('MAP') on 23 March 2023 which disclosed (relevantly):

*"The abstract (#11MO) will be available here on the ELCC 2023 website. The related Mini Oral Presentation with new and updated final data that are not part of the abstract will be made available on 31 March 2023 at 08:25AM, CEST and will subsequently be posted on the Posters & Publications section of Immutep's website."*

- B. IMM's announcement titled 'Positive Final Data in 2nd Line Metastatic NSCLC Patients' (the '**Announcement**'), released on MAP on 31 March 2023, which outlined the results of the final data referred to at Paragraph A (the '**Information**').

ASX observes that this announcement was lodged as 'market-sensitive' when it was submitted to MAP.

- C. The presentation available on IMM's website<sup>1</sup> concerning the Information. ASX observes that the 'Document Properties' show that the presentation file was last modified on 15 March 2023.
- D. Listing Rule 3.1, which requires a listed entity to immediately give ASX any information concerning it that a reasonable person would expect to have a material effect on the price or value of the entity's securities.
- E. The definition of "aware" in Chapter 19 of the Listing Rules, which states that:

*"an entity becomes aware of information if, and as soon as, an officer of the entity (or, in the case of a trust, an officer of the responsible entity) has, or ought reasonably to have, come into possession of the information in the course of the performance of their duties as an officer of that entity" and section 4.4 in Guidance Note 8 Continuous Disclosure: Listing Rules 3.1 – 3.1B "When does an entity become aware of information."*

- F. Listing Rule 3.1A, which sets out exceptions from the requirement to make immediate disclosure, provided that each of the following are satisfied.

*"3.1A Listing rule 3.1 does not apply to particular information while each of the following is satisfied in relation to the information:*

*3.1A.1 One or more of the following 5 situations applies:*

- It would be a breach of a law to disclose the information;*

<sup>1</sup> [https://www.immutep.com/files/content/investor/presentation/2023/2023-03\\_ELCC\\_TACTI-002\\_Part%20B\\_final\\_.pdf](https://www.immutep.com/files/content/investor/presentation/2023/2023-03_ELCC_TACTI-002_Part%20B_final_.pdf)

- *The information concerns an incomplete proposal or negotiation;*
  - *The information comprises matters of supposition or is insufficiently definite to warrant disclosure;*
  - *The information is generated for the internal management purposes of the entity; or*
  - *The information is a trade secret; and*
- 3.1A.2 *The information is confidential and ASX has not formed the view that the information has ceased to be confidential; and*
- 3.1A.3 *A reasonable person would not expect the information to be disclosed.”*

### **Request for information**

Having regard to the above, ASX asks IMM to respond separately to each of the following questions and requests for information:

1. Does IMM consider the Information to be information that a reasonable person would expect to have a material effect on the price or value of its securities?
2. If the answer to question 1 is “no”, please:
  - 2.1 Explain the basis for that view.
  - 2.2 Explain why IMM lodged the Announcement as ‘market-sensitive’ on MAP.
3. If the answer to question 1 is “yes”:
  - 3.1 When did IMM first become aware of the Information?
  - 3.2 If IMM first became aware of the Information before 31 March 2023, please explain why IMM did not release an announcement at that time. Additionally, please explain the basis for IMM’s apparent view that it was compliant with its obligation under Listing Rule 3.1 to ‘immediately’ disclose material information.
  - 3.3 If IMM is of the view that it was not aware of the Information prior to 31 March 2023, please explain why the finalised presentation published on 31 March 2023 does not appear to have been edited since 15 March 2023.
4. Please confirm that IMM is complying with the Listing Rules and, in particular, Listing Rule 3.1.
5. Please confirm that IMM’s responses to the questions above have been authorised and approved in accordance with its published continuous disclosure policy or otherwise by its board or an officer of IMM with delegated authority from the board to respond to ASX on disclosure matters.

### **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 **9:00 AM AEST Monday, 17 April 2023**. 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, IMM’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 IMM to request a trading halt immediately.

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Your response should be sent to me by e-mail at [ListingsComplianceSydney@asx.com.au](mailto: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 IMM's securities under Listing Rule 17.1. If you wish 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 IMM's securities under Listing Rule 17.3.

### **Listing Rules 3.1 and 3.1A**

In responding to this letter, you should have regard to IMM'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 IMM'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**

We reserve the right to release a copy of this letter, your reply and any other related correspondence between us to the market under listing rule 18.7A.

### **Questions**

If you have any questions in relation to the above, please do not hesitate to contact me.

Yours sincerely

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**Alan Zhao**  
Compliance Officer, Listings Compliance

CC: Lisa Banh, ASX Limited