

23 May 2023

Angel He
Adviser
ASX Compliance

Dear Angel
Response to Query Letter – 19 May 2023

Magnis Energy Technologies Ltd (ASX: MNS; OTCQX: MNSEF) (**Magnis**) responds to the Questions in ASX's query letter dated 19 May 2023 (**ASX Letter**) as follows:

1. Yes, Magnis considers the Information¹ to be information that a reasonable person would expect to have a material effect on the price or value of its securities.
2. N/A.
3. Magnis was aware of ongoing discussions between iM3NY and OSM in relation to a potential joint venture between the two parties prior to the release of the Media Article on 29 January 2023, however several commercial issues (including the parties' respective percentage participations in the joint venture and the contribution of iM3NY to the joint venture) remained outstanding between the parties at that date, such that there was no guarantee any final agreement would be reached (despite the contents of the Media Article). Negotiations between the parties continued until formal documentation in relation to the proposed joint venture was executed in New York on Tuesday, 16 May 2023 (overnight 16 May/17 May, Sydney time).
4. Please see below for Magnis' responses to Questions 4.1 to 4.3 (inclusive) of the ASX Letter.
 - 4.1. Whilst the parties were negotiating key commercial issues, the potential arrangements remained an incomplete proposal or negotiation and concerned matters that were insufficiently definite to warrant disclosure. Accordingly, Magnis was of the opinion that disclosure of the Information to ASX was not required (and in fact, could be misleading). Magnis is very cognisant of not misleading the market by prematurely announcing corporate developments before they are finalised. The proposal became sufficiently definitive once the joint venture agreement referred to in the Announcement had been signed.

¹ Unless otherwise defined, capitalised words and terms used in this response have the meanings given to them in the ASX Letter.

4.2. Magnis ensured that the Announcement was prepared, reviewed, and finalised (in each case, by its Continuous Disclosure Committee) such that the Announcement was able to be given to ASX before the open of trading on ASX on Tuesday, 17 May 2023. Magnis believes that the provision of the Announcement to ASX on this timing satisfies the requirement in Listing Rule 3.1 to disclose material information “immediately”.

4.3. N/A.

5. Magnis has robust continuous disclosure processes and protocols (which are documented in its continuous disclosure policy) that apply to Magnis, iM3NY and each of their respective key personnel. Magnis confirms its opinion that it has adequate oversight of key iM3NY personnel to the extent necessary to allow Magnis to comply with its continuous disclosure obligations under the Listing Rules.

This opinion is informed by frequent meetings between Magnis and the board of iM3NY where the Continuous Disclosure Policy of MNS has been reinforced to iM3NY (including a formal direction that given Magnis has a majority interest in iM3NY that the policy is applicable to them just as much as it is to Magnis). Furthermore, and through its representatives on the board of iM3NY, Magnis is apprised of information concerning iM3NY on an effectively real-time basis. Any such information is then considered for disclosure by Magnis².

6. Magnis confirms that the responses to the Questions set out in the ASX Letter have been authorised and approved by Magnis in accordance with the requirements of its Continuous Disclosure Policy.

Duncan W Glasgow
Group General Counsel & Company Secretary
Magnis Energy Technologies Ltd.
E:info@magnis.com.au

² Magnis intends to investigate the circumstances relating to the Media Article and the provenance of the quotes attributed to iM3NY’s CEO, Mr Chaitanya Sharam.



19 May 2023

Reference: 74514

Mr Duncan Glasgow
Group General Counsel & Company Secretary
Magnis Energy Technologies Ltd
Suite 11.01
1 Castlereagh Street
Sydney NSW 2000

By email only.

Dear Mr Glasgow

Magnis Energy Technologies Limited ('MNS'): Aware Query

ASX refers to the following:

- A. MNS's price sensitive announcement titled "iM3NY Signs Joint Venture with Omega Seiki Mobility" released on the ASX Market Announcements Platform ('MAP') on 17 May 2023 (the '**Announcement**'), which disclosed MNS's 26% interest in a joint venture with Omega Seiki Mobility for the manufacture and sale of lithium-ion battery packs (the '**Information**').
- B. An article published on 29 January 2023 titled 'Omega Seiki Mobility Joint Ventured with iM3NY to bring US battery cell technology to India' (the '**Media Article**'), which disclosed (relevantly):

"Omega Seiki Mobility (OSM), a part of the Anglian Omega Group today announced a joint venture with iM3NY, a prominent battery technology player in the US, to bring battery cell technology in the Indian market for the first time from the subcontinent.

...

Commenting on the occasion, Chaitanya Sharma, iM3NY's CEO, said "We are incredibly excited to work with Omega Seiki, a like-minded partner with a future-focused mind-set. This partnership is strategically important for the electrification of the automotive industry, an undeniable trend that iM3NY is proud to be a part of."

- C. 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.
- D. 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."

- E. 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;*
- *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."*

F. ASX's policy position on the concept of "confidentiality", which is detailed in section 5.8 of Guidance Note 8 *Continuous Disclosure: Listing Rules 3.1 – 3.1B*. In particular, the Guidance Note states that:

"Whether information has the quality of being confidential is a question of fact, not one of the intention or desire of the listed entity. Accordingly, even though an entity may consider information to be confidential and its disclosure to be a breach of confidence, if it is in fact disclosed by those who know it, then it ceases to be confidential information for the purposes of this rule."

Request for information

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

1. Does MNS 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 advise the basis for that view, given that the Announcement was classified as price sensitive by MNS.
3. When did MNS first become aware of the Information?
4. If the answer to question 1 is "yes" and MNS first became aware of the Information before 17 May 2023, please provide details on the following:
 - 4.1 Please explain why the Information was not released to the market at an earlier time, commenting specifically on when you believe MNS was obliged to release the information under Listing Rule 3.1 and 3.1A, given that an entity may only rely on Listing Rule 3.1A if the information remained confidential as required by Listing Rule 3.1A.2. ASX notes that substantially similar information to the Announcement appeared in the Media Article.
 - 4.2 Please outline what steps MNS took to ensure the Information was released promptly and without delay.
 - 4.3 If MNS was not aware of the Media Article's existence, please explain why not with reference to the comments made by iM3NY's CEO, Mr Chaitanya Sharma, which appear to have been specifically quoted for the Media Article.
5. Please confirm whether MNS is of the view that it has adequate oversight of the key management personnel of iM3NY to comply with MNS's obligations under the Listing Rules, and provide the basis for that view.

-
6. Please confirm that MNS'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 MNS 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 AM AEST Tuesday, 23 May 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, MNS'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 MNS 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 MNS'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 MNS's securities under Listing Rule 17.3.

Listing Rules 3.1 and 3.1A

In responding to this letter, you should have regard to MNS'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 MNS'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.

Questions

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

Yours sincerely

Angel He
Adviser, Listings Compliance