

23 May 2024

Listing Compliance  
ASX Sydney

By email

Reference 94577

Listing Compliance,

In response to your emailed letter of 20 May 2024, the following information is provided:

ASX asked LMG to respond separately to each of the following questions:

1. Does LMG consider the following information, or any part thereof, to be information that a reasonable person would expect to have a material effect on the price or value of its securities?

*"LMG has received correspondence from the Australian Tax Office ('ATO') on 16th May 2024 that its research and development tax rebate of \$12.5M for the year ended 30 June 2023 has been approved."*

**1. ANSWER: Yes**

2. If the answer to question 1 is "no", please advise the basis for that view.

3. When (i.e. the time and date) did LMG first become aware of the information referred to in question 1 above?

**3. ANSWER:**

***LMG CEO received an email from Ian Crosbie of the ATO that was sent at 4.47pm., Thursday 16 May 2024. The CEO had a telephone discussion with the ATO early in the morning where Ian Crosbie advised the CEO that he had approved the rebate subject to lodging an amended tax return. The CEO asked him to put it in writing. He then provided the email later in the day. His email detailed a number of points that were discussed earlier in the phone conversation. The changes that needed to be made to the existing return were agreed between the parties in the morning of Friday 17 May and did not materially change the rebate. In the morning at 10.00AM Friday 17 May 2024, LMG then received from the ATO written confirmation that the amended tax return included the agreed to changes and they would process the claim without any unnecessary delay. The amended tax return confirmed that LMG's research and development tax rebate of \$12.5M for the year ended 30 June 2023 ('RnD Tax Rebate'). The ATO has confirmed that the amended tax return was processed on 17 May 2024 and that LMG will receive the funds this week.***

***There are no further steps that are required to be taken before the rebate is paid this week.***

***The CEO then emailed our Advisers, NEXIA at 5.07pm., which responded at 5.08pm., that inter alia, NEXIA would incorporate the changes sought by the ATO into a revised submission on the morning of Friday 17 May 2024.***

***LMG believes that for commercially confidential reasons it was not required to release or inform the market of the ongoing discussions with the ATO.***

***A draft ASX Announcement was prepared and internally approved during the evening of Thursday 16 May 2024. This Draft was held pending the lodgement of the amended tax return at the ATO.***

***The revised submission was received from NEXIA to LMG at about 9.30am Friday 17 May 2024 and then lodged with the ATO at or about 10.00am Friday 17 May 2024.***

4. If LMG first became aware of the information referred to in question 1 before the date of the Announcement, did LMG make any announcement prior to that date which disclosed the information? If not, please explain why the information was not released to the market at an earlier time, commenting specifically on when you believe LMG was obliged to release the information under Listing Rules 3.1 and 3.1A and what steps LMG took to ensure that the information was released promptly and without delay.

***4 ANSWER: In the initial telephone conversation with the ATO our CEO received a verbal approval, subject to two changes agreed with the ATO. The ATO suggested that LMG amend the 2023 tax return because this would enable quicker processing of the rebate than them making the two agreed adjustments themselves.***

***LMG believes that it was required to release information to the market after the agreement of the two changes had been incorporated into the amended tax return and it was accepted by the ATO. This it did as recorded on the ASX platform at 10.16am., on Friday 17 May 2024.***

5. Please confirm that LMG is in compliance with the Listing Rules and, in particular, Listing Rule 3.1.

***5. ANSWER: LMG believes it is in compliance with the Listing Rules and in particular Listing Rule 3.1***

6. Please confirm that LMG'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 LMG with delegated authority from the board to respond to ASX on disclosure matters.

***6. ANSWER: the above responses have been authorised and approved in accordance with its published continuous disclosure policy or otherwise by its board or an officer of LMG with delegated authority from the board to respond to ASX on disclosure matters.***

Please contact me if further detail is required.

Yours Sincerely,



John R Lee  
Director, Chairman of the Audit Committee and Company Secretary.



20 May 2024

Reference: 94577

Mr John Lee  
Director and Company Secretary  
LaTrobe Magnesium Limited  
Suite 504, Level 5  
80 Clarence Street  
Sydney NSW 2000

By email only.

Dear Mr Lee

**LaTrobe Magnesium Limited ('LMG'): ASX Aware Letter**

ASX refers to the following:

- A. LMG's announcement titled "LATROBE MAGNESIUM RECEIVES ATO APPROVAL FOR ITS FY23 \$12.5M RESEARCH AND DEVELOPMENT TAX REBATE" (the 'Announcement') released on the ASX Market Announcements Platform at 10.16 AM on 17 May 2024 disclosing the following:

*"LMG has received correspondence from the Australian Tax Office ('ATO') on 16th May 2024 that its research and development tax rebate of \$12.5M for the year ended 30 June 2023 has been approved."*

- B. The change in the price of LMG's securities from \$0.055 immediately prior to the release of the Announcement to a high of \$0.06 following the release of the Announcement.
- 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."*

- E. Section 4.4 in *Guidance Note 8 Continuous Disclosure: Listing Rules 3.1 – 3.1B* titled "When does an entity become aware of information?"
- F. Listing Rule 3.1A, which sets out exceptions from the requirement to make immediate disclosure as follows.

*"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."*

G. The concept of "confidentiality" 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 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 is no longer a secret and it ceases to be confidential information for the purposes of this rule."*

### **Request for information**

Having regard to the above, ASX asks LMG to respond separately to each of the following questions:

1. Does LMG consider the following information, or any part thereof, to be information that a reasonable person would expect to have a material effect on the price or value of its securities?

*"LMG has received correspondence from the Australian Tax Office ('ATO') on 16th May 2024 that its research and development tax rebate of \$12.5M for the year ended 30 June 2023 has been approved."*

2. If the answer to question 1 is "no", please advise the basis for that view.
3. When (i.e. the time and date) did LMG first become aware of the information referred to in question 1 above?
4. If LMG first became aware of the information referred to in question 1 before the date of the Announcement, did LMG make any announcement prior to that date which disclosed the information? If not, please explain why the information was not released to the market at an earlier time, commenting specifically on when you believe LMG was obliged to release the information under Listing Rules 3.1 and 3.1A and what steps LMG took to ensure that the information was released promptly and without delay.
5. Please confirm that LMG is in compliance with the Listing Rules and, in particular, Listing Rule 3.1.
6. Please confirm that LMG'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 LMG 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 Thursday, 23 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, LMG's obligation is to disclose the information 'immediately'. This may require the information to be disclosed before the deadline set out above and may require LMG to request a trading halt immediately if trading in LMG's securities is not already halted or suspended.

Your response should be sent by e-mail to **ListingsComplianceSydney@asx.com.au**. It should not be sent directly to the ASX Market Announcements Office. This is to allow us 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.

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## **Suspension**

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

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

In responding to this letter, you should have regard to LMG'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 LMG'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 all or any part of this letter, your reply and any other related correspondence between us to the market under listing rule 18.7A. The usual course is for the correspondence to be released to the market.

Yours sincerely

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ASX Compliance