

**ASX Code: WBT**

Mr Dean Litis  
Principal Adviser - Listings Compliance Australian Securities Exchange  
Level 4  
North Tower, Rialto  
525 Collins Street  
Melbourne VIC 3000

29 June 2023

Dear Mr Litis,

**Weebit Nano Limited Ltd ('WBT'): Query**

Weebit Nano Limited Ltd (WBT or the Company) refers to ASX's letter of 28 June 2023.

Accordingly, WBT responds to your questions as follows:

1. When did WBT first become aware of Mr Bart's resignation? Please provide details.

WBT were first notified of Fred Bart's intention to resign on 26 June 2023. His signed resignation letter was received via email by the Company Secretary at 12.42pm (AEST) on 27 June 2023.

2. Please explain why ASIC records indicate that Mr Bart ceased being a director of WBT on 26 June 2023.

Mr Bart's signed resignation was lodged with the ASX and ASIC at the same time on 27 June 2023. We believe the date on ASIC's records is the date of the resignation letter, being 26 June 2023 despite only being received by Weebit on 27 June 2023.

3. Is WBT of the view that the Information remained confidential until the release of the Announcement? If so, please explain the basis for that view, commenting specifically on how WBT considered the significant drop in the price of its securities in this assessment.

WBT does not consider Mr Bart's resignation price sensitive. The information was confidential before the release of the announcement, which occurred at the same time when ASIC was notified. WBT actioned immediately upon receipt of the resignation letter to prepare for an ASX announcement (see our response in item 5 below).

4. Does WBT have any other explanation for the significant decrease in the price of its securities?

Since entering the ASX300 WBT shares have regularly been the target of short sellers, and the share price has fluctuated significantly during this time. We also note that WBT received final test results from Skywater Technology Inc. (NASDAQ: SKYT) on its S130 process on 28 June 2023 after market

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close. WBT released an announcement regarding these results on the ASX before market opening on 29 June 2023.

5. Is WBT of the view that it complied with Listing Rule 3.16.1 by immediately informing ASX of a director resignation? If so, please explain the basis for that view.

Yes. On the notification of Mr Barts intended resignation, steps commenced to notify the market as soon as possible. An ASX Announcement was drafted and circulated to the Board for approval as per the Company's Continuous Disclosure Policy prior to receiving Mr Barts signed resignation letter at 12.42pm (AEST) on 27 June 2023. Due to Board members residing in various timezones, the final approval of the release of the ASX Announcement wasn't received until 2.45pm on 27 June 2023 (AEST).

6. Please explain why WBT did not seek a trading halt when it became aware that it no longer met the requirements prescribed by section 201A(2) of the Act.

WBT is not aware of any mandatory ASX requirement to apply for trading halt where a director resigns unavoidably reducing the issuer's Australian resident directors from two to one. WBT notified ASX and ASIC immediately upon receipt of the signed resignation letter.

7. Please confirm that WBT is complying with the Listing Rules and, in particular, Listing Rule 3.1.

WBT confirms it is complying with the Listing Rules and, in particular, Listing Rule 3.1

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

WBT confirms that its responses to the questions above have been authorised and approved by the Managing Director and Chief Executive Officer, Coby Hanoch.

Yours faithfully

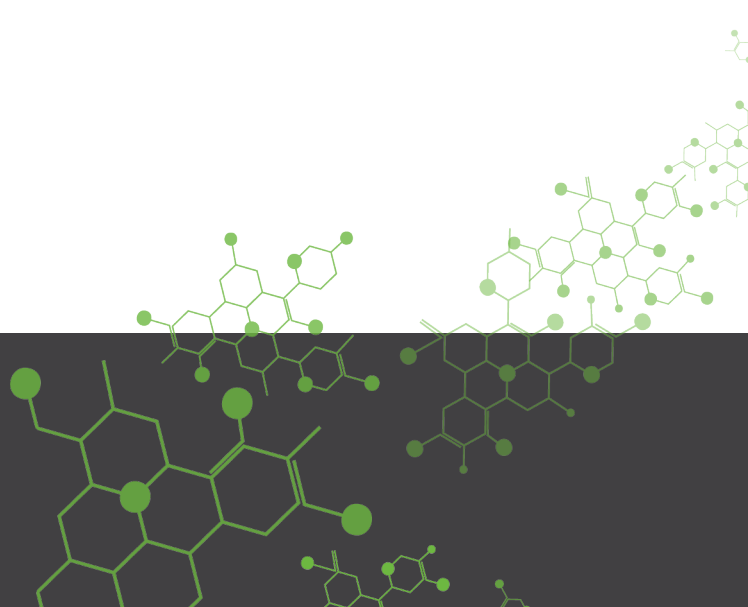


Mark Licciardo  
Company Secretary



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28 June 2023

Reference: ODIN75858

Mr Mark Licciardo  
Company Secretary  
Weebit Nano Ltd  
330 Collins Street  
Melbourne 3000

By email

Dear Mr Licciardo

### **Weebit Nano Ltd ('WBT'): Query Letter**

ASX refers to the following:

- A. WBT's announcement titled "Fred Bart to resign from his role as Independent Director" released on the ASX Market Announcements Platform ('MAP') on 27 June 2023 at 3:30pm AEST (the '**Announcement**'), disclosing that WBT director, Mr Fred Bart, had resigned from WBT effective immediately (the '**Information**').
- B. The change in price of WBT's securities on 27 June 2023 from a previous close of \$6.94 to:
  - \$6.04 immediately prior to the release of the Announcement, reflecting a 13% decrease; and
  - \$5.70 at market close after the release of the Announcement, reflecting a 17.9% decrease.
- C. Listing Rule 3.16.1, which requires a listed entity to immediately tell ASX when a change of director occurs.
- D. An extract from the ASIC companies database, which states that Mr Bart ceased being a director of WBT on 26 June 2023.
- E. Section 201A(2) of the Corporations Act 2001 (cth) (the '**Act**') which states:

*"A public company must have at least 3 directors (not counting alternate directors). At least 2 directors must ordinarily reside in Australia."*
- F. 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.
- G. 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."*
- H. 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*

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*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 WBT to respond separately to each of the following questions and requests for information:

1. When did WBT first become aware of Mr Bart’s resignation? Please provide details.
2. Please explain why ASIC records indicate that Mr Bart ceased being a director of WBT on 26 June 2023.
3. Is WBT of the view that the Information remained confidential until the release of the Announcement? If so, please explain the basis for that view, commenting specifically on how WBT considered the significant drop in the price of its securities in this assessment.
4. Does WBT have any other explanation for the significant decrease in the price of its securities?
5. Is WBT of the view that it complied with Listing Rule 3.16.1 by immediately informing ASX of a director resignation? If so, please explain the basis for that view.
6. Please explain why WBT did not seek a trading halt when it became aware that it no longer met the requirements prescribed by section 201A(2) of the Act.
7. Please confirm that WBT is complying with the Listing Rules and, in particular, Listing Rule 3.1.
8. Please confirm that WBT’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 WBT 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 **9:30 AMAEST Thursday, 29 June 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, WBT’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.

Your response should be sent to me by e-mail at **ListingsComplianceMelbourne@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.

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

In responding to this letter, you should have regard to WBT’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 WBT’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 faithfully

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**Dean Litis**  
Principal Adviser, Listings Compliance