



29 July 2022

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**CLEANSING NOTICE – AWARE QUERY**

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In reference to your letter dated 21 July 2022, Elmore Limited ("**Elmore**") ("**ASX:ELE**") provides the following information in relation to the Announcement dated 18 July 2022 as requested.

**1. Does ELE consider the information disclosed in the Announcement in relation to the:**

**1.1. Peko Agreement;**

**1.2. Vendor Finance Agreement; or**

**1.3. Avior Facility,**

**or any part thereof, to be information that investors and their professional advisers would reasonably require for the purpose of making an informed assessment of the assets and liabilities, financial position and performance, profits and losses and prospects of ELE? If the answer to this question is "no", please advise the basis for that view. Please address the information disclosed in relation to items 1.1 to 1.3 separately.**

ELE considers that the information contained in the Announcement in relation to the:

1.1. Peko Agreement;

1.2. Vendor Finance Agreement; and

1.3. Avior Facility,

to be information that investors would reasonably require for the purpose of making an informed assessment of the assets and liabilities, financial position and performance, profits and losses and prospects of ELE.



**2. When did ELE first become aware of the information disclosed in the Announcement in relation to the:**

**2.1. Peko Agreement;**

**2.2. Vendor Finance Agreement; or**

**2.3. Avior Facility,**

**or any part thereof? In answering this question, please specify the date and time when ELE first became aware of information in relation to items 2.1 to 2.3 or any part thereof, including when discussions/negotiations in relation to items 2.1 to 2.3 commenced. Please address the information disclosed in relation to items 2.1 to 2.3 separately.**

Negotiations for the Peko Agreement commenced on 14 June 2022. Due diligence on the transaction continued through June and July, with the terms being negotiated and changing throughout that time. Through these negotiations, the Vendor first floated the idea of Vendor financing the transaction to speed it up around 29 June 2022. Again the terms of these continued to be negotiated while the agreements were being drawn up in July. The history of the Vendor has been that they attempt to change agreements at the last minute. The Share Purchase Agreement was agreed to and executed on Friday 15<sup>th</sup> July 2022 at 15:40pm (AEST).

The extension to the Avior agreement was negotiated at the end of June, with the first tranche of funds being received on Friday 24<sup>th</sup> June 2022. The extension of the Avior agreement became necessary when it became clear that the joint venture partner (the Vendor) would be unable to fund their share of the project, and ELE would require short term funding while finalising the Peko and Vendor Finance Agreements and to cover the shortfall from the partners non-payment.

The Announcement was prepared over the weekend.

**3. If ELE first became aware of the information disclosed in the Announcement in relation to the:**

**3.1. Peko Agreement;**

**3.2. Vendor Finance Agreement; or**

**3.3. Avior Facility,**

**or any part thereof, before lodging the Appendix 3B and Cleansing Notice on the Platform, did ELE make any announcement prior to lodging the Appendix 3B and**



***Cleansing Notice on the Platform which disclosed the information in relation to items 3.1 to 3.3? If so, please provide details. If not, please explain:***

As the Peko and Vendor Finance Agreement had been signed one hour prior to the lodgement of the Appendix 3B and the Cleansing Notice, the Company was aware of that information at that time.

Likewise the Company had received the extension of the Avior Facility, and so was aware of the information.

It did not lodge any information in relation to the Peko, Vendor Finance, or Avior Facility before lodging the Appendix 3B and Cleansing Notice.

***3.4. why the information in relation to items 3.1 to 3.3 was not released to the market at an earlier time, commenting specifically on when you believe ELE was obliged to release the information in relation to items 3.1 to 3.3 under Listing Rules 3.1; and***

***3.5. what steps the Entity took to ensure that the information in relation to items 3.1 to 3.3 was released promptly and without delay.***

The information contained in items 3.1 and 3.2 could not be released to the market at an earlier time. The information contained in items 3.1 and 3.2 had only been executed one hour before the release of the Appendix 3B and Cleansing Notice, and so an announcement that would adequately explain the 3.1 and 3.2 items had not been prepared at that time. The vendor was overseas at the time of executing the Agreements, and so it was expected that the final terms would be agreed to, and the agreements executed over the weekend. It was discovered that a Deed of Priority and Subordination would be necessary due to the extension of the Avior Facility, and so it was expected that this would take some time to resolve with the Vendor and Avior. This was not the case (it was agreed to allow this by both the Vendor and Avior, and made a condition subsequent) and the fact that the Agreements were executed on Friday afternoon was unexpected.

The Company prepared an announcement that would adequately explain the agreements as soon as possible after execution, being the weekend, and released the announcement prior to the commencement of trade on the Monday morning.

# ELMORE

It was decided that the extension of the Avior Agreement would be disclosed to the market with the agreed upon terms of the Peko and Vendor Finance Agreements. This was due to the fact that the Company believed that it would be misleading to announce the extension of the Avior Agreement without announcing the Peko and Vendor Financing Agreement. The Avior Agreement was only necessary due to the fact that the joint venture partner (the Vendor) was unable to fund their share of the project. To release this earlier would have compromised negotiations with the Vendor.

The Company prepared the Announcement over the weekend of 18<sup>th</sup> and 19<sup>th</sup> July for release prior to the open of the market on 20<sup>th</sup> July 2022.

**4. If ELE first became aware of the information disclosed in the Announcement in relation to the:**

**4.1. Peko Agreement;**

**4.2. Vendor Finance Agreement; and**

**4.3. Avior Facility,**

**or any part thereof, before lodging the Appendix 3B and Cleansing Notice on the Platform, please explain why the information in relation to items 4.1 to 4.3 was excluded from the Cleansing Notice.**

The Cleansing Notice was lodged as a matter of course, with the Company simply following usual procedure. The execution of the Agreements was unexpected, so the Cleansing Notice had been prepared without consideration of the Agreements. A relationship between the very recently executed Agreements and the Cleansing Notice at the time of lodging the Cleansing Notice was not realised. The Company did not draw a relationship between the two.

The Cleansing Notice was lodged after the market closed on 17<sup>th</sup> July 2022. The Company believed that the Announcement containing information in relation to items 4.1 to 4.3 would be released prior to the market opening on 20<sup>th</sup> July 2022.

**5. If ELE first became aware of the information disclosed in the Announcement in relation to the:**

**5.1. Peko Agreement;**

**5.2. Vendor Finance Agreement; and**

**5.3. Avior Facility,**

# ELMORE

***or any part thereof, before lodging the Appendix 3B and Cleansing Notice on the Platform, did ELE rely on the provisions of Listing Rule 3.1A not to release the information in relation to items 5.1 to 5.3 before ELE lodged the Announcement on the Platform?***

The Company is not relying upon Listing 3.1A not to release the information in relation to items 5.1 to 5.2 before ELE lodged the Announcement on the Platform.

**6. *Please confirm that ELE complying with the Listing Rules and, in particular, Listing Rule 3.1.***

ELE is complying with the Listing Rules and in particular Listing Rule 3.1.

**7. *Please confirm that ELE'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 ELE with delegated authority from the board to respond to ASX on disclosure matters.***

ELE's responses to the questions above have been authorised and approved in accordance with its published continuous disclosure policy.

Yours faithfully,

A handwritten signature in blue ink, appearing to be 'S Henbury', written over a faint circular stamp.

**Sean Henbury**  
Company Secretary



21 July 2022

Reference: ODIN55192

Mr Sean Henbury  
Company Secretary  
Elmore Limited

By email: SeanH@armada.com.au

Dear Mr Henbury

**Elmore Limited ('ELE'): Cleansing notice – Aware Query**

ASX refers to the following:

- A. ELE's announcement entitled 'Cleansing Notice' lodged on the ASX Market Announcements Platform ('Platform') and released at 16:47 AM (AEST) on Friday 15 July 2022, disclosing that ELE has issued and allotted 145,673,864 fully paid ordinary shares upon conversion of convertible notes (the 'Cleansing Notice'), seeking to 'cleanse' for secondary sale purposes the securities issued under the Appendix 3B and Cleansing Notice, and stating that there is no excluded information, as defined in sections 708A(7) and 708A (8) of the *Corporations Act 2001* (the 'Act') as of the date of the Cleansing Notice.
- B. ELE's announcement entitled 'Purchase of Peko Project and Surrounding Tenements' lodged on the Platform and released at 8:17 AM (AEST) on Monday 18 July 2022 (the 'Announcement'), disclosing that ELE has :
- (i) executed an agreement to purchase the Peko Project in the Northern Territory ('Purchase') ('Peko Agreement');
  - (ii) entered into a vendor finance agreement to fund the Purchase ('Vendor Finance Agreement'); or
  - (iii) extended the Avior funding facility ('Avior Facility').
- C. The definition of 'aware' in Chapter 19 of the Listing Rules. This definition 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.'*

Additionally, you should refer to section 4.4 in Guidance Note 8 *Continuous Disclosure*: Listing Rules 3.1 – 3.1B 'When does an entity become aware of information'.

- D. 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 requirements is satisfied in relation to the information:*

*3.1A.1 One or more of the following 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.'*

- E. 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 'Listing Rule 3.1A.2 – the requirement for information to be confidential'. 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 ELE to respond separately to each of the following questions and requests for information.

1. Does ELE consider the information disclosed in the Announcement in relation to the:

- 1.1 Peko Agreement;
- 1.2 Vendor Finance Agreement; or
- 1.3 Avior Facility,

or any part thereof, to be information that investors and their professional advisers would reasonably require for the purpose of making an informed assessment of the assets and liabilities, financial position and performance, profits and losses and prospects of ELE? If the answer to this question is "no", please advise the basis for that view. Please address the information disclosed in relation to items 1.1 to 1.3 separately.

2. When did ELE first become aware of the information disclosed in the Announcement in relation to the:

- 2.1 Peko Agreement;
- 2.2 Vendor Finance Agreement; or
- 2.3 Avior Facility,

or any part thereof? In answering this question, please specify the date and time when ELE first became aware of information in relation to items 2.1 to 2.3 or any part thereof, including when discussions/negotiations in relation to items 2.1 to 2.3 commenced. Please address the information disclosed in relation to items 2.1 to 2.3 separately.

3. If ELE first became aware of the information disclosed in the Announcement in relation to the:

- 3.1 Peko Agreement;

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3.2 Vendor Finance Agreement; or

3.3 Avior Facility,

or any part thereof, before lodging the Appendix 3B and Cleansing Notice on the Platform, did ELE make any announcement prior to lodging the Appendix 3B and Cleansing Notice on the Platform which disclosed the information in relation to items 3.1 to 3.3? If so, please provide details. If not, please explain:

3.4 why the information in relation to items 3.1 to 3.3 was not released to the market at an earlier time, commenting specifically on when you believe ELE was obliged to release the information in relation to items 3.1 to 3.3 under Listing Rules 3.1; and

3.5 what steps the Entity took to ensure that the information in relation to items 3.1 to 3.3 was released promptly and without delay.

Please address the information disclosed in relation to items 3.1 to 3.3 separately.

4. If ELE first became aware of the information disclosed in the Announcement in relation to the:

4.1 Peko Agreement;

4.2 Vendor Finance Agreement; and

4.3 Avior Facility,

or any part thereof, before lodging the Appendix 3B and Cleansing Notice on the Platform, please explain why the information in relation to items 4.1 to 4.3 was excluded from the Cleansing Notice.

5. If ELE first became aware of the information disclosed in the Announcement in relation to the:

5.1 Peko Agreement;

5.2 Vendor Finance Agreement; and

5.3 Avior Facility,

or any part thereof, before lodging the Appendix 3B and Cleansing Notice on the Platform, did ELE rely on the provisions of Listing Rule 3.1A not to release the information in relation to items 5.1 to 5.3 before ELE lodged the Announcement on the Platform?

6. Please confirm that ELE complying with the Listing Rules and, in particular, Listing Rule 3.1.

7. Please confirm that ELE'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 ELE 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 AM AWST Tuesday, 26 July 2022**. 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, ELE'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 ELE to request a trading halt immediately.

Your response should be sent to me by e-mail at [ListingsCompliancePerth@asx.com.au](mailto:ListingsCompliancePerth@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 Platform.



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### 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 ELE'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 ELE's securities under Listing Rule 17.3.

### Listing Rules 3.1 and 3.1A

In responding to this letter, you should have regard to ELE'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 ELE'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 faithfully

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**Raj Logarajah**  
Adviser, Listings Compliance (Perth)