



21 September 2024

ASX Compliance Pty Ltd  
Level 40, Central Park  
152-158 St Georges Terrace  
PERTH WA 6000

**By email:**        **ListingsCompliancePerth@asx.com.au**

Dear Sir/Madam

**BPH ENERGY LTD: ASX PRICE QUERY RESPONSE**

We refer to ASX's aware letter dated 19 September 2024. The Company makes this announcement and responds to the ASX's queries as follows:

1. **Does BPH consider the preliminary view formed by Minister Husic that the PEP-11 applications should be refused, to be information that a reasonable person would expect to have a material effect on the price or value of its securities?**  
  
Yes.
2. **If the answer to question 1 is "no", please advise the basis for that view, commenting specifically on the significant increase in volume in BPH securities traded following the release of the Announcement, the fall in the price of BPH's securities from \$0.016 immediately prior to the release of the Announcement to \$0.012 at the close of trading on 18 September 2024 and that BPH marked the Announcement as 'price sensitive'.**  
  
N/A.
3. **When did BPH first become aware of the information referred to in question 1 above? In answering this question please specify the time and date BPH first became aware that Minister Husic had formed a preliminary view that the PEP-11 applications should be refused.**

Mr David Breeze, Chairman of BPH received a phone call from NOPTA at 11.33 am (WST) on 18 September 2024 and was advised that correspondence was being emailed from NOPTA in relation to the PEP-11 applications. During that phone call Mr Breeze was further advised that Minister Husic was also, or had already released a statement to reflect the content of the email correspondence.

After the conclusion of the call Mr Breeze took immediate steps in that he checked the Ministerial Website and confirmed the statement had already been released.

4. **If BPH first became aware of the information referred to in question 1 before the time of the Announcement, did BPH 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 BPH was obliged to release the information under Listing Rules 3.1 and 3.1A and what**

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**steps BPH took to ensure that the information was released promptly and without delay.**

The Company immediately sought advice and prepared the announcement promptly and made the announcement to the market as soon as practicable without delay after becoming aware of the information referred to in question 1. The Announcement was released on the same day as the Company became aware of the information.

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

We confirm that the Company is, and remains in compliance with the Listing Rules and, in particular, Listing Rule 3.1.

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

The Company's responses to the questions above have been authorised and approved in accordance with the Company's Continuous Disclosure Policy or otherwise by its Board or an officer of the Company with delegated authority from the Board to respond to ASX on disclosure matters.

Yours sincerely,

David Breeze  
Executive Director



19 September 2024

Reference: 100278

Mr David Breeze  
Chair & Managing Director  
BPH Energy Limited

By email

Dear Mr Breeze

**BPH Energy Limited ('BPH'): ASX Aware Letter**

ASX refers to the following:

- A. The Media Release by The Hon Ed Husic MP, Minister for Industry and Science, titled "Statement on PEP-11" released on the Minister's website at 1:40 PM AEST on 18 September 2024, which provided the following statement in relation to PEP-11:

*"I would like to provide a brief update on the current status of the PEP-11 applications. I have carefully considered all material submitted by Asset Energy Pty Ltd and formed a preliminary view that the applications should be refused."*

- B. BPH's announcement titled "PEP-11 Update" (the 'Announcement') lodged to the ASX Market Announcements Platform at 2:46 PM AEST on Wednesday, 18 September 2024 which disclosed the following:

*"BPH Energy Limited (BPH) (ASX: BPH) and Bounty Oil & Gas NL (Bounty) (ASX: BUY) for the PEP11 Joint Venture announce that today that the Hon Ed Husic MP, Minister for Industry and Science, has advised that he has carefully considered the PEP-11 Exploration Permit applications under the Offshore Petroleum and Greenhouse Storage Act 2006 (Cth), namely the applications accepted on 23 January 2020 and 17 March 2021, and formed a preliminary view that the applications should be refused."*

- C. The price movement of BPH's securities during trading on 18 September 2024, being:

- 1.1 \$0.017 at market open;
- 1.2 \$0.017 at the time of the release of the Minister's Statement on PEP-11;
- 1.3 \$0.016 immediately prior to the release of BPH's Announcement; and
- 1.4 \$0.012 at the close of market.

- D. The significant increase in the volume of BPH's securities traded on 18 September 2024 prior to the release of both the Minister's Statement on PEP-11 and BPH's Announcement.

- E. 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.

- F. 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."*

- G. Section 4.4 in *Guidance Note 8 Continuous Disclosure: Listing Rules 3.1 – 3.1B* titled "When does an entity become aware of information?"

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H. 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.”*

I. 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 BPH to respond separately to each of the following questions:

1. Does BPH consider the preliminary view formed by Minister Husic that the PEP-11 applications should be refused, 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, commenting specifically on the significant increase in volume in BPH securities traded following the release of the Announcement, the fall in the price of BPH’s securities from \$0.016 immediately prior to the release of the Announcement to \$0.012 at the close of trading on 18 September 2024 and that BPH marked the Announcement as ‘price sensitive’.
3. When did BPH first become aware of the information referred to in question 1 above? In answering this question please specify the time and date BPH first became aware that Minister Husic had formed a preliminary view that the PEP-11 applications should be refused.
4. If BPH first became aware of the information referred to in question 1 before the time of the Announcement, did BPH 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 BPH was obliged to release the information under Listing Rules 3.1 and 3.1A and what steps BPH took to ensure that the information was released promptly and without delay.
5. Please confirm that BPH is in compliance with the Listing Rules and, in particular, Listing Rule 3.1.

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6. Please confirm that BPH'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 BPH 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 **3:00 PM AWST Monday, 23 September 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, BPH'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 BPH to request a trading halt immediately if trading in BPH's securities is not already halted or suspended.

Your response should be sent by e-mail to **ListingsCompliancePerth@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.

**Suspension**

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

**Listing Rules 3.1 and 3.1A**

In responding to this letter, you should have regard to BPH'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 BPH'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