

10 August 2015

### **RESPONSE TO ASX AWARE QUERY**

In accordance with Listing Rule 18.7A we respond to your questions as follows;

1. Does the Entity consider the information in the Announcement and Newsletter Article to be information that a reasonable person would expect to have a material effect on the price or value of its securities?

For the following reasons set out below the answer to question one is NO.

Following receipt of the letter from Accloud Limited (Accloud) on the evening of 2 July 2015 a series of discussions took place that evening between Charter Pacific and the Accloud representative/facilitator that clearly indicated that the matter was not at an end and that negotiations and discussions were on going.

Charter Pacific was of the opinion that the letter dated 2 July 2015 was a negotiating ploy by Accloud to apply pressure to Charter Pacific to agree to a variation of the current position between the parties. This opinion was supported by Charter Pacific's receipt of email correspondence from the Accloud representative/facilitator at 7:17am on 3 July 2015 enclosing further negotiation points and attachments.

Charter Pacific received verbal legal advice in respect to Listing Rule 3.1 and the events of the preceding 24 hours and based on Charter Pacific's belief that the letter dated 2 July 2015 was not in the public domain, negotiations with Accloud were still confidential and ongoing and supported by the email correspondence dated 3 July 2015, that Charter Pacific was not required to make a release to the ASX because "*the information concerns an incomplete proposal or negotiation*" and under such circumstances "*a reasonable person would not expect the information to be disclosed.*"

Post 3 July 2015 the Accloud representative/facilitator continued to attempt to negotiate with Charter Pacific which clearly indicated that the Heads of Agreement (HOA) had not been terminated by them.

Charter Pacific became aware of the Accloud newsletter article in the late afternoon of 30 July 2015. Charter Pacific contacted the Accloud representative/facilitator on 31 July 2015 to clarify the position. The net result was that Accloud was in breach of clause 4.4(b) of the HOA and Charter Pacific terminated the HOA. In terms of Listing Rule 3.1 Charter Pacific then prepared, reviewed, approved and released its ASX announcement on 31 July 2015.

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

Based upon verbal advice from Charter Pacific’s legal adviser in respect to the circumstances surrounding the letter of 2 July 2015, no termination of the HOA was concluded.

3. If the answer to question 1 is “yes”, when did the Entity first become aware of the information?

N/A

4. If the answer to question 1 is “yes” and the Entity first became aware of the information before the date of the Announcement, did the Entity make any announcement prior to that date which disclosed the information?

N/A

If so, please provide details. If not, please explain why this information was not released to the market at an earlier time, commenting specifically on when you believe the Entity was obliged to release the information under Listing Rules 3.1 and 3.1A and what steps the Entity took to ensure that the information was released promptly and without delay.

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

Charter Pacific confirms that it is in compliance with the Listing Rules and, in particular, Listing Rule 3.1.

Yours faithfully

A handwritten signature in black ink, appearing to read 'Steven Cole', with a stylized, cursive script.

Steven Cole  
*Company Secretary*



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6 August 2015

Mr Steven Cole  
Company Secretary, Charter Pacific Corporation Limited  
PO Box 40  
Surfers Paradise  
Queensland 4217

By email: [scole@charpac.com.au](mailto:scole@charpac.com.au)

Dear Mr Cole,

**Charter Pacific Corporation Limited ("the Entity") – ASX aware query**

ASX Limited ("ASX") refers to the following:

1. The article published in the Accloud Newsletter dated 30 July 2015, stating that the Heads of Agreement ("HOA") was terminated on 2 July 2015 ("Newsletter Article").
2. The Entity's announcement entitled "Charter Pacific Terminates HOA with Accloud Limited" lodged with ASX Market Announcements Platform and released at 15:22 pm AEST on 31 July 2015 (the "Announcement").
3. Listing Rule 3.1, which requires a listed entity to give ASX immediately 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.
4. 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"*.

5. Listing Rule 3.1, which sets out the requirement of continuous disclosure and some examples of disclosure may be required under that rule:

*"3.1 Once an entity is or becomes +aware of 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, the entity must immediately tell ASX that information."*

*[...]*

*Examples: The following are non-exhaustive examples of the type of information that, depending on the circumstances, could require disclosure by an entity under this rule:*

*[...]*

- *the appointment of a liquidator, administrator or receiver."*

6. 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."*

7. Listing Rule 18.6, which provides that a listed entity must comply with the listing rules during a period of suspension:

*"18.6 On admission to the official list, an entity must comply with the listing rules. This applies even if quotation of the entity's securities is deferred, suspended or subject to a trading halt."*

8. 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."*

Having regard to the above, we ask that you answer the following questions in a format suitable for release to the market in accordance with Listing Rule 18.7A:

1. Does the Entity consider the information in the Announcement and Newsletter Article 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.
3. If the answer to question 1 is "yes", when did the Entity first become aware of the information?
4. If the answer to question 1 is "yes" and the Entity first became aware of the information before the date of the Announcement, did the Entity make any announcement prior to that date which disclosed the information? If so, please provide details. If not, please explain why this information was not released to the market at an earlier time, commenting specifically on when you believe the Entity was obliged to release the information under Listing Rules 3.1 and 3.1A and what steps the Entity took to ensure that the information was released promptly and without delay.
5. Please confirm that the Entity is in compliance with the Listing Rules and, in particular, Listing Rule 3.1.

## When and where to send your response

This request is made under, and in accordance with, Listing Rule 18.7. Your response is required as soon as reasonably possible and, in any event, by not later than half an hour before the start of trading (ie before 9.30 a.m. AEST) on Monday, 10 August 2015.

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, the Entity'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.

ASX reserves the right to release a copy of this letter and your response on the ASX Market Announcements Platform under Listing Rule 18.7A. Accordingly, your response should be in a form suitable for release to the market.

Your response should be sent to me by e-mail at [mauro.piccini@asx.com.au](mailto:mauro.piccini@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 Rule 3.1

Listing Rule 3.1 requires a listed entity to give ASX immediately 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. Exceptions to this requirement are set out in Listing Rule 3.1A.

The obligation of the Entity to disclose information under Listing Rules 3.1 and 3.1A is not confined to, nor is it necessarily satisfied by, answering the questions set out in this letter.

In responding to this letter, you should have regard to the Entity's obligations under Listing Rules 3.1 and 3.1A and also to Guidance Note 8 *Continuous Disclosure: Listing Rules 3.1 – 3.1B*.

If you have any queries or concerns about any of the above, please contact me immediately.

Yours sincerely

*[Sent electronically without signature]*

Mauro Piccini  
**Senior Adviser, Listings (Perth)**