

**By email**

Madeleine Green  
Senior Adviser, Listings Compliance  
Australian Securities Exchange  
Level 40 Central Park  
Perth WA 6000

31 May 2024

[ListingsCompliancePerth@asx.com.au](mailto:ListingsCompliancePerth@asx.com.au)[Madeleine.green@asx.com.au](mailto:Madeleine.green@asx.com.au)

Dear Ms Green,

**Wide Open Agriculture Limited - ASX Query**

Wide Open Agriculture Limited ACN 604 913 822 (**WOA** or the **Company**) refers to ASX's query letter dated 27 May 2024 and provides responses to the specific queries set out in that letter.

Capitalised terms used in this letter have the same meaning given in ASX's query letter unless otherwise defined.

**Background**

Prior to addressing ASX's queries we want to highlight WOA's objectives and areas of focus following the divestment of the "Dirty Clean Food" business as approved on 22 April 2024 by Shareholders. We provide a summary below which may help give context to our response:

**A. Financial condition**

The Company's current financial situation is that as announced on 30 May 2024, it has successfully received firm commitments for a total of \$6.11 million from Sophisticated and Institutional investors under Tranche 2 Placement, thus bringing the total amount raised under the Placement to \$7 million. The Tranche 2 Placement is subject to shareholder approval, as the Company has utilised its placement capacity with the Tranche 1 placement.

**B. Company's Objectives**

As previously noted, the quarterly report was lodged on 30 April 2024 (**April QR**), due to an administrative oversight referred to the NAB Facility which was cancelled in mid-March 2024. However, the total cash available to the Company was correctly reported in the April QR. More importantly, one week prior to the lodgement of the April QR i.e. on 22 April 2024, WOA Shareholders voted on the divestment of the "Dirty Clean Food (**DCF**) Business" and a Notice of Meeting was reviewed by ASX and lodged on 21 March 2024 (**March Notice**), which reiterated the Company's strategic objectives and financial situation.

As part of the March Notice, the Company provided a pro forma detailing the impact of the DCF sale on its financial position and the March Notice refers to the following intentions by the Company post sale of DCF:

- i. ***"Following the Proposed Transaction, the Company's main activities will be its Buntine Protein® business and related assets, including its R&D facilities in Kewdale, Australia, and its commercial manufacturing operations in Grimmen, Germany."***
- ii. ***If the Proposed Transaction is approved by Shareholders, the Company will focus its resources on researching, manufacturing and supplying high performance lupin-based***

ingredients to global food manufacturers. Subject to approval and implementation of the Proposed Transaction, the Company intends to:

1. *Develop its Ag-tech business, leveraging its Intellectual Property around lupin protein extraction and processing to develop lupin as a food ingredient.*
2. **Operate solely in producing lupin-based ingredients**, lupin protein, including the Company's functional protein product, Buntine Protein®, lupin oil, lupin fibre, and lupin flakes
3. Operate **primarily as a Business to Business company, selling its lupin products** as ingredients to food manufacturers, and leveraging its intellectual property to grow its global footprint.
4. *Reduce operational expenditure to minimise cash outflow".*

The above information was reiterated in the Company's business update within the April QR. This clearly demonstrates that the Company's focus is on the Buntine Protein business, not the Oat Milk manufacturing Plant. For further information on the \$8 million NAB Facility and the Oat Milk Manufacturing Plant, see below.

### **C. Oat Milk Manufacturing Plant**

Whilst the Company has divested the Dirty Clean Food Oat milk brand, it still has the ability to invest in a plant based milk manufacturing facility at some point in the future should circumstances change; however as disclosed in its March Notice, the focus is solely on its Buntine Protein® business, including lupin oil, lupin fibre, lupin flakes and lupin protein, including the Company's functional protein product.

The non establishment of the NAB Facility was not deemed to be material and price-sensitive information, because further to the sale of the DCF business as approved by Shareholders on 22 April 2024, the Company was clear on its intentions to focus on its Buntine Protein® business only, and that the Oat Milk Manufacturing Plant was no longer part of the Company's core priorities, since the Dirty Clean Food Oat milk brand had been divested as part of the sale of the DCF business.

Therefore, the fact that the NAB facility was not established was not considered to be material information, given the Company's plan to focus on its Buntine Protein® Business as initially announced on 12 March 2024.

### **Questions**

#### **Going Concern & Financial Condition**

1. **Does WOA's board consider there are reasonable grounds to believe WOA will be able to pay its debts as and when they become due and payable? In answering this question, please explain the basis for the director's conclusion?**

Yes, the Board believes there are reasonable grounds for WOA to be able to pay its debts as and when they become due following the successful capital raise in May 2024 (see section A above). At the date of this letter there is \$6.8 million in commitments from new investors and shareholders. The Company has access to \$890,000 raised under Tranche 1 Placement and a range of other facilities that it has access to until shareholder approval is obtained at the next general meeting. As explained the only reason the Company could not issue those shares and options under the Offer (except for Tranche 1 Placement Shares) is because it has used up its placement capacity under Listing Rule 7.1.

#### **Technical Breach of Listing Rule 7.1**

The Company advises that it has come to its attention that, as a result of the March Notice which related to an approval under Listing Rule 11.2, its additional placement capacity under

Listing Rule 7.1A had lapsed. Consequently, 17,760,945 Tranche 1 Placement Shares (**7.1A Shares**) were issued beyond the Company's placement capacity under Listing Rule 7.1.

The Company has notified the ASX of this technical breach. The Company has explained to the ASX that the breach resulted from the Placement being delayed. It was unfortunate that there was only a two-week period between the lapse of the additional placement capacity on 22 April 2024 and the issue of the 7.1A Shares on 13 May 2024, for which the Company is seeking pardon from the ASX. The Company reiterates that this technical breach was an honest mistake and does not affect the terms of the 7.1A Shares nor the status of the Offers under the Prospectus.

The Company will update Shareholders on the implications and next steps once discussions with the ASX are complete.

- 2. Does WOA consider its financial condition is sufficient to warrant the continued quotation of its securities and continued listing under Listing Rule 12.2? In answering this question, please specifically address each of the following:**
- 2.1 WOA's 1 quarter funded metric at section 8.5 of the Amended 4C; and**

Yes. See our response above, the Company has raised sufficient capital.

- 2.2 the Chairman's comments in the LinkedIn Post (as that term is defined in the Initial ASX Aware Letter) that WOA was 'almost completely out of money' and 'about to enter voluntary administration'**

As mentioned in our prior response, the LinkedIn post was made **after** the Company had announced a successful capital raising, for clarity the announcement was lodged pre-market open on 9 May 2024 and the LinkedIn post was released after the announcement was made.

#### **Half Year Financial Statements**

- 3. Is WOA able to confirm that in its director's opinion, the Half Year Report:**
- 3.1 complies with the relevant Accounting Standards; and**

Yes, the Director's opinion complies with the relevant accounting standards.

- 3.2 gives a true and fair view of WOA's financial performance and position?**

Yes, the Director's opinion gives a true and fair view of WOA's financial performance and position.

- 4. Does WOA consider the NAB facility limit reductions (as disclosed in the Initial Aware Letter Response) required disclosure as a Significant Event After the Reporting Date in its Half Year Financial Report?**

No

- 5. If the answer to question 4 is 'no', please explain the basis for that conclusion commenting specifically on the material uncertainty paragraph related to going concern contained in the Auditor's Review Opinion.**

The reduction in the NAB facilities was not a significant event, since these facilities were not being used (for reasons as explained in the Company's initial response dated 24 May 2024, those facilities were tagged for a particular purpose), and the limits under those facilities were brought down to a level to reflect their actual usage rate.

The Auditor's conclusion on material uncertainty arose before the divestment of the DCF business and was related to the Company's operating cash flows and its ability to secure additional external capital post the half-year report. The NAB facility limits were restricted to specific working capital items and were not available for general operating expenses.

Consequently, these facilities **were never** a source of funds for the Company's operating cash flow.

And we also reiterate the Company's success in raising funds as at the date of this letter.

6. **If the answer to question 4 is 'yes', please explain why the NAB facility limit reductions were not disclosed as a Significant Event After the Reporting Date in WOA's Half Year Financial Report.**

N/A

7. **In relation to the Half Year Report, did WOA's board receive the CFO and CEO declaration, as described in section 4.2 of WOA's Corporate Governance Statement, that in the opinion of the CEO and CFO, the financial records of WOA have been properly maintained and that the financial statements comply with the appropriate accounting standards and give a true and fair view of the financial position and performance of WOA and that the opinion has been formed on the basis of a sound system of risk management and internal control which is operating effectively?**

Yes, the CEO and CFO signed the Management Representation Letter which was submitted and discussed at the Audit & Risk Committee where the Half Year Report was signed off by the Board.

8. **If the answer to question 7 is 'no', why did WOA's board not receive the CEO and CFO declaration as described in section 4.2 of WOA's Corporate Governance Statement?**

N/A

9. **Please describe the enquiries WOA's board made of management to satisfy itself that WOA's Half Year Financial Statements complied with the appropriate accounting standards and give a true and fair view of WOA's financial position and performance?**

The Audit & Risk Committee held a meeting on 26 February 2024 to review and discuss the audit. After consideration of the key assumptions and issues, including discussion with the Company's auditors, the Committee concluded that all material items had been discussed.

#### **March 2024 Appendix 4C**

10. **WOA's response to question 14 of the Initial ASX Aware Letter states that 'The Company's internal process for review and approval of the 4C was also not followed correctly in the March Quarter', as such, please advise regarding the following:**
- 10.1 **please detail the review and approval process by reference to WOA's Continuous Disclosure Policy which was followed by WOA in respect of the March Appendix 4C before it was authorised for release and lodged by WOA with ASX; and**

The quarterly business presentation as part of the April QR (**Presentation**) was prepared and reviewed by the Board in accordance with the Company's Continuous Disclosure Policy. However, the Appendix 4C was not reviewed by the Audit & Risk Committee before it was released to the market alongside the Presentation.

- 10.2 **please provide details as to how WOA's board satisfied itself such that it authorised for release to ASX the March Appendix 4C and provided the confirmation statement that the Appendix 4C 'gives a true and fair view of the matters disclosed'?**

The Board reviewed the Presentation which included the key activities for the quarter, including the final cash balance and the operating expenditure for the period, which as discussed were correctly reported in the Appendix 4C.

11. **How did the 'administrative error' occur, such that the \$8M NAB facility and other NAB facilities were disclosed as 'available' to WOA in the March Appendix 4C despite those**

**facilities having either lapsed or had limits materially reduced by NAB during the March quarter?**

As noted, a week prior to the lodgement of the April QR, Shareholders approved the divestment of the DCF business. Simultaneously, the Company was transitioning to a new CEO and preparing for a capital raise. Consequently, the Appendix 4C was not sent to the Audit & Risk Committee for review before its release.

While we understand ASX's concerns, given the changes to the business occurring at the time, this was a human error, and the Company should not be penalised for it. The Company reiterated that the error was not material, and the information was corrected as soon as the Company became aware of the error.

The Company points out that Shareholders had approved the divestment of the DCF business only a week prior to the lodgement of the April QR, where the March Notice included pro forma financial information and the Company's future strategic objectives. Additionally, both the Presentation and Appendix 4C contained the accurate cash balance and expenditure for the period. Therefore, it is unlikely that any Shareholders would be misled by the error.

- 12. Given the \$8M NAB facility and other NAB facilities which were disclosed as 'available' to WOA in the March Appendix 4C, despite those facilities having either lapsed or had limits materially reduced by NAB during the March quarter, does WOA's board consider the March Appendix 4C 'gives a true and fair view of the matters disclosed'?**

Yes

- 13. If the answer to question 12 is 'yes', please provide the basis for that conclusion and explain why WOA lodged the Amended 4C.**

The Board believes Appendix 4C gives a true and fair view, as those facilities were neither available (for e.g. the NAB Facility was always subject to certain conditions as previously advised) to the Company nor intended for use at the time. Consequently, they were not considered when reviewing the cash balance and operating costs. The Board was aware that the Company's cash position was insufficient for the long term and that additional cash resources were necessary, which as you are aware led to a capital raise.

The error in the 4C was an unintentional oversight due to human error. However, in the interest of clear communication and in response to ASX's query, the Company decided to provide a correction.

**\$5M Western Australian Government Grant**

**14. What date did WOA submit its requested variations to the WA Government in respect of the \$5m grant?**

The variation request was initially submitted on 19 February 2024. Subsequently, there have been numerous additional emails exchanged between the Company and the WA Government concerning the grant, with the latest submission being on 26 April 2024.

**15. Does WOA consider the proposed variation of the grant terms to be information that a reasonable person would expect to have a material effect on the price or value of its securities?**

No

**16. If the answer to question 15 is 'no', please advise the basis for that view.**

As mentioned in section C, in its March Notice, the Company had revisited its priorities, and the Oat Milk Manufacturing Plant was not one of the Company's priorities. Shareholders are aware that the Company is focusing on the lupin protein business as a priority.

Based on the above considerations, including the fact that as at the date of this letter, there has been no indication whether the WA government will agree to the variation of the grant terms, it is not considered price sensitive information at this stage.

However, if the grant variation request proves successful, the variation could potentially have a material impact on the price of WOA shares, depending on the final terms agreed to. This would also depend on the Company's strategic objectives in relation to the Oat Milk Manufacturing Plant, i.e. whether the Company would be proceeding in the short term, how this would affect its short term objectives etc, and those issues have not been assessed or finalised, given the Company's current focus on Buntine Protein®.

This is consistent with the purpose of the Offers under the Prospectus which is to focus on the Buntine Protein® business.

**17. Having regard to the annexure A of the \$5m Grant Announcement, has WOA:  
17.1 executed the Financial Assistance Agreement (as defined in the \$5m Grant Announcement)?**

Yes, the FAA was executed in July 2023.

**17.2 received any funding pursuant to the grant? If yes, please provide details including the amount of funding received by WOA to date.**

Yes, \$0.5m was received in August 2023.

**18. Has WOA met any of the conditions set out in annexure A of the \$5m Grant Announcement? If yes, please provide details.**

Yes, WOA has submitted the bi-annual report as required in Annexure A. WOA has not met any other milestones in Annexure A.

**19. Does WOA still anticipate the plant based milk facility will be completed by June 2025?**

Depending on the variation request, funds availability, and strategic objectives as disclosed in the March Notice, the Company will assess the circumstances at the appropriate time and

intends to update the market accordingly once a firm decision has been reached on the Oat Milk Manufacturing Plant.

- 20. If the answer to question 19 is 'no', please provide a revised date WOA anticipates the facility will be completed by.**

N/A

- 21. What are the 'revised specifications' of the facility? Please provide details, including by reference to the original specifications of the facility**

The request related to the facility having multiple investors, a lower capital cost, and a lower annual volume of production capacity compared to the Company's original submissions.

- 22. Please confirm that WOA is in compliance with the Listing Rules and, in particular, Listing Rule 3.1.**

Yes, the Company is in compliance with Listing Rule 3.1.

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

The responses have been approved by the Board of WOA.

If you have any queries, please do not hesitate to contact us.

Yours sincerely  
For and on behalf of  
**Wide Open Agriculture Limited**



Mr Anthony Maslin  
Non-Executive Chairman



27 May 2024

Reference: 94202

Mr Harry Miller  
Company Secretary  
Wide Open Agriculture Limited

By email: [harry.miller@automicgroup.com.au](mailto:harry.miller@automicgroup.com.au)

Dear Mr Miller

**Wide Open Agriculture Limited ('WOA'): Further ASX Aware Letter**

ASX refers to the following:

- A. WOA's announcement titled "WOA Secures \$5 Million Grant for Production of Buntine Protein Enhanced Plant-Based Milks" released on the ASX Market Announcement Platform ('MAP') at 09:55 AM AEST on 18 July 2023 ('\$5m Grant Announcement'), which disclosed the following:
- (i) *"Wide Open Agriculture (WOA) has received an AUD\$5 million grant from the Western Australian Government to establish a production facility for Buntine Protein<sup>®</sup> enhanced oat milk, underlining the Company's dedication to sustainable plant-based beverage innovation";*
  - (ii) *"The AUD\$5 million grant will be allocated in stages based on specific milestones and reporting achievements, with critical steps including the execution of the Financial Assistance Agreement and securing necessary approvals for construction and operation of the plant. Completion is anticipated to occur by June 2025."; and*
  - (iii) annexure A contained in the Announcement included a summary of the grant funding milestones as set out below:



| No | Milestone Description   | Evidence  | Indicative or Fixed Timing | Funding Amount |
|----|---|---|----------------------------|----------------|
| 1  | Execution of the Financial Assistance Agreement (FAA)                           | The fully executed FAA  | July 2023                  | \$500,000      |
| 2  | Biannual Report   | Completed biannual report, including verification and sign-off by the State.  | 31 July 2023               | NIL            |
| 3  | Completion of detailed design and confirmed project site location               | Final Design Document with engineer sign-off<br><br>Letter confirming project site location or associated ASX Announcement        | 31 August 2023             | NIL            |
| 4  | Planning and Development Approvals (Local Government Approval)                  | All required planning and development approvals. Planning and development approvals from Local Government.                        | 31 October 2023            | NIL            |
| 5  | Works Approval from the Department of Water and Environmental Regulation (DWER) | Evidence from milestones 3 – 4, plus Works Approval from the DWER   | 31 December 2023           | \$2,000,000    |
| 6  | Biannual Report   | Completed biannual report, including verification and sign-off by the State.  | 31 January 2024            | NIL            |
| 7  | Construction Start  |   | 31 January 2024            | NIL            |
| 8  | Biannual Report   | Completed biannual report, including verification and sign-off by the State.  | 31 July 2024               | NIL            |
| 9  | Completion of Plant Based Milk Facility Build                                   | Photos of completed Facility<br>Site visit by Grant Manager<br>Signed off engineering inspection report<br>Project expense report | 30 September 2024          | \$2,000,000    |
| 10 | Commencement of Commissioning   |   | 31 December 2024           | NIL            |
| 11 | Biannual Report   | Completed biannual report, including signoff by the State   | 31 January 2025            | NIL            |
| 12 | First Production  |   | 31 March 2025              | NIL            |
| 13 | Project Completion  |   | 30 June 2025               | NIL            |
| 14 | Final report  | Completed final report, including verification and sign-off by the State.   | 31 July 2025               | \$500,000      |

- B. WOA's Corporate Governance Statement, released on MAP at 08:49 AM AEST on 29 September 2023 which confirmed that WOA complied with Principle and Recommendation 4.2 and 4.3 as set out below:

| Principle and Recommendations   | Comply (Yes/No) | Explanation   |
|---|-----------------|---|
| rotation of the audit engagement partner.   |                 | and the individual attendances of the members at those meetings.  |
| <b>Recommendation 4.2</b><br>The board of a listed entity should, before it approves the entity's financial statements for a financial period, receive from its CEO and CFO a declaration that the financial records of the entity have been properly maintained and that the financial statements comply with the appropriate accounting standards and give a true and fair view of the financial position and performance of the entity and that the opinion has been formed on the basis of a sound system of risk management and internal control which is operating effectively. | Yes             | The Company's Audit and Risk Committee is responsible for ensuring that before the Board approves the Company's financial statements for a financial period, the Company receives from its CEO and CFO a declaration that the financial records of the Company have been properly maintained and that the financial statements comply with the appropriate accounting standards and give a true and fair view of the financial position and performance of the entity and that the opinion has been formed on the basis of a sound system of risk management and internal control which is operating effectively. |
| <b>Recommendation 4.3</b><br>A listed entity should disclose its process to verify the integrity of any periodic corporate report it releases to the market that is not audited or reviewed by an external auditor.   | Yes             | The Board and Company Secretary are responsible for reviewing all communications to the market to ensure they are full and accurate and comply with the Company's obligations.  |

- C. WOA's Half-Year Report for the period ended 31 December 2023 and accompanying Appendix 4D released on MAP at 2:38 PM AEDT on Thursday, 29 February 2024 ('Half Year Report'). The Half Year Report contained the following:

- (i) A material uncertainty paragraph related to going concern in the Auditor's review report:

*Material Uncertainty Related to Going Concern*

We draw attention to Note 1 in the financial statements, which indicates that the consolidated entity incurred a net loss of \$4,992,683 and net operating cash outflows of \$3,386,396 for the half-year ended 31 December 2023. As stated in Note 1, these events or conditions, along with other matters as set forth in Note 1, indicate that a material uncertainty exists that may cast significant doubt on the consolidated entity's ability to continue as a going concern. Our conclusion is not modified in respect of this matter.

- (ii) Note 10 – Significant Events After the Reporting Date:

---

On 17 January 2024, WOA announced it partnered with Nissei Kyoeki Co Ltd ("Nissei") for Buntine Protein distribution in Japan. Nissei are a prominent specialised Japanese trading company with deep expertise in the protein sector.

On 19 January 2024, WOA announced completion of the SPP shortfall shares and free attaching options issued under the supplementary prospectus dated 27 October 2023 raising an additional \$203,500.

No other matter or circumstance has arisen since 31 December 2023 that has significantly affected, or may significantly affect the consolidated entity's operations, the results of those operations, or the consolidated entity's state of affairs in future financial years.

- D. ASX's Aware Letter addressed to WOA dated 20 May 2024 ('Initial ASX Aware Letter').
- E. WOA's response to the Initial ASX Aware Letter released on MAP at 11:35 AM AEST on Thursday, 24 May 2024 ('Initial Aware Letter Response') which stated, relevantly (ASX queries bolded):

**"4. Does WOA have any near term plans to construct a domestic oat milk factory?"**

A Yes, however there are several contingencies as explained below.

**5. If the answer to question 4 is 'yes', please provide details.**

A The Company has drafted an incomplete and non-binding MOU for the development of the Oat Milk Manufacturing Plant with two local partners. The Company's contribution to the project is contingent on the WA Government consenting to a variation of the conditions in relation to its plant based milk facility grant awarded to the Company in July 2023. As at the date of this letter, the WA Government has not made any decision in relation to the variation request.

The variation sought from the WA Government requests the following:

- (i) That the grant can be accessed by WOA as part of a joint venture with two other companies, rather than as sole constructor of the Oat Milk Manufacturing Plant; and
- (ii) That the overall cost and scale of the project is modified slightly from the original submission, with a lower initial capex spend, and a slight reduction in the overall capacity of the plant. No information about the variation request has been provided to the market since there is no certainty of whether a variation will be granted by the WA Government."

- F. WOA's Amended Appendix 4C for the quarter ended 31 March 2024 released on MAP at 2:59 PM AEST Thursday, 23 May 2024 ('Amended 4C').
- G. WOA's Continuous Disclosure Policy, available on its website, which states the following (emphasis added):

*"The Company must comply with continuous disclosure requirements arising from legislation and the ASX Listing Rules. The general rule, in accordance with ASX Listing Rule 3.1, is that once the Company 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 Company's securities, the Company must immediately disclose that information to the ASX.*

*The Company has in place a written policy on information disclosure and relevant procedures. The focus of these procedures is on continuous disclosure compliance and improving access to information for investors*

....

---

*Price sensitive information is publicly released through ASX before it is disclosed to shareholders and market participants. Distribution of other information to shareholders and market participants is also managed through disclosure to the ASX.*

**All announcements (and media releases) must be:**

- (a) prepared in compliance with ASX Listing Rules continuous disclosure requirements;**
- (b) factual and not omit material information; and**
- (c) expressed in a clear and objective manner to allow investors to assess the impact of the information when making investment decisions.**

*The Company's protocol in relation to the review and release of material, price sensitive ASX announcements (and media releases) is as follows:*

- (a) All key announcements at the discretion of the Managing Director are to be circulated to all members of the Board and all members of the Board are to be given a reasonable opportunity (being 48 hours where possible) to provide the Managing Director (or in his/her absence, the Company Secretary) verbal or written contribution to each key announcement prior to its release.*
- (b) Any relevant parties named in the announcement should also be given the opportunity to review the announcement prior to its release, to confirm all information is factually correct.*
- (c) The approval of both the Chairman and the Managing Director must be obtained prior to release of the announcement to the ASX.*

(‘Continuous Disclosure Policy’)

H. 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.

I. 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.”*

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

K. Section 4.5 of *Guidance Note 8 Continuous Disclosure: Listing Rules 3.1 – 3.1B* titled “When does an entity become aware of information?” which states that:

*“Wherever possible, an announcement under Listing Rule 3.1 should contain sufficient detail for investors or their professional advisers to understand its ramifications and to assess its impact on the price or value of the entity's securities.”*

L. ASX Guidance Note 23 *Quarterly Reports* (section 10), which states:

**“10. Who should approve a quarterly report?**

*“The compliance statement at the foot of Appendices 4C and 5B requires an entity to disclose the name of the body or officer authorising the release of the quarterly cash flow report to the market.*

*If the report has been authorised for release to the market by the entity's board of directors, this can be completed by inserting: “By the board”. If it has been authorised for release by a committee of the entity's board of directors, this can be completed by inserting: “By the [name of board committee – eg*

---

*Audit and Risk Committee]”. If it has been authorised for release by the entity’s disclosure committee, this can be completed by inserting: “By the Disclosure Committee”.*

*ASX would generally expect an entity’s quarterly reports to be approved and authorised for release by the entity’s board or a committee of the board. This is not a Listing Rule requirement but rather a matter of good corporate governance. The activities reported in the quarterly activity report will effectively become a component part of the operating and financial review in the directors’ report in the entity’s annual report. The quarterly cash flows reported in an entity’s quarterly cash flow report will effectively form a component part of the statement of cash flows required to be included in the entity’s half yearly and annual financial statements, which the board will be required to approve in due course. It therefore makes sense that the board should have early visibility and oversight of the entity’s quarterly reports.*

*If an entity’s quarterly reports are not approved and authorised by its board, as a matter of good governance, ASX would expect them to be circulated to the board contemporaneously with their release to the market so that the board is aware of the contents of the reports.*

*If a quarterly cash flow report is approved by an entity’s board, then it should note recommendation 4.2 of the ASX Corporate Governance Council’s Corporate Governance Principles and Recommendations (4<sup>th</sup> edition), which provides that:*

*The board of a listed entity should, before it approves the entity’s financial statements for a financial period, receive from its CEO and CFO a declaration that, in their opinion, the financial records of the entity have been properly maintained and that the financial statements comply with the appropriate accounting standards and give a true and fair view of the financial position and performance of the entity and that the opinion has been formed on the basis of a sound system of risk management and internal control which is operating effectively.*

*On its face, this recommendation applies to any financial statement that the board of a listed entity may approve, including an Appendix 4C quarterly cash flow report under Listing Rule 4.7B or an Appendix 5B quarterly cash flow report under Listing Rule 5.5.*

*Therefore, if an entity has its Appendix 4C or 5B quarterly cash flow reports approved by its board and it wishes to comply with recommendation 4.2, the board should be receiving a declaration from its CEO and CFO in the terms set out in that recommendation before the board approves each report.”*

M. 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.”
- N. 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.”*
- O. Listing Rule 12.2 which states that:
- “an entity’s financial condition (including operating results) must, in ASX’s opinion, be adequate to warrant the continued +quotation of its +securities and its continued listing.”*
- P. Listing Rule 19.11A which states that:
- “If a listing rule requires an entity to give ASX +accounts, the following rules apply.*
- (a) *If the entity controls an entity within the meaning of section 50AA of the Corporations Act or is the holding company of an entity, required by any law, regulation, rule or accounting standard, or if ASX requires, the +accounts must be consolidated +accounts.*
- Note: As at 13/3/2000 section 50AA of the Corporations Act says that an entity controls a second entity if the first entity has the capacity to determine the outcome of decisions about the second entity’s financial and operating policies, and in determining whether the first entity has this capacity, the practical influence that it can exert and any practice or pattern of behaviour affecting the second entity’s financial or operating policies is to be taken into account. A holding company has another body corporate as a subsidiary. See sections 9 and 46.*
- (b) *The +accounts must be prepared to Australian accounting standards. If the entity is a +foreign entity the +accounts may be prepared to other standards agreed by ASX.*
- Note: ASX will agree, for example, to the use of International Financial Reporting Standards by a foreign entity.*
- (c) *If the listing rule requires audited +accounts, the audit must be conducted in accordance with Australian auditing standards by a registered company auditor. If the entity is a +foreign entity, the audit may be conducted in accordance with other standards agreed by ASX and may be conducted by an overseas equivalent of a registered company auditor.*
- (d) *If the listing rule requires +accounts to be reviewed, the review must be conducted in accordance with Australian auditing standards. If the entity is a +foreign entity, the review may be conducted in accordance with other standards agreed by ASX. Unless the listing rule says an independent accountant may conduct the review, it must be conducted by a registered company auditor (or, if the entity is a +foreign entity, an overseas equivalent of a registered company auditor).*
- (e) *If there is a +directors’ declaration that relates to the +accounts, the +directors’ declaration must be given to ASX with the +accounts.*

- (f) *If there is a 'directors' report that relates to the period covered by the 'accounts, the 'directors' report must be given to ASX with the 'accounts.'*

### **Request for information**

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

#### **Going Concern & Financial Condition**

1. Does WOA's board consider there are reasonable grounds to believe WOA will be able to pay its debts as and when they become due and payable? In answering this question, please explain the basis for the director's conclusion?
2. Does WOA consider its financial condition is sufficient to warrant the continued quotation of its securities and continued listing under Listing Rule 12.2? In answering this question, please specifically address each of the following:
  - 2.1 WOA's 1 quarter funded metric at section 8.5 of the Amended 4C; and
  - 2.2 the Chairman's comments in the LinkedIn Post (as that term is defined in the Initial ASX Aware Letter) that WOA was '*almost completely out of money*' and '*about to enter voluntary administration*'

#### **Half Year Financial Statements**

3. Is WOA able to confirm that in its director's opinion, the Half Year Report:
  - 3.1 complies with the relevant Accounting Standards; and
  - 3.2 gives a true and fair view of WOA's financial performance and position?
4. Does WOA consider the NAB facility limit reductions (as disclosed in the Initial Aware Letter Response) required disclosure as a Significant Event After the Reporting Date in its Half Year Financial Report?
5. If the answer to question 4 is 'no', please explain the basis for that conclusion commenting specifically on the material uncertainty paragraph related to going concern contained in the Auditor's Review Opinion.
6. If the answer to question 4 is 'yes', please explain why the NAB facility limit reductions were not disclosed as a Significant Event After the Reporting Date in WOA's Half Year Financial Report.
7. In relation to the Half Year Report, did WOA's board receive the CFO and CEO declaration, as described in section 4.2 of WOA's Corporate Governance Statement, that in the opinion of the CEO and CFO, the financial records of WOA have been properly maintained and that the financial statements comply with the appropriate accounting standards and give a true and fair view of the financial position and performance of WOA and that the opinion has been formed on the basis of a sound system of risk management and internal control which is operating effectively?
8. If the answer to question 7 is 'no', why did WOA's board not receive the CEO and CFO declaration as described in section 4.2 of WOA's Corporate Governance Statement?
9. Please describe the enquiries WOA's board made of management to satisfy itself that WOA's Half Year Financial Statements complied with the appropriate accounting standards and give a true and fair view of WOA's financial position and performance?

#### **March 2024 Appendix 4C**

10. WOA's response to question 14 of the Initial ASX Aware Letter states that '*The Company's internal process for review and approval of the 4C was also not followed correctly in the March Quarter*', as such, please advise regarding the following:

- 
- 10.1 please detail the review and approval process by reference to WOA's Continuous Disclosure Policy which was followed by WOA in respect of the March Appendix 4C before it was authorised for release and lodged by WOA with ASX; and
- 10.2 please provide details as to how WOA's board satisfied itself such that it authorised for release to ASX the March Appendix 4C and provided the confirmation statement that the Appendix 4C *'gives a true and fair view of the matters disclosed'*?
11. How did the *'administrative error'* occur, such that the \$8M NAB facility and other NAB facilities were disclosed as 'available' to WOA in the March Appendix 4C despite those facilities having either lapsed or had limits materially reduced by NAB during the March quarter?
12. Given the \$8M NAB facility and other NAB facilities which were disclosed as 'available' to WOA in the March Appendix 4C, despite those facilities having either lapsed or had limits materially reduced by NAB during the March quarter, does WOA's board consider the March Appendix 4C *'gives a true and fair view of the matters disclosed'*?
13. If the answer to question 12 is 'yes', please provide the basis for that conclusion and explain why WOA lodged the Amended 4C.

**\$5M Western Australian Government Grant**

14. What date did WOA submit its requested variations to the WA Government in respect of the \$5m grant?
15. Does WOA consider the proposed variation of the grant terms to be information that a reasonable person would expect to have a material effect on the price of value of its securities?
16. If the answer to question 15 is 'no', please advise the basis for that view.
17. Having regard to the annexure A of the \$5m Grant Announcement, has WOA:
- 17.1 executed the Financial Assistance Agreement (as defined in the \$5m Grant Announcement)?
- 17.2 received any funding pursuant to the grant? If yes, please provide details including the amount of funding received by WOA to date.
18. Has WOA met any of the conditions set out in annexure A of the \$5m Grant Announcement? If yes, please provide details.
19. Does WOA still anticipate the plant based milk facility will be completed by June 2025?
20. If the answer to question 19 is 'no', please provide a revised date WOA anticipates the facility will be completed by.
21. What are the *'revised specifications'* of the facility? Please provide details, including by reference to the original specifications of the facility.
22. Please confirm that WOA is complying with the Listing Rules and in particular, Listing Rule 3.1.
23. Please confirm that WOA'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 WOA 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 PM AWST, Thursday, 30 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, WOA'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 WOA to request a trading halt immediately if trading in WOA'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 WOA's securities under Listing Rule 17.3.

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

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

---

ASX Compliance