



Wollongong Coal

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www.wollongongcoal.com.au

13 September 2016

Mr Andia Petropoulos
Adviser, ASX Compliance
20 Bridge Street
Sydney NSW 200000

ASX Code: **WLC**

Dear Mr Petropoulos,

We respond to the questions that the ASX enquired of Wollongong Coal Limited (**Wollongong Coal** or the **Company**) as set out in your letter dated 8 September 2016 in relation to the ASX announcement that the Company made at 9.37AM on 2 September 2016 entitled "Investigation by NSW Department of Industry and Investment" disclosing an investigation into the Company for the purpose of section 380A of the Mining Act 1992 (the contents of such announcement being referred to herein as "**Information**").

1. *Does the Company consider the Information to be information that a reasonable person would expect to have a material effect on the price or value of its securities?*

No.

2. *If the answer to question 1 is "No", please advise the basis for that view.*

Wollongong Coal was advised in a letter dated 21 July 2016 that the Chief Compliance Officer for the Resources Regulator had deemed it appropriate for the NSW Resources Regulator to undertake an investigation to determine whether there is a sufficient basis to take action against Wollongong Coal under section 380A of the Mining Act. This was confirmed in a telephone conversation and an email from Mr David Muxlow, a Compliance Co-ordinator Manager on the same day.



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As far as the Company is aware, the investigation commenced by the NSW Department of Industry (the **Department**) has been prompted by the submission made to the Department by the anti-mining group 'Lock the Gate Alliance' (**Activists**). Wollongong Coal has requested the Department to provide it with a copy of this submission but it has not been disclosed. However based on recent media reports, Wollongong Coal understands that the Activists have pointed to the Company's solvency, technical competence and alleged environmental non-compliance as grounds to cancel or suspend the Company's mining rights pursuant to section 380A of the Mining Act 1992 on the basis that Wollongong Coal is not a fit and proper person.

The Company has been in correspondence with the Department to seek clarification of the legal basis for carrying out the investigation but as of today's date, no response on this point has been received.

The Company confirms it continues to have the full support of its controlling shareholder. Having taken legal advice, the Company's view is that notwithstanding the allegations made by the Activists, the directors are and continue to be fit and proper persons. Wollongong Coal believes that there is no proper legal basis for such an investigation to be made and no reasonable prospect that there would be a finding by the Department that the directors of the Company are not 'fit and proper'.

In light of the above, and the Company having formed the view that the Information is not information that a reasonable person would expect to have a material effect on the price or value of its securities and indeed that it is misleading, the Company considered it would not be proper to draw undue attention to such Information.

These views have been borne out by the market. After the information was first made public by the *Illawarra Mercury* on the afternoon of 1 September 2016 and again after the Company made its ASX announcement on 2 September 2016, there was no change in Wollongong Coal's share price. The Company notes that its shares have been trading on the ASX at \$0.008 per share at all times between 1 September 2016 and 7 September 2016.



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3. *If the answer to question 1 is "yes", when did the Company first become aware of the Information?*

Not applicable. The Company first became aware of the Information on 21 July 2016.

4. *If the answer to question 1 is "yes" and the Company first became aware of the information before the relevant date, did the Company make any announcement prior to the relevant 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 Company took to ensure that the information was released promptly and without delay.*

Not applicable. However the Company observes that the carve-outs (in Listing Rule 3.1A) to Listing Rule 3.1 were satisfied at all times up to and immediately before publication of the Press Article in the *Illawarra Mercury* on 1 September 2016. Having become aware of the Press Article in the afternoon of 1 September, the Company, updated the market in its announcement made at 9.37AM on 2 September.

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

The Company confirms it is in compliance with the Listing Rules and, in particular, Listing Rule 3.1.

Yours sincerely

Sanjay Sharma
Company Secretary

Ph: 02 4223 6830

Fax: 02 4283 7449

Email: ssharma@wcl.net.au



8 September 2016

Mr Sanjay Sharma
Company Secretary
Wollongong Coal Limited
Lot 31, 7 Princes Highway
CORRIMAL NSW 2518

By email: ssharma@wcl.net.au

Dear Mr Sharma

Wollongong Coal Limited (the “Entity”): ASX aware query

ASX Limited (“ASX”) refers to the following:

1. The Entity’s announcement entitled “Investigation by NSW Department of Industry and Investment” lodged on the ASX Market Announcements Platform and released at 09:37 am on 2 September 2016 (the “Announcement”), disclosing an investigation into the Entity for the purposes of section 380A of the Mining Act 1992.
2. 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.
3. 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”*.

4. 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 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."*

5. 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 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 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 relevant date, did the Entity make any announcement prior to the relevant 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 Tuesday 13 September 2016. If we do not have your response by then, ASX will have no choice but to consider suspending trading in the Entity's securities under Listing Rule 17.3.

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. 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*.

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 the Entity'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 may 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*.

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

Yours sincerely

[Sent electronically without signature]

Andia Petropoulos

Adviser, Listings Compliance (Sydney)