



Wellard

2 March 2016

Wade Baggott
Senior Adviser, Listings Compliance (Perth)
ASX Compliance Pty Ltd
Level 40 Central Park
152-158 St Georges Terrace
PERTH WA 6000

By email

Dear Mr Baggott

Wellard Limited (Company or Wellard): ASX aware query

We refer to ASX's letter dated 29 February 2016 (**Letter**) regarding the ASX aware query.

An overview of the relevant background and prevailing circumstances, which includes our response to the questions in the Letter, is set out below.

For ease of reference, at the end of this letter, we have included details of ASX's questions and a summary of our response.

First Half Financial Information

We note that **First Half Financial Information** is defined in the Letter as:

- i. 1H2016 Statutory EBITDA of (loss)(\$6.8 million);
- ii. 1H2016 Pro forma EBITDA of \$26.9 million;
- iii. 1H2016 Statutory NPAT of (loss) (A\$23.9 million); and
- iv. 1H2016 Pro forma NPAT of A\$13.5 million;

and the forecast pro forma FY 2016 NPAT of \$42.5 million is defined as the **Revised Forecast** in the Letter. The Revised Forecast is an update to the forecast financial information contained in the prospectus issued by Wellard dated 20 November 2015 (**Prospectus**).

We consider it appropriate to address the Revised Forecast separately from the First Half Financial Information and have done so below.

In this response, First Half Financial Information does not include the Revised Forecast.

Materiality of First Half Financial Information

The extent to which a reasonable person would expect information to have a material effect on the price or value of its securities, differs as between Statutory First Half Financial Information on the one hand and pro forma First Half Financial Information on the other.

As stated in Note 4 of the Financial Statements for the half year ended 31 December 2015 (and was disclosed in the Prospectus), the statutory financials include all one-off IPO related costs, restructuring costs and other non-recurring expenditure totalling \$33,681,000. Accordingly, Wellard is of the view that the 1H2016 Statutory EBITDA and 1H2016 Statutory NPAT, if considered in isolation, are not reflective of the underlying performance of the Wellard Group and a reasonable person is unlikely to expect the 1H2016 statutory financial information, in isolation, to have a material effect on the price or value of its securities.

We also note that no forecast half year pro forma EBITDA or NPAT was provided by Wellard in the Prospectus or otherwise and the half yearly results are largely consistent with what was anticipated in the full year pro forma forecast EBIT and NPAT information which was included in the Prospectus.

Completion of First Half Financial Information

Wellard finalised the 1H2016 Statutory EBITDA and 1H2016 Statutory NPAT on Friday afternoon, 26 February 2016, after the market closed, during a Board meeting where the Board considered information regarding the First Half Financial Information. That information was released to ASX prior to commencement of trading on the next trading day, Monday 29 February 2016.

IPO Completion Accounts

Wellard completed its IPO and was listed on ASX on 10 December 2015. At the time of Listing, Wellard was the subject of a corporate reorganisation – involving the separation of Wellard and its subsidiaries from its previous parent company, WGH Holdings Pty Ltd (**WGH**). As explained in the Prospectus, as part of the separation process, a completion adjustment to the aggregate purchase price paid by Wellard for the IPO subsidiaries (**APP Adjustment**) was to be calculated based on IPO completion accounts as at 11 December 2015 (**IPO Completion Accounts**). Wellard commenced preparation of the IPO Completion Accounts on 14 December 2015.

The draft IPO Completion Accounts require a number of complex calculations and assessment of various accounting and legal issues. For this reason, the Wellard's Audit and Risk Management Committee (**Wellard ARMC**) requested an accounting firm and the company's legal advisers to advise on certain aspects of the IPO Completion Accounts and their impact on the workings of the APP Adjustment.

The Wellard ARMC considered the draft IPO Completion Accounts, draft APP Adjustment and status of the advice from external advisers (to the extent available) at those times at various meetings, the last of which was held on 25 February 2016. The Board considered this information at a meeting on 26 February 2016.

Half Year Financial Statements

Preparation of half year financial statements commenced by Wellard on 14 January 2016. An external auditor commenced the half year review on 25 January 2016 in Singapore and on 1 February 2016 for the Australian operations.

The workings required to prepare the half year financial statements were complex and included, in addition to usual accounting and audit matters:

- the reconstruction of prior year comparative financial information for the Entity and its newly formed group of companies;
- an assessment of the appropriate estimate of the amount to include in the half year financial statements to reflect the outcome of the APP Adjustment; and
- consideration by the Board and the auditor of the accounting treatment and carrying value of the receivables arising from the APP Adjustment.

The Wellard ARMC considered various drafts of the Half Year Financial Statements and related matters at various meetings, the last of which was held on Thursday, 25 February 2016, where the meeting concluded at 9.30pm (WST). The Board considered the draft half year financial statements and related matters at a meeting held on Friday, 26 February 2016 and approved the half year financial statements at that meeting.

There remained a number of substantive issues which were considered by the Board at the meeting on 26 February 2016. The meeting concluded at 3.25 pm (WST) on that day. The substantive issues considered by the Board in relation to the half year financial statements included, among other things, the carrying value and accounting treatment of the estimated APP Adjustment.

Updates to the half year financial statements were made following the Board meeting to reflect the decisions of the Board and the final review report was received from the auditor at 6.19pm (WST) on Friday, 26 February 2016.

The Appendix 4D and Half Year Report were released to the ASX Market Announcements Platform as soon as it started processing releases at 5.15am (WST) on Monday, 29 February 2016. The “2016 Half Year Results Presentation” was released to the ASX Market Announcements Platform at 5.20am (WST) on Monday, 29 February 2016. Both of these announcements (**Announcements**) were uploaded by Wellard for release on Sunday, 28 February 2016.

Share price movements prior to release of Half Year Financial Statements

For completeness, Wellard notes that on 23 February 2016, Senator Glenn Lazarus backed union calls for a cap on live cattle exports. Wellard submits that this information and general market sentiment may have had an impact on the price of shares in companies involved in livestock trading industry.

From 23 February 2016 to 26 February 2016 the share price of Wellard’s and a peer both fell by ~4%. In addition, the broader ASX 200 also fell ~2%.

Revised Forecast

Wellard announced a revised forecast pro forma FY2016 NPAT of \$42.5 million with its release of the Announcements (**Revised Forecast**) on Monday, 29 February 2016. The Revised Forecast represents an 8.4% reduction to the forecast pro forma FY2016 NPAT contained in the Prospectus.

ASX suggests that listed entities apply the guidance on materiality that formerly appeared in the Australian Accounting Standards. That is, “where the expected variation in earnings compared to its published earnings guidance is between 5% and 10%, the entity needs to form a judgment as to whether or not it is material. Smaller entities or those that have relatively variable earnings may consider that a materiality threshold of 10% or close to it is appropriate.

Very large entities or those that normally have very stable or predictable earnings may consider that a materiality threshold that is closer to 5% than to 10% is appropriate.¹

ASX has also indicated that there needs to be a reasonable degree of certainty that there will be a difference before a listed company's obligations to make updating disclosure arises under ASX Listing Rule 3.1.

Explanation of Revised Forecast

As noted in the announcement, the Revised Forecast was not driven by a single factor but was attributable to the combination of three contributing factors:

- A delay in commissioning the MV Ocean Shearer;
- Repair period and associated costs for the MV Ocean Swagman and MV Ocean Outback; and
- FX impact on interest and depreciation due to lower AUD, **(Contributing Factors)**.

Each of the Contributing Factors are not individually considered by Wellard to constitute information that a reasonable person would expect to have a material effect on the price or value of its securities, but when combined, may be considered material. For example, the repair period and associated costs for the MV Ocean Swagman and MV Ocean Outback are not, in isolation, considered to be 'material' by Wellard (as previously announced to ASX Market Announcements Platform on 7 January 2016). Wellard continued to regularly re-assess the impact of the Contributing Factors and other factors in the context of the group's financial performance as a whole.

There were other potentially offsetting factors that were considered by the Board in assessing the effect on operating profitability, which may have impacted the operational performance of the business arising from the Contributing Factors. The other factors included fuel price movements; streamlining shipping schedules; and favourable FX as Wellard is paid in USD **(Offsetting Factors)** and anticipated market conditions for the balance of the forecast period. Accordingly, it was appropriate for the Board to understand the impact of the Offsetting Factors. A presentation of the Offsetting Factors was finalised by Management on Friday, 26 February 2016 and provided to the Board for consideration on the afternoon of Friday, 26 February 2016. Given the level of the potential change, the consideration of these Offsetting Factors was considered important in assessing whether there was a reasonable degree of certainty that there would be a sufficient difference in the forecast to require disclosure of the Revised Forecast under ASX Listing Rule 3.1.

Review process for Revised Forecast

Wellard conducted a review process regarding the forecast financial information to identify to a reasonable degree of certainty any difference or change to the forecast financial information in the Prospectus. Consistent with guidance from ASX, the process included vetting and sign-off processes at a senior level and approval by the Board before the Revised Forecast was released.²

The Board sought some assistance from an accounting firm to independently review Management's draft workings of the Revised Forecast.

¹ ASX Listing Rules, Guidance Note 8, Page 48.

² ASX Listing Rules, Guidance Note 8, Page 49.

The limited scope report on Revised Forecast was provided by the accounting firm on Thursday, 25 February 2016 at 6.11pm (WST) (**Accounting Report**) and considered by the Board at its Board meeting on Friday, 26 February 2016.

Timing for finalisation of Revised Forecast

The Board of Wellard considered and finalised the Revised Forecast on Friday afternoon, 26 February 2016, after the market closed, during a Board meeting. At the Board meeting, the Board considered all of the relevant information including the First Half Financial Information, the Contributing Factors, the Offsetting Factors and the Accounting Report on the Revised Forecast.

Disclosure of Revised Forecast

The Revised Forecast was announced to the ASX Market Announcements Platform prior to commencement of the trading day after finalisation of the Revised Forecast and became available on the ASX Market Announcements Platform when released by ASX at 5.15am (WST) on Monday, 29 February 2016. The “2016 Half Year Results Presentation” was released to the ASX Market Announcements Platform at 5.20am (WST) on Monday, 29 February 2016. Both of the announcements were uploaded by Wellard for release on Sunday, 28 February 2016.

Response to specific questions in the Letter

1. Does the Entity consider the information, or part thereof, contained in the Appendix 4D, and the Results Presentation, concerning the First Half Financial Information to be information that a reasonable person would expect to have a material effect on the price or value of its securities?

Yes, Wellard considers that certain, but not all, of information in the Appendix 4D, and the Results Presentation (together the Announcements) concerning the First Half Financial 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.

For the reasons mentioned above, Wellard is of the view that the 1H2016 Statutory EBITDA and 1H2016 Statutory NPAT, if considered in isolation, is not reflective of the underlying performance of the Wellard Group and a reasonable person is unlikely to expect the 1H2016 statutory financial information, in isolation, to have a material effect on the price or value of its securities.

3. If the answer to question 1 is “yes”, when did the Entity first become aware of the First Half Financial Information, and in particular the 1H2016 Statutory EBITDA and 1H2016 Statutory NPAT?

As explained above, Wellard became “aware of” (in the context this concept is described in the ASX Guidance Note 8) the First Half Financial Information, including the 1H2016 Statutory EBITDA and 1H2016 Statutory NPAT following completion of its vetting and sign off procedure and Board approval which concluded at 3.25pm (WST) on Friday 26 February 2016.

4. If the answer to question 1 is “yes” and the Entity first became aware of the First Half Financial Information before 29 February 2016, did the Entity make any announcement prior to the relevant date which disclosed the First Half Financial Information? If so, please provide details.

Wellard became “aware of” (in the context this concept is described in the ASX Guidance Note 8) the First Half Financial Information after close of trading on Friday 26 February 2016 and made an announcement before commencement of trading on the next trading day. See explanation above.

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.

Wellard believes it complied with its obligation to make an announcement in relation to the First Half Financial Information under Listing Rules 3.1 and 3.1A. See above for an explanation of the vetting, sign off and Board approval procedures adopted by Wellard.

5. Does the Entity consider the information contained in the Results Presentation concerning the Revised Forecast to be information that a reasonable person would expect to have a material effect on the price or value of its securities?

Yes.

6. If the answer to question 5 is “no”, please advise the basis for that view.

Not applicable.

7. If the answer to question 5 is “yes”, when did the Entity first become aware of the Revised Forecast?

As explained above, Wellard became “aware of” (in the context this concept is described in the ASX Guidance Note 8) the Revised Forecast, following completion of its vetting and sign off procedure and Board approval which concluded at 3.25pm (WST) on Friday 26 February 2016.

8. If the answer to question 5 is “yes” and the Entity first became aware of the Revised Forecast before 29 February 2016, did the Entity make any announcement prior to the relevant date which disclosed the Revised Forecast? If so, please provide details.

Wellard became “aware of” (in the context this concept is described in the ASX Guidance Note 8) the Revised Forecast after close of trading on Friday 26 February 2016 and made an announcement before commencement of trading on the next trading day. See explanation above.

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.

Wellard believes it complied with its obligation to make an announcement in relation to the Revised Forecast under Listing Rules 3.1 and 3.1A. See above for an explanation of the vetting, sign off and Board approval procedures adopted by Wellard.

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

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

Yours sincerely



**Yasmin Broughton
General Counsel & Company Secretary**



29 February 2016

Yasmin Broughton
Company Secretary
Wellard Limited
1A Pakenham Street
Fremantle WA 6160

By email

Dear Ms Broughton

Wellard Limited (the "Entity"): ASX aware query

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

1. The Entity's Prospectus released to the ASX Market Announcements Platform on Friday 4 December 2015 at 1:41pm (WST) which included amongst other things, the following forecast financial information.
 - a) Forecast pro-forma earnings before interest and tax ("EBIT") for financial year 2016 of \$57,483,000;
 - b) Forecast statutory EBIT for financial year 2016 of \$24,022,000;
 - c) Forecast proforma earnings before interest, tax, depreciation and amortisation ("EBITDA") for financial year 2016 of \$76,100,000;
 - d) Forecast statutory EBITDA for financial year 2016 of \$42,639,000;
 - e) Forecast proforma net profit after tax ("NPAT") for financial year 2016 of \$46,443,000;
 - f) Forecast statutory NPAT for financial year 2016 of \$8,982,000.
2. The Entity's Appendix 4D and Half Year report released to the ASX Market Announcements Platform at 5:15am (WST) on Monday 29 February 2016.
3. The Entity's announcement entitled "*2016 Half Year Results Presentation*" ("Results Presentation") released to the ASX Market Announcements Platform at 5:20am (WST) on Monday 29 February 2016 which set out the following financial results (together, the "First Half Financial Information"):
 - a) Statutory EBITDA for H12016 of (loss)(\$6.8 million);

- b) Proforma EBITDA for H12016 of \$26.9 million;
- c) Statutory 1H2016 NPAT of (loss) (A\$23.9 million); and
- d) Pro-forma 1H2016 NPAT of A\$13.5 million;

and the following forecast financial information:

- e) Forecast proforma FY 2016 NPAT of \$42.5 million (“Revised Forecast”).

- 4. 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.
- 5. 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”*.

- 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. 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.

8. Section 7.3 of Guidance Note 8, which states:

“If an entity becomes aware that its earnings for the current reporting period will differ (downwards or upwards) from market expectations, it needs to consider carefully whether it has a legal obligation to notify the market of that fact. This obligation may arise under Listing Rule 3.1 and section 674, if the difference is of such magnitude that a reasonable person would expect it to have a material effect on the price or value of the entity’s securities – referred to below as a “market sensitive earnings surprise”. Alternatively, in the case of an entity which becomes aware that its earnings guidance for a reporting period will differ from earnings guidance it has published to the market, it may arise under 1041H, because failing to inform the market that its published guidance is no longer accurate could constitute misleading conduct on its part.”

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, or part thereof, contained in the Appendix 4D, and the Results Presentation, concerning the First Half Financial 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 First Half Financial Information, and in particular the 1H2016 Statutory EBITDA and 1H2016 Statutory NPAT?
4. If the answer to question 1 is “yes” and the Entity first became aware of the First Half Financial Information before 29 February 2016, did the Entity make any announcement prior to the relevant date which disclosed the First Half Financial 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. Does the Entity consider the information contained in the Results Presentation concerning the Revised Forecast to be information that a reasonable person would expect to have a material effect on the price or value of its securities?
6. If the answer to question 5 is “no”, please advise the basis for that view.
7. If the answer to question 5 is “yes”, when did the Entity first become aware of the Revised Forecast?
8. If the answer to question 5 is “yes” and the Entity first became aware of the Revised Forecast before 29 February 2016, did the Entity make any announcement prior to the relevant date which disclosed the Revised Forecast? 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.

9. 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 **5:00pm (WST), Wednesday 2 March 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 at wade.baggott@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*.

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]

Wade Baggott

Senior Adviser, Listings Compliance (Perth)