



1 May 2014

BY EMAIL: james.rowe@asx.com.au

James Rowe
Manager, Listings Compliance (Perth)
ASX Compliance Pty Limited
Level 40, Central Park
152 – 158 St Georges Terrace
PERTH WA 6000

Dear James

Padbury Mining Limited ("Padbury" or "Entity") – Response to ASX aware query

I refer to your letter dated 30 April 2014 and **attached** to this letter, and respond as follows. Unless otherwise indicated, I have used the same defined terms as those used in your letter.

On the evening of 8 April 2014, Padbury, MWI, Alliance Super Holdings Pty Limited ACN 162 148 432 (**ASH**) and Superkite Pty Limited ACN 149 659 610 (**Superkite**) entered into the Shareholders Agreement for the purpose of the design, procurement, construction, commissioning and operational management of a deep water port at Oakajee, Western Australia and its associated rail network. Padbury made the market announcement which you call the Oakajee Funding Secured Announcement on 11 April 2014.

On the evening of 29 April 2014, the parties to the Shareholders Agreement signed a deed of termination and release in relation to the Agreement (**Deed of Termination and Release**). The effect of the Deed of Termination and Release was to terminate the Shareholders Agreement, and to release and discharge the parties from any claims arising under or in connection with the Agreement or its termination (other than in respect of the confidentiality restrictions in the Shareholders Agreement). Those matters were announced to the market on 30 April 2014 (**Termination Announcement**). The Termination Announcement had the effect that the contents of the Oakajee Funding Secured Announcement were no longer material to the price or value of Padbury's securities.

Padbury respectfully submits that the primary concern of ASX should now be to restore the market for Padbury's securities in the interests of investors, provided it is satisfied that when the market resumes, investors will have access to all information that is material at that time. That concern will implement the policy objective of Australia's continuous disclosure regime, which



is "to enhance the integrity and efficiency of Australian capital markets by ensuring that the market is fully informed"(see ASX Guidance Note 8, paragraph 3).

As the Shareholders Agreement has been terminated and the parties have granted mutual releases, the contents of that Agreement and the circumstances surrounding it have ceased to be information that a reasonable person would expect to have a material effect on the current price or value of Padbury's securities, for the purposes of ASX Listing Rule 3.1. Padbury respectfully submits that ASX should forthwith permit resumption of trading on the basis that since the making of the Termination Announcement, the market has all the information *that is now material*.

The questions contained in your letter of 30 April 2014 relate for the most part to the Shareholders Agreement, the Oakajee Funding Secured Announcement, and the circumstances surrounding those documents. That is, your questions relate to matters that are no longer material to the price or value of Padbury's securities.

In the present letter Padbury has done its best to answer your questions. It acknowledges ASX's power under Listing Rule 18.7 to ask for information relating to past compliance with the Listing Rules. But it respectfully urges you to recognise that these matters are collateral to the principal function of ASX, which is to provide, going forward, a fully informed market in the securities of listed entities.

Padbury is concerned by the matters raised by ASX in its 30 April 2014 letter. Padbury will implement an external law firm review of its corporate governance policies and ASX disclosure and listing rule compliance processes, and a training and assessment program for Padbury's officers and staff. The objective will be to ensure Padbury fully complies with its obligations under the ASX listing rules and sets a high standard in corporate governance. Padbury will initiate this work within the next week and complete it within 3 months.

Your questions and Padbury's answers are set out below.

1. ASX understands that the Shareholders Agreement was subject to the satisfaction of certain conditions precedent. Is this correct?

Yes.

2. If the answer to question 1 is "yes", what were the conditions precedent?

The Shareholders Agreement was subject to the satisfaction of the following conditions precedent:

- Padbury obtaining any necessary approvals (including shareholder approvals) to enter into the Shareholders Agreement; and

- Padbury procuring that a bank issue a demand guarantee to Superkite for US\$94 million (**First Demand Guarantee**),

(together, the **Conditions Precedent**).

3. **If the answer to question 1 is “yes”, does the Entity consider the conditions precedent in the Shareholders Agreement to be information that a reasonable person would expect to have a material effect on the price or value of its securities, given the other information included in the Oakajee Funding Secured Announcement?**

Yes, at the time of the making of the Oakajee Funding Secured Announcement. No, after the making of the Deed of Termination and Release.

4. **If the answer to question 1 is “yes” and the answer to question 3 is “no”, please advise the basis for that view.**

The Deed of Termination and Release extinguished the Shareholders Agreement and the parties gave mutual releases, and so the Conditions Precedent ceased to be relevant to the price or value of Padbury's securities.

5. **If the answer to question 1 is “yes” and the answer to question 3 is “yes”, please explain why the Oakajee Funding Secured Announcement did not include information about the conditions precedent?**

As at the date of the Oakajee Funding Secured Announcement, Padbury was confident that it would be able to satisfy the Conditions Precedent (see answer to question 7, below) and would be able to meet its obligations under the Shareholders Agreement (see answer to question 12). However, the Oakajee Funding Secured Announcement was not reviewed by external legal counsel. Padbury is reviewing the process of the Oakajee Funding Secured Announcement as part of the external review noted above.

6. **ASX understands that the conditions precedent in the Shareholders Agreement were required to be satisfied within a particular time frame. Is this correct?**

Yes.

7. **If the answer to question 6 is “yes”, what was that time frame and what was the likelihood of the Entity being able to satisfy the conditions precedent within that timeframe?**

The time frame for satisfying the Conditions Precedent was 40 business days from the date of the Shareholders Agreement, being 9 June 2014 (**Sunset Date**). If the Conditions

Precedent were not satisfied by the Sunset Date either Padbury or Superkite could terminate the Shareholders Agreement.

At the time of entering into the Shareholders Agreement, Padbury was in confidential and incomplete discussions with a number of parties with a view to putting Padbury in a position to satisfy the second Condition Precedent. As such, Padbury considered there was a reasonable prospect of satisfying the Conditions Precedent prior to the Sunset Date, or being able to negotiate a reasonable extension to the Sunset Date with Superkite and ASH to allow the Conditions Precedent to be satisfied.

Please note that Padbury is concerned to maintain the confidentiality of these incomplete discussions to preserve the prospect of continued confidential negotiations for funding the Oakajee project, protected from disclosure by Listing Rule 3.1A.

- 8. If the answer to question 6 is “yes”, does the Entity consider the requirement to satisfy the conditions precedent by a stated time frame and the likelihood of the Entity being able to meet that requirement to be information that a reasonable person would expect to have a material effect on the price or value of its securities, given the other information included in the Oakajee Funding Secured Announcement?**

Yes, at the time of the making of the Oakajee Funding Secured Announcement. No, after execution of the Deed of Termination and Release.

- 9. If the answer to question 6 is “yes” and the answer to question 8 is “no”, please advise the basis for that view.**

The Deed of Termination and Release extinguished the Shareholders Agreement and the parties gave mutual releases, and so the Conditions Precedent ceased to be relevant to the price or value of Padbury's securities.

- 10. If the answer to question 6 is “yes” and the answer to question 8 is “yes”, please explain why the Oakajee Funding Secured Announcement did not include information about the requirement to satisfy the conditions precedent by a stated time frame and the likelihood of the Entity being able to meet that requirement?**

See our answer to questions 5. We note that the likelihood of satisfaction of the Conditions Precedent would have been a matter for inference from disclosure of the relevant facts. In this regard, see our answer to question 7 (second and third paragraph). It would not have been appropriate for Padbury to be required to warrant to the market that it would be likely to comply with the time frame.

- 11. ASX understands that the Entity was required to procure the issue of certain demand guarantees to Superkite Pty Limited (“Superkite”), a party to the Shareholders Agreement, as a condition to Superkite providing the Funding Tranches. Is this correct?**

Yes.

- 12. If the answer to question 11 is “yes”, please advise the value, terms and circumstances under which the demand guarantees were required to be procured and the ability of the Entity to meet those requirements at the time the Oakajee Funding Secured Announcement was made.**

The Funding Tranches were structured so that Superkite (on behalf of ASH) was required to pay each relevant Funding Tranche to MWI following Padbury procuring the issue of a demand guarantee to Superkite in respect of an amount equal to 20% of the relevant Funding Tranche. The First Demand Guarantee was to be issued to Superkite in satisfaction of the second Condition Precedent, the second demand guarantee was to be issued within a further 10 months, and the third demand guarantee was to be issued within 1 year and 30 days after that.

At the date of the Oakajee Funding Secured Announcement Padbury did not have the financial capacity to procure the issue of the demand guarantees, but considered there were reasonable prospects of it being able to negotiate appropriate funding arrangements to procure the issue of the demand guarantees.

In particular, as noted in response to question 7, Padbury was in confidential and incomplete discussions with a number of parties in relation to obtaining the necessary funding to enable Padbury to procure the issue of the First Demand Guarantee. Further, the Shareholders Agreement contemplated Padbury's:

- second demand guarantee being issued following Superkite's contribution of the first Funding Tranche (US\$470 million) to MWI; and
- third demand guarantee being issued following Superkite's contribution of the second Funding Tranche (US\$3.45 billion) to MWI.

- 13. If the answer to question 11 is “yes”, does the Entity consider information about the requirement to procure the issue of the demand guarantees and the ability of the Entity to meet those requirements to be information that a reasonable person would expect to have a material effect on the price or value of its securities, given the other information included in the Oakajee Funding Secured Announcement?**

Yes, at the time of the making of the Oakajee Funding Secured Announcement, in so far as it relates to the requirement to procure the issue of the demand guarantees. No, after execution of the Deed of Termination and Release, and in so far as it relates to the ability of Padbury at the time of making the Oakajee Funding Secured Announcement to meet those requirements.

- 14. If the answer to question 11 is “yes” and the answer to question 13 is “no”, please advise the basis for that view.**

See answer to question 12 (third paragraph). In that context, a reasonable person would not expect Padbury to be in a position to fund all of the demand guarantees at the date of the Oakajee Funding Secured Announcement, but would expect that Padbury would provide further information to the market if it was able to procure the issue of the First Demand Guarantee and upon the happening of further material events.

The Deed of Termination and Release extinguished the Shareholders Agreement and the parties gave mutual releases, and so the demand guarantees ceased to be relevant to the price or value of Padbury's securities.

- 15. If the answer to question 11 is “yes” and the answer to question 13 is “yes”, please explain why the Oakajee Funding Secured Announcement did not include information about the requirement to procure the issue of the demand guarantees and the ability of the Entity to meet those requirements?**

See answer to questions 5. We note that the ability of Padbury to procure the issue of the demand guarantees would have been a matter for inference from disclosure of the relevant facts. In this regard, see our answer to questions 7 (second and third paragraph) and 12 (third paragraph). It would not have been appropriate for Padbury to be required to warrant to the market that it would be able to meet the requirements to issue the demand guarantees.

- 16. Did the Entity make any due diligence enquiries on the capacity of the other parties to the Shareholders Agreement to meet their funding obligations under the Shareholders Agreement prior to making the Oakajee Funding Secured Announcement?**

Yes.

- 17. If the answer to question 16 is “yes”, please advise what enquiries were made and what was the result of those enquiries?**

Prior to the Oakajee Funding Secured Announcement, Padbury had been negotiating with ASH and Superkite for approximately 18 months. During that time Padbury sought information from ASH and Superkite in relation to their capacity to fund ASH's share of



the costs relating to the development of the Oakajee Project, and ASH represented to Padbury that, the group of companies of which ASH is a part, had access to sufficient

capital to allow ASH (through Superkite) to fund its share of the costs relating to the development of the Oakajee Project.

- 18. If the answer to question 16 is “yes”, does the Entity consider that the level and outcome of the due diligence enquiries into the capacity of the other parties to the Shareholders Agreement to meet their funding obligations under the Shareholders Agreement prior to the announcement of the Oakajee Funding Secured Announcement to be information that a reasonable person would expect to have a material effect on the price or value of its securities, given the other information included in the Oakajee Funding Secured Announcement?**

No, both at the time of the making of the Oakajee Funding Secured Announcement and after the execution of the Deed of Termination and Release.

Bearing in mind the rights and obligations of the parties under the Shareholders Agreement, Padbury does not consider that the level and outcome of the due diligence enquiries into the capacity of the other parties to the Shareholders Agreement to meet their funding obligations under the Shareholders Agreement would have been information that a reasonable person would expect to have a material effect on the price or value of Padbury securities. This is because the Shareholders Agreement was subject to a Condition Precedent regarding the First Demand Guarantee which Padbury considered would in effect require reasonable due diligence enquiries to be undertaken and the outcome of those due diligence enquiries to be considered satisfactory.

- 19. If the answer to question 16 is “yes” and the answer to question 18 is “no”, please advise the basis for that view.**

See answer to question 18. Further, the Deed of Termination and Release had the effect that the level and outcome of due diligence enquiries concerning the Shareholders Agreement, now extinguished, ceased to be relevant market information.

- 20. If the answer to question 16 is “yes” and the answer to question 18 is “yes”, please explain why the Oakajee Funding Secured Announcement did not include information about the level and outcome of the due diligence enquiries.**

Not applicable.

- 21. If the answer to question 16 is “no”, does the Entity consider the fact that it had not undertaken due diligence enquiries into the capacity of the other parties to the Shareholders Agreement to meet their funding obligations under the Shareholders Agreement prior to the announcement of the Oakajee Funding Secured Announcement to be information that a reasonable person would expect to have a material effect on the price or value of its securities, given the other information included in the Oakajee Funding Secured Announcement?**

Not applicable.

22. **If the answer to question 16 is “no” and the answer to question 21 is “no”, please advise the basis for that view.**

Not applicable.

23. **If the answer to question 16 is “no” and the answer to question 21 is “yes”, please explain why the Oakajee Funding Secured Announcement did not include information about the fact that the Entity had not undertaken due diligence enquiries into the capacity of the other parties to the Shareholders Agreement to meet their funding obligations under the Shareholders Agreement prior to the announcement of the Oakajee Funding Secured Announcement.**

Not applicable.

24. **Please advise the basis on which the Entity made the statement in the Oakajee Funding Secured Announcement that: “Negotiations with WA Government underway to formalise development agreements”.**

In the last 12 months Padbury has corresponded on numerous occasions with the Western Australian Government and had meetings with the staff of the Premier of Western Australia. Padbury also introduced the counterparties to the Shareholders Agreement to the Department of State Development. As part of the correspondence and meetings, including with the Department of State Development, Padbury provided the Western Australian Government with the form of an indicative development agreement in relation to the Oakajee Project using a model agreement suggested by the Premier’s staff. Padbury considered that the provision of the indicative development agreement as advised by the Premier's staff represented the commencement of discussions regarding the formal terms of any such development agreement.

25. **Please advise the basis on which the Entity made the statement in the Oakajee Funding Secured Announcement that the transaction it announced would be: “Non dilutionary to Padbury shareholders”.**

The Shareholders Agreement does not provide for the issue of any securities in Padbury which would dilute the interests of any Padbury shareholder. While it was theoretically possible that Padbury would agree to issue securities in connection with whatever funding arrangements may be able to put in place to fund its obligations under the Shareholders Agreement, no such arrangements were in place.

26. **Was the Oakajee Funding Secured Announcement approved by its directors as a material disclosure in accordance with the Entity’s Corporate Governance Statement, and in particular Appendix D – Disclosure Policy?**

Padbury respectfully submits that the power of ASX under Listing Rule 18.7, which is to require an entity to give information "to enable [ASX] to be satisfied that the entity is, and has been, complying with the listing rules", does not authorise ASX to ask this question, which is about compliance with the Corporate Governance Statement. Further, a response to your question might tend to deny the directors the statutory protections with respect to self-incrimination that would be available in the context of an ASIC investigation.

- 27. If the answer to question 26 is “yes”, please advise the date the Oakajee Funding Secured Announcement was approved, the name of the directors who approved it and the form in which their approval was given (for example, at a board meeting or in response to a circular email).**

See answer to question 26.

- 28. If the answer to question 26 is “no”, please advise the name(s) of the person(s) who approved the Oakajee Funding Secured Announcement for release to ASX.**

See answer to question 26.

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

Padbury confirms that it is in compliance with the Listing Rules and, in particular, Listing Rule 3.1. The material provisions of the Deed of Termination and Release have been released to the market.

Yours faithfully



Leonard Math
Joint Company Secretary



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30 April 2014

Mr Leonard Math
Company Secretary
Padbury Mining Limited
100 Colin Street
WEST PERTH WA 6005

By email: leonard@gdacorporate.com.au

Dear Mr Math,

Padbury Mining Limited (the "Entity"): ASX query

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

- A. The Entity's request for a trading halt lodged with ASX Market Announcements Platform on 9 April 2014 (the "Trading Halt") disclosing, among other things, the following statements:

"Pursuant to Listing Rule 17.1, Padbury Mining Limited ... requests that ASX grants the Company a trading halt of its securities effective immediately, pending a material announcement regarding the execution of a project financing agreement for the development of the Oakajee Port and Rail Infrastructure Project in the Mid-West region of Western Australia."

- B. The Entity's announcement entitled "Oakajee Funding Secured", lodged with the ASX Market Announcements Platform and released at 09:28 EST on 11 April 2014 (the "Oakajee Funding Secured Announcement") disclosing, among other things, the following statements:

"Highlights

- 100% equity funding secured to construct port and rail at Oakajee ...
- Negotiations with WA Government underway to formalise development agreements
- Non dilutionary to Padbury shareholders

"Padbury Mining (ASX:PDY) is pleased to announce that it has secured the funding necessary to construct a \$6 billion deep water port and associated rail network at Oakajee. This is a major breakthrough for the company and the region. The funding is to be provided by private Australian equity investors and is contained within an executed Shareholders Agreement between the parties." [referred to in this letter as the "Shareholders Agreement"]

"The funding will be provided in three tranches:

1. *First tranche – US\$470 million*
2. *Second tranche – US\$3,450 million*
3. *Third tranche – US\$2,550 million." [referred to in this letter as the "Funding Tranches"] ...*

“The Oakajee project will be developed by Midwest Infrastructure Pty Ltd (MWI), a fully owned subsidiary of Padbury Mining. The investors in the project will obtain a 64% stake in MWI with the remaining 36% being held by Padbury. Funding negotiated for the project will be 100% equity funded and Padbury has the ability to claw back its shareholding to 49% once the private investment has been returned.”

- C. The Entity’s request for a trading halt lodged with ASX Market Announcements Platform on 11 April 2014 disclosing, among other things, the following statements:

“Pursuant to Listing Rule 17.1, Padbury Mining Limited ... requests that ASX grants the Company a trading halt of its securities effective immediately, pending an announcement disclosing the material terms of the shareholder agreement referred to in the Company’s announcement today ..., including without limitation the:

- 1. Name of the parties*
- 2. Details of any shareholder approvals*
- 3. Details of any security”*

- D. The Entity’s application for voluntary suspension lodged with ASX Market Announcements Platform on 14 April 2014 disclosing, among other things, the following statements:

“Padbury Mining Limited ... was granted trading halts of its securities on 9 April 2014 and 11 April 2014 pending a further announcement to the market with respect to a proposed shareholders’ agreement which would assist the Company in securing the funding necessary to construct port and rail at Oakajee”

- E. The Entity’s application for an extension of the voluntary suspension lodged with ASX Market Announcements Platform on 17 April 2014 disclosing, among other things, the following statements:

“The reason for the extension of the suspension is that Padbury is seeking the following from the counterparties to the Shareholders’ Agreement:

- a) information in respect of their capacity to meet their funding obligations under the Agreement; and*
- b) their consent to disclose the Agreement in its entirety with the Announcement.”*

- F. The Entity’s applications for a further extension of the voluntary suspension lodged with ASX Market Announcements Platform on 23 and 24 April 2014.

- G. The Entity’s announcement lodged with the ASX Market Announcements Platform on 30 April 2014, announcing the termination of the Shareholders Agreement.

- H. 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.

- I. Listing Rule 18.7 which provides:

“An entity must give ASX any information, document or explanation that ASX asks for to enable it to be satisfied that the entity is, and has been, complying with the listing rules. The entity must do so within the time specified by ASX. ASX may submit, or require the entity to submit, any information given to ASX to the scrutiny of an expert selected by ASX. The entity must pay for the expert”.

- J. Listing Rule 18.7A which provides

“ASX may publish correspondence between it and an entity if ASX has reserved the right to do so and considers that it is necessary for an informed market.”

- K. Sections 1041A, 1041E, 1309(1) and (2) of the Corporations Act 2001 (Cth).

- L. The Entity’s Corporate Governance Statement, and in particular Appendix D – Disclosure Policy.

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 ASX understands that the Shareholders Agreement was subject to the satisfaction of certain conditions precedent. Is this correct?
- 2 If the answer to question 1 is “yes”, what were the conditions precedent?
- 3 If the answer to question 1 is “yes”, does the Entity consider the conditions precedent in the Shareholders Agreement to be information that a reasonable person would expect to have a material effect on the price or value of its securities, given the other information included in the Oakajee Funding Secured Announcement?
- 4 If the answer to question 1 is “yes” and the answer to question 3 is “no”, please advise the basis for that view.
- 5 If the answer to question 1 is “yes” and the answer to question 3 is “yes”, please explain why the Oakajee Funding Secured Announcement did not include information about the conditions precedent?
- 6 ASX understands that the conditions precedent in the Shareholders Agreement were required to be satisfied within a particular time frame. Is this correct?
- 7 If the answer to question 6 is “yes”, what was that time frame and what was the likelihood of the Entity being able to satisfy the conditions precedent within that timeframe?
- 8 If the answer to question 6 is “yes”, does the Entity consider the requirement to satisfy the conditions precedent by a stated time frame and the likelihood of the Entity being able to meet that requirement to be information that a reasonable person would expect to have a material effect on the price or value of its securities, given the other information included in the Oakajee Funding Secured Announcement?
- 9 If the answer to question 6 is “yes” and the answer to question 8 is “no”, please advise the basis for that view.
- 10 If the answer to question 6 is “yes” and the answer to question 8 is “yes”, please explain why the Oakajee Funding Secured Announcement did not include information about the requirement to satisfy the conditions precedent by a stated time frame and the likelihood of the Entity being able to meet that requirement?
- 11 ASX understands that the Entity was required to procure the issue of certain demand guarantees to Superkite Pty Limited (“Superkite”), a party to the Shareholders Agreement, as a condition to Superkite providing the Funding Tranches. Is this correct?
- 12 If the answer to question 11 is “yes”, please advise the value, terms and circumstances under which the demand guarantees were required to be procured and the ability of the Entity to meet those requirements at the time the Oakajee Funding Secured Announcement was made.
- 13 If the answer to question 11 is “yes”, does the Entity consider information about the requirement to procure the issue of the demand guarantees and the ability of the Entity to meet those requirements to be information that a reasonable person would expect to have a material effect on the price or value of its securities, given the other information included in the Oakajee Funding Secured Announcement?
- 14 If the answer to question 11 is “yes” and the answer to question 13 is “no”, please advise the basis for that view.
- 15 If the answer to question 11 is “yes” and the answer to question 13 is “yes”, please explain why the Oakajee Funding Secured Announcement did not include information about the requirement to procure the issue of the demand guarantees and the ability of the Entity to meet those requirements?
- 16 Did the Entity make any due diligence enquiries on the capacity of the other parties to the Shareholders Agreement to meet their funding obligations under the Shareholders Agreement prior to making the Oakajee Funding Secured Announcement?
- 17 If the answer to question 16 is “yes”, please advise what enquiries were made and what was the result of those enquiries?
- 18 If the answer to question 16 is “yes”, does the Entity consider that the level and outcome of the due diligence enquiries into the capacity of the other parties to the Shareholders Agreement to meet their funding obligations under the Shareholders Agreement prior to the announcement of the Oakajee Funding Secured Announcement to be information that a reasonable person would expect to have a material effect on the price or value of its securities, given the other information included in the Oakajee Funding Secured Announcement?

- 19 If the answer to question 16 is “yes” and the answer to question 18 is “no”, please advise the basis for that view.
- 20 If the answer to question 16 is “yes” and the answer to question 18 is “yes”, please explain why the Oakajee Funding Secured Announcement did not include information about the level and outcome of the due diligence enquiries.
- 21 If the answer to question 16 is “no”, does the Entity consider the fact that it had not undertaken due diligence enquiries into the capacity of the other parties to the Shareholders Agreement to meet their funding obligations under the Shareholders Agreement prior to the announcement of the Oakajee Funding Secured Announcement to be information that a reasonable person would expect to have a material effect on the price or value of its securities, given the other information included in the Oakajee Funding Secured Announcement?
- 22 If the answer to question 16 is “no” and the answer to question 21 is “no”, please advise the basis for that view.
- 23 If the answer to question 16 is “no” and the answer to question 21 is “yes”, please explain why the Oakajee Funding Secured Announcement did not include information about the fact that the Entity had not undertaken due diligence enquiries into the capacity of the other parties to the Shareholders Agreement to meet their funding obligations under the Shareholders Agreement prior to the announcement of the Oakajee Funding Secured Announcement.
- 24 Please advise the basis on which the Entity made the statement in the Oakajee Funding Secured Announcement that: “Negotiations with WA Government underway to formalise development agreements”.
- 25 Please advise the basis on which the Entity made the statement in the Oakajee Funding Secured Announcement that the transaction it announced would be: “Non dilutionary to Padbury shareholders”.
- 26 Was the Oakajee Funding Secured Announcement approved by its directors as a material disclosure in accordance with the Entity’s Corporate Governance Statement, and in particular Appendix D – Disclosure Policy?
- 27 If the answer to question 26 is “yes”, please advise the date the Oakajee Funding Secured Announcement was approved, the name of the directors who approved it and the form in which their approval was given (for example, at a board meeting or in response to a circular email).
- 28 If the answer to question 26 is “no”, please advise the name(s) of the person(s) who approved the Oakajee Funding Secured Announcement for release to ASX.
- 29 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 (**i.e. before 7.30 am WST**) on **Friday, 2 May 2014**. If we do not have your response by then, ASX will have no choice but to consider maintaining the suspension in trading in the Entity’s securities under Listing Rule 17.3.

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 james.rowe@asx.com.au or by facsimile to 61 8 9381 1322. 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]

James Rowe

Manager, Listings Compliance (Perth)