

10 November 2021

Ms Sandra Wutete
ASX Limited

By email: ListingsCompliancePerth@asx.com.au

Dear Ms Wutete

Lithium Australia NL ('LIT' or 'the Company'): Query Letter 8 November 2021

Reference is made to your letter dated 8 November 2021 and items A - H.

Request for information

1.1 When did LIT first become aware of the Legal Proceedings?

ASX has defined "Legal Proceedings" at item A.ii. of the ASX letter dated 8 November 2021.

The Company became aware of "Legal Proceedings" (as defined by ASX) on 29 September 2021 at the time of concluding the LIT audit. The Company received information about these "Legal Proceedings" in instalments over time. The initial information about the event was such that the Company could not reasonably form a view on whether or not it is market sensitive. The Company awaits further and more complete information, and must undertake further enquiries and obtain expert, insurance, and legal advice in order to make that determination. LIT will update the market when further and more complete or definitive information is available to it in relation to "Legal Proceedings".

LIT made the disclosure in the Annual Report after consultation with its auditor at the conclusion of its audit on the date of the Annual Report. For further information on this accounting aspect, please refer to item 4.2 below. LIT is not aware of any legal proceedings, in the plain meaning of those words, against it or any of its controlled entities that are material.

1.2 When did LIT first become aware of the Claims Estimate?

The Company became aware of the "Claims Estimate" (as defined by ASX at A ii of its letter) on 29 September 2021 at the time of concluding its audit on the date of the Annual Report. The Company received information about the Claims Estimate in instalments over time. The initial information about the event was such that the Company could not reasonably form a view on whether or not it is market sensitive. The Company awaits further and more complete or definitive information and must undertake further enquiries and obtain expert, insurance, and legal advice in order to make that determination. LIT will update the market when such information is available to it in relation to Claims Estimate.

2.1 No.

2.2 No.

3. Not applicable.

4.1 Please advise the basis for that view in light of the quantum of the Claims Estimate.

On 19 January 2019 and before LIT had invested in Envirostream, there was a fire at Colbert Road, Campbellfield where Envirostream was operating. The Fire Investigation Report by Metropolitan Fire and Emergency Services Board completed in relation to this incident determined that the fire was accidental – electrical. The insurer has been dealing with this claim and has paid out on some claims in the normal course of claims management. The insurer continues to manage and adjudicate claims. Further claims have arisen and may yet still arise. It is LIT's current understanding that Envirostream's public liability policy held at the time is effective and is not presently aware of any indications to the contrary. It is LIT's understanding that there is still no certainty on the quantum of the current outstanding claims, future claims and by when this process will be completed. As required by accounting standards, as the payment by the insurer is currently not virtually certain, the LIT Board has taken the very conservative approach and raised a provision after considering both a provision and a contingency. If and when the claims are settled, LIT will then account for a revenue item of that final amount. Overall, the LIT Board is currently of the opinion that the provision and the claim payment will net to zero and not considered to be material.

4.2 Please advise the basis for that view in light of the quantum of LIT's operating loss for the year.

See description in 4.1 above and comments below specifically in regards to Accounting Standard AASB 137.

In accordance with Accounting Standard AASB 137, in order to determine whether recognition is required, management assessed whether the Company had a present obligation as a result of a past event. Management further assessed whether it was probable or possible that settlement of the obligation would result in an outflow of resources and whether the settlement of the obligation could be reliably estimated.

Management, and then the Audit Committee and then the Board, considered how these claims could be presented in the Annual Report. In determining whether the Company would raise a provision or a contingent liability, management initially assessed whether the obligation that existed was probable (provision) or possible (contingent liability).

Based on discussions with advisers including the insurance company it was determined that it is probable that Envirostream will be required to settle the obligations through the insurance management of the claim.

This representation aligns to AASB 137 however LIT did not believe that the position was definitive in reference to certain incomplete information. The Company maintains this view at the date of this letter.

4.3 Please advise the basis for that view in light of the quantum of LIT's operating loss for the previous year, being \$8,662,373.

See description in 4.1 above.

4.4 Please advise the basis for that view in light of the guidance reproduced in paragraph D of this letter.

The Company received information about the Claims Estimate in instalments over time. The initial information about the event was such that the Company could not reasonably form a view on whether or not it is market sensitive. The Company awaits further and more complete or definitive information and is required to make further enquiries and obtain expert, insurance, and legal advice in order to make that determination. LIT will update the market when such information is available to it in relation to Claims Estimate and the overall effect of the insurance claim on the LIT group of companies.

4.5 Please advise the basis for that view in light of LIT's statement that it is not certain whether the full obligation will be covered by insurers.

LIT continues to be advised that the insurer was and is dealing with all insurance claims in the normal course of business. On the balance of probabilities, it is likely that the insurer will cover all costs with the exception of any immaterial deductibles as defined within the insurance policies. As has been alluded to at item A.ii.b, the specific treatment of the claims and the re-imbursement under the relevant accounting standard has led the Company to make the disclosure. See item 4.2 above.

4.6 Please advise the basis for that view in light of any other matters relevant to assessing the materiality consistent with Guidance Note 8.

Guidance Note 8 item 4.4 provides relevant guidance in relation to this situation. LIT received information over time in relation to the Claims Estimate whilst also liaising with its insurer as to the management of the insurance claim. At all times LIT was of the opinion that the insurer was handling all claims and had commenced progressively paying those claims. As a summary, and over time, there would be no further amount to be payable as all claims would be covered. However, for the purposes of complying with the relevant accounting standard, the claims and the coverage of the claims cannot be set-off unless payment of the claims by the insurer is judged to be virtually certain. The LIT Board and the LIT Audit Committee conservatively judged the payment of any and all insurance claims in the future not to be virtually certain.

The LIT Board is still of the opinion that on balance, all claims will be paid by the insurer once all claims are received, reviewed, assessed for reasonableness, and then paid out by the insurer. If LIT receives further information in relation to the Claims Estimate and is advised appropriately in regards to the update, it will advise the market as appropriate, in accordance with its continuous disclosure obligations.

5. Please set out the details of how the agreement calculates the revenue payable to Envirostream.

By way of introduction, LIT advises that Envirostream is moving into new territory in regards to the collection, sorting and shredding of batteries under the auspices of the Battery Stewardship Scheme (BSS), as administered by Australia's Battery Stewardship Council (BSC). As has been previously and consistently disclosed, the BSC has published that the BSS will commence in 2022. LIT re-iterates it can provide no guidance as to how many batteries it will collect.

6. LIT does expect to receive revenue under the agreement prior to the commencement of the Battery Stewardship Scheme. Envirostream is paid a one-off service fee for an initial rollout of 344 stores. This will be the same for the New Zealand stores.

Service rebates for Australia

The expected rebates payable under the BSC at the commencement of the agreement are as follows.

Collection in metropolitan areas	\$2.50 / kg
Collection in regional / remote areas	\$3.50 / kg
Sorting	\$1.00 / kg
Processing	\$1.00 / kg

Rebates payable under the BSC national scheme

Should there be any variation in the rebates payable under the BSC national scheme during the contract term, the variation in the rebates payable will be equivalent to the variation in the rebates payable under the BSC national scheme.

7. The Bunnings Agreement contains terms that are customary but given that this covers services that are part of a new industry, there is no guarantee as to the amount of batteries that will be collected. The title of the contract accurately summarises what this agreement is about and why it was commenced: "Supply of Services Agreement: Battery Stewardship Program."

In response to your specific questions, please note the following.

Bunnings has a right of early termination for cause by providing Envirostream 30 days' notice. Bunnings may terminate this agreement at any time without cause and without penalty with not less than 90 days' prior written notice.

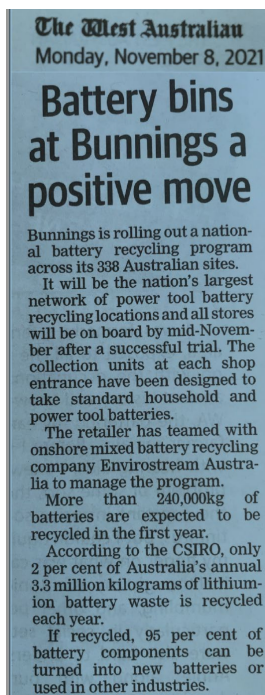
Following enquiry of BSC to confirm LIT's current understanding of the Battery Stewardship Scheme, the BSC has confirmed that no further conditions need to be satisfied before a decision is made to implement the Battery Stewardship Scheme.

In response to section 4.15 as per item H of your request, please note that this is a new industry. Accordingly LIT currently cannot quantify the significance of this contract for LIT. In particular LIT cannot forecast on any reasonable basis how many batteries will be collected.

In the past, we have advised investors that the following conditions apply in relation to the collection of EV batteries (ASX release dated 26 August 2020): *"Under the terms of the non-exclusive battery recycling agreements with the two Suppliers, Envirostream will be responsible for the transport of these battery packs to its recycling facility, as well as protection of intellectual property, the discharge of any residual battery energy and pack disassembly and recycling. Transport of batteries is expected to come from capital cities around Australia and Brunei to its Melbourne facilities."*

Neither agreement is considered material agreement due to the volumes and no significant costs are being borne by the Company. The agreements have an indefinite term but can be terminated by the Supplier on between zero- and 60-days' notice. Neither suppliers are expected to rank in Envirostream's top ten suppliers of batteries by volume this financial year. Whilst there are no set volumes under either agreement the significance of these agreements is that Envirostream becomes a first mover in the recycling of EOL EV batteries in Australia."

If LIT were to give an indication of possible volumes for this particular Bunnings contract, this could only be done by way of a hypothetical example. Attention is drawn to an article in *The West Australian* on 8 November 2021 under the title "Battery bins at Bunnings a positive move" and the following quote: *"More than 240,000 kg of batteries are expected to be recycled in the first year."*



LIT would like to highlight that with ethical, social and governance considerations becoming more important daily, whilst monetary considerations are important, LIT is very proud to be doing its part in keeping toxic material out of landfill. This is the first contract with an iconic Australian brand which LIT has pursued to ensure that consumers have convenient drop-off locations for used batteries. LIT endeavours to make such collection easy and Bunnings has recognised the importance that it plays in ESG considerations.

8. We confirm that LIT is complying with the Listing Rules and, in particular, Listing Rule 3.1.

9. We confirm that LIT's responses to the questions above have been authorised and approved in accordance with its published continuous disclosure policy or otherwise by its board to respond to ASX on disclosure matters.

Please call me if you wish to discuss this issue.

Yours sincerely

LITHIUM AUSTRALIA NL

Barry Woodhouse
COMPANY SECRETARY

Adrian Griffin
MANAGING DIRECTOR



8 November 2021

Mr Barry Woodhouse
Company Secretary
Lithium Australia NL

By email

Dear Mr Woodhouse

Lithium Australia NL ('LIT'): Query Letter

ASX refers to the following:

Envirostream fire legal claim

- A. LIT's announcement titled "Annual Report to shareholders" released on the ASX Market Announcements Platform ('**MAP**') on 30 September 2021, which disclosed (relevantly) that:
- i. LIT's operating loss for the year was \$20,836,213.
 - ii. The operating loss included a provision of \$5,043,069 (the '**Claim Estimate**'), representing a best estimate of the amount likely to be required to settle legal proceedings commenced against Envirostream Australia Pty Ltd ('**Envirostream**') (the '**Legal Proceedings**') that:
 - a. related to a fire at the premises of Envirostream; and
 - b. are being managed by Envirostream's insurance company. LIT expects some or all of the provision to be reimbursed. LIT however did not recognise a separate asset to reflect the insurance reimbursement as it only intends to do so when the reimbursement is "virtually certain".
- B. 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.
- C. 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" and section 4.4 in Guidance Note 8 Continuous Disclosure: Listing Rules 3.1 – 3.1B "When does an entity become aware of information."*
- D. Guidance Note 8, which provides:
- "The notes to Listing Rule 3.1 give the following examples of the type of information that could be market sensitive: ...*
- *becoming a plaintiff or defendant in a material law suit; ..."*

Battery stewardship service announcement

- E. LIT's request for a trading halt, which was granted and executed by ASX at 9:57am AEDT on 20 October 2021.
- F. LIT's announcement titled "Envirostream to collect spent batteries from Bunnings stores", released on MAP at 11:02am AEDT on 20 October 2021 and marked price-sensitive by LIT on lodgement, which disclosed that Envirostream had signed an agreement with Bunnings Group Limited ('**Bunnings**') under

which Envirostream would provide a Battery Product Stewardship Program until 30 June 2024 (the 'Bunnings Agreement') and provided:

"... a contract which between Envirostream and Bunnings that allows for provision of services by Envirostream to begin immediately."

"Service fees and service rebates for Australia are linked to the expected rebates payable on a per-kilogram-collected basis from commencement of the [Battery Stewardship Scheme to be implemented by the Battery Stewardship Council]."

- G. The Battery Stewardship Council's website, which provides that LIT is an associate member and Envirostream is a member:

www.bsc.org.au/member-profiles/

- H. Section 4.15 of Guidance Note 8, which provides (relevantly, emphasis added):

"Similarly, depending on the circumstances, ASX would generally expect an announcement about the signing of a market sensitive contract with a customer to include information about:

- *the name of the customer;*
- *the term of the contract;*
- *the nature of the products or services to be supplied to the customer;*
- ***the significance of the contract to the entity;***
- ***any material conditions that need to be satisfied before the customer becomes legally bound to proceed with the contract; and***
- ***any other material information relevant to assessing the impact of the contract on the price or value of the entity's securities."***

Request for information

Having regard to the above, ASX asks LIT to respond separately to each of the following questions and requests for information:

1. When did LIT first become aware of:
 - 1.1 the Legal Proceedings; and
 - 1.2 the Claims Estimate?
2. Does LIT consider information concerning:
 - 2.1 the Legal Proceedings; and
 - 2.2 the Claims Estimate,to be information that a reasonable person would expect to have a material effect on the price or value of its securities?
3. If the answer to either question 2.1 or 2.2 is "yes", did LIT make any announcement which disclosed the relevant information prior to the release of the annual report on 30 September 2021?

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 LIT was obliged to release the information

under Listing Rules 3.1 and 3.1A and what steps LIT took to ensure that the information was released promptly and without delay.

4. If the answer to either question 2.1 or 2.2 is “no”, please advise the basis for that view, in light of:
 - 4.1 the quantum of the Claims Estimate;
 - 4.2 the quantum of LIT’s operating loss for the year;
 - 4.3 the quantum of LIT’s operating loss for the previous year, being \$8,662,373;
 - 4.4 the guidance reproduced at paragraph D of this letter;
 - 4.5 LIT’s statement that it is not certain whether the full obligation will be covered by insurers; and
 - 4.6 any other matters relevant to assessing the materiality consistent with Guidance Note 8.
5. Noting the matters at paragraph F of this letter, what are the service fees and service rebates payable to Envirostream under the Bunnings Agreement? Please set out the details of how the agreement calculates revenue payable to Envirostream.
6. Noting that LIT’s announcement concerning the Bunnings Agreement provides that:
 - 6.1 The agreement was “reached in anticipation of the launch of the Battery Stewardship Scheme (BSS) to be rolled out in by Australia’s Battery Stewardship Council in early 2022”.
 - 6.2 Fees to Envirostream are linked to rebates under the Battery Stewardship Scheme.
 - 6.3 Services by Envirostream under the agreement are to commence immediately,does LIT expect Envirostream to receive revenue under the agreement prior to the commencement of the Battery Stewardship Scheme and, if so, on what basis?
7. Does the Bunnings Agreement contain any other conditions which a reasonable person would consider to be material to the price or value of LIT’s securities? In your answer please include specific comments on whether any termination clauses exist, and whether the Battery Stewardship Council has imposed any conditions that need to be satisfied before a decision is made to implement the Battery Stewardship Scheme?
8. Please confirm that LIT is complying with the Listing Rules and, in particular, Listing Rule 3.1.
9. Please confirm that LIT’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 LIT 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 **9:00 AM AWST Wednesday, 10 November 2021**. 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, LIT’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 and may require LIT to request a trading halt immediately.

Your response should be sent to me by e-mail at **ListingsCompliancePerth@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.

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 LIT'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 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*.

Suspension

If you are unable to respond to this letter by the time specified above, ASX will likely suspend trading in LIT's securities under Listing Rule 17.3.

Listing Rules 3.1 and 3.1A

In responding to this letter, you should have regard to LIT'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 LIT'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 a copy of this letter, your reply and any other related correspondence between us to the market under Listing Rule 18.7A.

Questions

If you have any questions in relation to the above, please do not hesitate to contact me.

Regards

Sandra Wutete

Principal Adviser, Listings Compliance (Perth)