



21 September 2012

Elizabeth Harris,
Principal Adviser, Listings (Perth)
Australian Securities Exchange
Exchange Plaza, 2 The Esplanade,
Perth WA 6000

Via email: elizabeth.harris@asx.com.au

Dear Ms Harris,

Macmahon Holdings Limited ("Macmahon" or "Company") – Response to query

We refer to your letter dated 20 September 2012 and respond as follows. We have used the same defined terms as you used in your letter.

- 1. Does the Company consider the information in the Announcement, and in particular the Revised Earnings Guidance to be material to the Company pursuant to listing rule 3.1?**

Yes.

- 2. When did the Company become aware of the Revised Earnings Guidance? Please include details of the relevant time and circumstances of the Company becoming aware of the Revised Earnings Guidance.**

Macmahon became aware of this after market close on Friday, 14 September 2012. For the purpose of addressing ASX's query, and in order to provide a complete picture of the events that led to the Revised Earnings Guidance, we have set out below a timeline showing when Macmahon became aware that the earnings guidance set out in the Company's 2012 Full Year Results Presentation released on 20 August 2012, and referred to in your letter, ("**Previous Earnings Guidance**") no longer gave a reliable projection of Macmahon's anticipated financial performance and that a Revised Earnings Guidance was required.

- Between 6 and 10 September 2012, in preparation for a regular monthly review meeting which was held on Monday, 10 September 2012, the Company obtained monthly data about the operation of its Construction business. This data indicated a deterioration in the profitability of the Construction business (including Macmahon's Hope Downs 4 Rail Earthworks contract). The data suggested that the Construction business was still profitable, and that the variation, even if verified as correct, would not have compromised Macmahon's ability to sustain a reasonable basis for the Previous Earnings Guidance.
- When determining the Previous Earnings Guidance, the Company had factored in a margin for variance. The deterioration in profitability of the Construction business

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indicated on 10 September came well within that margin. However, because there was a deterioration (albeit, not impacting on the Previous Earnings Guidance), Macmahon undertook investigations to establish the reasons for the change and the accuracy of the underlying data.

- (c) By Wednesday, 12 September 2012, as part of the investigations referred to above, the Company had obtained further raw data about its Construction business (including its Hope Downs 4 Rail Earthworks contract and the outlook for new work). That further data indicated the possibility of an impact on the Previous Earnings Guidance. However, because of concerns about the variability of that raw data, and the extent to which it relied upon management judgment and estimation of future events, the data required analysis and verification before Macmahon could determine whether the Previous Earnings Guidance had actually been impacted in any material respect. The Company immediately implemented further investigations in order to determine this. These investigations necessarily included analysing the variables inherent in a large, diversified construction business such as Macmahon's.
- (d) The investigation process referred to above had, after market close on Friday, 14 September 2012, progressed to a point where the Company was able to determine that the Previous Earnings Guidance needed to be revisited and an update given to the market.
- (e) Having spent the weekend analysing the information available, the Company requested a trading halt on Sunday evening (i.e. in advance of market open on Monday, 17 September 2012), so that it could send a senior manager to the Hope Downs 4 project and determine the nature and extent of the Revised Earnings Guidance, while still managing its continuous disclosure obligations. That announcement was made before market open on Wednesday, 19 September 2012.

3. If the answer to any part of question 1 is "yes" and the Company became aware of the Revised Earnings Guidance prior to the release of the Announcement, please advise the following:

3.1 Why the Company did not make an announcement at an earlier time or request a trading halt at an earlier time?

See response in paragraph 2 above.

It cannot be said that the Company was aware of the Revised Earnings Guidance prior to market close on Friday, 14 September 2012. To allow the Company sufficient time to finalise the Revised Earnings Guidance and prepare a detailed announcement about it, it requested a trading halt on Sunday evening (16 September 2012).

3.2 Why was the Announcement not released to the market at that earlier time? Please comment specifically on the application of listing rule 3.1.

See responses in paragraphs 2 and 3.1 above.

4. If the answer to any part of question 1 is "no", please advise the basis on which the Company does not consider the information in the Announcement, and in particular the Revised Earnings Guidance to be material.

Not applicable.

5. **Please confirm that the Company is in compliance with listing rule 3.1.**

The Company confirms that it is in compliance with listing rule 3.1.

Yours sincerely

[sent electronically without signature]

Greg Gettingby
Company Secretary
Macmahon Holdings Limited

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ASX Compliance Pty Limited
ABN 26 087 780 489
Level 8 Exchange Plaza
2 The Esplanade
PERTH WA 6000

GPO Box D187
PERTH WA 6840

Telephone 61 8 9224 0000
Facsimile 61 8 9221 2020
www.asx.com.au

20 September 2012

Mr Greg Gettingby
Company Secretary
Macmahon Holdings Limited
Level 3, 27 – 31 Troode Street
WEST PERTH WA 6005

Dear Greg

Macmahon Holdings Limited (the “Company”)

We refer to:

- The Company’s 2012 Full Year Results presentation dated 20 August 2012 and released to the market at 8:32 am (EST) in which it was stated in the Slide entitled A Record Year “*Record profit of \$56.1 million – up 45% on 2011 underlying result*” and further in the Slide entitled 2013 Outlook it was stated “*Target is to deliver 20% growth – additional work wins the key*”;
- the trading halt request by the Company dated 17 September 2012 and released to the market at 9:50 am (EST) which requested a trading halt pending an announcement regarding “*an update to the Company’s earnings guidance as a result of deteriorating financial performance in the Construction business, and increased uncertainty about the outlook for new construction work given recent market volatility*”; and
- the Company’s announcement released to ASX on 19 September 2012 at 9:24 am (EST) titled “Earnings Guidance Update” (“Announcement”), which stated “*Macmahon now anticipates its full year profit after tax will be in the range of \$20 to \$40 million, with the major impact of reduced earnings to be incurred in the first half. Second half earnings are projected to return to normal levels.*” (“Revised Earnings Guidance”).

We wish to draw your attention to the definition of “aware” in chapter 19 of the listing rules which states that:

“an entity becomes aware of information if a director or executive officer (in the case of a trust, director or executive officer of the responsible entity or management company) has, or ought reasonably to

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have, come into possession of the information in the course of the performance of their duties as a director or executive officer of that entity”

Further, we wish to draw your attention to listing rule 3.1 which requires an 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. The exceptions to this requirement are set out in listing rule 3.1A.

Paragraph 18 of Guidance Note 8 states:

“Once a director or executive officer becomes aware of information, he or she must immediately consider whether that information should be given to ASX. An entity cannot delay giving information to ASX pending formal sign-off or adoption by the board, for example.”

Please note that for disclosure not to be required under listing rule 3.1, all of the exceptions under listing rule 3.1A must apply:

- 3.1A.1 *A reasonable person would not expect the information to be disclosed.*
- 3.1A.2 *The information is confidential and ASX has not formed the view that the information has ceased to be confidential.*
- 3.1A.3 *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.*
 - *The information is a trade secret.”*

Finally, we would like to draw your attention to ASX’s policy position on the concept of “confidentiality” which is detailed in paragraphs 34 to 40 of Guidance Note 8. In particular, paragraphs 34 and 35 of the Guidance Note state that:

“‘Confidential’ in this context has the sense of ‘secret’.

Loss of confidentiality may be indicated by otherwise unexplained changes to the price of the entity’s securities, or by reference to the information in the media or analysts’ reports”.

Having regard to the Announcement, the above definitions, listing rule 3.1 and Guidance Note 8 - Continuous Disclosure, 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 Company consider the information in the Announcement, and in particular the Revised Earnings Guidance to be material to the Company pursuant to listing rule 3.1?

2. When did the Company become aware of the Revised Earnings Guidance? Please include details of the relevant time and circumstances of the Company becoming aware of the Revised Earnings Guidance.
3. If the answer to any part of question 1 is “yes” and the Company became aware of the Revised Earnings Guidance prior to the release of the Announcement, please advise the following:
- 3.1. Why the Company did not make an announcement at an earlier time or request a trading halt at an earlier time?
- 3.2. Why was the Announcement not released to the market at that earlier time? Please comment specifically on the application of listing rule 3.1.
4. If the answer to any part of question 1 is “no”, please advise the basis on which the Company does not consider the information in the Announcement, and in particular the Revised Earnings Guidance to be material.
5. Please confirm that the Company is in compliance with listing rule 3.1.

Your responsibility under listing rule 3.1 is not confined to, or necessarily satisfied by, answering the questions set out in this letter.

Please note the ASX reserves its right under listing rule 18.7 to release this letter and the Company’s response to the market. Accordingly the Company’s response should address each question separately and be in a format suitable for release to the market.

If the information requested by this letter is information required to be given to ASX under listing rule 3.1 your obligation is to disclose the information immediately. Unless the information is required immediately under listing rule 3.1, a response is requested as soon as possible and, in any event, not later than **4:00pm (WST) tomorrow Friday, 21 September 2012.**

Your response should be sent to me by email to Elizabeth.Harris@ASX.com.au or on **facsimile number (08) 9221 2020**. It should not be sent to the Market Announcements Office.

If you have any queries regarding any of the above, please contact me on +61 8 9224 0011.

Yours sincerely

[sent electronically without signature]

Elizabeth Harris
Principal Adviser, Listings (Perth)