

17 December 2020

Madeleine Green  
ASX Limited  
Level 40, Central Park  
152-158 St Georges Terrace  
Perth WA 6000

By email: [listingscomplianceperth@asx.com.au](mailto:listingscomplianceperth@asx.com.au)

Dear Madeleine,

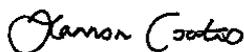
**Flinders Mines Ltd (ASX: FMS or Company) – Response to ASX Aware Letter**

We refer to your letter dated 14 December 2020 (**Letter**). Capitalised terms in the Letter have the same meaning in this letter.

The Company provides the following responses to the Letter:

1. the Company does not consider that the Information is such that a reasonable person would expect it to have a material effect on the price or value of its securities. The Information is highly conditional, non-binding, indicative, preliminary, incomplete and insufficiently definite for a reasonable person to expect that it would have a material effect on the price or value of FMS' securities. However, even if the Information is price sensitive, FMS did not believe that confidentiality had been lost in the Information and reasonably believed that the relevant carve outs in Listing Rule 3.1A applied. As set out in FMS' letter to ASX on 14 December 2020, FMS notes that a potential cause of its share price increase last week could likely be the recent iron ore price gains, as similarly experienced by other iron ore companies. It should be noted that FMS' share trading volumes are low and that the Company's share price has retracted since Monday 14 December which may also be aligned with lower iron ore prices;
2. refer to the response to question 1 above;
3. the Company became aware of the Information when it received the non-binding indicative offer in relation to infrastructure associated with its Pilbara Iron Ore Project from BBI Group Pty Ltd (**BBIG**) on 7 December 2020.
4. the Information was not released to market before the relevant date that the Company requested the Trading Halt because the Company was relying on carve outs in Listing Rule 3.1A, specifically that the Information concerned an incomplete proposal or a matter that was insufficiently definite to warrant disclosure, was confidential and no reasonable person would expect the Information to be disclosed. Please also refer to the response to question 1 above;
5. the Company confirms it is in compliance with the Listing Rules, in particular Listing Rule 3.1; and
4. the above responses to the Letter have been authorised and approved by the Board of FMS.

Yours sincerely



Shannon Coates  
Joint Company Secretary

Flinders Mines Limited  
ABN 46 091 118 044

45 Ventnor Avenue  
West Perth  
Western Australia 6005

Phone +61 8 9389 4483  
facsimile +61 8 9389 4400  
[www.flindersmines.com](http://www.flindersmines.com)



14 December 2020

Ms Shannon Coates  
Company Secretary  
Flinders Mines Limited

By email:

Dear Ms Coates

### Flinders Mines Limited ('FMS'): Aware Query

ASX refers to the following:

- A. The increase in FMS' securities from a low of \$0.845 at the close of trade on Tuesday, 8 December 2020 to an intra-day high of \$1.55 on Thursday, 10 December 2020.
- B. The trading halt requested by FMS and released on the ASX Market Announcements Platform ('MAP') at 2:58PM AEDT on Thursday, 10 December 2020 pending a response to an ASX price query ('Trading Halt').
- C. FMS' announcement entitled, "*Response to ASX Price Query*" released on MAP at 9:54AM AEDT on Monday, 14 December 2020 which disclosed, among other things, that, '*the Company received from BBI Group Pty Ltd (BBIG) on 7 December 2020 a confidential and highly conditional non-binding indicative, preliminary and incomplete proposal in relation to infrastructure associated with its Pilbara Iron Ore Project (Proposal). The Company will only pursue the Proposal if it is considered to be in the best interests of FMS shareholders. However, at this point, the Company considers the Proposal too preliminary and uncertain for the Board to form a view on whether it may be in the best interests of Shareholders and is proposing to discuss it further with BBIG.*'
- D. FMS' announcement entitled "*Non-binding indicative proposal from BBIG*" released on MAP at 9:54AM AEDT on Monday, 14 December 2020 (the 'Announcement'), disclosing that FMS had received a non-binding indicative offer from BBI Group Pty Ltd in relation to a potential ownership restructuring opportunity of the infrastructure associated with FMS' flagship Pilbara Iron Ore Project ('Information').
- E. 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.
- F. 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."*
- G. Listing Rule 3.1A, which sets out exceptions from the requirement to make immediate disclosure, provided that each of the following are satisfied.

*"3.1A Listing rule 3.1 does not apply to particular information while each of the following is satisfied in relation to the information:*

*3.1A.1 One or more of the following applies:*

  - *It would be a breach of a law to disclose the information;*
  - *The information concerns an incomplete proposal or negotiation;*

- *The information comprises matters of supposition or is insufficiently definite to warrant disclosure;*
- *The information is generated for the internal management purposes of the entity; or*
- *The information is a trade secret; and*

3.1A.2 *The information is confidential and ASX has not formed the view that the information has ceased to be confidential; and*

3.1A.3 *A reasonable person would not expect the information to be disclosed."*

H. ASX's policy position on the concept of "confidentiality", which is detailed in section 5.8 of Guidance Note 8 *Continuous Disclosure*: Listing Rules 3.1 – 3.1B. In particular, the Guidance Note states that:

*"Whether information has the quality of being confidential is a question of fact, not one of the intention or desire of the listed entity. Accordingly, even though an entity may consider information to be confidential and its disclosure to be a breach of confidence, if it is in fact disclosed by those who know it, then it ceases to be confidential information for the purposes of this rule."*

#### **Request for information**

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

1. Does FMS consider the Information to be information that a reasonable person would expect to have a material effect on the price or value of its securities?
2. If the answer to question 1 is "no", please advise the basis for that view.
3. When did FMS first become aware of the Information?
4. If FMS first became aware of the Information before the relevant date, being the date FMS requested the Trading Halt, did FMS make any announcement prior to the relevant date, which disclosed the information? If so, please provide details. If not, please explain why this information was not released to the market at an earlier time, commenting specifically on when you believe FMS was obliged to release the information under Listing Rules 3.1 and 3.1A and what steps FMS took to ensure that the information was released promptly and without delay.
5. Please confirm that FMS is complying with the Listing Rules and, in particular, Listing Rule 3.1.
6. Please confirm that FMS'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 FMS 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 **2:00 PM AWST Thursday, 17 December 2020**. 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, FMS'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 FMS 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

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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 FMS'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 FMS's securities under Listing Rule 17.3.

### **Listing Rules 3.1 and 3.1A**

In responding to this letter, you should have regard to FMS'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 FMS'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.

Yours sincerely

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**Madeleine Green**  
Senior Adviser, Listings Compliance (Perth)