



29 June 2023

Ms Laura Gomme
Senior Adviser, Listings Compliance (Perth)
Australian Securities Exchange

Your ref: 75827

By email: ListingsCompliancePerth@asx.com.au

Dear Laura,

Advanced Health Intelligence Ltd: Aware Query

Advanced Health Intelligence Ltd ('AHI' or 'the Company') refers to ASX's query letter dated 27 June 2023 and provides the following responses to the specific queries set out in that letter.

Capitalised terms which are defined in ASX's query letter have the same meaning where used in this letter.

1. Does AHI consider the following information, or any part thereof, to be information that a reasonable person would expect to have a material effect on the price or value of its securities:

1.1 That AHI received a Determination Letter from Nasdaq;

No.

1.2 The Determination Letter discloses that AHI has not regained compliance with the Rule;

No.

1.3 AHI's securities will be delisted from Nasdaq;

Yes.

1.4 Trading in AHI's securities on Nasdaq will be suspended on 29 June 2023;

Yes.

1.5 AHI has appealed Nasdaq's determination to a hearings panel which has been scheduled for 17 August 2023; and

Yes.



1.6 That AHI is seeking to regain compliance with the Rule by taking steps to effect a ratio change of the ADSs to its non-traded ordinary shares?

Yes.

2. If the answer to question 1 (or any part thereof) is “no”, please advise the basis for that view. In answering this question please address separately each piece of information referred to above in questions 1.1-1.6.

2.1 That AHI received a Determination Letter from Nasdaq;

AHI initially announced that it was not in compliance with the Rule on 29 June 2022 (**Initial Announcement**). The Initial Announcement disclosed that AHI had until 21 December 2022 to regain compliance with the Rule.

On 23 December 2022, AHI provided an update to the market that Nasdaq had granted AHI a 180-day extension to the deadline to comply with the Rule (**Second Announcement**).

In various updates to the market since 23 December 2022, including a Shareholder Update released on ASX on 8 March 2023 (**March 2023 Shareholder Update**) and the Company's most recent Quarterly Update for the March 2023 Quarter (released to ASX on 28 April 2023) (**March 2023 Quarterly**), AHI updated the market that:

- it had until 19 June 2023 to comply with the Rule;
- it has several options available to it, including:
 - trading above USD\$1.00 as required;
 - seek approval to reconstruct the shares in the Company to meet the minimum USD\$1.00 requirement; and
 - delist from Nasdaq; and
- it is doing all things practically possible to meet the requirement and maintain its good standing with Nasdaq and compliance rules.

The trading price for AHI securities on Nasdaq is publicly available information.

Further, as noted in AHI's announcement dated 27 June 2023 (among others), AHI's non-compliance with the Rule does not affect the listing or trading of AHI's securities on ASX.

AHI considers that:

- the market was fully informed regarding the status of its compliance with the Rule and potential consequences of non-compliance



through the information previously disclosed in various updates to the market, including the Initial Announcement, the Second Announcement, the March 2023 Shareholder Update and the March 2023 Quarterly Update (together, the **Previous Announcements**); and

- the receipt of the Determination Letter did not provide any material new information in addition to the information previously disclosed in those updates to the market, including the Previous Announcements.

2.2 The Determination Letter discloses that AHI has not regained compliance with the Rule;

Please refer to the response to question 2.1 above.

The trading price for AHI securities on Nasdaq is publicly available information.

Further, as noted in AHI's announcement dated 27 June 2023 (among others), AHI's non-compliance with the Rule does not affect the listing or trading of AHI's securities on ASX.

AHI considers that:

- the market was fully informed regarding the status of its compliance with the Rule and potential consequences of non-compliance through the information previously disclosed in various updates to the market, including the Previous Announcements; and
- the Determination Letter disclosing that the AHI has not regained compliance with the Rule did not provide any material new information in addition to the information previously disclosed in those updates to the market, including the Previous Announcements and publicly available information regarding the trading price for AHI's securities on Nasdaq.

2.3 AHI's securities will be delisted from Nasdaq;

Not applicable, as the response to question 1.3 above is yes.

2.4 Trading in AHI's securities on Nasdaq will be suspended on 29 June 2023;

Not applicable, as the response to question 1.4 above is yes.



2.5 AHI has appealed Nasdaq's determination to a hearings panel which has been scheduled for 17 August 2023; and

Not applicable, as the response to question 1.5 above is yes.

2.6 That AHI is seeking to regain compliance with the Rule by taking steps to effect a ratio change of the ADSs to its non-traded ordinary shares?

Not applicable, as the response to question 1.6 above is yes.

3. When did AHI first become aware of the information described in questions 1.1 – 1.6? In answering this question, please address each piece of information separately.

3.1 That AHI received a Determination Letter from Nasdaq;

AHI received the Determination Letter at around 11:55pm on Tuesday, 20 June 2023 (Perth time).

3.2 The Determination Letter discloses that AHI has not regained compliance with the Rule;

As noted in the response to question 3.1 above, AHI received the Determination Letter at around 11:55pm on Tuesday, 20 June 2023 (Perth time).

AHI has been aware that it was not in compliance with the Rule since 24 June 2022, when it received a deficiency notification from the Listing Qualifications Staff of the Nasdaq, and has been aware that it has not been in compliance with the Rule since that time (along with the rest of the market which has access to the trading price for AHI's securities on Nasdaq).

3.3 AHI's securities will be delisted from Nasdaq;

As a Nasdaq listed company, AHI became aware of the potential for it to be de-listed from Nasdaq for non-compliance with the Nasdaq Listing Rules (including the Rule) prior to its securities commencing trading on Nasdaq on 19 November 2021.

3.4 Trading in AHI's securities on Nasdaq will be suspended on 29 June 2023;

As noted in the response to question 3.1 above, AHI received the Determination Letter at around 11:55pm on Tuesday, 20 June 2023 (Perth time).



AHI notes that the Determination Letter stated that AHI had four business days to announce the receipt of the Determination Letter on Nasdaq (i.e. by Monday, 26 June 2023 US time). While acknowledging that this does not give AHI relief from its continuous disclosure obligations under the ASX Listing Rules and the Corporations Act, AHI considered that this meant that it had reasonable time to seek an appeal, therefore allowing AHI to fully inform the market (both on ASX and Nasdaq) within the required Nasdaq disclosure period set out in the Determination Letter once it had determined whether it would lodge an appeal.

AHI also notes that its securities have traded above US\$1.00 on Nasdaq since 21 June 2023.

AHI promptly sought advice from its US attorneys following receipt of the Determination Letter and had them immediately commence work on formally requesting an appeal hearing.

Following the initial receipt of such advice, AHI appealed Nasdaq's determination to a hearings panel (the **Panel**) at around 7:10pm on Friday, 23 June 2023 (Perth time) (i.e. following the close of trading on ASX for the week). AHI became aware at around 12:55 am on Saturday, 24 June 2023 (Perth time) that:

- the appeal hearing is scheduled to occur on 17 August 2023; and
- the suspension of AHI's securities from trading on Nasdaq referenced in the Determination Letter was stayed at that time, pending a final written decision by the Panel following the hearing on 17 August 2023.

3.5 AHI has appealed Nasdaq's determination to a hearings panel which has been scheduled for 17 August 2023; and

As noted in the response to question 3.4 above, AHI appealed Nasdaq's determination to a hearings panel at around 7:10pm on Friday, 23 June 2023 (Perth time) and became aware at around 12:55 am on Saturday, 24 June 2023 (Perth time) that the appeal hearing is scheduled to occur on 17 August 2023.

3.6 That AHI is seeking to regain compliance with the Rule by taking steps to effect a ratio change of the ADSs to its non-traded ordinary shares?

AHI has been aware that effecting a ratio change of its ADSs to its ordinary shares is one alternative to regain compliance with the Rule since shortly after it became aware that it was not in compliance with the Rule on 24 June 2022. After receiving the initial deficiency notification from the Listing Qualifications



Staff of the Nasdaq on 24 June 2022 (referenced in the response to question 3.2 above), AHI took advice from its US attorneys that this was one alternative to regain compliance with the Rule.

- 4. If AHI first became aware of the information in the Determination Letter, or any part thereof, before 27 June 2023, did AHI make any announcement prior to that 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 AHI was obliged to release the information under Listing Rules 3.1 and 3.1A and what steps AHI took to ensure that the information was released promptly and without delay.**

4.1 That AHI received a Determination Letter from Nasdaq;

Please refer to the responses to questions 1.1 and 2.1 above.

AHI did not announce the receipt of the Determination Letter prior to lodging the announcement at around 11:00pm (Perth time) on Monday, 26 June 2023 because it considered that:

- the market was fully informed regarding the status of its compliance with the Rule and potential consequences of non-compliance through the information previously disclosed in various updates to the market, including the Previous Announcements; and
- the receipt of the Determination Letter did not provide any material new information in addition to the information previously disclosed in those updates to the market, including the Previous Announcements.

AHI notes that the Determination Letter stated that AHI had four business days to announce the receipt of the Determination Letter on Nasdaq (i.e. by Monday, 26 June 2023 US time). While acknowledging that this does not give AHI relief from its continuous disclosure obligations under the ASX Listing Rules and the Corporations Act, AHI considered that this meant that it had reasonable time to seek an appeal, therefore allowing AHI to fully inform the market (both on ASX and Nasdaq) within the required Nasdaq disclosure period set out in the Determination Letter once it had determined whether it would lodge an appeal.

4.2 The Determination Letter discloses that AHI has not regained compliance with the Rule;

Please refer to the responses to questions 1.2, 2.1 and 2.2 above.



AHI did not announce that the Determination Letter discloses that AHI has not regained compliance with the Rule prior to lodging the announcement at around 11:00pm (Perth time) on Monday, 26 June 2023 because it considered that:

- the market was fully informed regarding the status of its compliance with the Rule and potential consequences of non-compliance through the information previously disclosed in various updates to the market, including the Previous Announcements; and
- the Determination Letter disclosing that the AHI has not regained compliance with the Rule did not provide any material new information in addition to the information previously disclosed in those updates to the market, including the Previous Announcements and publicly available information regarding the trading price for AHI's securities on Nasdaq.

AHI notes that its securities have traded above US\$1.00 on Nasdaq since 21 June 2023.

AHI also notes that the Determination Letter stated that AHI had four business days to announce the receipt of the Determination Letter on Nasdaq (i.e. by Monday, 26 June 2023 US time). While acknowledging that this does not give AHI relief from its continuous disclosure obligations under the ASX Listing Rules and the Corporations Act, AHI considered that this meant that it had reasonable time to seek an appeal, therefore allowing AHI to fully inform the market (both on ASX and Nasdaq) within the required Nasdaq disclosure period set out in the Determination Letter once it had determined whether it would lodge an appeal.

4.3 AHI's securities will be delisted from Nasdaq;

Please refer to the response to question 2.1 above, outlining AHI's previous disclosures to the market in relation to its non-compliance with the Rule, including the March 2023 Shareholder Update and the March 2023 Quarterly which disclosed that delisting from Nasdaq is one option available if the Company does not regain compliance with the Rule through trading above US\$1.00 or reconstructing its ADSs to meet the minimum USD\$1.00 trading requirement.

AHI notes that its securities have traded above US\$1.00 on Nasdaq since 21 June 2023.



4.4 Trading in AHI's securities on Nasdaq will be suspended on 29 June 2023;

As noted in the response to question 3.1 above, AHI received the Determination Letter at around 11:55pm on Tuesday, 20 June 2023 (Perth time).

AHI notes that its securities have traded above US\$1.00 on Nasdaq since 21 June 2023.

AHI also notes that the Determination Letter stated that AHI had four business days to announce the receipt of the Determination Letter on Nasdaq (i.e. by Monday, 26 June 2023 US time). While acknowledging that this does not give AHI relief from its continuous disclosure obligations under the ASX Listing Rules and the Corporations Act, AHI considered that this meant that it had reasonable time to seek an appeal, therefore allowing AHI to fully inform the market (both on ASX and Nasdaq) within the required Nasdaq disclosure period set out in the Determination Letter once it had determined whether it would lodge an appeal.

As noted in the response to question 3.4 above, AHI sought advice from its US attorneys promptly following receipt of the Determination Letter on the availability of an appeal, and quickly became aware that an appeals process was available.

Promptly following receipt of such advice, as noted in the response to question 3.4 above, AHI appealed Nasdaq's determination to the Panel at around 7:10pm on Friday, 23 June 2023 (Perth time) (i.e. following the close of trading on ASX for the week). AHI became aware at around 12:55 am on Saturday, 24 June 2023 (Perth time) that:

- the appeal hearing is scheduled to occur on 17 August 2023; and
- the suspension of AHI's securities from trading on Nasdaq referenced in the Determination Letter has been stayed, pending a final written decision by the Panel following the hearing on 17 August 2023.

Following receipt of this information over the weekend, AHI then promptly prepared an update for the market on Monday, 26 June 2023 and, following review by its US attorneys to confirm accuracy, immediately released it on the ASX market announcements platform at around 11:00pm (Perth time) on Monday, 26 June 2023 (noting that the ASX trading day on Monday, 26 June 2023 was Sunday night in the US). By the time the announcement was lodged on the platform, the ASX market had closed for the day and the



announcement was not released on the platform until premarket on Tuesday, 27 June 2023.

AHI released the announcement as quickly as it could taking into account the need to take advice on its content from its US attorneys (noting that the ASX trading day on Monday, 26 June 2023 was Sunday night in the US). AHI did not consider that a trading halt was necessary on Monday, 26 June 2023, because it considered that confidentiality with respect to:

- the receipt of the Determination Letter and its content; and
- AHI's appeal of Nasdaq's determination and the subsequent scheduling of the Panel hearing,

was always maintained and, as further discussed below, the market was fully informed of the material aspects of the contents of the Determination Letter, being the status of AHI's compliance with the Rule and the consequences of non-compliance with the Rule, prior the AHI's receipt of the Determination Letter.

As discussed in the response to question 2.1:

- the market was fully informed regarding the status of AHI's compliance with the Rule and potential consequences of non-compliance with the Rule through the information previously disclosed in various updates to the market, including the Previous Announcements; and
- the receipt of the Determination Letter did not provide any material new information in addition to the information previously disclosed in those updates to the market, including the Previous Announcements.

In relation to the possibility of AHI's securities being suspended from trading as a result of AHI's non-compliance with the Rule, AHI considers that:

- the market would have been aware that suspension is a potential consequence of continued non-compliance as this is an ordinary consequence of continued or material non-compliance with any listing rule or condition of any securities exchange; and
- as noted above, AHI has kept the market fully informed with respect to the status of its compliance with the Rule and that the deadline for re-compliance with the Rule was Monday, 19 June 2023.



4.5 AHI has appealed Nasdaq's determination to a hearings panel which has been scheduled for 17 August 2023; and

As stated in the response to question 4.4 above, AHI released the announcement as quickly as it could taking into account the need to take advice on its content from its US attorneys (noting that the ASX trading day on Monday, 26 June 2023 was Sunday night in the US).

Please also refer to question 4.4 above for AHI's reasoning for not requesting a trading halt on Monday, 26 June 2023.

4.6 That AHI is seeking to regain compliance with the Rule by taking steps to effect a ratio change of the ADSs to its non-traded ordinary shares?

Please refer to the response to question 2.1 above, outlining AHI's previous disclosures to the market in relation to its non-compliance with the Rule, including the March 2023 Shareholder Update and the March 2023 Quarterly which disclosed that reconstructing its ADSs to meet the minimum USD\$1.00 requirement is one option available if the Company does not regain compliance with the Rule through trading above US\$1.00.

AHI notes that its securities have traded above US\$1.00 on Nasdaq since 21 June 2023.

5. Please confirm that AHI is complying with the Listing Rules and, in particular, Listing Rule 3.1.

The Directors of AHI confirm that the Company is complying with the ASX Listing Rules, in particular ASX Listing Rule 3.1.



6. ***Please confirm that AHI'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 AHI with delegated authority from the board to respond to ASX on disclosure matters.***

AHI confirms that the responses to the questions above have been authorised and approved under its published continuous disclosure policy or otherwise by its Board or an officer of AHI with delegated authority from the Board to respond to ASX on disclosure matters.

Should you require any further clarification, please do not hesitate to contact us.

Yours sincerely,

Simon Durack JP
Company Secretary & Chief Financial Officer
Advanced Health Intelligence Ltd



27 June 2023

Reference: 75827

Mr Simon Durak
Advanced Health Intelligence
Suite 8, 7 The Esplanade
Mt Pleasant WA 6153

By email: Simon.durack@ahi.tech

Dear Mr Durak

Advanced Health Intelligence ('AHI'): Aware Query

ASX refers to the following:

- A. AHI's announcement entitled "AHI Trading Update" lodged on the ASX Market Announcements Platform ('MAP') on 22 June 2023, which contained the following disclosure:

Advanced Health Intelligence Ltd (ASX/NASDAQ:AH1) refers to the increase in the trading price, and an increase in the volume of trading, of the Company's American Depositary Shares (ADSs) that trade on Nasdaq during the trading day on 21 June 2023 (New York Time).

The Company believes that its announcement of the execution of the letter of intent with UAE-based e-script medicine management company Pharmak Direct on 21 June 2023 (Perth time) may have had an impact on the trading price volumes of the Company's ADSs on Nasdaq as mentioned above.

AHI wishes to confirm that it remains in the compliance with the ASX Listing Rules, in particular ASX Listing Rule 3.1. AHI also confirms that there is not currently any "excluded information" with respect to AHI that has been withheld from the market in reliance on a carve out from ASX Listing Rule 3.1

The Board of Advanced Health Intelligence Ltd has approved this announcement.

- B. AHI's announcement titled "AHI receives NASDAQ Determination Letter" lodged on MAP on 26 June 2023 and marked as being market sensitive, which contained, amongst other things, the following disclosure:

On June 20, 2023, the Company received a determination letter from Nasdaq stating that the Company has not regained compliance with the Rule and this its securities will be delisted from Nasdaq, in which case trading of its securities will be suspended at the opening of business on June 29, 2023. However, the Company is seeking to remedy the position and has appealed Nasdaq's determination to a hearings panel (the "Panel"), pursuant to the procedures set forth in the Nasdaq Listing Rule 5800 Series. The hearing is scheduled for August 17, 2023. Accordingly, the delisting action referenced in Nasdaq's determination letter has been stayed, pending a final written decision by the Panel.

To regain compliance with the Rule, the Company intends to take the necessary steps to immediately effect a ratio change of the ADS to its non-traded ordinary shares from the current ratio of one (1) ADS representing seven (7) ordinary shares to a new ratio which will have the same effect as a reverse split of existing ADSs. At the Panel hearing, the Company intends to present a plan to regain compliance with the Rule. Once the ratio change has taken effect, the ADSs must trade at or above \$1.00 for ten consecutive business days for the Company to regain compliance with the bid price rule.

('Determination Letter').

ASX understands that AHI's reference to the 'Rule' refers to Nasdaq Listing Rule 5550(a)(2).

C. 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.

D. 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."

E. 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."

F. 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 AHI to respond separately to each of the following questions and requests for information:

1. Does AHI consider the following information, or any part thereof, to be information that a reasonable person would expect to have a material effect on the price or value of its securities:
 - 1.1 That AHI received a Determination Letter from Nasdaq;
 - 1.2 The Determination Letter discloses that AHI has not regained compliance with the Rule;
 - 1.3 AHI's securities will be delisted from Nasdaq;
 - 1.4 Trading in AHI's securities on Nasdaq will be suspended on 19 June 2023;

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- 1.5 AHI has appealed Nasdaq's determination to a hearings panel which has been scheduled for 17 August 2023; and
- 1.6 That AHI is seeking to regain compliance with the Rule by taking steps to effect a ratio change of the ADSs to its non-traded ordinary shares;

Please address each of the above separately.

2. If the answer to question 1 (or any part thereof) is "no", please advise the basis for that view. In answering this question please address separately each piece of information referred to above in questions 1.1-1.6.
3. When did AHI first become aware of the information described in questions 1.1 – 1.6? In answering this question, please address each piece of information separately.
4. If AHI first became aware of the information in the Determination Letter, or any part thereof, before 27 June 2023, did AHI make any announcement prior to that 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 AHI was obliged to release the information under Listing Rules 3.1 and 3.1A and what steps AHI took to ensure that the information was released promptly and without delay.
5. Please confirm that AHI is complying with the Listing Rules and, in particular, Listing Rule 3.1.
6. Please confirm that AHI'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 AHI 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 **12 PM AWST Friday, 30 June 2023**. 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, AHI'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 AHI 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 AHI'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 AHI's securities under Listing Rule 17.3.

Listing Rules 3.1 and 3.1A

In responding to this letter, you should have regard to AHI'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 AHI'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

ASX reserves the right to release all or any part 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

Laura Gomme
Senior Adviser, Listings Compliance