

**NOT FOR DISTRIBUTION OR RELEASE IN THE UNITED STATES**

Dear Shareholder

**SomnoMed Limited Entitlement Offer – Notification to ineligible shareholders**

On Thursday, 31 August 2023, SomnoMed Limited ACN 003 255 221 (ASX: SOM) (**Company**) announced a fully underwritten institutional placement (**Placement**) and an accelerated non-renounceable pro rata entitlement offer (**Entitlement Offer**) to eligible shareholders to subscribe for 1 new fully paid ordinary share in the Company (**New Share**) for every 3.82 existing fully paid ordinary shares in the Company (**Existing Shares**) held as at 7.00 pm (Sydney, Australia time) on the record date (being, Monday, 4 September 2023) (**Record Date**) (**Entitlement**) at an offer price of \$0.60 per New Share (**Offer Price**) (**Entitlement Offer**).

The Entitlement Offer includes an institutional component (**Institutional Entitlement Offer**) and an offer to Eligible Retail Shareholders (as defined below) to participate on the same terms (**Retail Entitlement Offer**). On Monday, 4 September 2023, the Company announced that it had successfully completed and raised approximately \$7.0 million under the Placement and Institutional Entitlement Offer.

The Retail Entitlement Offer is non-renounceable, and Entitlements that are not taken up by Eligible Retail Shareholders, together with the Entitlements of Ineligible Retail Shareholders (as defined below), will lapse.

Documents relating to the Retail Entitlement Offer were lodged with the Australian Securities Exchange (**ASX**) today and are being mailed to Eligible Retail Shareholders.

This letter has been sent to you to inform you about the Retail Entitlement Offer and to explain why you will not be able to subscribe for New Shares under the Retail Entitlement Offer. This letter is not an offer to issue New Shares to you, nor an invitation for you to apply for New Shares. **You are not required to do anything in response to this letter.**

**Details of the Retail Entitlement Offer**

The Retail Entitlement Offer is being made to Eligible Retail Shareholders on the basis of 1 New Share for every 3.82 Existing Shares held as at 7.00 pm (Sydney, Australia time) on the Record Date, being Monday, 4 September 2023.

**Eligibility criteria**

The Company has determined, pursuant to section 9A(3) of the Corporations Act and Listing Rule 7.7.1(a) of the ASX Listing Rules, that it would be unreasonable to make offers to the Company's shareholders in all countries in connection with the Retail Entitlement Offer. This is because of the relatively small number of Company shareholders in jurisdictions outside of Australia and New Zealand, the number and value of Existing Shares that Company shareholders hold and the cost of complying with the applicable regulations in jurisdictions outside of Australia and New Zealand.

Unfortunately, according to our records you do not satisfy the criteria for an Eligible Retail Shareholder meaning you are an Ineligible Retail Shareholder. Accordingly, in compliance with section 9A(3) of the Corporations Act and ASX Listing Rule 7.7.1(b), the Company wishes to inform you that it will not be extending the Retail Entitlement Offer to you and you will not be able to subscribe for New Shares under the Retail Entitlement Offer.

Shareholders who are eligible to participate in the Retail Entitlement Offer (**Eligible Retail Shareholders**) are those shareholders of the Company who:

- (a) are registered as a holder of Existing Shares as at the Record Date, being 7.00pm (Sydney time) on Monday, 4 September 2023;
- (b) have a registered address on the Company's share register that is in Australia or New Zealand;

- (c) are not in the United States and are not acting for the account or benefit of a person in the United States (to the extent such shareholders hold securities in the Company for the account or benefit of such persons in the United States);
- (d) are eligible under all applicable laws to receive an offer under the Entitlement Offer without a prospectus, disclosure document, product disclosure statement or any lodgement, filing, registration or qualification; and
- (e) were not invited to participate, (other than as nominee in respect of other underlying holdings) in the Institutional Entitlement Offer and were not treated as an ineligible institutional shareholder under the Institutional Entitlement Offer.

Shareholders who are not Eligible Retail Shareholders are **Ineligible Retail Shareholders** and are consequently unable to participate in the Retail Entitlement Offer. The Company may (at its absolute discretion) extend the Retail Entitlement Offer to certain institutional shareholders in foreign jurisdictions who did not participate in the Institutional Entitlement Offer (subject to compliance with applicable laws).

Wilson Corporate Finance Limited (who is also the underwriter for the purposes of the Entitlement Offer) (**Wilson**) has been appointed by the Company to act as nominee for the purposes of section 615 of the Corporations Act to:

- (a) accept the New Shares which would otherwise have been available to Ineligible Retail Shareholders had they been eligible to participate in the Entitlement Offer;
- (b) use its best endeavours to sell those New Shares; and
- (c) pay the proceeds of any sale of New Shares (less the subscription price and other costs) to the Company's share registry who will then distribute to ineligible shareholders in proportion to their shareholding in the Company at the Record Date. The New Shares will be sold at the Offer Price.

The Company and Wilson will not be liable for the failure of Wilson to sell the New Shares or the failure to sell the New Shares at any particular price. There is no guarantee that any proceeds will be realised from the sale of New Shares that would otherwise have been offered to ineligible shareholders.

#### **Non-renounceable offer**

As the Retail Entitlement Offer is non-renounceable, Entitlements in respect of the New Shares you would have been entitled to if you were an Eligible Retail Shareholder will lapse and you will not receive any payment or value for your Entitlements in respect of any New Shares that would have been offered to you if you had been eligible.

#### **No disclosure document**

The Entitlement Offer is being made by the Company in accordance with section 708AA of the *Corporations Act 2001* (**Corporations Act**) as modified by the Australian Securities and Investments Commission Corporations (Non-Traditional Rights Issues) Instrument 2016/84 and ASIC Corporations (Disregarding Technical Relief) Instrument 2016/73). The Institutional Entitlement Offer and the Retail Entitlement Offer together are expected to raise approximately \$15.5 million.

#### **Further information**

If you have any questions in relation to any of the above matters, please contact the Entitlement Offer Information Line on 1300 737 760 (local call from within Australia) or +61 2 9290 9600 (from outside Australia) from 8.30am to 5.00pm (Sydney, Australia time) Monday to Friday.

On behalf of the Board and management of the Company, thank you for your continued interest in the Company.

Yours sincerely



**Terry Flitcroft**  
**Company Secretary**  
**SomnoMed Limited**

This letter is not a prospectus or offering document under Australian law or under any other law. No action has been or will be taken to register, qualify or otherwise permit a public offering of the New Shares in any jurisdiction outside Australia and New Zealand. This letter is for information purposes only and does not constitute or form part of an offer, invitation, solicitation, advice or recommendation with respect to the issue, purchase or sale of any New Shares in the Company. This notice does not constitute an offer to sell, or the solicitation of an offer to buy, any securities in the United States. Neither the Entitlements nor the New Shares have been or will be registered under the U.S. Securities Act of 1933 (the **Securities Act**) or the securities laws of any state or other jurisdiction of the United States. Accordingly, the Entitlements may not be taken up by, and the New Shares may not be offered or sold in the United States or to any person acting for the account or benefit of a person in the United States unless they are registered under the Securities Act or unless they are offered or sold pursuant to an exemption from, or in a transaction not subject to, the registration requirements of the Securities Act and any applicable U.S. state securities laws. The New Shares to be offered and sold in the Retail Entitlement Offer may only be offered and sold outside the United States in “offshore transactions” (as defined in Regulation S under the Securities Act) in reliance on Regulation S under the Securities Act.

The provision of this document is not, and should not be considered as, financial product advice. The information in this document is general information only, and does not take into account your individual objectives, taxation position, financial situation or needs. If you are unsure of your position, please contact your accountant, tax advisor, stockbroker or other professional advisor.

The eligibility of investors for the purposes of the Entitlement Offer is determined by reference to a number of matters, including legal and regulatory requirements, logistical and registry constraints and the discretion of the Company and Wilsons Corporate Finance Limited (“**Wilsons**”). The Company and Wilsons, and each of their respective affiliates and related bodies corporate and each of their respective directors, officers, partners, employees, advisers and agents, disclaim any liability in respect of any determination as to eligibility, to the maximum extent permitted by law.