

17 May 2022

Barbara Lim  
ASX Listing and Compliance  
Via: listingcomplianceperth@asx.com.au

**Re: ASX Aware Query dated 12 May 2022**

Dear Barbara,

Please find below, MGC Pharmaceutical Ltd's (**Company** and **MXC**) responses to the queries contained in the ASX's Aware Letter dated 12 May 2022 (Reference: 52133)

1. **Does MXC 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?**

The Patent granted by the Slovenian Intellectual Property Office (**SIPO**) for the Drug Delivery System of self-nanoemulsifying drug delivery system in Ionic Complex Concentrate (**CannEpil®-IL**) (**Information**) recognises the CannEpil®-IL formulation and method of preparation as a novel invention and provides the owners of CannEpil®-IL with the exclusive right to commercially exploit the patented product for a period of 20 years from Patent grant date. As such the grant of the Patent is viewed by the Company as a key tool in protecting the intellectual property asset, and future cashflows related to this asset. As such, MGC considers 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, commenting specifically on why MXC submitted the Announcement as "price sensitive" to MAP.**

N/A

3. **If the answer to question 1 is "yes", when did MXC become aware of the Information?**

MXC became aware of the Information, being the grant of the Slovenian Patent for CannEpil®-IL on 4 May 2022, when Graft Polymer (**GPO**), Co-owner of the Patent, advised MXC's Managing Director that GPO had received a notification from SIPO that the Patent had been granted.

4. **If MXC became aware of the Information prior to 10 May 2022 when it lodged the Announcement, please explain the delay in disclosing the Information, given the patent appears to have been published on 31 March 2022. Please confirm that MXC is complying with the Listing Rules and, in particular, Listing Rule 3.1.**

Please find below the chronology of events leading up to the lodgement of the Announcement on 10 May 2022.

SIPO's website indicates that the Patent was granted on 31 March 2022. Please be advised that MXC does not monitor SIPO's website, and that to date, MXC is unable to confirm if SIPO has directly advised it of the grant of the Patent.

4/5/2022 (Wednesday):

MXC's Managing Director, whilst communicating via text with Graft Polymer (**GPO**), Co-owner of the Patent, enquired as to the status of the Patent Application for CannEpi<sup>®</sup>-IL. GPO advised that they had recently been advised by SIPO that the Patent had been granted. This is the point at which MXC became aware of the Information, being the grant of the Slovenian Patent for CannEpi<sup>®</sup>-IL, in accordance with the Listing Rules. MXC's Managing Director requested GPO send him a copy of the Patent, which they did immediately.

MXC's Managing Director then requested MXC's Investor Relations consultant draft a market release to advise the market of the grant of the Patent.

5/5/2022 (Thursday):

MXC's IR consultant circulated the 1st draft of the market release for MGC internal review.

6/5/2022 (Friday):

The 2<sup>nd</sup> draft of the market release was sent to MXC's Technical Team for review.

9/5/2022 (Monday):

The 3<sup>rd</sup> draft of the market release was re-circulated by MXC's UK based IR consultant at 4:50pm (AWST) for final review and approval.

10/5/2022 (Tuesday):

Announcement of the Patent grant was released to the market on 10/5/2022 subsequent to a final review by MXC's Company Secretary, and the Managing Director's authorisation to release.

Further the above timeline, MXC confirms that it is complying with the Listing Rules and in particular, Listing Rule 3.1.

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

The Company confirms that the responses to the questions above have been authorised and approved in accordance with its published Continuous Disclosure Policy, which provides for Managing Director approval, or at the Managing Director's discretion, approval by the board, of material announcements prior to release.

Your Sincerely,

**On behalf of MGC Pharmaceuticals Ltd**

**David Lim**

Company Secretary



12 May 2022

Reference: 52133

Mr David Lim  
Company Secretary  
MGC Pharmaceuticals Ltd

By email

Dear Mr Lim

**MGC Pharmaceuticals Ltd ('MGC'): Aware Query**

ASX refers to the following:

- A. MGC's announcement titled "Patent Granted for CannEpiL SNEDDS", released on the ASX Market Announcements Platform ('MAP') on 10 May 2022 (the 'Announcement'), which disclosed the grant of a patent by the Slovenian Intellectual Property Office ('SIPO') (the 'Information').
- B. An extract from the SIPO, which shows that a patent owned by MGC Pharma (UK) Ltd titled "Self-emulsifying concentrate of cannabinoid-ionic complex and method for its preparation" was published on 31 March 2022. A link to this patent can be found here:

<http://www2.uil-sipo.si/s/ds.dll/00?A=10311750a0021903030000011401>

- 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 MXC to respond separately to each of the following questions and requests for information:

1. Does MXC 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, commenting specifically on why MXC submitted the Announcement as "price sensitive" to MAP.
3. If the answer to question 1 is "yes", when did MXC become aware of the Information?
4. If MXC became aware of the Information prior to 10 May 2022 when it lodged the Announcement, please explain the delay in disclosing the Information, given the patent appears to have been published on 31 March 2022. Please confirm that MXC is complying with the Listing Rules and, in particular, Listing Rule 3.1.
5. Please confirm that MXC'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 MXC 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 **4:30 PM AWST Tuesday, 17 May 2022**. 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, MXC'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 MXC 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 MXC's securities under Listing Rule 17.1. If you wish a trading halt, you must tell us:

- the reasons for the trading halt;

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- 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 MXC's securities under Listing Rule 17.3.

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

In responding to this letter, you should have regard to MXC'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 MXC'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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**Barbara Lim**  
Adviser, Listings Compliance (Perth)