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Our Ref: -
Your Ref: -

1 November 2010

ASX Compliance Pty Limited
2 The Esplanade
Perth WA 6000

Attention: Matthew Foy

Dear Matthew

Clough Limited – Response to Query

We refer to your letter dated 29 October 2010 and to the Company's AGM presentation released to ASX on 26 October 2010. In that presentation, the Company provided the following outlook with respect to the 2010/2011 financial year:

- *H1 earnings anticipated to be below H2 2009/10.*
- *H2 improvement to give anticipated full year earnings 20 – 25% down on 2009/10.*

The Company has not provided an outlook for the second half of the 2010/2011 financial year compared to the previous corresponding period. The earnings outlook provided in the Company's AGM presentation related to the following periods:

- The first half of the 2010/2011 financial year compared to the previous period (i.e. the second half of the 2009/2010 financial year).
- The full 2010/2011 financial year compared to full 2009/2010 financial year (**Full Year Outlook**).

We understand that the "Information" referred to in your query relates to the Full Year Outlook.

Background information

The Company operates primarily in the engineering and construction contracting industry. Variance in earnings from one period to the next is not uncommon for companies operating in this inherently seasonal and cyclical industry. To provide an outlook for the full year results less than four months into the financial year does pose a number of challenges.

Due to these factors and the need to take into account a number of variables across its business, the Company regularly undertakes a careful process in determining if a financial

outlook is sufficiently definite to provide updated guidance to the market. The variables the Company faced in assessing the current outlook included the following:

- Expected returns from existing contracts some of which are still in their early development phase.
- The status of current tenders submitted and their potential to impact current year earnings.
- The status of current tenders under preparation and their potential to impact current year earnings.
- The impact of other risks and opportunities on current year earnings.

To put the Full Year Outlook into more context, the Company had previously advised the market that it continued to face challenges as a result of a soft marine construction market (refer to the Company's half year media release dated 17 February 2010 and full year investor presentation released to ASX on 19 August 2010). The Company reported EBIT from marine construction for the 2009 / 2010 financial year of \$24.1 million, of which just \$0.2 million (less than 1%) was earned in the second half of that financial year. The challenges in this market have not abated so far this financial year and the potential variability in earnings from the marine construction sector compared to the previous financial year have been highlighted in various analyst reports published following the announcement of the 2010 results.

Although a combination of important and complex variables contribute to the Company's overall financial performance, the soft marine construction market has been an important factor in determining the Full Year Outlook.

On this basis, and in response to your letter dated 29 October 2010, we respond as set out below (using the numbering in your letter).

1. When did the Company first become aware that the earnings outlook for the 2010/11 financial year was anticipated to be between 20% to 25% down on the previous corresponding period (the "Information")?

The Company's board of directors (**Board**) met in the morning of 26 October 2010 prior to the commencement of the 2010 AGM at 12.00 noon that day. (**Board Meeting**).

The Board, amongst other matters, considered current and anticipated trading conditions and the likely impact on earnings for the first half-year and the full year to 30 June 2011. The Board received and considered a presentation from management on the Company's actual 1st Quarter trading (which is reasonably correlated to budget) and a forecast of trading performance over the balance of the year.

The forecast as presented to the Board considered all available information including the variables set out above and offered a range of potential outcomes.

This information was deliberated at length by the Board. It was only following consideration of all of this information that the Board determined to adopt a revised prospect for the Company over the Full Year. This changed the business outlook sufficiently for the Board to consider that the Company should make an announcement to the ASX.

The Company therefore settled on a Full Year Outlook at the Board Meeting shortly before the AGM and resolved to release this Full Year Outlook to the ASX as soon as practicable, which was then done as part of the AGM presentation prior to the commencement of the AGM.

In the Company's opinion at all times leading up to the Board Meeting and AGM on 26 October 2010 the information utilised to determine the Full Year Outlook:

- (a) could not be expected by a reasonable person to be disclosed;
- (b) was confidential;
- (c) was insufficiently definite to warrant disclosure; and
- (d) was generated for the internal management purposes of the Company.

- 2. If the Company became aware of the Information prior to the release of the AGM Presentation, please identify any earlier announcement from the Company which disclosed that the earnings outlook for the second half of the 2010/11 financial year would be significantly different from the previous corresponding period.**

As stated above the Company only settled on the Full Year Outlook at the Board Meeting shortly prior to the AGM on 26 October 2010. Refer to our response to query 1 above.

- 3. Does the Company consider that the Information concerning the 2010/11 earnings outlook is material to the Company?**

Yes. Refer to background information and our response to query 1.

- 4. If the answer to question 3 is "no", please advise the basis on which the Company does not consider the Information concerning the 2010/11 earnings outlook to be material.**

Not applicable.

- 5. If there was no earlier announcement, and the Company became aware of the 2010/11 earnings outlook 26 October 2010, please advise why the Information was not released to the market at an earlier time. Please comment specifically with respect to listing rule 3.1.**

As stated above the Company only settled on the Full Year Outlook at the Board Meeting shortly prior to the AGM on 26 October 2010. Refer to our response to query 1 above.

- 6. Please confirm that the Company is in compliance with the listing rules and, in particular, listing rule 3.1.**

The Company confirms that it is in compliance with the listing rules and, in particular, listing rule 3.1.



JOHN WHITEHAND
Company Secretary



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29 October 2010

Mr John Whitehand
Company Secretary
Clough Limited
Level 15, 58 Mounts Bay Road
PERTH WA 6000

By email

Dear John,

Clough Limited (the "Company")

We refer the Company to the following.

1. The announcement of 19 August 2010 titled "Clough Full Year Results Announced" lodged by the Company with ASX Limited ("ASX") which reported a Net Profit After Tax of \$51.1 million, up 4% on the previous corresponding period and an increase in total revenue of 26% to \$805 million (the "Full Year Results").
2. The Company Annual General Meeting presentation lodged by the Company with ASX on 26 October 2010 (the "AGM Presentation") which provided the outlook for the forthcoming financial year, specifically:

"H1 earnings anticipated to be below H2 2009/10.

H2 improvement to give anticipated full year earnings 20 – 25% down on 2009/10."

3. ASX Companies Update dated 11 January 2010 which drew attention to paragraph 93 of ASX's Guidance Note 8 "Continuous Disclosure: Listing Rule 3.1" that refers to the disclosure of material information relating to the changes in an entity's previously released financial forecast or expectation. In the case where an entity has not made a forecast, a material variation from the previous corresponding period needs to be disclosed.

As you are aware, listing rule 3.1 requires an entity, once it becomes *aware* of 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, to immediately tell ASX that information. The exceptions to this requirement are set out in listing rule 3.1A.

We wish to draw your attention to the definition of "aware" in chapter 19 of the listing rules, which states as follows.

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

Paragraph 17 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."

Listing rule 3.1A sets out an exception from the requirement to make immediate disclosure, provided that each of the following are satisfied.

- 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."*

Furthermore, paragraph 93 of ASX Guidance Note 8, states the following in relation to the provision of guidance regarding an entity's results.

"As a general policy, a variation in excess of 10% to 15% may be considered material, and should be announced by the entity as soon as the entity becomes aware of the variation. If the entity has not made a forecast, a similar variation from the previous corresponding period will need to be disclosed."

Example B in Guidance Note 8 also notes that if, on reviewing management accounts, an entity becomes aware that the actual revenues and profits for a period will vary to a material extent from the financial results for the previous corresponding period, disclosure would be required. In making this disclosure, the entity must provide some details, however qualified, of the extent of the variation.

Having regard to this definition, listing rule 3.1 and Guidance Note 8, we ask that you answer the following questions.

1. When did the Company first become aware that the earnings outlook for the second half of the 2010/11 financial year was anticipated to be between 20% to 25% down on the previous corresponding period (the "Information")?

Please note that ASX is of the opinion that when a company becomes aware that their profits or losses may be materially different from the previous corresponding period, the company should make an announcement to the market immediately indicating the scale and direction of any change.

2. If the Company became aware of the Information prior to the release of the AGM Presentation, please identify any earlier announcement from the Company which disclosed that the earnings outlook for the second half of the 2010/11 financial year would be significantly different from the previous corresponding period.
3. Does the Company consider that the Information concerning the 2010/11 earnings outlook is material to the Company?
4. If the answer to question 3 is "no", please advise the basis on which the Company does not consider the Information concerning the 2010/11 earnings outlook to be material.
5. If there was no earlier announcement, and the Company became aware of the 2010/11 earnings outlook prior to 26 October 2010, please advise why the Information was not released to the market at an earlier time. Please comment specifically with respect to listing rule 3.1.
6. Please confirm that the Company is in compliance with the listing rules and, in particular, 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. 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.

If you are unable to respond by the time requested, you should consider a request for a trading halt in the Company's securities. As set out in listing rule 17.1 and Guidance Note 16 - Trading Halts, we may grant a trading halt at your request. We may require the request to be in writing. We are not required to act on your request. You must tell ASX each of the following.

- 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.
- Any other information necessary to inform the market about the trading halt, or that we may ask for.

The trading halt cannot extend past the commencement of normal trading on the second day after the day on which it is granted. If a trading halt is requested and granted and you are still unable to reply to this letter before the expiry of the trading halt, suspension from quotation would normally be imposed by us from the commencement of trading if not previously requested by you. The same applies if you have requested a trading halt because you are unable to release information to the market, and are still unable to do so before the commencement of trading.

Please send your response to me by e-mail or fax on facsimile number (02) 224 2020. Your response should not be sent to the Company Announcements Office. 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 **1pm WST on Monday, 1 November 2010**.

Please note that ASX reserves the right, under listing rule 18.7A, to release this letter and the Company's response to the market if it considers it necessary for an informed market. Accordingly, it would be appreciated if you would prepare your response in a format suitable for release to the market and separately address each of the questions asked.

If you have any concerns about release of your response, or any queries in relation to this matter, please contact me immediately.

Yours sincerely,

A handwritten signature in black ink, appearing to read 'M. Foy'.

Matthew Foy

Senior Adviser, Issuers (Perth)