

# BENITEC BIOPHARMA LIMITED

ABN 64 068 943 662

## NOTICE OF 2016 ANNUAL GENERAL MEETING

Notice is hereby given that the 2016 Annual General Meeting of the shareholders of Benitec Biopharma Limited ("the **Company**" or "**Benitec**") will be held at the offices of Grant Thornton Australia, Level 17, 383 Kent Street Sydney on 14 December 2016 at 10.00am AEDST.

Further details in respect of each of the resolutions proposed in this Notice of Annual General Meeting are set out in the Explanatory Memorandum accompanying this Notice. The details of the resolutions contained in the Explanatory Memorandum should be read together with, and form part of, this Notice of Annual General Meeting.

### AGENDA

#### 2016 ANNUAL FINANCIAL STATEMENTS

To lay before the Meeting and consider the Annual Financial Statements of the Company for the financial year ended 30 June 2016 together with the declaration of the Directors, the Directors' Report, the Remuneration Report and the Auditor's Report.

#### RESOLUTION 1: NON-BINDING RESOLUTION – REMUNERATION REPORT

To consider and, if thought fit, to pass the following resolution as a non-binding ordinary resolution:

*"That the Company approve the adoption of the Remuneration Report, included within the Directors' Report, for the year ended 30 June 2016."*

#### **Voting Prohibition Statement:**

In accordance with the Corporations Act 2001 (Cth), a person must not vote on this Resolution if they are, and the Company will disregard any votes cast on this Resolution in any capacity by or on behalf of, a member of the Company's Key Management Personnel within the meaning of the Corporations Act (including the Directors) or any of that person's closely related parties within the meaning of the Corporations Act (such as close family members and any controlled companies of those persons) (collectively referred to as "Restricted Voters"). However, the person may vote and the Company need not disregard a vote if:

- it is cast by the person as a proxy appointed in writing that specifies the way the proxy is to vote on the Resolution; and
- it is not cast on behalf of a Restricted Voter.

The Chair of the Meeting may cast votes on the Resolution as a proxy, other than on behalf of a Restricted Voter, where the written appointment of the Chair as proxy (which may include appointment of the Chair as a proxy by default in the absence of another person) does not specify the way the proxy is to vote on the Resolution but expressly authorises the Chair to exercise the proxy even if the resolution is connected directly or indirectly with the remuneration of a member of the Company's Key Management Personnel.

#### PROPOSED RESOLUTIONS – ORDINARY BUSINESS

#### RESOLUTION 2: RE-ELECTION OF DIRECTOR – DR JOHN CHIPLIN

To consider and, if thought fit, to pass the following resolution as an ordinary resolution:

*"That Dr John Chiplin, a Director who retires by rotation in accordance with the Constitution of the Company, being eligible, is re-elected as a Director of the Company".*

### **RESOLUTION 3: ELECTION OF DIRECTOR – MS MEGAN BOSTON**

To consider and, if thought fit, pass the following resolution as an ordinary resolution:

*"That Ms. Megan Boston who was appointed by the Directors since the last Annual General Meeting, retires in accordance with the Company's Constitution and, being eligible for re-election, be re-elected as a director of the Company."*

### **RESOLUTION 4: SPECIAL RESOLUTION - APPROVAL OF 10% PLACEMENT CAPACITY**

To consider, and if thought fit, pass with or without amendment the following resolution as a **special resolution**:

*"That for the purposes of ASX Listing Rule 7.1A, shareholders approve the Company having the capacity to issue fully paid ordinary shares in the capital of the Company up to the maximum number permitted under ASX Listing Rule 7.1A.2 as described in the Explanatory Memorandum which accompanied and forms part of this Notice of Annual General Meeting."*

#### **Voting Exclusion Statement:**

The Company will disregard any votes cast on this Resolution by:

- persons who may participate in the proposed issue and persons who might obtain a benefit except a benefit solely in the capacity of a holder of ordinary shares, if the resolution is passed; and
- an associate of those persons.

However, the Company need not disregard a vote on this Resolution if:

- it is cast by a person as proxy for a person who is entitled to vote, in accordance with the directions on the proxy form; or
- it is cast by the person chairing the meeting as proxy for a person who is entitled to vote, in accordance with a direction on the proxy form to vote as the proxy decides.

### **PROPOSED RESOLUTIONS – SPECIAL BUSINESS**

#### **RESOLUTION 5: RATIFICATION OF PRIOR ISSUE OF SHARES TO NANT CAPITAL, LLC**

To consider and, if thought fit, pass the following resolution as an ordinary resolution:

*"That for the purposes of ASX Listing Rule 7.4 and for all other purposes, the issue of 29,305,819 fully paid ordinary shares in the Company to Nant Capital, LLC on the basis set out in the Explanatory Statement is approved."*

#### **Voting Exclusion Statement:**

The Company will disregard any votes cast on this Resolution by any person who participated in the above issue and any associate of that person.

However, the Company need not disregard a vote on this Resolution if:

- it is cast by a person as proxy for a person who is entitled to vote, in accordance with the directions on the proxy form; or
- it is cast by the person chairing the meeting as proxy for a person who is entitled to vote, in accordance with a direction on the proxy form to vote as the proxy decides.

#### **RESOLUTION 6: APPROVAL OF NEW ISSUE OF SHARES TO NANT CAPITAL, LLC**

To consider and, if thought fit, pass the following resolution as an ordinary resolution:

*"That for the purposes of section 611, item 7, of the Corporations Act 2001 (Cth) and for all other purposes, the issue of up to 29,305,819 fully paid ordinary shares in the Company to Nant Capital, LLC on the basis set out in the Explanatory Statement is approved."*

**Voting Exclusion Statement:**

The Company will disregard any votes cast on this Resolution by Nant Capital, LLC and any associate of that person.

However, the Company need not disregard a vote on this Resolution if:

- it is cast by a person as proxy for a person who is entitled to vote, in accordance with the directions on the proxy form; or
- it is cast by the person chairing the meeting as proxy for a person who is entitled to vote, in accordance with a direction on the proxy form to vote as the proxy decides.

**RESOLUTION 7: ELECTION OF DIRECTOR – DR JEREL BANKS**

To consider and, if thought fit, pass the following resolution as an ordinary resolution:

*"That Dr. Jerel Banks who was appointed by the Directors since the last Annual General Meeting, retires in accordance with the Company's Constitution and, being eligible for re-election, be re-elected as a director of the Company."*

**RESOLUTION 8: APPROVAL OF NEW ISSUE OF SHARES TO SOPHISTICATED AND INSTITUTIONAL INVESTORS**

To consider and, if thought fit, pass the following resolution as an ordinary resolution:

*"That for the purposes of ASX Listing Rule 7.1 and for all other purposes, the proposed issue of up to 60 million fully paid ordinary shares in the Company on the basis set out in the Explanatory Statement is approved."*

**Voting Exclusion Statement:**

The Company will disregard any votes cast on this Resolution by:

- a person who may participate in the proposed issue and a person who might obtain a benefit, except benefit solely in the capacity of a holder of ordinary securities, if the resolution is passed; and
- any associate of that person.

However, the Company need not disregard a vote on this Resolution if:

- it is cast by a person as proxy for a person who is entitled to vote, in accordance with the directions on the proxy form; or
- it is cast by the person chairing the meeting as proxy for a person who is entitled to vote, in accordance with a direction on the proxy form to vote as the proxy decides.

**OTHER BUSINESS**

To consider any other business that may be brought before the Meeting in accordance with the Constitution of the Company and the Corporations Act.

By the order of the Board

**Greg West**

**Chief Executive Officer**

Dated: 7 November 2016

The accompanying Proxy Instructions and Explanatory Memorandum form part of this Notice of Meeting.

## PROXY & VOTING INSTRUCTIONS

### Voting entitlements

The Board has determined, in accordance with the Company's Constitution and the Corporations Act 2001 (Cth) that a shareholder's voting entitlement at the Meeting will be taken to be the entitlement of that person shown in the register of members as at 7:00pm AEDST on 12 December 2016.

On a poll, members have one vote for every fully paid ordinary share held. Holders of options are not entitled to a vote for any options held.

### Proxy Instructions

A member entitled to vote has a right to appoint a proxy. If a member is entitled to cast two or more votes they may appoint one or two proxies and specify the percentage of votes each proxy is entitled to exercise. If the appointment does not specify the proportion or number of votes each proxy may exercise, each proxy may exercise half of the votes in which case any fraction of votes will be disregarded. The proxy may, but need not, be a member of the Company.

The Proxy Form (and the power of attorney or other authority, if any, under which the proxy form is signed) must be deposited at the share registry of the Company, Computershare Investor Services Pty Ltd located at Yarra Falls, 452 Johnson Street, Abbotsford, Victoria 3067 or posted to GPO Box 242, Melbourne, Victoria 3001, or by facsimile to Computershare on 1800 783 447 (within Australia) or (03) 9473 2555 (outside Australia), to arrive not less than 48 hours before the time for holding the Meeting, or adjourned meeting as the case may be, at which the individual named in the proxy form proposed to vote.

The proxy form must be signed by the member or his/her attorney duly authorised in writing or, if the member is a corporation, in a manner permitted by the Corporations Act. A proxy given by a foreign corporation must be executed in accordance with the laws of that corporation's place of incorporation. If you sign the proxy form and do not appoint a proxy, you will have appointed the Chairman of the meeting as your proxy.

A proxy form is attached to this Notice.

### How the Chairman will vote undirected proxies

#### The Chairman intends to vote any undirected proxy in favour of all resolutions

If you appoint the Chairman as your proxy, or the Chairman is appointed your proxy by default, you will be taken to authorise the Chairman to exercise the proxy even if the resolution is connected directly or indirectly with the remuneration of a member of the Key Management Personnel.

### Proxies that are undirected on Resolution 1

If you appoint a director of the Company **other than the Chairman**, any other Key Management Personnel or any of their closely related parties, he or she proxy cannot vote on Resolution 1 unless you direct him or her how to vote on the resolution. The Remuneration Report identifies Key Management Personnel for the year ending 30 June 2016. Their closely related parties are defined in the Corporations Act 2001 (Cth) and include specified family members, dependants and companies they control.

If you are eligible to vote on Resolution 1 and chose to appoint a proxy, you are encouraged to direct your proxy how to vote on the Resolutions by marking either "For", "Against" or "Abstain" on the proxy form for the Resolution if you want your shares to be voted on the Resolution.

### Corporate Representatives

Any corporation which is a member of the Company may appoint a proxy, as set out above, or authorise (by certificate under common seal or other form of execution authorised by the laws of that corporation's place of

incorporation, or in any other manner satisfactory to the chairperson of the Meeting) a natural person to act as its representative at any general meeting or appoint an attorney. Corporate representatives are requested to bring appropriate evidence of appointment as a representative in accordance with the constitution of the Company. Attorneys are requested to bring the original or a certified copy of the power of attorney pursuant to which they were appointed. Proof of identity will also be required for corporate representatives and attorneys.

### **Special Resolution**

Resolution 4 is proposed as a special resolution. For a special resolution to be passed, at least 75% of the votes validly cast on the resolution by shareholders (by number of shares) must be in favour of the resolution.

## EXPLANATORY MEMORANDUM

This Explanatory Memorandum has been prepared for the information of members of Benitec Biopharma Limited [ABN 64 068 943 662] (the "**Company**" or "**Benitec**") in connection with the business to be conducted at the Annual General Meeting of Shareholders of the Company to be held at Level 17, 383 Kent Street Sydney AEDST on 14 December 2016.

This Explanatory Memorandum should be read in conjunction with the accompanying Notice of Annual General Meeting.

### OVERVIEW OF BUSINESS OF THE MEETING

This meeting will deal with the usual items of business for an Annual General Meeting - these are referred to below as the "**Ordinary Business**".

In addition, the meeting will consider a number of items of "**Special Business**". These relate to a strategic investment and relationship with NantVentures (including Nant Capital, LLC and NantWorks). The key features of the relationship and associated capital raisings for which approval will be sought at this meeting are:

- ratification of an initial first tranche placement of shares to Nant Capital, LLC which has taken its interest in the Company to 16.67%;
- approval of a potential second tranche placement of shares to Nant Capital, LLC which could take its interest in the Company to a maximum of 28.57%. Completion obligations in relation the second tranche are conditional on executing a formal collaboration agreement, although it may complete (in whole or in part) regardless of this;
- election of a director nominated by Nant Capital, LLC to the Board; and
- approval of a broader placement to institutional and sophisticated investors, which may include Nant Capital LLC.

In connection with the approval of the second tranche placement to Nant Capital, LLC the Company commissioned an independent expert's report from BDO Corporate Finance (QLD) Ltd. This report is included with these meeting materials as Annexure B and you should consider it carefully in deciding how to vote.

The independent expert concluded that the proposed second tranche placement to Nant Capital, LLC is **not fair but reasonable** to shareholders of the Company other than Nant Capital, LLC and its associates.

### ORDINARY BUSINESS

#### 2016 Annual Financial Statements

Section 317 of the Corporations Act 2001 (Cth) requires each of the Annual Financial Report (which includes the Annual Financial Statements and Director's Declaration), the Director's Report, Remuneration Report and the Auditor's Report for the last financial year to be laid before the Annual General Meeting. The Company's Constitution also provides for these reports to be received and considered at that meeting. There is no requirement for these reports to be formally approved by shareholders.

Shareholders attending the Annual General Meeting will have the opportunity to put questions to the Board and make comments on matters contained in that Annual Financial Report and the management of the Company. A representative of the auditor will be invited to attend to answer questions about the audit of the Company's Annual Financial Statements.

The reports referred to in the Notice of Annual General Meeting are included in the 2016 Annual Financial Report, which at their election, has been made available to all shareholders on-line or by post. If you have not elected to receive a hard copy of the Company's 2016 Annual Financial Report and wish to access it online, it is available at the Company's website [www.benitec.com](http://www.benitec.com) under the heading "Investors".

No resolution is required to be moved in respect of this item.

### **Resolution 1: Non-binding Resolution – Remuneration Report**

The Company is required by section 250R(2) of the Corporations Act 2001 (Cth), to propose a resolution that the Remuneration Report of Benitec Biopharma Limited be adopted. The Remuneration Report is contained within the Directors' Report in the 2016 Annual Financial Report and sets out the Company's remuneration arrangements for directors.

Shareholders attending the 2016 Annual General Meeting ("**2016 AGM**") will have the opportunity to discuss and put questions in respect of the Remuneration Report, and shareholders will be asked to vote on a non-binding resolution to adopt the Remuneration Report.

This resolution is advisory only and does not bind the Company or its directors. The Board will consider the outcome of the vote and comments made by shareholders on the Remuneration Report at the 2016 AGM when reviewing the Company's remuneration policies. Under the Corporations Act, if 25% or more of votes that are cast are voted against the adoption of the Remuneration Report at two consecutive annual general meetings (treating the 2016 AGM as the first such meeting), shareholders will be required to vote at the second of those annual general meetings on a resolution (a "spill resolution") that another meeting be held within 90 days at which all of the Company's directors (other than the Managing Director and CEO) must be put up for re-election. At the 2015 Annual General Meeting greater than 75% of the votes cast on the adoption of the Remuneration Report contained in the Company's 2015 Annual Financial Statements was in favour of its adoption and therefore on this occasion a spill resolution will not be required in the event that 25% or more of votes that are cast are against the adoption of the 2016 Remuneration Report.

A person must not vote (unless as a proxy of a person permitted to vote, as provided for in this paragraph) if they are a member of the Company's Key Management Personnel. Any undirected proxies held by directors (other than the Chairman of the Meeting) or other Key Management Personnel or any of their closely related parties must not be voted on this Resolution. Undirected proxies held by the Chairman of the Meeting will be voted in accordance with the authorisation in the Proxy Form (in which case the Chairman of the Meeting will vote undirected proxies in favour of the Resolution). 'Closely related parties' are defined by the Corporations Act 2001 (Cth), and include specified family members, dependants and companies they control.

If you are eligible to vote on this Resolution and chose to appoint a proxy, you are encouraged to direct your proxy how to vote on this Resolution by marking either "For", "Against" or "Abstain" on the proxy form for this Resolution if you want your shares to be voted on that item of business.

### **Resolution 2: Re-election of Director – Dr John Chiplin**

Article 20.1(a)(i) of the Constitution of the Company requires that at each Annual General Meeting the number of directors which does not exceed one third of the directors automatically retire from office and are eligible for re-appointment. Article 20.1(d) provides that the directors who retire by reason of this rule are those who have been in office the longest since last being re-elected. Dr John Chiplin will retire by rotation at this meeting, is eligible for re-election and is seeking re-election as a director at this meeting.

Dr John Chiplin was appointed Non-Executive Director on 26 November 2010

Dr Chiplin is a founder of and has served as a Managing Director of investment company, Newstar Ventures Ltd., since 1998. More recently, he has served as a director of Medistem, Inc. through its acquisition by Intrexon Corporation in 2014, as founding Chief Executive Officer of Arana Therapeutics Limited from 2006 through its acquisition by Cephalon, Inc. in 2009, as director of Domantis Ltd through its acquisition by GlaxoSmithKline plc in 2006, and as Managing Director of ITI Life Sciences Fund from 2003 to 2005. He currently serves on the board of directors of Adalta Pty Ltd, Batu Biologics Inc., Cynata Therapeutics Limited (CYP.AX), Prophecy Inc., ScienceMedia Inc., Scancell Holdings plc (SCLP.L, Executive Chairman), Sienna Cancer Diagnostics and The Coma Research Institute. John's Pharmacy and PhD degrees are from the University of Nottingham, Nottingham, United Kingdom.

### **Resolution 3: Election of Director – Ms Megan Boston**

Ms. Boston who was appointed by the directors of the Company since the 2015 AGM, retires in accordance with the Constitution of the Company and being eligible, offers herself for re-election as a director of the Company.

Ms Megan Boston is formerly the Managing Director of Omni Market Tide, a listed technology company specialising in shareholder communications, investor relations and voting. Megan holds a Bachelor of Commerce and is a Chartered Accountant with over 10 years' experience as a non-executive Director across a range of industries. She has chaired company boards as well as board sub-committees particularly in the area of finance and risk management. Megan has completed the Company Directors Course Diploma run by the Australian Institute of Company Directors. Previously, Megan held senior executive roles at various banking institutions in the area of risk and compliance, as well as working for PricewaterhouseCoopers.

### **Resolution 4: Approval of 10% Placement Capacity**

Under ASX Listing Rule 7.1A certain companies may seek shareholder approval by special resolution passed at an annual general meeting to have the additional capacity to issue equity securities in the same class as already listed securities which do not exceed 10% of the existing ordinary share capital without further shareholder approval.

Approval under this Resolution is sought for the Company to issue ordinary shares under ASX Listing Rule 7.1A.

If this Resolution is approved the Company may make an issue of ordinary shares under ASX Listing Rule 7.1A at any time (either on a single date or progressively) up until the earlier of:

- the date which is 12 months after the date of this Annual General Meeting; or
- the date on which shareholders approve a transaction under ASX Listing Rule 11.1.2 (a significant change to the nature or scale of the Company's activities) or ASX Listing Rule 11.2 (disposal of the Company's main undertaking)

after either of which dates an approval under ASX Listing Rule 7.1A ceases to be valid.

Accordingly, the approval given if this Resolution is passed will cease to be valid on the earlier of 14 December 2017 (being the date 12 months after the date of this 2016 AGM) or the date on which holders of the Company's ordinary securities approve a transaction under ASX Listing Rules 11.1.2 or 11.2.

At the date of this Explanatory Memorandum, the Company is an 'eligible entity', and therefore able to seek approval under ASX Listing Rule 7.1A, as it is not included in the S&P/ASX300 and has a market capitalisation less than the amount prescribed by ASX (currently \$300 million). If at the time of this Annual General Meeting the Company is no longer an eligible entity, this Resolution will be withdrawn.

Any securities under ASX Listing Rule 7.1A issued must be in the same class as an existing class of quoted equity securities. The Company currently has one issue on class of equity securities - being 175,834,915 fully paid ordinary shares.

The exact maximum number of ordinary shares which may be issued in the capital of the Company under the approval sought by this Resolution will be determined in accordance with the following formula prescribed in ASX Listing Rule 7.1A.2:

$$(A \times D) - E$$

where:

- A is the number of shares on issue 12 months before the date of issue or agreement to issue:
- (i) plus the number of fully paid shares issued in the 12 months under an exception in ASX Listing Rule 7.2;
  - (ii) plus the number of partly paid shares that became fully paid in the 12 months;
  - (iii) plus the number of fully paid shares issued in the 12 months with approval of holders of shares under ASX Listing Rule 7.1 and 7.4 (this does not include an issue of fully paid ordinary shares under the entity's 15% placement capacity without shareholder approval);
  - (iv) less the number of fully paid shares cancelled in the 12 months;
- D is 10%; and
- E is the number of equity securities issued or agreed to be issued under ASX Listing Rule 7.1A.2 in the 12 months before the date of the issue or agreement to issue that are not issued with the approval of shareholders under ASX Listing Rule 7.1 or 7.4.

The ability of the Company to make an issue under ASX Listing Rule 7.1A is in addition to its 15% placement capacity under ASX Listing Rule 7.1. The effect of this Resolution will be to allow the Company to issue ordinary shares under ASX Listing Rule 7.1A without using the Company's 15% placement capacity under ASX Listing Rule 7.1.

As at the date of this Explanatory Memorandum, the Company has 175,834,915 ordinary shares on issue and has capacity to issue:

- nil equity securities under ASX Listing Rule 7.1 (ie. 15%); and
- subject to shareholder approval being sought under this Resolution, 17,583,491 ordinary shares under ASX Listing Rule 7.1A (ie. 10%).

The actual number of shares which may be issued under ASX Listing Rule 7.1A (and ASX Listing Rule 7.1) will be a function of the number of shares on issue at the time an issue is proposed as calculated per the formula set out above, and will depend on whether past issues of shares are ratified by passing Resolution 5.

The issue price of the ordinary shares issued under ASX Listing Rule 7.1A will be determined at the time of issue. The minimum price at which the ordinary shares the subject of this Resolution will be issued is 75% of the volume weighted average sale price ("VWAP") of the Company's ordinary shares over the 15 days on which trades in that class were recorded immediately before either:

- the date on which the price at which the securities are to be issued is agreed; or
- if the securities are not issued within five ASX trading days of the date in paragraph (a) the date on which the securities are issued.

If this Resolution is approved, and the Company issues ordinary shares under ASX Listing Rule 7.1A, the existing shareholders' voting power in the Company will be diluted. There is a risk that:

- the market price for the Company's ordinary shares may be significantly lower on the issue date than on the date of the approval of this Resolution; and
- the ordinary shares issued under ASX Listing Rule 7.1A may be issued at a price that is at a discount (as described above) to market price for the Company's ordinary shares on the issue date,

which may have an effect on the amount of funds raised by the issue.

The table set out below shows the dilution of existing shareholders on the basis of:

- The current market price of the Company's ordinary shares and the current number of ordinary securities as at the date of this Explanatory Memorandum.
- Two examples where the number of ordinary shares on issue ("A" in the formula set out above) has increased by 73,264,548 shares (i.e. 50%) and 100% (i.e. doubled). The number of ordinary shares on issue may increase as a result of issues of ordinary shares that do not require shareholder approval (for example, pro-rata entitlements issues) or as a result of future placements under ASX Listing Rule 7.1 that are approved by shareholders.
- Two examples of where the issue price of ordinary securities has decreased by 50% and increased by 50% as against the market price as at the date of this Explanatory Memorandum.

Shareholders should note that there is a risk that:

- the market price for the Company's shares may be significantly lower on the issue date than on the date of the Meeting; and
- the shares may be issued at a price that is at a discount to the market price for those shares on the date of issue.

			Dilution		
			Issue price 9.5 cents (\$0.0475) (50% decrease)**	Issue Price 9.5 cents (\$0.095)**	Issue price 19.0 cents \$0.19 (100% increase) **
Variable "A" ASX Listing Rule 7.1A.2	"A" is the current number of shares on issue of 146,529,096 shares	Shares issued - 10% voting dilution	14,652,910	14,652,910	14,652,910
		Funds raised	\$696,013	\$1,392,026	\$2,784,053
	"A" is a 50% increase (73,264,548 shares) in current shares on issue to a total of 219,793,644 shares on issue *	Shares issued - 10% voting dilution	21,979,364	21,979,364	21,979,364
		Funds raised	\$1,044,020	\$2,088,040	\$4,176,079
	"A" is a 100% increase (146,529,096 shares) in current shares on issue to a total of 293,058,192 shares on issue *	10% voting dilution	29,305,819	29,305,819	29,305,819
		Funds raised	\$1,392,060	\$2,784,053	\$5,568,106

Notes:

- The table assumes that:
  - the Company issues the maximum number of ordinary shares available under ASX Listing Rule 7.1A;

- b. *the Company has not issued any equity securities in the prior 12 months that were not issued under an exception in ASX Listing Rule 7.2, with approval under ASX Listing Rules 7.1 or 7.1A, or with subsequent approval under ASX Listing Rule 7.4;*
  - c. *no options are exercised resulting in ordinary shares being issued before the date of the issue of ordinary shares under ASX Listing Rule 7.1A.*
- (ii) *The table does not show an example of dilution that may be caused to a particular shareholder by reason of issues of ordinary shares under ASX Listing Rule 7.1A based on that shareholder's holding at the date of this Explanatory Memorandum. All Shareholders should consider the dilution caused to their own shareholding depending on their specific circumstances.*
- (iii) *The table shows the effect of an issue of ordinary shares under ASX Listing Rule 7.1A, not under the Company's 15% placement capacity under ASX Listing Rule 7.1.*

\* *Any issue of ordinary shares is required to be made in accordance with the ASX Listing Rules. Any issue made other than under the Company 15% capacity (ASX Listing Rule 7.1) or the Company's additional 10% capacity (Listing Rule 7.1A) and not otherwise made under an exception in ASX Listing Rule 7.2 (for example, a pro-rata rights issue) would require shareholder approval.*

\*\* *Based on closing price of the Company's shares on ASX on 22<sup>nd</sup> September 2016*

If this Resolution is approved the Company will have the ability to issue in the 12 months from the date of this 2016 AGM up to 10% of its issued capital without further shareholder approval and therefore allow it to take advantage of opportunities to obtain further funds if required and available in the future.

As at the date of this Explanatory Memorandum, the Company has not formed an intention to offer any ordinary shares under ASX Listing Rule 7.1A to any particular person or at any particular time. The total amount that may be raised by the issue of equity securities under ASX Listing Rule 7.1A will depend on the issue price of the ordinary shares which will be determined at the time of issue. In some circumstances the Company may issue ordinary shares under ASX Listing Rule 7.1A for non-cash consideration (for example, in lieu of cash payments to consultants, suppliers or vendors). While the Company has not formed an intention to offer any ordinary shares under ASX Listing Rule 7.1A, some of the purposes for which the Company may issue ordinary shares under ASX Listing Rule 7.1A include (but are not limited to):

- Raising funds to be applied to the Company's working capital requirements and develop the Company's existing projects.
- Acquiring assets. In these circumstances the issue of the ordinary shares may be made in substitution for the Company making cash payment for the assets. If the Company elects to issue the ordinary shares for the purpose of acquiring assets then the Company will release to the market a valuation of the assets prior to issuing the shares.
- Paying suppliers or consultants of the Company.

Details regarding the purposes for which any particular issue under ASX Listing Rule 7.1A is made will be more fully detailed in an announcement to the ASX made pursuant to ASX Listing Rule 7.1A.4 and ASX Listing Rule 3.10.5A at the time the issue is made.

The allottees of equity securities to be issued under the 10% placement capacity have not yet been determined. However, the allottees of equity securities could consist of current Shareholders or new investors (or both). No securities will be offered to related parties or associates of related parties of the Company.

The Company will determine the allottees at the time of the issue under the 10% placement capacity, having regard to the following factors:

- (i) the purpose of the issue;
- (ii) the capital raising and acquisition opportunities available to the Company;
- (iii) alternative methods for raising funds available to the Company at that time, including, but not limited to, an entitlement issue or other offer where existing Shareholders may participate;
- (iv) the effect of the issue of the equity securities on the control of the Company;
- (v) the Company's circumstances, including, but not limited to, its financial position solvency, and likely future capital requirements;
- (vi) prevailing market conditions; and
- (vii) advice from corporate, financial and broking advisers (if applicable).

The Company previously obtained approval from Shareholders pursuant to ASX Listing Rule 7.1A at the annual general meeting ("2015 AGM") held on 12 November 2015 (the "Previous Approval").

The Company has issued equity securities pursuant to the Previous Approval in relation to a portion of the First Tranche share issue to Nant Capital, LLC (see the explanatory material in relation to Resolutions 5 and 6 below for more detail).

The First Tranche share issue involved the issue of a total of 29,305,819 fully paid ordinary shares. Of these, 19,779,364 shares were issued using the Company's remaining placement capacity under ASX Listing Rule 7.1. The balance of 9,526,455 shares were issued using part of the Company's placement capacity under the Previous Approval. The issue price for all of these First Tranche shares was A\$**\$0.0895** per share, which was the 7 trading day VWAP prior to the date of issue of the shares on 24 October 2016. The First Tranche shares represented 16.22% of the total number of equity securities on issue in the Company on 12 November 2015, which was a total of 180,695,299 shares, options and warrants (including options and warrants which expired or were exercised after that date).

The Company has not yet used the funds raised from the First Tranche share issue. It is intended that the funds be used for the purpose of the proposed scientific collaboration with NantWorks (an affiliate of Nant Capital, LLC) in clinical programs and for Benitec's existing programs.

During the 12 month period preceding the date of the proposed Meeting, being up to [14 December ] 2016, the Company also issued 2,200,000 unlisted director and officer incentive options to Greg West (CEO) which in total represents approximately 1.2% of the total number of equity securities on issue in the Company on 12 November 2015, which was a total of 180,695,299 shares, options and warrants (including options and warrants which expired or were exercised after that date).

Further details of the issues of equity securities by the Company under the Previous Approvals and other issues of equity securities during the 12 month period preceding the date of the Meeting are set out in Annexure A.

If the Company issues equity securities pursuant to the ASX Listing Rule 7.1A 10% placement capacity, it will give ASX:

- (i) a list of the recipients of the equity securities and the number of equity securities issued to each (not for release to the market), in accordance with ASX Listing Rule 7.1A.4; and
- (ii) the information required by ASX Listing Rule 3.10.5A for release to the market.

This Resolution is a special resolution. For a special resolution to be passed, at least 75% of the votes validly cast on the resolution by shareholders (by number of shares) must be in favour of the resolution.

The Directors of the Company believe that this Resolution is in the best interests of the Company and unanimously recommend that shareholders vote in favour of this Resolution.

A voting exclusion statement is set out in the Notice of Meeting. As at the date of this Notice, the Company has not invited person to participate in an issue of equity securities under ASX Listing Rule 7.1A. Therefore, unless an invitation is made to an existing Shareholder prior to the meeting (and noting there is no present intention to do so) no existing Shareholders will be excluded from voting on the Resolution.

## **SPECIAL BUSINESS**

### **Resolutions 5 and 6: Equity investment by Nant Capital, LLC**

As announced to ASX on 24 October 2016, Benitec has commenced a strategic engagement with NantVentures. NantVentures was founded by Dr. Patrick Soon-Shiong and serves as the private investment arm of NantWorks, LLC and California Capital Equity, LLC.

Benitec and NantVentures, with support from NantWorks, are planning an oncology-focused research and development collaboration in which Benitec would lead clinical development and preclinical evaluation of several assets.

The strategic engagement included an immediate placement to Nant Capital, LLC, an investment entity associated with NantVentures, of 29,305,819 fully paid ordinary shares in the Company which raised approximately A\$2.6m, representing 19.99% of its existing issued capital for a post-issue holding of 16.67%. The shares were priced at a 7 trading day VWAP up to the trading day prior to the execution of a Share Subscription Agreement – being \$0.0895 per share. Approval will be sought at this Annual General Meeting for the issue of up to an additional 29,305,819 fully paid ordinary shares which, should the issue proceed in respect of the maximum number of shares, would result in Nant Capital, LLC holding approximately 28.57% of the issued capital of Benitec (subject to any other shares being issued by Benitec).

It is intended that the capital raised will be used for the purpose of the proposed scientific collaboration between Benitec and NantWorks in clinical programs and for Benitec's existing programs.

Benitec and NantVentures, through NantWorks and its affiliates, plan to enter into an oncology-focused research and development collaboration agreement in which Benitec would lead clinical development. If it proceeds, it is intended that the collaboration would involve a DNA construct that produces antisense RNA (the clinical asset) sublicensed from NantWorks for the treatment of squamous cell carcinoma associated with head and neck cancer (SCCHN) and the initiation of a ddRNAi program that represents a second generation therapeutic for the treatment of SCCHN. The clinical asset is directed against the validated therapeutic target epidermal growth factor receptor (EGFR) which is upregulated in a number of human cancers including SCCHN.

If it proceeds, Benitec would sublicense the clinical asset from NantWorks to complete a follow-on clinical trial. This trial may encompass a Phase II/III study in which the clinical asset would be coupled with Erbitux for treating patients. The ddRNAi program will be a second generation therapeutic for the treatment of SCCHN. The ability to use ddRNAi may provide the ability to target patients with the vIII variant of EGFR, which can comprise up to 40% of the patients with malignant lesions. Benitec has modelled entry into the clinic for a Phase I/IIa study at the end of CY 4Q 2018, assuming a CY 1Q 2017 start date. Benitec would be the sponsor on record.

Benitec will work with scientists, clinicians and consultants at NantWorks and its affiliates to finalize a research and development plan and budget with a targeted date for execution of an associated collaboration agreement of 30 December 2016. Benitec intends to fund the development plan in large part from equity issuances to Nant Capital, LLC and potentially other investors, for which approvals are sought in Resolutions 6 and 8 respectively.

The proposed scientific collaboration with NantWorks and its affiliates is subject to the execution of a definitive agreement (**Collaboration Agreement**). There can be no assurance that a Collaboration Agreement will be entered into or as to the terms of any such agreement.

### ***Details of the two tranche equity investment***

The equity investment by Nant Capital, LLC is intended to be completed in two equal tranches.

A first tranche of 29,305,819 shares (**First Tranche**) at an issue price of A\$0.0895 per share was completed on 24 October 2016. The First Tranche represented 19.99% of the pre-issue issued capital of the Company, and was undertaken within the Company's allowable placement capacity under ASX Listing Rules 7.1 and 7.1A without the need for shareholder approval. The First Tranche shares currently represent approximately 16.67% of the Company's post-issue issued capital.

A second tranche of up to an additional 29,305,819 shares (**Second Tranche**). The Second Tranche would also represent 19.99% of the issued capital of the Company prior to the issue of the First Tranche, but is conditional upon receiving shareholder approval. The Second Tranche shares will, if issued, represent 14.28% of the Company's issued capital post the issue of the First Tranche shares, and together with the First Tranche will give Nant Capital, LLC a total holding of up to 28.57% in the Company. These percentages do not account for the possible issue of additional shares under the proposed placement to a number of institutional and sophisticated investors (**Broader Placement**) referred to in Resolution 8, which would (if completed) dilute the percentage holding of Nant Capital, LLC.

The Second Tranche can be completed in one of two ways, depending if the Collaboration Agreement is signed prior to 20 February 2017. If the Collaboration Agreement is finalised, it will include an agreed budgeted amount for funding the clinical and preclinical studies (**Scientific Collaboration Cost**).

If the Collaboration Agreement is signed, then:

- if the Company conducts the Broader Placement, either Benitec or Nant Capital, LLC may require Nant Capital, LLC to participate in the Broader Placement at the same issue price as the other investors, being a minimum of 80% of the market price of the Company's shares at the time of issue (calculated on a 5 trading day VWAP basis on ASX), or
- if the Company does not conduct the Broader Placement by 20 February 2017 (or if neither party required that Nant Capital, LLC participate in the Broader Placement), then the Company may by 27 February 2017 require Nant Capital, LLC to complete an individual placement of the Second Tranche shares. In this case, the issue price of the Second Tranche shares will be equal to the VWAP of the Company's shares on ASX for the 7 trading days immediately prior to the Company giving the notice to Nant Capital, LLC requiring Nant Capital, LLC to complete an individual placement.

Under either scenario, if the total subscription price that would be paid by Nant Capital, LLC for all 29,305,819 Second Tranche shares would exceed the Scientific Collaboration Cost, then the obligation of Nant Capital, LLC to subscribe for Second Tranche shares will be capped at a number of shares that would deliver that amount at the applicable share issue price. However, Nant Capital, LLC may, at its option, subscribe for more Second Tranche shares up to the full 29,305,819 shares. In no circumstance can Nant Capital, LLC subscribe for more than the maximum 29,305,819 Second Tranche shares, even if the total issue price would not meet the Scientific Collaboration Cost.

If the Collaboration Agreement is not signed by 20 February 2017, then:

- if the Company conducts the Broader Placement, Nant Capital, LLC may at its option elect to participate in the Broader Placement for some or all of the maximum 29,305,819 Second Tranche shares at the same issue price as the other investors, being a minimum of 80% of the market price of the Company's shares at the time of issue (calculated on a 5 trading day VWAP basis on ASX), or
- if the Company does not conduct the Broader Placement by 20 February 2017, then the Company may invite Nant Capital, LLC to subscribe in an individual placement for up to the 29,305,819 Second Tranche shares. However, Nant Capital, LLC is not obliged to subscribe, and may at its option elect to subscribe for some or all of those shares. In that case, the issue price will be the VWAP of the Company's shares on ASX for the 7 trading days immediately prior to the Company giving the notice to Nant Capital, LLC inviting Nant Capital, LLC to subscribe in an individual placement.

### ***Use of funds raised***

The funds raised by the placement are intended to be used by the Company for the purpose of the proposed scientific collaboration with NantWorks in clinical programs and for Benitec's existing programs (including possible early stage clinical studies and for the extension of Benitec's technology platform).

### ***Overview of the need for shareholder approval***

Shareholder approval is being sought for two purposes:

- to ratify the issue of the First Tranche for the purposes of ASX Listing Rule 7.4, so that these shares will not reduce the Company's ability to issue further shares under ASX Listing Rules 7.1 and 7.1A in the future; and
- to approve the issue of the Second Tranche for the purposes of section 611 item 7 of the Corporations Act. This approval is necessary because the issue of the Second Tranche will cause Nant Capital, LLC's holding to exceed 20%. If approval is obtained for this purpose, then the Second Tranche share issue will also not reduce the Company's ability to issue further shares under ASX Listing Rules 7.1 and 7.1A in the future.

For the purpose of the section 611 item 7 approval, the Company commissioned an Independent Expert's Report (IER) from BDO Corporate Finance (QLD) Ltd. A copy of the IER is attached as Annexure B. You should read the IER in full before deciding how to vote.

The independent expert's conclusion is that the issue of the Second Tranche shares is **not fair but reasonable** to shareholders other than Nant Capital, LLC and its associates.

In reaching the conclusion that the issue of the Second Tranche shares is **not fair but reasonable**, the independent expert noted that:

- both methods for setting the share price under the Proposed Placement have reference to market prices. Given that market prices are typically reflective of minority trading values, in its view there is limited opportunity for Nant to be paying a price inclusive of a control premium under the Proposed Placement. and
- in its view it is not possible to complete a more definitive valuation analysis at the date of IER as the issue price for shares under the Second Tranche is not known.

However, as set out in section 2.2 of the IER, the advantages and disadvantages of the issue of the Second Tranche shares are as follows:

Advantages	Disadvantages
<ul style="list-style-type: none"><li>■ The Proposed Placement* is the best proposal available at the current time to fund and progress the Company's current programs in the short term. The Company advises that it has no superior alternative proposal and needs to secure additional capital in supporting further development of its ddRNAi technology;</li><li>■ Nant as a cornerstone investor are expected to bring their industry experience and networks to the future developments of Benitec's programs;</li><li>■ The Proposed Placement* provides equity funding without the debt servicing implicit in hybrid or debt instruments;</li><li>■ With Nant as a cornerstone investor, the Proposed Placement* may increase market awareness of Benitec within the US markets and provide access to further funding; and</li><li>■ The Proposed Placement* will still allow Benitec's shareholders to collectively retain control of the Company.</li></ul>	<ul style="list-style-type: none"><li>■ The Proposed Placement* is not fair;</li><li>■ The Proposed Placement* dilutes Benitec shareholders' interests;</li><li>■ The Proposed Placement* introduces the ability for Nant to block a special resolution; and</li><li>■ The Proposed Placement* may potentially allow for a significant number of Benitec's shares to be sold on the open market. This may place downward pressure on the share trading price of Benitec shares if the increased supply of Benitec shares sufficiently outweighs the demand for Benitec shares.</li></ul>

\* The references in the above table to the Proposed Placement is a reference to the issue of the Second Tranche shares.

Further, the independent expert noted in section 2.2 of the IER that:

1. in broad terms, the pricing mechanism for the issue of the Second Tranche shares has been designed such that the price that shares will be issued at is based on prevailing market prices at the relevant time; and
2. if the issue of the Second Tranche shares is not approved then the potential position of Benitec shareholders may include the following:
  - Benitec shareholders will continue to own 100% of the Company;
  - Benitec will be required to seek other avenues to utilise its ddRNAi technology within the remaining patent life;
  - Benitec will require alternative capital raisings to support the development of its in-house programs;
  - Benitec will not be able to recover the costs incurred in relation to the Second Tranche; and
  - the share price of Benitec may differ materially from the share price in the period following the announcement of the Second Tranche.

After considering the advantages, disadvantages and other considerations relevant to the issue of the Second Tranche shares, the independent expert concluded that, in its view and in the absence of any other information, the issue of the Second Tranche shares is **not fair but reasonable**.

Further details on these approvals are below.

#### ***Resolution 5 - ratification of First Tranche issue***

ASX Listing Rule 7.1 provides that a listed company must not, without prior approval of its shareholders, issue securities if the number of securities issued, or when aggregated with the number of securities issued by the company during the previous 12 months, exceed 15% of the number of securities on issue at the commencement of that 12 month period.

ASX Listing Rule 7.4 provides that an issue of securities made by a listed company without the prior approval of its shareholders may be treated as having been made with shareholder approval if:

- at the time the issue took place, it did not breach ASX Listing Rule 7.1; and
- the shareholders of the company, in general meeting, subsequently ratify the issue of the shares.

Accordingly, as the issue to Nant Capital, LLC was made in accordance with ASX Listing Rule 7.1, Resolution 5 is proposed for the purpose of ratifying the issue of the 29,305,819 fully paid ordinary shares and thereby permitting the Company to issue Shares without the issue interfering with, or restricting, the ability of the Company to issue securities up to the 15% limit in any subsequent 12 month period.

Information required by ASX Listing Rule 7.5 is set out above, namely:

- the number and issue price of the shares,
- the terms of the securities (being fully paid ordinary shares),
- the name of the person to whom the shares were issued, and
- the intended use of the funds raised.

#### ***Resolution 6 - approval of Second Tranche issue***

Resolution 6 is required because the Second Tranche, if issued, would result in Nant Capital, LLC and certain other parties detailed below acquiring voting power in the Company's shares of more than 20%.

Section 606(1) of the Corporations Act prohibits a person from acquiring shares in a company if, after that acquisition, that person or any other person would have a relevant interest or voting power in excess of 20% of the voting shares in that company unless an exception applies. An exception in item 7 of section 611 provides that section 606(1) of the Corporations Act does not prohibit an acquisition of a relevant interest in the voting shares of a company if the company has agreed to the acquisition by resolution passed at a general meeting, at which no votes are cast in relation to the resolution by the person to whom the shares are to be issued or by an associate of that person.

For the approval to be validly given, certain information must be provided to shareholders. This Explanatory Memorandum contains the necessary information about the proposed Second Tranche share issue, and Nant Capital, LLC has provided the information below about it and its associates, and its intentions. The Company does not take responsibility for the information provided by Nant Capital, LLC

In addition, the IER in Annexure B provides an opinion to shareholders regarding the proposed share issue. The independent expert has concluded that the issue of the Second Tranche shares is **not fair but reasonable** to shareholders other than Nant Capital, LLC and its associates.

If approval is given, it is intended that the Second Tranche share issue will complete within 3 months of the date of this meeting.

#### ***Effect of the Second Tranche share issue on Nant Capital, LLC voting power***

The Company current has on issue 175,834,915 fully paid ordinary shares, and 36,366,203 options over unissued shares.

The effect on the voting power of Nant Capital, LLC and its associates listed below if the Second Tranche is issued is as follows, assuming none of the options are exercised. No options are held by Nant Capital, LLC or its associates, and accordingly an exercise of options would dilute the voting power of Nant Capital, LLC.

	Number of shares held by Nant Capital, LLC	Total Benitec shares on issue	Voting power (%)
Current position (First Tranche issued)	29,305,819	175,834,915	16.67%
After Second Tranche issue (if no other shares issued in Broader Placement)	58,611,638	205,140,734	28.57%
If Nant Capital, LLC acquires Second Tranche as part of full Broader Placement	58,611,638	235,834,915	24.85%
If Second Tranche issued, and full Broader Placement is issued to investors other than Nant Capital, LLC	58,611,638	265,140,734	22.11%

**Information about Nant Capital, LLC and its associates**

Nant Capital, LLC is a limited liability company organised under the laws of the State of Delaware. The sole member of Nant Capital, LLC is California Capital Equity, LLC, a limited liability company organised under the laws of the State of Delaware. Dr. Patrick Soon-Shiong, a natural person and citizen of the United States, is the sole member of California Capital Equity, LLC. As California Capital Equity, LLC is the sole member of Nant Capital, LLC, it has control of Nant Capital, LLC. As Dr. Soon-Shiong is the sole member of California Capital Equity, LLC, he is therefore considered to control California Capital Equity, LLC and each entity directly or indirectly controlled by California Capital Equity, LLC (including Nant Capital, LLC.) Dr. Soon-Shiong is also the ultimate controller of various other entities in the NantWorks group, none of which are directly or indirectly involved in this investment or collaboration.

The principal business of both Nant Capital, LLC and California Capital Equity, LLC is investment. The ultimate controller of Nant Capital, LLC, Dr. Patrick Soon-Shiong, is the Founder and Chairman of NantVentures. NantVentures funds transformative ideas and technologies that enable enduring improvements in human life with a primary focus on healthcare, life sciences, medical diagnostics, mobile technology, semi-conductors, nano-optics, artificial intelligence, cloud computing, alternative energy and scientific innovations that are on the bleeding edge of biology, chemistry, and physics. Capital investments in private and public entities range from single digit to multimillion dollar commitments. Dr. Patrick Soon-Shiong is a physician, surgeon and scientist, who has pioneered novel therapies for both diabetes and cancer, published over 100 scientific papers, and has over 95 issued patents on groundbreaking advancements spanning myriad fields. From 1997 to 2010 Dr. Soon-Shiong has served as founder, Chairman and CEO of two global pharmaceutical companies, American Pharmaceutical Partners and Abraxis BioScience. Both were acquired for multi-billion dollars in 2008 and 2010, respectively. In 2011 he founded NantWorks, an ecosystem of companies to create a transformative global health information and next generation pharmaceutical development network, for the secure sharing of genetic and medical information - empowering doctors to treat patients with proven precision at the first point of care and, ultimately, improving the lives of individuals, everywhere.

Dr Jerel Banks, Nant Capital LLC's nominated person on the Company's Board of directors, does not have a relevant interest in the shares held by Nant Capital, LLC and is not otherwise associated with Nant Capital LLC (other than through his role as Chief Investment Officer of NantVentures). Dr. Banks may be compensated by

Nant Capital, LLC based on the performance on Benitec's shares.

No other director of the Company is an associate of Nant Capital, LLC, nor holds a relevant interest in any shares in the Company in which Nant Capital, LLC has a relevant interest.

***Intentions of Nant Capital, LLC if the Second Tranche is approved***

The present intentions of Nant Capital, LLC regarding the future of the Company if shareholders approve the issue of the Second Tranche shares are, except as set out below or elsewhere in this Explanatory Memorandum, not to:

- make any material changes to the business of the Company;
- inject further capital into the Company, except through possible subscription to a private placement associated with some proportion of the shares authorized for purchase in the Second Tranche;
- make any material changes to the future employment of present employees of the Company;
- transfer assets between the Company and it or its associates;
- otherwise redeploy the fixed assets of the Company; or
- significantly change the financial or dividend distribution policies of the Company.

Nant Capital, LLC does intend to support the election and re-election of a nominated person on the Board of the Company. At the present time, such person is Dr Jerel Banks (see Resolution 7).

***Recommendation***

The directors (other than Dr. Banks, who abstains by reason of his connection with Nant Capital, LLC) unanimously recommend that Shareholders vote in favour of Resolutions 5 and 6.

**Resolution 7: Election of Director – Dr Jerel Banks**

Dr. Banks is a director nominated by Nant Capital, LLC and was appointed by the directors of the Company since the 2015 AGM following completion of the first tranche placement to Nant Capital, LLC as described above. Dr Banks retires in accordance with the Constitution of the Company and being eligible, offers himself for re-election as a director of the Company.

Jerel A. Banks, M.D., Ph.D. has been a director since October 26, 2016. Dr. Banks is the Chief Investment Officer of Nant Capital, LLC. Prior to joining Nant Capital, LLC, Dr. Banks served as vice president, portfolio manager and research analyst for the Franklin Biotechnology Discovery Fund at Franklin Templeton Investments from 2012 to 2015. During his time as portfolio manager and research analyst the assets under management for the Franklin Biotechnology Discovery Fund reached \$5 Billion (USD). Prior to his tenure at Franklin Templeton Investments, he worked as a biotechnology equity research analyst at Sectoral Asset Management from 2011-2012. Sectoral Asset Management, a healthcare-focused global investment management company, managed a family of investment portfolios with total assets under management of \$3 Billion (USD). From 2008-2011, Jerel worked as a biotechnology equity research analyst at Apothecary Capital, the healthcare investment management team for the family investment office of the Bass Family of Fort Worth, Texas. Jerel began his career in investment management as a healthcare equity research associate at Capital Research Company, and he was a member of the equity research team from 2006-2008. Capital Research Company is the investment management company for the American Funds family of Mutual funds, and the assets under management exceed \$1 Trillion (USD). Dr. Banks earned an M.D. from the Brown University School of Medicine and a Ph.D. in Organic Chemistry from Brown University, and he holds an A.B. in Chemistry from Princeton University.

**Resolution 8: Approval of Broader Placement to new institutional and sophisticated investors**

The Company proposes undertaking a Broader Placement to a number of institutional and sophisticated investors, to be completed by 1 March 2017.

The Broader Placement will be for up to 60 million shares, which represents approximately 34% of the Company's current issued capital (taking account of the First Tranche shares having already been issued to Nant Capital, LLC).

### ***The need for shareholder approval***

ASX Listing Rule 7.1 provides that a listed company must not, without prior approval of its shareholders, issue securities if the number of securities issued, or when aggregated with the number of securities issued by the company during the previous 12 months, exceed 15% of the number of securities on issue at the commencement of that 12 month period.

The purpose of seeking shareholder approval of the issue of shares in this resolution is to ensure that the proposed issue of shares as described below does not reduce the Company's future placement capacity under the ASX Listing Rules.

ASX Listing Rule 7.3 requires the following information concerning the proposed issue.

### ***Maximum number of shares to be issued***

Up to 60,000,000 fully paid ordinary shares may be issued under the Broader Placement. If Nant Capital, LLC participates in the Broader Placement, then the number of Second Tranche shares which are allocated to Nant Capital, LLC will be included as part of the total 60,000,000 shares in the Broader Placement.

### ***The issue price of the shares and the date of issue***

The proposed issue price of the Broader Placement shares will be a minimum of 80% of the 5 trading day VWAP of the Company's shares on ASX up to the date of issue of the shares. The issue price may be higher than this minimum level.

The Broader Placement shares will be issued no later than 3 months after the date of the meeting. It is expected that all shares in the Broader Placement will be issued on or about the same date.

### ***Identity of investors***

The potential investors in the Broader Placement have not yet been identified by the Company. However, as noted above, it is possible the investors will include Nant Capital, LLC. The other potential investors are likely to be introduced to the Company by brokers or other intermediaries which the Company may engage for this purpose.

The new investors will not include any director of the Company, or any of their respective associates.

### ***Terms of the securities***

The placement shares to be issued will be fully paid ordinary shares which rank equally with all other existing ordinary shares from the date of issue.

### ***Intended use of funds raised***

The funds raised by the placement are intended to be used by the Company for the purpose of the proposed scientific collaboration with NantWorks in clinical programs, and for Benitec's existing programs (including possible early stage clinical studies and for the extension of Benitec's technology platform).

### ***Effect of Shareholder approval***

If approved, this Resolution will result in the approval of the issue of a total of up to 60 million shares and will mean the shares issued are not counted towards the 15% limit under ASX Listing Rule 7.1. If the Second Tranche shares to be issued to Nant Capital, LLC are part of the Broader Placement, then the 60 million shares will include the 29,305,819 Second Tranche shares. However, if the Company gives notice to Nant Capital, LLC under the Share Subscription Agreement as described above then the 60 million Broader Placement shares will be in addition to the 29,305,819 Second Tranche shares.

***Recommendation***

The directors unanimously recommend that Shareholders vote in favour of Resolution 7.

## ANNEXURE A

### Resolution 4

Issues of equity securities by the Company under the Previous Approvals and other issues of equity securities during the 12 month period preceding the date of the Meeting (ASX Listing Rule 7.3A.6(b))

<b>Issue date</b>	<b>Number</b>	<b>Details</b>	<b>Class and terms</b>	<b>Recipients</b>	<b>Issue price per share</b>	<b>Consideration</b>	<b>- Discount / + Premium*</b>	<b>% relative to Total Capital**</b>
24 December 2015	6,720,000	Issued pursuant to the Company's Director and Officer Option Plan	Unlisted options to acquire ordinary shares in the capital of the Company having an exercise price of \$0.77 per share and an expiry date of 12 November 2020	Peter Francis 1.4 m Kevin Buchi 840,000 John Chiplin 840,000 Iain Ross 840,000 Peter French 2.8m	N/A	Nil	N/A	3.8%
24 December 2015	1,500,000	Issued to Maxim Group for part consideration for services rendered as lead manager for the Company's NASDAQ listing	Unlisted options (that were converted into 75,000 listed NASDAQ Warrants) to acquire ordinary shares at US\$0.275 with an expiry date of 21 August 2020 (being US\$5.50 per NASDAQ BNTCW warrant representing 20 options for each warrant)	Maxim Group	N/A	\$750 and services rendered	N/A	0.8%
10 August 2016	2,200,000	Issued pursuant to the Company's Director and Officer Option Plan	Unlisted options to acquire fully paid shares At \$0.1665 on or before 10 August 2021	Mr G West	N/A	Nil	N/A	1.2%
24 October 2016	29,305,819		Fully paid ordinary	Nant Capital, LLC	\$0.0895 per share	Cash	The shares were priced at a 7 trading day VWAP up	16.22%

<b>Issue date</b>	<b>Number</b>	<b>Details</b>	<b>Class and terms</b>	<b>Recipients</b>	<b>Issue price per share</b>	<b>Consideration</b>	<b>- Discount / + Premium* to the trading day prior to the issued date</b>	<b>% relative to Total Capital**</b>

\* To the trading price of fully paid ordinary shares at the time of issue.

\*\* As at time of issue.

**ANNEXURE B**

**Independent Expert's Report for Resolution 6**