



6 October 2023  
Ms Melissa Kostopoulos  
Senior Adviser, Listings Compliance (Melbourne)  
Rialto, South Tower  
Level 50  
525 Collins Street  
Melbourne VIC 3000

By email: ListingsComplianceMelbourne@asx.com.au

Dear Ms Kostopoulos

**Noxopharm Limited (“NOX”): Aware Query. Reference 81302 dated 5 October 2023**

Noxopharm Limited (ASX: NOX) (“Noxopharm” or the “Company”) refers to your Aware Query letter dated 5 October 2023 (“Aware Letter”) and provides the following responses, with the noted terms as defined in the Aware Letter:

**1. Does NOX 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?**

In respect of question 1.1: Yes, NOX considers this to be information that a reasonable person would expect to have a material effect on the price or value of its securities.

NOX notes the following timeline of ASX announcements:

- 8.32am AEST Thursday 28 September 2023: NOX releases announcement titled “Latest CRO-67 data shows success in reducing cancer growth”;
- 1.21pm AEDT / 1.32pm AEDT Tuesday 3 October 2023: ASX places NOX in “Pause in Trading” / “Trading Halt” following immediate trading halt request from NOX sent at 1.12pm AEDT; and
- 9.12am AEDT Wednesday 4 October 2023: NOX releases announcement titled “US FDA grants Orphan Drug Designation for CRO-67”.

NOX notes the following timeline of share price movements:

- Closing share price Wednesday 27 September 2023: \$0.038;
- Share price trading range on Thursday 28 September 2023: \$0.039 - \$0.043, closing at \$0.042;
- Share price trading range on Tuesday 3 October 2023, between 10.00am AEDT and 12.01pm AEDT: \$0.043 - \$0.059, closing at \$0.058;

- Share price trading range on Tuesday 3 October 2023, between 12.02pm AEDT and 1.21pm AEDT: \$0.054 - \$0.062, closing at \$0.062; and
- Share price trading range on Wednesday 4 October 2023: \$0.098 - \$0.165, closing at \$0.100.

This is reflected by NOX marking the applicable ASX release as price sensitive and the resultant increase following the announcement of the applicable ASX release with the shares trading from \$0.062 prior to the ASX release to a closing share price of \$0.100 (a 61.3% increase) on the day of the ASX release, and an inter-day high on the day of the ASX release of \$0.165 (a 166.1% increase).

**2. If the answer to question 1 is “no”, please advise the basis for that view.**

In respect of question 1: Not applicable.

**3. When did NOX first become aware of the Information.**

As is industry standard for small biotech companies, NOX undertook its US FDA application for Orphan Drug Designation for CRO-67 (“Application”) through an independent outside regulatory consultant (“Regulatory Consultant”).

The Regulatory Consultant, amongst other things, assisted in completing and lodging the Application in June 2023, and is the sole method of communication between NOX and the FDA in respect of the status and outcome of the Application.

The Regulatory Consultant advised NOX of the outcome of the Application by email at 12.04pm AEDT Tuesday 3 October 2023. This is the time when the Company first became aware of the Information.

**4. If the answer to question 1 is “yes” and NOX first became aware of the Information prior to or during the morning (AEDT) of 3 October 2023, please explain why the Information was not released to the market at an earlier time, commenting specifically on when you believe NOX was obliged to release the Information under Listing Rules 3.1 and 3.1A and what steps NOX took to ensure that the information was released promptly and without delay.**

Not applicable as NOX did not become aware of the Information until 12.04pm AEDT Tuesday 3 October 2023.

**5. Please confirm that NOX is complying 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.

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

The Company confirms that this response has been authorised and approved by Dr Gisela Mautner, Managing Director, having delegated authority from the Board to respond to ASX on disclosure matters.

**-ENDS-**

---

### **About Noxopharm**

Noxopharm Limited (ASX:NOX) is an innovative Australian biotech company discovering and developing novel treatments for cancer and inflammation, including a pioneering technology to enhance mRNA vaccines.

The company utilises specialist in-house capabilities and strategic partnerships with leading researchers to build a growing pipeline of new proprietary drugs based on two technology platforms – Chroma™ (oncology) and Sofra™ (inflammation, autoimmunity, and mRNA vaccine enhancement).

Noxopharm also has a major shareholding in US biotech company Nyrada Inc (ASX:NYR), which focuses on drug development for cardiovascular and neurological diseases.

To learn more, please visit: [noxopharm.com](http://noxopharm.com)

**Investor, Corporate & Media enquiries:**

Julian Elliott

M: 0425 840 071

E: [julian.elliott@noxopharm.com](mailto:julian.elliott@noxopharm.com)

**Company Secretary:**

David Franks

T: +61 2 8072 1400

E: [David.Franks@automicgroup.com.au](mailto:David.Franks@automicgroup.com.au)

*Dr Gisela Mautner, CEO and Managing Director of Noxopharm, has approved the release of this document to the market on behalf of the Board of Directors.*

---

### **Forward Looking Statements**

This announcement may contain forward-looking statements. You can identify these statements by the fact they use words such as “aim”, “anticipate”, “assume”, “believe”, “continue”, “could”, “estimate”, “expect”, “intend”, “may”, “plan”, “predict”, “project”, “plan”, “should”, “target”, “will” or “would” or the negative of such terms or other similar expressions. Forward-looking statements are based on estimates, projections and assumptions made by Noxopharm about circumstances and events that have not yet taken place. Although Noxopharm believes the forward-looking statements to be reasonable, they are not certain. Forward-looking statements involve known and unknown risks, uncertainties and other factors that are in some cases beyond the Company's control (including but not limited to the COVID-19 pandemic) that could cause the actual results, performance or achievements to differ materially from those expressed or implied by the forward-looking statement.



5 October 2023

Reference: 81302

Mr David Franks  
Company Secretary  
Noxopharm Limited  
Level 5, 126 Phillips Street  
Sydney, NSW 2000

By email: David.Franks@automicgroup.com.au

Dear Mr Franks

### **Noxopharm Limited ('NOX'): Aware Query**

ASX Limited ('ASX') refers to the following:

- A. The change in the price of NOX's securities from a closing price of \$0.042 on Monday 2 October 2023 to a high of \$0.062 on Tuesday 3 October 2023, together with the very significant increase in the volume of NOX's securities traded on Tuesday 3 October 2023.
- B. NOX's request for a trading halt released on the ASX Market Announcements Platform ('MAP') together with ASX's market announcement regarding the trading halt at 1:32pm AEDT on 3 October 2023. The trading halt request was stated to be *'...pending an announcement by the Company to the market regarding the determination of the designation by FDA for pancreatic cancer drug candidate CRO-67.'*
- C. NOX's announcement entitled 'US FDA grants Orphan Drug Designation for CRO-67' released on MAP on 4 October 2023 (the 'Announcement'), which disclosed the information set out below (the 'Information'):

*'...the US Food and Drug Administration has granted Orphan Drug Designation (ODD) status to Noxopharm's CRO-67 preclinical drug candidate, for the treatment of pancreatic cancer.*

*CRO-67's designation as an orphan drug supports the company's development plan for the asset, and its future commercial value, as Noxopharm continues to build the data package that will be required for regulatory progression.'*

ASX notes that the Announcement was marked as 'market sensitive' when it was lodged by NOX.

- D. 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.
- E. 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.'*
- F. 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.'*

G. 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 NOX to respond separately to each of the following questions and requests for information:

1. Does NOX 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.
3. When did NOX first become aware of the Information?
4. If the answer to question 1 is 'yes' and NOX first became aware of the Information prior to or during the morning (AEDT) of 3 October 2023, please explain why the Information was not released to the market at an earlier time, commenting specifically on when you believe NOX was obliged to release the Information under Listing Rules 3.1 and 3.1A and what steps NOX took to ensure that the Information was released promptly and without delay.
5. Please confirm that NOX is complying with the Listing Rules and, in particular, Listing Rule 3.1.
6. Please confirm that NOX'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 NOX 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 **9:30 AM AEDT Tuesday, 10 October 2023**. You should note that if the information requested by this letter is information required to be given to ASX under Listing Rule 3.1 and it does not fall within the exceptions mentioned in Listing Rule 3.1A, NOX'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 NOX to request a trading halt immediately.

---

Your response should be sent to me by e-mail at [ListingsComplianceMelbourne@asx.com.au](mailto:ListingsComplianceMelbourne@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 NOX's securities under Listing Rule 17.1. If you wish a trading halt, you must tell us:

- the reasons for the trading halt;
- how long you want the trading halt to last;
- the event you expect to happen that will end the trading halt;
- that you are not aware of any reason why the trading halt should not be granted; and
- any other information necessary to inform the market about the trading halt, or that we ask for.

We require the request for a trading halt to be in writing. The trading halt cannot extend past the commencement of normal trading on the second day after the day on which it is granted. You can find further information about trading halts in Guidance Note 16 *Trading Halts & Voluntary Suspensions*.

### **Suspension**

If you are unable to respond to this letter by the time specified above, ASX will likely suspend trading in NOX's securities under Listing Rule 17.3.

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

In responding to this letter, you should have regard to NOX'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 NOX's obligation to disclose information under Listing Rule 3.1 is not confined to, nor is it necessarily satisfied by, answering the questions set out in this letter.

### **Release of correspondence between ASX and entity**

ASX reserves the right to release all or any part of this letter, your reply and any other related correspondence between us to the market under Listing Rule 18.7A.

### **Questions**

If you have any questions in relation to the above, please do not hesitate to contact me.

Regards

---

**Melissa Kostopoulos**  
Senior Adviser, Listings Compliance