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**UNITED STATES  
SECURITIES AND EXCHANGE COMMISSION**  
Washington, D.C. 20549

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**FORM 8-K**

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**CURRENT REPORT**  
**Pursuant to Section 13 or 15(d)**  
**of the Securities Exchange Act of 1934**

**Date of Report (Date of earliest event reported): July 25, 2023**

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**BENITEC BIOPHARMA INC.**

(Exact name of registrant as specified in its charter)

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**Delaware**  
(State or Other Jurisdiction  
of Incorporation)

**001-39267**  
(Commission  
File Number)

**84-4620206**  
(IRS Employer  
Identification No.)

**3940 Trust Way, Hayward, California**  
(Address of Principal Executive Offices)

**94545**  
(Zip Code)

**Registrant's Telephone Number, Including Area Code:(510) 780-0819**

**(Former Name or Former Address, if Changed Since Last Report): Not Applicable**

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Check the appropriate box below if the Form 8-K filing is intended to simultaneously satisfy the filing obligation of the registrant under any of the following provisions:

- Written communications pursuant to Rule 425 under the Securities Act (17 CFR 230.425)
- Soliciting material pursuant to Rule 14a-12 under the Exchange Act (17 CFR 240.14a-12)
- Pre-commencement communications pursuant to Rule 14d-2(b) under the Exchange Act (17 CFR 240.14d-2(b))
- Pre-commencement communications pursuant to Rule 13e-4(c) under the Exchange Act (17 CFR 240.13e-4(c))

Securities registered pursuant to Section 12(b) of the Act:

Title of each class	Trading Symbol(s)	Name of each exchange on which registered
Common Stock, par value \$0.0001	BNTC	The Nasdaq Stock Market LLC

Indicate by check mark whether the registrant is an emerging growth company as defined in Rule 405 of the Securities Act of 1933 (§230.405 of this chapter) or Rule 12b-2 of the Securities Exchange Act of 1934 (§240.12b-2 of this chapter)

Emerging Growth Company

If an emerging growth company, indicate by check mark if the registrant has elected not to use the extended transition period for complying with any new or revised financial accounting standards provided pursuant to Section 13(a) of the Exchange Act.

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**Item 3.03 Material Modification to Rights of Security Holders.**

To the extent required by Item 3.03 of Form 8-K, the information regarding the Reverse Stock Split (as defined below) contained in Item 5.03 of this Current Report on Form 8-K is incorporated by reference herein.

**Item 5.03 Amendments to Articles of Incorporation or Bylaws; Change in Fiscal Year.**

On July 25, 2023, Benitec Biopharma Inc. (the “Company”) filed a Certificate of Amendment to the Company’s Amended and Restated Certificate of Incorporation, as amended, with the Secretary of State of the State of Delaware (the “Certificate of Amendment”), which will effect, at 12:01 a.m. Eastern Time, on July 26, 2023 (the “Effective Time”), a 1-for-17 reverse stock split (the “Reverse Stock Split”) of the Company’s issued and outstanding shares of common stock, par value \$0.0001 per share (the “Common Stock”). In connection with the Reverse Stock Split, the CUSIP number for the Common Stock will change to 08205P209. The trading symbol for the Common Stock will remain “BNTC.”

Subject to The Nasdaq Capital Market (“Nasdaq” or the “Exchange”) approval, the Company anticipates that the Common Stock will begin trading on Nasdaq on a Reverse Stock Split-adjusted basis when the market opens on July 26, 2023.

As a result of the Reverse Stock Split, every 17 shares of Common Stock issued and outstanding will be converted into one share of Common Stock. The Reverse Stock Split will affect all stockholders uniformly and will not alter any stockholder’s percentage interest in the Company’s equity, except to the extent that the Reverse Stock Split would have resulted in some stockholders owning a fractional share. No fractional shares will be issued in connection with the Reverse Stock Split, and in lieu of any fractional shares to which a stockholder of record would otherwise be entitled as a result of the Reverse Stock Split, the Company will round up to the nearest whole number of shares to which a stockholder will be entitled.

The Reverse Stock Split will not change the par value of the Common Stock or the authorized number of shares of Common Stock. All outstanding securities entitling their holders to purchase shares of Common Stock or acquire shares of Common Stock, including issued and outstanding stock options, pre-funded warrants and warrants, will be adjusted as a result of the Reverse Stock Split, as required by the terms of those securities.

At the annual meeting of stockholders held on December 7, 2022, the Company’s stockholders granted the Company’s Board of Directors (the “Board”) the discretion to effect the Reverse Stock Split at a ratio of not less than 1-for-5 and not more than 1-for-20, with such exact ratio to be determined by the Board without further approval or authorization of the Company’s stockholders. On July 24, 2023, the Board approved and authorized the filing of the Certificate of Amendment to effect the Reverse Stock Split.

The Company’s transfer agent and registrar and warrant agent, Computershare Trust Company, N.A., is acting as the exchange agent for the Reverse Stock Split. Registered stockholders holding pre-split shares of the Company’s Common Stock electronically in book-entry form are not required to take any action to receive post-split shares. Stockholders owning shares via a broker, bank, trust or other nominee will have their positions automatically adjusted to reflect the Reverse Stock Split, subject to such broker’s particular processes, and will not be required to take any action in connection with the Reverse Stock Split.

The foregoing summary of the Certificate of Amendment does not purport to be complete and is subject to, and qualified in its entirety by, such document attached as Exhibit 3.1 to this Current Report on Form 8-K (this “Current Report”), which is incorporated herein by reference.

**Item 7.01 Regulation FD Disclosure.**

On July 25, 2023, the Company issued a press release announcing the Reverse Stock Split. A copy of this press release is attached as Exhibit 99.1 to this Current Report and is incorporated by reference herein to this Item 7.01.

The information included in this Current Report (including Exhibit 99.1 hereto) that is furnished pursuant to this Item 7.01 shall not be deemed to be “filed” for the purposes of Section 18 of the Securities Exchange Act of 1934, as amended (the “Exchange Act”), or otherwise subject to the liabilities of that Section or Sections 11 and 12(a)(2) of the Securities Act of 1933, as amended (the “Securities Act”). In addition, the information included in this Current Report (including Exhibit 99.1 hereto) that is furnished pursuant to this Item 7.01 shall not be incorporated by reference into any filing of the Company, whether made before or after the date hereof, regardless of any general incorporation language in such filing, unless expressly incorporated by specific reference into such filing.

**Item 8.01 Other Events.**

The information provided in Item 5.03 is hereby incorporated by reference.

The Company has registration statements on Form S-1 (File No. 333-266417 and 333-268763) and registration statements on Form S-8 (File No. 333-261874 and 333-253258) on file with the Securities and Exchange Commission (the “Commission”). Commission regulations permit the Company to incorporate by reference future filings made with the Commission pursuant to Sections 13(a), 13(c), 14 or 15(d) of the Exchange Act, prior to the termination of the offerings covered by registration statements filed on Form S-1 or Form S-8. The information incorporated by reference is considered to be part of the prospectus included within each of those registration statements. Information in this Item 8.01 of this Current Report is therefore intended to be automatically incorporated by reference into each of the active registration statements listed above, thereby amending them. Pursuant to Rule 416(b) under the Securities Act, the amount of undistributed shares of Common Stock, including the amount of undistributed shares of Common Stock underlying outstanding pre-funded warrants and warrants, deemed to be covered by the effective registration statements of the Company described above are proportionately reduced as of the Effective Time to give effect to the Reverse Stock Split.

**Item 9.01 Financial Statements and Exhibits.**

(d) Exhibits

<u>Exhibit No.</u>	<u>Description</u>
3.1	<a href="#">Certificate of Amendment to the Amended and Restated Certificate of Incorporation of Benitec Biopharma Inc., dated July 25, 2023</a>
99.1	<a href="#">Press Release of Benitec Biopharma Inc., dated July 25, 2023</a>
104	Cover Page Interactive Data File (embedded within the Inline XBRL document)

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**SIGNATURES**

Pursuant to the requirements of the Securities Exchange Act of 1934, the registrant has duly caused this report to be signed on its behalf by the undersigned, thereunto duly authorized.

**BENITEC BIOPHARMA INC.**

Date: July 25, 2023

/s/ Jerel A. Banks

Name: Jerel A. Banks

Title: Chief Executive Officer

**CERTIFICATE OF AMENDMENT TO  
AMENDED AND RESTATED  
CERTIFICATE OF INCORPORATION  
OF  
BENITEC BIOPHARMA INC.**

The undersigned, being the Chief Executive Officer of Benitec Biopharma Inc., a corporation organized and existing under the laws of the State of Delaware (the "Corporation"), does hereby amend and certify as follows:

1. That the name of the Corporation is Benitec Biopharma Inc., and that the Corporation was originally incorporated pursuant to the Delaware General Corporation Law on November 22, 2019 under the name Benitec Biopharma Inc.

2. That this Certificate of Amendment has been duly adopted by the Board of Directors and stockholders in accordance with the provisions of Section 242 of the Delaware General Corporation Law.

Article IV of the Amended and Restated Certificate of Incorporation is amended and restated to read as follows:

The total number of shares of stock which the Corporation shall have authority to issue is one hundred sixty million (160,000,000) shares, all of which shall be Common Stock with a par value of \$0.0001 per share. Holders of shares of Common Stock shall be entitled to one vote for each share of such stock held on all matters as to which stockholders may be entitled to vote pursuant to the DGCL.

Upon the effectiveness (the "*Effective Time*") of the Certificate of Amendment to effect a reverse stock split (the "*Certificate of Amendment*") pursuant to Section 242 of the DGCL, each seventeen (17) shares of Common Stock issued and outstanding immediately prior to the Effective Time (the "*Old Common Stock*") shall automatically without further action on the part of the Corporation or any holder of Old Common Stock, be reclassified, combined and changed into one (1) fully paid and nonassessable share of Common Stock (the "*New Common Stock*"), subject to the treatment of fractional share interests as described below (the "*reverse stock split*"). From and after the Effective Time, certificates representing the Old Common Stock shall represent the number of shares of New Common Stock into which such Old Common Stock shall have been combined pursuant to the Certificate of Amendment. Holders who otherwise would be entitled to receive fractional share interests of New Common Stock upon the effectiveness of the reverse stock split shall be entitled to receive a whole share of New Common Stock in lieu of any fractional share created as a result of such reverse stock split.

3. That this Certificate of Amendment shall be effective as of 12:01 a.m. Eastern Time on July 26, 2023.

4. Except as set forth in this Certificate of Amendment, the Amended and Restated Certificate of Incorporation, as previously amended, remains in full force and effect.

[SIGNATURE PAGE FOLLOWS]

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**IN WITNESS WHEREOF**, this Certificate of Amendment has been executed by a duly authorized officer of the Corporation on this 25th day of July, 2023.

/s/ Dr. Jerel Banks

Dr. Jerel Banks

*Chief Executive Officer*

**Benitec Biopharma Announces 1-for-17 Reverse Stock Split**  
**Effective July 26, 2023**

**HAYWARD, Calif., July 25, 2023** — Benitec Biopharma Inc. (NASDAQ: BNTC) (“Benitec” or “Company”), a clinical-stage, gene therapy-focused, biotechnology company developing novel genetic medicines based on its proprietary DNA-directed RNA interference (“ddRNAi”) “Silence and Replace” platform, announced today that it will effect a 1-for-17 reverse stock split (“Reverse Stock Split”) of its common stock, par value \$0.0001 per share (“Common Stock”), that will become effective on July 26, 2023, at 12:01 a.m., Eastern Time. Benitec’s Common Stock will continue to trade on The Nasdaq Capital Market (“Nasdaq”) under the existing symbol “BNTC” and will begin trading on a split-adjusted basis when the market opens on July 26, 2023. The new CUSIP number for the Common Stock following the Reverse Stock Split will be 08205P209.

The Reverse Stock Split is primarily intended to bring the Company into compliance with the \$1.00 minimum bid price requirement for maintaining its listing on Nasdaq. There is no guarantee the Company will meet the minimum bid price requirement.

At the annual meeting of stockholders held on December 7, 2022, the Company’s stockholders granted the Company’s Board of Directors (the “Board”) the discretion to effect the Reverse Stock Split at a ratio of not less than 1-for-5 and not more than 1-for-20, with such exact ratio to be determined by the Board without further approval or authorization of the Company’s stockholders. On July 24, 2023, the Board approved a 1-for-17 reverse split ratio, and on July 25, 2023, the Company filed a Certificate of Amendment to its Amended and Restated Certificate of Incorporation to effect the Reverse Stock Split effective July 26, 2023.

The 1-for-17 reverse stock split will automatically combine and convert 17 current shares of the Company’s Common Stock into one issued and outstanding share of Common Stock. Proportional adjustments also will be made to all outstanding securities of the Company entitling their holders to purchase shares of Common Stock or acquire shares of Common Stock, including issued and outstanding stock options, pre-funded warrants and warrants, as a result of the Reverse Stock Split, as required by the terms of those securities. The Reverse Stock Split will not change the par value of the Common Stock nor the authorized number of shares of Common Stock.

No fractional shares will be issued in connection with the Reverse Stock Split. All fractional shares will be rounded up to the nearest whole share. The Reverse Stock Split will affect all stockholders uniformly and will not alter any stockholder’s percentage interest in the Company’s equity (other than as a result of the rounding of shares to the nearest whole share in lieu of issuing fractional shares).

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The Company's transfer agent and registrar and warrant agent, Computershare Trust Company, N.A., will serve as the exchange agent for the Reverse Stock Split. Registered stockholders holding pre-split shares of the Company's Common Stock electronically in book-entry form are not required to take any action to receive post-split shares. Stockholders owning shares via a broker, bank, trust or other nominee will have their positions automatically adjusted to reflect the Reverse Stock Split, subject to such broker's particular processes, and will not be required to take any action in connection with the Reverse Stock Split.

#### **About Benitec Biopharma Inc.**

Benitec Biopharma Inc. ("Benitec" or the "Company") is a clinical-stage biotechnology company focused on the advancement of novel genetic medicines with headquarters in Hayward, California. The proprietary DNA-directed RNA interference "Silence and Replace" platform combines RNA interference, or RNAi, with gene therapy to create medicines that simultaneously facilitate sustained silencing of disease-causing genes and concomitant delivery of wildtype replacement genes following a single administration of the therapeutic construct. The Company is developing Silence and Replace-based therapeutics for chronic and life-threatening human conditions including Oculopharyngeal Muscular Dystrophy (OPMD). A comprehensive overview of the Company can be found on Benitec's website at [www.benitec.com](http://www.benitec.com).

#### **Cautionary Note Concerning Forward-Looking Statements**

Except for the historical information set forth herein, the matters set forth in this press release include forward-looking statements, including statements regarding how Benitec's stock will perform after the Reverse Stock Split, Benitec's ability to timely implement the Reverse Stock Split, the success of the Reverse Stock Split, Benitec's ability to regain compliance with the Nasdaq listing standards, Benitec's plans to develop and commercialize its product candidates, the timing of the initiation and completion of pre-clinical and clinical trials, the timing of patient enrollment and dosing in clinical trials, the timing of expected regulatory filings, the clinical utility and potential attributes and benefits of ddrRNAi and Benitec's product candidates, potential future out-licenses and collaborations, the intellectual property position and the ability to procure additional sources of financing, and other forward-looking statements.

These forward-looking statements are based on the Company's current expectations and subject to risks and uncertainties that may cause actual results to differ materially, including unanticipated developments in and risks related to: unanticipated delays; further research and development and the results of clinical trials possibly being unsuccessful or insufficient to meet applicable regulatory standards or warrant continued development; the ability to enroll sufficient numbers of subjects in clinical trials; determinations made by the U.S. Food and Drug Administration and other governmental authorities; the Company's ability to protect and enforce its patents and other intellectual property rights; the Company's dependence on its relationships with its collaboration partners and other third parties; the efficacy or safety of the Company's products and the products of the Company's collaboration partners; the acceptance of the Company's products and the products of the Company's collaboration partners in the marketplace; market competition; sales, marketing, manufacturing and distribution requirements; greater than expected expenses; expenses relating to litigation or strategic activities; the Company's ability to satisfy its capital needs through increasing its revenue and obtaining additional financing; given market conditions and other factors, including the Company's capital structure; the Company's ability to continue as a going

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concern; the length of time over which the Company expects its cash and cash equivalents to be sufficient to execute on its business plan; the impact of COVID-19, the disease caused by the SARS-CoV-2 virus, which may adversely impact the Company's business and pre-clinical and future clinical trials; the impact of local, regional, and national and international economic conditions and events; and other risks detailed from time to time in the Company's reports filed with the Securities and Exchange Commission. The Company disclaims any intent or obligation to update these forward-looking statements.

**Investor Relations Contacts:**

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