

Disclosure of beginning to have substantial holding

Section 276, Financial Markets Conduct Act 2013

To NZX Limited

and

To AFT Pharmaceuticals Limited (NZSX: AFT)

Date this disclosure made: 22 December 2015

Date on which substantial holding began: 22 December 2015

Substantial product holder(s) giving disclosure

Full name(s): Hartley Campbell Atkinson and Colin McKay as trustees of the Atkinson Family Trust

Summary of substantial holding

Class of quoted voting products: Fully paid ordinary shares in AFT Pharmaceuticals Limited (ISIN: NZAFTE0001S4)

Summary for: Hartley Campbell Atkinson and Colin McKay as trustees of the Atkinson Family Trust

For this disclosure,—

(a) total number held in class: 72,964,942

(b) total in class: 96,834,838

(c) total percentage held in class: 75.350%

Details of relevant interests

Details for: Hartley Campbell Atkinson and Colin McKay as trustees of the Atkinson Family Trust

Nature of relevant interest(s):

Hartley Campbell Atkinson and Colin McKay, as trustees of the Atkinson Family Trust (the “**Trustees**”), are the registered holders and beneficial owners of 72,964,942 fully paid ordinary shares in AFT Pharmaceuticals Limited (the “**Shares**”) and have the power to exercise a vote attached to, and to dispose of, the Shares. On 26 November 2015, the Trustees entered into an Escrow Deed under which the Trustees agreed that they will not sell or otherwise dispose of (i) 15% of the Shares until the first business day following the six month anniversary of quotation of the Shares on the NZX Main Board, and (ii) any of the remaining Shares until the first business day after the date on which AFT Pharmaceuticals Limited releases to NZX Limited its preliminary results for the financial year ending 31 March 2017 (in accordance with the NZX Main Board/Debt Market Listing Rules).

A copy of the Escrow Deed is attached to this notice (8 pages).

For that relevant interest,—

- | | | |
|-----|--|---|
| (a) | number held in class: | 72,964,942 |
| (b) | percentage held in class: | 75.350% |
| (c) | current registered holder(s): | Hartley Campbell Atkinson and Colin McKay
as trustees of the Atkinson Family Trust |
| (d) | registered holder(s) once transfers
are registered: | Not applicable |

For a derivative relevant interest, also—

- | | | |
|-----|---|----------------|
| (a) | type of derivative: | Not applicable |
| (b) | details of derivative: | Not applicable |
| (c) | parties to the derivative: | Not applicable |
| (d) | if the substantial product holder is
not a party to the derivative, the
nature of the relevant interest in
the derivative: | Not applicable |

Details of transactions and events giving rise to substantial holding

Details of the transactions or other events requiring disclosure:

Hartley Campbell Atkinson and Colin McKay became a substantial product holder (for the purposes of the Financial Markets Conduct Act 2013) on 22 December 2015 upon the shares of AFT Pharmaceuticals Limited being quoted on the NZX Main Board which is a licensed market operated by NZX Limited. As an existing holder of the Shares, no consideration was paid or is payable by Hartley Campbell Atkinson and Colin McKay in connection with the transaction giving rise to this substantial holding.

Additional information

Address(es) of substantial product holder(s):

Level 1, 129 Hurstmere Road
Takapuna
Auckland 0622

Contact details (Hartley Atkinson):

Tel: 0800 423 823
Hartley@aftpharm.com

Contact details (Colin McKay):

Tel: +64 9 520 4544
ColinMcKay@wilsonmckay.co.nz



Name of any other person believed to have given, or believed to be required to give, a disclosure under the Financial Markets Conduct Act 2013 in relation to the financial products to which this disclosure relates:

N/A

Disclosure has effect for purposes of directors' and senior managers' disclosure

Hartley Campbell Atkinson is also a director of AFT Pharmaceuticals Limited. Pursuant to section 302 of the Financial Markets Conduct Act 2013, this disclosure also constitutes disclosure by Hartley Campbell Atkinson for the purposes of the directors' and senior managers' disclosure obligations.

Certification

I, Hartley Campbell Atkinson as trustee of the Atkinson Family Trust, certify that, to the best of my knowledge and belief, the information contained in this disclosure is correct and that I am duly authorised to make this disclosure by all persons for whom it is made.

A handwritten signature in black ink, appearing to read 'H.C. Atkinson', with a long horizontal flourish extending to the right.

H.C. ATKINSON
TRUSTEE

AFT PHARMACEUTICALS LIMITED

**HARTLEY CAMPBELL ATKINSON AND COLIN MCKAY AS TRUSTEES OF THE ATKINSON
FAMILY TRUST**

ESCROW DEED

HARMOS ■ HORTON ■ LUSK

C O R P O R A T E L A W Y E R S

DEED dated 26 November 2015

PARTIES

AFT PHARMACEUTICALS LIMITED ("AFT")

HARTLEY CAMPBELL ATKINSON AND COLIN MCKAY AS TRUSTEES OF THE ATKINSON FAMILY TRUST ("Shareholder")

INTRODUCTION

- A. The Shareholder is the registered holder of the number of Ordinary Shares and Series B Preferred Shares set out in the Schedule.
- B. AFT intends to raise capital through the IPO and has applied to NZX and ASX to list and to have the Ordinary Shares quoted on the NZX Main Board and the ASX.
- C. Prior to the Date of Quotation:
 - (a) the Series B Preferred Shares will convert into Ordinary Shares (in a ratio of 1:1); and
 - (b) the Ordinary Shares will be split in the ratio set out in the product disclosure statement relating to the IPO.
- D. The Shareholder has agreed that it will retain the legal ownership of its Shares for the Restricted Period in accordance with the terms of this deed.

THIS DEED RECORDS

1. DEFINITIONS AND INTERPRETATION

1.1 Definitions: In this deed, unless the context otherwise requires:

"**Affiliate**" means in relation to any person, a person that directly or indirectly, through one or more intermediaries, owns or controls or is owned or controlled by or is under common ownership or control with the person and, in relation to a family trust means any beneficiary (ascertained or discretionary) of that trust.

"**ASX**" means ASX Limited, or the financial market operated by ASX Limited, as the context requires, also known as the Australian Stock Exchange.

"**Business Day**" means a day on which the NZX Main Board is open for trading.

"**Date of Quotation**" means the first day on which the Ordinary Shares are quoted on the NZX Main Board.

"**Independent Trustee**" means Colin McKay as trustee of the Atkinson Family Trust.

"**IPO**" means the initial public offering of Ordinary Shares pursuant to a product disclosure statement to be dated on or about the date of this deed.

"**Non-Interested Directors**" means, in relation to any decision, directors of AFT who are not "interested" for the purposes of the Companies Act 1993.

"**NZX**" means NZX Limited and includes its successors and assigns and as the context permits includes any duly authorised delegate of NZX.

"NZX Main Board" means the main board equity securities market operated by NZX.

"Ordinary Shares" means ordinary shares in AFT.

"Restricted Period" means the period from the Date of Quotation and ending on the first Business Day after the date on which AFT releases to NZX its preliminary results for the financial year ending 31 March 2017 (in accordance with the NZX Main Board/Debt Market Listing Rules).

"Series B Preferred Shares" means Series B preferred shares in AFT.

"Shares" means all of the Ordinary Shares of which the Shareholder is the registered holder as at the Date of Quotation, other than those Ordinary Shares that are offered for sale by the Shareholder under the IPO.

"Takeovers Code" means the takeovers code approved under the Takeovers Code Approval Order 2000.

1.2 **Interpretation:** In this deed, unless the context otherwise requires, or specifically stated otherwise:

- (a) headings are to be ignored in construing this deed;
- (b) the singular includes the plural and vice versa;
- (c) references to time of day or dates are to New Zealand times and dates;
- (d) each schedule or other attachment forms part of this deed;
- (e) a right or power may be exercised from time to time and at any time;
- (f) any word or expression cognate with a definition in this deed has a meaning corresponding or construed to the definition;
- (g) reference to a section, clause, sub-clause, schedule or a party is a reference to that section, clause, sub-clause, schedule or party in this deed; and
- (h) reference to a party, person or entity includes:
 - (i) an individual, partnership, firm, company, body corporate, corporation, association, trust, estate, state, government or any agency thereof, municipal or local authority and any other entity, whether incorporated or not (in each case whether or not having a separate legal personality); and
 - (ii) an employee, agent, successor, permitted assign, executor, administrator and other representative of such party, person or entity.

2. ESCROW

2.1 **Undertaking:** The Shareholder unconditionally and irrevocably undertakes to the Non-Interested Directors, AFT and NZX that (subject to clauses 2.2 and 3) it will not:

- (a) sell, transfer, assign or otherwise dispose of, or offer or agree to sell, transfer assign or otherwise dispose of, its right and title to, and legal interest in, any of its Shares in the Restricted Period; or

- (b) do, or omit to do, any act if the act or omission would have the effect of transferring effective ownership or control of any of its Shares in the Restricted Period,

without first giving not less than 5 Business Days' written notice to, and obtaining the prior written approval (at their respective discretions but subject to clause 3) of, each of the Non-Interested Directors, AFT and NZX.

- 2.2 **Security interests:** Notwithstanding clause 2.1, the Shareholder may grant a security interest over or in respect of its Shares in favour of any bona fide lender to the Shareholder from time to time.

- 2.3 **Other restrictions may apply:** The right of the Shareholder to deal with Shares is also subject to any other restrictions which may be applicable, including under the NZX Main Board/Debt Market Listing Rules and the Financial Markets Conduct Act 2013.

3. EXCEPTIONS

- 3.1 **Exceptions:** Notwithstanding the restrictions set out in clause 2.1 of this deed, the Shareholder may transfer all or part of its Shares to an Affiliate or Affiliates, provided that the Affiliate(s) must enter into a deed with AFT in relation to the Shares transferred on the same terms as this deed for the remainder of the Restricted Period (with such deed to also require and permit such person to transfer the applicable part of the Shares back to the Shareholder if it ceases to be an Affiliate of the Shareholder).

- 3.2 **Takeovers:** Clause 2.1 of this deed will not apply in relation to any full or partial takeover offer made under the Takeovers Code or similar scheme or arrangement, provided that any such takeover offer or similar scheme or arrangement is not made, whether directly or indirectly, by the Shareholder or an Affiliate of it. For clarity, if a full or partial takeover offer is made or proposed to be made during the Restricted Period, directly or indirectly by a person who is not the Shareholder or an Affiliate of it, then the Shareholder may sell, or agree, or offer to sell all or any part of its Shares to the offeror under that offer.

- 3.3 **Partial early release:** Notwithstanding the restrictions set out in clause 2.1 of this deed, the Shareholder may sell or transfer to any person or persons up to 15% of the Shares, in aggregate, at any time from the first Business Day following the six month anniversary of the Date of Quotation.

4. GENERAL

- 4.1 **Equitable relief:** The Shareholder acknowledges that damages alone would be an inadequate remedy for breach of its obligations under this deed and the appropriate remedies for such a breach will include orders for specific performance, injunctive relief, any other equitable relief and/or damages.

- 4.2 **Contracts (Privity) Act 1982:** The provisions of this deed are for the benefit of, and are intended to be enforceable by, any of the Non-Interested Directors, the other shareholders of AFT and NZX under the Contracts (Privity) Act 1982.

- 4.3 **Severability:** If a Court or administrative body decides that part of this deed is illegal, void or cannot be enforced, that decision will not make the rest of this deed invalid.

- 4.4 **De-listing:** This deed will be void and of no effect if AFT is not listed, and the Ordinary Shares are not quoted, on the NZX Main Board before 31 December 2015 or if AFT is de-listed by NZX.

- 4.5 **Amendment or termination:** Any variation to, or termination of, this deed requires the written agreement of all parties to this deed and AFT shall not agree to any amendment or termination without prior written approval of NZX. AFT will provide NZX with notice immediately in the event that it becomes aware of a breach or a likely breach of this deed.
- 4.6 **Governing law:** This deed is governed by, and construed in accordance with, New Zealand law and the parties agree to submit to the jurisdiction of the New Zealand courts.
- 4.7 **Notices:**
- (a) Any notice or other communication given under this deed to a party will be in writing addressed to that party at the address from time to time notified by that party in writing to the other party. Until any other address of a party is notified, they will be as specified in the Schedule.
 - (b) Delivery may be effected by hand, by post with postage prepaid, or by email.
 - (c) A notice or other communication delivered by hand will be deemed to have been received at the time of delivery. However, if the delivery is not made on a Business Day or is made after 4.30 pm on a Business Day, then the notice or other communication will be deemed to have been delivered on the next Business Day.
 - (d) A notice or other communication delivered by pre-paid post will be deemed to have been received on the second Business Day after posting.
 - (e) A notice or other communication sent by email will be deemed to have been received on the date and time at which it enters the addressee's information system (as shown in a confirmation of delivery report from the sender's information system, which indicates that the email was sent to the email address of the addressee notified for the purpose of this clause). However, if that date is not a Business Day or the email is sent after 4.30 pm on a Business Day then the notice or other communication will be deemed to have been given on the next Business Day after the date of the email was sent.
- 4.8 **Counterparts:** This deed may be signed in any number of counterparts, including facsimile or scanned copies, all of which will together constitute one and the same instrument and a binding and enforceable deed between the parties. Any party may execute this deed by signing any such counterpart.
- 4.9 **Independent legal advice:** The Shareholder acknowledges that it has had the opportunity to obtain independent legal advice with respect to this deed.
- 4.10 **Independent Trustee limitation of liability:** The liability of the Independent Trustee under or in connection with the transactions contemplated by this deed is limited to those assets of the Atkinson Family Trust at the time the liability is enforced, which are in the hands of the Independent Trustee as trustee and available to the Independent Trustee by way of indemnity.
- 4.11 **Change in trustee:** Notwithstanding clause 2 of this deed, the Independent Trustee may transfer its shareholding to any new or replacement trustee of the Atkinson Family Trust provided that the new or replacement trustee first enters into a deed with AFT in relation to the Shares on the same terms as set out in this deed.

SIGNED AS A DEED

AFT PHARMACEUTICALS LIMITED

by:



Signature of director

JON LAMB

Name of director



Signature of director

DAVID FLACKS

Name of director

**SIGNED by HARTLEY CAMPBELL
ATKINSON** in his capacity as trustee of
the **ATKINSON FAMILY TRUST** in the
presence of:

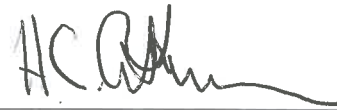


Signature of witness

Name of witness

Occupation

City/town of residence



H C Atkinson

**Henry John Cairns
Solicitor
Auckland**

SIGNED by COLIN MCKAY in his
capacity as trustee of the **ATKINSON
FAMILY TRUST** in the presence of:

Signature of witness

Name of witness

Occupation

City/town of residence

C McKay

SIGNED AS A DEED

AFT PHARMACEUTICALS LIMITED

by:



Signature of director

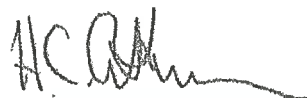
Name of director



Signature of director

Name of director

SIGNED by HARTLEY CAMPBELL
ATKINSON in his capacity as trustee of
the ATKINSON FAMILY TRUST in the
presence of:



H C Atkinson

Signature of witness

Name of witness

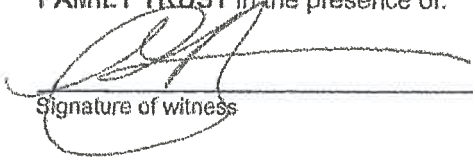
Occupation

City/town of residence

SIGNED by COLIN MCKAY in his
capacity as trustee of the ATKINSON
FAMILY TRUST in the presence of:



C McKay



Signature of witness

Name of witness MARY BROCAS BRECKON
SOLICITOR

Occupation AUCKLAND

City/town of residence

SCHEDULE

Shareholder

Shareholder	Address	Number of Ordinary Shares	Number of Series B Preferred Shares
Hartley Atkinson And Colin McKay As trustees of the Atkinson Family Trust Relevant Directors: Hartley Atkinson	16 Brett Avenue, Takapuna, Auckland, New Zealand	1,179,600	14,535