



Mackay
Sugar
Limited

Notice of Meeting and Explanatory Memorandum

Mackay Sugar Limited ACN 057 463 671

For the reasons set out in this Explanatory Memorandum, the Mackay Sugar Directors unanimously recommend that you **vote in favour** of the Proposed Transaction and all Resolutions in the absence of a superior proposal

The Independent Expert has determined that the Proposed Transaction is **FAIR AND REASONABLE** in the absence of a superior proposal.

This is an important document. You should read it carefully and in its entirety before deciding whether to vote in favour of the Proposed Transaction.

If you are in doubt as to what you should do, you should consult your legal, financial or other professional adviser.

Legal adviser

Lawyers | **McCullough
Robertson**

Financial adviser

Kidder
Williams **Limited**

Table of contents

Important notices	1
Actions required by Shareholders	3
Important Dates	7
Explanatory Memorandum	8
1 Overview of Proposed Transaction.....	8
1.1 Background	8
1.2 Strategic rationale for the Proposed Transaction	9
1.3 Key terms of the Proposed Transaction	9
1.4 About Nordzucker	11
2 Reasons to vote on the Proposed Transaction	11
2.1 Reasons to vote in favour of the Resolutions	11
2.2 Reasons to vote against the Resolutions	15
2.3 Why are the Resolutions required?	16
3 Frequently asked questions	17
4 Opinion of the Independent Expert.....	29
4.1 Independent Expert Report	29
5 Key risk factors	31
5.1 Overview	31
5.2 General risks	31
5.3 Specific risks associated with Proposed Transaction completing	31
5.4 Specific risks associated with Proposed Transaction not completing	32
6 Summary of transaction agreements	33
6.1 Summary of Subscription Agreement	33
6.2 Summary of the draft Nordzucker Shareholder Loan Agreement	37
6.3 Summary of New Constitution	40
7 Material information for the purposes of ASIC Regulatory Guide 74	40
8 Material information relating to related party financial benefit.....	45
8.1 Financial benefit	45
9 Tax implications of the Proposed Transaction	47
9.1 Overview	47
9.2 Private ruling	48

10	Summary of disclosure	48
10.1	Summary of disclosure requirements	48
10.2	Resolution 1: Approval of Proposed Transaction, issue of Converting Preference Shares to Nordzucker and Related Party Financial Benefits	48
10.3	Resolution 2: Repeal and replacement of Mackay Sugar constitution	50
10.4	Resolution 3: Approval of conversion of Voting Shares to Ordinary Shares	52
10.5	Resolution 4: Approval of conversion of Investment Shares to Ordinary Shares	53
	Schedule 1	55
	Glossary	55
	Schedule 2	59
	Comparison of Existing Constitution and New Constitution	59
	Annexure A	70
	Notice of extraordinary general meeting	70
	Annexure B	73
	Notice of meeting of Investment Shareholders	73
	Annexure C	75
	New Constitution	75
	Annexure D	76
	Independent Expert's Report	76

Important notices

Important information

The Notices of Meeting, Explanatory Memorandum, Independent Expert's Report and Proxy Forms are all important documents and require your immediate attention. They should be read carefully in their entirety before you make a decision on how to vote at the Extraordinary General Meeting or Investment Shareholder Meeting (as relevant). If you are in any doubt as to what you should do, please consult your legal, financial or other professional adviser.

Purpose of this Explanatory Memorandum

This Explanatory Memorandum, which forms part of each Notice of Meeting, contains an explanation of, and information about, the Proposed Transaction and Resolutions to be considered at the Meetings to be held at the Mackay Entertainment and Convention Centre from 5.00pm pm on Monday, 29 July 2019. It is given to Shareholders to provide them with information that the Directors believe to be material to Shareholders in deciding whether and how to vote on the Resolutions. This Explanatory Memorandum is required by the Corporations Act in relation to the Proposed Transaction and the Resolutions. Shareholders should read this Explanatory Memorandum in full because individual sections do not give a comprehensive review of the Proposed Transaction. If you are in doubt about what to do in relation to the Proposed Transaction, you should consult your legal, financial or other professional adviser.

This Explanatory Memorandum does not take into account the individual investment objectives, financial situation and needs of individual Shareholders or any other person. Accordingly, it should not be relied on solely in determining how to vote on the Resolutions. MSL is not licensed to provide financial product advice in relation to MSL Shares or any other financial products.

Investment decisions and forward looking statements

This Explanatory Memorandum contains forward looking statements which have been based on current expectations about future events. These forward looking statements are, however, subject to risks, uncertainties and assumptions that could cause actual results to differ materially from the expectations described in such forward looking statements.

These factors include matters not yet known to MSL or Nordzucker or not currently considered by MSL or Nordzucker to be material.

Actual events or results may differ materially from the events or results expressed or implied in any forward looking statement. None of MSL, Nordzucker nor any of their respective officers or any person named in this Explanatory Memorandum or involved in its preparation makes any representation or warranty (either express or implied) as to the accuracy or likelihood of fulfilment of any forward looking statement, or any events or results expressed or implied in any forward looking statement, and Shareholders are cautioned not to place reliance on those statements.

The forward looking statements in this Explanatory Memorandum reflect views held only as at the date of this Explanatory Memorandum.

Subject to any continuing obligations under law, MSL and Nordzucker have no obligation to disseminate, after the date of this Explanatory Memorandum, any updates or revisions to any forward looking statements to reflect any change in expectation in relation to those statements or any change in events, conditions or circumstances on which any such statement is based.

Notice to persons outside Australia

This Explanatory Memorandum has been prepared in accordance with Australian laws, disclosure requirements and accounting standards. These laws, disclosure requirements and accounting standards may be different to those in other countries.

Disclaimer

No person is authorised to give any information or make any representation in connection with the Proposed Transaction which is not contained in this Explanatory Memorandum. Any information or representation not contained in this Explanatory Memorandum must

not be relied on as having been authorised by MSL or the MSL Board in connection with the Proposed Transaction.

Responsibility for information

The information contained in this Explanatory Memorandum has been prepared by MSL and is the responsibility of MSL.

Crowe Horwath has prepared the Independent Expert's Report and has given, and has not withdrawn, as at the date of this Explanatory Memorandum, its written consent to the inclusion of the Independent Expert's Report, and the references to that report, in the form and context in which they are included in this Explanatory Memorandum. Crowe Horwath takes responsibility for that report but is not responsible for any information contained in this Explanatory Memorandum. Neither MSL nor Nordzucker nor any of their respective related entities, directors, officers, employees, contractors, advisers or agents assumes any responsibility for the accuracy or completeness of the Independent Expert's Report. Shareholders are urged to read the Independent Expert's Report carefully to understand the scope of the report, the methodology of the assessment, the sources of information and the assumptions made.

Voting entitlements

Pursuant to Regulation 7.11.37 of the Corporations Regulations, the Board has determined that a person's entitlement to vote at the Extraordinary General Meeting and Investment Shareholder Meeting will be taken to be the entitlement of the person shown in the register of members as at 5.30 p.m. (AEST) on Saturday, 27 July 2019.

Restrictions on voting

Only the holders of Voting Shares can vote at the Extraordinary General Meeting. Only the holders of Investment Shares can vote at the Investment Shareholder Meeting. Notwithstanding the entitlement to vote, all Shareholders may be present at both meetings.

Proxies

Please note that:

- (a) a member who is entitled to attend and vote at the meeting is entitled to appoint a proxy;
- (b) the proxy need not be a Shareholder. A Shareholder who is entitled to cast two or more votes may appoint not more than two proxies and may specify the proportion or number of votes each proxy is appointed to exercise, but where the proportion or number is not specified, each proxy may exercise half of the votes;
- (c) if you wish to appoint a proxy and are entitled to do so, then complete and return the Proxy Form that is relevant for your shareholding (for example, if you currently hold Voting Shares then complete the Voting Shareholder Proxy Form to appoint a proxy in respect of your Voting Shares and not the Investment Shareholder Proxy Form). Each of the Proxy Forms are attached to this Notice of Meeting; and
- (d) a corporation may elect to appoint a representative in accordance with the Corporations Act in which case Mackay Sugar will require written proof of the representative's appointment which must be lodged with or presented to Mackay Sugar before the Meeting.

The enclosed Proxy Forms provide further details on appointing proxies and lodging the Proxy Forms.

If you have any queries on how to cast your votes then call the Company Secretary, Donna Rasmussen, on (07) 4953 8241 during business hours.

Definitions

Defined terms are used in this Explanatory Memorandum. The defined terms are in the Glossary set out in Schedule 1.

ASIC

A draft copy of this Explanatory Memorandum was lodged with ASIC on 17 June 2019 for the purposes of ASIC Regulatory Guide 74 and s218 Corporations Act to give ASIC the opportunity to resolve any concerns it may have before the document is dispatched to Shareholders.

Neither ASIC nor any of its officers takes any responsibility for the contents of this Explanatory Memorandum.

Letter from the Executive Chairman of Mackay Sugar Limited

Dear Shareholders

On behalf of the Directors, I am pleased to invite you to attend the Extraordinary General Meeting and Investment Shareholder Meeting of Mackay Sugar Limited (**Mackay Sugar** or **MSL**) to consider and vote on the resolutions required to implement the proposed investment by Nordzucker AG (**Nordzucker**) in Mackay Sugar (**Proposed Transaction**). Your attendance and vote at the meetings is very important for the future of Mackay Sugar, its Growers, Shareholders and our community.

Nordzucker is one of the leading sugar manufacturers in Europe and is headquartered in Braunschweig, Germany. As a grower-owned sugar company with 180 years in the sugar industry it has a heritage very similar to Mackay Sugar. Nordzucker's understanding of growers together with their financial strength, discipline, engineering expertise and proven history restoring sugar factories in poor condition make them an ideal partner and major shareholder for Mackay Sugar.

As detailed in our announcement of 8 February 2019, Mackay Sugar has executed a Subscription Agreement with Nordzucker under which Nordzucker has agreed to subscribe for a 70% controlling interest in the share capital of Mackay Sugar, subject to the approval of Shareholders and a number of other conditions set out in section 6.1.

In return for its 70% controlling interest in Mackay Sugar, Nordzucker will contribute \$60 million in equity and provide a shareholder loan of up to \$60 million to Mackay Sugar. This capital is critical to securing the future of Mackay Sugar and will enable us to undertake essential capital and maintenance works, to repay the \$2 Grower Contribution and to provide Mackay Sugar with working capital. Once the capital and maintenance works are complete and mill performance is restored, Mackay Sugar will focus on reducing debt to a sustainable level and returning the company to profitability so that it may pay dividends to its shareholders in the future. Further details of the Proposed Transaction are set out in section 1. Nordzucker are also looking to participate actively in Mackay Sugar by seconding a number of their key employees to assist in the completion of this improvement program.

The Notices of Meeting and Explanatory Memorandum contain a number of resolutions to be considered by Shareholders of Mackay Sugar at the Meetings to be held on Monday, 29 July 2019, all of which must be approved by Shareholders in order for the Proposed Transaction to proceed.

Voting Shareholders and Investment Shareholders will be required to vote on different resolutions. For this reason, two separate meetings (which all Shareholders will be entitled to attend) will be held in succession as follows:

- (a) **Extraordinary General Meeting** – an extraordinary general meeting of Mackay Sugar at which Voting Shareholders will be asked to consider:
 - (i) approving the Proposed Transaction, including the issue of Converting Preference Shares to Nordzucker, equating to 70% of the shares in Mackay Sugar following such subscription, which must be approved by more than 50% of the votes cast by Voting Shareholders;
 - (ii) repealing the Existing Constitution and adoption of the New Constitution, which must be approved by at least 75% of the votes cast by Voting Shareholders; and
 - (iii) the conversion of all Voting Shares to Ordinary Shares on a one for one basis, which must be approved by at least 75% of the votes cast by Voting Shareholders; and

- (b) **Investment Shareholder Meeting** - a class meeting of Investment Shareholders to approve the conversion of all Investment Shares to Ordinary Shares on a one for one basis, which must be approved by at least 75% of the votes cast by Investment Shareholders.

All of the proposed Resolutions are conditional on the passing of each of the other Resolutions and also conditional on Completion of the Proposed Transaction. Consequently, all of the Resolutions must be passed before any of the Resolutions can take effect and the Proposed Transaction may proceed.

Please read the Notices of Meeting and this Explanatory Memorandum, together with the attached Independent Expert's Report, carefully before deciding how to vote.

The Proposed Transaction is the result of an extensive process conducted by Mackay Sugar to seek and evaluate proposals to recapitalise the business. This is currently the only proposal capable of approval by Shareholders.

The Board unanimously recommends that Shareholders support the Proposed Transaction and vote in favour of the Resolutions.

Should you have any queries relating to the Meetings, please contact Mackay Sugar's Company Secretary Donna Rasmussen on (07) 4953 8241. Further details of the Meetings and the Resolutions are set out in the Notices of Meeting.

We thank all Shareholders for their support to date and during this pivotal stage of Mackay Sugar's history.



Mark Day
Executive Chairman
Mackay Sugar Limited

Actions required by Shareholders

Date, time and location of meetings

The Extraordinary General Meeting will commence at 5.00pm (AEST) on Monday, 29 July 2019 at the Mackay Entertainment and Convention Centre, Alfred Street, Mackay. The Investment Shareholder Meeting will commence immediately following the Extraordinary General Meeting so all Shareholders should attend from the commencement of the Extraordinary General Meeting.

Step 1: Read this Explanatory Memorandum and seek advice as appropriate

This is an important document. You should read this Explanatory Memorandum, the accompanying Notices of Meetings, and the Independent Expert's Report in full before deciding how to vote at the Extraordinary General Meeting and Investment Shareholder Meeting.

If you are in any doubt as to what action you should take, you should seek financial, tax or other professional advice before making any decision on how to vote at the Extraordinary General Meeting and Investment Shareholder Meeting.

Step 2: Vote on the Resolutions at the Extraordinary General Meeting and Investment Shareholder Meeting

Vote on the Resolutions by following the instructions set out below.

Holders of Voting Shares

Voting Shareholders who WILL ATTEND the Extraordinary General Meeting	Voting Shareholders who CANNOT ATTEND the Extraordinary General Meeting
You will be issued a YELLOW VOTING CARD when you arrive at the Extraordinary General Meeting. Please bring the uncompleted yellow Proxy Form with you to the Extraordinary General Meeting to assist with registration.	Please complete the YELLOW PROXY FORM enclosed with this document and return it in accordance with the instructions on the form.

If you are the holder of a Voting Share, you are asked to attend and vote on the Resolutions to be considered at the Extraordinary General Meeting (the first meeting). You can also attend the Investment Shareholder Meeting which immediately follows but cannot vote on the Resolution presented at that meeting unless you also hold Investment Shares.

For the purposes of the Extraordinary General Meeting, you are considered to be the holder of a Voting Share if you are registered as a holder of a Voting Share on the Mackay Sugar share register on the Meeting Record Date, being 5. 30pm (AEST) on Saturday, 27 July 2019.

You may vote in person or by proxy.

If you cannot attend the Meetings you can send in a Proxy Form (enclosed with this document) completed in accordance with the instructions on the form.

To vote in **FAVOUR** of the Proposed Transaction, put an **X** in each of the three boxes with the word "FOR" above it.

Resolutions	For	Against
1 Approval of Proposed Transaction, issue of Converting Preference Shares to Nordzucker and Related Party Financial Benefits	<input checked="" type="checkbox"/>	<input type="checkbox"/>
2 Approval of New Constitution	<input checked="" type="checkbox"/>	<input type="checkbox"/>
3 Approval of conversion of Voting Shares to Ordinary Shares	<input checked="" type="checkbox"/>	<input type="checkbox"/>

To vote **AGAINST** the Proposed Transaction, put an **X** in each of the three boxes with the word "AGAINST" above it.

Resolutions	For	Against
1 Approval of Proposed Transaction, issue of Converting Preference Shares to Nordzucker and Related Party Financial Benefits	<input type="checkbox"/>	<input checked="" type="checkbox"/>
2 Approval of New Constitution	<input type="checkbox"/>	<input checked="" type="checkbox"/>
3 Approval of conversion of Voting Shares to Ordinary Shares	<input type="checkbox"/>	<input checked="" type="checkbox"/>

Holders of Investment Shares

Investment Shareholders who WILL ATTEND the Investment Shareholder Meeting	Investment Shareholders who CANNOT ATTEND the Investment Shareholder Meeting
<p>You will be issued a GREEN VOTING CARD when you arrive at the Investment Shareholder Meeting.</p> <p>Please bring the uncompleted green Proxy Form with you to the Investment Shareholder Meeting to assist with registration.</p>	<p>Please complete the GREEN PROXY FORM enclosed with this document and return it in accordance with the instructions on the form.</p>

If you are the holder of an Investment Share, you are asked to attend and vote at the Investment Shareholder Meeting (the second meeting). You can also attend the Extraordinary General Meeting but cannot vote on the Resolutions presented at that meeting unless you also hold a Voting Share.

For the purposes of the Investment Shareholder Meeting, you are considered to be the holder of an Investment Share if you are registered as a holder of an Investment Share on the Mackay Sugar share register on the Meeting Record Date, being 5.30pm (AEST) on Saturday, 27 July 2019.

You may vote in person or by proxy.

If you cannot attend the Meetings you can send in a Proxy Form (enclosed with this document) completed in accordance with the instructions on the form.

To vote in **FAVOUR** of the Proposed Transaction, put an **X** in the box with the word "FOR" above it.

Resolutions	For	Against
4 Approval of conversion of Investment Shares to Ordinary Shares	<input checked="" type="checkbox"/>	<input type="checkbox"/>

To vote **AGAINST** the Proposed Transaction, put an **X** in the box with the word "AGAINST" above it.

Resolutions	For	Against
4 Approval of conversion of Investment Shares to Ordinary Shares	<input type="checkbox"/>	<input checked="" type="checkbox"/>

Return of Proxy Forms

Completed Proxy Forms may be lodged by:

- Mail: sent to Link Market Services, addressed to:
Mackay Sugar Limited
C/- Link Market Services Limited
PO Box 1519
Sydney South NSW 1234
Australia
- Fax: sent to +61 2 9287 0309
- Email: sent to vote@linkmarketservices.com.au
- Hand Delivery: delivered during business hours to
Mackay Sugar Limited
Racecourse Mill - Corporate Office
Peak Downs Highway
Racecourse via Mackay

Refer to the applicable Proxy Form and the Notices of Meetings set out in this document for more information on how to complete and lodge the applicable Proxy Form.

Important Dates

Event	Date
Deadline for Proxy Forms to be received by Link Market Services by mail, fax or email, or by hand delivery to Mackay Sugar.	5.30pm (AEST) on Saturday, 27 July 2019
Time and date for determining eligibility to vote at the Extraordinary General Meeting and Investment Shareholder Meeting (Meeting Record Date)	5.30pm (AEST) on Saturday, 27 July 2019
Time and date of Extraordinary General Meeting	5.00pm (AEST) on Monday, 29 July 2019
Time and date of Investment Shareholder Meeting	5.30pm (AEST) on Monday, 29 July 2019 (immediately following the Extraordinary General Meeting)
Target Completion date for the Proposed Transaction*	Wednesday, 31 July 2019

*Assuming the Resolutions are all passed and all other Conditions Precedent to the Proposed Transaction are satisfied or waived.

All dates and times in the above timetable are indicative only and are subject to change. Mackay Sugar will provide reasonable notice of any such variation. Any changes to the above timing will be communicated through the Mackay Sugar website which can be accessed at www.mackaysugar.com.au.

Please refer to the Notices of Meeting for further information on voting procedures and details of the Resolutions to be voted on at the Extraordinary General Meeting and Investment Shareholder Meeting.

Explanatory Memorandum

Mackay Sugar Limited ACN 057 463 671

The Explanatory Memorandum has been prepared for the information of Shareholders in connection with the business to be conducted at the Extraordinary General Meeting and Investment Shareholder Meeting to be held on Monday, 29 July 2019.

This Explanatory Memorandum forms part of, and should be read in conjunction with, the accompanying Notices of Meeting. The Notices of Meeting are contained in Annexure A (Extraordinary General Meeting) and Annexure B (Investment Shareholder Meeting).

Terms used in this Explanatory Memorandum are defined in the Glossary section contained in Schedule 1.

1 Overview of Proposed Transaction

1.1 Background

In late 2016, the Board engaged Kidder Williams, a corporate advisory firm, to review Mackay Sugar's corporate and capital structure. To reduce debt and fund near term expenditure, Kidder Williams initially advised that Mackay Sugar should consider various asset sales and other fundraising undertakings such as the introduction of a grower contribution.

Kidder Williams presented the Board with various options under the recapitalisation plan, including the sale of standalone assets, recapitalisation by an equity investor or a sale of the whole business that would enable the business to continue as a going concern. The Board considered the options and initially decided to focus on options which would not dilute Shareholder's equity.

Various options to sell some of Mackay Sugar's assets, such as the Racecourse cogeneration plant, were investigated. However, whilst there was substantial interest in the cogeneration assets, the importance of these assets to Mackay Sugar's business, difficulty separating them and the long term financial commitments and/or other conditions contained in the offers presented led the Board to discontinue the sale process.

The Board then instructed Kidder Williams to seek proposals to recapitalise the business. In November 2017, Mackay Sugar began the process of seeking an investor to make a significant capital contribution to Mackay Sugar in exchange for which the investor would be issued shares in Mackay Sugar.

Mackay Sugar and Kidder Williams conducted a broadly marketed two stage process over an eight month period, targeting domestic and international strategic and financial investors, including major sugar companies, international commodity traders, fund managers, investment funds and advisers. The process attracted interest from a number of bidders who were evaluated based on:

- (a) strategic alignment with the interests of Mackay Sugar and its Growers, including their intention to remain invested in Mackay Sugar in the medium to long term;
- (b) financial position and ability to secure the relevant funding necessary to support the recapitalisation of Mackay Sugar;

- (c) potential to add value to Mackay Sugar's business with a focus on expertise in operations, engineering and agriculture;
- (d) willingness to support the capital and maintenance program required to restore the mills; and
- (e) industry knowledge and commitment to the sugar industry.

In October 2018, the Board received a non-binding indicative offer from Nordzucker to subscribe for 70% of the share capital of Mackay Sugar in consideration for a contribution of equity and debt funding to Mackay Sugar.

Following extensive negotiations, Mackay Sugar and Nordzucker executed a binding Subscription Agreement on 8 February 2019 which set out the process to be undertaken for the Proposed Transaction, including the applicable Conditions Precedent necessary for Completion of the Proposed Transaction to occur. For further details on the terms of the Subscription Agreement, including the material terms of the Proposed Transaction, please see section 6.

1.2 Strategic rationale for the Proposed Transaction

Since 2010, Mackay Sugar's net debt has increased substantially from \$21.8m to \$178.9m as at end of May 2018. It is expected to be higher again at year ended May 2019. During this time, the company's profitability has been poor and cash flow insufficient to reduce debt and maintain the mills. As a result, the operating performance of Mackay Sugar's mills has been in steady decline and a maintenance deficit, being the amount which Mackay Sugar considers should have been spent to maintain the mills to its own standards for rate, reliability and recoverability of sugar (**Maintenance Deficit**), has accumulated.

Funding and eliminating the Maintenance Deficit is an essential part of the future viability of Mackay Sugar. Without it, the performance of the mills will continue to decline, leading to further extended season lengths, inability to crush large crops and foregone opportunity to take advantage of high sugar prices during the next 'high' cycle. Due to Mackay Sugar's current debt level and lack of profitability, in its current state the Company is not in a position to borrow further funds to finance the capital and maintenance plan. Accordingly, outside investment is critical.

The Company believes that Nordzucker has the financial strength, engineering capability and proven ability to carry out capital investment and maintenance and restore mill performance. It is expected to take between 3 to 5 years to restore the mills, and once this is achieved, Mackay Sugar will be in a stronger position to reduce debt to a sustainable level.

1.3 Key terms of the Proposed Transaction

On 8 February 2019, Mackay Sugar announced that it had entered into the Subscription Agreement pursuant to which Mackay Sugar has agreed to issue such number of Converting Preference Shares to Nordzucker as is equal to 70% of the share capital of Mackay Sugar (**Subscription Shares**) in exchange for an equity investment of \$60 million and the provision of a shareholder loan of up to \$60 million (**Proposed Transaction**). Refer to section 2.2(d) for further details regarding the rights attaching to the Subscription Shares.

The equity and debt funding provided by Nordzucker as part of the Proposed Transaction will provide Mackay Sugar with a substantial injection of critical funding which is needed to reduce Mackay Sugar's debt, fund investment in Mackay Sugar's mill infrastructure to improve mill performance and reliability during the crushing season, and provide greater certainty for Mackay Sugar's ongoing financial viability. As a result of the investment by Nordzucker the Company will also be in a position to repay one half (up to a maximum of \$10 million) of the Grower

Contribution within 30 days of Completion and the balance of the Grower Contribution within 12 months of Completion, totalling, in aggregate, a maximum of a \$20 million repayment.

The Directors are mindful that the Proposed Transaction will dilute Shareholders as a result of the issue of the Subscription Shares. However, the Directors note that, should the Resolutions be passed and the Proposed Transaction completed, all Shareholders will have voting rights, including Shareholders who previously only held Investment Shares, and Growers will continue to be represented on the Board of Mackay Sugar. Refer to item 10 in Schedule 2 for further details on the proposed Board structure.

Completion of the Proposed Transaction is subject to a number of important Conditions Precedent. The parties are still working towards satisfying the following key Conditions Precedent as at the date of this Explanatory Memorandum:

- (a) **Shareholders approving the Proposed Transaction.** The Company is seeking the approval of Shareholders to the Proposed Transaction and the Resolutions at the Extraordinary General Meeting and Investment Shareholder Meeting in accordance with this Explanatory Memorandum;
- (b) **Disposal of the Mossman Mill.** The Company has entered into a Put and Call Option Deed with Far Northern Milling Pty Ltd (**FNM**) providing for the sale of the Mossman Mill to FNM. The Put and Call Option Deed remains subject to a number of conditions precedent which must be satisfied or waived in order for the sale of the Mossman Mill to complete;
- (c) **Re-introduction of the CCS formula.** The Company has proposed changes to the Cane Supply and Processing Agreements to provide for the re-introduction of the CCS cane pay formula. As at 1 July 2019 93.1% of all Growers had agreed to changes representing 94.1% of tonnes supplied to the Company from the Mackay area. The Company continues to seek agreement from all Growers to these changes;
- (d) **State Government financial support for the Proposed Transaction.** The Company and Nordzucker have sought Queensland State Government financial support for the Proposed Transaction. The Company and Nordzucker have received in-principle support but is continuing discussions with the Government to finalise these arrangements;
- (e) **Reaching agreement with Senior Lenders and Corporate Noteholders to finalise the ongoing debt structure.** The Company has received in-principle approval from its Senior Lenders to refinance its existing finance facilities. Documenting these arrangements has commenced but is ongoing. Corporate Noteholders have approved amendments to the conditions of the Corporate Notes providing for a reduction in the principal repayable to Corporate Noteholders upon redemption following Completion of the Proposed Transaction by 50% (\$25m). The circulating resolution providing for the amendment to the conditions of the Corporate Notes was approved on 2 May 2019; and
- (f) **Nordzucker Shareholder Loan Agreement and Subordination Agreement being in agreed form.** Mackay Sugar and Nordzucker have reached in-principle agreement on the terms of the Nordzucker Shareholder Loan Agreement. The current terms are summarised in section 6.2. The parties have begun negotiation of the Subordination Agreement with the Senior Lenders and the Nordzucker Shareholder Loan Agreement can not be finalised until the Subordination Agreement is in agreed form.

The Company will continue to update Shareholders on the progress of the Conditions Precedent via the announcements platform on its website at www.mackaysugar.com.au

The terms of the Subscription Agreement and the other key transaction documents are summarised in section 6 of this Explanatory Memorandum, including further detail in relation to all Conditions Precedent (including those already satisfied).

1.4 About Nordzucker

Nordzucker is based in Braunschweig, Germany and is one of the leading sugar manufacturers in Europe, with 18 production and refinery facilities producing 2.7Mt of refined sugar in 2017/2018, 2.4Mt of refined sugar in 2018/2019 and also processing sugar beet into bioethanol and animal feed. Sustainability along the entire value chain is a top priority for Nordzucker. Nordzucker Group has arrangements in place with over 12,000 growers and has around 3,200 employees who are focussed on delivering high-quality products and services and thus providing a strong foundation for future growth.

Nordzucker's history in the sugar industry in Europe goes back over 180 years and has been characterised by close cooperation with its growers who today are the shareholders of the current company, Nordzucker AG.

Since the current company was founded in 1997, Nordzucker has driven growth in its core sugar market by undertaking consolidation of the North German sugar industry and implementing several acquisitions in Eastern Europe. Nordzucker continued to pursue this growth strategy with the acquisition of Nordic Sugar (which operates in Denmark, Sweden, Finland and Lithuania) in 2009 and is now one of the largest sugar producers in Europe.

After restructuring its investment portfolio in 2010 and 2011, the Nordzucker Group now mainly concentrates on the production and distribution of sugar. It benefits from a strong market position in the European Union and a solid financial base. With the end of the sugar market regulatory regime in Europe in its existing form as of October 2017, competition in the European Union has intensified further and Nordzucker adjusted to this change in regulatory landscape early and is continuing to systematically adapt its processes, organization and cost structure to the changed market conditions. Nordzucker's corporate strategy clearly focuses on sugar - in Europe as well as outside of Europe, concentrating on the key processes of growing, processing and delivering.

For more information on Nordzucker's voting power following the Proposed Transaction and their intentions for Mackay Sugar, please see section 7.

2 Reasons to vote on the Proposed Transaction

2.1 Reasons to vote in favour of the Resolutions

The reasons why Shareholders may consider voting in favour of the Resolutions include:

(a) **The Directors unanimously recommend that you vote in favour of the Resolutions, in the absence of a superior proposal**

The Directors believe that the Proposed Transaction is in the best interests of Shareholders. The Proposed Transaction is currently the only available alternative with committed funding to invest in and restore the mills while also preserving a level of Shareholder's equity.

In the event the Proposed Transaction does not proceed, the Directors will need to assess Mackay Sugar's ability to continue as a going concern. To continue as a going concern Mackay Sugar is expected to depend heavily on the ongoing support of its Senior Lenders, Corporate Noteholders and unsecured noteholders. Furthermore, ongoing and

increased grower levies will be required to fund critical mill maintenance and future losses. In this scenario, without significant levies, mill performance will not improve and will deteriorate further, creating a downward cycle with reliance on increasing levies.

If support from Mackay Sugar's financiers is withdrawn and Mackay Sugar cannot continue as a going concern, the Directors will need to consider appointing an administrator. For further information on the consequences of appointing an administrator, see section 5.4.

In giving their unanimous recommendation for the Proposed Transaction, the Directors have, among other things:

- (i) assessed the Proposed Transaction having regard to Mackay Sugar's prospects if the Proposed Transaction does not proceed;
- (ii) assessed the strategic fit between Mackay Sugar and Nordzucker;
- (iii) obtained advice from Mackay Sugar's advisers; and
- (iv) considered the Independent Expert's Report.

The Directors intend to cause any Shares in which they have a relevant interest to be voted in favour of the Resolutions in the absence of a superior proposal.

(b) **The Independent Expert has concluded that the Proposed Transaction is FAIR AND REASONABLE to Voting Shareholders and Investment Shareholders**

Crowe Horwath was engaged by the independent Directors of Mackay Sugar to prepare the Independent Expert's Report for Shareholders in respect of the Proposed Transaction.

The Independent Expert reached the following conclusions (note this is a summary of the advantages to Shareholders from the Proposed Transaction, you should read the Independent Expert's Report in its entirety before deciding how to vote):

- (i) in the opinion of the Independent Expert, the Proposed Transaction is fair and reasonable.
- (ii) the Proposed Transaction will provide Mackay Sugar with much needed funding for investment in necessary capital equipment and maintenance, to repay certain liabilities and also for general working capital purposes, with a view to improving the operating and financial performance of the business.
- (iii) the Proposed Transaction will enable the repayment of around \$18.8 million in outstanding Grower Contributions, 50% to be repaid within 30 days (from Completion) and 50% within twelve months (of Completion).
- (iv) the proposed change in the cane payment formula will realign growers' economic rewards to sugar content, and Mackay Sugar's economic rewards to milling efficiency.
- (v) the financial and other support being provided by Nordzucker under the Proposed Transaction is likely to result in improved grower, staff and supplier confidence. In the absence of the Proposed Transaction, it is possible that a further deterioration in confidence of these key stakeholders could materially and adversely impact Mackay Sugar's future operations.

- (vi) Nordzucker is a sophisticated, large and successful global sugar business that has relevant management, engineering and corporate expertise to support Mackay Sugar.
- (vii) implementation of the Proposed Transaction increases the chances of Mackay Sugar continuing to be an important contributor to the various communities and economies it impacts.

The Independent Expert's Report is set out in full in Annexure D of this Explanatory Memorandum. You should read the Independent Expert's Report in its entirety as part of your assessment of the Proposed Transaction and before casting your vote in relation to the Resolutions.

(c) **A strong major shareholder for Mackay Sugar**

Nordzucker has a long and demonstrated history as a successful international business. Nordzucker is expected to position Mackay Sugar for the future and aims to bring the depth of technical and financial expertise required to improve Mackay Sugar's performance.

Nordzucker produced over 2.7Mt of refined sugar in 2017/2018, 2.4 Mt of refined sugar in 2019/2019 and has over 3,200 employees. Nordzucker is in a solid financial position, with 1.65 billion Euros in revenue, and 118 million Euros in net income in 2017/2018 and 1.35 billion Euros in revenue and a net loss of 35.8 million Euros in 2018/2019.

Nordzucker is well placed to invest in Mackay Sugar and provide the essential funding required to carry out the Mill Improvement Program, and has a track record of doing so following previous investments. For example, in March 2019, Nordzucker announced its investment of 100 million Euro in modernising its sugar manufacturing facilities at Öertofta in Sweden.

Importantly, Nordzucker understands the sugar industry and wishes to position itself as a long-term investor and partner for Mackay Sugar with a strategy to create and grow a new cane sugar business outside of Europe.

(d) **Nordzucker understands growers**

Nordzucker and Mackay Sugar have similar histories as grower-owned companies. Nordzucker has over 12,000 growers supplying sugar beet to their 18 factories and has an in-depth understanding of the co-dependent relationship between growers and mills/factories.

Nordzucker is a reliable and long-term partner and stands for competent grower consultation and a close relationship with its growers.

Nordzucker understands the importance of providing quality agronomic support to growers. Its efforts are focused in particular on taking steps to achieve a sustained increase in yields from crop cultivation. Together with growers, Nordzucker is driving research work and cultivation techniques to further increase the competitiveness of its crop in comparison with other crops and thus secure the attractiveness of beet cultivation in Europe in the long term. Nordzucker runs jointly with the beet growers two research and development associations.

Nordzucker has a sophisticated and highly efficient system of logistics in all countries in which it operates. It has systematically developed this system and continues to improve upon it regularly.

(e) **Improved operational performance**

Nordzucker operates efficient factories and seeks to continuously invest in its plants. Its investment programs do not only aim at simply meeting regulatory requirements and replacing existing assets but are also focused on making investments in reducing energy consumption, optimising logistics and warehousing, improving quality and other process optimisation to increase efficiencies in its business.

Nordzucker's strategy for Mackay Sugar is focussed on implementing the Mill Improvement Program to restore mill performance and significantly shorten the season length to be able to crush larger crops, reducing the risk of standover cane. Improved mill performance will go towards ensuring the long-term stability of MSL's business and may enhance on-farm returns.

Following completion of the Mill Improvement Program, which is expected to take between 3 to 5 years, Mackay Sugar should be in a stronger position to reduce debt to a manageable level and thereafter generate sufficient profits to re-commence payment of dividends to Shareholders, subject to average crop size and sugar price.

(f) **Repayment of the Grower Contribution**

The Company negotiated certain protections in the Subscription Agreement with Nordzucker to ensure the Grower Contribution will be repaid in full under the Proposed Transaction.

Under the terms of the Subscription Agreement, the first 50% of the Grower Contribution, up to a maximum of \$10 million, will be repaid within 30 days of Completion of the Proposed Transaction and the second 50%, up to a maximum of \$10 million, will be repaid within 12 months of Completion.

Directors appointed by Nordzucker will not be able to prevent Mackay Sugar from making repayment of the Grower Contribution.

(g) **Engineering expertise and proven track record**

As part of its growth strategy in Europe, in particular through expansion to Eastern Europe and later through the acquisition of Nordic Sugar (which operates in Denmark, Sweden, Finland and Lithuania), Nordzucker has extensive experience in restoring sugar factories across several countries in Europe.

Nordzucker's engineering team is highly capable and well placed to oversee the implementation of the Mill Improvement Program. Nordzucker is focussed on running highly efficient, clean and well-maintained factories and is intending to bring a similar culture and discipline to Mackay Sugar.

As a sugar beet processor, Nordzucker does not have the benefit of available by-products such as bagasse for energy production. As a result, its business has had to be highly energy efficient and Nordzucker has even further reduced reliance on fossil fuels through its efficiencies. Since 1990, Nordzucker has reduced its production process-related CO₂ emissions by 65% and energy consumption by 45%.

(h) **Reduced short-term debt burden**

The Proposed Transaction is expected to initially reduce Mackay Sugar's net debt position as a result of the \$60m equity injection and restructuring of Corporate Notes whereby Mackay Sugar has sought agreement from Corporate Noteholders to accept a 50%

reduction (\$25m) of the \$50m face value of notes upon redemption following Completion of the Proposed Transaction. This will materially reduce the interest burden on Mackay Sugar.

Thereafter and subject to future financial performance, total debt will increase to fund the Mill Improvement Program over a period of 3 to 5 years (after taking into account the Shareholder Loan from Nordzucker). Following restoration of the mills it is expected that debt will reduce to a more sustainable level over time, subject to average crop size and sugar price.

2.2 Reasons to vote against the Resolutions

Reasons why Shareholders may consider voting against the Resolutions include:

(a) **You may disagree with the Directors' unanimous recommendation or the Independent Expert's conclusions that the Proposed Transaction is fair and reasonable**

Notwithstanding the unanimous recommendation of the Directors and the conclusions of the Independent Expert that the Proposed Transaction is fair and reasonable, you may believe the Proposed Transaction is not in your best interests.

Shareholders are not obliged to follow the unanimous recommendation of the Directors or agree with the Independent Expert's conclusion.

(b) **Nordzucker to control Mackay Sugar**

Should the Proposed Transaction be completed, current Shareholders will no longer collectively control Mackay Sugar. As a result of the Proposed Transaction, Nordzucker will have a 70% shareholding in Mackay Sugar from Completion and, consequently, will have the ability to pass and block ordinary resolutions and to block special resolutions, other than those in relation to which it is precluded from voting on, or listed in the Reserved Matters in the New Constitution (for further information on the Reserved Matters, see item 23 of Schedule 2).

While it will obtain control, Nordzucker never sought 100% ownership of the Company on the basis that retaining grower interest in the Mackay Sugar is important for fostering alignment between the Growers and Mackay Sugar.

(c) **Dilution of shareholding and voting power**

The aggregate percentage shareholding of an existing Shareholder will be diluted by the issue of the Subscription Shares to Nordzucker. Following the Proposed Transaction, the existing Shareholders' ownership interest will be reduced from 100% to 30% and collectively the entitlement to dividends and voting power of Shareholders will also be reduced accordingly. However, Shareholders will retain all of their existing shares in Mackay Sugar, which will be converted to Ordinary Shares.

(d) **Preferred dividend right attaching to Subscription Shares**

If the Proposed Transaction is completed, the Subscription Shares to be issued to Nordzucker are Converting Preference Shares which will have a preferred dividend right in addition to standard voting and capital rights.

This preferred dividend right has been commercially agreed by the Board of Mackay Sugar as recognition of the size of investment that Nordzucker is making in Mackay

Sugar, the considerable expertise and technical capability in the sugar industry which Nordzucker will bring to Mackay Sugar, and the risk that any return on Nordzucker's investment will not be available until a number of years following Completion due to the prioritising of the Mill Improvement Plan over the generating of dividends for Shareholders.

Once (and only if) Nordzucker has successfully returned Mackay Sugar to profitability and reduced its debt burden, the preferred dividend right attaching to the Subscription Shares entitles Nordzucker to be paid all dividends declared by Mackay Sugar up to an aggregate value of \$33.33 million in preference to the remaining Shareholders. This equates to an effective preference of \$10 million in dividends that would otherwise have been payable to Mackay Sugar's pre-existing shareholders (\$33.33 million x 30% = \$10 million). Once \$33.33 million in dividends on the Converting Preference Shares have been paid in full, the Converting Preference Shares will convert into ordinary shares in Mackay Sugar with standard voting, income and capital rights.

After that time all Shareholders will have an equal right to dividends payable from that point onwards, based on their relative shareholdings at the time.

2.3 Why are the Resolutions required?

All of the Resolutions are required to be passed in order for Mackay Sugar to proceed with the Proposed Transaction. The approval requirements for each Resolution are outlined below. Resolutions 1, 2 and 3 will be voted on by Voting Shareholders at the Extraordinary General Meeting and Resolution 4 will be voted on by the Investment Shareholders at the Investment Shareholder Meeting. Resolutions 1, 2, 3 and 4 are interdependent. If any Resolution is not passed, then none of the Resolutions will be taken to have been passed and the Proposed Transaction will not proceed.

The Resolutions and the Proposed Transaction are also subject to Completion occurring under the Subscription Agreement. If the Resolutions are passed but all Conditions Precedent under the Subscription Agreement are not satisfied or waived and Completion does not occur, the steps approved by the Resolutions will not take effect.

(a) Resolution 1: Approval of Share Issue to Nordzucker

Pursuant to section 606(1) of the Corporations Act, a person must not acquire a relevant interest in issued voting shares in an unlisted company with more than 50 members if the person acquiring the interest does so through a transaction in relation to securities entered into by or on behalf of the person and because of the transaction, that person's or someone else's voting power in the company increases:

- (i) from 20% or below to more than 20%; or
- (ii) from a starting point that is above 20% and below 90%.

The calculation of a person's voting power in a company involves determining the voting shares in the company in which the person and the person's associates have a relevant interest.

Item 7 of section 611 of the Corporations Act provides that a person may acquire a relevant interest in a company's voting shares if shareholders of the company approve the acquisition. In order to approve the acquisition, more than 50% of the votes cast by Voting Shareholders at the Extraordinary General Meeting will need to vote in favour of Resolution 1 for it to be passed.

On Completion, Nordzucker will be issued with such number of Converting Preference Shares as is equal to 70% of the issued share capital of Mackay Sugar. On that basis, Nordzucker's voting power will become 70%. Accordingly, Shareholder approval is being sought for the purposes of item 7 of section 611 of the Corporations Act for the issue of such number of Converting Preference Shares to Nordzucker which would give Nordzucker voting power of 70% upon Completion.

(b) **Resolution 2: Approval of New Constitution**

Section 136(2) of the Corporations Act requires that Mackay Sugar pass a special resolution at a general meeting to repeal the Existing Constitution and adopt the New Constitution. At least 75% of the votes cast by Voting Shareholders at the Extraordinary General Meeting will need to vote in favour of Resolution 2 for it to be passed and the New Constitution to be adopted.

The New Constitution is necessary to allow shares to be issued to Nordzucker and to change the structure of the Board.

(c) **Resolution 3: Approval of conversion of Voting Shares to Ordinary Shares**

Pursuant to section 246B(1) of the Corporations Act and rule 4.10(a) of the Existing Constitution, the rights attaching to any class of shares may be varied with the sanction of a special resolution of Shareholders who hold shares in the class being varied. A special resolution requires approval of at least 75% of the votes cast by members entitled to vote on the resolution.

Conversion of all Voting Shares to Ordinary Shares involves a variation of the rights attaching to those shares.

Section 246B(1) of the Corporations Act and rule 4.10(a) of the Existing Constitution will be satisfied by approval by special resolution of the conversion of Voting Shares to Ordinary Shares at a meeting of holders of Voting Shares (the Extraordinary General Meeting).

(d) **Resolution 4: Approval of conversion of Investment Shares to Ordinary Shares**

Pursuant to section 246B(1) of the Corporations Act and rule 4.10(a) of the Existing Constitution, the rights attaching to any class of shares may be varied with the sanction of a special resolution of Shareholders who hold shares in the class being varied. A special resolution requires approval of at least 75% of the votes cast by members entitled to vote on the resolution.

Conversion of all Investment Shares to Ordinary Shares involves a variation of the rights attaching to those shares.

Section 246B(1) of the Corporations Act and rule 4.10(a) of the Existing Constitution will be satisfied by approval by special resolution of the conversion of Investment Shares to Ordinary Shares at a meeting of holders of Investment Shares (the Investment Shareholder Meeting).

3 Frequently asked questions

This Explanatory Memorandum contains detailed information regarding the Proposed Transaction. The following section provides a summary of answers to some questions you may have in

relation to the Proposed Transaction or the Resolutions and will assist you to locate further detailed information in this Explanatory Memorandum.

No.	Question	Answer	Further information
1	What is the Proposed Transaction?	Nordzucker has agreed to invest \$60m of new equity and provide a shareholder loan of up to \$60m in return for a 70% shareholding in Mackay Sugar. The Subscription Shares to be issued to Nordzucker will provide for payment of a preferred dividend right of \$33.33 million (which comprises the dividends to which Nordzucker would be entitled in any case due to its shareholding, plus a diversion of \$10 million of dividends that would otherwise be payable to the remaining Shareholders) before dividends will be payable to other Shareholders.	For a summary of the Proposed Transaction, see section 1.3. For the full list of Conditions Precedent to the Proposed Transaction and the key terms of the Subscription Agreement, see section 6.1.
2	Are there any further consents required to complete the Proposed Transaction?	Completion of the Proposed Transaction is subject to a number of important Conditions Precedent, a number of which are yet to be satisfied or waived as at the date of this Explanatory Memorandum. The parties are currently working towards satisfying these Conditions Precedent.	Refer to section 1.3 for the status of conditions yet to be satisfied. Refer to section 6.1 for a full list of all Conditions Precedent.
3	Is it a good deal / the best deal?	<p>The Proposed Transaction provides vital funds for mill improvement which were proving difficult to obtain from other sources. If the mill improvement funding is not provided by an external investor like Nordzucker, then it may be required to be funded through new levies on Growers.</p> <p>For many years Mackay Sugar has suffered under a significant debt load, which is forecast to be around \$200 million at the end of YEM19. This will only increase if mill performance continues to decline and Mackay Sugar cannot crush the full crop.</p> <p>The Proposed Transaction is currently the only proposal capable of approval by Shareholders.</p>	For an independent assessment of the Proposed Transaction, please see the Independent Expert's Report in Annexure D.
4	What are the alternatives?	<p>The alternatives are:</p> <p>(a) To seek further support from the Corporate Noteholders and Senior Lenders</p> <p>When the Board started this process around two years ago it was determined that obtaining further funding from the Senior Lenders or Corporate Noteholders would be difficult because of Mackay Sugar's already high debt load, lack of profitability and need for funds to improve mill performance to</p>	For further information on the possible risks should the Proposed Transaction not be approved, see section 5.4.

No.	Question	Answer	Further information
		<p>restore profitability. Unfortunately, since then Mackay Sugar’s profitability and financial position has deteriorated further.</p> <p>It is therefore highly unlikely the Senior Lenders or Corporate Noteholders will provide additional debt to fund the required capital expenditure without a new equity injection or grower levy. As such, the injection needs to come from external investors or Growers, or both.</p> <p>(b) Consider whether the Company can continue as a going concern</p> <p>If the Proposed Transaction is not successful, the Board expects Mackay Sugar’s lenders to review their support for Mackay Sugar. The Board will need to assess the Company’s ability to continue to pay its debts as and when they fall due. If there is any doubt, the Board must consider placing the company in administration. In these circumstances the Senior Lenders may appoint receivers to take control of the company. The receivers will look to realise assets in order to recover the amounts owed by Mackay Sugar to the secured creditors (the Senior Lenders) in the first instance.</p> <p>Under any insolvency scenario, it is likely Growers would not be paid or fully repaid the Grower Contributions, cane pays or any Unsecured Notes.</p>	
5	<p>Why is Nordzucker interested in investing in Mackay Sugar?</p>	<p>Nordzucker has spent more than a year studying and understanding Mackay Sugar’s business. Mackay Sugar understands Nordzucker has also reviewed sugar businesses in a number of other countries with sugar cane industries. They are attracted to the climate in the Mackay region for growing cane, the infrastructure (proximity to port and port facilities), the sophistication and maturity of the industry and its performance in the growing sector, ease of doing business, and the people and capabilities in the mills. Their interest is aligned with the interests of the Growers. They want to work closely with Growers to restore mill performance which will significantly shorten the season length and enable Growers to supply larger crops and have them crushed (thereby reducing the risk of standover cane).</p>	<p>For further information on Nordzucker’s intentions, see section 7.</p>

No.	Question	Answer	Further information
		Nordzucker is of the view that improved mill performance will improve MSL's profitability, ensure long-term stability and build a strong MSL business.	
6	Are Shareholders responsible for MSL's debt either now or in the future?	No. Mackay Sugar is a limited liability company and the Company is responsible for paying its debts as and when they fall due. In the event the Company cannot do this, Shareholders' exposure is limited to the loss of their Shares if the Company was liquidated.	
7	Will Growers have to pay levies to repay the Nordzucker Shareholder Loan?	No, a levy to repay the Nordzucker Shareholder Loan is not intended. It is anticipated that following the Mill Improvement Program, Mackay Sugar will return to profitability and be in a position to repay Senior Lender debt and the Nordzucker Shareholder Loan without requiring a levy from Growers.	For further information on the Nordzucker Shareholder Loan Agreement, see section 6.2. For further information on Nordzucker's intentions, see section 7.
8	What will I receive for my shares?	<p>Nordzucker is investing directly in Mackay Sugar through the issue of new shares, not acquiring shares from existing Shareholders. Subject to Completion of the Proposed Transaction, your existing Voting Shares and Investment Shares will be converted into Ordinary Shares. The aggregate shareholding of existing shareholders will then be diluted as a result of the issue of the Subscription Shares to Nordzucker such that the Ordinary Shares now held by existing shareholders will make up 30% of the issued share capital of Mackay Sugar after completion of the Proposed Transaction, with the other 70% being the Subscription Shares held by Nordzucker. The funds contributed by Nordzucker to Mackay Sugar will be used to improve the reliability of the mills, repay the Grower Contribution and pay down debt.</p> <p>Once the mills are returned to profitability and debt is reduced to a reasonable level, Mackay Sugar will be in a position to consider paying dividends to Shareholders (noting Nordzucker's preferential dividend right as a result of the Subscription Shares).</p>	For a summary of the Proposed Transaction, see section 1.
9	When will Shareholders get	On current modelling the Board expects it will take at least 10 years to repair the mills, return to	For further information on

No.	Question	Answer	Further information
	a dividend?	profitability and repay debt to a level that dividends can be considered. This assumes average sugar prices and crop sizes. If Mackay Sugar benefits from a period of high sugar prices before then, this may reduce this time frame and vice versa if sugar prices remain low or deteriorate.	Nordzucker's intentions, see section 7.
10	Why is the cane pay formula changing back to CCS?	<p>One of the contributing factors to Mackay Sugar's high debt load has been the PRS cane payment formula (together with lack of profitability, due to reduced crop and sugar prices, and investments in the Mossman Mill and the Cogeneration Plant). The inherent incentives in the PRS formula are misaligned. For example the mill is not incentivised to invest to improve mill performance as two-thirds of the benefit flows to Growers, such that if the mills reduce spending in certain areas of the factory then Growers bear two-thirds of the consequences. The CCS formula realigns the consequences of decisions. The CCS formula, having been introduced over 100 years ago, is a commonly used method of calculating cane price and has widespread use in Queensland.</p> <p>Moving back to the CCS formula was critical to Nordzucker's decision to invest as it will help stabilise the business going forward and it better aligns the incentives with those who invest in particular areas.</p>	
11	Who will the Nordzucker Directors be and what are Nordzucker's intentions with the day-to-day running of Mackay Sugar?	<p>Nordzucker will nominate a chairman of the Board and four other Nordzucker Directors.</p> <p>Mark Day will become a Nordzucker Executive Director and continue on the Board, as well as fulfil various roles and assist in the transition.</p> <p>Nordzucker has already selected the following people as Nordzucker Directors following Completion of the Proposed Transaction:</p> <ul style="list-style-type: none"> • Michael Gerloff Michael Gerloff is the Head of the Cane Sugar Business Unit and Head of Business Development at Nordzucker Group. He has over 20 years of business experience in various industries. • Sven Buhrmann Sven Buhrmann is the Head of Investment & Maintenance & Major Projects and Head of Lean Optimization at Nordzucker Group. He 	For further information on Nordzucker's intentions, see section 7.

No.	Question	Answer	Further information
		<p>was formerly Head of the Uelzen Sugar Factory in Germany and has prior experience in the sugar cane industry.</p> <ul style="list-style-type: none"> • Frank Knaelmann Frank Knaelmann is the Head of Agri Analysis and Agri Sourcing at Nordzucker Group. He has over 20 years of business experience and is also a certified farmer in Germany. • Mark Day Mark Day is the current Executive Chairman and CEO of Mackay Sugar. He was previously the Executive General Manager – Mills at CSR as well as Director of Operations for Bunge in Brazil and Head of Indonesia Sugar Estates for Wilmar. <p>Nordzucker intends to appoint a fifth Nordzucker Director following Completion of the Proposed Transaction with a strong finance background in agricultural industries however a person to fill this role has not been selected as at the date of this document.</p> <p>Nordzucker is currently in the process of selecting certain senior management staff from Nordzucker to be seconded to Mackay to help assist in Mackay Sugar’s future development.</p> <p>Given the significant engineering requirements in the mill restoration program, Nordzucker will also look to place a number of engineers to assist in this.</p> <p>Nordzucker also provides extensive assistance to its growers with farm extension and advice. Nordzucker intends to seek ways for Mackay Sugar to work better with Growers and the Mackay Area Productivity Services group.</p>	
12	Will Nordzucker close mills?	<p>Nordzucker’s strategy is focused on growing Mackay Sugar through investment in the Mackay mills and working with Growers to increase yields and crop size to ensure the current 3 Mackay area mills can run at their design capacity.</p> <p>Nordzucker does not have any current intentions to close any of the Mackay mills.</p>	For further information on Nordzucker’s intentions, see section 7.
13	Will Mackay Sugar change its name to	No, Nordzucker currently intends for Mackay Sugar to retain its name and corporate identity however as Nordzucker will have 70% ownership the	For further information on Nordzucker’s

No.	Question	Answer	Further information
	Nordzucker	relationship with Nordzucker will be shown as part of MSL's corporate branding.	intentions, see section 7.
14	How long will it take to fix the mills?	The Board is already bringing forward some capital works in anticipation of the Proposed Transaction and in anticipation of a larger crop this year, however significant works will commence at the end of the 2019 season. The Board expects it will take between 3 to 5 years to see substantial improvements in rate, reliability and recovery but the Board expects to see continuous improvement once each year's work is completed.	The maintenance and capital works to be undertaken have been agreed in the Mill Improvement Program, as outlined in section 2.1(e).
15	How will the Proposed Transaction impact on my relationship with the mills? Will MSL still take my cane?	Your day to day operational relationship with Mackay Sugar is expected to continue as normal. The Cane Supply and Processing Agreement continues, except for the changes to the cane payment formula agreed with most Growers.	
16	When will Growers get the Grower Contribution back?	The first 50% of the Grower Contribution, up to a maximum of \$10 million, will be repaid within 30 days of Completion of the Proposed Transaction. The second 50%, up to a maximum of \$10 million, will be repaid within 12 months of Completion.	For further information on the repayment of the Grower Contribution, see section 6.1.
17	How do I know Nordzucker will repay the Grower Contribution?	The Board negotiated certain protections in the Subscription Agreement to ensure the Grower Contribution will be repaid in full. Directors appointed by Nordzucker will not be able to prevent Mackay Sugar from making repayment of the Grower Contribution.	For further information on the repayment of the Grower Contribution, see section 6.1.
18	What do the Grower Directors recommend?	For the reasons set out in section 2.1(a) and in the Independent Expert's Report, the Grower Directors unanimously recommend you vote in favour of the Proposed Transaction and will be voting their shares accordingly.	The Independent Expert's Report can be found in Annexure D.
19	What do the Independent Directors recommend?	For the reasons set out in section 2.1(a) and in the Independent Expert's Report, the Independent Directors unanimously recommend you vote in favour of the Proposed Transaction. The Independent Directors do not hold shares in Mackay Sugar.	The Independent Expert's Report can be found in Annexure D.

No.	Question	Answer	Further information
20	What is the opinion of the Independent Expert?	The Independent Expert has concluded that the Proposed Transaction is fair and reasonable for Voting Shareholders and Investment Shareholders of Mackay Sugar.	A summary of the conclusions of the Independent Expert is contained in section 4 and the Independent Expert's Report can be found in Annexure D.
21	Do Nordzucker representatives speak English?	Yes, the Nordzucker representatives who have been engaged with Mackay Sugar are fluent in English (as many Growers would have experienced at the meetings with them which occurred prior to release of the Notice of Meeting). Being an international group, English usage throughout Nordzucker's offices is an integral part of Nordzucker's corporate culture and their standard operating practice.	
22	What are the possible outcomes for Mackay Sugar if the Proposed Transaction is voted down?	<p>It is critical that the Proposed Transaction is approved by Shareholders and completed.</p> <p>If it is not, the Board expects the Company's financiers to review and possibly withdraw their support for Mackay Sugar. This may lead to the Directors of Mackay Sugar placing the Company into administration if funding is not available to pay the Company's debts as and when they fall due.</p> <p>If administrators are appointed, the secured creditors (Senior Lenders) may appoint receivers to take control of the Company. The receivers will look to realise assets in order to firstly recover the amounts owed by the Company to the Senior Lenders.</p> <p>Under any insolvency scenario, it is likely Growers will not be paid or fully repaid the Grower Contributions, cane pays or the outstanding balance on any Unsecured Notes.</p>	For further information on the possible outcomes should the Proposed Transaction not be approved, see section 5.4.
23	What is in this for the dry shareholders (Investment Shareholders who are not Growers)?	<p>The Proposed Transaction gives Mackay Sugar the best opportunity to return to profitability and build a strong financial position. Once the mills are repaired and debt repaid, Mackay Sugar should be in a position to recommence paying dividends (initially on the Converting Preference Shares and then to all Shareholders).</p> <p>Under an alternative scenario where Mackay Sugar enters administration, all equity in Mackay Sugar, including that held by the dry shareholders, is likely to be worthless. Mackay Sugar will likely worsen in performance and recovery in the future will become</p>	<p>For further information on dividend payments after the Proposed Transaction, see section 7.</p> <p>For further information on the possible outcomes should the Proposed Transaction not be approved, see section</p>

No.	Question	Answer	Further information
		much more difficult, if not impossible.	5.4.
24	What is the proposed structure of the Board following Completion?	<p>The new Board will comprise a minimum of six and maximum of eight directors. The Board will be constituted by:</p> <ul style="list-style-type: none"> • three Grower Directors; and • a minimum of three and maximum of five Nordzucker Directors. <p>Following Completion of the Proposed Transaction the existing Directors currently on the Board will continue in their roles, alongside the new Nordzucker Directors, until such time as the new Grower Directors are appointed in accordance with the New Constitution.</p> <p>The Directors may elect a Nordzucker Director as Chairman and it is a condition of the New Constitution that a Grower Director is appointed to the position of Deputy Chairman.</p> <p>Grower Directors will be appointed by a committee of the Board. Growers must supply a minimum of 1,500 tonnes to the Company under a Cane Supply and Processing Agreement in order to be eligible for nomination as a Grower Director.</p> <p>The Directors vote in accordance with the shareholding of their represented shareholders i.e. Nordzucker Directors can collectively cast 70% of the votes and Grower Directors can collectively cast 30% of the votes at a Board meeting.</p>	<p>For further information on the structure of the Board, including the eligibility of Grower Directors, see items 5 to 13 of Schedule 2.</p> <p>For further information on the appointment of new Grower Directors, see item 6 of Schedule 2.</p>
25	If Nordzucker has 70% control of the Company, how can I be confident they will honour the agreements?	<p>Nordzucker has a long history as a highly respected grower-owned sugar company.</p> <p>The Board expects they will honour their agreement into the future and work productively and respectfully with Growers as they have done in Europe and Nordzucker has assured that this will be the case. They understand the importance of this relationship from their 180 years of experience as a grower owned entity.</p> <p>To ensure matters important to Growers are protected, the Board has built into the Constitution protections for Reserved Matters which will require the approval of 75% of all shareholders voting and 50% of Grower Shareholders voting. The Reserved Matters include:</p>	For further information on the Reserved Matters, see item 23 of Schedule 2.

No.	Question	Answer	Further information
		<ul style="list-style-type: none"> • amending the New Constitution; • a material change in the nature of the business; • winding up of the company; • liquidation of the company's assets; • variation to share rights; • amending the procedures for election of Grower Directors; • issuing of shares without offering to all shareholders; • issue of any further preference shares; and • listing the company on a stock exchange. 	
26	How will Shareholders be able to communicate with the Nordzucker Directors?	MSL will ensure that there are adequate communication systems between the Company and Shareholders.	
27	Who will control Mackay Sugar?	<p>Nordzucker will hold a majority shareholding and control the Board. As a consequence, they will have day-to-day control of the Company.</p> <p>While Nordzucker hold 70% of shares in Mackay Sugar they will not be able to pass special resolutions to vary the rights attaching to your shares without the separate support of 50% of voting Growers.</p>	<p>For further information on the effect of Nordzucker's control of Mackay Sugar, see section 7.</p> <p>For further information on the Reserved Matters, see item 23 of Schedule 2.</p>
28	Will Nordzucker's objectives be aligned to ours?	Yes, given the importance of Growers to Mackay Sugar's business the Board expects Nordzucker and Grower interests to align. Also, for Nordzucker to obtain a return on their investment, Nordzucker must improve mill performance and return the Company to profitability. As mill performance improves the Board expects Nordzucker will focus on working cooperatively with Growers to improve yields and increase crop size to maximise the use of the current design capacity of the 3 factories.	For further information on Nordzucker's intentions, see section 7.
29	Is this a medium term or long-term	One of the reasons the Board decided to work with Nordzucker over alternative investors, many being financial investors, was the Board's view that	For further information on Nordzucker's

No.	Question	Answer	Further information
	investment?	Nordzucker will be a long-term investor and true partner with Mackay Sugar. Nordzucker's commitment to the sugar industry is obvious given their heritage dating back to 1838 and the Board sees no reason why this will change. In Europe, Nordzucker has preferred to hold businesses over the long term rather than buying in and out of sugar businesses over short periods of time.	intentions, see section 7.
30	What restrictions are there on share sales in the future?	<p>Any Shareholder can transfer their shares to any party, subject to certain requirements outlined below.</p> <p>Nordzucker may transfer their shares to any party without restriction.</p> <p>Any Shareholder (other than Nordzucker) wishing to sell their Shares to a third party (a party that is not a Grower or Nordzucker) must first provide notice to the company offering their Shares for sale (Transfer Notice). The Transfer Notice must include the number of Shares for sale and the price payable per Share.</p> <p>Following receipt of the Transfer Notice, the Company must list the Shares on a register of interested parties kept by the Company for a period of 30 days (this will be available on the MSL website). Only Growers or Nordzucker can accept the offer (i.e. not dry shareholders).</p> <p>If no one accepts the offer in 30 days then the Shareholder is free to sell their Shares to a third party, provided that:</p> <ul style="list-style-type: none"> • the disposal is on no more favourable terms than those set out in the Transfer Notice (i.e. no lower price); • the price payable does not include any non-monetary consideration; and • there are no other ancillary arrangements by which the seller has sought to avoid these provisions. <p>Mackay Sugar intends to apply for a low volume financial market exemption with ASIC to facilitate this share transfer process in accordance with Corporations (Low Volume Financial Markets) Instrument 2016/888.</p>	For further information on the share transfer restrictions, see item 20 of Schedule 2.
31	Why are	In recognition of the significant investment being	

No.	Question	Answer	Further information
	Nordzucker being issued Converting Preference Shares?	made by Nordzucker, including bringing technical and industry expertise and taking risk that any return on its investment will not be available until a number of years following Completion due to the prioritising of the Mill Improvement Plan over the generating of profits, the Board of MSL commercially agreed with Nordzucker that it be issued with Converting Preference Shares. The Converting Preference Shares provide that once (and only if) Nordzucker has successfully returned Mackay Sugar to profitability and prudent debt levels, Nordzucker will be paid all dividends declared by Mackay Sugar up to an aggregate value of \$33.33 million in preference to the remaining Shareholders. This figure comprises the dividends which Nordzucker would be entitled to in any event as a result of its shareholding in Mackay Sugar, plus the first \$10 million of dividends to which the remaining Shareholders would be entitled to by virtue of their remaining shareholding.	
32	What will happen to the Unsecured Notes?	Nordzucker does not currently intend to shut the unsecured note scheme. Following Completion, Nordzucker will consider whether it is practical to continue with the Unsecured Notes scheme depending on the balance maintained during the year.	For further information on Nordzucker's intentions, see section 7.
33	What is the Nordzucker Shareholder Loan?	<p>The Nordzucker Shareholder Loan is a loan from Nordzucker to Mackay Sugar, which has no security and is 'subordinated' to the rights of the Senior Lenders.</p> <p>In a typical liquidation of a company, the usual process involves cash from asset sales first being applied to repaying the lenders who have security, then any surplus is paid to unsecured creditors including noteholders and to Nordzucker under the Nordzucker Shareholder Loan and any remainder to the Shareholders in respect of their equity interests.</p>	For further information on the Nordzucker Shareholder Loan Agreement, see section 6.2.
34	What is the interest rate on the Nordzucker Shareholder Loan?	It will be equal to the interest rate charged by the Senior Lenders on the new capital expenditure loan being provided to Mackay Sugar. The terms of the new capital expenditure facility are currently being negotiated by Mackay Sugar with the Senior Lenders.	For further information on the Nordzucker Shareholder Loan Agreement, see section 6.2.
35	What will happen to the	Mackay Sugar still owns its shares in Sugar Terminals Limited. The dividend rights were sold to	For further information on

No.	Question	Answer	Further information
	STL shares?	One Tree Agriculture Pty Ltd and are due to be bought-back in 2024. It is possible for the rights to be bought-back before then and the Board expects Nordzucker to consider this if there is available funding and it makes economic sense to do so.	Nordzucker's intentions, see section 7.
36	What will happen with the Corporate Notes?	The Company distributed a Notice of Circulating Resolution of Noteholders and Explanatory Memorandum to Corporate Noteholders on 16 April 2019 seeking their agreement to a restructure of the Corporate Notes. The restructure will see Mackay Sugar redeem the Corporate Notes upon Completion at a 50% discount to face value, being \$25 million in total. This will result in Mackay Sugar's debt being reduced by \$25 million. The circulating resolution providing for the amendment to the conditions of the Corporate Notes was approved on 2 May 2019.	For further information in relation to the terms of the Proposed Transaction, see section 6.1.

4 Opinion of the Independent Expert

4.1 Independent Expert Report

- (a) The Independent Expert Report is at Annexure D. The Independent Expert Report has concluded that the Proposed Transaction is **FAIR AND REASONABLE** to Voting Shareholders and Investment Shareholders.
- (b) This opinion is based on the value per Share before the Proposed Transaction (on a controlling basis) to the assessed value of an MSL share after the Proposed Transaction (on a minority basis), as required by ASIC guidelines for the preparation of these type of reports.

Note that the Independent Expert Report goes on to state that:

The Proposed Transaction is fair: since the value of a Mackay Sugar share after the Proposed Transaction is greater than the value of a Mackay Sugar share prior to the Proposed Transaction and the Proposed Transaction is reasonable since it is fair. Additionally, the advantages of the Proposed Transaction outweigh the disadvantages of the Proposed Transaction.¹

The Proposed Transaction will provide Mackay Sugar with much needed funding for investment in necessary capital equipment and maintenance, to repay certain liabilities and also for general working capital purposes, with a view to improving the operating and financial performance of the business.²

¹ Section 1.2 of the Independent Expert Report.

² Section 1.7.1 of the Independent Expert Report.

Fairness assessment Assessed Value Cents per Ordinary Share	Section reference*	Low	High
Assessed value per Ordinary Share before the Proposed Transaction (on a control basis)	12.3.1	nil or nominal	
Assessed value per Ordinary Share after the Proposed Transaction (on a minority basis)	12.3.1	1.0	10.4

Note: The Independent Expert assessed the Proposed Transaction assuming that the Voting Shares and Investment Shares prior to the Proposed Transaction were in fact Ordinary Shares. The Independent Expert stated that this assumption did not impact their conclusion on fairness as the restrictions pertaining to each of these classes of shares only makes them less valuable than an Ordinary Share (prior to the Proposed Transaction). In other words, if lower valuations for each had been adopted, the Proposed Transaction would be even more fair.

* Refers to a section reference of the Independent Expert Report

5 Key risk factors

5.1 Overview

Mackay Sugar's business is subject to risk factors, both specific to its business activities, and risks of a general nature. Individually, or in combination, these might affect the future operating performance, and profitability, of Mackay Sugar and the value of your shareholding in Mackay Sugar. As a shareholder in Mackay Sugar if the Proposed Transaction is completed, Nordzucker will similarly be affected by these risk factors in the same manner as other Shareholders.

Before voting at the Meetings, Shareholders should carefully consider the risks described in this section. These risk factors do not take into account the investment objectives, financial situation, taxation position or particular needs of any specific Shareholder. The information below does not purport to be, nor should it be construed as representing, an exhaustive summary of all possible risks.

5.2 General risks

- (a) **Changes in operating conditions.** The operating performance of Mackay Sugar could be affected by changes in operating conditions including crop size, yield, breakdown of plant and equipment and natural disasters including cyclone, flood, drought, fire and pest.
- (b) **Changes in economic conditions.** The financial performance of Mackay Sugar could be affected by changes in economic conditions including economic growth, employment levels and consumer confidence, underlying cost structures for labour, technology and service charges, inflation and interest rates, sugar and electricity prices and exchange rates.
- (c) **Changes in regulatory and legal environment.** Mackay Sugar will be subject to, and must comply with, changes in the regulatory conditions under which it operates, including the regulatory requirements of the Australian sugar industry, legislation and regulations including the Sugar Industry Act, Competition and Consumer Act and ACCC policies. Changes to the regulatory and legal environment may affect Mackay Sugar and its subsidiaries, its business operations and financial performance, or have other unforeseen implications.

5.3 Specific risks associated with Proposed Transaction completing

- (a) **Dilution of shareholding and voting power.** The aggregate percentage shareholding of an existing Shareholder will be diluted by the issue of the Subscription Shares to Nordzucker. Following the Proposed Transaction, existing Shareholders' ownership will be reduced from 100% to 30% and the collective voting power of existing Shareholders will also be reduced accordingly. However, existing Shareholders will retain all of their existing shares in Mackay Sugar, which will be converted to Ordinary Shares.
- (b) **Nordzucker will have control of Mackay Sugar.** Nordzucker will have a 70% shareholding in Mackay Sugar from Completion and, consequently, will control the Board and have the ability to pass and block ordinary resolutions and block special resolutions, other than those in relation to which it is precluded from voting on, or the Reserved Matters.

(c) **Failure of Mill Improvement Program**

In the event the Mill Improvement Program is unsuccessful and Nordzucker is unable to restore the rate, reliability and recovery of the mills, extended season lengths may occur and the operating performance and profitability of the mills may be impacted. In this scenario debt levels may remain unsustainably high and the ongoing viability of Mackay Sugar would depend on the support of Nordzucker and Mackay Sugar's financiers.

5.4 Specific risks associated with Proposed Transaction not completing

Completion of the Subscription Agreement is conditional on approval of all Resolutions. If all four of the Resolutions are not approved at the Meetings, Mackay Sugar will not be able to satisfy the conditions under the Subscription Agreement and it is likely that the Subscription Agreement will be terminated and the Nordzucker investment will not be made.

If the Subscription Agreement is terminated, Mackay Sugar will need to renegotiate the terms of its existing debt obligations with its financiers and potentially seek alternative funding.

If the Company does not have reasonable grounds to believe that it will be successful in its efforts to obtain an additional source of funding, the Directors may be required to appoint an administrator.

(a) **Consequences of appointing an administrator**

If the Proposed Transaction does not proceed and the Directors come to the view that Mackay Sugar is unable to pay its debts as and when they become due and payable then the Directors will appoint an administrator.

If the Directors are required to appoint an administrator it will mean that the Company will be controlled by the administrator and creditors. The creditors will be given the opportunity to elect a committee to consult with the administrator of the Company. The administration process may ultimately result in creditors approving the winding up of Mackay Sugar which would involve the sale of all of its assets. The proceeds of such sales would first be used to pay the costs of the liquidation, then to secured creditors (Senior Lenders), then to certain priority unsecured creditors including in respect of employee entitlements and finally to other unsecured creditors.

Mackay Sugar owns significant assets which are convertible to cash, however the value of those assets, particularly the Company's mills, is difficult to value based on the current state of repair of the mills, uncertainty in the global sugar market, and a restricted pool of potential buyers.

Until any such sale is completed it is not possible to forecast whether there will be funds available to distribute to Investment Shareholders in a winding up after all creditors have been paid in full. Voting Shareholders are not entitled to participate in the distribution of the surplus assets of the Company on the winding up or reduction in capital of the Company under the Existing Constitution.

(b) **Consequences of receivership**

In the event Mackay Sugar defaults under its finance arrangements with its Senior Lenders then, subject to the terms of those arrangements, a Senior Lender (as a secured creditor) may decide to appoint a receiver over Mackay Sugar. In circumstances where Mackay Sugar appoints an administrator the secured creditors would also likely appoint a receiver who would then control the Company instead of the administrator. A receiver's duties are generally to sell enough of the assets to repay the secured creditors. The receiver can also choose to continue the business of the Company (trade on) and attempt to sell the business as a going concern.

The Directors and officers remain in office but their authority and management powers are extremely limited, depending on whether the receiver is appointed in respect of a particular asset or over the whole of the Company's property. Generally, control of the Company's business or assets is taken away from the Directors by the receiver.

6 Summary of transaction agreements

6.1 Summary of Subscription Agreement

Matter	Summary
Parties	The parties to the Subscription Agreement are Mackay Sugar and Nordzucker.
Conditions precedent	<p>There are a number of matters (Conditions Precedent) which must be completed (or waived) before Nordzucker will provide funding and be issued with Shares. The Conditions Precedent to Completion and the issue of the Subscription Shares to Nordzucker are:</p> <ul style="list-style-type: none"> (a) Mackay Sugar obtaining Shareholder approval under the takeovers provisions (item 7 of Section 611) of the Corporations Act for the issue of the Subscription Shares to Nordzucker; (b) Mackay Sugar obtaining approval of Shareholders to the adoption of the New Constitution; (c) Mackay Sugar obtaining approval of the Investment Shareholders and Voting Shareholders to the conversion of their respective Shares into Ordinary Shares; (d) Nordzucker obtaining approval from the Foreign Investment Review Board; (e) no material adverse change occurring in relation to the business; (f) none of the events listed in section 652C of the Corporations Act having occurred, other than to the extent they relate to the sale of the Mossman mill or the issue or cancellation of Voting Shares in accordance with the Existing Constitution; (g) Mackay Sugar receiving written consents or waivers (as applicable) to the rights of other parties which may arise on the change of control of Mackay Sugar which will result from the Proposed Transaction from counterparties to certain material agreements; (h) Mackay Sugar ceasing to own the Mossman mill; (i) amending the Cane Supply and Processing Agreement (excluding Growers supplying the Mossman mill as they are already on the CCS cane payment formula) to reintroduce the CCS cane payment formula from the 2019 season; (j) Nordzucker procuring a warranty and indemnity insurance policy; (k) the Queensland State Government providing a financial assistance package in support of the Proposed Transaction of up to \$14m, on

Matter	Summary
	<p>terms satisfactory to Nordzucker;</p> <p>(l) agreement with Mackay Sugar’s third party lenders on the steps to be taken to effect a reduction of the financial burden of Mackay Sugar of at least \$25m; and</p> <p>(m) the Nordzucker Shareholder Loan Agreement and Subordination Agreement being in agreed form.</p> <p>All of the above Conditions Precedent have been satisfied as at the date of this Explanatory Memorandum with the exception of:</p> <ul style="list-style-type: none"> • items (a), (b) and (c), which are the subject of the Notice of Meeting, • items (e) and (f) which can only be satisfied immediately prior to Completion; and • items (h), (i), (k), (l) and (m), the status of which has been summarised in section 1.3.
Key steps	<p>The Proposed Transaction to be completed in accordance with the Subscription Agreement comprises the following key steps:</p> <ul style="list-style-type: none"> • satisfaction of the Conditions Precedent set out above; • subscription by Nordzucker for the Subscription Shares in exchange for payment of \$60 million; • entry into the Nordzucker Shareholder Loan Agreement providing for a loan by Nordzucker of up to \$60 million to Mackay Sugar; • subscription amount and Nordzucker Shareholder Loan to be applied in line with an investment plan agreed by the parties, focusing on maintenance and capital works to improve mill performance, and otherwise as determined by the Board (i.e. the Mill Improvement Program); and • the Company to repay one half (up to a maximum of \$10 million) of the Grower Contribution within 30 days of Completion and the balance of the Grower Contribution within 12 months of Completion, totalling, in aggregate, a maximum of a \$20 million repayment.
Conduct until completion	<p>During the period prior to Completion, Mackay Sugar must conduct its business and operations in the ordinary course, maintain levels of working capital that are adequate for the purposes of Mackay Sugar being able to conduct its business and operations in the ordinary course, and provide Nordzucker with updates as to the operations of the business of Mackay Sugar and the occurrence of any matters which occur which are outside the ordinary course of its business.</p> <p>Mackay Sugar must not, without the prior approval of Nordzucker (which must not be unreasonably withheld):</p> <ul style="list-style-type: none"> • make any change to the Existing Constitution; • allocate any previously unallocated funds to any capital or maintenance equipment that is for an amount exceeding \$200,000; and

Matter	Summary
	<ul style="list-style-type: none"> • enter into, terminate or amend any Cane Supply and Processing Agreement other than in accordance with the Conditions Precedent or in respect of the Mossman mill. <p>In addition, standard restrictions that would typically be placed on a company in the process of undergoing a change of ownership will also apply to Mackay Sugar such as a prohibition on the issue and allotment of capital, payment of dividends, increase in indebtedness, and transactions outside the ordinary course of business.</p>
Warranties and indemnities	<p>Both Mackay Sugar and Nordzucker have given warranties and representations in respect of their capacity to enter into the Subscription Agreement and the accuracy of information provided in relation to the Subscription Agreement which are given on terms usual for a transaction of this nature.</p> <p>It is customary in a transaction of this type that the target company also give certain warranties around the business which the investor is investing in and as such, Mackay Sugar has agreed to further warranties and representations under the Subscription Agreement in relation to commercial and operational matters affecting the Company (including indemnities in relation to environmental, employment and tax liabilities).</p> <p>Mackay Sugar has given warranties in respect of matters including:</p> <ul style="list-style-type: none"> • its solvency and accuracy of its accounts; • its ownership of its assets; • the cane supply and processing agreements providing adequate tonnage for supply to its mills; • the validity and disclosure of its material contracts and that Mackay Sugar is not aware of a material breach of those contracts; • its employment arrangements and compliance with employment agreements; • its compliance with applicable laws; • the adequacy of and compliance with its environmental authorities and obligations; • there being no: <ul style="list-style-type: none"> ○ contamination on, under or emanating, from the sites Mackay Sugar occupies; ○ hazardous material, including asbestos, present at the sites Mackay Sugar occupies; and ○ actual, pending or threatened action against Mackay Sugar in respect of contamination or pollution of the environment; • no current prosecutions or litigation; and • lodgment and payment of all applicable taxes.

Matter	Summary
	<p>Certain customary due diligence and disclosure exclusions apply in relation to the warranties which prevent claims being brought where Nordzucker had knowledge of such matters prior to entry into the Subscription Agreement.</p> <p>Indemnities</p> <p>Under the Subscription Agreement, Mackay Sugar has agreed to indemnify Nordzucker against loss which it may suffer or incur as a result of:</p> <ul style="list-style-type: none"> • environmental breaches, non-compliances, pollution or contamination already existing prior to the date of completion of the Proposed Transaction and any exacerbation or expansion of the same following completion of the Proposed Transaction (Environment Indemnity); • certain employment claims relating to the period prior to the date of completion of the Proposed Transaction and particular significant workplace incidents (Employment Indemnity); and • any taxes for which Mackay Sugar is liable, other than those arising in the ordinary course of business and not payable until after Completion, with respect to the period prior to the date of completion of the Proposed Transaction, taxes arising from any breach of warranty, and any prior tax indemnity given by Mackay Sugar to a third party (Tax Indemnity). <p>Warranty claims and warranty and indemnity insurance</p> <p>Claims for breach of warranty and under the indemnities are limited as to time and amount.</p> <p>Nordzucker has also taken out warranty and indemnity insurance under which any warranty claim will be made against that insurance policy, with the insurer having no recourse to Mackay Sugar to recover any amounts paid out under the insurance policy.</p> <p>Indemnity claims</p> <p>The amount of any finally agreed or adjudicated claims made by Nordzucker under the Environment Indemnity and Employment Indemnity will be grossed-up in accordance with the gross-up principle set out below and applied to the Nordzucker Shareholder Loan. The maximum liability of Mackay Sugar as a result of all claims finally agreed or adjudicated under the Environment Indemnity or the Employment Indemnity is an amount equal to \$4,500,000.</p> <p>Gross-up</p> <p>The gross-up serves to reflect that as Nordzucker will hold a 70% shareholding in Mackay Sugar following Completion, for every \$1 of the Nordzucker Shareholder Loan repaid by the Company, \$0.70 of that amount would be an amount to which Nordzucker was already entitled. Therefore only \$0.30 in every dollar recovered under the Nordzucker Shareholder Loan shall count towards recovery of claims made under the</p>

Matter	Summary
	<p>Environment Indemnity and Employment Indemnity.</p> <p>A claim under the Environment Indemnity or the Employment Indemnity is therefore grossed-up by dividing the value of the claim by the proportion of the shares in Mackay Sugar not held by Nordzucker, for example:</p> <p style="text-align: center;">$\\$1,000,000$ (claim value) \div 0.30 (proportion of shares in Mackay Sugar not held by Nordzucker, being 30%) = $\\$3,333,333.33$ (Grossed-up Claim Value).</p> <p>The Grossed-up Claim Value then becomes the amount which is to be added to the Shareholder Loan.</p> <p>The maximum Grossed-up Claim Value which may be added to the Nordzucker Shareholder Loan is \$15 million.</p>
Exclusivity	<p>Exclusivity will continue until the Proposed Transaction is completed or terminated. Exclusivity restricts Mackay Sugar and its advisers from soliciting and engaging with alternative bidders. It also gives Nordzucker the opportunity to match any unsolicited offer which is made by an alternative bidder.</p> <p>The exclusivity provisions are subject to a fiduciary carve out which provides relief from the exclusivity provisions and allows the Directors to consider unsolicited offers where the duties of the Directors require them to do so.</p>
Termination	<p>The Subscription Agreement will terminate on the day after 31 July 2019 if the Conditions Precedent are not satisfied or waived, unless the parties agree otherwise.</p>

6.2 Summary of the draft Nordzucker Shareholder Loan Agreement

Matter	Summary
Parties	<p>The proposed parties to the Nordzucker Shareholder Loan Agreement are Mackay Sugar and Nordzucker.</p>
Key terms	<p>Mackay Sugar and Nordzucker have reached in-principle agreement on the terms and conditions of the Shareholder Loan Agreement. The parties have begun negotiation of the Subordination Agreement with the Senior Lenders and the Nordzucker Shareholder Loan Agreement can not be finalised until the Subordination Agreement is in agreed form.</p> <p>Execution of this agreement is a Condition Precedent. The following is a summary of the key terms as they currently stand:</p> <p>Loan amounts</p> <p>The Nordzucker Shareholder Loan Agreement provides for a facility of up to \$60 million.</p> <p>Drawdowns</p>

Matter	Summary
	<p>Mackay Sugar may drawdown on the facility as follows:</p> <ul style="list-style-type: none"> (a) Completion Drawdown – following Completion of the Proposed Transaction to the amount of \$23 million; (b) Capex Drawdowns – on request and pursuant to Mackay Sugar’s capital expenditure program for the 2019/2020 and 2021/2022 financial years, in an amount that is 40% of the total capital expenditure requirement at the time pursuant to the program, with the aggregate amount of all such amounts in all Capex Drawdown Notices not to exceed \$29.2 million; and (c) General Drawdowns – in amounts and at times as required provided that the aggregate outstanding amount of all General Drawdown amounts do not at any time exceed \$7.8 million plus, where the Completion Drawdown is for an amount less than \$23 million, the difference between the Completion Drawdown amount and \$23 million. <p>Interest</p> <p>The interest rate is equal to the Reuters screen BBSW (bank bill swap rate) for a term equivalent to the relevant interest period after eliminating one of the highest and one of the lowest of those rates, plus a margin equal to the margin under the new capital expenditure facility to be agreed between Mackay Sugar and the Senior Lenders.</p> <p>Availability</p> <p>The facility will be available to Mackay Sugar until 31 December 2021, but will in any event align with the new capital expenditure facility to be agreed between Mackay Sugar and the Senior Lenders.</p> <p>Repayment</p> <p>Mackay Sugar must repay (subject to any restrictions on repayment imposed by the Senior Lenders):</p> <ul style="list-style-type: none"> (a) \$10 million of the outstanding loan amount on 31 May 2022; (b) \$10 million of the outstanding loan amount on 31 May 2023; and (c) the remaining outstanding amount of the loan by 31 May 2024 or otherwise the date which is at least five years from the date of the Shareholder Loan Agreement. <p>Mackay Sugar and Nordzucker may at any time agree to postpone Mackay Sugar’s obligation to make any repayments, but there is no obligation on Nordzucker to agree to such extension.</p> <p>No redraw</p> <p>Mackay Sugar is not permitted to re-borrow any part of the facility which has either been repaid or prepaid, unless otherwise agreed with Nordzucker.</p> <p>Events of default</p> <p>The following are events of default under the Nordzucker Shareholder Loan Agreement:</p> <ul style="list-style-type: none"> (a) a failure to make a repayment; (b) a default under the agreements with the Senior Lenders; (c) a representation, warranty or statement by or on behalf of Mackay Sugar is not true in a material respect or is misleading when made or repeated; (d) an insolvency event occurs in relation to Mackay Sugar or any of

Matter	Summary
	<p>its subsidiaries;</p> <p>(e) the reduction of Mackay Sugar’s capital without Nordzucker’s prior consent;</p> <p>(f) amendment of the New Constitution in a material respect without Nordzucker’s prior consent;</p> <p>(g) Mackay Sugar undertakes a corporate reorganisation or deregistration without the prior consent of Nordzucker;</p> <p>(h) a provision of the Nordzucker Shareholder Loan Agreement becomes or is claimed by Mackay Sugar to be wholly or partly invalid, void, voidable or unenforceable;</p> <p>(i) all or a material part of the assets of Mackay Sugar are compulsorily acquired by or by order of a government agency under law or a government agency threatens or takes a step to do so;</p> <p>(j) a government agency takes a step to, threatens to, or orders the sale, vesting or divesting of all or a material part of the assets of Mackay Sugar;</p> <p>(k) there is a breach of relevant environmental law, which in the opinion of Nordzucker, will have a material adverse effect;</p> <p>(l) the participants to the Sugar Australia Joint Venture resolve to terminate or act in such a way as to bring about a termination, expiry or other non-renewal of the term of the Sugar Australia Joint Venture;</p> <p>(m) any other event or series of events, whether related or not, occurs which, in the reasonable opinion of Nordzucker, is likely to have a material adverse effect; and</p> <p>(n) Mackay Sugar suspends or ceases to carry on (or threatens to suspend or cease to carry on) all or a material part of its business.</p> <p>If an event of default occurs, Nordzucker may:</p> <p>(a) declare that all amounts owing under the loan are immediately due and payable (subject to the terms of the agreements with the Senior Lenders);</p> <p>(b) cancel any undrawn amount of the facility; or</p> <p>(c) require that Mackay Sugar grant security over its assets to Nordzucker, subject to any negative pledges, subordination requirements or equivalent provisions in agreements with the Senior Lenders.</p> <p>Warranties</p> <p>Mackay Sugar has given standard warranties and representations for an agreement of this type.</p> <p>Subordination</p> <p>The Nordzucker Shareholder Loan Agreement is subordinated to the agreements with the Senior Lenders. Nordzucker and the Company entering into a Subordination Agreement is also a Condition Precedent to Completion which must be either satisfied or waived.</p>

6.3 Summary of New Constitution

A table summarising the key differences between the Existing Constitution and the New Constitution is set out in Schedule 2 of this Explanatory Memorandum. The full text of the New Constitution can be found in Annexure C to this Explanatory Memorandum. Copies of the Existing Constitution and New Constitution are available for review by Shareholders at Mackay Sugar's website www.mackaysugar.com.au.

Reasons for a New Constitution

Changes to the Existing Constitution are necessary to permit the investment into Mackay Sugar by a non-Grower and allow for the issue of the Subscription Shares and the conversion of Voting Shares and Investment Shares to Ordinary Shares.

The Existing Constitution has also not been comprehensively updated since 2011. In light of various changes to the applicable regulatory requirements and the requirements of the Proposed Transaction, the Directors consider it is necessary to revise and update the Existing Constitution in various ways. The proposed changes affect a range of provisions in the Existing Constitution and the Directors therefore consider it more efficient to adopt the New Constitution rather than approving numerous amendments to the Existing Constitution.

7 Material information for the purposes of ASIC Regulatory Guide 74

No.	Question	Answer
1	Who is the person proposing to invest in Mackay Sugar?	Nordzucker AG. For further information on Nordzucker, see section 1.4.
2	Nordzucker's voting power	<p>Neither Nordzucker nor any of its associates hold any Shares in Mackay Sugar. If Completion occurs, Nordzucker will hold such number of Converting Preference Shares on Completion as represents voting power of approximately (but not less than) 70% in the Company. The maximum extent of the increase in Nordzucker's voting power in the Company under the Proposed Transaction is approximately (but not less than) 70%.</p> <p>In accordance with the Corporations Act, a Shareholder with a voting power of in excess of 20% and less than 90% may acquire an additional 3% voting power every six months without Shareholder approval and without being required to make a 'takeover' bid (known as the 'creep' exception). While the maximum voting power Nordzucker may obtain as a result of the Proposed Transaction referred to in this Explanatory Memorandum is 70%, Nordzucker could acquire Shares giving it an additional 3% voting power six months after Completion which could result in its voting power increasing above 70% (see 'Effect of Nordzucker's Control' below).</p>
3	Effect of Nordzucker's control	Nordzucker's maximum voting power, if the Resolutions are approved and Completion occurs, will be approximately (but not less than) 70%. As such, Nordzucker will have the power to pass an ordinary resolution but not a special resolution at a general meeting of the Company (special resolutions require 75% approval). The New Constitution, which must be adopted if Nordzucker is to be issued the Subscription Shares, restricts Nordzucker

No.	Question	Answer
		<p>from passing resolutions on certain matters without the separate approval of Grower members. These matters include:</p> <ul style="list-style-type: none"> (a) amending the Company’s constitution; (b) a material change in the nature of the business of the Company or the industry in which it operates; (c) the making of an application or taking steps to wind up the Company; (d) in the event of a liquidation, the division of the property of the Company pursuant to rule 32.2(a); (e) any change to the rights attaching to shares; (f) any modification or change to the procedures for the election and removal of Grower Directors in the New Constitution; (g) the issue of shares other than in accordance with rule 12 of the New Constitution; (h) the issue of any preference shares or Converting Preference Shares; and (i) listing of the Company on a stock exchange. <p>Nordzucker’s current intentions with regard to the Company are set out under ‘Nordzucker’s intentions’ below. However, those intentions may change in the future and Nordzucker could use its voting power to pursue intentions which differ from those set out below, subject to the restrictions in the proposed New Constitution outlined above and in section 6.3.</p>
4	Reasons for the Proposed Transaction	For an explanation of the rationale for the Proposed Transaction, see section 1.1 and 1.2.
5	When is Completion of the Proposed Transaction likely to occur?	<p>Completion of the Proposed Transaction will occur if all of the Resolutions are approved and the other Conditions Precedent are satisfied or waived.</p> <p>The Directors anticipate that this will occur within 5 business days of all of the Conditions Precedent being satisfied or waived.</p>
6	Material terms of the Proposed Transaction	The material terms of the Proposed Transaction are set out in sections 1 and 6.
7	Material terms of any other relevant agreement	The material terms of the Nordzucker Shareholder Loan Agreement are set out in section 6.2.
8	Nordzucker’s intentions	Mackay Sugar has been advised by Nordzucker that it currently has no intention:

No.	Question	Answer																																				
		<p>(a) to change the business of the Company;</p> <p>(b) to inject further capital for the time being other than the equity investment of \$60 million and the Nordzucker Shareholder Loan of up to \$60 million;</p> <p>(c) to make substantial changes with regard to the current employees and their employment without good cause;</p> <p>(d) to transfer any assets of the Company between the Company, Nordzucker or any of its associates;</p> <p>(e) to redeploy the fixed assets of the Company in the short term; or</p> <p>(f) to significantly change the financial or dividend distribution policies of the Company other than stipulated in the New Constitution.</p>																																				
9	<p>Changes to dividend distribution policy</p>	<p>If the Proposed Transaction is approved, Nordzucker will be issued with Converting Preference Shares. The Converting Preference Shares provide that once (and only if) Nordzucker has successfully returned Mackay Sugar to profitability and prudent debt levels, Nordzucker will be paid all dividends declared by Mackay Sugar up to an aggregate value of \$33.33 million in preference to the remaining Shareholders. This figure comprises the dividends which Nordzucker would be entitled to in any event as a result of its shareholding in Mackay Sugar, plus the first \$10 million of dividends to which the remaining Shareholders would be entitled to by virtue of their remaining shareholding. Once the total value of dividends paid to Nordzucker equals this amount, the Converting Preference Shares will automatically convert to Ordinary Shares and all Shareholders will have an equal right to dividends payable.</p> <p>The Corporations Act requires, amongst other criteria, that a company must not pay a dividend unless the company's assets exceed its liabilities. The common law also stipulates that a dividend may only be paid out of profits. As such, Nordzucker will not be entitled to any dividends until such time as Mackay Sugar returns to profitability.</p>																																				
10	<p>Interests of Directors (as at the date of this Explanatory Memorandum)</p>	<table border="1"> <thead> <tr> <th data-bbox="539 1529 815 1608">Director</th> <th data-bbox="815 1529 986 1608">Voting Shares</th> <th data-bbox="986 1529 1246 1608">Investment Shares</th> <th data-bbox="1246 1529 1444 1608">% ownership</th> </tr> </thead> <tbody> <tr> <td data-bbox="539 1608 815 1659">Mark Day</td> <td data-bbox="815 1608 986 1659">0</td> <td data-bbox="986 1608 1246 1659">0</td> <td data-bbox="1246 1608 1444 1659">nil</td> </tr> <tr> <td data-bbox="539 1659 815 1711">Andrew Cappello</td> <td data-bbox="815 1659 986 1711">2</td> <td data-bbox="986 1659 1246 1711">517,897</td> <td data-bbox="1246 1659 1444 1711">0.24%</td> </tr> <tr> <td data-bbox="539 1711 815 1762">Lee Blackburn</td> <td data-bbox="815 1711 986 1762">2</td> <td data-bbox="986 1711 1246 1762">179,787</td> <td data-bbox="1246 1711 1444 1762">0.08%</td> </tr> <tr> <td data-bbox="539 1762 815 1814">Lawrence Bugeja</td> <td data-bbox="815 1762 986 1814">1</td> <td data-bbox="986 1762 1246 1814">347,924</td> <td data-bbox="1246 1762 1444 1814">0.16%</td> </tr> <tr> <td data-bbox="539 1814 815 1865">Paul Manning</td> <td data-bbox="815 1814 986 1865">1</td> <td data-bbox="986 1814 1246 1865">100,000</td> <td data-bbox="1246 1814 1444 1865">0.05%</td> </tr> <tr> <td data-bbox="539 1865 815 1917">Maurice Maughan</td> <td data-bbox="815 1865 986 1917">0</td> <td data-bbox="986 1865 1246 1917">0</td> <td data-bbox="1246 1865 1444 1917">nil</td> </tr> <tr> <td data-bbox="539 1917 815 1968">Richard Findlay</td> <td data-bbox="815 1917 986 1968">0</td> <td data-bbox="986 1917 1246 1968">0</td> <td data-bbox="1246 1917 1444 1968">nil</td> </tr> <tr> <td data-bbox="539 1968 815 2020">Anthony Bartolo</td> <td data-bbox="815 1968 986 2020">1</td> <td data-bbox="986 1968 1246 2020">409,435</td> <td data-bbox="1246 1968 1444 2020">0.19%</td> </tr> </tbody> </table>	Director	Voting Shares	Investment Shares	% ownership	Mark Day	0	0	nil	Andrew Cappello	2	517,897	0.24%	Lee Blackburn	2	179,787	0.08%	Lawrence Bugeja	1	347,924	0.16%	Paul Manning	1	100,000	0.05%	Maurice Maughan	0	0	nil	Richard Findlay	0	0	nil	Anthony Bartolo	1	409,435	0.19%
Director	Voting Shares	Investment Shares	% ownership																																			
Mark Day	0	0	nil																																			
Andrew Cappello	2	517,897	0.24%																																			
Lee Blackburn	2	179,787	0.08%																																			
Lawrence Bugeja	1	347,924	0.16%																																			
Paul Manning	1	100,000	0.05%																																			
Maurice Maughan	0	0	nil																																			
Richard Findlay	0	0	nil																																			
Anthony Bartolo	1	409,435	0.19%																																			

No.	Question	Answer																				
11	Details of Nordzucker Directors	<p>If the Proposed Transaction is approved, the following Directors will be appointed to the Board of Mackay Sugar by Nordzucker as Nordzucker Directors (or Controlling Member Directors as that term is defined in the New Constitution).</p> <p>(a) Michael Gerloff</p> <table border="1" data-bbox="624 521 1437 1070"> <tr> <td>Proposed role</td> <td>Controlling Member Director and Chairman</td> </tr> <tr> <td>Qualifications and experience</td> <td>Head of Business Development Nordzucker Group and Head of Cane Sugar Business Unit Nordzucker Group Proxy holder for Nordzucker AG / Nordzucker Group University degree in Economics and Business Administration and Banking Background / Experience 20+ years of Business Experience in various industries</td> </tr> <tr> <td>Associations</td> <td>Employee of Nordzucker</td> </tr> <tr> <td>Interests</td> <td>Michael Gerloff does not hold an interest in any Shares.</td> </tr> </table> <p>(b) Sven Buhrmann</p> <table border="1" data-bbox="624 1144 1437 1765"> <tr> <td>Proposed role</td> <td>Controlling Member Director</td> </tr> <tr> <td>Qualifications and experience</td> <td>Head of Investment & Maintenance & Major Projects Nordzucker Group and Head of Lean Optimization Nordzucker Group Former Head of Sugar Factory Uelzen in Germany University degree in food process technology with focus on sugar and cereals Business experience in cane industry in Costa Rica (working campaign) and consulting engineering company (cane and beet sugar industry worldwide) Apprenticeship in confectionery</td> </tr> <tr> <td>Associations</td> <td>Employee of Nordzucker</td> </tr> <tr> <td>Interests</td> <td>Sven Buhrmann does not hold an interest in any Shares.</td> </tr> </table> <p>(c) Frank Knaelmann</p> <table border="1" data-bbox="624 1839 1437 2007"> <tr> <td>Proposed role</td> <td>Controlling Member Director</td> </tr> <tr> <td>Qualifications and experience</td> <td>Head of Agri Analysis and Agri Sourcing at Nordzucker Group University degree in Agricultural Science</td> </tr> </table>	Proposed role	Controlling Member Director and Chairman	Qualifications and experience	Head of Business Development Nordzucker Group and Head of Cane Sugar Business Unit Nordzucker Group Proxy holder for Nordzucker AG / Nordzucker Group University degree in Economics and Business Administration and Banking Background / Experience 20+ years of Business Experience in various industries	Associations	Employee of Nordzucker	Interests	Michael Gerloff does not hold an interest in any Shares.	Proposed role	Controlling Member Director	Qualifications and experience	Head of Investment & Maintenance & Major Projects Nordzucker Group and Head of Lean Optimization Nordzucker Group Former Head of Sugar Factory Uelzen in Germany University degree in food process technology with focus on sugar and cereals Business experience in cane industry in Costa Rica (working campaign) and consulting engineering company (cane and beet sugar industry worldwide) Apprenticeship in confectionery	Associations	Employee of Nordzucker	Interests	Sven Buhrmann does not hold an interest in any Shares.	Proposed role	Controlling Member Director	Qualifications and experience	Head of Agri Analysis and Agri Sourcing at Nordzucker Group University degree in Agricultural Science
Proposed role	Controlling Member Director and Chairman																					
Qualifications and experience	Head of Business Development Nordzucker Group and Head of Cane Sugar Business Unit Nordzucker Group Proxy holder for Nordzucker AG / Nordzucker Group University degree in Economics and Business Administration and Banking Background / Experience 20+ years of Business Experience in various industries																					
Associations	Employee of Nordzucker																					
Interests	Michael Gerloff does not hold an interest in any Shares.																					
Proposed role	Controlling Member Director																					
Qualifications and experience	Head of Investment & Maintenance & Major Projects Nordzucker Group and Head of Lean Optimization Nordzucker Group Former Head of Sugar Factory Uelzen in Germany University degree in food process technology with focus on sugar and cereals Business experience in cane industry in Costa Rica (working campaign) and consulting engineering company (cane and beet sugar industry worldwide) Apprenticeship in confectionery																					
Associations	Employee of Nordzucker																					
Interests	Sven Buhrmann does not hold an interest in any Shares.																					
Proposed role	Controlling Member Director																					
Qualifications and experience	Head of Agri Analysis and Agri Sourcing at Nordzucker Group University degree in Agricultural Science																					

No.	Question	Answer														
		<table border="1" data-bbox="624 304 1437 584"> <tr> <td data-bbox="624 304 895 450"></td> <td data-bbox="895 304 1437 450">Certified farmer Business experience as agricultural consultant and in various positions at Nordzucker AG</td> </tr> <tr> <td data-bbox="624 450 895 506">Associations</td> <td data-bbox="895 450 1437 506">Employee of Nordzucker</td> </tr> <tr> <td data-bbox="624 506 895 584">Interests</td> <td data-bbox="895 506 1437 584">Frank Knaelmann does not hold an interest in any Shares.</td> </tr> </table> <p data-bbox="539 600 746 633">(d) Mark Day</p> <table border="1" data-bbox="624 658 1437 1294"> <tr> <td data-bbox="624 658 895 714">Proposed role</td> <td data-bbox="895 658 1437 714">Executive Director</td> </tr> <tr> <td data-bbox="624 714 895 1128">Qualifications and experience</td> <td data-bbox="895 714 1437 1128">Mackay Sugar – Executive Chairman and CEO B App Sc – Mathematics Advanced Management Program – Wharton School, The University of Pennsylvania Various positions in the sugar industry: CSR Sugar – Executive General Manager Mills Wilmar – Head of Indonesia Sugar Estates Bunge – Director of Operations, Brazil</td> </tr> <tr> <td data-bbox="624 1128 895 1218">Associations</td> <td data-bbox="895 1128 1437 1218">Currently Executive Chairman and CEO of Mackay Sugar</td> </tr> <tr> <td data-bbox="624 1218 895 1294">Interests</td> <td data-bbox="895 1218 1437 1294">Mark Day does not hold an interest in any Shares.</td> </tr> </table> <p data-bbox="539 1361 1437 1491">Nordzucker intends to appoint a fifth Controlling Member Director following Completion of the Proposed Transaction with a strong finance background in agricultural industries however a person to fill this role has not been selected as at the date of this document.</p> <p data-bbox="539 1503 1437 1632">If the Proposed Transaction is approved, the existing Directors of Mackay Sugar will continue in their role until such time as new Grower Directors are appointed in accordance with the New Constitution, for further information see item 6 of Schedule 2.</p>		Certified farmer Business experience as agricultural consultant and in various positions at Nordzucker AG	Associations	Employee of Nordzucker	Interests	Frank Knaelmann does not hold an interest in any Shares.	Proposed role	Executive Director	Qualifications and experience	Mackay Sugar – Executive Chairman and CEO B App Sc – Mathematics Advanced Management Program – Wharton School, The University of Pennsylvania Various positions in the sugar industry: CSR Sugar – Executive General Manager Mills Wilmar – Head of Indonesia Sugar Estates Bunge – Director of Operations, Brazil	Associations	Currently Executive Chairman and CEO of Mackay Sugar	Interests	Mark Day does not hold an interest in any Shares.
	Certified farmer Business experience as agricultural consultant and in various positions at Nordzucker AG															
Associations	Employee of Nordzucker															
Interests	Frank Knaelmann does not hold an interest in any Shares.															
Proposed role	Executive Director															
Qualifications and experience	Mackay Sugar – Executive Chairman and CEO B App Sc – Mathematics Advanced Management Program – Wharton School, The University of Pennsylvania Various positions in the sugar industry: CSR Sugar – Executive General Manager Mills Wilmar – Head of Indonesia Sugar Estates Bunge – Director of Operations, Brazil															
Associations	Currently Executive Chairman and CEO of Mackay Sugar															
Interests	Mark Day does not hold an interest in any Shares.															
12	Impact on share structure	<p data-bbox="539 1697 1437 1827">The following table shows the capital structure on issue before (using the number of Shares on issue as at the date of this document) and after Completion of the Proposed Transaction, assuming that all Resolutions are approved and Completion occurs.</p> <table border="1" data-bbox="539 1854 1437 1991"> <thead> <tr> <th data-bbox="539 1854 834 1944">Securities</th> <th data-bbox="834 1854 1102 1944">Previous capital structure</th> <th data-bbox="1102 1854 1437 1944">Proposed capital structure</th> </tr> </thead> <tbody> <tr> <td data-bbox="539 1944 834 1991">Voting Shares</td> <td data-bbox="834 1944 1102 1991">801</td> <td data-bbox="1102 1944 1437 1991">0</td> </tr> </tbody> </table>	Securities	Previous capital structure	Proposed capital structure	Voting Shares	801	0								
Securities	Previous capital structure	Proposed capital structure														
Voting Shares	801	0														

No.	Question	Answer									
		<table border="1"> <tr> <td>Investment Shares</td> <td>212,879,330</td> <td>0</td> </tr> <tr> <td>Ordinary Shares</td> <td>0</td> <td>212,880,131</td> </tr> <tr> <td>Converting Preference Shares</td> <td>0</td> <td>496,720,306</td> </tr> </table>	Investment Shares	212,879,330	0	Ordinary Shares	0	212,880,131	Converting Preference Shares	0	496,720,306
Investment Shares	212,879,330	0									
Ordinary Shares	0	212,880,131									
Converting Preference Shares	0	496,720,306									

8 Material information relating to related party financial benefit

8.1 Financial benefit

In accordance with section 208 of the Corporations Act, for a public company to give a financial benefit to a related party of the public company, the public company must:

- (a) obtain the approval of the public company's members in the manner set out in sections 217 to 227 of the Corporations Act; and
- (b) give the benefit within 15 months following such approval,

unless the giving of the financial benefit falls within an exception set out in sections 210 to 216 of the Corporations Act.

While Nordzucker is not presently a related party of Mackay Sugar, it will be if the Resolutions are approved and Completion of the Proposed Transaction occurs and as such is considered a related party under section 228(6) of the Corporations Act.

The Company has agreed to enter into the Nordzucker Shareholder Loan Agreement upon Completion of the Proposed Transaction. Amounts may only be drawn down on the Nordzucker Shareholder Loan following Completion. The Nordzucker Shareholder Loan, including the potential increase to the Nordzucker Shareholder Loan resulting from any claims made in respect of the indemnities provided to Nordzucker by Mackay Sugar under the Subscription Agreement (see section 6.1,) may be considered a related party financial benefit (**Shareholder Loan Financial Benefit**).

In ordinary circumstances, indemnity claims are payable immediately by the indemnifier (in this case, the Company). Therefore the ability to defer payment of indemnity claims by rolling them into the Nordzucker Shareholder Loan is arguably a benefit to Mackay Sugar. Additionally, the terms of the Nordzucker Shareholder Loan are more favourable than otherwise available to Mackay Sugar in the market (i.e. at an interest rate comparable with Mackay Sugar's senior borrowings for debt that is subordinated).

Upon Completion of the Proposed Transaction, the Company has agreed to issue Nordzucker with Converting Preference Shares which will entitle Nordzucker to dividends in preference to other Shareholders up to a limit of \$33.33 million. For further information in relation to the terms of the Converting Preference Shares refer to item 4 in Schedule 2. The Converting Preference Shares may be considered a related party financial benefit (**Converting Preference Shares Financial Benefit**).

It is the view of the Board that the exceptions set out in sections 210 to 216 of the Corporations Act may not apply in the current circumstances. Accordingly, out of an abundance of caution the approval of members is sought for the Shareholder Loan Financial Benefit and Converting Preferences Shares Financial Benefit.

Pursuant to and in accordance with the requirements of sections 217 to 227 of the Corporations Act, the following information is provided in relation to the Shareholder Loan Financial Benefit and Converting Preferences Shares Financial Benefit.

No.	Question	Answer
1	Who is the related party?	The related party is Nordzucker AG by virtue of there being reasonable grounds to believe it will become a related party of Mackay Sugar if the Resolutions are approved and Completion of the Proposed Transaction occurs.
2	What is the nature of the financial benefit?	<p>The Board considers that the following may be considered a related party financial benefit:</p> <ul style="list-style-type: none"> (a) the Nordzucker Shareholder Loan Agreement and the potential increase to that loan resulting from any claims made in respect of the indemnities provided to Nordzucker by Mackay Sugar under the Subscription Agreement (see section 6.1); and (b) the equity to be issued to Nordzucker which will be in the form of Converting Preference Shares. The Converting Preference Shares will entitle Nordzucker to 70% of the voting rights in Mackay Sugar, and to the first \$33.33 million in Mackay Sugar dividends declared (Preference Dividends). This equates to an effective preference of \$10 million in dividends that would otherwise have been payable to Mackay Sugar pre-existing shareholders (\$33.33 million x 30% = \$10 million). Once the Preference Dividends have been paid in full, the Converting Preference Shares will convert into ordinary shares in Mackay Sugar with voting, income and capital rights.
3	What is the maximum value of the financial benefit?	<p>The maximum value of the Shareholder Loan Financial Benefit (being the nature of the financial benefit being provided) as a result of increases to the Shareholder Loan resulting from any claims made in respect of the indemnities provided to Nordzucker by Mackay Sugar under the Subscription Agreement is \$15 million (being the grossed-up value of the maximum liability under the indemnity of \$4.5 million).</p> <p>The rationale for the gross-up of claims made in respect of the indemnities provided under the Subscription Agreement is set out in section 6.1.</p> <p>The Board considers that the deferral of the payment of claims made in respect of the indemnities provided under the Subscription Agreement by having the amount of such claims applied in addition to the Nordzucker Shareholder Loan is to the benefit of Shareholders as it will allow the Company to commit available funds to maintenance and capital expenditure to improve the performance of the Company's mills and potentially return the Company to profitability.</p> <p>The maximum value of the Converting Preference Shares Financial Benefit (being the nature of the financial benefit being provided) is \$33.33 million, being the limit on dividends payable on those shares.</p>
4	When will the financial benefit	The Shareholder Loan Financial Benefit will be granted on the passing of the Resolutions, conditional on the satisfaction of the Conditions Precedent

No.	Question	Answer
	be granted?	<p>and Completion of the Proposed Transaction.</p> <p>The Converting Preference Shares Financial Benefit will be granted on issue of the shares upon Completion of the Proposed Transaction.</p>
5	Directors' recommendations	<p>The Directors recommend that Voting Shareholders approve the Shareholder Loan Financial Benefit and Converting Preference Shares Financial Benefit by voting in favour of Resolution 1 and are not aware of any other information, other than the information provided in this Explanatory Memorandum, that would be reasonably required by Voting Shareholders to allow them to make a decision whether it is in the best interests of the Company to pass Resolution 1.</p> <p>The Board believes that the Proposed Transaction, including the Shareholder Loan Financial Benefit and Converting Preference Shares Financial Benefit, are reasonable and appropriate having regard to the circumstances of the Company, and therefore in the best interests of the Company and its Shareholders.</p> <p>None of the Directors have a material personal interest in the outcome of Resolution 1. Andrew Cappello, Anthony Bartolo, Lee Blackburn, Paul Manning and Lawrence Bugeja all hold shares in the Company and all supply cane to the Company under a Cane Supply and Processing Agreement. Their interest in the ongoing viability of the Company is the same as all other Shareholders and Growers respectively. Mark Day is employed by the Company and therefore has an interest in ongoing employment with the Company. The Board considers none of these interests to be material personal interests.</p>
6	Further information	<p>For further information on the Nordzucker Shareholder Loan, see section 6.2.</p> <p>For further information on the Subscription Agreement and the indemnities granted to Nordzucker by Mackay Sugar under the Subscription Agreement, see section 6.1.</p> <p>For further information on the Converting Preference Shares, see item 4 in Schedule 2.</p>

9 Tax implications of the Proposed Transaction

9.1 Overview

The summary in this section is general in nature. No person should rely on this information as advice. In addition, particular taxation implications will depend on the circumstances of each Shareholder. All Shareholders are encouraged to seek and rely only on their own professional advice in relation to their tax position. Neither Mackay Sugar, nor any of its officers, employees or advisers assumes any liability or responsibility for advising Shareholders about the tax consequences for them from the Share Conversion or the Proposed Transaction.

9.2 Private ruling

Mackay Sugar has sought a tax ruling from the ATO to confirm the income tax consequences for Shareholders of the Share Conversion. At the time of publishing this Explanatory Memorandum, the ATO have not advised the outcome however if the outcomes of the ruling are available prior to the Meetings, Shareholders will be advised at or before the Extraordinary General Meeting. The opinion sought from the ATO is to confirm whether there are any tax consequences for Shareholders as a result of the Share Conversion.

10 Summary of disclosure

10.1 Summary of disclosure requirements

This section sets out a summary of all of the information which Shareholders must be given in relation to the Resolutions under the Corporations Act.

This includes, in relation to Resolution 1, with reference to ASIC's published guidance in 'Regulatory Guide 74 Acquisitions Approved by Members', comprising:

- (a) all information known to Mackay Sugar and its Associates; and
- (b) all information known to Nordzucker and its Associates,

that is material to the decision of how to vote on Resolution 1.

10.2 Resolution 1: Approval of Proposed Transaction, issue of Converting Preference Shares to Nordzucker and Related Party Financial Benefits

Purpose of resolution

This information, along with the Independent Expert's Report, is provided to the Shareholders of Mackay Sugar in compliance with the regulatory requirements of section 611 item 7 of the Corporations Act.

Shareholder approval under item 7 of section 611 of the Corporations Act

Pursuant to section 606(1) of the Corporations Act, a person must not acquire a relevant interest in issued voting shares in an unlisted company with more than 50 members if the person acquiring the interest does so through a transaction in relation to securities entered into by or on behalf of the person and because of the transaction, that person's or someone else's voting power in the company increases:

- (a) from 20% or below to more than 20%; or
- (b) from a starting point that is above 20% and below 90%.

The calculation of a person's voting power in a company involves determining the voting shares in the company in which the person and the person's associates have a relevant interest.

Item 7 of section 611 of the Corporations Act provides an exception to the prohibition under section 606 of the Corporations Act. This exception provides that a person may acquire a relevant interest in a company's voting shares if shareholders of the company approve the acquisition.

On Completion, Nordzucker will be issued with such number of Converting Preference Shares as is equal to 70% of the share capital of Mackay Sugar. On that basis, Nordzucker's voting power will increase to 70%. Accordingly, Shareholder approval is being sought for the purposes of item 7 of section 611 of the Corporations Act for the issue of Converting Preference Shares equal to 70% of the share capital of the Company to Nordzucker which would give Nordzucker a voting power of 70%.

Shareholder approval under section 208 of the Corporations Act

Pursuant to section 208 of the Corporations Act, for a public company to give a financial benefit to a related party of the public company, the public company must:

- (c) obtain the approval of the public company's members in the manner set out in sections 217 to 227 of the Corporations Act; and
- (d) give the benefit within 15 months following such approval,

unless the giving of the financial benefit falls within an exception set out in sections 210 to 216 of the Corporations Act.

The Board considers that the Shareholder Loan Financial Benefit and Converting Preference Share Financial Benefit may be financial benefits for the purposes of section 208 of the Corporations Act and as such, Shareholder approval is being sought in accordance with sections 217 to 227 of the Corporations Act for the granting of the Shareholder Loan Financial Benefit and Converting Preference Share Financial Benefit.

Information required by the Corporations Act

For the exception in item 7 of section 611 of the Corporations Act to apply, Shareholders must be given all information known to Nordzucker or their associates, or known to Mackay Sugar, that is material to the decision on how to vote on the Resolution.

Refer to section 7 for this information.

Shareholders must be given all information reasonably required by Shareholders to decide whether or not it is in the Company's interests to pass the proposed resolution for which approval is being sought in accordance with section 208 of the Corporations Act.

Refer to section 8 for this information.

Conditions

This Resolution is conditional on each other Resolution being passed and Completion occurring under the Subscription Agreement. If any Resolution is not passed, then none of the Resolutions will be taken to have been passed and the Proposed Transaction will not proceed.

The Resolutions and the Proposed Transaction are also subject to Completion occurring under the Subscription Agreement. If the Resolutions are passed but all Conditions Precedent are not satisfied or waived and Completion does not occur, the steps approved by the Resolutions will not take effect.

Date of Completion of Proposed Transaction

The Proposed Transaction is scheduled to complete within 5 Business Days of the satisfaction of all Conditions Precedent to the Subscription Agreement, including the passing of all Resolutions.

Consequences if the Resolution is not approved

If the Resolution is not approved, Completion will not occur. See section 5.4 of the Explanatory Memorandum for further information on the consequences of Completion not occurring.

Board recommendation

None of the Directors have a material personal interest or conflict of interest in relation to the subject matter of Resolution 1. The Directors unanimously recommend the Proposed Transaction and encourage Voting Shareholders to vote in favour of Resolution 1.

Advisory fees

As outlined in section 1.1, Kidder Williams, a corporate advisory firm, was engaged by Mackay Sugar to review Mackay Sugar's corporate and capital structure and advise Mackay Sugar on potential fundraising undertakings which has resulted in the Proposed Transaction. As part of Kidder Williams' engagement, they are to be paid a success-based fee of 2% of the consideration received by Mackay Sugar if the Proposed Transaction is approved and Completion occurs.

10.3 Resolution 2: Repeal and replacement of Mackay Sugar constitution

Approval requirements

Section 136(2) of the Corporations Act requires that Mackay Sugar pass a special resolution at a general meeting to repeal the Existing Constitution and adopt the New Constitution. At least 75% of the votes cast by Voting Shareholders at the Extraordinary General Meeting will need to vote in favour of the resolution for it to be passed.

Resolution 2 is conditional on all other Resolutions being passed. That is, if any other Resolution is not approved, the Existing Constitution will not be repealed and the New Constitution will not be adopted.

New Constitution

A table summarising the key differences between the Existing Constitution and the New Constitution is set out in Schedule 2 of this Explanatory Memorandum. The full text of the New Constitution can be found in Annexure C to this Explanatory Memorandum. Copies of the Existing Constitution and the New Constitution are available to any Shareholder on Mackay Sugar's website at www.mackaysugar.com.au or can be provided to a Shareholder on request.

Why is the Board proposing a New Constitution?

The Existing Constitution was adopted on Mackay Sugar's conversion from a co-operative to a public company. The rules under the proposed New Constitution will ensure that the constitution reflects the current status and strategic objectives of Mackay Sugar.

The New Constitution will allow Mackay Sugar to undertake the Proposed Transaction by:

- (a) creating an Ordinary Share class and a Converting Preference Share class;
- (b) enabling non-Growers to hold Shares; and
- (c) removing the prohibited shareholding restriction preventing any one shareholder from holding more than 5% of the Shares in Mackay Sugar.

It will also give Shareholders voting rights proportionate to their shareholding in Mackay Sugar (rather than on a one vote per Grower basis).

Equity investment

The Existing Constitution does not allow outside investors (i.e. persons who are not Growers or former Growers) to subscribe for shares in Mackay Sugar. Accordingly, Mackay Sugar has historically been reliant on debt funding for acquisition or growth opportunities.

The proposed New Constitution will allow Nordzucker to subscribe for shares in Mackay Sugar. Details of the proposed subscription by Nordzucker for Converting Preference Shares in accordance with the New Constitution are set out in section 6.

Shareholder voting

Under the Existing Constitution, only holders of Voting Shares have the right to vote at a general meeting with one vote able to be cast for each Voting Share, regardless of the number of Investment Shares the Grower might hold. Under the New Constitution, holders of Ordinary Shares would be able to attend and vote according to the number of shares held, so Shareholders will be given voting rights proportionate to the level of their shareholding interests in Mackay Sugar. This is consistent with a normal shareholding structure of a public company.

The current restriction on Growers not holding an interest of greater than 5% of Mackay Sugar's issued capital will not be included in the New Constitution.

Subscription for shares by Nordzucker

The New Constitution will allow Mackay Sugar to issue Ordinary Shares and Converting Preference Shares. Nordzucker has agreed to subscribe for Converting Preference Shares as described in section 11.2 of this Explanatory Memorandum.

Conditions

This Resolution is conditional on each other Resolution being passed and Completion occurring under the Subscription Agreement. If any Resolution is not passed, then none of the Resolutions will be taken to have been passed and the Proposed Transaction will not proceed.

The Resolutions and the Proposed Transaction are also subject to Completion occurring under the Subscription Agreement. If the Resolutions are passed but all Conditions Precedent are not satisfied or waived and Completion does not occur, the steps approved by the Resolutions will not take effect.

Consequences if the Resolution is not approved

If the Resolution is not approved, the Proposed Transaction will not proceed. See section 5.4 of the Explanatory Memorandum for further information on the consequences of the Proposed Transaction not proceeding.

Board recommendation

For the reasons set out under 'Why is the Board Proposing a New Constitution' above, the Directors believe that the New Constitution should be adopted.

Accordingly, the Directors unanimously recommend that all shareholders vote in favour of Resolution 2.

10.4 Resolution 3: Approval of conversion of Voting Shares to Ordinary Shares

Conversion to Ordinary Shares and variation of rights

If the New Constitution is adopted, Voting Shares will be converted to Ordinary Shares.

The current rights attached to Voting Shares and the proposed rights following conversion to Ordinary Shares are set out in the following table:

Current rights of Voting Shares	Rights on conversion to Ordinary Shares
One vote per Voting Share at general meetings.	One vote per Ordinary Share at general meetings.
No express right to dividends.	Right to a dividend payable on Ordinary Shares.
No express right to participate on a winding up.	Right to participate on winding up with other Ordinary Shares.
Not transferable.	Transferrable under the New Constitution subject to certain restrictions as set out in item 20 of Schedule 2.

Voting

Pursuant to section 246B(1) of the Corporations Act and rule 4.10(a) of the Existing Constitution, any consequential variation to the rights attaching to any share class as a result of modification to the Existing Constitution can only be effected if passed by a special resolution of Shareholders who hold shares in the class being varied. A special resolution requires approval by at least 75% of the votes cast by members entitled to vote on the resolution.

Section 246B(1) of the Corporations Act and rule 4.10(a) of the Existing Constitution will be satisfied by approval by special resolution at a meeting of holders of Voting Shares.

Conditions

This Resolution is conditional on each other Resolution being passed and Completion occurring under the Subscription Agreement. If any Resolution is not passed, then none of the Resolutions will be taken to have been passed and the Proposed Transaction will not proceed.

The Resolutions and the Proposed Transaction are also subject to Completion occurring under the Subscription Agreement. If the Resolutions are passed but all Conditions Precedent are not satisfied or waived and Completion does not occur, the steps approved by the Resolutions will not take effect.

Date of conversion

The conversion of Voting Shares to Ordinary Shares will take effect immediately prior to the issue of the Subscription Shares to Nordzucker.

If Resolution 3 (and all other resolutions on which it is conditional) are passed, Mackay Sugar will give written notice of the conversion to all holders of Voting Shares within seven days of the date of conversion in accordance with section 246B(3) of the Corporations Act.

Consequences if the Resolution is not approved

If the Resolution is not approved, Completion will not occur. See section 5.4 of the Explanatory Memorandum for further information on the consequences of Completion not occurring.

Board recommendation

The Directors unanimously recommend that Voting Shareholders vote in favour of Resolution 3.

10.5 Resolution 4: Approval of conversion of Investment Shares to Ordinary Shares

Conversion to Ordinary Shares and variation of rights

If the New Constitution is adopted, the rights attaching to the Investment Shares will be modified.

The current rights attached to Investment Shares and the proposed rights following conversion to Ordinary Shares are set out in the following table:

Current rights of Investment Shares	Rights on conversion to Ordinary Shares
No right to vote at a general meeting (however holders of Voting Shares would obtain the right to one vote per Investment Share following a 'Fundraising Event').	One vote per share at a general meeting (i.e. former Investment Shareholders will have a right to vote that they did not have previously).
Right to dividends.	Right to a dividend payable on Ordinary Shares.
Right to participate on a winding up.	Right to participate on winding up with other Ordinary Shares.
Transferrable to Growers and former Growers under the Existing Constitution.	Transferrable under the New Constitution subject to certain restrictions as set out in item 20 of Schedule 2.

Voting

Pursuant to section 246B(1) of the Corporations Act and rule 4.10(a) of the Existing Constitution, any consequential variation to the rights attaching to any share class as a result of modification to the Existing Constitution can only be effected if passed by a special resolution of Shareholders who hold shares in the class being varied. A special resolution requires approval by at least 75% of the votes cast by members entitled to vote on the resolution.

Section 246B(1) of the Corporations Act and rule 4.10(a) of the Existing Constitution will be satisfied by approval by special resolution at a meeting of holders of Investment Shares.

Conditions

This Resolution is conditional on each other Resolution being passed and Completion occurring under the Subscription Agreement. If any Resolution is not passed, then none of the Resolutions will be taken to have been passed and the Proposed Transaction will not proceed.

The Resolutions and the Proposed Transaction are also subject to Completion occurring under the Subscription Agreement. If the Resolutions are passed but all Conditions Precedent are not satisfied or waived and Completion does not occur, the steps approved by the Resolutions will not take effect.

Date of conversion

The conversion of Investment Shares to Ordinary Shares will take effect immediately prior to the issue of the Subscription Shares to Nordzucker.

If Resolution 4 (and all other resolutions on which it is conditional) are passed, Mackay Sugar will give written notice of the conversion to all holders of Investment Shares within seven days of the date of conversion in accordance with section 246B(3) of the Corporations Act.

Consequences if the Resolution is not approved

If the Resolution is not approved, Completion will not occur. See section 5.4 of the Explanatory Memorandum for further information on the consequences of Completion not occurring.

Board recommendation

The Directors unanimously recommend that Investment Shareholders vote in favour of Resolution 4.

Schedule 1

Glossary

Capitalised terms contained in the Notices of Meeting and Explanatory Memorandum have the following meaning:

Term	Definition
\$	all references are to AUD
Associates	has the meaning given in section 12 of the Corporations Act.
Board	means the board of Directors of Mackay Sugar.
Business Days	means a day that is not a Saturday, Sunday or public holiday in Brisbane.
Cane Supply and Processing Agreement	means a cane supply and processing agreement between a Grower and the Company.
CCS	means commercial cane sugar.
Company	means Mackay Sugar.
Completion	means Completion of the Proposed Transaction, as that term is defined under the Subscription Agreement.
Conditions Precedent	has the meaning given in section 6.1.
Converting Preference Shares	has the meaning given to it in the New Constitution.
Converting Preference Shares Financial Benefit	has the meaning given in section 8.1.
Corporate Notes	means the notes issued by Mackay Sugar on 5 April 2013 which are constituted by and owing under the note trust deed dated 20 March 2013 between Mackay Sugar and BNY Trust Company of Australia Limited ACN 050 294 052.
Corporate Noteholders	means the holders of the Corporate Notes.
Corporations Act	means <i>Corporations Act 2001</i> (Cth).
Corporations Regulations	means <i>Corporations Regulations 2001</i> (Cth)
Directors	means the directors of Mackay Sugar.
Employment Indemnity	has the meaning given in section 6.1.
Environment Indemnity	has the meaning given in section 6.1.
Existing Constitution	means the current constitution of Mackay Sugar.

Term	Definition
Explanatory Memorandum	means the explanatory memorandum contained in and forming part of this Notice of Meeting.
Extraordinary General Meeting	means the extraordinary general meeting of Shareholders to be held at 5.00pm (AEST) on Monday, 29 July 2019.
Grossed-up Claim Value	has the meaning given in section 6.1.
Growers	means sugar cane growers who supply cane to Mackay Sugar under a Cane Supply and Processing Agreement.
Grower Contribution	means the amount of \$2 per tonne of cane paid by certain Growers for the 2017 and 2018 crushing seasons as set out in the Cane Supply and Processing Agreement.
Independent Expert	means Crowe Horwath Australia.
Independent Expert's Report	means the independent expert's report as set out in Annexure D.
Investment Shares	means the shares held by Investment Shareholders, which do not entitle the Shareholder to a vote in regard to shareholder matters (other than a variation to the rights attaching to the Investment Shares).
Investment Shareholder	means a person who is registered on Mackay Sugar's share register as a holder of Investment Shares.
Investment Shareholder Meeting	means the class meeting of Investment Shareholders to be held at 5.30pm (AEST) on Monday, 29 July immediately following the Extraordinary General Meeting.
Kidder Williams	means Kidder Williams Limited ACN 117 667 204, financial adviser to Mackay Sugar in respect of the Proposed Transaction.
Mackay Sugar, MSL or the Company	means Mackay Sugar Limited ACN 057 463 671.
Meeting Record Date	has the meaning given on page 6.
Meetings	means the Extraordinary General Meeting and the Investment Shareholder Meeting.
Mill Improvement Program	means the capital and maintenance program developed to improve the performance of the mills, which has been agreed by Nordzucker and Mackay Sugar.
NAB	means National Australia Bank Limited ABN 12 004 044 937.
New Constitution	means the proposed new constitution, as set out in Annexure C, to be approved at the Extraordinary General Meeting in accordance with Resolution 2.
Nordzucker	means Nordzucker AG.
Nordzucker Director	means a Director to be appointed to the Board by Nordzucker in accordance with the New Constitution.
Nordzucker Shareholder Loan	means the loan to be granted by Nordzucker to Mackay Sugar in accordance with the Nordzucker Shareholder Loan Agreement.

Term	Definition
Nordzucker Shareholder Loan Agreement	means the loan agreement to be entered into between Nordzucker and Mackay Sugar on Completion (currently only in draft).
Notices of Meetings	means the notices of meetings contained in Annexure A and Annexure B.
Ordinary Shares	means ordinary Shares capable of being issued by the Company, subject to adoption of the New Constitution, and the ordinary shares to be created as a result of the conversion of the Voting Shares and Investment shares, subject to all Resolutions being passed.
Proposed Transaction	has the meaning given in paragraph 1.3 of the Explanatory Memorandum.
Proxy Forms	means: <ul style="list-style-type: none"> (a) for Investment Shareholders, the green Investment Shareholder proxy form; and (b) for Voting Shareholders, the yellow Voting Shareholder proxy form, enclosed with this Explanatory Memorandum.
PRS	means percent recoverable sugar.
Rabobank	means Cooperatieve Rabobank U.A., Australia Branch.
Related Party Financial Benefits	means the Converting Preference Shares Financial Benefit and Shareholder Loan Financial Benefit.
Resolution 1	means the resolution relating to the approval of the Proposed Transaction, issue of Converting Preference Shares to Nordzucker and the Related Party Financial Benefits, as set out in the Notice of the Extraordinary General Meeting contained in Annexure A.
Resolution 2	means the resolution relating to the adoption of the New Constitution as set out in the Notice of the Extraordinary General Meeting contained in Annexure A.
Resolution 3	means the resolution relating to the conversion of Voting Shares to Ordinary Shares as set out in the Notice of the Extraordinary General Meeting contained in Annexure A.
Resolution 4	means the resolution relating to the conversion of all Investment Shares to Ordinary Shares as set out in the Notice of Meeting of Investment Shareholders contained in Annexure B.
Resolutions	means the resolutions to be considered at the Meetings as set out in the Notices of Meetings, being Resolutions 1, 2, 3 and 4.
Senior Lenders	means Rabobank and NAB.
Shareholders	means Voting Shareholders and Investment Shareholders.
Shareholder Loan Financial Benefit	has the meaning given in section 8.
Share Conversion	means the conversion of Voting Shares to Ordinary Shares contemplated by Resolution 3 and the conversion of Investment Shares to Ordinary Shares contemplated by Resolution 4.
Share Issue	means the issue of Converting Preference Shares to Nordzucker equal to 70% of the shares on issue in the capital of Mackay Sugar.
Shares	means shares in Mackay Sugar.

Term	Definition
Subordination Agreement	means the subordination agreement to be entered into between Mackay Sugar, Nordzucker and the Senior Lenders.
Subscription Agreement	means the subscription agreement pertaining to the Proposed Transaction entered into between Nordzucker and the Company on 8 February 2019.
Subscription Shares	has the meaning given in section 1.3.
Tax Indemnity	has the meaning given in section 6.1.
Unsecured Notes	means the unsecured notes issued by Mackay Sugar pursuant to the Unsecured Notes Prospectus dated 7 December 2018.
Voting Shares	means the shares held by Voting Shareholders which entitle the Shareholder to one vote per Voting Share.
Voting Shareholder	means a person who is registered on Mackay Sugar's share register as a holder of Voting Shares.
YEM19	means Mackay Sugar's financial year ending May 31, 2019.

Schedule 2

Comparison of Existing Constitution and New Constitution

The following table sets out a comparison of the key rules of the Existing Constitution and New Constitution. The summary is not exhaustive. The description of the rules in each of the Existing Constitution and New Constitution are, in most instances, a summary of the rule only and you should read the applicable rule in its entirety in order to make your own assessment. We recommend you read the New Constitution, attached at Annexure C, in its entirety before making a decision as to how to vote on the Resolutions.

No.	Subject	Existing Constitution	New Constitution	Comment
1	Grower	Rule 3.2 defines a Grower as a person who holds an Assignment (being land from which sugar cane is grown and supplied to the Company under a cane supply and processing agreement) and will sell and deliver the Minimum Tonnage (being at least 500 tonnes of sugar cane for a person who first supplied cane to the former Mackay Sugar Co-operative Association Limited before 30 November 2007 or 1,500 tonnes of sugar cane for all others, from a farm comprising at least 20 hectares) to the Company under a current cane supply and processing agreement.	Rule 1.1 defines a Grower as a person, other than the Controlling Member or its Related Bodies Corporate, who sells and delivers or will sell and deliver at least 1,500 tonnes of sugar cane to the Company per season under a current cane supply and processing agreement.	These changes simplify the criteria for a Grower and removes the historical provisions relating to the incorporation of Mackay Sugar as a public company. The Controlling Member, which will be Nordzucker if the Resolutions are passed and Completion of the Proposed Transaction occurs, cannot be classified as a Grower even if they meet the criteria specified above. This ensures that the Controlling Member cannot pass a Grower's Special Majority Resolution without the support of other Growers. The definition of Grower is further modified for determining the eligibility of Grower Directors in rule 23.1(b) as set out in item 8 below.
2	Controlling Member	No comparable rule.	Rule 1.1 defines a Controlling Member to be a member who holds more than 50% of the shares on issue in the Company.	This definition is for the purpose of referring to Nordzucker or any subsequent party who holds a majority of the shares in the Company.
3	Controlling Member	No comparable rule.	Rule 1.1 defines a Controlling Member Director to be a Director appointed by	This definition is for the purpose of referring to Directors appointed by

No.	Subject	Existing Constitution	New Constitution	Comment
	Directors		<p>the Board who is not a Grower Director. Rule 22.7 provides that a Controlling Member Director is not required to hold any shares in the Company to qualify for appointment and can act in the interests of the Controlling Member, provided they all meet their duties to Mackay Sugar.</p> <p>Under rule 22.8(f) a Controlling Member Director is deemed to have a material personal interest in relation to the exercise of rights or enforcement of obligations under the Subscription Agreement and must not be present at a meeting while the matter is being considered nor vote on the matter.</p>	Nordzucker.
4	Converting Preference Shares	No comparable rule.	Rule 1.1 defines Converting Preference Shares to be preference shares issued on the terms set out in Schedule 1 of the New Constitution.	Converting Preference Shares have, in addition to the rights attached to Ordinary Shares, a preferred dividend right. The Converting Preference Shares provide that once (and only if) Nordzucker has successfully returned Mackay Sugar to profitability and prudent debt levels, Nordzucker will be paid all dividends declared by Mackay Sugar up to an aggregate value of \$33.33 million in preference to the remaining Shareholders. This figure comprises the dividends which Nordzucker would be entitled to in any event as a result of its shareholding in Mackay Sugar, plus the first \$10 million of dividends to which the remaining Shareholders would be entitled to by virtue of their remaining shareholding.

No.	Subject	Existing Constitution	New Constitution	Comment
				<p>Once the total value of dividends paid to Nordzucker equals this amount, the shares will automatically convert to Ordinary Shares and all Shareholders will have an equal right to dividends payable.</p> <p>The issue of Converting Preference Shares after completion of the Proposed Transaction is a Reserved Matter (see item 23 below).</p>
5	Directors – Appointment	Rule 15.2 provides that the Board may appoint five Grower Directors by ballot conducted in the manner determined by the Board from time to time.	<p>Rule 22.2 provides that the Board is to be constituted by three Grower Directors and between three and five Directors appointed by the Controlling Member.</p> <p>Grower Directors shall be appointed in accordance with rule 22.3 and nominations received in accordance with rule 23.5 (other than the initial appointment of Grower Directors, see item 6 below) which requires that the Directors must call for nominations for a Grower Director position not more than 90 days and not less than 30 days before an annual general meeting.</p>	<p>Under the New Constitution, Grower Directors will be appointed by the Board from those nominations received from Growers.</p> <p>There is no restriction on who may be appointed as a Controlling Member Director.</p>
6	Directors – Appointment of first Grower Directors	No comparable rule.	<p>Rule 21.3 requires:</p> <p>(a) the Directors to call for nominations for the positions of three Grower Directors within 14 days of the date of adoption of the New Constitution, with the nomination period to be open for 14 days; and</p> <p>(b) within 14 days of the end of the nomination period, the Directors</p>	The New Constitution includes this provision to ensure that all eligible Growers have the opportunity to nominate and be considered for the position of Grower Directors on the new Board of Mackay Sugar following Completion of the Proposed Transaction.

No.	Subject	Existing Constitution	New Constitution	Comment
			<p>must hold a meeting to appoint three Grower Directors from the nominations received.</p>	
7	Directors – Chairman and deputy chairman	<p>Under rule 20.5, the Board may elect a Chairman and a deputy Chairman of its meetings and determine the period for which each is to hold office.</p>	<p>Under rule 25.5(a) the Directors may elect, for any period they decide:</p> <ul style="list-style-type: none"> (a) a Controlling Member Director to the office of chairman of Directors; and (b) a Grower Director to the office of deputy chairman of Directors. 	<p>The New Constitution provides that the role of chairman be filled by a Controlling Member Director and the role of deputy chairman be filled by a Grower Director.</p>
8	Directors – Grower Director eligibility	<p>A Grower Director must be a Representative Grower, which is a person who is:</p> <ul style="list-style-type: none"> (a) a Grower; (b) collectively with another or others a Grower; (c) a representative of a corporation which is a Grower; or (d) a representative of a corporation which collectively with another or others is a Grower. 	<p>Rule 23.1 stipulates that a person is eligible to be appointed as a Grower Director if the person is a Grower and for the purposes of this rule, a person will be considered to be a Grower if they or their immediate family:</p> <ul style="list-style-type: none"> (a) control a company; (b) is a partner of a partnership; or (c) are the beneficiaries of a trust, that is a Grower. <p>Under rule 23.2, if a Grower Director ceases to satisfy any of the requirements in rule 23.1 due to drought, flood, disease or loss of crop due to some other form of natural disaster then the Directors may, in their absolute discretion, provide an exemption for one year for that Grower Director when applying the requirements set out in rule 23.1.</p> <p>Under rule 23.4, if a Grower Director ceases to satisfy any of the requirements in rule 23.1, the Grower</p>	<p>Under the New Constitution the Board will have the discretion to allow a Grower Director to continue in that role where they do not meet the criteria of a Grower due to certain natural disasters such as fire and flood.</p> <p>The Board will review the eligibility of the Grower Directors each year to ensure that Grower Directors appropriately represent the interests of active Growers, subject to the discretionary powers under rule 23.2.</p>

No.	Subject	Existing Constitution	New Constitution	Comment
			Director will cease to be a Director on the date of the next annual general meeting.	
9	Directors – Interim	No comparable rule.	<p>Rule 21 sets out the requirements for the Directors of the Company from the date of adoption of the New Constitution until such time as new Grower Directors are appointed in accordance with rule 21.3 (see item 6 above).</p> <p>Rule 21.2(b) requires that on the date of adoption of the New Constitution the Board shall be constituted by the existing Directors of the Company and three Controlling Member Directors.</p> <p>The term of the existing directors of the Company will expire at the end of the meeting appointing the new Grower Directors in accordance with rule 21.3.</p>	<p>The New Constitution includes this provision to ensure that all Growers have the opportunity to nominate and be considered for the position of Grower Directors on the new Board of Mackay Sugar following Completion of the Proposed Transaction.</p> <p>The provisions relating to Interim Directors will cease to apply after the new Grower Directors are appointed.</p>
10	Directors – Number of Directors	Rule 15.1 requires that the number of Directors be not less than seven nor more than nine and consisting of five Grower Directors and at least two and a maximum of four Non Grower Directors.	Rule 22 requires that the number of Directors be not less than six nor more than eight, unless the Company in general meeting resolves otherwise. The Board is to be constituted by three Grower Directors and a minimum of three and maximum of five Controlling Member Directors.	<p>Under the New Constitution, the Board will retain a strong Grower Director presence to ensure that a diversity of Grower views are present at each Board meeting.</p> <p>The Controlling Member will be able to appoint additional Controlling Member Directors to reflect their majority shareholding in Mackay Sugar.</p>
11	Directors – Quorum for Board meetings	Under rule 20.1(b), four Directors form a quorum.	Under rule 25.4(b), four Directors comprising two Controlling Member Directors and two Grower Directors form a quorum.	The New Constitution provides that there should be at a minimum equal representation of the Controlling Member and Non-controlling Members to form a quorum for a Board meeting.
12	Directors –	Grower Directors are not subject to term	Rule 22.4(b) provides that Grower	The Grower Director retirement rules of

No.	Subject	Existing Constitution	New Constitution	Comment
	Term length and limits	<p>limits under the Existing Constitution, however at every annual general meeting one third of the Grower Directors must retire from office and may seek re-election.</p> <p>Under rule 15.3(c), the term limit of Non Grower Directors (independent directors) is determined by the Board when the relevant Non Grower Director is appointed to the Board</p>	<p>Directors must retire every three years. Rule 22.4(c) requires any Grower Director who has held office for a period of nine years, including non-consecutive terms, from the date of adoption of the New Constitution to retire and they may not be reappointed.</p> <p>Rule 22.4(a) provides that Controlling Member Directors are not subject to retirement and reappointment requirements.</p>	<p>the New Constitution are comparable to the Existing Constitution with the exception of the new term limits in place for Grower Directors.</p>
13	Directors – Voting	<p>Under rule 20.3, questions arising at any meeting of the Board are to be decided by a majority of votes of Directors.</p>	<p>Under rule 25.6, questions arising at a meeting of Directors must be decided by a majority of votes cast by the Directors present and entitled to vote on the matter with voting on the following basis:</p> <ul style="list-style-type: none"> (a) each Grower Director present at the meeting having the number of votes equal to the total number of shares held by Non-controlling Members, divided by the number of Grower Directors present at the meeting and entitled to vote on the resolution; and (b) each Controlling Member Director having the number of votes equal to the total number of shares held by the Controlling Member divided by the number of Controlling Member Directors present at the meeting and entitled to vote on the resolution. 	<p>The Director voting requirements under the New Constitution reflect the respective shareholdings of the Controlling Member and the Non-controlling Members.</p>
14	Dividends –	No comparable rule.	Rule 29.3 requires that the Directors	The New Constitution requires that any

No.	Subject	Existing Constitution	New Constitution	Comment
	Profits date		may only utilise profits accrued following the date of adoption of the New Constitution for the purpose of paying a dividend pursuant to rule 29 and that any retained profits in existence prior to the date of adoption of the New Constitution must not be utilised for the purposes of paying a dividend pursuant to rule 29.	future dividends must only be paid out of profits which have been created from the date of adoption of the New Constitution. This means that any retained profits in the accounts of Mackay Sugar prior to the date of adoption of the New Constitution cannot be used for the purpose of paying dividends to which the Controlling Member has a preferential right (see item 4 above for an overview of the Converting Preference Share rights).
15	General meetings – Quorum	Under rule 13.2, 150 Voting Shareholdings constitute a quorum for a general meeting of the Company.	Under rule 18.7, a quorum is such number of members representing at least 75% of shares on issue, including members representing at least 10% of the total number of shares held by Non-controlling Members, present in person or by proxy and entitled to vote on a resolution at the meeting. A quorum must include the Controlling Member as represented by proxy, attorney or Representative, unless the Controlling Member is not entitled to vote on a resolution at the meeting in which case they are not required for a quorum. If there isn't a quorum at a meeting, the meeting is adjourned and quorum at the adjourned meeting under rule 18.7(e) will be the Controlling Member.	This quorum provision requires the presence of Non-controlling Members to ensure that they can remain involved and participate in general meetings. Should there not be a quorum at a general meeting, the adjourned meeting only requires the presence of the Controlling Member for a quorum. This is to ensure that important issues may be addressed if Non-controlling Members decide not to participate, however Non-controlling Members will still receive a notice of any adjourned meeting.
16	Grower's Special Majority Resolution	No comparable rule.	Rule 1.1 defines a Grower's Special Majority Resolution as a resolution of members which is approved by: (a) at least 75% of the votes cast by members entitled to vote on the	A Grower's Special Majority Resolution will be required in order for Mackay Sugar to undertake a Reserved Matter (see item 23 below).

No.	Subject	Existing Constitution	New Constitution	Comment
			<p>resolution; and</p> <p>(b) at least 50% of the votes cast by Grower Members.</p>	
17	Investment Shares and Investment Shareholders	<p>Rule 5.2 restricts the issue of Investment Shares to Permitted Shareholders. Under rule 4.2, Investment Shareholders have the right to receive notice of and to attend general meetings of the Company, receive dividends and the right in a winding up to participate in the equal distribution of the assets of the Company.</p> <p>Investment Shareholders may not vote at a general meeting of the Company.</p>	No comparable provision. All Investment Shares are to be converted to Ordinary Shares as a condition precedent to the Proposed Transaction.	There will no longer be any Investment Shares in the Company. The existing Investment Shares will be converted to Ordinary Shares under the Proposed Transaction and entitle holders of those shares to all of the rights of Investment Shares, including voting rights which Investment Shareholders did not previously hold in connection with the Existing Constitution.
18	Non-controlling Member	No comparable rule.	Rule 1.1 defines a Non-Controlling Member as a member of Mackay Sugar other than the Controlling Member or its Related Bodies Corporate.	This definition encompasses all members other than the Controlling Member.
19	Pre-emptive rights – Share issue	No comparable rule.	Rule 12.2 provides that except under an Excluded Issue, if the Directors resolve to issue any shares, Mackay Sugar must offer to issue to each member its Respective Proportion (being the proportion that the aggregate number of shares held by that members bears to the aggregate number of shares held by all of the relevant members) by making an Offer to each member.	Pre-emptive rights allow current shareholders to participate in any future share issues by Mackay Sugar. This allows them to have the choice as to whether their shareholding is diluted as a result of a further share issue.
20	Pre-emptive rights – Share transfer	Rule 11 permits a shareholder to transfer their shares subject to the eligibility criteria for Investment Shareholders and Voting Shareholders.	Rule 13.3 provides that notwithstanding any other provisions of the New Constitution, a member may transfer any of the member’s shares to a Grower or the Controlling Member without	These pre-emptive rights allow Grower Members and the Controlling Member to increase their shareholding in Mackay Sugar before outside parties can acquire

No.	Subject	Existing Constitution	New Constitution	Comment
			<p>restriction.</p> <p>If a Non-controlling Member wishes to transfer their shares to someone other than a Grower Member or the Controlling Member, they must first offer those shares to Grower Members and the Controlling Member in accordance with the procedures set out in rule 14.</p> <p>Under rule 14.5, if the Controlling Member or the Grower Members do not wish to purchase the relevant shares, the seller may sell them to a third party provided that they are sold on terms no less favourable than those offered to the Grower Members and the Controlling Member.</p> <p>Rule 14.1(b) provides that there are no restrictions on the transfer of shares by the Controlling Member.</p>	<p>the shares.</p> <p>If shares are transferred in breach of rule 14, they are deemed a Prohibited Shareholding Interest (see item 21 below).</p>
21	Prohibited Shareholding Interest	<p>Under rule 5.3 a person has a Prohibited Shareholding Interest if the person has a Relevant Interest in</p> <ul style="list-style-type: none"> • more than 5% of any one class of shares on issue in the Company; • any shares and the person was not issued or transferred those shares in accordance with the transfer rules of the Existing Constitution or is not a Permitted Shareholder. 	<p>Rule 1.1 defines a Prohibited Shareholding Interest as an interest in shares held or transferred other than in accordance with the New Constitution. There is no restriction on any shareholder holding an interest in more than 5% of the Shares on issue (as was the case in the Existing Constitution).</p>	<p>The New Constitution includes certain restrictions on the transfer of shares (see item 20 above). If a person acquires shares other than through the approved processes under the New Constitution, those shares will be deemed a Prohibited Shareholding Interest and may be required to be disposed of in accordance with rule 14.8.</p>
22	Proportional takeover bids	No comparable rule.	Rule 17 provides for the procedures to be undertaken where the Board receives a proportional takeover bid under	The New Constitution includes the procedures the Board must undertake where they receive a takeover bid for

No.	Subject	Existing Constitution	New Constitution	Comment
			section 618(1)(b) of the Corporations Act.	securities issued in the Company.
23	Reserved Matters	No comparable rule.	<p>Rule 18.13 restricts the Company from passing any resolution relating to any of the Reserved Matters without the passing of a Grower’s Special Majority Resolution.</p> <p>Those matters which are Reserved Matters are set out in Schedule 2 of the New Constitution and include:</p> <ul style="list-style-type: none"> (a) amending the New Constitution; (b) a material change in the nature of the business of the Company or the industry in which it operates; (c) the making of an application or taking steps to wind up the Company; (d) the division of the property of the Company in a winding up; (e) any change to the rights attaching to shares; (f) the issue of shares other than in accordance with rule 12 (pre-emptive rights, see item 19 above); (g) the issue of any preference shares or Converting Preference Shares; and (h) listing of the Company on a stock exchange. 	The Board cannot undertake any of the Reserved Matters without the approval of Growers under a Grower’s Special Majority Resolution (see item 16 above).
24	Share classes	Rule 4.4 permits the Board to issue shares with preferred, deferred or other special rights. The Existing Constitution	Rule 2.1 permits the Board to decide on what terms shares are issued. The New Constitution contemplates the issue of	The New Constitution contemplates that all shareholders in the Company will hold Ordinary Shares. Nordzucker will, if the

No.	Subject	Existing Constitution	New Constitution	Comment
		contemplates the issue of Voting Shares and Investment Shares.	Ordinary Shares, Converting Preference Shares and preference shares. Preference shares may only be issued with the approval of a Grower's Special Majority Resolution.	Proposed Transaction is approved, hold Converting Preference Shares which entitles them to additional dividend rights up to a certain amount (see item 4 above) before those shares also convert into Ordinary Shares.
25	Share plans	No comparable rule.	Rule 11.1 permits the Board to adopt or implement a re-investment plan (or similar plan) under which dividends are retained by Mackay Sugar (with the entitled persons approval) and treated as payment for additional fully paid shares in Mackay Sugar, or a plan under which shares or other securities of Mackay Sugar or related body corporate may be issued or otherwise given for the benefit of employees, Directors or contractors of Mackay Sugar or any of its related bodies corporate.	Share plans are a common feature of modern constitutions and give the Board the option to re-invest dividends with shareholder consent, or create an employee share plan to develop remuneration packages which help incentivise employees by having part of their remuneration tied to the performance of the Company through the issue of shares in the Company.
26	Variation of class rights	Rule 4.10 permits the variation of the rights attaching to any class of shares with the consent of members with at least 75% of the votes in that class.	Rule 2.4 permits the variation of the rights attaching to any class of shares with the consent of holders of 75% of the shares of the class and consent of Grower Members holding more than 50% of all shares held by Grower Members.	Under the New Constitution, the variation of share class rights will require the consent of Growers representing a majority of the shares on issue held by Growers. As such, in order for Nordzucker to vary the rights attaching to Converting Preference Shares, they will require the consent of Growers as set out above.

Annexure A

Notice of extraordinary general meeting

Notice of extraordinary general meeting

Mackay Sugar Limited ACN 057 463 671

Notice is given that an extraordinary general meeting of Mackay Sugar will be held at:

Location	Mackay Entertainment and Convention Centre
Date	Monday, 29 July 2019
Time	5.00pm (AEST)

Business of the meeting

Capitalised terms used but not defined in this Notice of Meeting have the meaning given in the Explanatory Memorandum accompanying, and forming part of, this Notice of Meeting.

The business to be considered at the meeting is to consider, and if thought fit, to pass the following special resolutions of Voting Shareholders.

Resolutions 1, 2 and 3 are interdependent and are also dependent on Resolution 4 being passed at the Investment Shareholder Meeting. If any resolution is not passed, then none of the Resolutions will be taken to have been passed.

Implementation of the matters the subject of the Resolutions is also conditional on Completion occurring under the Subscription Agreement.

Resolution 1 – Approval of Proposed Transaction, issue of Converting Preference Shares to Nordzucker and Related Party Financial Benefits

To consider and, if in favour, pass the following resolution as an ordinary resolution:

"That, conditional on Resolutions 2, 3, and 4 also being passed, for the purpose of item 7 of section 6.11 of the Corporations Act and for all other purposes, the holders of Voting Shares resolve to approve the Proposed Transaction described in the Notice of Meeting and Explanatory Memorandum including:

- (a) *the issue of such number of Converting Preference Shares to Nordzucker equal to approximately (but not less than) 70% of the shares on issue in the capital of Mackay Sugar at a total price of \$60 million for the Shares resulting in the acquisition of a relevant interest by Nordzucker in Shares of Mackay Sugar Limited equal to approximately 70% of Shares on issue immediately following completion of the Proposed Transaction, resulting in Nordzucker having Voting Power of approximately (but not less than) 70% in shares of Mackay Sugar; and*

- (b) *for the purposes of section 208 of the Corporations Act, any financial benefit granted under the terms of the Subscription Agreement, Converting Preference Shares or Shareholder Loan Agreement.*"

Directors' Recommendation: The Directors unanimously recommend that the holders of Voting Shares vote in favour of Resolution 1.

Independent Expert's Report: The Independent Expert has concluded that the Proposed Transaction (as that term is defined in the Independent Expert's Report) is fair and reasonable to the Voting Shareholders and Investment Shareholders. Holders of Voting Shares should carefully consider the Independent Expert's Report prepared by Crowe Horwath for the purposes of the Shareholder approvals required under section 611(7) and 208 of the Corporations Act.

Voting Exclusion Statement: The Company will disregard any votes cast on Resolution 1 by:

- (a) the person proposing to make the acquisition of Converting Preference Shares and their Associates;
- (b) a Related Party of the Company to whom the resolution would permit a financial benefit to be given;
- (c) any Associate of such a Related Party referred to in (b),

in contravention of section 224 Corporations Act. However, the Company need not disregard a vote cast on Resolution 1 if:

- (d) it is cast by the person as a proxy appointed in writing that specifies how the proxy is to vote on the proposed resolution; and
- (e) it is not cast on behalf of:
 - (i) the person proposing to make the acquisition of Converting Preference Shares and their Associates; or
 - (ii) a Related Party of the Company to whom the resolution would permit a financial benefit to be given or any Associate of such a Related Party.

Resolution 2 – Approval of New Constitution

To consider and, if in favour, pass the following resolution as a special resolution:

"That:

- (a) *conditional on Resolutions 1, 3 and 4 also being passed; and*
- (b) *effective immediately prior to the issue of the Subscription Shares to Nordzucker in accordance with the Subscription Agreement,*

in accordance with section 136(2) of the Corporations Act, the holders of Voting Shares approve Mackay Sugar repealing its Existing Constitution and replacing it with the New Constitution."

Directors' Recommendation: The Directors unanimously recommend that the holders of Voting Shares vote in favour of Resolution 2.

Independent Expert's Report: The Independent Expert has concluded that the Proposed Transaction (as that term is defined in the Independent Expert's Report) is fair and reasonable to the Voting Shareholders and Investment Shareholders. Holders of Voting Shares should carefully consider the Independent Expert's Report prepared by Crowe Horwath for the purposes of the Shareholder approval required under section 136(2) of the Corporations Act.

Resolution 3: Approval of conversion of Voting Shares to Ordinary Shares

To consider and, if in favour, pass the following resolution as a special resolution:

"That:

- (c) *conditional on Resolutions 1, 2, and 4 also being passed; and*
- (d) *effective immediately prior to the issue of the Subscription Shares to Nordzucker in accordance with the Subscription Agreement,*

pursuant to section 246B(1) of the Corporations Act and rule 4.10(a) of the Existing Constitution, the holders of Voting Shares approve the conversion of all Voting Shares in Mackay Sugar to Ordinary Shares and any variation to the rights attaching to Voting Shares in Mackay Sugar which arises as a result of the conversion and adoption of the New Constitution in accordance with Resolution 2."

Directors' Recommendation: The Directors unanimously recommend that the holders of Voting Shares vote in favour of Resolution 3.

Independent Expert's Report: The Independent Expert has concluded that the Proposed Transaction (as that term is defined in the Independent Expert's Report) is fair and reasonable to the Voting Shareholders and Investment Shareholders. Holders of Voting Shares should carefully consider the Independent Expert's Report prepared by Crowe Horwath for the purposes of the Shareholder approval required under section 264B(1) of the Corporations Act and rule 4.10(a) of the Existing Constitution.

Annexure B

Notice of meeting of Investment Shareholders

Notice of meeting of Investment Shareholders

Mackay Sugar Limited ACN 057 463 671

Notice is given that a class meeting of Investment Shareholders will be held at:

Location	Mackay Entertainment and Convention Centre
Date	Monday, 29 July 2019
Time	5.30pm (AEST) (immediately following the meeting of Voting Shareholders).

Business of the meeting

Capitalised terms used but not defined in this Notice of Meeting have the meaning given in the Explanatory Memorandum accompanying, and forming part of, this Notice of Meeting.

The business to be considered at the meeting is to consider, and if thought fit, to pass the following special resolution of Voting Shareholders.

Resolution 4 is interdependent on Resolutions 1, 2 and 3 being passed at the Extraordinary General Meeting of the Company. If any resolution is not passed, then none of the Resolutions will be taken to have been passed.

Implementation of the matters the subject of the Resolutions is also conditional on Completion occurring under the Subscription Agreement.

Resolution 4: Approval of conversion of Investment Shares to Ordinary Shares

To consider and if in favour, pass the following resolution as a special resolution:

"That:

- (a) *conditional on Resolutions 1, 2, and 3 also being passed; and*
- (b) *effective immediately prior to the issue of the Subscription Shares to Nordzucker in accordance with the Subscription Agreement,*

pursuant to section 246B(1) of the Corporations Act and rule 4.10(a) of the Existing Constitution, the holders of Investment Shares approve the conversion of all Investment Shares in Mackay Sugar to Ordinary Shares and any variation to the rights attaching to Investment Shares in Mackay Sugar which arises as a result of the conversion and adoption of the New Constitution in accordance with Resolution 2.

Directors' Recommendation: The Directors unanimously recommend that the holders of Investment Shares vote in favour of Resolution 4.

Independent Expert's Report: The Independent Expert has concluded that the Proposed Transaction (as that term is defined in the Independent Expert's Report) is fair and reasonable to the Voting Shareholders and Investment Shareholders. Holders of Investment Shares should carefully consider the Independent Expert's Report prepared by Crowe Horwath for the purposes of the Shareholder approval required under section 264B(1) of the Corporations Act and rule 4.10(a) of the Existing Constitution.

Annexure C

New Constitution

Annexure D

Independent Expert's Report
