



# Notice of Annual General Meeting and Explanatory Memorandum

Mackay Sugar Limited ACN 057 463 671

# Notice of Annual General Meeting

Mackay Sugar Limited ACN 057 463 671

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Notice is given that the Fourth Annual General Meeting of Mackay Sugar Limited (**Mackay Sugar** or **Company**) will be held at:

<b>Location</b>	Mackay Entertainment and Convention Centre, Gordon Street, Mackay; and Mossman Bowls Club, 6 – 8 Johnston Road, Mossman.
<b>Date</b>	Tuesday 30 October 2012
<b>Time</b>	4.00 p.m. (AEST)

## ORDINARY BUSINESS

### Welcome

#### Item 1: Minutes

To confirm the minutes of the last Annual General Meeting of 26 October 2011.

#### Item 2: Financial Statements

To receive and consider the Financial Statements, the reports of the Directors and Auditors for the financial year ended 31 May 2012.

#### Item 3: Re-election of Mr S. Gordon (Resolution 1)

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

*'That Sydney Gordon, a Director, who will retire by rotation at the close of the meeting in accordance with Rule 15.2 of the Company's Constitution, being eligible, is re-elected as a Director of the Company.'*

Information about the candidate is set out in the Explanatory Memorandum which accompanies this Notice of Meeting.

The Directors (with Mr S. Gordon abstaining) recommend that you vote in favour of this resolution.

#### Item 4: Appointment of Non-Grower Director (Resolution 2)

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

*'That the appointment of Maurice Clement Maughan as a Non-Grower Director of Mackay Sugar Limited is confirmed by the Shareholders of Mackay Sugar Limited.'*

Further information regarding this resolution is set out in the Explanatory Memorandum which accompanies this Notice of Meeting.

#### Item 5: Board Limit (Resolution 3)

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

*'That the number of Directors to be appointed to the Board of the Company be limited to five Grower Directors and three Non-Grower Directors.'*

Further information about this proposal is set out in the Explanatory Memorandum which accompanies this Notice of Meeting.

The Directors recommend that you vote in favour of this resolution to comply with new legal requirements.

#### **Item 6: Directors' Remuneration (Resolution 4)**

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

*'That pursuant to Rule 15.4 of the Company's Constitution, Directors' Fees (currently \$458,400 in total) be increased by annual increments of \$50,000 per year for each of 2012, 2013 and 2014. Following these increases the Directors' remuneration for their services will be \$608,400 in total by 2014.'*

#### **Item 7: Other business**

To consider and decide on such matters as are brought forward by the Directors relating to the affairs of the Company, or are brought forward by any Shareholder, who has given to the Directors TEN (10) DAYS' previous notice at least of his or her intention, by leaving a copy of such notice specifying the matters proposed to be raised at the Registered Office of the Company.

(Note: A copy of any notice must be lodged at the Registered Office by 4.00 p.m. Friday 19 October 2012).

#### **Voting entitlements**

Pursuant to Regulation 7.11.37 of the Corporations Act, the Board has determined that a Shareholder's voting entitlement at the Annual General Meeting will be taken to be the entitlement of the person shown in the register of members as at 5.00 p.m. (AEST) on 26 October 2012.

#### **Restrictions on Voting**

Resolution 4 – The Company will disregard proxy votes cast by a member of the Key Management Personnel or a closely related party of such a member, in contravention of section 250BD of the Corporations Act.

Further details regarding proxy voting are set out in the proxy form accompanying this Notice of Meeting.

No other restrictions on voting apply to the items of business in this Notice of Meeting.

Dated: 28 September 2012

Issued by authority of the Board:



Donna Rasmussen  
Company Secretary  
Mackay Sugar Limited

## Notes

- (a) Subject to the Corporations Act, including section 250BD, a member who is entitled to attend and cast a vote at the meeting is entitled to appoint a proxy.
- (b) The proxy need not be a member of the Company. A member who is entitled to cast two or more votes may appoint two proxies and may specify the proportion or number of votes each proxy is appointed to exercise.
- (c) If you wish to appoint a proxy and are entitled to do so, then complete and return the attached proxy form.
- (d) A corporation may elect to appoint a representative in accordance with the *Corporations Act 2001* (Cth) in which case the Company will require written proof of the representative's appointment which must be lodged with or presented to the Company before the meeting.
- (e) If you have any queries on how to cast your votes then call Donna Rasmussen on (07) 4953 8241 during business hours.

# Explanatory Memorandum

Mackay Sugar Limited ACN 057 463 671

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This Explanatory Memorandum is to be read with the notice of annual general meeting issued by the Company. It deals with the following resolutions which will be put forward for the consideration of Shareholders at the Annual General Meeting which will be held on Tuesday 30 October at 4.00 p.m. (AEST).

The Explanatory Notes have been prepared to assist Shareholders with their consideration of the resolutions to be put to the Annual General Meeting.

This explanatory memorandum should be read in its entirety. If Shareholders are in any doubt as to how they should vote on the resolution, they should seek advice from their professional advisors.

## Ordinary Business

### Item 1: Minutes

The minutes of the last Annual General Meeting of 26 October 2011 are to be carefully read by each Director, and if they are found to be an accurate record of the meeting, are to be confirmed by the Directors.

### Item 2: Financial Statements

The Corporations Act requires that the report of the Directors, the Auditor's report and the financial report be laid before the AGM. In addition, rule 23.2 of the Company's Constitution provides for such reports and statements to be received and considered at the meeting. Apart from the resolutions set out in the Notice of Meeting, neither the Corporations Act nor the Company's Constitution requires a vote of Shareholders at the AGM on such reports or statements, however Shareholders will be given ample opportunity to raise questions with respect to these reports and statements at the AGM.

In addition to asking questions at the AGM, Shareholders may address written questions to the Chairman about the management of the Company, or to the Company's Auditor which are relevant to:

- (a) the content of the Auditor's Report to be considered at the AGM; or
- (b) the conduct of the audit of the annual financial report to be considered at the AGM.

Any written questions must be submitted to the Company Secretary on or before 4.00 p.m. on 19 October 2012 to:

By post:  
The Company Secretary  
Mackay Sugar Limited  
PO Box 5720  
Mackay Mail Centre Qld 4741

By fax:  
The Company Secretary  
(07) 4953 8340

### **Item 3: Re-election of Director - Mr Sydney Gordon (Resolution 1)**

Sydney Gordon, a Grower Director, was appointed to this role in November 2003. He has been growing cane in the Mackay district for more than 35 years. Sydney is a fellow of the Australian Institute of Company Directors and has business experience in financial markets and provides licensed advisory and investment services across a range of asset classes.

Resolution 1 proposes the re-election of Mr Gordon as Director of Mackay Sugar Limited. If re-elected under Resolution 1, Mr Gordon will then be subject to the Director retirement provisions under the Constitution.

#### **Directors' recommendation**

The Directors recommend that Shareholders vote in favour of this resolution.

### **Item 4: Appointment of Non-Grower Director (Resolution 2)**

Maurice Clement Maughan was appointed a Non-Grower Director following the acquisition of the Mossman mill from Mossman Sugar Company Limited (formerly Mossman Central Mill Company Limited). In the opinion of the Directors, Mr Maughan has experience and skills beneficial to the growth, development and operation of the Company. In 2006, after 31 years, Mr Maughan retired from the international accounting firm KPMG as a partner. In that role he was responsible for providing advice to a number of companies including those in the Queensland sugar industry. He has extensive business experience as a result of his time with KPMG and remains actively involved as a director or advisor to several companies.

In accordance with Rule 15.3(b) any Non-Grower Director appointed under Rule 15.3(a) is required to have his or her appointment confirmed by resolution of Shareholders at the first general meeting of Shareholders following the appointment of the Non-Grower Director.

#### **Directors' recommendation**

The Directors recommend that Shareholders vote in favour of this resolution.

### **Item 5: Board limit (Resolution 3)**

Section 201P of the Corporations Act requires that Directors must not set a Board limit unless the proposed limit has been approved by general meeting of the Company. Section 201N of the Corporations Act states that if a company's constitution provides that the maximum number of directors is a specified number then any number determined by directors that is lower than the specified number is a board limit. The Constitution provides that the Board is to be constituted by five Grower Directors, and a minimum of two and maximum of four Non Grower Directors. Therefore, given that the Board currently constitutes five Grower Directors and three Non Grower Directors, this is considered to be a board limit and must be approved by the passing of Resolution 3.

The effect of Resolution 3 is to limit the number of Directors to be appointed to the Board of the Company to five Grower Directors and three Non-Grower Directors. The Directors are proposing Resolution 3 to comply with the new legal requirements.

#### **Directors' recommendation**

The Directors recommend that Shareholders vote in favour of this resolution.

### **Item 6: Directors' remuneration (Resolution 4)**

According to Rule 15.4 of the Company's Constitution, the Directors are to be paid out of the funds of the Company as remuneration for their services as Directors, such sum accruing from day to day as the Shareholders determine, to be divided among them in such proportion and manner as they agree or in default of agreement, equally.

Resolution 4 proposes that pursuant to Rule 15.4 of the Company's Constitution, Directors' Fees (currently \$458,400 in total) be increased by annual increments of \$50,000 per year for each of 2012, 2013 and 2014. Following these increases the Directors' remuneration for their services will be \$608,400 in total by 2014.

The Directors abstain, in the interests of corporate governance, from making a recommendation in relation to this resolution.

## **Item 7: Other business**

To consider and decide on such matters as are brought forward by the Directors relating to the affairs of the Company, or are brought forward by any shareholder, who has given to the Directors TEN (10) DAYS' previous notice at least of his or her intention, by leaving a copy of such notice specifying the matters proposed to be raised at the Registered Office of the Company.

## **Definitions**

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A number of capitalised terms are used throughout this notice of Annual General Meeting and explanatory memorandum. Except to the extent the context otherwise requires:

<b>Term</b>	<b>Definition</b>
<b>Annual General Meeting or AGM</b>	means the annual general meeting of the Company.
<b>Board</b>	means the board of Directors.
<b>Company or Mackay Sugar</b>	means Mackay Sugar Limited ACN 057 463 671.
<b>Corporations Act</b>	means the <i>Corporations Act 2001</i> (Cth).
<b>Constitution</b>	means the current constitution of the Company.
<b>Directors</b>	means the directors of the Company.
<b>Shareholders</b>	means the shareholders of the Company.