



9 October 2017

Notice to Growers and Shareholders

We have received a number of emails and letters from various growers following the judgement of Jackson J on 5 October 2017 in relation to the \$2 per tonne grower contribution and this notice is to provide further clarification. As a result of Jackson J's decision in our view there are now two groups of growers subject to different CSPAs in Mackay:

1. Those growers who are subject to the changes to the existing CSPA which were agreed with Canegrowers and ACFA on 23 May 2017, which Jackson J accepted as binding on the relevant growers.
2. Mr Stroppiana, who had formally nominated an alternative bargaining representative prior to 23 May 2017 and who the judge held was not liable for the \$2 per tonne expense which we had sought to deem applied to him separate to the agreement on 23 May 2017. There are potentially a limited number of other growers who could also fall into this category but who were not parties to the proceedings.

We expect that the certain other potential growers (as noted in 2 above) may seek to claim that they are in a similar position to that of Mr Stroppiana on the basis that they had also formally nominated alternative bargaining representatives prior to 23 May 2017. As advised in our notices of 5 and 6 October 2017 we are reviewing the judgement and seeking legal advice as to the position of these other growers even though they chose not to be parties to the proceedings, as essentially the judgment of Jackson J is only binding on those growers who were parties to proceeding BS5960/17.

For clarification of the court case:

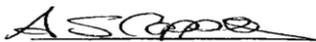
- a. the proceedings were only constituted by Messrs Stroppiana, Mattsson and Ash (and with the late addition of Mrs Stroppiana);
- b. from the commencement of the proceedings (by way of Originating Application on or about 14 June 2017), there was an attempt on behalf of the solicitors acting for Messrs Stroppiana, Mattsson and Ash (**Wallace & Wallace**) to also join a number of other growers to the proceedings through 'Representative Proceedings' (hereinafter referred to as the **Annexure A Growers**);
- c. all up there were around 160 parties who had been included as Annexure A Growers on the basis, we understand, that they had contributed to the potential costs to run the court action. Details of who those parties were should be obtained from Wallace & Wallace who were acting for the named growers in the proceedings;
- d. when the proceedings were listed before Jackson J for a preliminary directions hearing on 21 June 2017, it was conceded by Wallace & Wallace on behalf of the Annexure A Growers that the proceedings would not proceed by way of Representative Proceedings (pursuant to Practice Direction No. 2 of 2017) and that the only parties to the proceeding would be Messrs Stroppiana, Mattsson and Ash; and
- e. on 5 October 2017 MSL issued a press release which, amongst other things, noted that:

Mackay Sugar is considering the judgement in favour of Mr Stroppiana with a view to determining whether an appeal is appropriate. Mackay Sugar will also consider whether the small number of other growers who had nominated alternative bargaining representatives prior to 23 May 2017 will also be covered by the judgement delivered in favour of Mr Stroppiana.

MSL is currently reviewing the judgment in a timely manner to determine whether it will appeal the decision of Jackson J.

Subject to the outcome of our legal advice we will consider advising all of the growers as to the relevant parties who are impacted by the decision in favour of Mr Stroppiana, so that everyone is clear as to the extent to which we believe the judgement applies to those growers. On the basis of the information submitted by the applicants in the proceedings before Jackson J we believe that growers who are not bound by the decision as it applies to Messrs Mattsson and Ash cover approximately 5% of our cane supply in the Mackay area.

It is not appropriate for us to comment as to how the court case impacts those parties (approximately 160) who ultimately may have contributed funding to the action but were not a party to the proceedings and may not be covered by the decision in favour of Mr Stroppiana. Questions in regards to that should be directed to Wallace & Wallace who acted in the proceedings for the nominated growers.



A.S. Cappello
CHAIRMAN