

Maryborough Sugar hopes to sweeten the pot with Mulgrave mill takeover arrangement

FACED with an incumbent board that favours another proposal, Maryborough Sugar Factory has come up with an intriguing means of ensuring its merger proposal for Mulgrave Central Mill Co gets to the miller's shareholders.

The Mulgrave board favours a scheme of arrangement merger of its sugar mill with Bundaberg Sugar's three northern mills to form a new company, TQ Sugar, in which Bundaberg would have a 60 per cent controlling interest. The company would be listed on Newcastle's National Stock Exchange.

Maryborough has proposed a higher, rival merger proposal, but the Mulgrave board has steadfastly refused to put it to the shareholders.

Mulgrave was formerly a co-operative but some years ago converted to an unlisted public company, which means it is covered by the Corporations Act and subject to its takeover regime.

Because of Mulgrave's capital structure, a straight takeover offer would, commercially, have been virtually impossible. Mulgrave has two classes of shares, A and B. Only growers can own the shares, but the A shares are allocated in proportion to the holder's cane allocation, whereas the B shares, created in 1991 when the nearby Hambledon mill closed, are issued on the basis of only one share per farm.

Thus, there are 15 million A shares but only 150 B shares, yet the B shares account for between 35 per cent and 45 per cent of the cane treated by Mulgrave.

Both classes of shares have the same voting rights: one vote per share, although there is voting cap of 200,000 for the A class.

Under the Corporations Act all off-market bids for voting shares must be the same. A bidder cannot offer differential payments, but the same price for the A and B shares would vastly undervalue the Bs.

One solution would be to convert the B shares into A shares and then make a bid for the larger number of A shares, and that's what is proposed under the Bundaberg scheme: the B shares will be converted to A shares before the merger consideration is received. That would require the co-operation of the Mulgrave board, which would have to convene the meeting of shareholders and make a recommendation, and that co-operation is unlikely.

It must overcome a Mulgrave board that favours a merger with Bundaberg Sugar

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So Maryborough and corporate adviser Baron Partners have come up with an innovative way to put its proposal to shareholders — a takeover offer linked to a scheme of arrangement. Maryborough has announced a takeover bid for the A shares, and a scheme of arrangement for the B shares. The A offer is \$14.78 cash plus 6.03 Maryborough shares for each Mulgrave share, and there is an all-scrip alternative of 11.31 Maryborough shares for each A share.

At Maryborough's present share price of \$2.80, both offers value the A shares at \$31.66. The offer values the A shares in aggregate at \$48.5 million.

The scheme offer for the B shares is \$12.71 cash, plus 5.19 Maryborough shares for each tonne of cane supplied by the B holder (based on the average over the four seasons prior to the 2007 cane season), or an all-scrip offer of 9.73 Maryborough shares for each tonne of cane.

The scheme offer values the B-class shares at \$11.5 million — an average of \$76,666 per share (although the actual amount would differ for the individual holders, depending on the tonnage supplied).

The aggregate value of Maryborough's offer is \$60 million,

which is \$4 million more than the proposal it has been vainly seeking to have the Mulgrave board put to the shareholders.

It is well above the value range of \$43.2 million to \$47.3 million that independent expert Grant Thornton ascribed to Mulgrave, which included a control premium of 30 per cent.

It's also superior to the \$49.5 million to \$56.2 million value range Grant Thornton ascribed to the Bundaberg proposal.

That is, at the top of the value range Bundaberg's proposal only just matched the earlier proposal from Maryborough. Now Maryborough has widened the gap with a sweetened offer.

Moreover, the Maryborough proposal enables the shareholders to receive \$28 million in cash, compared with \$7 million cash under the Bundaberg scheme.

That presents a dilemma for the Mulgrave board. The shareholders are scheduled to vote on October 12 on the Bundaberg scheme. Not only will the Mulgrave directors have to ensure that the shareholders are fully informed on the Maryborough proposal, it's difficult to see how the board can maintain its recommendation of the Bundaberg scheme proposal, now it has been clearly outbid.

If Bundaberg is going to respond it will need to do so quickly.

Mulgrave directors have previously declined to put the Maryborough scheme because they claim that, on the basis of information meetings held with some shareholders, it would almost certainly be rejected by shareholders, failing to meet the 75 per cent required vote in favour.

Maryborough believes that many shareholders want to be able to consider its offer, and the Bundaberg scheme is by no means assured of obtaining the required 75 per cent vote, particularly now that Maryborough has upped its offer terms.

Grant Thornton says in its report that due to a lack of detailed financial information it

did not undertake a detailed quantitative assessment of Maryborough's earlier proposal but considered only broad fairness assumptions. Presumably, ASIC registered the scheme document on the basis that there was no competing proposal.

That has now changed.

Maryborough has announced a takeover bid and is now under a statutory obligation to proceed with the offer. Its proposal will now have to be treated seriously against Bundaberg's.

If Maryborough's offer succeeds, the A-class holders would collectively own 49.7 per cent of the merged group if they chose the all-scrip terms, or 34.5 per cent if they took the cash-scrip alternative.

The offer is conditional on a minimum acceptance of 90 per cent of the A-class shares, but Maryborough is able to waive that condition.

It is also conditional on amendments to Mulgrave's constitution to, among other things, enable non-growers to own the shares and to remove the prohibition on the company paying dividends.

Bundaberg is owned by Belgium's Groupe Suciere, which is controlled by the brothers Olivier and Paul Lippens.

In addition to the northern mills proposed to merge with Mulgrave, it also has sugar mills to the south, a refinery, and extensive cane growing areas. Maryborough also has cane growing land, but Mulgrave is purely a miller.

Maryborough sees the acquisition of Mulgrave as providing geographical diversification to reduce risks from cyclones and drought.

While Mulgrave appears resolute in its preference for the Bundaberg proposal, that has not always been the case.

It's understood that Maryborough and Mulgrave have been talking since late last year and were close to an agreed deal when the Bundaberg proposal was unveiled, with the support of the Mulgrave board.

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20 BUSINESS

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