

# Notice of General Meeting

## Incitec Pivot Limited

ABN 42 004 080 264

Incitec Pivot Limited ("Company" or "Incitec Pivot") gives notice that a General Meeting of members will be held at the Auditorium, Level 2, Melbourne Exhibition Centre, 2 Clarendon Street, Southbank, Victoria on Friday, 5 September 2008 at 2.00 pm (Melbourne time).

The Explanatory Notes, which accompany and form part of this Notice of General Meeting, contain important information in connection with the proposed resolutions.

## Business

### A. Financial Assistance

#### Proposed resolution 1:

As a special resolution:

That the giving by each Acquired Subsidiary of financial assistance by:

- (a) executing an accession letter under which it will:
  - (i) assume all the rights and obligations of a guarantor under the Bridge Facility Agreement, including but not limited to:
    - the provision of a guarantee and indemnity;
    - the making of representations and warranties; and
    - the provision of undertakings and assumption of any other rights and obligations in support of any of the obligors' obligations under the Bridge Facility Agreement and associated documents ("Transaction Documents"); and
  - (ii) be taken to be a guarantor under the Transaction Documents, in respect of financial accommodation provided to the borrowers in relation to the acquisition by Incitec Pivot US Holdings Pty Limited of all of the issued share capital in Dyno Nobel Limited under the Scheme Implementation Agreement between the Company and Dyno Nobel Limited dated 11 March 2008 (as amended on 2 April 2008) and other purposes; and
- (b) executing any documents (including, without limitation, any separate guarantee and indemnity deed poll or equivalent document) in connection with:
  - (i) any financing, refinancing, replacement, renewal or variation (including any subsequent refinancing, replacement, renewal or variation) of all or any part of the facilities referred to in the Bridge Facility Agreement; or
  - (ii) any working capital or similar facility (whether or not in connection with the Bridge Facility Agreement); or
  - (iii) any sale and leaseback or economically equivalent or similar arrangement; or
  - (iv) any accession to the guarantees to be provided by the Company in respect of the Sale and Leaseback, which each Acquired Subsidiary proposes to enter into or enters into as a guarantor or obligor or otherwise (and whether with the same or any other financiers),

be approved in accordance with section 260B(2) of the Corporations Act 2001 (Cwlth).

For the purpose of this resolution and the accompanying Explanatory Notes:

- (a) "Acquired Subsidiary" means each of Dyno Nobel Limited, Dyno Nobel Europe Pty Ltd, Dampier Ammonia Pty Ltd, Dampier Nitrogen Pty Ltd, Dampier Urea Pty Ltd, DNX Australia Pty Ltd, Dyno Nobel Administration Pty Ltd, Dyno Nobel Asia Pacific Limited, Dyno Nobel Investments Australia Pty Ltd, Dyno Nobel Management Pty Ltd, Dyno Nobel Moranbah Pty Ltd, Dyno Nobel Moura Pty Ltd, Dyno Nobel Nitrates Pty Ltd, Industrial Investments Australia Finance Pty Ltd and Plenty River Ammonia Holdings Pty Ltd.
- (b) "Bridge Facility Agreement" means the Bridge Facility Agreement dated 21 May 2008 between the Company, Incitec Pivot US Holdings Pty Limited and Incitec Pivot Finance LLC (as borrowers), the Company, Incitec Pivot US Holdings Pty Limited, Incitec Pivot Finance LLC, Incitec Fertilizers Limited, TOP Australia Ltd, Southern Cross Fertilisers Pty Limited ("SCF") and Southern Cross International Pty Limited (as guarantors), Australia and New Zealand Banking Group Limited, National Australia Bank Limited and Westpac Banking Corporation (as financiers and arrangers) and Commonwealth Bank of Australia (as financier, arranger and agent).
- (c) "Sale and Leaseback" means the financing arrangement, similar in economic effect to a sale and leaseback financing arrangement, entered into by SCF, Queensland Operations Pty Limited and the Company, with a partnership known as "Phosco Lessor Partnership", which is partly owned by SCF and related bodies corporate of Australia and New Zealand Banking Group Limited ("ANZ") and primarily funded by ANZ.

### B. Conversion of the Company's fully paid ordinary shares into a larger number

#### Proposed resolution 2:

As an ordinary resolution:

That, in accordance with section 254H of the Corporations Act 2001 (Cwlth), the Company convert all the fully paid ordinary shares in the issued capital of the Company into a larger number on the basis that every 1 fully paid ordinary share be divided into 20 fully paid ordinary shares with effect from 7.00 pm (Melbourne time) on 23 September 2008.

By order of the Board.



Kerry Gleeson  
Company Secretary  
5 August 2008



## Notes

These notes form part of the Notice of General Meeting.

## Voting and Other Information

### Entitlement to attend and vote

Pursuant to regulation 7.11.37 of the Corporations Regulations 2001 (Cwlth), the Directors have determined that, for the purposes of the General Meeting (including voting at the meeting), members are those persons who are the registered holders of shares in the Company at 7.00 pm (Melbourne time) on 3 September 2008.

### Proxy votes

A member who is entitled to attend and vote at the General Meeting may appoint a proxy. A proxy can be either an individual or a body corporate. A proxy does not need to be a member of the Company. The appointment may specify the proportion or number of votes the proxy may exercise.

If you appoint a body corporate as your proxy, that body corporate will need to ensure that it:

- appoints an individual as its corporate representative to exercise its powers at the meeting, in accordance with section 250D of the Corporations Act 2001 (Cwlth) ("Corporations Act"); and
- provides satisfactory evidence of the appointment of its corporate representative prior to commencement of the General Meeting.

If satisfactory evidence of appointment as corporate representative is not received before the meeting, then the body corporate (through its representative) will not be permitted to act as your proxy.

Any member who is entitled to cast two or more votes may appoint not more than two proxies to attend and act for that member at the General Meeting and may specify the proportion of votes each proxy is appointed to exercise. If a member appoints two proxies and the appointment does not specify the proportion or number of the member's votes each proxy may exercise, each proxy may exercise half of those votes.

If more than one proxy for a member is present at the General Meeting, none of them is entitled to vote on a show of hands. If you require a second proxy form, please contact the Company's Share Registry, Link Market Services, on 1300 303 780 (for callers within Australia) or +61 (0)2 8280 7765 (for international callers).

To be effective, your completed proxy form must be received at the Company's Share Registry, Link Market Services, by no later than 48 hours prior to the commencement of the General Meeting.

The completed proxy form may be:

- Mailed/delivered to Link Market Services at:

|                   |                 |
|-------------------|-----------------|
| Street address:   | Postal address: |
| Level 12          | Locked Bag A14  |
| 680 George Street | Sydney South    |
| Sydney NSW 2000   | NSW 1235        |
- Faxed to Link Market Services on +61 (0)2 9287 0309.

A proxy form must be signed by the member or the member's attorney. In the case of shares held jointly by two or more persons, all joint holders must sign the proxy form.

Where a proxy is executed by an attorney, the power of attorney or a certified copy of the power of attorney must be received at the Company's Share Registry no later than 48 hours prior to the commencement of the General Meeting.

Powers of attorney may be sent by fax to the Company's Share Registry, Link Market Services, on +61 (0)2 9287 0309.

Members who wish to appoint the Chairman of the meeting as proxy to vote on their behalf may leave open their votes in the hands of the Chairman. The Chairman of the meeting intends to vote undirected proxies in favour of each resolution.

## Corporate representatives

A body corporate which is a member may appoint an individual as its representative to exercise any of the powers the body may exercise at meetings of a company's members.

The appointment must comply with the requirements of section 250D of the Corporations Act. The appointment may be a standing one. Unless the appointment states otherwise, the representative may exercise all of the powers that the appointing body could exercise at the meeting or in voting on a resolution.

The representative should bring to the meeting evidence of his or her appointment, including any authority under which the appointment is signed, unless it has previously been given to the Company.

## Explanatory Notes

### Proposed resolution 1: Approval of giving of financial assistance by Acquired Subsidiaries

The purpose of proposed resolution 1 in the accompanying Notice of General Meeting is for shareholders to approve the Acquired Subsidiaries providing financial assistance to Incitec Pivot US Holdings Pty Limited ("Bidco"), a wholly-owned subsidiary of the Company, in connection with Bidco's acquisition of Dyno Nobel Limited ("Dyno Nobel").

This section sets out all information known to the Company that is material to the decision on how to vote on the resolution, other than any information that it would be unreasonable to require the Company to set out because the Company has previously disclosed that information to shareholders.

As required by section 260B(4) of the Corporations Act, you are informed of the matters detailed below. Capitalised terms have the meaning set out in the accompanying Notice of General Meeting unless the context otherwise requires.

### Background

On 16 June 2008, the Company announced the successful implementation of the acquisition of Dyno Nobel by way of schemes of arrangement ("Schemes").

Detailed information relating to the Schemes is set out in the Dyno Nobel Scheme Booklet dated 18 April 2008 (which is available on Dyno Nobel's website, [www.dynonobel.com](http://www.dynonobel.com)) ("Scheme Booklet").

On 21 May 2008:

- the Company, Bidco and Incitec Pivot Finance LLC (as borrowers);
- the Company, Bidco, Incitec Pivot Finance LLC, Incitec Fertilizers Limited, TOP Australia Ltd, Southern Cross Fertilisers Pty Limited and Southern Cross International Pty Limited (as guarantors);
- Australia and New Zealand Banking Group Limited, National Australia Bank Limited and Westpac Banking Corporation (as financiers and arrangers); and
- Commonwealth Bank of Australia (as financier, arranger and agent),

entered into the Bridge Facility Agreement.

Under the Bridge Facility Agreement, the financiers have provided debt finance to the Company for a maximum aggregate amount of A\$2.4 billion, with each financier contributing an equal proportion of the funds. The facility is a 364-day multi-currency acquisition facility which is available for purposes including:

- (a) the acquisition of Dyno Nobel in accordance with the Schemes;
- (b) refinancing existing debt facilities of Dyno Nobel and the Company;
- (c) repurchasing the Dyno Nobel step-up preference securities (issued by Permanent Investment Management Ltd (ABN 45 003 278 831), as responsible entity of the Dyno Nobel SPS Trust (ARSN 126 167 459), pursuant to the replacement product disclosure statement dated 11 July 2007); and
- (d) paying certain costs and expenses incurred in connection with paragraphs (a) and (b) and associated transactions.

Following the implementation of the Schemes on 16 June 2008, the Company is required to join Dyno Nobel and other Dyno Nobel Australian subsidiary companies as additional guarantors under the Bridge Facility Agreement. The Bridge Facility Agreement requires the Company to ensure that sufficient wholly-owned subsidiaries give guarantees to the financiers such that the guarantors represent at least 85% of the earnings (before interest, tax, depreciation and amortisation) and total assets of the combined Incitec Pivot / Dyno Nobel group.

In addition, Southern Cross Fertilisers Pty Limited ("SCF"), Queensland Operations Pty Limited ("QOPL") and the Company have entered into a financing arrangement similar in economic effect to a sale and leaseback financing arrangement with a partnership known as "Phosco Lessor Partnership", which is partly owned by SCF and related bodies corporate of Australia and New Zealand Banking Group Limited ("ANZ") and primarily funded by ANZ ("Sale and Leaseback").

It is contemplated that the Acquired Subsidiaries provide certain guarantees and incur certain obligations in respect of the Bridge Facility Agreement, the Sale and Leaseback and any other financial indebtedness of the Company from time to time.

Each Acquired Subsidiary proposes to:

- execute an accession letter under which each Acquired Subsidiary will:
  - (i) assume all the rights and obligations of a guarantor under the Bridge Facility Agreement, including but not limited to:
    - the provision of a guarantee and indemnity;
    - the making of representations and warranties; and
    - the provision of undertakings and assumption of any other rights and obligations in support of any obligor's obligations under the Transaction Documents; and
  - (ii) be taken to be a guarantor under the Transaction Documents, in respect of financial accommodation provided to the borrowers in relation to the acquisition by Bidco of all of the issued share capital in Dyno Nobel under the Scheme Implementation Agreement dated 11 March 2008 (as amended on 2 April 2008) and other purposes; and
- execute any documents (including, without limitation, any separate guarantee and indemnity deed poll or equivalent document) in connection with:
  - (i) any financing, refinancing, replacement, renewal or variation (including any subsequent refinancing, replacement, renewal or variation) of all or any part of the facilities referred to in the Bridge Facility Agreement;
  - (ii) any working capital or similar facility (whether or not in connection with the Bridge Facility Agreement);
  - (iii) any sale and leaseback or economically equivalent or similar arrangement; or
  - (iv) any accession to the guarantees to be provided by the Company in respect of the Sale and Leaseback, which each Acquired Subsidiary proposes to enter into or enters into as a guarantor or obligor or otherwise (and whether with the same or any other financiers), (together, the "Proposed Actions").

### **Why is shareholder approval required?**

The Proposed Actions by each Acquired Subsidiary (as outlined above) may constitute the giving of "financial assistance" for the purposes of Part 2J.3 of the Corporations Act.

Section 260A(1) of the Corporations Act provides that a company may financially assist a person to acquire shares in it or its holding company only in certain limited circumstances, including where the assistance is approved by shareholders under section 260B.

Section 260B(1) of the Corporations Act requires that shareholder approval of the financial assistance be given at a general meeting of the company by either:

- a special resolution, with no votes being cast in favour of the resolution by the person acquiring the shares or by their associates; or
- a resolution agreed to by all ordinary shareholders.

In addition, under section 260B(2) of the Corporations Act, as the Acquired Subsidiaries are subsidiaries of a listed holding corporation, Incitec Pivot, the financial assistance must also be approved by a special resolution passed at a general meeting of the Company.

Accordingly, it is proposed that the Proposed Actions by each Acquired Subsidiary be approved by:

- a special or unanimous resolution at a general meeting of each Acquired Subsidiary in accordance with section 260B(1) of the Corporations Act; and
- a special resolution passed at a general meeting of the Company.

## **Effect of the proposed financial assistance**

### **Effect on Incitec Pivot**

Incitec Pivot is subject to the obligations contained in the Bridge Facility Agreement to which it is a party, irrespective of whether or not the financial assistance to be given by each of the Acquired Subsidiaries is approved.

The financial assistance proposed to be given by the Acquired Subsidiaries will assist the Company in meeting its obligations under the Bridge Facility Agreement because the Company, together with the Acquired Subsidiaries, will be parties to the Bridge Facility Agreement and benefit from the funding so provided.

By the Acquired Subsidiaries being parties to the Bridge Facility Agreement, the Company will be able to obtain funding for other corporate purposes more efficiently and on more favourable terms than by obtaining finance separately in its own right.

### **Effect on the group**

By each of the Acquired Subsidiaries becoming additional guarantors under the Bridge Facility Agreement, the Company will enjoy the benefit of group financing arrangements and the support of each of the Acquired Subsidiaries in those arrangements. This is expected to provide greater flexibility and stability for the Incitec Pivot group.

In regards to each of the Acquired Subsidiaries, in giving the financial assistance it will become jointly and severally liable with each of the other guarantors to:

- (a) guarantee that each of the obligations of an obligor under the Bridge Facility Agreement and associated documents ("Transaction Documents") are performed;
- (b) pay the financiers on demand any amount that is due and payable by another obligor in connection with the Transaction Documents;
- (c) indemnify the financiers for any cost, loss or liability incurred if any guaranteed obligation becomes unenforceable, invalid or illegal to an amount equal to that which the financiers would otherwise have been entitled to recover; and
- (d) perform all other obligations of a guarantor under the Transaction Documents.

If the resolution is not approved:

- (a) the Company may be in default under the Bridge Facility Agreement in which case the financiers may exercise their rights to demand repayment of all funds under that facility; and
- (b) the Company may have to negotiate alternative refinancing and would expect to incur additional costs and transaction fees.

It should be noted that there are potential disadvantages and risks associated with each Acquired Subsidiary providing the financial assistance.

In giving the financial assistance, each of the Acquired Subsidiaries may also be potentially liable to pay the financiers any amounts outstanding under the Transaction Documents in the event that a borrower was to default under them. In such case, however, each of the Acquired Subsidiaries will maintain their right of contribution against the other guarantors and their right of subrogation against the Company and, accordingly, the giving of the financial assistance should not materially prejudice any Acquired Subsidiary's ability to pay its creditors.

## Directors' approval

The Directors resolved unanimously to approve the giving of financial assistance by each of the Acquired Subsidiaries, subject to approval by the Company's shareholders in accordance with section 260B(2) of the Corporations Act.

## Information not included

Under section 260B(4) of the Corporations Act, these Explanatory Notes do not contain information which would be unreasonable to provide because the information had previously been disclosed to shareholders.

Accordingly, these Explanatory Notes do not include:

- (a) information relating to the financial position, performance or cash flows of the Company (which is disclosed in the Company's 2007 Annual Report dated 20 November 2007); and
- (b) detailed information relating to the acquisition of Dyno Nobel and its subsidiaries, which is set out in the Scheme Booklet.

## Proposed resolution 2: Approval of conversion of the Company's fully paid ordinary shares into a larger number

### The effect of the resolution

Section 254H of the Corporations Act enables a company to convert all or any of its shares into a larger number of shares by a resolution passed at a general meeting.

Under proposed resolution 2 in the accompanying Notice of General Meeting, it is proposed that the Company divide all of its fully paid ordinary shares on issue at 7.00 pm (Melbourne Time) on 23 September 2008 on the basis that every one fully paid ordinary share will be divided into 20 fully paid ordinary shares with immediate effect ("Share Split"). If the resolution is approved, normal settlement trading will recommence from the start of trading (Melbourne time) on 1 October 2008.

Immediately after the Share Split takes effect, each shareholder will still hold the same proportion of the Company's share capital as before the Share Split. The current rights attaching to the fully paid ordinary shares set out in the Company's constitution will not be affected.

Assuming that no further shares are issued by the Company on or after the date of the accompanying Notice of General Meeting, the Share Split will result in the total number of fully paid ordinary shares in the issued capital of the Company increasing from 60,861,528 to 1,217,230,560 fully paid ordinary shares.

### Reasons for voting for the resolution

The Company's shares have over the last 12 months to 30 June 2008 traded at prices ranging at a low of \$60.50 to a high of \$200. A share split has been under consideration by the Company for some time having regard to the prices at which the shares have been trading on Australian Securities Exchange ("ASX"). The Share Split is intended to benefit all shareholders by creating improved liquidity and turnover in the trading of shares, increasing

affordability of the shares to retail investors, acting as a deterrent to potential market predators, and assisting in facilitating an effective dividend reinvestment plan.

The Directors have unanimously approved the Share Split.

## Australian income tax considerations

It is generally expected that there will not be any Australian income tax consequences for shareholders arising from the Share Split.

However, the Company strongly recommends that shareholders seek and obtain their own specific advice (taking into account their particular circumstances) in relation to the proposed Share Split. Neither the Company, the Directors nor the Company's advisers accept any responsibility for any individual shareholder's taxation consequences of the Share Split.

## Timetable

If the Share Split is approved by the Company's shareholders in accordance with proposed resolution 2 in the accompanying Notice of General Meeting, the following indicative timetable will apply.

Please note that:

- the following timetable is indicative only and, among other things, is subject to approval by ASX and may be changed by the Company. Any variation of the timetable set out below will be announced on ASX and published on the Company's website; and
- after the Share Split becomes effective, the Company will dispatch holding statements to shareholders advising them of the number of fully paid ordinary shares held by them before and after the Share Split.

|  |                   |
|--|-------------------|
| Date of Company's General Meeting  | 5 September 2008  |
| Company notifies ASX of approval of Share Split  |                   |
| Trading commences in post-Share Split shares on deferred settlement basis                              | 17 September 2008 |
| Last day for registration of transfers of shares on a pre-Share Split basis                            | 23 September 2008 |
| Share Split effective at 7.00 pm (Melbourne time)  |                   |
| First day for the Company to register shares on a post-Share Split basis                               | 24 September 2008 |
| Holding statements dispatched to shareholders notifying them of number of shares held post-Share Split | 30 September 2008 |
| End of deferred settlement trading   |                   |
| Normal settlement trading in the Company's shares recommences  | 1 October 2008    |

## Incitec Pivot Limited

ABN 42 004 080 264

70 Southbank Boulevard,  
Southbank Victoria 3006,  
Australia

Postal address  
Incitec Pivot Limited  
GPO Box 1322,  
Melbourne Victoria 3001,  
Australia

T. + 61 3 8695 4400

F. + 61 3 8695 4419

www.incitecpivot.com.au

