

IN THE AUSTRALIAN COMPETITION TRIBUNAL

of 2013

MURRAY GOULBURN CO-OPERATIVE CO LIMITED

**RE: PROPOSED ACQUISITION OF WARRNAMBOOL CHEESE
AND BUTTER FACTORY COMPANY HOLDINGS LIMITED**

Certificate identifying annexure

This is the annexure marked RAP5 now produced and shown to Robert Arthur Poole at the time of signing his statement on 28 November 2013.

Annexure RAP5
Murray Goulburn Co-operative Co Limited Board Charter
adopted 24 April 2012

Filed on behalf of Murray Goulburn Co-Operative Co Limited
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Board Charter

Murray Goulburn Co-operative Co. Limited

ACN 004 277 089

Adopted by the Board on 24 April 2012

1 Introduction

The Board's **role** is to represent all of the shareholders, as a whole, and to promote and protect the interests of Murray Goulburn Co-operative Co. Limited (the **Company**). The Board's primary **duty** is to act in the best interests of the Company. The Board's principal **objective** is to create and enhance shareholder value but in a manner which is consistent with the co-operative objective of maximising supplier returns.

The Board of the Company has adopted this Board Charter to outline the manner in which its constitutional powers and responsibilities will be exercised and discharged, having regard to principles of good corporate governance, international best practice and applicable laws.

This Charter includes an overview of:

- › Board composition and process;
- › Board role and responsibility;
- › the relationship and interaction between the Board and management; and
- › the authority delegated by the Board to management and Board Committees (including authority delegated to the Managing Director (**MD**) and any limits to the way the MD can execute that authority).

The Board Charter and the charters adopted by the Board for its standing Committees have been prepared and adopted on the basis that strong corporate governance can add to the performance of the Company, create shareholder and stakeholder value and engender the confidence of the Company's suppliers and investors.

This Charter is to be reviewed by the Board as required and at least every three years.

2 Board composition

2.1 Board composition and size

- › The Board is appointed by the shareholders. Non-executive Directors are engaged through a letter of appointment.
- › The Board determines the size and composition of the Board, subject to the terms of the Company's Constitution.
- › It is intended that the Board should comprise a majority of independent Non-executive Directors and comprise Directors with an appropriate range of skills, expertise and experience. Independence in this context is defined in clause 2.2 below which recognises that a relationship as a milk supplier to the Company shall not affect a director's status as "independent".
- › Subject to limits imposed by the Constitution, the Board will review the skills represented by Directors on the Board from time to time and determine whether the composition and mix of those skills remain appropriate for the Company's strategy, and whether the relevant skills and experience on the Board should be enhanced through the appointment of Special Directors.

2.2 Director independence and tenure

- The Board will consider the independence of each Non-executive Director in light of information relevant to this assessment as disclosed by each Non-executive Director to the Board.
- The Board only considers directors to be independent where they are independent of management and free of any business or other relationship that could materially interfere with, or could reasonably be perceived to interfere with, the exercise of their unfettered and independent judgment. The Constitution provides that all Non-executive Directors (other than Special Directors, Associate Directors and Alternate Directors) must be suppliers to the Company and it is recognised that, as a result, the majority of the Board will comprise of Directors who have an economic relationship with the Company. In light of this, in determining independence, the Board shall exclude a Director's relationship as a supplier with the Company which arises for the purposes of satisfying rule 15.6 of the Constitution.
- Board renewal is critical to the performance of the Board and the Board has the responsibility for ensuring board renewal is undertaken. The Board will review the duration of each Director's tenure in succession planning and it is the policy of the Board, that Directors will retire after nine years (or twelve years in the case of a Chairman who has served in the role of Chair for less than six years) from the first date of election by shareholders. The Board, on an exceptional basis, may exercise discretion to extend the maximum term where it considers such an extension would benefit the Company. The Board has also determined that the tenure policy should not apply to restrict a director who had served for nine years as at the date the tenure policy was adopted (being 24 April 2012) from seeking election for a further term of three years.

3 Board role and responsibilities

3.1 Board role

The Board's role is to:

- represent and serve the interests of shareholders by overseeing and appraising the Company's strategies, policies and performance. This includes overseeing the financial and human resources the Company has in place to meet its objectives and reviewing management performance;
- protect and optimise Company performance and build sustainable value for shareholders in accordance with any duties and obligations imposed on the Board by law and the Company's constitution and within a framework of prudent and effective controls that enable risk to be assessed and managed;
- set, review and ensure compliance with the Company's values and governance framework (including establishing and observing high ethical standards); and
- ensure shareholders are kept informed of the Company's performance and major developments affecting its state of affairs.

3.2 Board key responsibilities

The responsibilities/functions of the Board include:

- selecting, appointing and evaluating from time to time the performance of, determining the remuneration of, and planning succession of, the MD;
- approving the appointment and remuneration of, and succession planning for, the MD's direct reports;
- contributing to and approving management's development of corporate strategy, including setting corporate objectives, performance objectives and approving operating budgets;
- reviewing, ratifying and monitoring systems of risk management and internal control and ethical and legal compliance. This includes reviewing procedures to identify the main risks associated with the Company's businesses and the implementation of appropriate systems to manage these risks;
- monitoring corporate performance and implementation of corporate objectives, strategy and policy;
- approving major capital expenditure, acquisitions and divestitures, and monitoring capital management;
- monitoring and reviewing management processes aimed at ensuring the integrity of financial and other reporting;
- developing and reviewing the Company's corporate governance principles and policies; and
- performing such other functions as are prescribed by law or are assigned to the Board.

3.3 Reserved authorities

Matters which are specifically reserved for the Board or its Committees include:

- appointment and removal of the chair and any vice-chair(s) (as applicable);
- appointment and removal of the MD;
- appointment of directors to fill a vacancy or as an additional Director;
- establishment of Board Committees, their membership and delegated authorities;
- approval of strategy and annual budgets;
- approval of any changes to the milk price proposed by management;
- approval of dividends;
- approval of capital and non-capital expenditure, acquisitions and divestitures in excess of authority levels delegated to management;
- approval of the appointment (including the termination of an engagement) of the external auditors;
- calling of meetings of shareholders;
- determinations and adoptions of documents (including the publication of reports and statements to shareholders) that are required by Murray Goulburn's Constitution or by law; and
- any other specific matters nominated by the Board from time to time.

3.4 Directors

- › Directors will act at all times with honesty and integrity and will observe the highest standards of ethical behaviour.
- › Directors commit to the collective, group decision-making processes of the Board. Individual Directors will always respect the contributions of other Directors, and strive to understand their perspective and contributions to Board debate and discussion. Directors will debate issues openly and constructively and be free to question or challenge the opinions presented at meetings where their own judgement differs from that of other Directors.
- › Directors will ensure that no decision or action is taken that has the effect of prioritising their personal interests or the interests of the supplier region in which they have a personal interest over the Company's interests.
- › Directors will be expected to participate in all induction and orientation programs and any continuing education or training arranged for them by the Company.
- › The Board collectively, and each Director individually, has the right to seek independent professional advice, subject to the approval of the Chair, or the Board as a whole and with the assistance of the Company Secretary.

4 Delegation of duties and powers

4.1 Relationship with management

- › The Board will approve corporate objectives for the MD to satisfy and, jointly with the MD, develop the duties and responsibilities of the MD.
- › Subject to formal delegations of authority and the powers reserved to the Board in section 3.3, the Board delegates to the MD all authority to achieve the corporate objectives approved by the Board. However, ultimate responsibility for strategy and control rests with the Directors.
- › The MD is accountable to the Board for the exercise of the authority that is delegated to the MD and, with the support of management, must report to the Board and its Committees on the exercise of authority in a form and timeframe that will enable the Board and its Committees to discharge its duties effectively. The Board and its Committees require succinct, clear, verifiable and high quality reports from management that will enable the Board and its Committees to make assessments and judgments, conduct inquiries and to gain assurance that the decisions and actions of the MD, and the performance of the Company, are directed toward the approved corporate objectives and fall within the delegation of authority limits.
- › Directors are entitled to request additional information at any time when they consider it appropriate.

4.2 Role of the MD

- The management function is conducted by, or under the supervision of, the MD as directed by the Board (and by other officers to whom the management function is properly delegated by the MD).
- The MD is responsible for implementing approved corporate objectives, strategic objectives, plans and budgets approved by the Board.
- The MD is free to take all decisions and actions which further the approved corporate objectives and which are reasonable in his or her judgement having regard to the authority limits approved by the Board.
- The MD will report to the Board on the achievement of the approved corporate objectives and material developments in the following areas:
 - the development and implementation of strategy and the annual plan;
 - the business and financial performance of the Company and material events which are critical to the achievement of the corporate objectives;
 - the activities covered by the delegation of authority.
- The Board will monitor the decisions and actions of the MD and the performance of the Company to gain assurance that progress is being made towards the approved corporate objectives and towards shorter and medium term plans.
- The Board will also monitor the performance of the MD and the Company through the Board Committees where it is more effective to do so, or necessary to avoid conflicts of interest. The Committees will focus on gaining assurance that the conduct and performance of the MD and Company comply with the authority limits approved by the Board.
- The Chair of the Board, the chairs of Committees, the MD and the Company Secretary will strive collaboratively to ensure that effective systems are in place for the production and transmission of information and reports.

4.3 Delegation to Committees

- The Board from time to time establishes Committees to streamline the discharge of its responsibilities and support the Board in matters that require more intense review.
- Each standing Committee adopts a formal charter setting out the matters relevant to the composition, responsibilities and administration of the Committee.
- The permanent standing Committees of the Board are the Finance, Risk and Audit Committee, the Compliance Committee, the Suppliers Relations Committee and the Remuneration Committee.
- Committees will assist the Board by focusing on the following activities:
 1. Finance, Risk and Audit Committee
 - appointment of the internal and external auditors;
 - oversee the Company's external audit functions;
 - approve the annual internal audit plan and oversee the Company's internal audit functions;
 - manage the process of identification and management of risk;
 - oversee the preparation of financial statements and reporting systems;
 - oversee the Company's internal accounting and control systems and other matters as directed by the Board;
 - review the draft annual budget before it is submitted to the Board for approval;
 - oversee any other financial review matters delegated to the Committee by the Board from time to time;

2. Compliance Committee

- review, assess and monitor the Company's activities and overall performance having regard to health, safety, environment and community matters;
- review and oversee the effectiveness of policies, systems and processes for complying with applicable laws and company policy (particularly those which have a major potential impact on the Company in areas such as trade practices, occupational health and safety, food quality assurance, export regulation and compliance and the environment);
- advise the Board, the Finance, Risk and Audit Committee and the Remuneration Committee on the overall performance of the Company having regard to health, safety, environment and community matters;

3. Supplier Relations Committee

- review and monitor the Company's relationship with suppliers;
- provide advice and guidance for management with regard to the Company's communication strategy with suppliers, including the communication of regular updates of major company developments and the process for addressing any questions or complaints from suppliers;

4. Remuneration and Nominations Committee

- oversee the Company's remuneration policy and its application to the MD and executives reporting to the MD;
- review and recommend arrangements for the executive Directors and the executives reporting to the MD, including contract terms, annual remuneration and participation in the Company's short term and long term incentive plans;
- assist the Chair in relation to the annual evaluation of the MD;
- oversee the Company's human resources strategy;
- make recommendations on the remuneration of Non-executive Directors;
- make recommendations on the appointment of Special Directors from time to time including the identification and evaluation of potential candidates;
- oversee and make recommendations in relation to the director induction and training programs;
- oversee the communication to shareholders on remuneration policy and the company's compliance with legal and regulatory requirements (including the preparation of the remuneration report to be included in the annual report).
- Each Committee will report to the Board on decisions and actions taken and make any necessary recommendations.
- Each Committee will be comprised of the individuals the Board considers best suited to fulfil the role of each Committee. The requirements for composition are:
 - Finance, Risk and Audit Committee – at least three Non-executive Directors, one of whom must be a Special Director;
 - Compliance Committee – at least three Non-executive Directors;
 - Supplier Relations Committee – at least three Non-executive Directors;
 - Remuneration and Nominations Committee – at least three Non-executive Directors.
- The Board may appoint an individual who is not a Director to be a member of a Committee where it considers that appropriate to enhance the relevant skills and experience on the Committee.
- The Board may also delegate specific functions to ad hoc Committees on an 'as needs' basis. The powers delegated to these Committees are to be set out in Board resolutions.

5 Board process

5.1 Meetings

- › The Board will meet regularly and Directors will allocate sufficient time to perform their duties effectively.
- › Periodically, Non-executive Directors will meet without Executive Directors or management present.
- › Directors will use all reasonable endeavours to attend Board meetings in person. Directors unable to attend a meeting must advise the Chair and the Company Secretary as soon as practicable with an explanation for non-attendance.
- › The Company's constitution governs the regulation of Board meetings and proceedings.

5.2 The Chair

- › The Board will appoint one of its members to be Chair.
- › It is intended that the Chair should be a Non-executive Director.
- › The Chair will facilitate the work of the Board at its meetings, and be responsible for ensuring that the principles and processes of the Board are maintained.
- › The Chair will set the agenda for each meeting in consultation with the MD and the Company Secretary. Any Director may request that an item be added to the agenda.
- › The Chair represents the Board to the shareholders and communicates the Board's position.
- › The Chair has authority to act and speak for the Board between its meetings, including engaging with the MD, and conducting the monitoring activities of the Board in section 4.2. The Chair will report to the Board and the Chairs of the Committees as appropriate on decisions and actions taken between meetings of the Board.
- › The Chair will lead on behalf of all the Non-executive Directors the evaluation of the performance of the MD. The remuneration of the MD is the responsibility of the Chair, in direct consultation with the full Board and with guidance from the Remuneration Committee.

5.3 The Company Secretary

- › The Board will appoint at least one Company Secretary.
- › The Company Secretary is accountable to the Board.
- › All Directors will have direct access to the Company Secretary.
- › The Company Secretary will advise the Chair, and through the Chair, the Board and individual Directors on all matters of governance process.
- › The Company Secretary is responsible for coordination of all Board business, including agendas, board papers, minutes, communication with regulatory bodies, and all statutory and other filings.
- › The Company Secretary will develop and maintain the information systems and processes that are appropriate for the Board to fulfil its role and to achieve the approved corporate objectives.
- › The Company Secretary will retain independent experts and advisory services at the request of the Board or Board Committees.

5.4 Access to independent professional advice

The Board may access independent experts and professional counsel for advice where appropriate and may invite any person from time to time to attend meetings of the Board.

5.5 Board Evaluation

The Board will conduct performance evaluations of the Board as a whole, its Committees, the Chairman, individual Directors, and the governance processes which support the Board. These evaluations will be conducted periodically as the Board considers appropriate.

ATTACHMENT 1

Murray Goulburn Co-operative Co. Limited

ACN 004 277 089

Adopted by the Board on 24 April 2012

Guidelines of the Board of directors – Independence of directors

Part 2 of the Company's Board Charter refers to the 'independence' of directors. Without limiting the Board's discretion, the Board has adopted the following guidelines to assist in considering the independence of directors.

In general, directors will be considered to be 'independent' if they are not members of management (a non-executive director) and they:

- have not within the last 3 years been employed in an executive capacity by the Company or another group member;
- were not appointed as a director of the Company within 3 years of ceasing to be employed in an executive capacity by the Company;
- except in connection with reorganisations within the Group, have not within the last 3 years been a principal or employee of a material professional adviser or a material consultant to the Company or another group member;
- are not a material supplier to or customer of the Company or other group member or an Officer of or otherwise associated directly or indirectly with a material supplier or customer. The Board shall exclude a director's relationship as a supplier with the Company which arises for the purposes of satisfying rule 15.6 of the Constitution;
- have no material contractual relationship with the Company or another group member, other than as a director of the Company. The Board shall exclude a director's relationship as a supplier with the Company which arises for the purposes of satisfying rule 15.6 of the Constitution; and
- are free from any other interest, business or other relationship which could, or could reasonably be perceived to, materially interfere with the director's ability to act in the best interests of the Company.

Materiality thresholds

The Board will consider thresholds of materiality for the purposes of determining 'independence' on a case by case basis, having regard to both quantitative and qualitative principles. Without limiting the Board's discretion in this regard, the Board has adopted the following guidelines:

- The Board will determine the appropriate base to apply (eg revenue, equity or expenses), in the context of each situation.
- In general, the Board will consider an affiliation with a business which accounts for less than 5% of the relevant base to be immaterial for the purposes of determining independence. However, where this threshold is exceeded, the materiality of the particular circumstance with respect to the independence of the particular director should be reviewed by the Board.
- Overriding the quantitative assessment is the qualitative assessment. Specifically, the Board will consider whether there are any factors or considerations which may mean that the director's interest, business or relationship could, or could be reasonably perceived to, materially interfere with the director's ability to act in the best interests of the Company.