

# The Treasury

## South Canterbury Finance Limited Information Release

### Release Document

April 2011

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- [1] 9(2)(a) - to protect the privacy of natural persons, including deceased people
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In preparing this Information Release, the Treasury has considered the public interest considerations in section 9(1) of the Official Information Act.

**From:** [1] Graeme Brown [graeme.brown@scf.co.nz]  
**Sent:** Wednesday, 10 June 2009 5:03 p.m.  
**To:** Craig Murphy  
**Cc:** Stephen Reville; John Park  
**Subject:** Independent Expert Opinion  
**Attachments:** 09-06-07 - CONFIDENTIAL - Draft Morgan Wallace Independent Experts Opinion.pdf; image001.jpg; image002.jpg

Dear all

Please find attached the independent expert's opinion, with the report to follow

Regards

[1]

[1] \_\_\_\_\_ Chief Financial Officer  
South Canterbury Finance Limited PO Box 125, Timaru 7940

T [1]  
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M  
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W [www.scf.co.nz](http://www.scf.co.nz)



South Canterbury Finance



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**Independent Expert's Opinion  
On The  
Dairy Holdings Limited Transaction**

Prepared by:



[7] June 2009

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Morgan Wallace Limited ('Morgan Wallace') assisted by Parker O'Connor Trust Co. Ltd ('Parker O'Connor') has been instructed by South Canterbury Finance ('SCF') to prepare this independent expert opinion for the Crown (the 'Opinion') and an associated independent report for SCF (the 'Report') on the proposed acquisition by SCF of the Southbury Group Limited ('SGL') interest in Dairy Holdings Limited ('DHL').

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## 1.0 Background

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The Board of SCF wishes to enter into a transaction with SGL to acquire the SGL interest in DHL pursuant to a draft share sale and purchase agreement (the 'Agreement'). Under the Agreement SCF is to acquire 537,370 shares in DHL from SGL representing 33.59% of the ordinary share capital of DHL for aggregate consideration of [31] million to be settled by the issue of [31] million of shares (being [31] million shares)] in SCF and payment of [31] million cash (the 'DHL Transaction').

By virtue of SGL's 100% ownership of the SCF ordinary share capital, SCF and SGL are related parties.

Pursuant to Clause 6.2 of a Crown Deed of Guarantee dated 19 November 2008 between Her Majesty the Queen in right of New Zealand (the 'Crown') and SCF (also referred to as the "Principal Debtor") the DHL transaction requires an independent expert approved by the Crown to certify in writing that the transaction is, in the opinion of that expert, on arms' length terms.

The DHL transaction will have a value exceeding 1% of the value of the assets of SCF and is with a party whom controls SCF and therefore an independent expert opinion is required.

SCF sought and was granted approval from the Treasury for Morgan Wallace assisted by Parker O'Connor to prepare this Opinion pursuant to the attached Terms of Reference (Appendix 1).

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## 2.0 Purpose

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This Opinion, prepared for the Crown on the instruction of SCF presents our view on whether or not for the purpose of the Crown Deed of Guarantee the DHL transaction is on arm's length terms.

An associated Report to SCF presents the background, reasoning and information sources relevant to reaching our view on whether or not for the purpose of the Crown Deed of Guarantee the DHL transaction is on arm's length terms ('the Associated Report'). The Associated Report has been made available to the Crown on a commercial in confidence basis in support of this Opinion.

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## 3.0 Qualifications, Independence, Declarations and Consents

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Morgan Wallace believe that with the assistance of Parker O'Connor it has the appropriate blend of skills and practical experience necessary to prepare this Opinion and Associated Report on the terms of the proposed DHL transaction. We have a broad range of experience in business and contract evaluation, practical application of valuation and review of the impact of business initiatives.

[1] is the Morgan Wallace representative responsible for issuing this Opinion and the Associated Report.

Morgan Wallace will receive a fee for the preparation of this Opinion and Associated Report. The fee is not contingent upon the nature of the Opinion, the conclusions of the Report or the

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outcome of the DHL Transaction. Morgan Wallace will receive no other benefits from the preparation of this Opinion or the Associated Report.

Morgan Wallace considers that it has no conflict of interest in providing either the Opinion to the Crown or the Associated Report to SCF.

Morgan Wallace and Parker O'Connor consider themselves to be independent of both SCF and the Crown.

Advance drafts of this Opinion and the Associated Report were provided to the Crown and SCF Directors and Management. Certain changes were made to the drafting of the Opinion and Associated Report as a result of circulating the drafts. However, there was no material alteration to any part of the substance of this Opinion or Associated Report, including the approach employed or the conclusion as a result of issuing the drafts.

Neither the whole nor any part of this Opinion or Associated Report, nor any reference thereto may be included in any other document without our prior written consent as to the form and context in which it appears.

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## **4.0 Information, Disclaimer and Indemnity**

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### **4.1 Reliance on Information**

In preparing this Opinion and the Associated Report we have sought and relied upon documentation and representations made by SGL, SCF and DHL, their Directors and management and a DHL valuation report prepared by Parker O'Connor for the purpose of this arm's length assessment (the "Parker O'Connor Report").

[1] SCF Chief Financial Officer has been our primary contact during the course of the engagement.

We have relied upon and assumed, without independent verification, the accuracy and completeness of all information that was furnished to us by directors, management and advisers of SCF and DHL and public sources.

We have evaluated that information through analysis, enquiry and examination for the purpose of preparing this Opinion and Associated Report but we have not verified the accuracy or completeness of any such information or conducted an appraisal of any assets. We have not carried out any form of due diligence or audit on the accounting or other records of SGL, SCF or DHL. We do not warrant that our enquiries would reveal any matter which an audit, due diligence review or extensive examination might disclose.

### **4.2 Disclaimer**

We have prepared this Opinion and Associated Report with care and diligence and the statements and opinions in the Opinion and Associated Report are given in good faith and in the belief, on reasonable grounds, that such statements and opinions are correct and not misleading.

We assume no responsibility arising in any way whatsoever for errors or omissions (including responsibility to any person for negligence) for the preparation of the Opinion and Associated Report to the extent that such errors or omissions result from our reasonable reliance on information provided by others or assumptions disclosed in the Opinion and Associated Report or assumptions reasonably taken as implicit.

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Our Opinion has been arrived at based on the regulatory policy and economic environment and other conditions prevailing at the date of this Opinion. Such conditions may change significantly over relatively short periods of time. We have no obligation or undertaking to advise any person of any change in circumstances which comes to our attention after the date of this Opinion and Associated Report or to review, revise or update our Opinion or Associated Report.

#### **4.3 Indemnity**

SCF and SGL have agreed to indemnify Morgan Wallace, Parker O'Connor and their employees and officers in respect of any liability suffered or incurred as a result of or in connection with the preparation of this Opinion and the Associated Report. SCF and SGL have also agreed to indemnify Morgan Wallace, Parker O'Connor and their employees or officers for time spent and reasonable legal costs and expenses incurred in relation to any inquiry or proceeding initiated by any person. Any claims by SCF are limited to an amount equal to the fees paid to Morgan Wallace and Parker O'Connor.

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#### **5.0 Morgan Wallace Considerations**

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In forming a view on whether or not the DHL transaction is on arms' length terms Morgan Wallace has considered:

- representations from SGL, SCF and DHL
- reports prepared for SGL, SCF and DHL by their advisors
- the Parker O'Connor Report
- the independent interests of SGL and SCF including
  - SCF Reporting and Financial Position and Performance considerations
  - SCF Trust Deed considerations
  - SCF Banking and Credit Rating considerations
  - SCF Prudential Supervision considerations
  - SCF's Interests Generally
- the conduct of SCF and SGL particularly in relation to related party dealings

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## 6.0 Opinion

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Morgan Wallace is of the view that the proposed DHL transaction:

- is at fair market value
- is in the best interests of each party acting independently
- reflects SGL and SCF each conducting their affairs as they would be expected to; and,
- is on conditions associated with the transaction as a whole do not (1) include elements that parties in their respective positions would usually omit; or (2) omit elements that parties in their respective positions would usually include.

We therefore consider the proposed DHL transaction to be on arms' length terms.

Our Opinion is expressed based on the information available to us at this time.

Dated [7] June 2009

[1]  
**Executive Director**  
**Morgan Wallace Limited**



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## Appendix 1 TERMS OF REFERENCE

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### Independent Expert's Opinion – Acquisition by South Canterbury Finance Ltd ('SCF') of shares in Dairy Holdings Ltd ('DHL') from Southbury Group Limited ('SGL')

#### Engagement

Morgan Wallace Limited ('Morgan Wallace') assisted by Parker O'Connor Trust Co. Ltd ('Parker O'Connor') has been engaged to prepare an independent report ('the Independent Report') for South Canterbury Finance Limited ('SCF') and an independent expert opinion ('the Independent Expert Opinion') for the Crown on the acquisition by SCF of shares in Dairy Holdings Ltd ('DHL') from Southbury Group Limited ('SGL').

#### Background

The Board of SCF wishes to transact with a related party, SGL, whereby SCF acquires SGL's shares in DHL and SGL subscribes for SCF shares (the 'DHL transaction').

Pursuant to Clause 6.2 of a Crown Deed of Guarantee dated 19 November 2008 between Her Majesty the Queen in right of New Zealand (the 'Crown') and SCF the DHL transaction requires an independent expert approved by the Crown to certify in writing that the transaction is, in the opinion of that expert, on arms' length terms.

SCF has sought and been granted approval from the Treasury for Morgan Wallace assisted by Parker O'Connor to prepare an Independent Expert Opinion on the DHL transaction pursuant to these Terms of Reference.

#### Personnel

[1] of Morgan Wallace will lead this assignment. [1] of Parker O'Connor will lead Parker O'Connor's involvement with this assignment and various Parker O'Connor staff will assist as required.

Please note that subsequent to the submission of our application for approval as independent expert dated 8 May 2009, the substance of the transaction upon which an opinion is required has changed from a proposed amalgamation of SCF and SGL to the acquisition by SCF of the SGL interest in DHL. Because of this change [1], rather than [1] will now lead Parker O'Connor's involvement as he has particular expertise in the dairy sector. A Curriculum Vitae for [1] will be made available if required.

#### Process

The Independent Expert Opinion will be addressed to the Crown. The Independent Report will be addressed to SCF and will be made available to the Crown on a commercially confidential basis.

Prior to finalising drafts of the Independent Expert Opinion and the Independent Report will be made available to the Treasury. The Treasury and/or its representative will have the opportunity to meet with the independent expert to discuss the drafts.

The independent expert reserves the right to retain independent legal advice.

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Time is of the essence and thus it is anticipated that all parties involved in the process will respond in a timely manner to requests for information and/or feedback on draft documentation.

### **Scope**

The Independent Expert Opinion will certify whether or not in the expert's view the DHL transaction is on arms' length terms.

The Independent Report will present the background, reasoning and information sources relevant to determining the expert opinion.

### **Information Sources**

The independent expert in preparing its reports will rely on information provided by SCF and DHL including:

- DHL transaction documentation
- SCF and DHL Director and management, and related party, representations;
- Such other information as Morgan Wallace and/or Parker O'Connor reasonably requires to undertake this assignment.

[1] SCF Chief Financial Officer will be the primary SCF contact for the independent expert during the course of the engagement.

### **Indemnity and Timing**

SCF will engage the independent expert and meet all costs associated with its appointment. SCF and SGL will indemnify the independent expert in respect of any liability suffered or incurred as a result of or in connection with this engagement. The liability of Morgan Wallace and Parker O'Connor to SCF in respect of this engagement will be limited to the fees paid to those parties.

The independent expert, subject to the timely provision of relevant information by SCF, DHL and related parties, will endeavour to provide a draft Independent Report and draft Independent Expert Opinion to SCF by Friday, 5 June 2009.