

# Cooks Global Foods Limited

## Independent Adviser's Report

### In Respect of the Proposed Acquisition of Shares and Allotment of Shares

*November 2015*

#### Statement of Independence

Simmons Corporate Finance Limited confirms that it:

- has no conflict of interest that could affect its ability to provide an unbiased report
- has no direct or indirect pecuniary or other interest in the proposed transactions considered in this report, including any success or contingency fee or remuneration, other than to receive the cash fee for providing this report.

Simmons Corporate Finance Limited has satisfied the Takeovers Panel, on the basis of the material provided to the Takeovers Panel, that it is independent under the Takeovers Code for the purposes of preparing this Independent Adviser's Report.

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## 1. Introduction

### 1.1 Background

Cooks Global Foods Limited (**Cooks** or the **Company**) owns the intellectual property and master franchise rights for *Esquires Coffee* worldwide, excluding New Zealand and Australia. There are currently 78 *Esquires Coffee* stores in operation across 8 countries.

Cooks' shares are listed on the alternative market (**NZAX**) operated by NZX Limited (**NZX**).

The Company's market capitalisation was \$40.6 million as at 3 November 2015 and its audited total equity was \$8.4 million as at 31 March 2015.

A profile of Cooks is set out in section 3.

### 1.2 DSL Management Limited

The Company's largest shareholder at present is DSL Management Limited (**DSL**), which holds 137,348,909 fully paid ordinary shares in the Company. This represents 40.59% of the total number of shares on issue.

DSL is controlled by Cooks' executive directors Stuart Deeks and Lewis Deeks.

DSL was issued 136,348,909 fully paid ordinary shares in the Company in October 2013 when Cooks acquired Franchise Development Limited (**FDL**) from Stuart Deeks and Lewis Deeks and the trustees of their respective family trusts.

### 1.3 Acquisition and Allotments

Two transactions are proposed which will have a significant impact on the composition of the Company's shareholder register:

- Shandong Jiajiayue Investment Holding Co. Limited (**JJY**) and Cooks Investment Holding Limited (**CIHL**) will acquire 136,348,909 fully paid ordinary shares (40.30%) from DSL at a price of \$0.05 per share (the **Acquisition**):
  - JJY will acquire 68,174,454 fully paid ordinary shares (20.15%)
  - CIHL will acquire 68,174,455 fully paid ordinary shares (20.15%)
  - DSL will hold 1,000,000 fully paid ordinary shares (0.30%) in the Company immediately after the Acquisition
- Cooks will allot 70,312,500 fully paid ordinary shares to JJY and CIHL at an issue price of \$0.128 per share, raising \$9.0 million (the **Allotments**):
  - 35,156,250 fully paid ordinary shares will be allotted to JJY for \$4.5 million
  - 35,156,250 fully paid ordinary shares will be allotted to CIHL for \$4.5 million.

#### 1.4 Shandong Jiajiayue Investments Holding Co. Limited

JJY is a joint venture partner with Cooks' Chinese subsidiary Beijing Esquires Management Co. Limited (**Esquires China**). The joint venture was formed in 2012 to develop 50 *Esquires Coffee* stores in the Shandong province, China over a 10 year period (the **JJY JV**). Esquires China has a 10% interest in the JJY JV entity.

Under the JJY JV:

- JJY sources suitable sites for *Esquires Coffee* stores in Shandong
- Esquires China is responsible for establishing the stores, training staff and establishing retail systems
- the joint venture entity pays royalties and / or profit share to Esquires China
- the joint venture entity sources product from Esquires China.

JJY's main business focus is as a supermarket chain with integrated agriculture products processing, wholesaling and retailing and logistics distributing services. It owns more than 600 supermarkets in China and reaches more than 40 cities and counties in Shandong with a comprehensive structure of farmers' markets, department stores, village stores and supermarkets.

#### 1.5 Cooks Investment Holding Limited

CIHL is an investment vehicle led by Cooks' executive chair Keith Jackson. The company was incorporated on 24 August 2015. At the date of this report, it is wholly owned by Mr Jackson and Mr Jackson is its sole director.

CIHL will hold the shares it receives under the Acquisition and the Allotments as bare trustee for Mr Jackson and other investors for a period of one year, whereupon the Cooks shares will be distributed to the investors.

The other investors comprise Cooks director Michael Hutcheson, a number of senior managers of the Company, *Esquires Coffee* franchisees and certain other strategic investors including existing shareholder Yunnan Metropolitan Construction and Investment Company (**YMCI**). YMCI's shareholding in Cooks is held by its controlled entity Beijing Yunnan Building Hotel Co Limited (**BYBH**).

CIHL does not own any shares in Cooks at present. Parties associated with CIHL currently hold 93,979,270 fully paid ordinary shares, representing 27.78% of the total shares currently on issue.

We refer to CIHL and its associates collectively as the **CIHL Associates**.

## 1.6 Impact on Shareholding Levels

The table below shows the number of shares that will be held by JJY, the CIHL Associates and the other shareholders in the Company (including DSL) (the **Non-associated Shareholders**).

Impact on Shareholding Levels							
	Non-associated Shareholders <sup>1</sup>		JJY		CIHL Associates		Total
	Shares	%	Shares	%	Shares	%	Shares
Current	244,374,381	72.22%	-	-	93,979,270	27.78%	338,353,651
Acquisition	(136,348,909)	(40.30%)	68,174,454	20.15%	68,174,455	20.15%	-
Allotments	-		35,156,250		35,156,250		70,312,500
Post the Acquisition and the Allotments	<u>108,025,472</u>	<u>26.43%</u>	<u>103,330,704</u>	<u>25.28%</u>	<u>197,309,975</u>	<u>48.28%</u>	<u>408,666,151</u>

<sup>1</sup> Includes DSL

Following the Acquisition and the Allotments:

- JJY will hold 25.28% of the fully paid ordinary shares in the Company
- the CIHL Associates will hold 48.28%
- the Non-associated Shareholders will collectively hold 26.43% (including DSL holding 0.24%).

## 1.7 Share Offer

Following the Acquisition and the Allotments, the Company proposes to offer up to 70,312,500 new fully paid ordinary shares at an issue price of \$0.128 per share through a wholesale and retail offer of such shares to raise up to \$9.0 million (the **Share Offer**).

The Share Offer will not be underwritten and it will not be subject to raising a minimum amount. Allotment under the Share Offer will be conditional on the prior completion of the Acquisition and the Allotments. It is intended that the Share Offer will occur in early 2016.

Stuart Deeks and Andrew Deeks (or their associated persons) have committed to subscribe for 4,000,000 shares under the Share Offer as discussed in section 2.3. The Company intends to offer the remaining shares to investors (including retail investors) under a *Same Class Offer* pursuant to clause 19 of schedule 1 of the Financial Markets Conduct Act 2013. Existing Company shareholders will have priority to subscribe for shares ahead of non-shareholders.

We refer to the Acquisition, the Allotments and the Share Offer collectively as the **Transactions**.

## 1.8 Special Meeting

The Non-associated Shareholders will vote on an ordinary resolution in respect of the Acquisition and the Allotments at the Company's special meeting of shareholders on 20 November 2015 (resolution 1 - the **Acquisition and Allotments Resolution**). The Acquisition and Allotments Resolution covers:

- the acquisition of 68,174,454 fully paid ordinary shares in the Company by JJY from DSL
- the acquisition of 68,174,455 fully paid ordinary shares in the Company by CIHL from DSL
- the issue of up to 35,156,250 fully paid ordinary shares in the Company to JJY at an issue price of \$0.128 per share
- the issue of up to 35,156,250 fully paid ordinary shares in the Company to CIHL at an issue price of \$0.128 per share.

The Company's shareholders will also vote on an ordinary resolution in respect of the Share Offer (resolution 2 – the **Share Offer Resolution**).

The 2 resolutions are interdependent and must both be passed in order for either of the resolutions to be effective.

Any shareholder who is deemed to be an associate of JJY, CIHL or DSL is not permitted to vote on the Acquisition and Allotments Resolution or the Share Offer Resolution.

## 1.9 Regulatory Requirements

Cooks is a code company as defined by the Takeovers Code (the **Code**) and is subject to the provisions of the Code.

Rule 6 of the Code prohibits:

- a person who holds or controls less than 20% of the voting rights in a code company from increasing its holding or control of voting rights beyond 20%
- a person holding or controlling 20% or more of the voting rights in a code company from increasing its holding or control of voting rights

unless the person and that person's associates comply with exceptions to this fundamental rule.

One of the exceptions, set out in Rule 7(c) of the Code, enables a person and its associates to increase their holding or control of voting rights by an acquisition of shares if the acquisition is approved by an ordinary resolution of the code company.

The Acquisition will result in JJY and CIHL each controlling 20.15% of the voting rights in Cooks.

Accordingly, the Non-associated Shareholders will vote at the Company's annual meeting on the Acquisition and Allotments Resolution in respect of the Acquisition in accordance with the Code.

Rule 18 of the Code requires the directors of a code company to obtain an Independent Adviser's Report on the merits of an acquisition under Rule 7(c).

This Independent Adviser's Report is to be included in, or accompany, the notice of meeting pursuant to Rule 15(h).

Another exception, set out in Rule 7(d) of the Code, enables a person and its associates to increase their holding or control of voting rights by an allotment of shares if the allotment is approved by an ordinary resolution of the code company.

The Allotments will result in JJY and the CIHL Associates increasing their control of the voting rights in Cooks to 25.28% and 48.28% respectively.

Accordingly, the Non-associated Shareholders will vote at the Company's annual meeting on the Acquisition and Allotments Resolution in respect of the Allotments in accordance with the Code.

Rule 18 of the Code requires the directors of a code company to obtain an Independent Adviser's Report on the merits of an allotment under Rule 7(d).

This Independent Adviser's Report is to be included in, or accompany, the notice of meeting pursuant to Rule 16(h).

### 1.10 Purpose of the Report

The Company's director not associated with DSL, JJY or CIHL, being Andrew Kerlake (the **Non-associated Director**) has engaged Simmons Corporate Finance Limited (**Simmons Corporate Finance**) to prepare an Independent Adviser's Report on the merits of the Acquisition and the Allotments in accordance with Rule 18 of the Code.

Simmons Corporate Finance was approved by the Takeovers Panel on 18 August 2015 to prepare the Independent Adviser's Report.

Simmons Corporate Finance issues this Independent Adviser's Report to the Non-associated Director for the benefit of the Non-associated Shareholders to assist them in forming their own opinion on whether to vote for or against the Acquisition and Allotments Resolution.

We note that each shareholder's circumstances and objectives are unique. Accordingly, it is not possible to report on the merits of the Acquisition and the Allotments in relation to each shareholder. This report on the merits of the Acquisition and the Allotments is therefore necessarily general in nature.

This Independent Adviser's Report is not to be used for any other purpose without our prior written consent.

## 2. Evaluation of the Merits of the Acquisition and the Allotments

### 2.1 Basis of Evaluation

Rule 18 of the Code requires an evaluation of the merits of the Acquisition and the Allotments having regard to the interests of the Non-associated Shareholders.

There is no legal definition of the term *merits* in New Zealand in either the Code or in any statute dealing with securities or commercial law.

In the absence of an explicit definition of *merits*, guidance can be taken from:

- the Takeovers Panel *Guidance Note on Independent Advisers and the Takeovers Code* dated 7 September 2015
- definitions designed to address similar issues within New Zealand regulations which are relevant to the proposed transaction
- overseas precedents
- the ordinary meaning of the term *merits*.

We are of the view that an assessment of the merits of the Acquisition and the Allotments should focus on:

- the rationale for the Acquisition
- the terms of the Acquisition
- the rationale for the Allotments
- the terms of the Allotments
- the prospects for Cooks without the Allotments
- the impact of the Allotments on Cooks' financial position
- the impact of the Acquisition and the Allotments on the control of the Company
- the impact of the Acquisition and the Allotments on Cooks' share price
- the benefits and disadvantages for JJY and CIHL of the Acquisition and the Allotments
- the benefits and disadvantages for the Non-associated Shareholders of the Acquisition and the Allotments
- the implications if the Acquisition and Allotments Resolution is not approved.

Our opinion should be considered as a whole. Selecting portions of the evaluation without considering all the factors and analyses together could create a misleading view of the process underlying the opinion.

## 2.2 Summary of the Evaluation of the Merits of the Acquisition and the Allotments

Our evaluation of the merits of the JJY Allotments is set out in detail in sections 2.3 to 2.15.

The Acquisition and the Allotments will result in:

- JJY and CIHL providing \$9 million of capital to the Company (before costs)
- JJY holding 25.28% of the Company's fully paid ordinary shares
- the CIHL Associates holding 48.28% of the Company's fully paid ordinary shares
- DSL reducing its shareholding from 40.59% to 0.24%.

Subsequent to the Acquisition and the Allotments, the Share Offer will result in:

- the Company raising up to a further \$9 million of capital (before costs)
- JJY's and the CIHL Associates' shareholding level each being diluted by up to 14.7%.

In summary, the key positive aspects of the Acquisition and the Allotments are:

- the Cooks' shareholder base will broaden to include JJY (an important strategic partner of the Company) and a wider spread of the Company's senior management team and *Esquires Coffee* franchisees
- the Acquisition enables DSL to sell a 40.30% shareholding off-market, rather than attempting to do so on-market, which would likely depress the Company's share price
- the Allotments will result in Cooks receiving \$9 million of new capital (before costs), enabling the Company to retire debt and fund its growth initiatives
- the terms of the Allotments are reasonable:
  - the shares will be issued to JJY and CIHL at \$0.128 per share. This represents a premium of 6.7% over the most recent price of \$0.120 that the Company's shares have traded at
  - the issue price under the Allotments is the same price as under the Share Offer
- the Allotments will have a significant positive impact on the Company's financial position as it will receive \$9 million of new capital (before costs). In addition, up to a further \$9 million (before costs) will be raised under the Share Offer
- the Acquisition and the Allotments are unlikely to have any direct impact on the liquidity of the Company's shares. However, the Share Offer may have a positive impact on liquidity

- the implications of the Acquisition and Allotments Resolution not being approved by the Non-associated Shareholders are significant in that Cooks will not receive \$9 million of capital from the Allotments (before costs) nor up to \$9 million (before costs) from the Share Offer. The Company will need to seek alternative sources of capital in a relatively short timeframe to continue its operations and fund its growth strategy. If Cooks cannot raise sufficient capital in the required timeframe to meet its financial obligations, then, in a worst case scenario, it may need to cease operating.

In summary, the key negative aspects of the Acquisition and the Allotments are:

- JJY will control 25.28% of the Company's voting rights and the CIHL Associates will control 48.28% following Acquisition and the Allotments, giving them significant influence over the outcome of shareholding voting and enabling them to exert a high level of influence over the Company's board of directors (the **Board**) and the Company's operations. The Share Offer will subsequently dilute JJY's and the CIHL Associates' shareholding levels by up to 14.7%
- the dilutionary impact of the Allotments on the Non-associated Shareholders will result in their shareholdings in the Company reducing by 17.2% following the Allotments. However, Non-associated Shareholders will be able to reduce this level of dilution by subscribing for shares under the Share Offer
- the attraction of Cooks as a takeover target may diminish.

There are a number of positive and negative features associated with the Acquisition and the Allotments. In our view, when the Non-associated Shareholders are evaluating the merits of the Acquisition and the Allotments, they need to carefully consider whether the negative aspects of the Acquisition and the Allotments, including the level of control that JJY and the CIHL Associates will hold over the Company and the dilutionary impact could justify voting against the Acquisition and Allotments Resolution with the outcome that the Company will be undercapitalised and will need to seek alternative sources of capital in order to retire debt and execute its growth strategies.

**In our opinion, after having regard to all relevant factors, the positive aspects of the Acquisition and the Allotments significantly outweigh the negative aspects from the perspective of the Non-associated Shareholders.**

### 2.3 Rationale for the Acquisition

We understand that DSL informed the Board in or around July 2015 that it wished to sell down its shareholding in Cooks to enable its principals to focus on other business interests and opportunities. DSL also informed the Board that it was not in a position to contribute new capital to the Company.

Cooks facilitated the Acquisition to ensure it was conducted in an orderly manner and was undertaken in conjunction with securing new capital for the Company.

Cooks and DSL entered into a Share Sale Deed on 13 August 2015 whereby Cooks agreed to procure the sale of 136,348,909 fully paid ordinary shares in the Company held by DSL for \$0.05 per share in cash, totalling approximately \$6.8 million.

Cooks also entered into a Deed of Acknowledgement on 13 August 2015 with Stuart Deeks and Lewis Deeks whereby they agreed to resign:

- as executives of the Company upon the completion of the Acquisition
- as directors of the Company when the conditions of the Acquisition are satisfied.

Unpaid but accrued compensation for services provided to the Company and the paying out of contractual entitlements to Stuart Deeks and Lewis Deeks will result in a termination payment of \$512,000 to them in aggregate. They have committed to reinvest this amount into the Share Offer.

## 2.4 Terms of the Acquisition

### Acquisition Price

The shares will be acquired by JJY and CIHL at \$0.05 per share in cash. We understand that the \$0.05 per share sale price was proposed by DSL and accepted by Cooks, JJY and CIHL.

Set out in section 3.10 is an analysis of the Company's share price from 2 January 2013 to 3 November 2015. This shows that Cooks' shares have traded between \$0.10 and \$0.20 over the period at a volume weighted average share price (**VWAP**) of \$0.152. The one month VWAP is \$0.122, the 3 months VWAP is \$0.123 and the 6 months VWAP is \$0.128.

The sale price of \$0.05 per share represents a 59% to 61% discount to the recent VWAP.

We note that trading in the Company's shares is extremely thin, with only 0.3% of the Company's shares being traded in the past year.

Given the size of the parcel of shares being sold (40.30%) and the illiquid nature of the Company's shares, we consider it commercially realistic that a seller of such a large parcel of shares would need to offer a deep discount to the current market price in order to sell the shares.

### Conditions

The Acquisition is conditional on shareholder approval.

The JJY component of the Acquisition is also conditional on:

- JJY receiving Overseas Investment Office (**OIO**) approval for an unrelated purchase of a 600 hectare sheep and beef farm in Port Waikato (the **JJY OIO Approval**)
- JJY obtaining Chinese government approval to remit funds to New Zealand to complete its obligations under the Acquisition and the Allotments and the farm acquisition (the **China Approval**).

While the farm purchase is unrelated to Cooks, we understand that JJY has chosen to make the 2 transactions interdependent as they represent JJY's total investment in New Zealand.

The Board has advised us that:

- the OIO application was lodged approximately 11 months ago and a decision is expected shortly
- the China Approval will be sought promptly after the JJY OIO Approval is received and that there is a low risk of being refused.

In the event that either the JJY OIO Approval or the China Approval is not obtained, then the Transactions cannot be completed unless JJY waives these conditions. CIHL and JJY's participation in the Transactions is cross-conditional.

## 2.5 Rationale for the Allotments

### *Requirement for the Allotments*

As at 31 March 2015, the Company had \$8.4 million of total equity. It had \$4.7 million of cash on hand and \$9.2 million of borrowings:

- \$1.2 million of bank overdraft
- \$5.5 million of loans from BYBH (including a working capital loan of \$1.9 million (the **BYBH Working Capital Loan**))
- \$2.5 million of other loans and borrowings (including a \$0.5 million short term finance loan due for repayment on 15 December 2015).

Cooks requires significant additional capital in order to retire debt and fund the execution of its growth strategy.

### *Use of Funds*

In addition to reducing debt, capital raised from the Transactions of up to \$18 million will be prioritised towards the Company's 3 core growth strategies:

- growing the *Esquires Coffee* brand in the Company's existing markets. In developed markets where the Company currently has stores (such as China, the United Kingdom and Ireland), the Company is investing in brand upgrades. The Company will also enhance its global franchise system to further promote brand positioning and awareness
- growing the *Esquires Coffee* brand in new markets. The Company has recently signed master franchise agreements in Jordan, Northern Cyprus, Egypt and Indonesia with the first stores due to open in all of these regions within the next 6 months. The Company is also targeting opening stores in Canada and the United States in the short term. In addition to selling conventional franchises, the Company intends to establish flagship stores in key locations in both countries
- growing its supply chain businesses Scarborough Fair Limited (**Scarborough**) and Progressive Processors Limited (**Progressive**). Scarborough and Progressive source and produce food and beverage products. As integration with the global *Esquires Coffee* network grows, they need to be leveraged to the growth in *Esquires Coffee* stores.

The uptake of the Share Offer will dictate to what extent Cooks can pursue its growth strategies.

Following the Transactions, the Company also intends to review its current NZAX market listing with a view to migrating to the NXT Market operated by NZX.

## 2.6 The Prospects for Cooks Without the Allotments

Cooks' financial position as at 31 March 2015 was not strong:

- while total equity amounted to \$8.4 million, its net tangible assets amounted to negative \$2.0 million
- current liabilities amounted to \$11.4 million, exceeding current assets of \$9.0 million by \$2.4 million
- the Company's loss for the 2015 financial year was \$4.4 million
- its cash outflows from operations and investing activities totalled \$4.5 million.

The Allotments will raise \$9.0 million (before costs of \$0.2 million). The Share Offer will raise additional capital of up to \$9.0 million (before costs of \$0.7 million). However, if the Transactions are not approved, then the Company will need to seek capital from alternative sources in a relatively short timeframe. This may prove to be difficult for the Company.

If alternative sources of capital are not readily accessible, Cooks may need to look to sell non-core businesses and implement cost saving measures.

In the event that sufficient capital cannot be raised in the required timeframe to meet the Company's financial obligations, then, in a worst case scenario, it may need to cease operating.

## 2.7 Terms of the Allotments

Cooks entered into Subscription Agreements dated 30 September 2015 with JJY and CIHL.

### **Issue Price**

The shares will be issued at \$0.128 per share. This was based on the 3 month VWAP at the time the issue price was agreed by the Board in or around July 2015. It is also the same price that the Company issued 53,290,600 shares to BYBH in December 2014 in consideration for the acquisition of Esquires China.

The analysis of the Company's share price in section 3.10 shows that the issue price of \$0.128 per share is at a 4.9% premium to the one month VWAP of \$0.122, a 4.1% premium to the 3 months VWAP of \$0.123 and is equivalent to the 6 months VWAP.

### **Conditions**

The Allotments are conditional on shareholder approval.

The Allotment to JJY is also conditional on the JJY OIO Approval and the China Approval (discussed in section 2.4).

Both the JJY and CIHL Subscription Agreements are cross-conditional and must complete together.

On completion of the Allotments, the Company must procure that Esquires China fully repays the \$1.9 million BYBH Working Capital Loan.

## 2.8 Impact on Financial Position

A summary of Cooks' recent financial position is set out in section 3.8.

Cooks' total equity as at 31 March 2015 was \$8.4 million (\$0.025 per share).

The Allotments will raise \$9.0 million, less costs of \$0.2 million.

For illustrative purposes, if the proceeds from the Allotments were to have been received at 31 March 2015, Cooks' total equity would increase to \$17.2 million and equity per share would increase to \$0.042 per share.

Illustrative Effect of the Allotments on Cooks' Financial Position			
	Equity (\$000)	No. of Shares (m)	Equity / Share (\$)
Total equity as at 31 March 2015	8,395	338.4	0.025
Allotments (net of costs)	8,800	70.3	0.125
Post the Allotments	<u>17,195</u>	<u>408.7</u>	<u>0.042</u>

Net tangible assets would increase from negative \$2.0 million to positive \$6.8 million.

## 2.9 Impact on Control

### Share Capital and Shareholders

Cooks currently has 338,353,651 fully paid ordinary shares on issue held by 550 shareholders. The names, number of shares and percentage holding of the Company's 10 largest shareholders are set out in section 3.4.

Cooks has 4 shareholders holding more than 5% of the Company shares:

- DSL – 40.59%
- BYBH – 15.75%
- ADG Investments Limited (**ADG**) – 12.47%
- Keith Jackson, Patricia Jackson and Phillip Picot – 10.99%.

DSL is owned by Lewis Deeks and Stuart Deeks, executive directors of Cooks. Both will resign as directors prior to the completion of the Acquisition.

BYBH jointly owned the China Esquires Coffee master franchise holder (Beijing Esquires Management Co. Limited) prior to selling it to Cooks in September 2014. BYBH is controlled by YMCI and is ultimately owned by the Provincial Government of Yunnan province in China.

Andrew Kerslake, a Cooks director, owns 33.33% of ADG.

Keith Jackson is the executive chair of Cooks and (currently) the sole shareholder in CIHL. Mr Jackson is also a director of and holds a 14.17% interest in Tasman Capital Limited (**Tasman**), which holds 0.70% of the Company's shares.

BYBH, Mr Jackson and Tasman are classed as CIHL Associates.

The 4 shareholders collectively hold 79.80% of the Company's shares and the 10 largest shareholders collectively hold 89.76% of the Company's shares.

### **JJY's and the CIHL Associates' Shareholding Levels**

JJY's shareholding following the Acquisition and Allotments and prior to the Share Offer will be 25.28% and the CIHL Associates' shareholding will be 48.28%.

<b>Impact on Shareholding Levels</b>							
	<b>Non-associated Shareholders<sup>1</sup></b>		<b>JJY</b>		<b>CIHL Associates</b>		<b>Total</b>
	<b>Shares</b>	<b>%</b>	<b>Shares</b>	<b>%</b>	<b>Shares</b>	<b>%</b>	<b>Shares</b>
Current	244,374,381	72.22%	-	-	93,979,270	27.78%	338,353,651
Acquisition	(136,348,909)	(40.30%)	68,174,454	20.15%	68,174,455	20.15%	-
Allotments	-		35,156,250		35,156,250		70,312,500
Post the Acquisition and the Allotments	<u>108,025,472</u>	<u>26.43%</u>	<u>103,330,704</u>	<u>25.28%</u>	<u>197,309,975</u>	<u>48.28%</u>	<u>408,666,151</u>

*1 Includes DSL*

### **Shareholding Voting**

DSL currently has significant influence over the outcome of shareholding voting through its 40.59% shareholding.

The Acquisition and the Allotments will result in Cooks having 3 cornerstone shareholders – JJY, BYBH and CIHL. CIHL's shares may be voted by CIHL's sole director, Keith Jackson. Accordingly, in control terms, JJY will control 25.28% of the voting rights, Mr Jackson will control 34.96% and the other CIHL Associates (through their existing shareholdings not held by CIHL) will control 13.32%. Collectively JJY, Mr Jackson and the other CIHL Associates will control 73.57% of the Company's voting rights prior to the Share Offer.

JJY's, Mr Jackson's and the other CIHL Associates' ability to influence the outcome of shareholder voting will be significant. JJY and Mr Jackson will each be able to singlehandedly block special resolutions (which require the approval of 75% of the votes cast by shareholders) but neither will be able to singlehandedly pass a special resolution.

Neither JJY nor Mr Jackson will be able to singlehandedly pass or block ordinary resolutions (which require the approval of more than 50% of the votes cast by shareholders). However, if JJY and Mr Jackson were to vote in the same manner, then together they would be able to control the outcome of ordinary resolutions.

It is likely that if Mr Jackson and the other CIHL Associates' were to vote in the same manner, then together their 48.28% combined shareholding will be able to singlehandedly determine the outcome of ordinary resolutions because some shareholders in listed companies tend not to vote on resolutions and hence the relative weight of the 48.28% shareholding increases.

Similarly, it is likely that if JJY, Mr Jackson and the other CIHL Associates were to all vote in the same manner, then together their 73.57% combined shareholding will be able to pass a special resolution if 1.91% of the Non-associated Shareholders' shares are not voted.

The ability for any shareholder to influence the outcome of voting on the Company's ordinary resolutions or special resolutions may be reduced by external factors such as the Company's constitution, the Code, the NZAX Listing Rules and the Companies Act 1993.

The arrangements relating to CIHL will apply for one year from completion of the Allotments. CIHL will be wound up at that time. The shares held in the Company will then be distributed to the respective CIHL Associates and Mr Jackson's voting control will reduce accordingly.

### **Board Control**

As set out in section 3.3, the Company currently has 5 directors. No director is deemed to be an associate of JJY. Mr Jackson and Mr Hutcheson are deemed to be associates of CIHL.

Stuart Deeks and Lewis Deeks will resign from the Board prior to the Acquisition being completed.

JJY and YMCI will each be invited by the Board to nominate a person to become a director of the Company upon the Acquisition and the Allotments being completed.

### **Operations**

The Acquisition and the Allotments will result in JJY and YMCI having a degree of influence over the operations of the Company through their Board representation.

## **2.10 Dilutionary Impact**

The Allotments will result in the Non-associated Shareholders' shareholdings in the Company being diluted by 17.2%.

While the dilutionary impact is significant, we are of the view that the Non-associated Shareholders' main focus should be on whether there is any dilutionary impact on the value of their shareholding rather than on their level of voting rights. In our view, the Allotments are unlikely to dilute the value of their shareholding as the shares are being issued at a small premium to the current trading price of the shares (\$0.128 compared with \$0.120).

Furthermore, Non-associated Shareholders will be able to reduce the dilutionary impact of the Allotments on their proportionate shareholding in the Company by subscribing for shares in the Share Offer.

## **2.11 Impact on Share Price and Liquidity**

### **Share Price**

The Allotments will be undertaken at \$0.128 per share. This price represents a premium of 6.7% over the most recent share price of \$0.120 and equates to Cooks' 6 months VWAP.

In our view, the Allotments are unlikely to have any significant impact on the Company's share price.

## ***Liquidity***

The Company's shares are listed on the NZAX. The analysis in section 3.10 shows that Cooks' shares are very thinly traded, with only 0.3% of the shares being traded in the past year.

The Allotments will not improve the liquidity of the Company's shares as the number of shares held by the Non-associated Shareholders will not change.

However, the Share Offer will result in up to 70,312,500 new shares being issued to existing and new shareholders and this may result in increased trading in the Company's shares, thereby improving liquidity.

## **2.12 Key Benefits to JJY and the CIHL Associates**

The Acquisition provides JJY and CIHL with the opportunity to each acquire a 20.15% cornerstone shareholding in Cooks from DSL.

The Allotments provide JJY and the CIHL Associates the opportunity to increase the size of their shareholdings in Cooks to 25.28% and 48.28% respectively without having to make a partial or a full takeover offer.

## **2.13 Disadvantages to JJY and the CIHL Associates**

### ***Significant Financial Commitment***

The Acquisition and the Allotments represent significant financial commitments on the part of JJY and CIHL. Each shareholder will invest \$7.9 million:

- \$3.4 million for their half of the Acquisition
- \$4.5 million for their half of the Allotments.

### ***Significant Exposure to the Risks of Cooks***

The key risks faced by the Company are set out in section 3.6. As JJY's and the CIHL Associates' ownership in Cooks increase to 25.28% and 48.28% respectively, so does their exposure to these risks.

## **2.14 Other Issues**

### ***Benefits to Cooks of JJY, BYBH and CIHL as Cornerstone Shareholders***

The major benefits to Cooks of the Acquisition and the Allotments are:

- the Company will obtain \$9 million of capital (before costs). This will enable the Company to reduce debt and fund its growth initiatives
- the Acquisition and the Allotments will position JJY, BYBH and CIHL as important cornerstone strategic investors in the Company, signalling their confidence in the future prospects of Cooks.

### ***Non-associated Shareholders' Approval is Required***

Pursuant to Rules 7(c) and 7(d) of the Code, the Non-associated Shareholders must approve by ordinary resolution the Acquisition and the Allotments.

The Acquisition and the Allotments will not proceed unless the Non-associated Shareholders approve the Acquisition and Allotments Resolution.

### **May Reduce the Likelihood of a Takeover Offer**

Following the Acquisition and the Allotments, JJY and the CIHL Associates will not be able to increase their respective shareholding levels in Cooks unless they comply with the provisions of the Code. JJY and the CIHL Associates will only be able to acquire more shares in the Company if:

- they make a full or partial takeover offer
- the acquisition is approved by way of an ordinary resolution of the Company's shareholders excluding JJY or the CIHL Associates respectively
- the Company makes an allotment of shares which is approved by way of an ordinary resolution of the Company's shareholders excluding JJY or the CIHL Associates respectively
- the Company undertakes a share buyback that is approved by the Company's shareholders and JJY or CIHL do not accept the offer of the buyback.

Neither JJY nor CIHL will be able to utilise the *creep* provisions of Rule 7(e) of the Code. The *creep* provisions enable entities that hold more than 50% and less than 90% of the voting securities in a code company to buy up to a further 5% of the code company's shares per annum without the need for shareholder approval.

If JJY and the CIHL Associates hold 25.28% and 48.28% of the Company's shares respectively, this may reduce the likelihood of a takeover offer for the Company from either JJY or CIHL as they may each consider that they have sufficient control over the Company.

It is possible that if JJY or CIHL did make a takeover offer for further shares in the Company, they may offer a control premium that is lower than would otherwise be expected as they may value their offer on the basis that they already have significant control of the Company and hence do not need to pay a control premium of any significance.

JJY's shareholding of 25.28% and the CIHL Associates' shareholding of 48.28% may reduce the attraction of Cooks as a takeover target to other parties, as any bidder looking to fully or partially take over the Company would need to ensure that both JJY and the CIHL Associates would accept its offer.

### **JJY Conditions**

The JJY component of the Acquisition and the Allotments are conditional on the JJY OIO Approval and the China Approval. The Board understands that the OIO decision is imminent and that there is a low risk of the China Approval being refused. However, if the JJY OIO Approval or the China Approval is not obtained, the Transactions will not be able to be completed unless JJY waives these conditions.

## **2.15 Implications of the Acquisition and Allotments Resolution not Being Approved**

If the Acquisition and Allotments Resolution is not approved, then the Acquisition and the Allotments cannot proceed. This also means that the Share Offer will not proceed.

Similarly, if the Share Offer Resolution is not approved, then neither the Acquisition and the Allotments nor the Share Offer can proceed.

DSL may look to sell its shareholding via alternative avenues (eg by selling smaller parcels on-market or off-market) or it may defer the sale and seek shareholder approval of the Acquisition at a later date.

Without the \$9 million of capital (before costs) from the Allotments and up to \$9 million of capital (before costs) from the Share Offer, Cooks will not be able to repay its debts or fund its growth initiatives in the short to medium term. The Company would need to seek alternative sources of capital urgently or look to divest parts or all of its business. As stated in section 2.6, the prospects of the Company continuing as a going concern without the proceeds from the Allotments will be limited unless alternative sources of capital could be accessed within a very short timeframe.

## **2.16 Voting For or Against the Acquisition and Allotments Resolution**

Voting for or against the Acquisition and Allotments Resolution is a matter for individual shareholders based on their own views as to value and future market conditions, risk profile and other factors. Shareholders will need to consider these consequences and consult their own professional adviser if appropriate.

### 3. Profile of Cooks

#### 3.1 Background

The Company was incorporated on 4 February 2008 as Tasman Food Corporation Limited and was wholly owned by Tasman. It changed its name to Tasman Food Group Limited on 26 May 2008, to Tasman Food Corporation Limited on 27 May 2008, to Cooks Food Group Limited on 18 August 2008 and to Cooks Global Foods Limited on 9 October 2013.

The Company was formed after a memorandum of understanding was signed in January 2008 between Tasman, Murdoch Foods, Sahara Foods and Cotterill & Rouse, with the aim of consolidating the Murdoch Foods, Sahara Foods and Cotterill & Rouse businesses into a single food manufacturing company.

The Company listed its 22,000,000 shares on the NZAX on 20 October 2008.

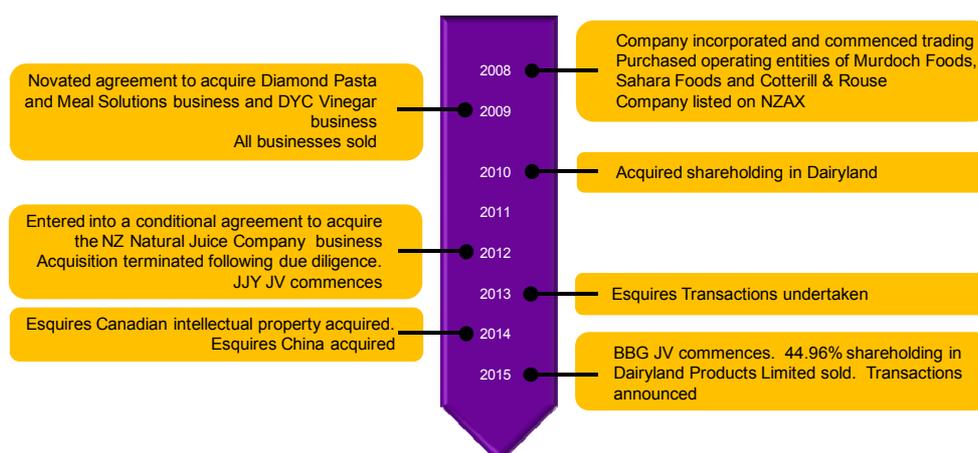
The Company sold its Olive Grove and Sahara brands to LHF Limited on 30 April 2009. It sold its ambient brands (Cotterill & Rouse, Murdoch and Sungold) along with a novation agreement relating to the Diamond Pasta and Meal Solutions business and DYC Vinegar to Wilson Consumer Foods Limited on 22 May 2009.

In October 2013, the Company acquired FDL, Esquires Coffee (UK) Limited (**Esquires UK**), Esquires Coffee Ireland Limited (**Esquires Ireland**) and the business and assets of Progressive (the **Esquires Transactions**). The Esquires Transactions represented a backdoor listing of FDL, Esquires UK, Esquires Ireland and Progressive into the Company. Consideration for the acquisitions was in the form of cash and shares and at the same time all term debt within the Company was converted to equity.

Following the Esquires Transactions, Cooks has:

- acquired the Esquires Canadian intellectual property
- acquired Esquires China, the owner of the Esquires China master franchise
- formed the JJY JV
- formed a 51:49 joint venture with BuBuGao (Better Life) Group (**BBG**) to develop 30 *Esquires Coffee* stores by 2020 in the Hunan province, China (the **BBG JV**).

The Company's key events are set out below.



## 3.2 Nature of Operations

### *Esquires Coffee*

Cooks owns the intellectual property and master franchising rights to *Esquires Coffee* worldwide excluding New Zealand and Australia.

*Esquires* was founded in 1993 in Canada and has expanded steadily around the world since that time. From Vancouver to the United Kingdom and Ireland, throughout the Middle East and China, the *Esquires Coffee* brand offers customers a unique Fairtrade and Organic beverage range in comfortable and modern surroundings. Over the years the brand has continuously evolved ensuring both customer satisfaction and fun profitable franchising partnerships worldwide.

The Company acquired the intellectual property and master franchising rights in 2013. Cooks has subsequently acquired the master franchise rights for China, the United Kingdom and Ireland and as well as franchises in Egypt, United Arab Emirates, Bahrain, Kuwait, Saudi Arabia, Northern Cyprus and Jordan in the Middle East, Indonesia and the rights to many other countries.

There are currently 78 *Esquires Coffee* stores located in the following countries:

- United Kingdom – 25
- Ireland – 8
- China – 21
- Canada – 3
- United Arab Emirates – 4
- Saudi Arabia – 7
- Bahrain – 4
- Kuwait – 6.

The Company's goal is to operate at least 800 stores globally by 2020. The brand is expanding rapidly with a recent master franchise signed in Egypt for 50 stores over 10 years and a number of discussions are underway for the establishment of *Esquires Coffee* in new markets.

### *Supply Companies*

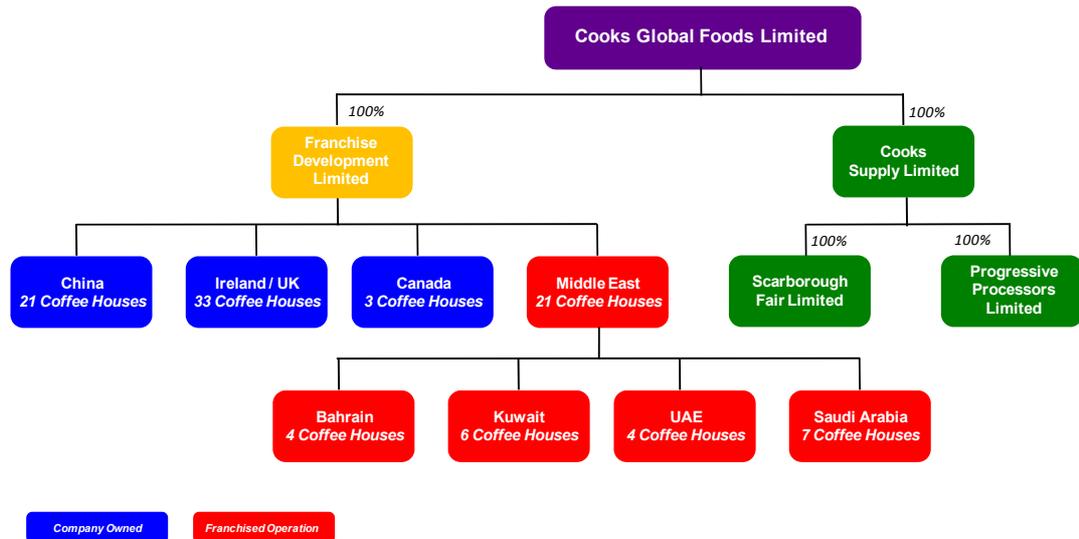
Cooks acquired Progressive in 2013. Progressive is based near Whakatane and grows, supplies, processes and adds value to a number of fresh fruits and vegetables including asparagus and kiwifruit. It supplies product domestically and also to export markets, particularly Japan.

Scarborough was acquired in 2013 and is a wholesaler of Organic and Fairtrade teas, coffees and chocolates. The products are sold through the *Esquires Coffee* stores internationally.

Progressive and Scarborough are 100% owned by Cooks Supply Limited, which is a wholly owned subsidiary of the Company.

### *Group Structure*

Cooks' group structure is set out below. This excludes companies set up for name protection purposes or to hold intellectual property.



### 3.3 Directors and Senior Management

The directors of Cooks are:

- Lewis Deeks, executive director, associated with DSL
- Stuart Deeks, executive director, associated with DSL
- Keith Jackson, executive chair, associated with CIHL
- Andrew Kerslake, associated with ADG
- Mike Hutcheson, associated with CIHL.

Lewis Deeks and Stuart Deeks will resign from the Board when the Acquisition is declared unconditional.

Cooks' senior management team consists of:

- Doug Williamson – managing director, Great Britain
- Tony McVerry – managing director, Ireland
- Ellen Zhang – managing director, China
- Michelle Brick – managing director, Canada
- Nizar al-Ali – regional operations director, Middle East and North America
- Craig Brown – chief financial officer
- John MacDonald – design and brand manager
- Stuart MacIntosh – manufacturing manager
- Neil Butler – managing director, Progressive
- Ali Shackell – human resources manager.

Mr Brown, Mr MacDonald and Mr MacIntosh are associated with CIHL.

### 3.4 Capital Structure and Shareholders

Cooks currently has 338,353,651 fully paid ordinary shares on issue held by 550 shareholders.

The names, number of shares and percentage holding of the 10 largest shareholders as at 23 October 2015 are set out below.

Cooks' 10 Largest Shareholders		
Shareholder	No. of Shares Held	%
DSL	137,348,909	40.59%
BYBH	53,290,600	15.75%
ADG	42,199,758	12.47%
Keith Jackson, Patricia Jackson and Phillip Picot	37,173,719	10.99%
Yu Lei	12,582,300	3.72%
Shu Zhang and Jian Zhou	7,027,100	2.08%
Peter Kirton	5,005,723	1.48%
Emma Waite	3,275,333	0.97%
Real Action Group	3,251,334	0.96%
Just Cabins Limited	2,538,462	0.75%
Subtotal	303,693,238	89.76%
Others (540 shareholders)	34,660,413	10.24%
Total	338,353,651	100.00%

Source: NZX Company Research

### 3.5 Strategic Plan

The Company's vision is "to be the world's leading Organic and Fairtrade coffee retailer".

Cooks has 3 elements to its core growth strategy:

- growing the *Esquires Coffee* brand in its existing markets
- growing the *Esquires Coffee* brand in strategically important new markets
- growing its supply chain businesses (Scarborough and Progressive).

### 3.6 Key Issues Affecting the Company

The main industry and specific business factors and risks that the Company faces include:

- the retail food and beverage industry is highly competitive. The actions of new and existing competitors may adversely affect the Company's financial performance
- adverse food and beverage health and safety issues may impact on the Company's financial performance and / or give rise to product liability concerns
- the Company may not be able to enforce trade mark protection to protect its rights to the *Esquires Coffee* brand
- the Company may not be able to retain its key personnel
- the Company's operating systems, personnel or distribution networks may not be able to keep pace with the Company's growth initiatives

- the Company may not be able to identify, attract and retain suitably qualified and motivated franchisees and master franchises
- the Company may not be able to identify suitable sites or negotiate suitable leasing terms for new stores or renegotiate acceptable lease terms for existing stores when leases are due to expire
- any deterioration in the relationship or terms of trade with key suppliers may have an adverse material impact on the Company's operations and its financial performance
- the inability to adequately finance the Company's operations may stall the development and growth of its business
- foreign currency fluctuations may adversely affect earnings
- country risks arising from possible changes in the political, regulatory and economic environments in the various countries that the Company operates in
- supply chain risks arising from reliance on third party suppliers
- customer concentration risks given that over half of the *Esquires Coffee* stores are currently located in China and the United Kingdom.

### 3.7 Financial Performance

A summary of Cooks' recent financial performance is set out below.

Summary of Cooks Financial Performance				
	Year to 31 Mar 12 (Audited) \$000	Year to 31 Mar 13 (Audited) \$000	Year to 31 Mar 14 (Audited) <sup>1</sup> \$000	Year to 31 Mar 15 (Audited) \$000
Revenue	122	1,501	4,439	8,931
Gross profit	n/a	n/a	2,660	6,075
Profit / (loss) before interest and taxation	99	1,240	(4,999)	(4,202)
Profit / (loss) for the year	(592)	1,162	(5,085)	(4,419)
<i>n/a: not applicable</i>				
<sup>1</sup> Restated				
Source: Cooks audited financial statements				

Revenue in the 2012 financial year included a \$0.1 million gain on the sale of 208,333 shares in Dairyland. Finance costs for the year totalled \$0.7 million.

Revenue in the 2013 financial year consisted of \$1.5 million of write-offs of interest on related party advances that had been charged and capitalised in previous financial years.

Following the Esquires Transactions in October 2013, Cooks' main sources of revenue are:

- income from supply companies (Progressive and Scarborough)
- royalty income
- retail store sales
- income from coffee and other branded product sales.

Cooks' main operating expenses are:

- cost of inventories sold
- employee costs
- administration costs.

The Company's financial performance in the 2014 financial year reflected the operations of the *Esquires Coffee* business for 6 months. The Company had 62 stores as at 31 March 2014. 57% of the Company's revenue was earned in the United Kingdom, with 19% earned in Ireland. Expenses included a charge of \$1.1 million in respect of the impairment of Esquires UK's intangible assets and \$1.0 million of capital raising and acquisition costs in connection with the Esquires Transactions.

Revenue increased by 101% in the 2015 financial year, reflecting a full year's results from the *Esquires Coffee* business and a 15% increase in store numbers. The Company had 70 stores as at 31 March 2015. 48% of the Company's revenue was earned in the United Kingdom, with 19% earned in the Middle East and 18% in Ireland. Expenses included a charge of \$0.4 million in respect of the impairment of Scarborough's intangible assets.

### 3.8 Financial Position

A summary of Cooks' recent financial position is set out below.

Summary of Cooks Financial Position				
	As at 31 Mar 12 (Audited) \$000	As at 31 Mar 13 (Audited) \$000	As at 31 Mar 14 (Audited) <sup>1</sup> \$000	As at 31 Mar 15 (Audited) \$000
Current assets	123	1,828	3,655	9,010
Non current assets	-	-	5,256	11,563
Total assets	123	1,828	8,911	20,573
Current liabilities	(5,440)	(5,489)	(6,515)	(11,368)
Non current liabilities	-	-	(1,420)	(810)
Total liabilities	(5,440)	(5,489)	(7,935)	(12,178)
Total equity	<u>(5,317)</u>	<u>(3,661)</u>	<u>976</u>	<u>8,395</u>

<sup>1</sup> Restated

Source: Cooks audited financial statements

Cooks' main current assets are cash and cash equivalents (predominantly held in China), trade receivables, inventories and prepayments.

Cooks' main non current assets are intangible assets, mainly in the form of goodwill arising from the acquisition of Esquires China, trademarks and re acquired rights.

Current liabilities consist mainly of trade and other payables and borrowings and non current liabilities consist of borrowings.

Cooks had cash on hand of \$4.7 million as at 31 March 2015 and \$9.2 million of borrowings at that date. Borrowings consisted mainly of:

- bank overdraft - \$1.2 million
- an interest free short term advance from BYBH - \$5.5 million
- amounts owing for business acquisitions - \$0.8 million.

### 3.9 Cash Flows

A summary of Cooks' recent cash flows is set out below.

Summary of Cooks Cash Flows				
	Year to 31 Mar 12 (Audited) \$000	Year to 31 Mar 13 (Audited) \$000	Year to 31 Mar 14 (Audited) <sup>1</sup> \$000	Year to 31 Mar 15 (Audited) \$000
Net cash outflow from operating activities	(118)	(163)	(920)	(1,999)
Net cash used in investing activities	-	(1,242)	(2,574)	(2,470)
Net cash from financing activities	<u>116</u>	<u>1,661</u>	<u>3,528</u>	<u>7,677</u>
Net increase / (decrease) in cash held	(2)	256	34	3,208
Opening cash balance	5	3	259	293
Effect of exchange rate movements	<u>-</u>	<u>-</u>	<u>-</u>	<u>11</u>
Closing cash balance	<u><u>3</u></u>	<u><u>259</u></u>	<u><u>293</u></u>	<u><u>3,512</u></u>

<sup>1</sup> Restated

Source: Cooks audited financial statements

Cash outflows from operating activities reflect the losses made by the Company each year.

Cash outflows from investing activities mainly reflect:

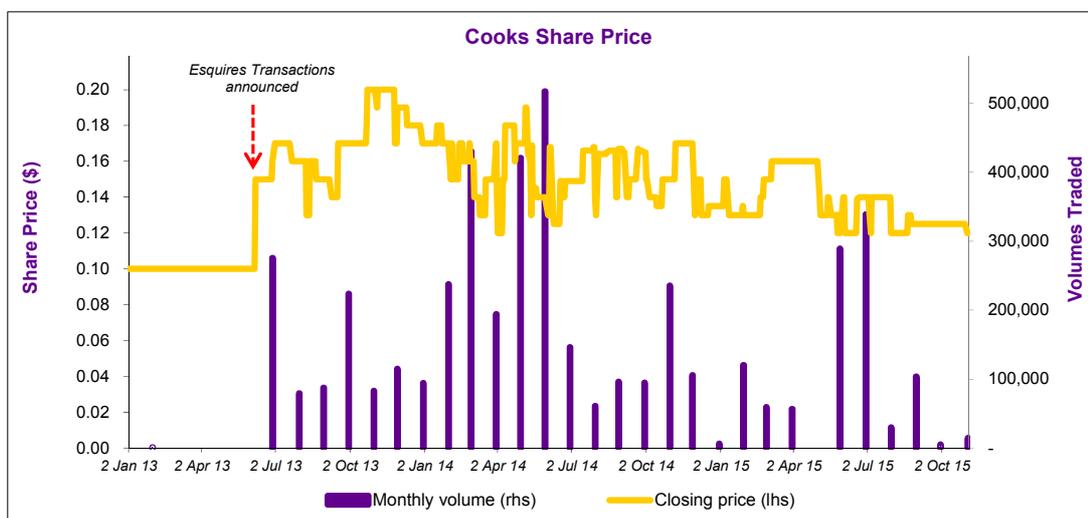
- a \$1.2 million secured advance provided to FDL in the 2013 financial year
- the Esquires Transactions in the 2014 financial year
- the acquisition of Esquires China in the 2015 financial year.

Cash inflows from financing activities mainly reflect:

- \$0.5 million from the issue of new shares and \$1.2 million of additional borrowings in the 2013 financial year
- \$2.3 million from the issue of new shares and \$1.3 million of additional borrowings in the 2014 financial year
- \$8.0 million from the issue of new shares in the 2015 financial year.

### 3.10 Share Price History

Set out below is a summary of Cooks' daily closing share price and daily volumes of shares traded from 2 January 2013 to 3 November 2015.



Source: NZX Company Research

During the period, Cooks' shares have traded between \$0.10 and \$0.20 at a VWAP of \$0.152.

Trading in the Company's shares is extremely thin, reflecting that 40.59% of the shares are currently held by DSL and the top 10 shareholders collectively hold 89.76% of the shares. 0.3% of the Company's shares have traded in the past year on 43 days.

An analysis of recent VWAP, traded volumes and liquidity (measured as traded volumes as a percentage of shares outstanding) is set out below.

Recent Share Trading					
Period	Low <sup>1</sup> (\$)	High <sup>1</sup> (\$)	VWAP <sup>1</sup> (\$)	Volume Traded <sup>1</sup> (000)	Liquidity
1 month	0.120	0.125	0.122	14	0.0%
3 months	0.120	0.125	0.123	19	0.0%
6 months	0.120	0.140	0.128	780	0.2%
12 months	0.120	0.170	0.134	1,128	0.3%

<sup>1</sup> To 3 November 2015

Source: NZX Company Research

## 4. Sources of Information, Reliance on Information, Disclaimer and Indemnity

### 4.1 Sources of Information

The statements and opinions expressed in this report are based on the following main sources of information:

- the draft notice of special meeting
- the DSL Share Sale Deed
- the Deed of Acknowledgement
- the JJY Share Purchase Deed
- the CIHL Share Purchase Deed
- the JJY Subscription Agreement
- the CIHL Subscription Agreement
- the draft *Cooks Same Class Offer 2015* offer document
- the Cooks annual reports for the years ended 31 March, 2013 to 2015
- data in respect of Cooks from NZX Company Research, Capital IQ and publicly available sources
- data in respect of JJY from Capital IQ and publicly available sources.

During the course of preparing this report, we have had discussions with and / or received information from the Board and executive management of Cooks and Cooks' legal advisers.

The Non-associated Director has confirmed that we have been provided for the purpose of this Independent Adviser's Report with all information relevant to the Acquisition and the Allotments that is known to him and that all the information is true and accurate in all material aspects and is not misleading by reason of omission or otherwise.

Including this confirmation, we have obtained all the information that we believe is desirable for the purpose of preparing this Independent Adviser's Report.

In our opinion, the information to be provided by Cooks to the Non-associated Shareholders is sufficient to enable the Non-associated Director and the Non-associated Shareholders to understand all the relevant factors and to make an informed decision in respect of the Acquisition and the Allotments.

### 4.2 Reliance on Information

In preparing this report we have relied upon and assumed, without independent verification, the accuracy and completeness of all information that was available from public sources and all information that was furnished to us by Cooks and its advisers.

We have evaluated that information through analysis, enquiry and examination for the purposes of preparing this 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 Cooks. We do not warrant that our enquiries would reveal any matter which an audit, due diligence review or extensive examination might disclose.

#### **4.3 Disclaimer**

We have prepared this report with care and diligence and the statements in the report are given in good faith and in the belief, on reasonable grounds, that such statements are not false or misleading. However, in no way do we guarantee or otherwise warrant that any forecasts of future profits, cash flows or financial position of Cooks will be achieved. Forecasts are inherently uncertain. They are predictions of future events that cannot be assured. They are based upon assumptions, many of which are beyond the control of Cooks and its directors and management. Actual results will vary from the forecasts and these variations may be significantly more or less favourable.

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 report to the extent that such errors or omissions result from our reasonable reliance on information provided by others or assumptions disclosed in the report or assumptions reasonably taken as implicit, provided that this shall not absolve Simmons Corporate Finance from liability arising from an opinion expressed recklessly or in bad faith.

Our evaluation has been arrived at based on economic, exchange rate, market and other conditions prevailing at the date of this report. 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 report or to review, revise or update our report.

We have had no involvement in the preparation of the notice of special meeting issued by Cooks and have not verified or approved the contents of the notice of special meeting. We do not accept any responsibility for the contents of the notice of special meeting except for this report.

#### **4.4 Indemnity**

Cooks has agreed that, to the extent permitted by law, it will indemnify Simmons Corporate Finance and its directors and employees in respect of any liability suffered or incurred as a result of or in connection with the preparation of the report. This indemnity does not apply in respect of any negligence, wilful misconduct or breach of law. Cooks has also agreed to indemnify Simmons Corporate Finance and its directors and employees for time incurred and any costs in relation to any inquiry or proceeding initiated by any person. Where Simmons Corporate Finance or its directors and employees are found liable for or guilty of negligence, wilful misconduct or breach of law or term of reference, Simmons Corporate Finance shall reimburse such costs.

## **5. Qualifications and Expertise, Independence, Declarations and Consents**

### **5.1 Qualifications and Expertise**

Simmons Corporate Finance is a New Zealand owned specialist corporate finance advisory practice. It advises on mergers and acquisitions, prepares independent expert's reports and provides valuation advice.

The person in the company responsible for issuing this report is Peter Simmons, B.Com, DipBus (Finance), INFINZ (Cert).

Simmons Corporate Finance and Mr Simmons have significant experience in the independent investigation of transactions and issuing opinions on the merits and fairness of the terms and financial conditions of the transactions.

### **5.2 Independence**

Simmons Corporate Finance does not have at the date of this report, and has not had, any shareholding in or other relationship with Cooks, JJY, CIHL or DSL or any conflicts of interest that could affect our ability to provide an unbiased opinion in relation to the Acquisition and the Allotments.

Simmons Corporate Finance has not had any part in the formulation of the Acquisition and the Allotments or any aspects thereof. Our sole involvement has been the preparation of this report.

Simmons Corporate Finance will receive a fixed fee for the preparation of this report. This fee is not contingent on the conclusions of this report or the outcome of the voting in respect of the Acquisition and Allotments Resolution. We will receive no other benefit from the preparation of this report.

### **5.3 Declarations**

An advance draft of this report was provided to the Non-associated Director for his comments as to the factual accuracy of the contents of the report. Changes made to the report as a result of the circulation of the draft have not changed the methodology or our conclusions.

Our terms of reference for this engagement did not contain any term which materially restricted the scope of the report.

### **5.4 Consents**

We consent to the issuing of this report in the form and context in which it is to be included in the notice of special meeting to be sent to the Non-associated Shareholders. Neither the whole nor any part of this 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.



Peter Simmons  
Director

**Simmons Corporate Finance Limited**  
4 November 2015