

Burger Fuel Worldwide Limited

Independent Adviser's Report

In Respect of Proposed Share Transactions Involving Franchise Brands, LLC and T.E.A. Custodians Limited

January 2014

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

Burger Fuel Worldwide Limited (**BurgerFuel** or the **Company**) owns and franchises 55 gourmet burger restaurants in New Zealand, Australia and the Middle East.

The Company's shares were listed on the alternative market (**NZAX**) operated by NZX Limited (**NZX**) on 27 July 2007 following an initial public offering (**IPO**) that raised \$8 million.

BurgerFuel's market capitalisation was \$142 million as at 30 January 2014 and its unaudited total equity was \$7 million as at 30 September 2013.

A profile of BurgerFuel is set out in section 4.

1.2 Mason Roberts Holdings Limited

The BurgerFuel business was founded by Chris Mason in 1995. Josef Roberts invested in the business in 2003.

Mr Mason and Mr Roberts collectively own 44,315,839 ordinary shares in the Company, representing 80.17% of the total shares on issue, through Mason Roberts Holdings Limited (**MRHL**).

MRHL was incorporated on 18 August 2011. It is a special purpose entity formed by Mr Mason and Mr Roberts for the purpose of holding their respective family trust's shareholdings in BurgerFuel under a bare trust, as nominee. The shares in MRHL are owned equally by Mr Mason and Mr Roberts. Mr Roberts is the sole director of MRHL.

1.3 Franchise Brands, LLC

Franchise Brands, LLC (**Franchise Brands**) is based in Milford, Connecticut, United States and was created in 2005 with the support and guidance of the founders of SUBWAY® restaurants. SUBWAY® is the largest single brand restaurant chain in the world, consisting of over 40,000 franchised stores in more than 100 countries. It was founded in 1965 by Fred DeLuca and Peter Buck. The SUBWAY® franchise system is owned and operated by Doctor's Associates Inc., of which Mr DeLuca is the chief executive officer and president.

Franchise Brands' basic principle is to invest in small and mid-market companies with experienced management that may be franchising or demonstrate the potential to do so. Investments are considered in a number of industries, including food and beverage, retail, business to business services and consumer products.

Franchise Brands' vision is to become the franchisor of choice for entrepreneurs. Its mission is to acquire an interest in a diverse portfolio of businesses and expand them through franchising.

Franchise Brands' portfolio includes:

- Mama DeLuca's Pizza® - originally established as a co-brand opportunity for SUBWAY® owners with traditional locations, Mama DeLuca's Pizza® restaurants offer new designs that provide low-cost investments into non-traditional locations. The menu varies depending on the size of the location but includes pizzas made to order as well as a line of specialty pizzas
- Personal Training Institute - a fitness concept that offers customised one-to-one fitness and nutrition programs for all ages and health conditions that are looking to improve their overall health and lifestyle
- HomeVestors of America - the number one home buyer, recognised across the United States as the *We Buy Ugly Houses*® company
- TACO DEL MAR® - restaurants offering a delicious, fast and fun alternative to traditional Mexican food.

1.4 FB Transactions

BurgerFuel announced on 14 January 2014 that the Company and MRHL had entered into agreements with Franchise Brands in respect of an allotment of BurgerFuel shares to Franchise Brands, the acquisition of BurgerFuel shares by Franchise Brands from MRHL and a collaboration arrangement (the **FB Transactions**).

FB Allotment

BurgerFuel will allot 4,357,298 fully paid ordinary shares in BurgerFuel to Franchise Brands at an issue price of \$1.35 per share (the **FB Allotment**).

The terms of the FB Allotment are set out in the Subscription Agreement dated 14 January 2014 between BurgerFuel and Franchise Brands (the **FB Subscription Agreement**). The key terms are:

- BurgerFuel will issue 4,357,298 new ordinary shares to Franchise Brands
- the shares will be issued at \$1.35 per share
- the FB Allotment is subject to shareholder approval of the FB Transactions
- the proceeds from the allotment will be primarily applied by BurgerFuel to the development of new markets for the BurgerFuel concept (particularly the United States) using the SUBWAY® franchise network
- Franchise Brands will have the right to appoint one director to the BurgerFuel board if it holds 10% or more of the Company's shares and may appoint additional directors broadly in proportion to its level of shareholding in the Company
- any new share issues that the Company contemplates will first be offered to Franchise Brands by way of a private placement on terms that are no less favourable than would be offered to any other party(ies) (the **Anti-dilution Clause**).

FB Acquisition and FB Option

MRHL will sell to Franchise Brands 1,606,057 fully paid ordinary shares in BurgerFuel at \$1.35 per share (the **FB Acquisition**) which, together with the 4,357,298 shares issued under the FB Allotment, will comprise 10.00% of the BurgerFuel ordinary shares on issue.

MRHL will grant Franchise Brands a call option over an aggregate of 23,853,420 fully paid ordinary shares in BurgerFuel that it owns (or an aggregate of 20,871,743 fully paid ordinary shares if BurgerFuel reaches or exceeds its target of 1,000 stores open and operating by the 8th anniversary of the call option agreement) (the **FB Option**).

The terms of the FB Acquisition and the FB Option are set out in the Sale and Option Agreement dated 14 January 2014 between MRHL and Franchise Brands (the **FB Sale and Option Agreement**).

FB Acquisition

The key terms of the FB Acquisition are:

- MRHL will sell 1,606,057 fully paid ordinary shares in BurgerFuel that it owns to Franchise Brands
- the shares will be sold at \$1.35 per share
- the FB Acquisition is subject to shareholder approval of the FB Transactions.

FB Option

In broad terms, the FB Option is designed to permit Franchise Brands to increase its shareholding in the Company from 10.00% after the FB Allotment and FB Acquisition to between 45.00% and 50.00% within 8 years of the completion of the FB Allotment and FB Acquisition by acquiring shares from MRHL.

The ability for Franchise Brands to increase its shareholding to 45.00% or 50.00% will depend upon whether the Company reaches its target of 1,000 open and operating BurgerFuel stores by the 8th anniversary of the call option agreement.

The FB Option is in 4 tranches over the 8 year period. The exercise price for each tranche increases by 10% each tranche, with the exercise price for the first tranche set at \$1.49 per share, being 10% above the FB Allotment and FB Acquisition price of \$1.35 per share. However, the exercise prices for each tranche vary (upwards or downwards) depending upon the BurgerFuel share price at the end date of each tranche and the number of stores in operation.

The key terms of the FB Option are:

- MRHL agrees that, upon receiving a written notice of exercise from Franchise Brands (an **Exercise Notice**), MRHL shall sell the shares subject to the FB Option as follows:
 - 5,963,355 fully paid ordinary shares (the **Tranche 1 Option Shares**), which will comprise 10% of the issued capital of BurgerFuel as at the completion date of the FB Acquisition (the **Completion Date**), may be purchased if Franchise Brands issues an Exercise Notice during the period commencing 20 business days before the second anniversary of the Completion Date and ending on the Tranche 1 End Date (the **Tranche 1 Period**). If Franchise Brands does not issue an Exercise Notice during the Tranche 1 Period, MRHL may sell up to 1,000,000 of the Tranche 1 Option Shares to any other buyer. The number of Tranche 1 Option Shares will be reduced to the extent of any such sale
 - 5,963,355 fully paid ordinary shares (the **Tranche 2 Option Shares**), which will comprise 10% of the issued capital of BurgerFuel as at the Completion Date, may be purchased if Franchise Brands issues an Exercise Notice during the period commencing 20 business days before the 4th anniversary of the Completion Date and ending on the Tranche 2 End Date (the **Tranche 2 Period**). If Franchise Brands does not issue an Exercise Notice during the Tranche 2 Period, MRHL may sell up to 1,000,000 of the Tranche 2 Option Shares to any other buyer. The number of Tranche 2 Option Shares will be reduced to the extent of any such sale
 - 5,963,355 fully paid ordinary shares (the **Tranche 3 Option Shares**), which will comprise 10% of the issued capital of BurgerFuel as at the Completion Date, may be purchased if Franchise Brands issues an Exercise Notice during the period commencing 20 business days before the 6th anniversary of the Completion Date and ending on the Tranche 3 End Date (the **Tranche 3 Period**). If Franchise Brands does not issue an Exercise Notice during the Tranche 3 Period, MRHL may sell up to 1,000,000 of the Tranche 3 Option Shares to any other buyer. The number of Tranche 3 Option Shares will be reduced to the extent of any such sale
 - 5,963,355 fully paid ordinary shares (the **Tranche 4 Option Shares**), which will comprise 10% of the issued capital of BurgerFuel as at the Completion Date, may be purchased if Franchise Brands issues an Exercise Notice during the period commencing 20 business days before the 8th anniversary of the Completion Date and ending on the Tranche 4 End Date (the **Tranche 4 Period**)
 - if Franchise Brands does not exercise any of these options, they will accumulate in the subsequent tranche, until the 8th anniversary as identified in Tranche 4. This accumulation is subject to MRHL's rights to sell Option Shares as set out above, such that the accumulated options will be for no less than 20,853,420 fully paid ordinary shares (being the maximum 23,853,420 Option Shares less the total of 3,000,000 shares that may be sold to other buyers)

- if BurgerFuel reaches or exceeds its target of 1,000 open and operating BurgerFuel stores by the 8th anniversary of the call option agreement, then the number of options will be limited to 45.00% of the total outstanding shares in the Company (assuming all options are exercised) and the number of Tranche 4 Option Shares will be reduced accordingly. If the Company has not achieved a minimum of 1,000 stores by the 8th anniversary, the Tranche 4 Option Shares shall comprise 5,963,355 fully paid ordinary shares in BurgerFuel
- the exercise price of the:
 - Tranche 1 Option Shares is:
 - o \$1.49 per share (which is 10% above the FB Allotment and FB Acquisition price of \$1.35) or
 - o if the average market price of BurgerFuel's shares (based on the 60 business days volume weighted average share price (**VWAP**)) as at the Tranche 1 End Date is:
 - less than \$1.49 per share, the applicable average market price or
 - \$3.24 or more per share and at least 160 BurgerFuel stores are open and operating, \$1.62 per share (which is 20% above the FB Allotment and FB Acquisition price of \$1.35)
 - Tranche 2 Option Shares is:
 - o \$1.64 per share or
 - o if the average market price of BurgerFuel's shares as at the Tranche 2 End Date is:
 - less than \$1.64 per share, the applicable average market price or
 - \$3.56 or more per share and at least 300 BurgerFuel stores are open and operating, \$1.79 per share
 - Tranche 3 Option Shares is:
 - o \$1.80 per share or
 - o if the average market price of BurgerFuel's shares as at the Tranche 3 End Date is:
 - less than \$1.80 per share, the applicable average market price or
 - \$3.92 or more per share and at least 700 BurgerFuel stores are open and operating, \$1.97 per share
 - Tranche 4 Option Shares is:
 - o \$1.98 per share or
 - o if the average market price of BurgerFuel's shares as at the Tranche 4 End Date is:
 - less than \$1.98 per share, the applicable average market price or
 - \$4.32 or more per share and at least 1,000 BurgerFuel stores are open and operating, \$2.16 per share

- if the FB Collaboration Agreement (discussed below) is terminated and the effective date of that termination is:
 - on or prior to the 4th anniversary of the Completion Date, then:
 - o all call options that would accrue on any tranche period on or following the date of that termination lapse and
 - o accumulated but unexercised call options remain exercisable until the 60th day following the date of that termination
 - after the 4th anniversary of the Completion Date but before the 6th anniversary, then:
 - o the Tranche 3 call options continue to accrue
 - o the Tranche 4 call options lapse and
 - o accumulated but unexercised call options remain exercisable until the 60th day following the date of that termination
 - after the 6th anniversary of the Completion Date, then that termination has no effect on the call options
- Franchise Brands and MRHL each give the other pre-emptive rights on any proposed transfer of shares
- MRHL undertakes that it will not for a period of 8 years, without the consent of Franchise Brands, offer to sell (or sell) any of its shares in the Company to any third party, other than those Option Shares in respect of which the option has lapsed or the applicable exercise period has expired.

FB Collaboration

As part of the FB Transactions, Franchise Brands has agreed to provide certain support to BurgerFuel by introducing the Company to SUBWAY® franchisees and development agents (the **FB Collaboration**).

The purpose of the FB Collaboration is to provide BurgerFuel with the opportunity to communicate and promote the BurgerFuel franchise opportunity with the objective of rapidly growing BurgerFuel store numbers worldwide.

The terms of the FB Collaboration are set out in the Collaboration Agreement between BurgerFuel and Franchise Brands dated 14 January 2014 (the **FB Collaboration Agreement**). The key terms are:

- Franchise Brands will use its best endeavours to:
 - introduce the Company to SUBWAY® franchisees and development agents to provide BurgerFuel with the opportunity to promote the BurgerFuel franchise opportunity
 - provide franchise coaching and consulting services in franchising and franchise development and support to BurgerFuel's management team
 - encourage communication and cooperation with the SUBWAY® franchisees' purchasing organisation to identify synergies to improve efficiencies in product and equipment procurement for BurgerFuel
 - encourage communication and cooperation with the SUBWAY® real estate team to establish leasing strategies, terms and processes for new BurgerFuel stores

- in consideration for the services, BurgerFuel will pay Franchise Brands a collaboration fee equal to 1% of Qualifying Gross Sales from Applicable Stores each month:
 - Qualifying Gross Sales represent the gross takings of an Applicable Store in respect of the products supplied to customers of that store
 - Applicable Store means each BurgerFuel store (excluding those stores under a current master licence or franchise agreement) that commences operation between the commencement date of the FB Collaboration Agreement and the date of its termination
- the FB Collaboration Agreement can be terminated at will by either party on notice.

1.5 Milford Option

Milford Funds

On 20 December 2012, BurgerFuel announced that it had allotted 1,600,000 new fully paid ordinary shares to funds managed by Milford Asset Management Limited (the **Milford Funds**) at \$1.25 per share, raising \$2.0 million of equity capital.

The Milford Funds also acquired 800,000 ordinary shares from MRHL on that date at \$1.25 per share, totalling \$1.0 million.

The Milford Funds currently hold 2,525,220 ordinary shares in the Company (4.57%). The shares are held by T.E.A. Custodians Limited (**TEA Custodians**) as custodian of the Milford Funds.

Call Option

CMJR Holdings Limited (**CMJR**) and TEA Custodians entered into a call option agreement dated 14 January 2014 (the **Milford Option Agreement**) whereby the Milford Funds grant CMJR a call option over 600,000 BurgerFuel ordinary shares (the **Milford Option**).

CMJR was incorporated on 9 January 2014. It is a special purpose entity formed by Mr Mason and Mr Roberts for the purpose of entering into the Milford Option Agreement. The shares in CMJR are owned equally by Mr Mason and Mr Roberts. Mr Roberts is the sole director of CMJR.

The key terms of the Milford Option are:

- the Milford Funds will grant to CMJR a call option over 600,000 ordinary shares in BurgerFuel that it owns
- the exercise price for the shares will be \$1.35 per share
- the Milford Option may be exercised between the date that the FB Transactions and the Milford Option are approved and the Completion Date
- the Milford Option is conditional on:
 - the conditions of the FB Sale and Option Agreement being satisfied
 - shareholder approval of the FB Transactions
 - shareholder approval of the Milford Option.

The 600,000 ordinary shares represent:

- 1.09% of the total ordinary shares currently on issue
- 1.01% of the total ordinary shares that will be on issue following the FB Allotment.

1.6 Impact on Shareholding Levels

The total number of shares subject to the FB Transactions is up to:

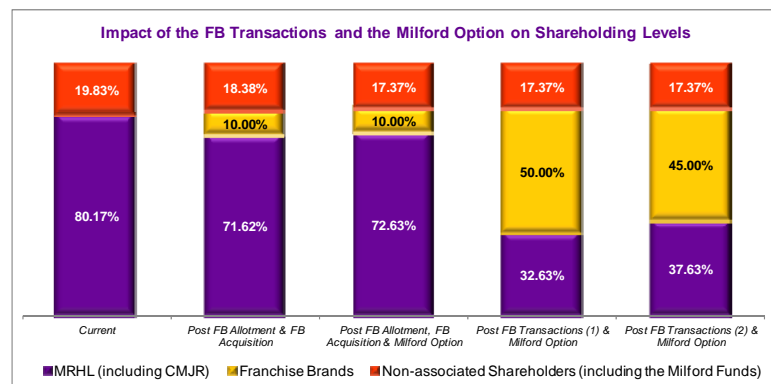
- 29,816,775 fully paid ordinary shares, being 50.00% of the total issued capital of BurgerFuel or
- 26,835,098 fully paid ordinary shares, being 45.00% of the total issued capital of BurgerFuel, if BurgerFuel reaches or exceeds its target of 1,000 stores open and operating by the 8th anniversary of the FB Sale and Option Agreement.

Accordingly, Franchise Brands will hold between 45.00% and 50.00% of the Company's shares if the FB Transactions are approved and the FB Option is fully exercised over the 8 year period.

MRHL currently holds 80.17% of the Company's shares. Following the completion of the FB Transactions (assuming the full exercise of the FB Option over the 8 year period) and the exercise of the Milford Option, MRHL will control between 32.63% and 37.63% of the Company's shares.

The Company's shareholders not associated with MRHL or Franchise Brands (the **Non-associated Shareholders**) currently collectively hold 19.83% of the Company's shares. This includes the 4.57% of the Company's shares held by the Milford Funds. Following the completion of the FB Transactions (irrespective of whether the FB Option is exercised) and the exercise of the Milford Option, the Non-associated Shareholders (including the Milford Funds) will collectively control 17.37% of the Company's shares.

The various shareholding levels under the stages of the FB Transactions and the Milford Option are set out below.



(1) Assumes that Franchise Brands acquires 23,853,420 shares under the FB Option
 (2) Assumes that Franchise Brands acquires 20,871,743 shares under the FB Option

Impact of the FB Transactions and the Milford Option on Shareholding Levels				
	MRHL / CMJR	Franchise Brands	Non-associated Shareholders	Total
Current	44,315,839	-	10,960,413	55,276,252
	80.17%		19.83%	100.00%
FB Allotment	-	4,357,298	-	4,357,298
FB Acquisition	(1,606,057)	1,606,057	-	-
	<u>42,709,782</u>	<u>5,963,355</u>	<u>10,960,413</u>	<u>59,633,550</u>
	71.62%	10.00%	18.38%	100.00%
Milford Option	600,000	-	(600,000)	-
FB Option ¹	(23,853,420)	23,853,420	-	-
Post the FB Transactions and Milford Option¹	19,456,362	29,816,775	10,360,413	59,633,550
	32.63%	50.00%	17.37%	100.00%
Milford Option	600,000	-	(600,000)	-
FB Option ²	(20,871,743)	20,871,743	-	-
Post the FB Transactions and Milford Option²	22,438,039	26,835,098	10,360,413	59,633,550
	37.63%	45.00%	17.37%	100.00%

1 Assumes that Franchise Brands acquires 23,853,420 shares under the FB Option
 2 Assumes that Franchise Brands acquires 20,871,743 shares under the FB Option

1.7 Regulatory Requirements

Rule 6 of the Takeovers Code (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 (together with its associates) beyond 20% and
- 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 that person's associates to increase its control of voting rights beyond 20% by an acquisition of shares if the acquisition is approved by an ordinary resolution of the code company.

Another exception, set out in Rule 7(d) of the Code, enables a person and that person's associates to increase its control of voting rights beyond 20% by an allotment of shares if the allotment is approved by an ordinary resolution of the code company.

Because the FB Allotment, the FB Acquisition and the exercise of the FB Option will result in Franchise Brands controlling up to 50.00% of the voting rights in the Company, BurgerFuel is required to seek shareholder approval of the FB Transactions.

Accordingly, the Non-associated Shareholders will vote on an ordinary resolution in respect of the FB Allotment, the FB Acquisition and the exercise of the FB Option (resolution 1 - the **FB Resolution**) at the Company's extraordinary meeting of shareholders on 26 February 2014.

Rule 15 of the Code mandates certain disclosures that are required to be made in the notice of extraordinary meeting containing the FB Resolution. The Company cannot comply with the exact requirements of Rule 15(b) as the number of shares to be acquired by Franchise Brands under the FB Sale and Option Agreement cannot be definitively determined in advance as this will depend on whether Franchise Brands exercises the maximum number of options under the FB Option. Accordingly, the Company has been granted an exemption from these aspects of the requirements of Rule 15(b) by way of the Takeovers Code (Burger Fuel Worldwide Limited) Exemption Notice 2014 (the **Exemption Notice**). Details of the Exemption Notice are set out in the notice of extraordinary meeting.

Because the exercise of the Milford Option will result in MRHL increasing its control of the voting rights in the Company, BurgerFuel is required to seek shareholder approval of the exercise of the Milford Option.

Accordingly, the Non-associated Shareholders will vote on an ordinary resolution in respect of the exercise of the Milford Option (resolution 2 - the **Milford Resolution**) at the extraordinary meeting.

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) and an allotment under Rule 7(d).

Rules 15(h) and 16(h) of the Code require that the notice of meeting in respect of an acquisition of shares under Rule 7(c) and an allotment of shares under Rule 7(d) must include or be accompanied by an Independent Adviser's Report.

1.8 Purpose of the Report

The directors of BurgerFuel not associated with MRHL, being Peter Brook and Alan Dunn (the **Independent Directors**) have engaged Simmons Corporate Finance Limited (**Simmons Corporate Finance**) to prepare an Independent Adviser's Report on the merits of the FB Transactions and the Milford Option in accordance with Rule 18 of the Code.

Simmons Corporate Finance was approved by the Takeovers Panel on 26 June 2013 to prepare the Independent Adviser's Report.

Simmons Corporate Finance issues this Independent Adviser's Report to the Independent Directors of BurgerFuel for the benefit of the Non-associated Shareholders and to assist them in forming their own opinion on whether to vote for or against the resolutions in respect of the FB Transactions and the Milford Option.

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

The 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 FB Transactions

2.1 Basis of Evaluation

Rule 18 of the Code requires an evaluation of the merits of the FB Allotment, the FB Acquisition and the exercise of the FB Option. Given that these transactions are interdependent, we are of the view that the most appropriate approach is to assess the merits of the FB Transactions overall.

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 August 2013
- 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 FB Transactions should focus on:

- the rationale for the FB Transactions
- the terms of the FB Transactions
- the impact of the FB Transactions on BurgerFuel's financial position
- the impact of the FB Transactions on the control of the Company
- the impact of the FB Transactions on BurgerFuel's share price
- other issues associated with the FB Transactions
- the implications if the FB 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 FB Transactions

In our opinion, after having regard to all relevant factors, the positive aspects of the FB Transactions overwhelmingly outweigh the negative aspects from the perspective of the Non-associated Shareholders.

Our evaluation of the merits of the FB Transactions is set out in detail in sections 2.3 to 2.10. In summary, the key factors leading to our opinion are:

- the rationale for the FB Transactions is compelling:
 - the FB Transactions will potentially be transformational for the Company. BurgerFuel will partner with Franchise Brands with the objective of rapidly growing BurgerFuel store numbers worldwide

- Franchise Brands will provide services and support to the Company, including introducing the Company to SUBWAY® franchisees and development agents to enable it to communicate and promote the BurgerFuel franchise opportunity
- Franchise Brands will initially hold 10.00% of the Company's shares through the FB Allotment and FB Acquisition and could increase its shareholding over a period of 8 years to between 45.00% and 50.00% through the exercise of the FB Option, demonstrating its confidence in the Company
- the terms of the FB Transactions are reasonable:
 - the FB Allotment issue price of \$1.35 per share was based on the market prices at which the shares traded when the Company and Franchise Brands started negotiating the FB Transactions in earnest in April 2013
 - the FB Allotment issue price of \$1.35 per share is the same price that MRHL is willing to accept for the sale of 1,606,057 shares under the FB Acquisition and that the Milford Funds are willing to accept for the sale of 600,000 shares under the Milford Option
 - the Anti-dilution Clause should not result in any value transfers from shareholders to Franchise Brands
- the FB Transactions will have a positive impact on the Company's financial position. The FB Allotment will increase the Company's equity by \$5.9 million and increase the carrying value of equity per share from \$0.13 to \$0.22
- the FB Transactions will result in a shift in the control of the Company from MRHL to Franchise Brands over time:
 - the FB Allotment and FB Acquisition will not have any significant impact on shareholder voting. MRHL will still be able to singlehandedly determine the outcome of any ordinary resolution and (most likely) any special resolution
 - if the FB Option is exercised in full over the 8 year period, then Franchise Brands will hold between 45.00% and 50.00% of the Company's shares and it will be able to strongly influence the outcome of shareholder voting. MRHL will hold between 31.62% and 36.62% of the Company's shares and will also have a strong influence over shareholder voting (but to a much lesser degree than it currently has)
 - Franchise Brands will have the right to appoint directors to the board broadly in proportion to its level of shareholding in the Company
- the FB Allotment will result in the Non-associated Shareholders' relevant interests in the Company's share capital being diluted by approximately 7%. The FB Acquisition and the FB Option will have no dilutionary impact as they are share transactions between MRHL and Franchise Brands and do not involve the issue of new shares
- the FB Transactions will potentially have a positive impact on the Company's share price. While the FB Allotment issue price and the FB Acquisition price of \$1.35 per share is below the recent prices at which the Company's shares have traded, the FB Transactions may be regarded as transformational for the Company and lead to a rerating of BurgerFuel's shares by the market
- the FB Transactions will not have any material impact on the liquidity of BurgerFuel's shares

- the FB Transactions could possibly have a positive impact on the attraction of BurgerFuel as a takeover target
- the implications of the FB Resolution not being approved by the Non-associated Shareholders are that the FB Transactions cannot proceed. BurgerFuel would not be able to partner with Franchise Brands and it would not gain access to SUBWAY® franchisees and development agents. The Company would most likely revert to its current strategy of organic growth which would result in a much slower rate of growth than anticipated under the FB Transactions.

2.3 The Rationale for the FB Transactions

When BurgerFuel listed on the NZAX in July 2007, it had 20 stores in New Zealand and Australia. It now operates 55 stores in New Zealand, Australia and the Middle East.

The Company has proven that its model is scalable by successfully establishing in the Middle East. BurgerFuel has aspirations to franchise in excess of 1,000 stores worldwide. The biggest challenge that it faces is sourcing appropriate franchisees to operate the BurgerFuel brand in various countries around the world.

The FB Transactions represent an opportunity for BurgerFuel to achieve its aspirations by partnering with Franchise Brands. Franchise Brands has a proven track record in food and franchising. It will be able to introduce the Company to SUBWAY® franchisees and development agents to provide BurgerFuel with the opportunity to promote the BurgerFuel franchise opportunity. Furthermore, it will provide franchise consulting services and access to the SUBWAY® franchisees' purchasing organisation and real estate team to assist with the growth of the BurgerFuel network of stores.

Under the FB Transactions, Franchise Brands will become an important cornerstone shareholder in BurgerFuel along with MRHL. It will initially hold a 10.00% shareholding through the FB Allotment and FB Acquisition and over time will be able to increase its shareholding to between 45.00% and 50.00% by exercising the FB Option.

We consider the rationale for the FB Transactions to be compelling. The FB Transactions provide BurgerFuel with the opportunity to transform itself by partnering with Franchise Brands to significantly grow the BurgerFuel worldwide store network within a timeframe that would not otherwise be achievable if the Company continued to execute its growth strategy on its own. Furthermore, Franchise Brands' desire to acquire up to 50.00% of the Company's shares provides a strong indication of its belief in the potential of the Company.

2.4 Terms of the FB Transactions

FB Allotment

The key terms of the FB Allotment are set out in section 1.4 and in the explanatory notes that form part of the notice of extraordinary meeting. We consider the terms of the FB Allotment to be reasonable overall.

Issue Price

The FB Allotment is at an issue price of \$1.35 per share. We are advised by the Company's directors that the issue price was based on the market price of the Company's shares when BurgerFuel commenced negotiations in earnest with Franchise Brands in April 2013.

Set out in section 4.10 is a summary of BurgerFuel's daily closing share price and daily volumes of shares traded from 5 January 2011 to 30 January 2014. During the month of April 2013, 0.1% of the Company's shares traded between \$1.31 and \$1.60 at a VWAP of \$1.43. The FB Allotment issue price of \$1.35 represents a discount of 6% to the VWAP.

The issue price of \$1.35 per share is the same price that MRHL is willing to accept for the sale of 1,606,057 shares under the FB Acquisition and that the Milford Funds are willing to accept for the sale of 600,000 shares under the Milford Option. MRHL is the Company's largest shareholder and owned by BurgerFuel's 2 executive directors and the Milford Funds are the Company's second largest shareholder.

Board Representation

A term of the FB Subscription Agreement is that as soon as practicable within 12 months following the FB Allotment, the Company will put a special resolution to its shareholders to amend BurgerFuel's constitution, such that Franchise Brands, as long as it holds 10% or more of the Company's shares, shall have the right to appoint one director to the board.

In addition, until Franchise Brands holds more than 50% of the Company's shares, it will not have the right to appoint the majority of directors of the board. However, if Franchise Brands holds more than 10% of the Company's shares, it will have the right to appoint further directors to the board broadly in proportion to its level of shareholding.

Anti-dilution Clause

The FB Subscription Agreement contains the Anti-dilution Clause whereby any new share issues that the Company contemplates will first be offered to Franchise Brands by way of a private placement on terms that are no less favourable than would be offered to any other party(ies).

On the basis that any such share issues will be on terms that are no less favourable than would be offered to any other party, the Anti-dilution Clause should not give rise to any value transfers from existing shareholders to Franchise Brands.

We note that any allotments to Franchise Brands under the Anti-dilution Clause would be subject to the provisions of the NZAX Listing Rules and the Code (as discussed in more detail in section 2.9).

FB Acquisition

The key terms of the FB Acquisition are set out in section 1.4 and in the explanatory notes that form part of the notice of extraordinary meeting. We consider the terms of the FB Acquisition to be reasonable overall.

Number of Shares to be Acquired

Franchise Brands will acquire 1,606,057 shares from MRHL under the FB Acquisition which, in conjunction with the 4,357,298 shares it will subscribe for under the FB Allotment, will result in it holding 10.00% of the shares in BurgerFuel.

Acquisition Price

The acquisition price of \$1.35 per share is the same price as the issue price under the FB Allotment and the exercise price under the Milford Option.

FB Option

The key terms of the FB Option are set out in section 1.4 and in the explanatory notes that form part of the notice of extraordinary meeting.

In broad terms, the FB Option is designed to permit Franchise Brands to increase its shareholding in the Company from 10.00% after the FB Allotment and FB Acquisition to between 45.00% and 50.00% within 8 years of the completion of the FB Allotment and FB Acquisition by acquiring shares from MRHL. The ability for Franchise Brands to increase its shareholding to 45.00% or 50.00% will depend upon whether the Company reaches its target of 1,000 open and operating BurgerFuel stores by the 8th anniversary of the call option agreement. The FB Option is in 4 tranches over the 8 year period. The exercise price for each tranche increases by 10% each tranche, with the exercise price for the Tranche 1 Option Shares set at \$1.49 per share, being 10% above the FB Allotment and FB Acquisition price of \$1.35 per share. However, the exercise prices vary (upwards and downwards) depending upon the BurgerFuel share price at the end date of each tranche and the number of stores in operation.

As the FB Option is a transaction between MRHL and Franchise Brands, it does not have a direct financial consequence for the Non-associated Shareholders or the Company. The direct consequences of the FB Option for the Non-associated Shareholders are largely in respect of control issues and these are discussed in section 2.6.

The FB Option may have indirect financial consequences for the Non-associated Shareholders to the extent that the terms may impact on the Company's share price and / or the attractiveness of the Company as a takeover target. We discuss these issues in sections 2.8 and 2.9 respectively.

FB Collaboration

The key terms of the FB Collaboration are set out in section 1.4 and in the explanatory notes that form part of the notice of extraordinary meeting. We consider the terms of the FB Collaboration to be reasonable overall.

The Company will pay a collaboration fee equal to 1% of Qualifying Gross Sales from Applicable Stores each month in consideration for the services and support provided by Franchise Brands. The collaboration fee is intended to operate as a pass through of a portion of corresponding royalty payments made to BurgerFuel by Applicable Stores.

The objective of the FB Collaboration is to help rapidly grow BurgerFuel store numbers worldwide. The fee arrangement allows Franchise Brands to share in the growth of franchisee income that may follow the development of the BurgerFuel franchisee network resulting from the collaboration services provided by Franchise Brands and further aligns the interests of BurgerFuel and Franchise Brands to develop the BurgerFuel brand.

2.5 Impact on Financial Position

A summary of the Company's recent financial position is set out in section 4.8. BurgerFuel's unaudited total equity as at 30 September 2013 was \$7.2 million. This equated to \$0.13 per share.

The FB Allotment will raise \$5.9 million. For illustrative purposes, if the proceeds from the FB Allotment were to have been received on 30 September 2013, BurgerFuel's total equity would increase by 81% to \$13.1 million and equity per share would increase by 68% to \$0.22 per share.

Illustrative Effect of the FB Allotment on BurgerFuel's Financial Position			
	Equity (\$000)	No. of Shares (000)	Equity / Share (\$)
30 September 2013	7,243	55,276.3	\$0.13
FB Allotment proceeds	5,882	4,357.3	\$1.35
Post the FB Allotment	<u>13,125</u>	<u>59,633.6</u>	<u>\$0.22</u>

The FB Acquisition and the FB Option will have no impact on BurgerFuel's financial position as they are share transactions between MRHL and Franchise Brands and do not involve the issue of new shares.

2.6 Impact on Control

Share Capital and Shareholders

BurgerFuel currently has 55,276,252 ordinary shares on issue. The names, number of shares and percentage holding of the 10 largest shareholders as at 13 January 2014 are set out in section 4.6.

Shareholding Voting

The FB Transactions represent an allotment of new ordinary shares to Franchise Brands and the sale of existing ordinary shares by MRHL to Franchise Brands. The FB Transactions will result in Franchise Brands holding up to 50.00% of the shares in BurgerFuel, depending on the degree to which the FB Option is exercised.

Current Position

MRHL's current shareholding of 80.17% enables it to control the outcome of ordinary resolutions (which require the approval of more than 50% of votes cast by the shareholders) and special resolutions (which require the approval of 75% of the votes cast).

Post the FB Allotment and FB Acquisition

Following the FB Allotment and FB Acquisition, MRHL will hold 71.62% of the Company's shares, Franchise Brands will hold 10.00% and the Non-associated Shareholders will collectively hold 18.38%.

This will not have any significant impact on MRHL's ability to exert control over shareholder voting nor will it provide Franchise Brands with any significant level of control over shareholding voting.

MRHL will still be able to control the outcome of any ordinary resolution and, in all likelihood, control the outcome of any special resolution. While a 71.62% interest is technically not sufficient to singlehandedly pass a special resolution, in reality, it probably is in a listed company with more than 2,500 shareholders (as BurgerFuel currently has). This is because a number of shareholders in listed companies tend not to vote on resolutions and hence the relative weight of the 71.62% interest increases.

Post the Exercise of the FB Option and the Milford Option

If the Milford Option is exercised and the FB Option is exercised in full, then MRHL will hold between 32.63% and 37.63% of the Company's shares, Franchise Brands will hold between 45.00% and 50.00% and the Non-associated Shareholders will collectively hold 17.37%.

Franchise Brands will have the ability to singlehandedly block any special resolution and most likely singlehandedly control the outcome of any ordinary resolution.

MRHL will have the ability to singlehandedly block any special resolution but it will not be able to singlehandedly control the outcome of any ordinary resolution.

Neither MRHL nor Franchise Brands will have the ability to singlehandedly pass a special resolution. However, if the 2 shareholders both vote in favour of a special resolution, their combined votes can collectively pass a special resolution.

Restrictions on Shareholder Voting

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 Companies Act and the NZAX Listing Rules.

Board Control

The Company has 4 directors as set out in section 4.5.

As discussed in section 2.4, Franchise Brands will have the right to appoint one director to the BurgerFuel board if it holds 10% or more of the Company's shares and it may appoint additional directors broadly in proportion to its level of shareholding in the Company.

Operations

We are advised by the Company's directors that any impact by Franchise Brands on the control of the Company's operations is likely to arise through its board representation rather than through direct management representation.

2.7 Dilutionary Impact

4,357,298 new ordinary shares will be issued under the FB Allotment. This will result in the Non-associated Shareholders' proportionate shareholdings in the Company being diluted by approximately 7%.

Dilutionary Impact on Non-associated Shareholders				
	MRHL	Franchise Brands	Non-associated Shareholders	Total
Current	44,315,839	-	10,960,413	55,276,252
FB Allotment	-	4,357,298	-	4,357,298
Post the FB Allotment	<u>44,315,839</u>	<u>4,357,298</u>	<u>10,960,413</u>	<u>59,633,550</u>
<i>Dilutionary impact</i>				7.3%

By way of example, a Non-associated Shareholder holding 1,000,000 shares currently holds a 1.81% interest in the Company. This interest will be diluted by approximately 7% down to 1.68% following the FB Allotment.

The FB Acquisition and the FB Option will have no dilutionary impact as they are share transactions between MRHL and Franchise Brands and do not involve the issue of new shares.

2.8 Impact on Share Price and Liquidity

Set out in section 4.10 is a summary of BurgerFuel's daily closing share price and daily volumes of shares traded from 5 January 2011 to 30 January 2014.

During the period, the Company's shares have traded between \$0.35 and \$3.15 at a VWAP of \$1.45. However, trading in the Company's shares is extremely thin, reflecting that 80.17% of the shares are currently held by MRHL.

In the year up to the announcement of the FB Transactions, only 1.2% of the Company's shares traded on the NZAX between \$1.31 and \$1.95 at a VWAP of \$1.65.

Impact on Share Price

Given the illiquidity in the Company's shares, observed trading prices may not necessarily provide a definitive view of the fair market value of the Company's shares. The BurgerFuel share price is relatively volatile (ie the variances in prices are comparatively wide) but these observed prices are based on infrequent trades of small parcels of shares.

The FB Allotment issue price and the FB Acquisition price of \$1.35 per share is at a discount of between 13% and 18% to the VWAP over the year prior to the announcement of the FB Transactions (measured over different periods of between one month and one year). The \$1.35 price was negotiated back in April 2013 and was in line with observed market prices at that point in time.

In our view, it is likely that the market will react favourably to the FB Transactions on the basis that the partnership with Franchise Brands may be transformational for the Company by assisting it to achieve its growth aspirations over a much shorter timeframe. Following the announcement of the FB Transactions on 14 January 2014, 377,755 shares (0.7%) traded on the NZAX on the 13 days up to 30 January 2014 between \$1.66 and \$3.15 per share at a VWAP of \$2.69.

While we would expect increased demand for the Company's shares post the FB Transactions, we note that the relatively small free float means that there will be a limited number of shares available for sale and this may restrict the level of trading in the Company's shares.

Impact on Liquidity

The number of shares held by the Non-associated Shareholders will not change under the FB Transactions. Therefore the FB Transactions are unlikely to have a positive or negative effect on the liquidity of BurgerFuel's shares in the near term.

2.9 Other Issues

The Attraction of BurgerFuel as a Takeover Target May Increase

Mr Mason and Mr Roberts were the founding shareholders when the Company listed on the NZAX in July 2007 and have held over 80% of the Company's shares since then. They have never signalled any intention to take the Company private again by making a takeover offer.

We are of the view that the FB Transactions may increase the likelihood of a takeover offer to some degree. It is possible that at some stage, Franchise Brands may decide that it wishes to hold more than 50.00% of the Company's shares and it may decide that this would be most effectively achieved by way of a full or partial takeover offer.

We stress however that we are not aware of any intentions on Franchise Brands' part to make a takeover offer for the Company. Furthermore, under the terms of the FB Sale and Option Agreement:

- each of the Franchise Brands and MRHL give the other pre-emptive rights on any proposed transfer of shares
- MRHL undertakes that it will not for a period of 8 years, without the consent of Franchise Brands, offer to sell (or sell) any of its shares in the Company to any third party, other than those option shares in respect of which the option has lapsed or the applicable exercise period has expired.

Alternatively, as the BurgerFuel network grows, the Company's profile will increase and this may lead to potential acquirers of the Company (particularly overseas acquirers) becoming more aware of the Company as a takeover target.

No Change to Business Risks

As the FB Transactions are predominantly a transfer of shares from MRHL to Franchise Brands, they will have negligible impact on the business factors and risks that BurgerFuel faces, as set out in section 4.4.

Change to Dividend Policy Unlikely in Near Term

The Company has not paid any dividends since it listed on the NZAX in July 2007. Given that a key objective of entering into the FB Transactions is to enable the Company to execute its growth strategies in a shorter timeframe, we are of the view that future earnings are likely to be invested in growth initiatives and therefore it is unlikely that the Company's dividend policy will change in the near term.

Franchise Brands May Eventually be Able to Creep

MRHL currently holds 80.17% of the Company's shares. It cannot increase the level of its shareholding unless it complies with the provisions of the Code. It can only acquire more shares in the Company if:

- it makes a full or partial takeover offer
- the acquisition is approved by way of an ordinary resolution of the Non-associated Shareholders
- the Company makes an allotment of shares which is approved by way of an ordinary resolution of the Non-associated Shareholders
- the Company undertakes a share buyback that is approved by the Company's shareholders and MRHL does not accept the offer of the buyback
- it complies with the *creep* provisions of Rule 7(e) of the Code.

The *creep* provisions enable entities that hold between 50% and 90% of the voting securities in a code company to buy up to a further 5% of the code company's shares per annum.

If the FB Transactions are approved and the FB Option is exercised in full over the 8 year period, then MRHL will hold between 31.62% and 36.62% of the Company's shares and Franchise Brands will hold between 45.00% and 50.00%. Neither MRHL nor Franchise Brands will be able to increase their respective shareholding level unless they comply with the provisions of the Code as discussed above.

MRHL would no longer be able to utilise the *creep* provisions to increase its shareholding whereas Franchise Brands could utilise the *creep* provisions 12 months after it reached the 50.00% shareholding level.

Non-associated Shareholder Approval is Required

Pursuant to Rule 7(d) of the Code, the Non-associated Shareholders must approve by ordinary resolution the FB Allotment and pursuant to Rule 7(c), the Non-associated Shareholders must approve by ordinary resolution the FB Acquisition and the FB Option.

The FB Transactions will not proceed unless the Non-associated Shareholders approve the FB Resolution.

2.10 Implications of the FB Resolution not Being Approved

If the FB Resolution is not approved, then the FB Transactions cannot proceed. The FB Subscription Agreement, the FB Sale and Option Agreement and the FB Collaboration Agreement are interdependent in that each one must be unconditional before all 3 can be unconditional. This requires shareholder approval of the FB Resolution.

If the FB Resolution is not approved, BurgerFuel will not be able to partner with Franchise Brands in the manner proposed. We are advised by the Company's directors that the most likely course of action would be for the Company to continue with its current strategy of organic growth, which would result in a much slower rate of growth than anticipated if BurgerFuel were to partner with Franchise Brands and gain access to the SUBWAY® franchisees and development agents.

Alternatively, BurgerFuel may consider seeking to renegotiate the terms of the FB Transactions with Franchise Brands sometime in the future and seek shareholder approval at a later date, which would incur additional costs.

2.11 Voting For or Against the FB Resolution

Voting for or against the FB 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. Evaluation of the Merits of the Exercise of the Milford Option

3.1 Basis of Evaluation

We are of the view that an assessment of the merits of the exercise of the Milford Option should focus on:

- the rationale for the Milford Option
- the terms of the Milford Option
- the impact of the Milford Option on BurgerFuel's financial position
- the impact of the Milford Option on the control of the Company
- the impact of the Milford Option on BurgerFuel's share price
- other issues associated with the Milford Option
- the implications if the Milford 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.

3.2 Summary of the Evaluation of the Merits of the Exercise of the Milford Option

In our opinion, after having regard to all relevant factors, the exercise of the Milford Option will have negligible impact on the Non-associated Shareholders.

Our evaluation of the merits of the exercise of the Milford Option is set out in detail in sections 3.3 to 3.10. In summary, the key factors leading to our opinion are:

- the rationale for the Milford Option is sound. The Milford Option provides MRHL with the opportunity to slightly reduce the decrease in its shareholding that will arise if the FB Option is exercised
- the terms of the Milford Option are reasonable. The exercise price of \$1.35 per share is the same price as the FB Allotment issue price and the FB Acquisition price
- the exercise of the Milford Option will have no impact on the Company's financial position as it is a share transaction between CMJR and the Milford Funds and does not involve any funds of the Company
- the exercise of the Milford Option will have negligible impact on the control of the Company
- the exercise of the Milford Option will have no dilutionary impact as it is a share transaction between CMJR and the Milford Funds and does not involve the issue of new shares
- any impact on the Company's share price will largely be driven by the market's view of the FB Transactions rather than the Milford Option in isolation
- the exercise of the Milford Option is unlikely to have any impact on the liquidity of BurgerFuel's shares

- the exercise of the Milford Option is unlikely to have any impact on the attraction of BurgerFuel as a takeover target
- the implications of the Milford Resolution not being approved by the Non-associated Shareholders is that the Milford Option cannot be granted. This would not preclude the FB Transactions from proceeding if they were approved.

3.3 The Rationale for the Milford Option

We are advised by Mr Roberts that in conjunction with the Company negotiating the FB Transactions with Franchise Brands, MRHL negotiated the Milford Option with the Milford Funds.

MRHL sought to reduce a portion of the decrease in its shareholding in the Company that would arise through the exercise of the FB Option by acquiring some shares from the Milford Funds. The Milford Funds were agreeable to MRHL's proposition on the basis that it would assist in ensuring the FB Transactions were completed.

MRHL and the Milford Funds agreed that the exercise price for the Milford Option would be the same price as the FB Allotment issue price and the FB Acquisition price of \$1.35 per share.

We consider the rationale for the Milford Option to be reasonable.

3.4 Terms of the Milford Option

The key terms of the Milford Option are set out in section 1.5 and in the explanatory notes that form part of the notice of extraordinary meeting.

The exercise price of \$1.35 per share is the same price as the FB Allotment issue price and the FB Acquisition price.

The Milford Option is conditional on the FB Transactions being approved.

As the Milford Option is a transaction between CMJR and the Milford Funds, it does not have a direct financial consequence for the Non-associated Shareholders or the Company. The direct consequences of the Milford Option for the Non-associated Shareholders are largely in respect of control issues and these are discussed in section 3.6.

The Milford Option may have indirect financial consequences for the Non-associated Shareholders to the extent that the terms may impact on the Company's share price and / or the attractiveness of the Company as a takeover target. We discuss these issues in section 3.8 and 3.9 respectively.

3.5 Impact on Financial Position

The exercise of the Milford Option will have no impact on BurgerFuel's financial position as it is a share transaction between CMJR and the Milford Funds and does not involve the issue of new shares.

3.6 Impact on Control

Shareholding Voting

An analysis of the impact of the FB Transactions on shareholder voting is set out in section 2.6.

The 600,000 ordinary shares subject to the Milford Option represent 1.09% of the Company's ordinary shares currently on issue and 1.01% of the Company's ordinary shares on issue following the FB Allotment and as such will have negligible additional impact on the ability of MRHL to exert control over shareholder voting.

Board Control

We are advised by the Company's directors that the exercise of the Milford Option will have no impact on the composition of the Company's board of directors.

Operations

We are advised by the Company's directors that the exercise of the Milford Option will have no impact on the Company's operations.

3.7 Dilutionary Impact

The Milford Option will have no dilutionary impact as it is a share transaction between CMJR and the Milford Funds and does not involve the issue of new shares.

3.8 Impact on Share Price and Liquidity

The potential impact of the FB Transactions on the Company's share price is set out in section 2.8. Any impact on the Company's share price will largely be driven by the market's view of the FB Transactions rather than the Milford Option in isolation.

The number of shares held by the Non-associated Shareholders (other than the Milford Funds) will not change under the Milford Option. Therefore the exercise of the Milford Option is unlikely to have a positive or negative effect on the liquidity of BurgerFuel's shares in the near term.

3.9 Other Issues

No Change to the Attraction of BurgerFuel as a Takeover Target

The Milford Option is unlikely to have any impact on the attraction of BurgerFuel as a takeover target. The exercise of the Milford Option will only increase MRHL / CMJR's shareholding by 1.01%, which is unlikely to change MRHL's intentions (if any) in respect of making a takeover offer for the Company nor influence the takeover intentions of any other potential bidder.

No Change to Business Risks

As the Milford Option is a share transaction between CMJR and the Milford Funds, it will have no impact on the business factors and risks that BurgerFuel faces, as set out in section 4.4.

No Change to Dividend Policy

As the Milford Option is a share transaction between CMJR and the Milford Funds, it should not have any impact on the Company's dividend policy.

Non-associated Shareholder Approval is Required

Pursuant to Rule 7(c), the Non-associated Shareholders (excluding the Milford Funds) must approve by ordinary resolution the exercise of the Milford Option.

The Milford Option will not proceed unless the Non-associated Shareholders (excluding the Milford Funds) approve the Milford Resolution.

3.10 Implications of the Milford Resolution not Being Approved

If the Milford Resolution is not approved, then the Milford Option cannot proceed. The FB Transactions are not dependent on the Milford Resolution being passed so if the FB Resolution was approved but the Milford Resolution was not, the FB Transactions could still proceed.

If the Milford Resolution is not approved, the Milford Funds may decide to sell some of their shareholding on market. In saying that, we are not aware of any intention on the Milford Funds' part to do so. However, if they were to do so, this could potentially place downwards pressure on the BurgerFuel share price (in the absence of any increased demand for the shares).

3.11 Voting For or Against the Milford Resolution

Voting for or against the Milford 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.

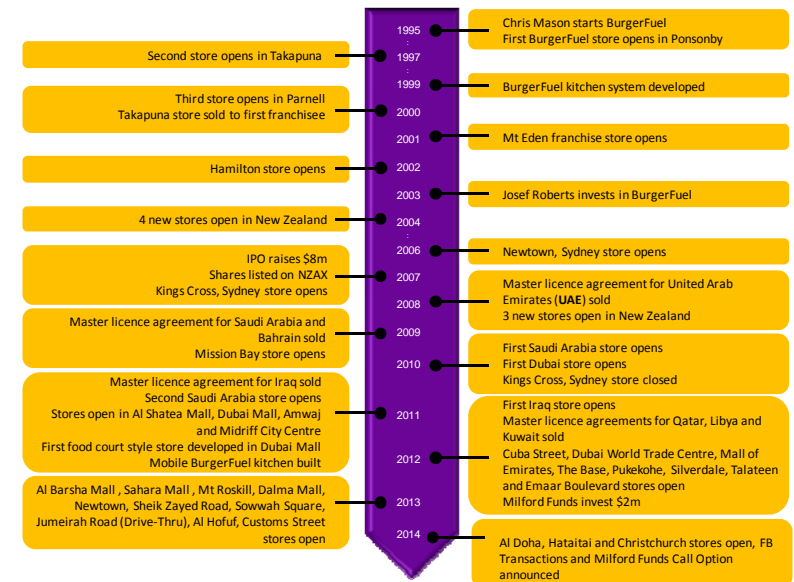
4. Profile of BurgerFuel

4.1 Background

The BurgerFuel business was founded by Mr Mason in 1995.

The Company listed its shares on the NZAX on 27 July 2007 following an IPO that raised \$8 million, including approximately \$2.74 million from Mr Roberts and his associates in order to meet the minimum subscription threshold.

The Company's key events are set out below.

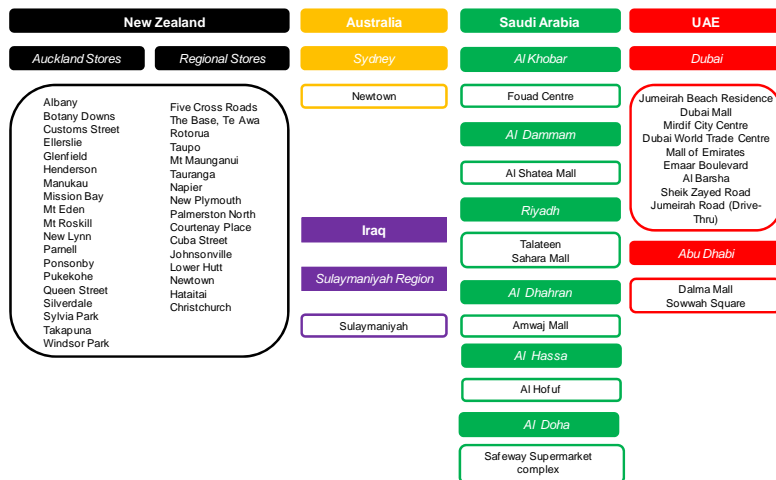


4.2 Nature of Operations

BurgerFuel owns and franchises gourmet burger restaurants in New Zealand, Australia and the Middle East.

The Company currently operates a total of 55 stores:

- 35 stores in New Zealand
- one store in Australia
- 7 stores in Saudi Arabia
- 11 stores in the UAE
- one store in Iraq.



All of the stores are franchised, other than Ponsonby in Auckland.

Further store expansion is planned, with store openings expected in all territories and the first store in Cairo, Egypt being planned for the 2014 financial year.

BurgerFuel owns and operates a satellite kitchen operation in Auckland.

The Company also exports all its beef as well as other BurgerFuel proprietary products from New Zealand to the Middle East. This both maintains quality and consistency and helps to promote BurgerFuel's New Zealand story.

4.3 Corporate Strategy

The Company's strategy revolves around building scale and establishing the Company around the world as a respected franchisor / licensor offering a quality product, an exciting brand and highly supportive systems.

Strategies for the territories are:

- growth by way of new store openings together with refurbishments of existing stores
- growth of the Australian operation with either the existing franchisee and / or new franchisees
- expansion in the Middle East including the opening of the first store in Egypt.

In order to allow Mr Mason and Mr Roberts to spend more time on building the international business, Tyrone Foley was recruited as Chief Operating Officer in September 2012.

4.4 Key Issues Affecting BurgerFuel

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

- general economic conditions in the territories that BurgerFuel operates in can affect the levels of demand for the Company's products
- the vagaries of the retail market
- competition from other fast food / fast-casual providers is significant and may impact on the Company's market share and profitability
- an increased public awareness of the potential negative health consequences of fast food
- an increased focus on the quality of food service in fast food outlets
- poor performance by franchisees may damage the Company's reputation and profitability
- being able to manage growth opportunities and ensuring the Company's operating systems and distribution networks keep pace with the growth demands
- fluctuations (and specifically increases) in commodity prices
- maintaining relationships with suppliers
- protection of the Company's trademarks and intellectual property
- product liability issues arising from non-compliance with food hygiene protocols
- dependence on key personnel
- the inability to adequately finance the Company's operations.

4.5 Directors and Executive Management

The directors of BurgerFuel are:

- Peter Brook, chair and independent director
- Alan Dunn, independent director
- Chris Mason, executive director, CEO International Markets
- Josef Roberts, executive director, Group CEO.

In addition to Mr Mason and Mr Roberts, the Company's executive management team includes:

- Mark Piet, Chief Financial Officer / Company Secretary
- Tyrone Foley, Chief Operating Officer.

4.6 Capital Structure and Shareholders

The Company's IPO in July 2007 raised \$8 million through the issue of 8,000,000 ordinary shares at \$1.00 per share.

BurgerFuel currently has 55,276,252 ordinary shares on issue held by 2,546 shareholders.

The names, number of shares and percentage holding of the 10 largest shareholders as at 13 January 2014.

BurgerFuel's 10 Largest Shareholders		
Shareholder	No. of Shares	%
MRHL	44,315,839	80.17%
New Zealand Central Securities Depository Limited (NZSCD)	2,559,204	4.63%
RRT Corporate Trustee Limited (RRT)	1,000,000	1.81%
Cartallen Trustee Limited (Cartallen)	486,373	0.88%
Trumpeter Trustees (2007) Limited (Trumpeter)	374,656	0.68%
Peter Brook	336,596	0.61%
Michael Daniel, Nigel Burton and Michael Benjamin	109,251	0.20%
Ginostra Superannuation Fund Pty Limited	100,000	0.18%
Grant Samuel & Associates Limited	100,000	0.18%
Matthew Pringle	75,000	0.14%
Subtotal	49,456,919	89.47%
Others (2,536 shareholders)	5,819,333	10.53%
Total	55,276,252	100.00%

Source: BurgerFuel

MRHL is jointly owned by Mr Mason and Mr Roberts.

Trumpeter is wholly owned by interests associated with Mr Dunn.

Collectively, the Company's 4 directors control 45,027,091 shares (81.46%).

RRT is owned by Miriam Roberts, Mr Roberts' ex-wife. We understand that Mr Roberts has no beneficial interest in the shares held by RRT.

Cartallen is a trustee company that holds the shares on behalf of Mr Mason's wife.

The Milford Funds currently hold 2,525,220 ordinary shares (4.57%) in the name of TEA Custodians via NZCSD. The Milford Funds subscribed for 1,600,000 new fully paid ordinary shares at \$1.25 per share on 20 December 2012 and acquired 800,000 ordinary shares from MRHL on that date at \$1.25 per share.

4.7 Financial Performance

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

Summary of BurgerFuel Financial Performance				
	Year to 31 Mar 11 (Audited) \$000	Year to 31 Mar 12 (Audited) \$000	Year to 31 Mar 13 (Audited) \$000	6 Mths to 30 Sep 13 (Unaudited) \$000
Revenue	8,260	9,558	11,952	6,688
Operating expenses	(8,097)	(8,657)	(10,433)	(6,519)
EBITDA	163	901	1,519	211
EBIT	(25)	687	1,235	54
Net surplus / (deficit) attributable to shareholders	34	708	1,098	96
EPS (cents)	0.06	1.32	2.05	0.17

EBITDA: Earnings before interest, taxation, depreciation and amortisation
EBIT: Earnings before interest and taxation
EPS: Earnings per share

Source: BurgerFuel audited financial statements and half year report for the 6 months ended 30 September 2013

The Company derives most of its revenue from 2 sources:

- sales of product
- royalties and various fees charged to franchisees and master licensees.

Total system sales have increased from \$33 million in the 2011 financial year to \$49 million in the 2013 financial year and \$30 million in the half year to 30 September 2013. International sales represented 36% of total system sales in the 2013 financial year.

The Company's earnings improved significantly in the 2011 financial year due mainly to:

- solid trading in the Middle East
- consolidation of the existing New Zealand stores and a focus on system health and franchisee profitability
- implementation of cost efficiency initiatives
- closure of the Company-owned Kings Cross store in Sydney in November 2010 and a reduction of overheads in Australia.

The further improvement in the 2012 financial year was primarily due to:

- further expansion in the Middle East
- an increase in same store sales in New Zealand and the Middle East
- a continued focus on cost control.

The continued improvement in the 2013 financial year was primarily due to:

- continued store expansion in New Zealand and the Middle East
- positive growth in the Australian store
- growth in the export of beef and other proprietary products.

4.8 Financial Position

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

Summary of BurgerFuel Financial Position				
	As at 31 Mar 11 (Audited) \$000	As at 31 Mar 12 (Audited) \$000	As at 31 Mar 13 (Audited) \$000	As at 30 Sep 13 (Unaudited) \$000
Current assets	2,809	3,898	7,593	7,460
Non current assets	1,520	1,112	1,296	1,443
Total assets	4,329	5,010	8,889	8,903
Current liabilities	(1,060)	(948)	(1,674)	(1,660)
Non current liabilities	(41)	(40)	(36)	-
Total liabilities	(1,101)	(988)	(1,710)	(1,660)
Total equity	<u>3,228</u>	<u>4,022</u>	<u>7,179</u>	<u>7,243</u>

Source: BurgerFuel audited financial statements and half year report for the 6 months ended 30 September 2013

The Company's main current assets are cash and cash equivalents (\$3.4 million as at 30 September 2013) and trade and other receivables (\$3.5 million).

Non current assets consist mainly of property, plant and equipment (\$1.1 million as at 30 September 2013).

BurgerFuel's liabilities consist mainly of trade and other payables (\$1.4 million as at 30 September 2013). The Company has no interest bearing debt.

4.9 Cash Flows

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

Summary of BurgerFuel Cash Flows				
	Year to 31 Mar 11 (Audited) \$000	Year to 31 Mar 12 (Audited) \$000	Year to 31 Mar 13 (Audited) \$000	6 Mths to 30 Sep 13 (Unaudited) \$000
Net cash flow from / (used in) operating activities	294	619	337	(341)
Net cash from / (used in) investing activities	(103)	544	(462)	(343)
Net cash from / (used in) financing activities	(101)	-	2,000	-
Net increase/(decrease) in cash held	90	1,163	1,875	(684)
Net foreign exchange differences	(35)	(38)	(16)	(70)
Opening cash balance	1,159	1,214	2,339	4,198
Closing cash balance	<u>1,214</u>	<u>2,339</u>	<u>4,198</u>	<u>3,444</u>

Source: BurgerFuel audited financial statements and half year report for the 6 months ended 30 September 2013

BurgerFuel generated positive cash flows from its operating activities for the first time in the 2011 financial year.

Net cash used in investing activities have mainly been in respect of the purchase of property, plant and equipment.

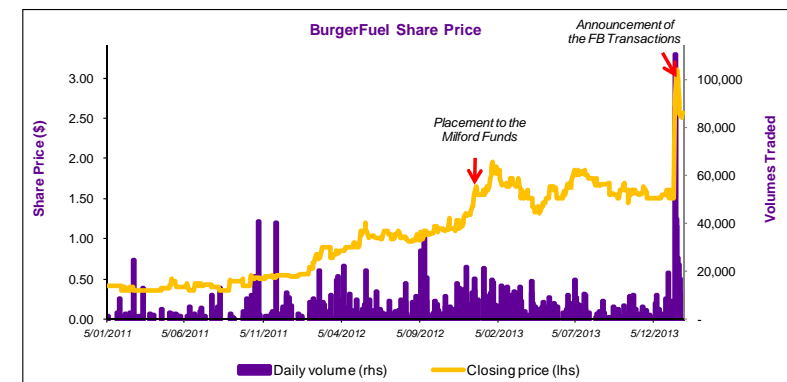
Cash from investing activities in the 2012 financial year was due to:

- BurgerFuel's franchisees repaying \$0.6 million of advances
- the Company receiving \$0.8 million from the sale of property, plant and equipment (the sale of the BurgerFuel mobile kitchen to the UAE master licence agreement holder and the sale of other certain assets for the establishment of a new franchise).

The Company raised \$8 million through its IPO in July 2007. 1,600,000 ordinary shares were allotted to the Milford Funds on 20 December 2012 at an issue price of \$1.25 per share, raising \$2.0 million.

4.10 Share Price History

Set out below is a summary of BurgerFuel's daily closing share price and daily volumes of shares traded from 5 January 2011 to 30 January 2014.



Source: NZX Data

During the period, BurgerFuel's shares have traded between \$0.35 and \$3.15 at a VWAP of \$1.45.

An analysis of VWAP, traded volumes and liquidity (measured as traded volumes as a percentage of shares outstanding) prior to the announcement of the FB Transactions is set out below.

BurgerFuel Share Trading Prior to the Announcement of the FB Transactions					
Period	Low ¹ (\$)	High ¹ (\$)	VWAP ¹ (\$)	Volume Traded ¹ (000)	Liquidity
1 month	1.50	1.60	1.56	54	0.1%
3 months	1.45	1.65	1.55	136	0.2%
6 months	1.45	1.85	1.62	232	0.4%
12 months	1.31	1.95	1.65	686	1.2%

¹ 1 to 13 January 2014
Source: NZX Data

Trading in the Company's shares is extremely thin, reflecting that 80.17% of the shares are currently held by MRHL. Only 1.2% of the Company's shares traded in the year to 13 January 2013 on 169 days.

5. Sources of Information, Reliance on Information, Disclaimer and Indemnity

5.1 Sources of Information

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

- the draft notice of extraordinary meeting
- the FB Subscription Agreement
- the FB Sale and Option Agreement
- the FB Collaboration Agreement
- the Milford Option Agreement
- the BurgerFuel annual reports for the years ended 31 March, 2009 to 2013
- the BurgerFuel half year report for the 6 months ended 30 September 2013
- the BurgerFuel IPO prospectus dated 18 June 2007
- data in respect of BurgerFuel from NZX Data and Capital IQ.

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

The Company's directors have confirmed that we have been provided for the purpose of this Independent Adviser's Report with all information relevant to the FB Transactions and the Milford Option that is known to them 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 BurgerFuel to the Non-associated Shareholders is sufficient to enable the Independent Directors and the Non-associated Shareholders to understand all the relevant factors and to make an informed decision in respect of the FB Transactions and the Milford Option.

5.2 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 BurgerFuel 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 BurgerFuel. We do not warrant that our enquiries would reveal any matter which an audit, due diligence review or extensive examination might disclose.

5.3 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 BurgerFuel 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 BurgerFuel 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.

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 this report.

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

5.4 Indemnity

BurgerFuel 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. BurgerFuel 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.

6. Qualifications and Expertise, Independence, Declarations and Consents

6.1 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), CFIP.

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.

6.2 Independence

Simmons Corporate Finance does not have at the date of this report, and has not had, any shareholding in or other relationship with BurgerFuel, MRHL, Franchise Brands or the Milford Funds or any conflicts of interest that could affect our ability to provide an unbiased opinion in relation to the transactions.

Simmons Corporate Finance has not had any part in the formulation of the FB Transactions or the Milford Option 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 FB Transactions or the Milford Option. We will receive no other benefit from the preparation of this report.

6.3 Declarations

An advance draft of this report was provided to the Independent Directors for their comments as to 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.

6.4 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 extraordinary meeting to be sent to BurgerFuel's 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
31 January 2014