

NOVEMBER 2023



Milk Price Panel Terms of Reference



FONTERRA CO-OPERATIVE GROUP LIMITED

Milk Price Panel Terms of Reference

Constitution	<p>The Board of Fonterra Co-operative Group Limited (“Fonterra”) has resolved to establish a panel to be known as the Milk Price Panel (“the Panel”).</p> <p>Unless otherwise indicated, terms used in these Terms of Reference have the same meaning as in Fonterra’s Constitution.</p>
Review and Approval	<p>These Terms of Reference shall be reviewed annually by the Panel and approved by the Board.</p> <p>Subject to Fonterra’s Constitution and any applicable legislation, any changes to these Terms of Reference require the approval of the Board of Directors except any changes affecting the number or the independence of the Council Appointees (which must be approved by the Co-operative Council (“Council”). The Chair of the Council will be notified of any changes to these Terms of Reference.</p>
Purpose	<p>The purpose of the Panel will be to provide assurances to the Board as to the governance of the Milk Price and the Milk Price Manual, and the proper application of the Milk Price Principles.</p>
Membership	<p>The Panel shall be appointed by the Board and shall consist of seven members as follows:</p> <ul style="list-style-type: none"> • A person who will serve as Chair of the Panel nominated by the Board and who has been approved by the responsible Minister under subsection 150E(1)(b) of the Dairy Industry Restructuring Act 2001 (“DIRA”) so long as such provision remains in force; • One Director of Fonterra who was elected to the Board under clause 12.2 of the Constitution; • One Director of Fonterra who was appointed to the Board under clause 12.4 of the Constitution; • Two appropriately qualified appointees of the Council (“Council Appointees”), of which at least one must be independent (as defined in DIRA); and • Two persons (who must be independent, as defined in DIRA) nominated by the responsible Minister for appointment as members of the Panel under subsection 150E(1)(a) of DIRA so long as such provision remains in force, or, in the event that the Chair of the Panel is a member nominated by the responsible Minister, three persons (who must be independent, as defined in DIRA) nominated by the responsible Minister for appointment as members of the Panel under subsection 150E(1)(a) and (d) of DIRA so long as such provisions remain in force (the “Minister’s Appointees”). <p>The Board may designate one or more Directors of Fonterra to attend meetings of the Panel and receive papers and other materials provided to the Panel as a non-voting observer by written notice to the Chair of the Panel.</p> <p>The Chair of the Panel must be independent (as defined in DIRA) and must not have a “meaningful association” with Fonterra or a Fonterra shareholding farmer in accordance with subsection 150E(2A) of DIRA for so long as such provision remains in force.</p>

	<p>The Chair of the Board will recommend Directors for membership of the Panel to the Board. The Chair of the Council, following consultation with the Chair of the Board and Chair of the Panel, will recommend the Council Appointees for membership of the Panel to the Board.</p> <p>Prior to forwarding a recommendation for any Council Appointee, the Chair of the Council will consult with the Chair of the Board and the Chair of the Panel in connection with the recommendation. It is acknowledged that, in arriving at a recommendation, the Chair of the Council must seek the views of the Council's Leadership Team.</p> <p>The Board will confirm the appointment of the Council Appointees to the Panel and, in doing so, shall take into account the qualification criteria set out below and the other terms of these Terms of Reference.</p> <p>The Council Appointees are not advocates for the Council or shareholder suppliers. Each Council Appointee must act in good faith, with due care and skill, in the best interests of Fonterra and in accordance with these Terms of Reference and the Constitution.</p> <p>Members of the Milk Price Panel must observe disclosure rules applicable to Directors for disclosure of interests in Fonterra securities as well as all restrictions on trading imposed upon Directors.</p> <p>Appropriate qualifications and experience for appointment to the Panel may include, but are not limited to:</p> <ul style="list-style-type: none"> • Relevant commercial and financial expertise; • Appropriate standing in the farming and / or wider commercial community; and • Appropriate professional qualifications.
Avoidance of Conflicts	<p>Members of the Panel must be able to act without an actual or perceived inappropriate conflict of interest. The following considerations must be taken into account in determining whether an individual is appropriate to serve as a member of the Panel.</p> <p>A member of the Panel must not be a director, officer, employee, shareholder, or holder of a relevant interest (as defined in the DIRA) in any security of, supplier of milk to, or consultant or advisor to, any independent processor (as defined in the DIRA) either during the term of appointment or at any time during the two years prior to appointment. A person is a "supplier of milk" to an independent processor if they have a direct or indirect financial interest in a farm that supplies milk to an independent processor.</p>
Term of Appointments	<p>It is intended that members of the Milk Price Panel be appointed for at least two years. The Chair of the Panel, the Board and the Council will work together to ensure that, where possible, there are no more than two new Panel members each year.</p>
Milk Price Responsibilities	<p>The Panel shall:</p> <ol style="list-style-type: none"> 1. Oversee the governance of the Milk Price and the Milk Price Manual, including undertaking reviews of the Milk Price and the Milk Price Manual, and any changes to the Manual, either as required by the Milk Price Manual or as considered appropriate by the Panel; 2. Report to the Board on the Panel's review and assessment of the application of the Milk Price Manual and the Milk Price Principles; 3. Supervise the calculation of the base milk price (as defined in DIRA) and make a recommendation on it to the Board;

4. Make recommendations to the Board in respect of the Milk Price Manual, including any recommendation that it should be amended and any recommendation that a proposed amendment should not be made;
5. Provide to the Board an assurance that there were no matters brought to the attention of the Panel which indicate:
 - a. that the Milk Price has not been calculated in accordance with the processes provided in the Milk Price Manual; or
 - b. that a change to the Milk Price Manual is required.
6. Review the external and internal audit programmes implemented in respect of the Milk Price;
7. Oversee appropriate Milk Price validation and reporting processes;
8. Advise the Board on levels of authority of the Milk Price Group and any other person or group requiring authority under the Milk Price Manual;
9. Establish protocols and policies required to be established by the Panel under the terms of the Milk Price Manual;
10. Recommend to the Board the appointment of the Milk Price Group;
11. Approve the terms of engagement of the Milk Price Group;
12. Provide recommendations to the Board on matters of disclosure in connection with the Milk Price and the Milk Price Manual, including changes to the Milk Price Manual;
13. Issue an Annual Report to the Board each year on the operations of the Panel;
14. Undertake any duties and obligations required of it by DIRA and, in a timely manner, any action which is a prerequisite to Fonterra undertaking any of its duties or obligations required by DIRA.

The Chair of the Panel, a representative of the Milk Price Group and the Council Appointees (if practicable) will meet with the Council at least twice per year to provide an overview of the Panel's activities, including providing an outline of the proposed work plan, discussing relevant Milk Price issues (including any prospective changes to the Milk Price Manual), and presenting the Panel's Annual Report. The Council Chair will liaise with the Chair of the Panel after the Fonterra Annual Meeting to set dates for the two meetings.

The Chair of the Panel will present to the Council the Panel's Annual Report provided to the Board as well as any other appropriate matters as requested by the Chair of the Council or its Leadership Team.

The Panel has no authority or responsibility to determine the Milk Price, which is a decision reserved to the Board.

The Panel discharges its responsibilities inter alia by giving advice to the Board to assist the Board to fulfil the obligations imposed on it under the Constitution. In relation to this advice, the Panel does not have any authority to commit the Board to implementation of such advice. In addition, the Panel is not responsible for supervising the performance of management and will not become involved in day-to-day operations or management functions and decision making outside these Terms of Reference.

The Panel should be vigilant to ensure that issues that are properly the province of the full Board are dealt with at the full Board.

Meetings	<p>The Panel shall meet at such times as the Chair of the Panel shall deem necessary in order to fulfil its duties. The meeting times will be provided to the Council.</p> <p>A quorum of the Panel is four members, including one Director and one Council Appointee.</p> <p>Subject to the provisions of these Terms of Reference, meetings of the Panel shall be conducted in accordance with clause 36 of the Constitution.</p> <p>It is intended that decisions of the Panel in relation to advice and recommendations to the Board will be supported by all Members. Where this is not possible, decisions of the Panel will be by simple majority.</p> <p>Where two of the members of the Panel (the “dissenting members”) do not agree with a decision of the majority and consider the decision to be material, the dissenting members may refer the decision to the dispute resolution process provided for in these Terms of Reference within 14 days of the date of the Panel’s decision.</p> <p>In the event of a deadlock on any decision of the Panel which is considered to be material by any member of the Panel, that member of the Panel may refer the decision to the dispute resolution process provided for in these Terms of Reference within 14 days of the date that the deadlock arose.</p>
Council Appointee Reporting	<p>The Council Appointees will:</p> <ul style="list-style-type: none"> • provide assurances to the Council that the Panel has acted in accordance with these Terms of Reference; and • following consultation with the Chair of the Panel, liaise with the Chair or the Leadership Team of the Council on any proposed changes to the Milk Price Manual.
Authority	<p>The Panel is authorised by the Board to undertake any activity within its Terms of Reference.</p> <p>The Panel shall have the authority to direct any special investigations deemed necessary by itself or the Board within its Terms of Reference.</p> <p>The Panel shall have unrestricted access to the Chief Financial Officer and management and the ability to consult independent experts where considered necessary to carry out its duties.</p> <p>The Panel is authorised by the Board to obtain independent professional advice and to secure the attendance at meetings of persons with relevant experience or expertise if it considers this necessary.</p> <p>For the avoidance of doubt, nothing in these Terms of Reference affects the roles, powers and functions of the Council under the Constitution.</p>
Confidentiality	<p>Apart from matters the Panel is required to report upon to the Board, or other parties in accordance with these Terms of Reference or the Constitution, all deliberations of the Panel shall remain confidential unless otherwise agreed by the Chair of the Panel.</p> <p>The Council Appointees and the Minister’s Appointees shall each be required to execute a deed or agreement containing confidentiality obligations as a condition of appointment.</p> <p>The Panel shall provide reports to the Board on its deliberations, together with the minutes of its meetings.</p> <p>Subject to the other provisions of these Terms of Reference, the Chair of the Panel, the Council Appointees and the Minister’s Appointees shall not</p>

	have any authority to report or communicate in any way on the proceedings of the Panel to any other third party (including, in the case of the Council Appointees, the Council).
Dispute Resolution Process	<p>In the event that two members of the Panel do not agree with a decision of the majority of the Panel or in the event of a deadlock on any decision of the Panel then:</p> <ul style="list-style-type: none"> • The Panel should seek appropriate advice (from management or independent advisors) with a view to resolving the issue; • If the matter is not resolved and the dissenting members or any member of the Panel (in the case of a deadlock) considers it to be material and wishes to invoke the dispute resolution process, then they must immediately (and at least within 14 days of the Panel's original decision or deadlock (as applicable)) refer the matter to the Chair of the Panel and the Chairs of the Board and the Council (collectively, the "Chairs"); • The Chairs will seek to resolve the issue. Subject to obtaining appropriate confidentiality undertakings, the Chairs shall have all necessary authority to seek information and take advice as appropriate to determine the materiality of the dispute, and to determine a resolution; • Once the Chairs agree on a resolution the matter will be treated as fully resolved in accordance with that agreement; and • If the Chairs cannot agree on a resolution of the matter the opposing views must be fully disclosed to the Board (supported by reasons). The dissenting members or any member (in the case of a deadlock) would have the right to present their position to the Board should they require. <p>Any member of the Panel referring a dispute to the Chairs shall be entitled to share, on a confidential basis, sufficient information to enable the Chairs to understand and deal with any such concerns.</p> <p>All discussions between the Chairs shall be treated confidentially, subject to these Terms of Reference. However, the Chair of the Panel may inform the Board of any disputes referred to the Chairs by members of the Panel, and both the Board and the Council shall be advised of the outcome of any dispute resolution activities.</p> <p>In the event that a deadlock is not resolved in accordance with the dispute resolution process, the relevant decision shall not be made and the status quo shall prevail.</p>
Secretarial	The Chair of the Panel shall from time to time nominate a suitable person for appointment by the Panel as its Secretary.