

☐ telephone in date: 7/7/11 time: 3:00pm to: 4:01pm units: _____
☐ telephone out full name of author: KTG
☐ teleconference client: Baurig Old Limited
☒ conference/meeting matter: NM/Executive remuneration strategy
☐ court attended: S Murray, J Orchard, M Tuttle

S Murray — brief was received by NR ~~reg~~.
 - viewed as labour party supporters
 - close working r/ship with ALP
 - LNP indicated Board + senior exec will go

- provide advice to senior executive —
 - Board using Clutz
 - Clutz conservative

Shara — in house lawyer +
 - company secretary

1. why do they stay for the next 12 months;
 2. what benefits do they get on termination

Looking for: financial benefits up front +
 on termination

BUT provided Board is not
 exposed to ASIC investigation

- Clutz suggesting \$ 20-30% increase
 - proposed extension to current agreements

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Looking at term - don't want it to be too unreasonable.

- 1- upfront increase
2. protection that kicks in as a result of some trigger ^{for when the Board} that does not want to pay out termination payments

Allowing current Board to approve termination payments

Remuneration strategy.

1. Protection
2. Retention

Obligations:

- (1) nothing to breach duties to company
- (2) Corps Act limits

20-30% not unreasonable - on the basis that the term would not be extended

Increase benefit w/o increasing term.

* Share to provide us @ Clutz advice.

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Election - maybe March / April
- racing unlikely to be high on the agenda
- 3-4 months before new govt likely to transition
- puts us into 12/13 financial year

Agreement that concluded in 2013 or 2014 fairly long agreement

Trigger point - change of Govt

Term - extend by 6-12 months

Before 1 July 2012 - mechanism to address

→ would an extension now be reasonable as opposed to an extension around 1 July 2012?

currently they have a resolution where they have agreed to extend through to June 2014 - they have valid reasons for this

Since then there is some industry discussion about who will replace who etc.

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Strategy:

1 - making the amount of termination pay enough to avoid shareholder approval under corps act

2 - work in entitlements that are not "benefits" under the Corps Act (eg redundancy that applies to all employees)

3 - put in a ^{adverse} material change clause triggered by employee ^{adverse} material change
(a) must be a material change
→ we may be able to put in a trigger
→ removing control body licence (which it is expected the LNP will do)

→ operational restructures
(b) written in favour of the executive - this is part of the normal course of things

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material adverse change clause -
tax implications - to the extent that
we are able to, we could structure it
as a redundancy payment

2nd prong - to take a market based
approach to the remuneration
(Ernst + Young keep a record of
market rates)

Courts + media are taking a greater
interest in these payments so the
more that a Board can say that
they are getting external advice,
then the safer they will be.

- Attempt where possible to have this in
place (bigge) with the current board
- maybe the achievement of milestones
(eg a long term incentive)
- they will make them fight for their
entitlements

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- unconscionable ^{the new board} - may be try to set aside contract

- They want to avoid having to fight (eg through the courts) if they simply won't pay

- payments not in connection with termination?

what about performance based pay?
In a normal environment - structured outcomes etc.

Retainer payment

Increase to TRV - upfront - Board is not opposing that

Main concern is having difficulties in ensuring that entitlements flow to them in change of govt.

Maybe structure the clause so that trigger is in the knowledge of an impending material adverse change (current Board still there)

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policy approach not sufficient for current Board

Executive to trigger - this will be the safety net

Challenge - what the board can do...
 - why would it do it
 - will an extra benefit net compromise them

Trigger point - under a govt @ a stated policy (LNP would win)

no - MSP doesn't think this - calling an election -
 the argument would have to be obvious
 - outcome of the election as a trigger - in conjunction with other material.

- evidence of strength of their stated position

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* Shara will provide policy platform - HANSARD

Action plan

NR to digest and advise on options
then test market (maybe)

Time frame - sooner the better
- next week.

- contact: Shara

Shara

US

Clutz advice

- ICS

Hansard

- ROL as

Evidence

client at

Draft advice to Board

this stage

Draft administrative structure