



Forestlands (No.12) Limited (In Liquidation)

Liquidators' second report

Company No. 1970728

3 April 2019

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Glossary

Term	Definition
Associated parties	Forestlands N.Z. Limited and other entities associated with Mr Kearns
B shareholders	Investors who subscribed to the forestry shares with rights and restrictions attached to each share pursuant to the terms of the prospectuses issued by each of the Forestlands companies 2-20 below.
Company	Forestlands (No.12) Limited (In Liquidation)
F12	Forestlands (No.12) Limited (In Liquidation)
F2-20	Forestlands (No.2) Limited, Forestlands (No.3) Limited, Forestlands (No.4) Limited, Forestlands (No.5) Limited, Forestlands (No.6) Limited, Forestlands (No.7) Limited, Forestlands (No.8) Limited, Forestlands (No.9) Limited, Forestlands (No.10) Limited, Forestlands (No.11) Limited, Forestlands (No.12) Limited, Forestlands (No.14) Limited, Forestlands (No.15) Limited, Forestlands (No.16) Limited, Forestlands (No.17) Limited, Forestlands (No.18) Limited, Forestlands (No.19) Limited, Forestlands (No.20) Limited.
Forestlands Group companies or Forestlands Group	Forestlands companies F2-20 above
FNZ	Forestlands N.Z. Limited



1.1 Introduction

Neale Jackson and Grant Robert Graham ('Liquidators'), Accredited Insolvency Practitioners, were appointed Joint and Several Liquidators of the Company by order of the High Court, Nelson on 6 September 2018 pursuant to Section 241(2)(c) of the Companies Act 1993 ('the Act') on the application of the Financial Markets Authority ('FMA'). The Liquidators are also the liquidators of other related companies in the Forestlands group.

We understand that prior to Liquidation a solvency certificate was signed by the Company's director. We have not seen this but on the face of the draft financial statements the Company appears to be solvent.

This is the Liquidators' second report. It covers the period 6 September 2018 to 5 March 2019.

The Liquidators other reports, and other information relevant to the liquidations of the Forestlands companies, can be found on the KordaMentha website:

<https://www.kordamentha.com/creditors/forestlands-2-20>

1.2 Restrictions

This report has been prepared by us in accordance with and solely for the purposes of Section 255(2) of the Companies Act 1993.

In compiling this report we have relied on the accuracy of all relevant information provided by the Company. We have not independently audited or verified that information and express no opinion on its accuracy, completeness or reliability.

We do not accept any liability whatsoever from this report.

All information contained in this report is for the confidential use of the parties to which it is provided in accordance with Section 255(2) of the Companies Act 1993 and is not to be disseminated or passed to any other person without prior written authority or in accordance with law.

We reserve the right (but will be under no obligation) to review this report and if we consider it necessary to revise the report in light of any information existing at the date of this report which becomes known to us after that date.



01

Shareholder confirmation process (section 3)

- The accuracy of share registers needs to be confirmed before payments can be made to shareholders.
- In October 2018 we initiated a process to confirm share holdings and shareholder details, to correct discrepancies in the share registers that were held by the Forestlands companies on the date of liquidation. This process continues.

02

Payment of a first interim distribution (section 3)

- On 11 April 2019 a first interim distribution of \$700 per share will be paid to shareholders in F12 who completed the confirmation process by the cut-off date.
- Shareholders who subsequently complete the confirmation process will be paid in future payment runs, relative to the date they complete the process.

03

Unsecured creditor claims (section 4)

- Creditors have been paid if they have filed claims in the liquidation and the claims have been admitted.

04

Reporting to shareholders

- Our reports dated 11 October 2018 provided a comprehensive explanation of the events leading up to the forests being sold and the value each company received from the sale, how the resulting sale proceeds were used and the draft financial position for each company.
- These reports can be found on the KordaMentha website.

05

Investigations into assets and potential claims

- We have completed a thorough investigation of the Company's affairs, and the affairs of other Forestlands group companies.
- This investigation identified opportunities to recover funds from related parties and the legal basis on which those recoveries could be pursued.

06

Recovery of funds for shareholders (section 5)

- Legal proceedings against various parties have been prepared, to pursue recoveries.
- A settlement of the claims we identified has been agreed. The settlement is in the best interests of shareholders. It provides certainty on the outcome, avoids the inherent uncertainty and cost associated with pursuing claims through the Courts, and will deliver a quicker return than Court proceedings.

Shareholder confirmation process

- There are approximately 4,500 individual shareholders of the Forestlands companies, holding approximately 9,000 parcels of shares. In order to distribute funds to shareholders, we need to establish an accurate register of the shares held and other relevant details.
- The share registers we were provided with on our appointment as liquidators were largely out of date and did not contain sufficient information for us to be able to pay a distribution to shareholders. The registers had not been properly maintained for at least two years before we were appointed. For example, there were approximately 1,800 emails requesting changes to shareholder details for Forestlands group companies which had not been processed.
- The register we were provided for this Company recorded the following:

<u>Company</u>	<u>Total shares issues</u>	<u>No. of shareholders</u>
F12	1,400	640

- In October 2018 we wrote to the approximately 4,500 shareholders across the 18 Forestlands companies, providing details of the information held in the companies' records and seeking confirmation of, or advices of changes to, those details. Of the responses received, approximately 90% have resulted in us needing to update or correct the details contained in the shareholder register.

- At the date of this report, the status of the confirmation process for this Company is as follows:

	<u>% of shareholders</u>	<u>% of shares</u>
Confirmation process completed	69	75
Missing information	31	25

- The confirmation process has been time consuming. We appreciate the patience shown by shareholders as we work toward paying all eligible shareholders their share of the funds available in the liquidation.

First interim distribution payment to shareholders

- We obtained the approval of the High Court to interim distributions being paid to shareholders progressively as shareholders complete the confirmation process. The Court order is attached to this report as Appendix 2.
 - The Court order was needed because the law requires any distributions to shareholders to be paid at the same time – i.e. at law, all shareholders must be paid the same amount per share on the same day.
 - Without the Court order, no shareholder could have been paid a distribution until all shareholders had completed the confirmation process.
- We obtained the Court order because we considered it unfair for shareholders who had completed the confirmation process to have to wait to be paid a distribution. We obtained the Court order as soon as we were in a position to declare a distribution and could be confident that we could properly protect the interests of shareholders who would be paid at a later date.
- When calculating the first interim distribution, we have allowed for the amount that we estimate unpaid shareholders will be entitled to receive. We will hold that amount in our trust account. Shareholders who are paid later will therefore receive the same amount as shareholders who are paid earlier. We will be able to make payments to shareholders when they properly complete the shareholder confirmation process.
- In the first interim distribution for F12, eligible shareholders will be paid \$700 per share.
- In the first tranche of payments, interim distribution payments will be made to 442 of the Company's shareholders, totalling \$731,500.
- In total across the Forestlands group companies, 2,735 shareholders will receive payments in the first interim distribution.
- Payments in this first interim distribution have been adjusted for amounts shareholders are owed by the Company or which they owe to the Company, to ensure that all shareholders are treated equally:
 - Some shareholders must be repaid money that they paid in advance for administration fees relating to years after the forests were sold. Refunding these amounts means that these shareholders are in the same position as shareholders who were paying their fees annually.
 - Some shareholders owe money on the original purchase of their shares or for administration fees that have not been paid in prior years. These amounts must be recovered so these shareholders are in the same position as all other shareholders.



-
- We expect the payments we are currently making will be a first interim distribution. We expect there will be future distributions.
 - The first interim distribution is being paid from the available assets already on hand, which is the residual cash remaining available from the sale of the forests. In calculating the first interim distribution, we have allowed for several factors including a provision for future costs and the fact that 31% of shareholders are yet to complete the confirmation process.

- Five unsecured creditors filed claims against the Forestlands companies.
- All claims have been admitted into the liquidations and paid. Paying the claims promptly reduces the amount of interest that accrues on these claims.
 - The value of the claims filed by creditors and admitted in the liquidation is greater than the amount recorded in the company’s records (refer section 4 of our first report).
 - We noted in our first report that Leaders Real Estate (1987) Ltd (‘Leaders’) lodged unsecured creditor claims against F2-20 in respect of commission on the sale of the forests but that commission was owing under an agency agreement with FNZ. On the basis of legal advice we received, we admitted Leaders’ claims and they have been paid by F2-20.
- Aside from IRD, the creditors had claims against F2-20. Where necessary we have used an appropriate methodology to allocate to each Forestlands company the total amount claimed by a creditor, so each Forestlands company bears a fair proportion of the total amount claimed.
- The table below shows:
 - the total value of each creditor’s claim against F2-20;
 - the total amount the creditor has been paid;
 - the amount this Company paid each creditor and (where relevant) how each Forestlands company’s contribution was calculated.

Creditor	Total claimed	Total paid	Amount paid by F12	Allocation calculation
Creditor 1	26,025	26,499	2,397	Pro-rata to interest earned while funds were held by Anthony Harper in its Trust account. This creditor was settled outside the reporting period. Accordingly it does not appear in the receipts and payments account in Appendix 1
Creditor 2	1,650	1,708	101	As claimed
Creditor 3	373,175	376,794	32,943	Pro-rata to each company's share of land value and forest value (as detailed in our first report)
Creditor 4	14,530	14,624	1,284	Pro-rata to each company's share of land value and forest value (as detailed in our first report)
Creditor 5	140,176	141,084	3,874	Pro-rata to each company's share of land value and forest value (as detailed in our first report)
Total	555,556	560,709	40,598	

The ‘Total Paid’ includes interest



- We have completed a detailed investigation into the affairs of the Forestlands companies and Forestlands NZ Ltd (for which we are also the liquidators).
- In our first report (dated 11 October 2018), we explained that the financial accounts of F2-20 showed that they were each owed money by FNZ and other entities associated with Mr Kearns (which we collectively referred to as 'Associated Parties').
- Our investigations have particularly focused on these balances and the underlying transactions. We have conducted a detailed analysis tracing funds as they were moved around the Forestlands companies and between the Forestlands companies and associated parties.
- As a result, we identified a number of claims that we believe F2-20 and Forestlands companies could pursue against various parties, including Mr Kearns and Associated Parties. We prepared legal proceedings to pursue those claims.
- Those other parties deny liability in respect of the claims we have identified. Some of them have also advised that they believe they have counter-claims that they could bring against the Forestlands companies. We deny those counter-claims are valid.
- We have negotiated a settlement with Rowan Kearns and Associated Parties. The terms of the settlement are confidential, subject to certain specified exclusions.
- The settlement amount will be disclosed in the statement of receipts and payments issued to shareholders in our future statutory reports that cover the period in which the funds are received (in accordance with the requirements of the Companies Act).
- We agreed the settlement because it is in the best interests of F2-20 and their shareholders. It provides certainty on the outcome. It avoids the inherent uncertainty and cost that would be associated with pursuing claims through the Courts. It will also deliver a quicker return to shareholders than would be achieved if the claims were pursued in Court.
- In the event the settlement terms are not complied with, we will need to reconsider our options to recover funds for shareholders.



Forestlands (No. 12) Limited (In Liquidation)

Statement of Liquidators' receipts and payments from 6 September 2018 to 5 March 2019

	\$
Receipts	
Opening Balance	0
Interest received	6,685
Cash on hand at date of appointment	1,500,648
Total Receipts	1,507,334
Payments	
Funding for investigation costs	2,450
Other costs	978
Interest paid to unsecured creditors	350
Legal costs	5,793
Liquidators' remuneration	31,057
RWT	2,171
Distribution to unsecured creditors	37,851
Total Payments	80,651
Net Cashflow	1,426,683
Closing Balance	1,426,683



DUPLICATE

IN THE HIGH COURT OF NEW ZEALAND
AUCKLAND REGISTRY

CIV-2019-404- 386

I TE KŌTI MATUA O AOTEAROA
TĀMAKI MAKAURAU ROHE

Under Part 19 of the High Court Rules and section 284 of the Companies Act 1993

In the matter of an application concerning:

FORESTLANDS (NO.2) LIMITED (IN LIQUIDATION) a company having its registered office at Level 16, 45 Queen Street, Auckland Central, Auckland 1010, New Zealand and which carried on business as a forest owner

And

FORESTLANDS (NO.3) LIMITED (IN LIQUIDATION) a company having its registered office at Level 16, 45 Queen Street, Auckland Central, Auckland 1010, New Zealand and which carried on business as a forest owner

Continued overleaf

In the matter of an application by **NEALE JACKSON** and **GRANT ROBERT GRAHAM** of Auckland, as liquidators

Applicants

COURT ORDERS UNDER s 284 OF THE COMPANIES ACT 1993

Dated: 8 March 2019



BUDDLEFINDLAY
NEW ZEALAND LAWYERS
Barristers and Solicitors
Auckland

Solicitor Acting: **D T Broadmore / H C M S Snell**
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E-mail david.broadmore@buddlefindlay.com / hugo.snell@buddlefindlay.com

- And **FORESTLANDS (NO.4) LIMITED (IN LIQUIDATION)** a company having its registered office at Level 16, 45 Queen Street, Auckland Central, Auckland 1010, New Zealand and which carried on business as a forest owner
- And **FORESTLANDS (NO.5) LIMITED (IN LIQUIDATION)** a company having its registered office at Level 16, 45 Queen Street, Auckland Central, Auckland 1010, New Zealand and which carried on business as a forest owner
- And **FORESTLANDS (NO.6) LIMITED (IN LIQUIDATION)** a company having its registered office at Level 16, 45 Queen Street, Auckland Central, Auckland 1010, New Zealand and which carried on business as a forest owner
- And **FORESTLANDS (NO.7) LIMITED (IN LIQUIDATION)** a company having its registered office at Level 16, 45 Queen Street, Auckland Central, Auckland 1010, New Zealand and which carried on business as a forest owner
- And **FORESTLANDS (NO.8) LIMITED (IN LIQUIDATION)** a company having its registered office at Level 16, 45 Queen Street, Auckland Central, Auckland 1010, New Zealand and which carried on business as a forest owner
- And **FORESTLANDS (NO.9) LIMITED (IN LIQUIDATION)** a company having its registered office at Level 16, 45 Queen Street, Auckland Central, Auckland 1010, New Zealand and which carried on business as a forest owner
- And **FORESTLANDS (NO.10) LIMITED (IN LIQUIDATION)** a company having its registered office at Level 16, 45 Queen Street, Auckland Central, Auckland 1010, New Zealand and which carried on business as a forest owner
- And **FORESTLANDS (NO.11) LIMITED (IN LIQUIDATION)** a company having its registered office at Level 16, 45 Queen Street, Auckland Central, Auckland 1010, New Zealand and which carried on business as a forest owner
- And **FORESTLANDS (NO.12) LIMITED (IN LIQUIDATION)** a company having its registered office at Level 16, 45 Queen Street, Auckland Central, Auckland 1010, New Zealand and which carried on business as a forest owner
- And **FORESTLANDS (NO.14) LIMITED (IN LIQUIDATION)** a company having its registered office at Level 16, 45 Queen Street, Auckland Central, Auckland 1010, New Zealand and which carried on business as a forest owner
- And **FORESTLANDS (NO.15) LIMITED (IN LIQUIDATION)** a company having its registered office at Level 16, 45 Queen Street, Auckland Central, Auckland 1010, New Zealand and which carried on business as a forest owner
- And **FORESTLANDS (NO.16) LIMITED (IN LIQUIDATION)** a company having its registered office at Level 16, 45 Queen Street, Auckland Central, Auckland 1010, New Zealand and which carried on business as a forest owner

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- And **FORESTLANDS (NO.17) LIMITED (IN LIQUIDATION)** a company having its registered office at Level 16, 45 Queen Street, Auckland Central, Auckland 1010, New Zealand and which carried on business as a forest owner
- And **FORESTLANDS (NO.18) LIMITED (IN LIQUIDATION)** a company having its registered office at Level 16, 45 Queen Street, Auckland Central, Auckland 1010, New Zealand and which carried on business as a forest owner
- And **FORESTLANDS (NO.19) LIMITED (IN LIQUIDATION)** a company having its registered office at Level 16, 45 Queen Street, Auckland Central, Auckland 1010, New Zealand and which carried on business as a forest owner
- And **FORESTLANDS (NO.20) LIMITED (IN LIQUIDATION)** a company having its registered office at Level 16, 45 Queen Street, Auckland Central, Auckland 1010, New Zealand and which carried on business as a forest owner



BF0381666/1

**COURT ORDERS UNDER SECTION 284
OF THE COMPANIES ACT 1993**

1. The originating application without notice made by **NEALE JACKSON** and **GRANT ROBERT GRAHAM**, as liquidators of Forestlands (No.2) Limited, Forestlands (No.3) Limited, Forestlands (No.4) Limited, Forestlands (No.5) Limited, Forestlands (No.6) Limited, Forestlands (No.7) Limited, Forestlands (No.8) Limited, Forestlands (No.9) Limited, Forestlands (No.10) Limited, Forestlands (No.11) Limited, Forestlands (No.12) Limited, Forestlands (No.14) Limited, Forestlands (No.15) Limited, Forestlands (No.16) Limited, Forestlands (No.17) Limited, Forestlands (No.18) Limited, Forestlands (No.19) Limited and Forestlands (No.20) Limited (together, the "**Forestlands Entities**"), on the 6th day of March 2019 was determined by the Honourable *Justice Lang* on the *8* day of *March* 2019.
2. The determination was made without a hearing.
3. The following orders were made:
 - (a) Upon the liquidators authorising a dividend in respect of all the class B shares of the Forestlands Entities:
 - (i) the liquidators are not required to pay the dividend to any of the class B shareholders who at that time have not proven their shareholding to the satisfaction of the liquidators or have not provided payment instructions to the liquidators.
 - (ii) the liquidators are required to pay the dividend:
 - (1) as soon as practicable to the class B shareholders who at that time have proven their shareholding to the satisfaction of the liquidators and have provided to the liquidators all information required to enable payment to be made (including payment instructions); and



BF0381666/1

- (2) to the class B shareholders who subsequently prove their shareholding to the satisfaction of the liquidators, as soon as practicable after those shareholdings are proven and the liquidators have been provided with all other information required to enable payment to be made (including payment instructions).

Date: 8 March 2011

Signature: 
SHAOREEQ ALI
DEPUTY REGISTRAR
(Registrar/Deputy Registrar)



	Rate	General Admin		Court		Shareholders - Inc Confirmation Process		Creditors		Investigations		Report Writing		Regulatory Bodies		Total	
		Hours	Charge	Hours	Charge	Hours	Charge	Hours	Charge	Hours	Charge	Hours	Charge	Hours	Charge	Hours	Charge
Partner	550	1.1	584	0.2	116	1.2	668	0.0	21	0.6	340	0.8	445	0.2	109	4.1	2,282
Executive Director, Director, Associate Director	485	3.9	1,886	1.1	531	5.5	2,654	0.6	282	1.7	818	3.9	1,872	1.1	525	17.7	8,568
Manager	385	2.8	1,088	0.0	-	11.0	3,864	4.0	1,539	0.1	28	1.0	385	0.0	-	18.9	6,903
Executive Analyst	315	0.0	11	0.0	-	0.4	137	0.0	-	0.0	-	0.0	-	0.0	-	0.5	147
Senior Business Analyst	250	3.9	985	0.0	-	5.9	1,486	0.1	20	0.8	211	2.2	541	0.1	24	13.1	3,267
Business Analyst	190	5.0	942	0.0	-	14.9	2,837	0.5	101	0.4	71	0.6	106	0.0	-	21.3	4,056
Support Staff	90	8.2	726	0.0	-	56.3	5,070	0.4	37	0.0	-	0.0	-	0.0	-	64.8	5,833
Grand Total		24.9	6,221	1.3	647	95.2	16,715	5.6	2,000	3.6	1,467	8.4	3,349	1.4	658	140.4	31,057

