

I TE KOTI MATUA O AOTEAROA
TĀMAKI MAKĀURAU

Under Part 19 of the High Court Rules and sections 255, 257 and 284(1)(a) 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, both Chartered Accountants for
orders under ss 255 and 257 of the Companies Act 1993

Applicants

**ORIGINATING APPLICATION WITHOUT NOTICE FOR ORDERS UNDER
SECTIONS 255 AND 257 OF THE COMPANIES ACT 1993**

Dated: 20 September 2018

BUDDLE FINDLAY
NEW ZEALAND LAWYERS
Barristers and Solicitors
Auckland

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- 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

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

To: The Registrar of the High Court at Auckland

This document notifies you that –

1. The applicants, **Neale Jackson** and **Grant Robert Graham**, of Auckland, Chartered Accountants, apply for orders:
 - (a) That the requirements under ss 255(2)(c)(ii) and (d) and 257(1) of the Companies Act 1993 ("**Act**") relating to the sending of the liquidators' reports and all other documents required to be sent under those sections (together, the "**Liquidators' Reports**"), be modified such that where the applicants hold an email address for a creditor or shareholder of the entities that are the subject of this application:
 - (i) the applicants are not required to send that creditor or shareholder the Liquidators' Reports; and
 - (ii) if the applicants do not send that creditor or shareholder the Liquidators' Reports, the applicants must send that creditor or shareholder an email with a link to a website where copies of the Liquidators' Reports can be downloaded.
 - (b) That, where the applicants hold an email address for a creditor or shareholder of the entities that are the subject of this application, the applicants are permitted to send any other documents or correspondence to those creditors and shareholders by electronic means, in addition to all other methods permitted by the Act.
 - (c) That the Liquidators' Reports be uploaded to the website of KordaMentha at <https://www.kordamentha.com/> as soon as practicable after they have been prepared.
 - (d) That the applications and sealed orders in this proceeding be sent to every known creditor and shareholder of the entities that are the subject of this application at the same time and in the same manner (as modified by 1(a) above) as the documents listed in s 255(2)(c)(ii) of the Act.
 - (e) That any creditor or shareholder of the entities that are the subject of this application is granted leave to apply to the Court within 15 working days of such service referred to in 1(d) above to modify or discharge these orders on appropriate notice being given to the applicants.

- (f) That leave is reserved for the applicants to apply further in respect of any ancillary orders.
- (g) That the applicants' solicitor-client costs of this application be an expense incurred by the applicants in carrying out their duties as liquidators.

2. The grounds on which each order is sought are as follows:

(a) On 6 September 2018 the applicants were appointed by the Court under s 241(2)(c) of the Act as the liquidators of the following entities (each a "**Forestlands Entity**" and together, the "**Forestlands Entities**"):

- (i) Forestlands (No.2) Limited;
- (ii) Forestlands (No.3) Limited;
- (iii) Forestlands (No.4) Limited;
- (iv) Forestlands (No.5) Limited;
- (v) Forestlands (No.6) Limited;
- (vi) Forestlands (No.7) Limited;
- (vii) Forestlands (No.8) Limited;
- (viii) Forestlands (No.9) Limited;
- (ix) Forestlands (No.10) Limited;
- (x) Forestlands (No.11) Limited;
- (xi) Forestlands (No.12) Limited;
- (xii) Forestlands (No.14) Limited;
- (xiii) Forestlands (No.15) Limited;
- (xiv) Forestlands (No.16) Limited;
- (xv) Forestlands (No.17) Limited;
- (xvi) Forestlands (No.18) Limited;
- (xvii) Forestlands (No.19) Limited; and
- (xviii) Forestlands (No.20) Limited.

- (b) This application is necessary because:
- (i) the applicants must prepare and send to every known creditor, every shareholder and the Registrar:
 - (1) by 11 October 2018, a first report, a notice and list of creditors (under s 255(2)(c)(ii) of the Act);
 - (2) further six-monthly reports on the conduct of the liquidation and their proposals for completing the liquidation (under s 255(2)(d) of the Act); and
 - (3) as soon as practicable after the conclusion of the liquidation, a final report, statements and a summary of grounds on which the creditor or shareholder may object to the removal of the company from the register (under s 257(1) of the Act),

(together, the "**Liquidators' Reports**"); and
 - (ii) under s 391 of the Act, the Liquidators' Reports cannot be sent by electronic means to shareholders and creditors who are natural persons, unless such service has been requested.
- (c) The Forestlands Entities have approximately 9,000 shareholders in total (although some shareholders own shares in more than one Forestlands Entity such that there are approximately 4,600 different shareholders).
- (d) The cost to send by post separate Liquidators' Reports for each Forestlands Entity to each of the approximately 9000 shareholders and the creditors of the Forestlands Entities would be approximately \$17,000 plus GST on each occasion that the Liquidators' Reports are required to be sent. If the applicants prepare consolidated Liquidators' Reports for all the Forestlands Entities, the cost to send by post each consolidated Liquidators' Reports to each of the approximately 4,600 different shareholders and the creditors of the Forestlands Entities would be approximately \$8,500 plus GST on each occasion that the Liquidators' Reports are required to be sent.
- (e) To date, the applicants have identified email addresses for approximately 700 shareholders, although they may be able to identify up to approximately 3000 further email addresses for shareholders. It

would be efficient and cost-effective if the Liquidators' Reports were not sent to those shareholders but, instead, an electronic link to a website where copies of the Liquidators' Reports can be downloaded is emailed to those shareholders. That would reduce or avoid, particularly where a shareholder or creditor has an interest in multiple Forestlands Entities:


- (i) the risk that the Liquidators' Reports are too large to be received by email; and
 - (ii) the cost of determining which of those creditors and shareholders should be sent Liquidators' Reports for each Forestlands Entities.
- (f) The applicants consider that the cost of sending by post the Liquidators' Reports to every shareholder and creditor of the Forestlands Entities would be a disproportionate expense in the liquidation of the Forestlands Entities, and would unnecessarily diminish any return available to shareholders and creditors.
- (g) Further grounds appearing in the memorandum of counsel filed with this application.
3. This application is filed in reliance on:
- (a) the affidavit of Neale Jackson filed in support of this application;
 - (b) Rules 7.23 and 7.46 and Part 19 of the High Court Rules;
 - (c) Sections 255(3)(c), 255(4) and 257(2) of the Companies Act 1993; and
 - (d) the decisions in *Perpetual Trust Limited v Strategic Finance Limited (In Receivership)* HC Wellington CIV-2010-485-1085, 27 July 2010; *Re FCS Loans Limited (In Liquidation)* [2013] NZHC 1190; *Re Dominion Finance Holdings Limited (In Liquidation)* HC Auckland CIV-2009-404-6606, 1 October 2009 and *Re Pumpkin Patch Limited (In Receivership and Administrator Appointed)* [2016] NZHC 2771.
4. The application is made without notice to any other party on the following grounds:
- (a) that requiring the applicants to proceed on notice would cause undue delay or prejudice to the applicants;
 - (b) that the application relates to a routine matter; and

(c) that the interests of justice require the application to be determined without serving notice of the application.

5. I certify that—

- (a) the grounds set out in paragraph 4 on which the application relies are made out; and
- (b) all reasonable inquiries and all reasonable steps have been made or taken to ensure that the application contains all relevant information, including any opposition or defence that might be relied on by any other party, or any facts that would support the position of any other party.

Dated 20 September 2018


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D T Broadmore / L A O'Gorman
Solicitor for the applicants

This document is filed by **DAVID THOMAS BROADMORE**, solicitor for the applicants, of the firm Buddle Findlay. The address for service of the applicants is at the offices of Buddle Findlay, Level 18, PricewaterhouseCoopers Tower, 188 Quay Street, Auckland. Documents for service on the filing party may be left at that address for service or may be-

- 1. posted to the solicitor at PO Box 1433, Auckland; or
- 2. left for the solicitor at a document exchange for direction to DX CP24024, Auckland; or
- 3. sent to the solicitor by email to david.broadmore@buddlefindlay.com or hugo.snell@buddlefindlay.com.