

Forestlands (No. 5) Limited (In Liquidation) ('the Company')

Company No. 1075941

1 April 2022 | 01130

1. Introduction

Neale Jackson and Grant Robert Graham ('Liquidators'), Licensed 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 ('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' eighth report. It covers the period 6 September 2021 to 5 March 2022 ('the Period').

The Liquidators' other reports, and other information relevant to the liquidations of the Forestlands Group companies, can be found on the Calibre Partners website: <https://www.calibreparters.co.nz/flx-creditor/forestlands-2-20/>.

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.

All references to \$ are in NZD.

3. Background

This report should be read in conjunction with other Liquidators' reports which can be viewed on the New Zealand Companies Office website at <https://companies-register.companiesoffice.govt.nz/>.

Background to the Liquidators' appointment and the actions taken since appointment are detailed in the Liquidators' previous reports.



4. Shareholder confirmation process

A summary of the actions undertaken to establish an accurate share register are detailed in the Liquidators' previous reports.

As previously advised:

- The status of the shareholder confirmation process for this Company is as follows:

	% of shareholders	% of shares
Confirmation process completed	91	94
Missing information	9	6

- We no longer proactively locate or follow up incomplete shareholder information.
- We will continue to process shareholder information that is forwarded to us and make catch up payments for eligible shareholders.
- We believe that the above approach is in the best interests of the shareholder group as a whole and will ensure that we do not incur unnecessary costs.
- 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.

5. Distributions to shareholders

During the Period, the Liquidators did not declare or pay a further distribution to shareholders.

The total amount that has been distributed to date in the liquidation to shareholders is \$380 per share.

Details of previous distributions and the steps taken to facilitate these distributions to eligible shareholders are summarised in our previous Liquidators' reports.

We continue to pay catch-up distributions to shareholders as they complete the confirmation process.

Residual funds are held on trust pending the outcome of the shareholder confirmation process.

6. Asset realisations

As shareholders are aware from our previous updates:

- Rowan Kearns and the Kearns family Trust did not comply with the terms of the settlement agreement that required them to pay the Forestlands Group \$2.05 million.
- We subsequently served Property Law Act notices (in relation to a second-ranking mortgage obtained under the settlement terms) as the first step required in a process that could ultimately lead to a mortgagee sale of the Trust property ('the Property').
- A conditional agreement to sell the Property was in place but did not go unconditional in September 2021.
- Subsequently, the first mortgagee appointed receivers (Rees Logan and Diana Matchett of BDO) ('the Receivers') to the Kearns Family Trust assets – principally being the Property.



The receivership sale of the Kearns-related property

The first mortgagee has the first-ranking right to control the process of realising the Property and to receive (in repayment) any resulting proceeds. The first mortgagee exercised those rights by appointing the receivers.

The Forestlands Group, as the second mortgagee, sits behind the first mortgagee and is entitled to any surplus remaining after the first mortgagee has been repaid what it is owed.

The Property had previously been marketed by Sotheby's and Bayleys Real Estate, at different times. Following their appointment, the Receivers reappointed Bayleys to run an open market sales campaign. The campaign commenced on 21 February 2022 and offers were required by 21 March 2022.

We have very recently been advised that the sale campaign has unfortunately not resulted in a sale that is sufficient to repay the first mortgagee in full. The first mortgagee will not therefore recover what it is owed and no surplus will be available to the Forestlands Group.

Accordingly, no funds are available to the Forestlands Group from the sale of the Property. This is a very disappointing outcome as it means additional funds are not available for distribution to shareholders.

Shareholders will undoubtedly be disappointed by this result, as are we. We cannot disclose the sale value for confidentiality reasons but it will eventually become public, either via the Receivers' reporting or other means.

While the sale value is considerably lower than had previously been determined in a registered valuation (which we had used to assess the available options), the price achieved is from an open market mortgagee sale campaign that has been run by a reputable, experienced real estate agency. We also understand it was a multi-bid situation. The result does therefore represent the value that could be obtained in a mortgagee sale at the time of the sale (as required by law).

It is important to consider whether any further recovery action is warranted. We are considering this now. We know from detailed analysis that we undertook in the early stages of the liquidations that the Kearns Family Trust had no other assets of material value. The most obvious avenue for potential recoveries is therefore to pursue personal claims against Rowan Kearns (and potentially associated parties), pursuant to the settlement agreement.

We will update shareholders by email by mid-May on next steps in the liquidation. Our intention will be to finalise distributions of each Forestlands company's remaining funds to shareholders, whilst progressing any alternative recovery action if that is warranted.

7. Action taken by the Financial Markets Authority ('FMA')

Since appointment, we have worked closely with the FMA and provided information as and when requested to assist with its investigations.

We understand that the FMA continues to progress its action against Mr Kearns, however a trial date is yet to be set.

We are unable to provide any further information to shareholders regarding any further actions the FMA may take at this time.

Should the FMA provide us with additional information and confirm that we can disclose it to shareholders then this will be included in future reports. Otherwise, shareholders should monitor the FMA website for further updates in respect of FMA actions.



8. Future distributions

As noted above, we are currently assessing whether to take further recovery action against Mr Kearns and Associated Parties.

We will write to shareholders by mid-May 2022, to confirm next steps and expectations of further distributions.

9. Creditor claims

All known unsecured creditor claims have been reviewed, admitted, and paid by the Liquidators. Further information is available in the Liquidators' previous reports.

10. Statement of receipts and payments

A statement of receipts and payments for the Period is attached to this report.

11. Summary and estimated date of completion of liquidation

The Liquidators are unable to confirm an estimated date when the liquidation will be completed. As detailed above there are several ongoing matters to resolve before the Liquidators will be in a position to retire.

Should you have any queries regarding the liquidation of the Company, please do not hesitate to contact Joseph Zwaans of this office.

Yours faithfully

Neale Jackson
Joint Liquidator



Statement of receipts and payments

Forestlands (No. 5) Limited (In Liquidation)

Statement of Liquidators' receipts and payments from 6 September 2021 to 5 March 2022

	\$
Opening balance	116,084
Receipts	
Interest received	46
Total receipts	46
Payments	
Accountancy fees	925
Bank charges	61
Income tax	25
Investor distributions	1,140
Legal costs	102
Liquidators' remuneration	3,308
Printing, posting and stationery	57
Storage	29
Total payments	5,646
Net cashflow	(5,600)
Closing balance	110,484

Comprises of:	
Bank balance	109,892
GST	592
Closing balance	110,484



Liquidators' remuneration report

Forestlands (No. 5) Limited (In Liquidation)

Time based charging report

For the period 6 September 2021 to 5 March 2022

Time costs by position and work type

	Hourly rate	General Admin		Shareholders		Reports		Tax/IRD related		Total	
		Hours	Charge	Hours	Charge	Hours	Charge	Hours	Charge	Hours	Charge
Partner	\$ 550	0.5	286	-	-	0.05	26	-	-	0.6	312
Executive Director, Director, Associate	\$ 485	0.1	24	-	-	-	-	-	-	0.1	24
Manager	\$ 385	2.0	779	1.0	371	0.1	36	0.1	50	3.2	1,237
Business Analyst	\$ 190	2.1	401	1.8	349	0.04	7	-	-	4.0	757
Support staff	\$ 90	3.2	284	5.6	505	1.1	99	1.0	90	10.9	978
Total		7.9	1,774	8.4	1,226	1.3	168	1.1	140	18.7	3,308

Disbursements: Disclosed in the Statement of receipts and payments account	Cost
Legal costs	102
Bank charges	16
Printing, postage and IT services	57
Record storage	29
Total	203

Detail of work completed	
General Administration	General case administration including strategy meetings, attending to shareholder queries, distributions to shareholders, processing of day to day receipts and payments and monitoring the asset realisations process.
Shareholders	Matters related to the shareholder confirmation process.
Reports	Compiling statutory reports to creditors and any other reporting requirements.
Tax/IRD related	Income Tax and GST related matters including liaison with advisors and the IRD.