



# FOLEY FAMILY WINES

19 October 2018

**NOTICE IS HEREBY GIVEN** that the 2018 Annual Meeting of Shareholders of **Foley Family Wines Limited** will be held at:

**Venue:** PwC, Level 4, PwC Centre, 10 Waterloo Quay, Wellington

**Time:** Wednesday 21 November 2018, commencing at 3.00 pm.

**AGENDA:**

The agenda for the meeting is as follows:

1. Chairman's Introduction
2. Chief Executive's Presentation
3. 2018 Financial Report
4. Shareholder Questions
5. Ordinary Resolutions:

To consider, and if thought fit, to pass the following ordinary resolutions, requiring a simple majority of votes by those shareholders entitled to vote and voting:

5.1 Appointment of Auditor (note 1):

**Resolution 1:** That the Board be authorised to determine the auditor's fees and expenses for the 2019 financial year.

5.2 Election of Directors (note 2):

5.2.1 **Resolution 2:** To re-elect Anthony Anselmi as a Director of Foley Family Wines Limited;

5.2.2 **Resolution 3:** To elect Paul Brock as a Director of Foley Family Wines Limited.

5.3 Directors Fees (note 3):

**Resolution 4:** That the total amount of Directors' fees payable annually to all Directors taken together for their services as Directors be increased by \$70,000 from \$170,000 to \$240,000 to be distributed amongst Directors as they so determine with effect from 1st July 2018.

Directors and their associates are excluded from voting on this resolution in respect of their own shares and discretionary proxies.

6. Special Resolution:

To consider, and if thought fit, to pass the following special resolution, requiring a 75% majority of votes by those shareholders entitled to vote and voting:

6.1 Adoption of new Constitution (note 4):

**Resolution 5:** That in accordance with section 32(2) of the Companies Act, and with effect from and including the date on which the Company is listed on NZX Limited's NZX Main Board (NZX):

- (a) the company's existing constitution is revoked; and
- (b) the proposed constitution (as presented to the Annual Meeting of Shareholders) be adopted as the constitution of the company.

7. General Business: To consider any other business that may be properly brought before the meeting.

All resolutions to be put to the meeting are discussed in the Explanatory Notes attached.

**PROXIES**

- A Voting/Proxy form is attached for your use. Refer to the Final Section on the Notes for instructions for completing the Voting/Proxy Form. Please deliver the completed proxy to the Company by 3.00 pm on Monday 19 November 2018.

Following the formal part of the meeting, the Directors invite shareholders to join them for light refreshments. For catering and administrative purposes, we would appreciate if you could **please RSVP by Friday 2<sup>nd</sup> November 2018** to Donna on 03 572 6406 or email [sales@ffw.co.nz](mailto:sales@ffw.co.nz). *Thank you.*

## **NOTES TO THE AGENDA**

### **Note 1 – Auditor: Resolution 1**

PricewaterhouseCoopers (PwC) is the current auditor of Foley Family Wines Limited. The Companies Act 1993 provides that a company's auditor is automatically reappointed unless the shareholders resolve to appoint a replacement auditor, or there is another reason for the auditor not to be reappointed.

Section 207S of the Companies Act 1993 further provides that the auditors' fees and expenses must be fixed by the Company, or in the manner that the Company determines at a shareholders' meeting.

Shareholders are being asked to resolve that the Board is authorised to fix the fees and expenses of PwC for the current year.

### **Note 2 - Election of Directors: Resolutions 2, and 3**

Anthony Anselmi (Tony) retires by rotation in accordance with Clause 11.7 of the Constitution. Tony has confirmed that he is available for re-election.

Paul Brock was appointed to the Board with effect from 1 November 2018. In accordance with Clause 11.6 of the Constitution Paul Brock retires from office at the 2018 AGM. Paul has confirmed that he is available for re-appointment by shareholders.

#### **Biographies:**

##### **Anthony Anselmi O.B.E.**

Anthony Anselmi (Tony) was appointed to the Board in September 2012. Tony's business career began in footwear retail, and today the family owned business, Overland Footwear Company Ltd. of which Tony is the Chairman, owns and operates retail stores throughout New Zealand and in the State of Victoria, Australia. The Company has been a finalist for the last eleven years in the I.B.M. Kenexa Employment Consultants, Best Places to Work annual awards and a category and overall winner several times. Tony opened a manufacturing plant in 1966 and Fabia Products Ltd. became one of larger footwear manufacturers in New Zealand. He has considerable experience in farming and developed a large area of neglected land into an extensive dairy farming enterprise.

Tony was appointed a Director of the State Owned Enterprise, Forestry Corporation and served on the Board until it was sold by the Government. He was appointed an inaugural director of Inframax Ltd. a road construction and maintenance L.A.T.E. owned by the Waitomo District Council.

Tony was an investor in the New Zealand Wine Fund Ltd (Vavasour Wines) and when this was purchased by Foley Family Wines, New Zealand Ltd. at the invitation of Mr Foley he transferred his investment to the new Company.

##### **Paul Brock**

Paul Brock was appointed to the Board from 1 November 2018.

Paul Brock was the Kiwibank Group Chief Executive from 2010-2017. Kiwibank is one of New Zealand's fastest growing and most successful new businesses.

Paul was Co-Founder of the bank which was launched in 2002.

As Group Chief Executive Paul led the Kiwibank Group through a period of rapid growth and diversification into business banking, wealth management, insurance and asset finance. The bank is now a major player in the New Zealand market with one in four New Zealanders holding an account with Kiwibank.

He has a strong background in governance, management, growth business development, brand development and marketing. An extensive background in the financial services industry has also included senior management positions with Westpac and Trust Bank.

Paul has been Chairman of Gareth Morgan Investments Ltd and Kiwibank Investment Management Ltd and a Director of Kiwi Insurance Ltd, New Zealand Home Loans Ltd, Kiwibank Custodial Services Ltd, AMP Home Loans Ltd, Kiwi Capital Securities Ltd, Kiwi Capital Funding Ltd and Kiwi Wealth Management Ltd.

Paul was recently appointed to Chair the board of the New Zealand Story Group, a country reputation programme to enhance the New Zealand brand and increase the benefits to New Zealand from export trade.

He is also a member of the Massey University Business School Advisory Board.

Paul holds a Bachelors degree in Business Studies from Massey University.

Paul Brock is currently the Deputy Chairman. Paul Brock is an Independent Director in accordance with the NZX Main Board Listing Rules.

In accordance with the NZAX Listing Rules and the Constitution of the Company nominations for Directors closed at 4.00 pm on Friday 12 October 2018.

No further Nominations were received.

The Board wishes to advise that it is currently working through a list of candidates for a further Independent Director who will be the Chair of the Board Audit and Risk Committee and will advise in due course regarding this further appointment, which will give the company the number of Independent Directors required by the NZX Main Board Listing Rules prior to migration.

### **Note 3 - Directors Fees: Resolution 4**

The following resolution will be submitted to the meeting:

“THAT the total amount of Directors’ fees payable annually to all Directors taken together for their services as Directors be increased by \$70,000 from \$170,000 to \$240,000 to be distributed amongst Directors as they so determine with effect from 1st July 2018.”

The Directors are recommending the proposed increase in Directors’ fees to take into account the increase in the number of Directors (including the additional Independent Director to be appointed prior to migration to the NZX Main Board), the median range for similar size companies as per the NZ Institute of Directors surveys and the proposed move to the NZX Main Board.

Directors and their associates are excluded from voting on this resolution *in respect of their own shares and discretionary proxies.*

## **Note 4 – Amendment to Constitution: Resolution 5**

The following Special Resolution will be submitted to the meeting:

“THAT in accordance with section 32(2) of the Companies Act, and with effect from and including the date on which the Company is listed on NZX Limited’s NZX Main Board (NZX): (a) the company’s existing constitution is revoked; and (b) the proposed constitution (as presented to the Annual Meeting of Shareholders) be adopted as the constitution of the company.”

### **Introduction**

The Board has advised shareholders previously of its proposal to migrate from the NZX Limited’s NZAX Board to the NZX Main Board equity security market.

The company plans to complete the migration to the Main Board after this meeting if shareholder approval is obtained for the amended Constitution and NZX approval is obtained.

### **Constitution**

The company’s existing constitution does not meet all the requirements of the NZX Main Board Listing Rules (*the “Listing Rules” or “LR”*). The company is required to adopt a constitution that complies with the Listing Rules in order to list on the NZX Main Board. To adopt a new constitution, a special resolution of shareholders is required under section 32 of the Companies Act. The special resolution required is a resolution approved by 75% or more of the eligible votes cast on the resolution.

Instead of describing a range of amendments to the existing constitution, the board has chosen to present to shareholders for adoption a new constitution incorporating the proposed amendments (the **proposed constitution**).

To assist shareholders, a copy of the existing constitution “marked-up” to show the amendments made in creating the proposed constitution and a “clean copy” of the proposed constitution for adoption at the meeting are available on the company’s website ([www.ffw.co.nz](http://www.ffw.co.nz)). In addition, copies of the (“clean”) proposed constitution are available from the company (telephone 03 572 8200, fax 03 572 8211, email [cfo@ffw.co.nz](mailto:cfo@ffw.co.nz), and postal address of 13 Waihopai Valley Road, Renwick, Marlborough (attention Jane Trought)).

The company’s existing constitution was drafted in 2003. The board has taken the opportunity to improve and modernise aspects of the existing constitution (for example, updating references to repealed legislation) which do not relate directly to the proposed NZX migration.

### **Listing Rules**

The proposed constitution incorporates by reference (instead of in full) a number of provisions from the Listing Rules.

A copy of the Main Board Listing Rules (1 October 2017) is on NZX’s website ([www.nzx.com](http://www.nzx.com)).

### **Scope of explanatory note**

This explanatory note describes principally some of the provisions of the proposed constitution which are not in the existing constitution. It does so at a high level only, and the board recommends to shareholders that they review the proposed constitution and the Listing Rules to understand fully the effect of the proposed constitution.

In particular, this explanatory note is not intended to be a substitute for a review of the proposed constitution and Listing Rules.

**Key changes:****Clause 1.3 – Definitions**

The definitions section has been updated to include additional definitions to assist in the interpretation of the constitution and existing definitions have been revised to align with the Listing Rules. Additionally, defined terms have been capitalised throughout the constitution for ease of reference.

**Clause 1.10 - Effect of failure to comply**

The proposed constitution sets out that the company must comply with the Listing Rules and any NZX rulings, as issued from time to time. Clause 1.10 provides that a failure to comply with the Listing Rules or a provision of the constitution corresponding with the Listing Rules shall not affect the validity of an action.

**Section 2 – Share issues**

This section has been amended to reflect the ability of the company to issue, consolidate and subdivide shares and equity securities, in accordance with the Listing Rules and the Companies Act. The company's ability to issue shares is consistent with the existing constitution. The proposed amendments are to provide clarity by including detail in certain areas previously included by virtue of clause 1.5 which incorporates the provisions of the Listing Rules by reference.

**Section 4 – Suspension of Right to Distributions, Lien and Forfeiture**

This section has been modernised and simplified, and updated to align with the Listing Rules. A new clause 4.10 has been added which clarifies the consequences of the sale of a shareholder's shares, where that shareholder has failed to pay any call or instalment due on their shares. This removes uncertainty as to what should happen to funds received by the company in relation to such a sale.

**Section 7 – Transfer of Shares**

This section has been modernised to include provisions that will facilitate trading of shares through a system of transfer approved under the Financial Markets Conduct Act (FMCA) (i.e., electronic trading through the NZX Main Board). The FMCA has been passed (and the Securities Transfer Act subsequently repealed) since the previous constitution was drafted.

**Clause 8.2 – Meetings of interest groups**

The meetings of any interest groups shall be governed by the provisions of the First Schedule of the constitution as for any meetings of shareholders, except that the quorum shall be the members of the interest group holding 5% or more of the total number of securities held by all members of that group having the right to vote at the meeting. It is noted that this change in quorum is a material change to the existing constitution and allows a meeting of these shareholders to proceed with a lower number of persons with the right to vote attending the meeting whilst maintaining a higher quorum requirement than an ordinary meeting of shareholders. This is consistent with other companies listed on the NZX Main Board.

**Clause 8.3 – Inspection of records**

Consistent with market practice, the entitlement to inspect records or receive information about the company is limited to the provisions of the Act unless specifically authorised by the board. The inclusion of this new clause clarifies the current situation and does not materially change shareholder rights.

**Section 10 and 11 - Directors**

The Listing Rules sets out requirements in relation to the composition of the board, which have been incorporated into the proposed constitution. For example, the Listing Rules require a minimum of two independent Directors if there are up to eight Directors, or if there are eight Directors (the maximum currently provided for in this constitution), three independent Directors (or one-third rounded up to the nearest

whole number). In accordance with the Listing Rules:

- one third of the directors (excluding the Executive Director) must retire by rotation each year, but they are eligible for re-election;
- each director's appointment must be voted on individually; and
- no director (excluding the Executive Director) shall hold office longer than 5 years without retiring and offering himself or herself for re-election.

Additionally, to avoid any uncertainty, the proposed constitution clarifies the timing of retirement and appointment of a director.

#### **Clause 10.14 – Audit Committee**

Listing Rule 3.6 requires that the company establish an Audit Committee. The Listing Rules outlines the composition and responsibilities of the Audit Committee.

#### **Clause 13 – Directors' remuneration**

This section has been updated and simplified to incorporate by reference the relevant Listing Rules and provisions of the Companies Act in respect of directors' remuneration. The provisions around "special" remuneration have been brought in line with the Listing Rules.

#### **Clause 16 – Notice**

Clause 17 has been simplified, and updated to include communication by electronic mail message. Clause 16.2 has been inserted to clarify how notice is provided to a security holder who does not have a known address within New Zealand.

#### **Clause 20 – Method of contracting**

New clause added for clarification of how the Company may enter into deeds and other obligations. This has been inserted to align with the Companies Act and for clarity as to the company's requirements in respect of signing authorities.

#### **Clause 2.6 of Schedule 1 – Power to dissolve meetings**

This clause allows the chairperson to adjourn or dissolve a meeting in certain circumstances and outlines what happens if there is unfinished business of the meeting. This clause is intended to cover the situation where a meeting has become so unruly, disorderly or inordinately protracted, that the business of the meeting cannot be conducted in a proper and orderly manner. This clause is consistent with other companies listed on the NZX Main Board.

#### **Clause 4.2. of Schedule 1 – Numbers for quorum**

The proposed constitution contains an amended quorum requirement (three shareholders) for meetings of shareholders than is contained in the existing constitution (10% of the persons having the right to vote at the meeting and who between them are entitled to exercise not less than 20% of the votes to be cast on the business that the meeting), to reflect current practice by NZX Main Board Listed companies. It is noted that this is a material change to the existing constitution and allows a meeting of shareholders to proceed with a much lower number of persons with the right to vote attending the meeting (either in person or by proxy). This is consistent with other companies listed on the NZX Main Board.

#### **Clause 5.12 of Schedule 1 - Scrutineers**

This clause provides that the chairperson is to appoint a scrutineer if a poll is taken at a shareholders' meeting and that the chairperson will then be entitled to declare the result of the poll.

#### **Clause 5.14 of Schedule 1 – voting entitlement**

This clause has been moved so as to ensure all the clauses relating to polls are grouped together.

**Clause 5.15 – electronic voting**

This new clause allows the board to permit electronic voting to occur at a meeting, or more generally, to “future-proof” the proposed constitution.

**Clause 6.5 of Schedule 1 – Proxy form**

The template proxy form has been removed from the proposed constitution, to comply with current market practice. Instead, proxy forms which comply with the requirements of the Listing Rules will be sent to shareholders as necessary.

**Clause 1.1 of Schedule 2 – Election of chairperson**

A director may not simultaneously hold the positions of Chief Executive (executive director) of the company and chairperson of the board. This has been inserted to ensure that a non-executive director is the chairperson of the board.

**Clause 7.1 of Schedule 2 – Written resolutions**

Updated to enable a majority of directors to vote on a resolution in writing, which has the practical benefit of not requiring every director to sign each written resolution. For example, should a director be travelling or otherwise unavailable, the resolution may still be passed should a majority agree.

**NZX Approval:**

The changes to the constitution have been approved by the NZX in accordance with the Listing Rules.

**Note 5 - NZX Approval**

NZX has approved this Notice of Meeting but does not take any responsibility for any statement contained in this Notice of Meeting.

**Important Information: General Note Applicable to All Resolutions requiring Votes at the Annual Meeting**

Pursuant to section 125 of the Companies Act 1993, the Board has determined that, for the purposes of voting at the Annual Meeting, only those registered shareholders of the Company as at 3.00pm on Monday 19 November 2018, being a day not more than 20 working days before the meeting, shall be entitled to exercise the right to vote at the meeting either in person or by appointing a proxy to attend and vote instead of that shareholder.

Voting will be 1 share, 1 vote and may be conducted by way of a poll.

**You may vote**

**1. By Attending.** You should bring the Voting/Proxy Form (Included with this Notice) with you since voting may be by way of a poll.

**2. By Proxy.** If you do not plan to attend, you can appoint a proxy to vote for you.

A Voting/Proxy Form is included with this Notice of Annual Meeting which allows you to vote either for, against, or abstain from, the resolutions notified in this Notice of Meeting.

Any shareholder of FFW, who is entitled to attend and vote at the Annual Meeting, is entitled to appoint a proxy to attend the meeting and vote on his or her behalf. A proxy need not be a shareholder of FFW.

If you appoint a proxy, you may either direct your proxy how to vote for you, or you may give the proxy discretion to vote as he or she sees fit. If you wish to give your proxy discretion then you should make the appropriate election on the Proxy Form, to grant your proxy that discretion.

Except as discussed below, you will be deemed to have given your proxy discretion if you do not make an election in relation to any of resolutions 1 to 3 and resolution 5.

The Chairman of the meeting is willing to act as proxy for any shareholder who appoints him or her for that purpose.

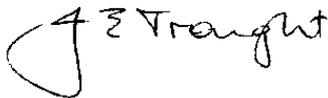
The Chairman and any Directors appointed as proxy will vote any discretionary proxies in favour of resolutions 1 to 3 and resolution 5. The Chairman and Directors will only vote directed proxies in favour of resolution 4 and will otherwise abstain.

To be valid, a completed **Voting/Proxy Form must be returned by no later than 3.00pm on Monday 19 November 2018**. Any Voting/Proxy Form received after that time will not be valid for the meeting.

You may return your completed Voting/Proxy Form by:

- Delivering it in person to FFW Head Office, 13 Waihopai Valley Road, Blenheim;
- Scan and email (please use "FFW Proxy" as the subject of your email) to sales@ffw.co.nz;
- Return the Voting/Proxy Form by mail to Foley Family Wines Ltd, Attn: Jane Trought, PO Box 67, Renwick 7243, New Zealand.; or
- Fax the Voting/Proxy Form to: +64 3 572 8211.

By Order of the Board of Directors

A handwritten signature in black ink that reads "J Trought". The signature is written in a cursive style with a large, looped initial "J".

Jane Trought  
Chief Financial Officer  
**Foley Family Wines Limited**  
19 October 2018.