

DUPLICATE

In the High Court of New Zealand  
Christchurch Registry  
I Te Kōti Matua O Aotearoa  
Ōtautahi Rohe

CIV-2019-409-323

*in the matter of:* a scheme of arrangement under Part 15 of the  
Companies Act 1993

*and in the matter of:* **PGG Wrightson Limited**, a duly incorporated company  
having its registered office at 57 Waterloo Road,  
Hornby, Christchurch 8042, and listed on the NZX as a  
New Zealand rural services business  
*Applicant*

Initial orders as to service, representation and directions

Date: June 2019

REFERENCE: L L Fraser (laura.fraser@chapmantripp.com)

W J Strowger (john.strowger@chapmantripp.com)

**Chapman Tripp**  
T: +64 9 357 9000  
F: +64 9 357 9099

23 Albert Street  
PO Box 2206, Auckland 1140  
New Zealand

www.chapmantripp.com  
Auckland, Wellington,  
Christchurch



## INITIAL ORDERS AS TO SERVICE, REPRESENTATION AND DIRECTIONS

**To:** The applicant

The interlocutory application made by the applicant on 13 June 2019 was determined by Associate Judge Lester on 27 June 2019.

The determination was made following a hearing by teleconference held on 26 June 2019. The Court heard from Ms Fraser and Mr Strowger, counsel for the applicant.

The following orders were made:

### **A Service and representation**

- 1 That service of this interlocutory application upon all persons affected be dispensed with.
- 2 Directing that personal service of the originating application dated 11 June 2019 on affected persons be dispensed with, and instead, that the other affected parties be served in accordance with the orders below.
- 3 Granting leave for the applicant to effect service on those affected persons outside the jurisdiction in the manner referred to below.

### **B Notice of Special Meeting and Shareholder Materials**

- 4 Requiring PGW to send the following information (the *Shareholder Materials*) to each of its shareholders who is entitled under its constitution to receive notice of the Special Meeting (as defined in the Scheme), PGW's directors and PGW's auditors, such Shareholder Materials to be sent at least ten working days before the Special Meeting (as defined in the Scheme) and in accordance with the requirements of the Companies Act 1993 (*Companies Act*):

- 4.1 a proxy/voting form; and
- 4.2 a formal notice of meeting, which will be accompanied by explanatory information about the Scheme and a copy of the Scheme,

in substantially the same form as the drafts which are referred to in and annexed to the affidavit of Rodger John Finlay.

- 5 Requiring that the Shareholder Materials be sent to those persons specified in paragraph 4 in:
  - 5.1 electronic format to all shareholders who have elected to receive documents from PGW in electronic form only; and
  - 5.2 by ordinary mail in hardcopy format to all other shareholders.



- 6 Directing that the approved Shareholder Materials (referred to in paragraph 4) be promptly lodged on the NZX Main Board market announcement platform.
- 7 Directing that the Shareholder Materials be deemed to have been received by all those to whom they were ordered to be sent 48 hours after the Shareholder Materials are sent in accordance with paragraph 5 above.
- 8 Directing that PGW make:
- 8.1 electronic copies of the Shareholder Materials available at the PGW website:  
<https://www.pggwrightson.co.nz/Investors/Shareholders>; and
- 8.2 hard copies of the Shareholder Materials available for inspection and removal from PGW's offices at 57 Waterloo Road, Hornby, Christchurch 8042, New Zealand;
- 9 Directing that PGW publish notice of the Scheme, together with details of how copies of the Shareholder Materials may be obtained, in:
- 9.1 the Christchurch Press;
- 9.2 the Otago Daily Times; and
- 9.3 the New Zealand Herald.
- 10 Permitting PGW to make amendments, revisions and/or supplements to the Shareholder Materials.
- 11 Directing that PGW may only make material amendments after the Shareholder Materials have been sent to shareholders within 10 working days prior to the meeting, and those changes will be notified to shareholders as soon as reasonably practicable in the manner prescribed in paragraph 5 of these orders. Such notification may be made by way of lodgement on the NZX Main Board market announcement platform and on PGW's website at:  
<https://www.pggwrightson.co.nz/Investors/Shareholders>.
- 12 Requiring PGW to upload complete copies of the following documents to the website:  
<https://www.pggwrightson.co.nz/Investors/Shareholders>:
- 12.1 the Shareholder Materials (referred to in paragraph 4);
- 12.2 the initial orders made by the Court, and the application for final Court orders, in respect of the Scheme; and
- 12.3 relevant PGW NZX market announcements.



- 13 Requiring PGW to provide a copy of the relevant Shareholder Materials on written request to any other person who becomes a registered shareholder of PGW after the date that would have entitled that holder to receive the Shareholder Materials in accordance with these orders.
- 14 That the accidental failure or omission by PGW to send the Shareholder Materials to any persons or the non-receipt of such documents by any persons will not constitute a breach of the orders nor invalidate any resolution passed or proceedings taken at the Special Meeting (as defined in the Scheme), but if any such failure or omission is brought to the attention of PGW, then it shall endeavour to rectify it by the method and in the time most reasonably practicable in the circumstances.
- 15 That PGW is not required to send the Shareholder Materials to those shareholders for whom PGW does not have known addresses (as at 10 June 2019, 520 shareholders holding 0.0016% of PGW's shares). In the event that any of those shareholders contacts PGW to update their address details not less than five working days before the Special Meeting (as defined in the Scheme), PGW is required to send a set of the Shareholder Materials to that shareholder.

**C Special Meeting**

- 16 Directing PGW to hold the Special Meeting (as defined in the Scheme) in Christchurch, at 9.30am on 23 July 2019, to seek approval of the Scheme (subject to any amendment or variation made in accordance with these orders).
- 17 Directing that only holders of PGW shares whose names appear in the register of shareholders as at 9.30am on 21 July 2019 are entitled to be represented and vote at the Special Meeting (as defined in the Scheme) or any adjournment or postponement thereof.
- 18 Directing that:
- 18.1 the vote be conducted by poll;
  - 18.2 the resolution shall be passed if it is approved by a majority of 75% of the votes of shareholders entitled to vote and voting on the resolution;
  - 18.3 the Chairperson of the Special Meeting (as defined in the Scheme) shall not have a casting vote;
  - 18.4 the resolution sought by PGW may be put to the shareholders at the same time as such other resolutions as PGW may determine; and



- 18.5 subject to these orders, the Special Meeting (as defined in the Scheme) is to be conducted in accordance with the provisions of the Companies Act and PGW's constitution.
- 19 Directing that:
- 19.1 to be valid, all proxy votes or postal votes need to be:
- (a) mailed to the Registrar, at Computershare Investor Services Limited, Private Bag 92119, Auckland 1142, New Zealand; or
  - (b) lodged online at [www.investorvote.co.nz](http://www.investorvote.co.nz);
  - (c) sent by email to [corporateactions@computershare.co.nz](mailto:corporateactions@computershare.co.nz) or
  - (d) faxed to +64 9 488 8782;
- by 9.30am on 21 July 2019 (*Proxy Deadline*);
- 19.2 PGW is entitled to disregard any proxy votes or postal votes received after the Proxy Deadline; but
- 19.3 notwithstanding PGW's constitution, PGW may waive, in its discretion, the Proxy Deadline if it deems such waiver to be in its best interests and in the best interests of PGW's shareholders as a whole.

**D Reporting the results of the Special Meeting**

- 20 Requiring PGW to notify the outcome of the Special Meeting (as defined in the Scheme) by:
- 20.1 lodging the results on the NZX Main Board's market announcement platform as soon as practicable after voting at the Special Meeting (as defined in the Scheme) is complete; and
- 20.2 serving written notice on persons entitled under paragraph 26 to appear and be heard at the hearing of the application for final Court orders. Such notice is to be served as soon as is practicable after voting at the Special Meeting (as defined in the Scheme) is complete.
- 21 Requiring PGW, prior to the Court's consideration of the application for final Court orders, to file and serve on any party who has filed a notice or an application for leave under order 23 to 24 (as applicable), an affidavit or affidavits:
- 21.1 verifying compliance with these orders; and



21.2 confirming the outcome of the Special Meeting (as defined in the Scheme).

**E Hearing date for application for final Court orders**

22 Directing that the matter will be called for a hearing in order to hear the originating application for orders approving the Scheme (the *Application for Final Court Orders*) at 10am on Monday 5 August 2019.

**F Rights of appearance and opposition**

23 Directing that, if any shareholder(s) wish to appear and be heard on the Application for Final Court Orders, leave is not required, but any such party must:

23.1 file, and serve on PGW, a notice of intention to appear (containing an address for service) in opposition to the application by 10 July 2019; and

23.2 file, and serve on PGW, a notice of opposition, affidavits and a memorandum of submissions on which they intend to rely with a further 10 working days.

24 Directing that if any other person who claims to have an interest in the Scheme wishes to appear and be heard on the Application for Final Court Orders, they must:

24.1 file, and serve on PGW, a notice of intention to appear (containing an address for service) in opposition to the application by 10 July 2019; and

24.2 file, and serve of PGW, an application for leave to be heard on the Application for Final Court Orders, a notice of opposition, affidavits and a memorandum of submissions upon which that person intends to rely within a further 10 working days.

25 Directing that by 17 July 2019 PGW serve on any party which is entitled under paragraph 26 to appear and be heard on the Application for Final Court Orders, copies of all documents filed in support of the Application for Final Court Orders.

26 Directing that the only persons entitled to appear and be heard at the hearing of the Application for Final Court Orders will be:

26.1 PGW;

26.2 any of the shareholders, having filed a notice of appearance or a notice of opposition to the Application for Final Court Orders in accordance with order 23 above; and

26.3 those other persons who claim to have an interest in the Scheme who file an application for leave to be heard and a notice of opposition to the Application for Final Court Orders



in accordance with order 24 above, and who are subsequently granted leave to appear and be heard at the hearing of the Application for Final Court Orders.

- 27 Directing that if the hearing of the Application for Final Court Orders approving the Scheme is adjourned, only those persons who have filed and served a notice of appearance or a notice of opposition in accordance with orders 23 and 24 above need to be served with notice of the adjourned date.

**G Leave to apply for variation at short notice**

- 28 Granting PGW leave to apply at short notice to vary these orders and to apply for such further orders as may be appropriate.

Date: 27<sup>th</sup> June 2019

  
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Registrar/Deputy Registrar  
K. Smith

