



THE NEW ZEALAND WINE COMPANY
LIMITED

**NOTICE OF SPECIAL MEETING OF SHAREHOLDERS
TO BE HELD ON 14 AUGUST 2012**



THE NEW ZEALAND WINE COMPANY
LIMITED

LETTER FROM THE BOARD

Dear Shareholders,

The flow-on impacts from the significant oversupply of wine from the 2008 harvest through until late 2011, coupled with the Global Financial Crisis and the strength of the New Zealand dollar, created significant financial challenges for The New Zealand Wine Company Limited (“**NZWC**”).

Operating losses and lowered revaluations of the company’s properties and biological assets since 2009 have reduced the value of assets and shareholders’ net equity. You will be aware from NZAX updates provided to you that directors worked with PricewaterhouseCoopers to provide an Independent Appraisal Report of the NZWC business to the ANZ National Bank (“**Bank**”) during the second half of 2011. NZWC worked through a number of matters with the Bank and then appointed Grant Samuel in October 2011 to advise the company on capital restructuring opportunities. An agreement was reached with the Bank in December 2011 that NZWC would raise a minimum of \$5 million dollars to be applied to reducing Bank debt.

Proposed Merger

The directors carefully considered a recommendation from Grant Samuel that a merger with Foley Family Wines NZ Limited (“**FNZ**”) would provide the best outcome for NZWC shareholders and agreed to actively pursue the opportunity. A heads of agreement was signed with Foley Family Wines Holdings, New Zealand Limited (“**Foley Holdings**”) on 27 March 2012 and a two way due diligence process commenced.

A Merger Agreement has been entered into with Foley Holdings pursuant to which it is intended that NZWC purchase all the shares in FNZ, a subsidiary of Foley Holdings. FNZ holds substantial interests in the New Zealand wine industry. The result is an effective merger of the wine interests of Foley Holdings and NZWC creating a significantly larger wine business than your present company.

What the Merged Business Will Look Like

The directors urge all shareholders to read the Independent Adviser's Report prepared by Simmons Corporate Finance Limited which accompanies this letter, in its entirety, particularly in relation to the financial information which provides further background to the analysis below.

Your directors have considered a range of financial forecasts for NZWC post-merger. A key assumption is the number of case sales in a financial year which can vary significantly due to the weather.

Depending on grape harvest volumes, the enlarged company is forecast to have capacity for the sale of 450,000 to 600,000 cases of wine annually, generating annual revenue in the range of \$35 million to \$45 million. In the first twelve months of trading for the June 2013

year, wine sales volumes are expected to be around 450,000 cases due to the 2012 NZWC and FNZ Marlborough grape harvest being significantly lower than in 2011. In a normal vintage year the enlarged company would have expected to have had 600,000 cases of wine available for sale.

In the June 2013 year the enlarged company will sell its wines into the distribution channels that are expected to maximise net margins. It is also expected that the enlarged company will achieve operational and administrative cost savings with the merging of marketing and back-office functions. While the sum of the net returns from the two businesses when operating as one merged entity are expected to be stronger than the stand alone NZWC and FNZ businesses, your directors do not consider that they can provide a reliable forecast at this point due to the current uncertainties facing the New Zealand wine industry.

It is expected that the commercial business risks faced by the enlarged company will remain the same as for NZWC and FNZ, with the key business risks being climatic agricultural harvest risks that impact on supply and price of grapes, wine quality, sales demand for New Zealand branded wines and New Zealand dollar foreign exchange fluctuations. The larger scale of the enlarged company is expected to provide greater ability to manage and contain the business risks and enable NZWC to be one of the largest New Zealand wine producers and exporters in the years ahead.

The Acquisition of FNZ

The Merger Agreement provides that your company, NZWC, will issue new ordinary shares in NZWC to Foley Holdings in satisfaction of the purchase price for the purchase of all of the shares in FNZ for \$42,114,541 and in exchange for a cash subscription by Foley Holdings of \$6 million. 34,708,796 new NZWC ordinary shares would be issued to Foley Holdings at \$1.386 per share for the total value of \$48,114,541. The purchase price of the shares in FNZ was agreed by your directors by taking into consideration the fair value of the net assets of each company using like for like accounting treatment.

Board Control

The merger will see a corresponding change in the composition of the NZWC board of directors with two of the three current directors resigning and being replaced by three new directors appointed by Foley Holdings. David Appleby and Bill Wallace will retire from the board immediately following the merger and the NZWC directors would then be:

- One representative of the existing board (Alton Jamieson); and
- Three representatives of Foley Holdings (Bill Foley, Mark Turnbull and Tony Anselmi).

Management

Foley Holdings personnel will be appointed to senior management positions:

- Mark Turnbull will be appointed Chief Executive Officer; and
- Michael van Druten will be appointed Chief Financial Officer.

All other management and operational roles within the enlarged company's new organisation structure will be confirmed following the approval of the merger.

ANZ National Bank Debt Repayment

NZWC entered into a commitment to the Bank, in December 2011 that it would undertake a capital raising commitment process for a minimum of \$5 million and that it would make satisfactory progress towards achieving that outcome by an anticipated completion date of

30 June 2012. The Bank has confirmed that the Merger Agreement satisfies the Bank's requirement for progress. In the event that the merger is not approved by shareholders, or having been approved, the conditions are not satisfied, and as a consequence, the Merger Agreement is terminated, then NZWC would be in the hands of the Bank.

Effect of the Merger on Shareholders

The issue of the new ordinary shares as a result of the merger will result in the shareholding of Foley Holdings in NZWC totalling 80% of the issued share capital of NZWC, and that of existing shareholders being diluted from 100% to 20% as follows:

•	Foley Holdings new NZWC ordinary shares to be issued	34,708,796	80%;
•	NZWC shareholders existing ordinary shares	<u>8,677,199</u>	<u>20%</u>
		43,385,995	100%

If further NZWC ordinary shares were to be issued in the future under the \$11.8 million Convertible Note proposed to be issued to Foley Holdings as described in the accompanying Explanatory Notes, the shareholding of Foley Holdings could increase from 80% to 83.3%.

Following the issue of the new NZWC ordinary shares to Foley Holdings, Foley Holdings will hold 80% of the voting rights in the company. Therefore, subject to any voting restriction which may apply to Foley Holdings under the NZAX Listing Rules or any other laws or regulations, Foley Holdings will have the ability to influence the outcome of certain shareholder voting since (subject to such restrictions) it will be able to single-handedly pass or block resolutions which require the approval of more than 50% of the votes cast by shareholders and also special resolutions which require the approval of 75% of the votes cast by shareholders.

The merger will significantly strengthen NZWC's balance sheet by way of a more conservative debt to equity ratio. **The Independent Adviser's Report which accompanies the attached Notice of Meeting was commissioned by directors for the benefit of existing shareholders to assist in forming their own opinion of the merger. Directors recommend that all shareholders read the entire Report which describes the rationale for merger as being "compelling".**¹

Your directors support the above merger shareholder outcome as being fair and reasonable to NZWC shareholders. The FNZ business is significantly larger than NZWC's business and the rationale for recommending the merger is set out in the accompanying explanatory notes on pages 9 and 10.

Conditional Nature of Merger Agreement

The merger agreement is subject to a number of conditions.

One condition is the obtaining of shareholder approval to the purchase of FNZ, which is one of the reasons for convening the meeting of shareholders referred to in the attached Notice of Meeting. If shareholders who together hold more than 10% of the ordinary shares vote against the resolution and require NZWC to buy back their shares, as permitted by the Companies Act 1993, the merger may not proceed. (Note that this is a term of the Merger Agreement, and not a requirement of the Companies Act.) The significance of this is explained in the narrative to Resolution 1 in Part C of the accompanying Explanatory Notes. The procedural and pricing rules laid down by the Companies Act relating to the exercise of minority buy-out rights are summarised in Appendix 3. Shareholders should not assume that they will receive the same value for their shares as has been assigned to the shares under the Merger Agreement. Shareholders will observe that the value assigned to

¹ See paragraph 6.5 "Conclusion" in the Simmons Corporate Finance Limited Independent Adviser's Report.

the shares for the purposes of the merger is at a substantial premium to the market price of the shares.

Another condition requires Foley Holdings to obtain the consent of the Overseas Investment Office to taking up shares in NZWC. The satisfaction of that condition may not be known until after the meeting of shareholders, and if satisfied, settlement of the merger and the issue of shares in accordance with the terms of the Merger Agreement would only then occur.

Approvals required from Shareholders

The attached Notice of Meeting seeks the approval of shareholders to the following matters in order to give effect to the proposed merger:

1. The acquisition by NZWC of FNZ shares from Foley Holdings.
2. The issue of 34,708,796 new ordinary shares to Foley Holdings in:
 - (a) satisfaction of the purchase price of \$42,114,541 for all the shares in FNZ;
 - (b) consideration of a cash subscription by Foley Holdings of \$6 million.
3. The issue of a Convertible Note to Foley Holdings in the sum of \$11.8 million, and the issue of 8,512,266 shares in the future if conversion occurs.

Shareholder approval is also sought to a final resolution which deals with the status of the above approvals should the merger not proceed due to the conditions of the Merger Agreement not being satisfied.

The acquisition is conditional on all resolutions put to the Special Meeting being approved. For that reason all resolutions are conditional on the others being passed. If any one of the resolutions is not approved, all resolutions fail. If all resolutions are approved, and the acquisition is not cancelled by reason of dissenting shareholders exercising the buy-out right discussed above, the issue of shares to Foley Holdings and the issue of the Convertible Note will only occur once the condition requiring Overseas Investment Office approval is satisfied and will occur at the same time as the acquisition of FNZ occurs.

The Independent Adviser's Report prepared by Simmons Corporate Finance Limited which accompanies this letter and the Notice of Meeting, reports on the merits of the merger, as required by the Takeovers Code. The Independent Adviser has been approved by the Takeovers Panel to report to NZWC shareholders. **The Board urges shareholders to read the entire Report and consider carefully the terms of that Report.**

Recommendation of Board

The Board unanimously recommends that all shareholders vote in favour of all resolutions proposed at the Special Meeting on 14 August 2012. In making this recommendation, the Board has taken into account a number of considerations including:

- the \$6 million cash subscription by Foley Holdings that will enable the company to meet its commitment to the Bank to reduce its debt by \$5 million;
- the \$42,114,541 value ascribed to the FNZ shares for the purposes of the merger;
- the price at which NZWC shares will be issued to Foley Holdings at \$1.386 which is significantly above the last sale price of \$0.90 per share prior to the announcement of the potential merger on 21 May 2012 and \$0.85 at the date of signing the Merger Agreement on 28 June 2012;

- the association with the Foley Family Wines Group, a reputable and experienced investor in the USA and New Zealand wine industries having strong distribution arrangements in New Zealand, Australia and particularly the USA;
- the advantages from having a strong post-merger balance sheet by way of a more conservative debt to equity ratio;
- the operational and administrative costs savings expected to be achieved by the merging of marketing and back-office functions; and
- the merger providing the scale required for NZWC to be a significant wine business globally while also enabling it to participate in the anticipated consolidation of the wine industry in New Zealand.

The Board requests that shareholders carefully consider the consequences of shareholders not approving the merger. In the absence of a \$6 million cash injection by Foley Holdings, NZWC would not be able to meet its commitment to repay \$5 million of Bank debt which would then leave the company's future in the hands of the Bank. The agreement of the Bank would then be required to allow directors to achieve an orderly realisation of its assets to repay Bank debt.

Yours sincerely

A handwritten signature in black ink, consisting of a stylized 'A' followed by a long horizontal line that tapers to the right.

Alton Jamieson
Chairman
23 July 2012

THE NEW ZEALAND WINE COMPANY LIMITED

NOTICE OF SPECIAL MEETING OF SHAREHOLDERS

NOTICE IS HEREBY GIVEN that a Special Meeting of shareholders of **The New Zealand Wine Company Limited (NZWC)** will be held on 14 August 2012 at the Marlborough Convention Centre, 42a Alfred Street, Blenheim commencing at 10.00am.

For catering and administrative purposes we would appreciate if you could please confirm your attendance by telephoning Donna at Grove Mill Winery on (03) 572 8200, faxing on (03) 572 8211 or emailing admin@nzwineco.co.nz by Tuesday 7 August 2012.

The Explanatory Notes, which accompany this Notice of Meeting:

- set out details of the proposal for NZWC to merge with Foley Family Wines NZ Limited (FNZ) – which, in essence, will be effected by NZWC purchasing all the shares of FNZ and issuing NZWC shares as consideration for those shares; and
- explain the requirements for the resolutions and shareholder approvals under the NZAX Listing Rules (the **Listing Rules**), the Companies Act 1993 (the **Companies Act**), the constitution of NZWC and the Takeovers Code (the **Code**), in order to give effect to the proposed merger.

BUSINESS OF THE MEETING

The business of the meeting will be to consider and, if thought fit, pass the following resolutions of NZWC:

1. **Resolution 1: As a special resolution - approval of acquisition of the shares in FNZ**

Subject to Resolutions 2, 3 and 4 being passed, to approve, for all purposes (including s.129 Companies Act and Listing Rule 9.1)

- (a) *the purchase from Foley Family Wines Holdings, New Zealand, Limited (Foley Holdings) of all the share capital of FNZ comprising 46,426,666 ordinary fully paid shares for the purchase price of \$42,114,541; and*
- (b) *Directors of NZWC to take all actions, do all things and execute all documents and agreements necessary or considered by them to be expedient to give effect to the purchase.*

2. **Resolution 2: As an ordinary resolution – issue of shares** *"Subject to Resolutions 1, 3 and 4 being passed, to approve, for all purposes (including Listing Rule 7.3.1(a), and Rule 7(d) of the Code), the:*

- (a) *issue of 34,708,796 fully-paid ordinary shares in NZWC (**Consideration Shares**) at a price of \$1.386² per share to Foley Holdings as consideration totalling \$48,114,541.00 for:*
 - (i) *the purchase of the FNZ shares specified in Resolution 1 at a price of \$42,114,541.00; and*

² The price has been rounded to 3 decimal places only which accounts for the apparent disparity between the consideration payable for the purchase and the numbers of shares being issued in satisfaction of the consideration

(ii) a cash subscription by Foley Holdings of \$6 million contemporaneously with settlement of the purchase approved pursuant to Resolution 1; and

(b) Directors of NZWC to take all actions, do all things and execute all documents and agreements necessary or considered by them to be expedient to issue the Consideration Shares."

3. Resolution 3: As an ordinary resolution - issue of Convertible Note

"Subject to Resolutions 1, 2 and 4 being passed, to approve, for all purposes (including Listing Rules 7.3.1 and 7.5, and Rule 7(d) of the Code), the:

(a) issue of a Convertible Note to Foley Holdings in the sum of \$11,800,000 contemporaneously with settlement of the purchase approved pursuant to Resolution 1, which if converted to ordinary shares in NZWC would allow Foley Holdings to increase its shareholding in NZWC from 80% up to 83.3%, on the terms set out in Part C of the Explanatory Notes to this resolution; and

(b) issue by way of off-set against the amount owing to Foley Holdings under the Convertible Note of up to 8,512,266 new ordinary shares in NZWC to Foley Holdings at a price of \$1.386 per share as a result of the exercise of the conversion rights contained in the Convertible Note ; and

(c) Directors of NZWC to take all actions, do all things and execute all documents and agreements necessary or considered by them to be expedient to give effect to the issue of the Convertible Note and the issue of new ordinary shares as a result of any exercise of the conversion rights under the Convertible Note."

4. Resolution 4: As a special resolution – Rescission of Resolutions

"Subject to Resolutions 1, 2 and 3 being passed, each of those Resolutions shall be deemed to have been rescinded in the event that (a) shareholders, who together hold more than 10% of the ordinary NZWC shares, vote against Resolution 1, and require NZWC to buy back their shares, and as a consequence the proposed purchase is terminated by Foley Holdings or NZWC; or (b) the Overseas Investment Office does not consent to Foley Holdings taking the shares in NZWC"³.

³ An explanation as to the reason for this resolution is set out on page 20 of the Explanatory Notes under heading "Resolution 4 – As a special resolution – Rescission of Resolutions".

NOTES TO THE BUSINESS OF THE MEETING

1. EXPLANATORY NOTES

Explanatory Notes for Resolutions 1 to 4 accompany this Notice of Meeting.

2. VOTING/PROXIES

A shareholder whose name is recorded on the Company's Share Register at 5.00 pm on Monday 13 August 2012 will be entitled to vote at the Special Meeting and vote either in person or by appointing a proxy to attend and vote on behalf of that shareholder. The proxy need not be a shareholder of NZWC.

If you wish to appoint a proxy, the proxy appointment form must be delivered to the share registrar, Computershare Investor Services Limited, Level 2, 159 Hurstmere Road, Takapuna, Auckland (Private Bag 92119 Auckland 1142) not less than 48 hours before the Special Meeting (no later than 10am on 12 August 2012). A proxy form is enclosed with this notice. The Chairman of the Special Meeting can be appointed as a proxy. If so appointed, his intention is to vote discretionary proxies in favour of all resolutions. Shareholders are, however, encouraged to direct their proxy how to vote on their behalf by ticking the relevant box.

If you intend to attend the meeting in person, you should bring the Voting/Proxy Form (attached to this Notice) with you since voting will be by way of a poll.

3. CORPORATE REPRESENTATIVES

A corporation which is a shareholder may appoint a representative to attend the Special Meeting on its behalf in the same manner as it could appoint a proxy.

4. INDEPENDENT ADVISER'S REPORT

As required by Rule 18 of the Code, a report has been obtained from Simmons Corporate Finance, an Independent Adviser approved by the Takeovers Panel to opine on the merits of the proposed allotment of the Consideration Shares and issue of the Convertible Note and the shares which may be issued pursuant to the Convertible Note.

A full copy of this report, which supports the proposed merger, is enclosed with this Notice of Meeting. Each shareholder will need to carefully consider the information in this Notice of Meeting and the Simmons Corporate Finance report in light of that shareholder's individual circumstances. Shareholders should consult their own professional adviser as appropriate.

5. RESOLUTIONS

The resolutions which are to be considered at the Special Meeting comprise:

- **special resolutions** for resolutions 1 in relation to the approval of the purchase of the shares in FNZ and for resolution 4 in relation to the rescission of the earlier resolutions. These require a majority of 75% of the votes of shareholders of NZWC entitled to vote and voting;
- **ordinary resolutions** for the other approvals sought. An ordinary resolution is a resolution passed by a simple majority of more than 50% of the votes of shareholders of NZWC entitled to vote and voting.

6. RESOLUTIONS ARE INTER-CONDITIONAL

The resolutions set out in this Notice of Meeting are inter-conditional. This means that either all of the resolutions pass or none of them pass. In the event that any resolution is not approved, the remaining resolutions will be unable to be passed and the Chairman may determine not to put the remaining resolutions to a vote.

7. VOTING EXCLUSION STATEMENT

NZWC believes that all NZWC shareholders will be eligible to vote. NZWC must disregard any votes cast on the resolutions by Foley Holdings and any persons who are associates of Foley Holdings should they hold any shares at the time of the Special Meeting.

However, NZWC need not disregard a vote if it is cast by a person (including the Chairman) as proxy for a person who is entitled to vote, in accordance with the directions on the proxy form. .

Set out in the accompanying Explanatory Notes is further information on the resolutions to be proposed at this Special Meeting. The implications of the above legal requirements, including the Companies Act, the Listing Rules, the Code and the Constitution, insofar as they relate to each resolution, are addressed in the Explanatory Notes to each resolution.

By order of the Board

A handwritten signature in black ink, appearing to be 'Alton Jamieson', with a long horizontal line extending to the right.

Alton Jamieson
Chairman
23 July 2012

EXPLANATORY NOTES

These Explanatory Notes are in three parts:

- Part A provides an overview of the proposed merger including the Board's reasons for recommending the merger;
- Part B explains the legal issues which touch on the proposed merger
- Part C reviews and explains each of the proposed resolutions for which approval is sought from shareholders in order to proceed with the proposed merger.

PART A Merger Overview

The New Zealand Wine Company Limited (**NZWC**) has entered into an agreement (**Merger Agreement**) with Foley Family Wines Holdings, New Zealand Limited (**Foley Holdings**) pursuant to which it is intended the NZWC will purchase all the shares in Foley Family Wines NZ Limited (**FNZ**), a wholly-owned subsidiary of Foley Holdings. FNZ holds substantial interests in the New Zealand wine industry which include:

- vineyards and wineries in Marlborough and Wairarapa; and
- ownership of the Vavasour, Goldwater Estate, Clifford Bay, Dashwood and Te Kairanga wine brands.

FNZ's ultimate ownership goes back to Foley Family Wines in the USA, which is controlled by William (Bill) Foley, Chairman and Vice Chairman of two Fortune 500 listed insurance companies. Foley Family Wines owns nine wineries in the Napa Valley and Sonoma regions of California and in Washington State.

FNZ originated from the 2009 purchase of the New Zealand Wine Fund by Foley Holdings. Since the acquisition of the Fund and its renaming to FNZ, substantial value has been added to the business. In 2011 FNZ acquired Te Kairanga Wines in the Wairarapa which produces approximately 35,000 cases of wine annually. In total, FNZ has capacity to produce up to 400,000 cases of wine annually.

The company has strong distribution channels into its markets. In New Zealand its distributor is Eurovintage in which Foley Holdings owns a 50% shareholding. The Australian distributor is Déjà Vu and in North America FNZ use the in-house extensive distribution network of Foley Family Wines. Foley Holdings has stated that it wishes to use NZWC as one of the vehicles to expand its wine interests in New Zealand with a stated objective at this stage of producing over 1 million cases annually.

The accompanying Independent Adviser's Report sets out an evaluation of the merits of the proposed merger, concluding that the rationale for the merger is "compelling".⁴ **The directors urge all shareholders to read the Independent Adviser's Report in its entirety.**

⁴ See paragraph 6.5 "Conclusion" in the Simmons Corporate Finance Limited Independent Adviser's Report.

The Merged Business

The directors urge all shareholders to read the Independent Adviser's Report in its entirety, particularly in relation to the financial information which provides further background to the analysis below

The result of the purchase of FNZ by NZWC is an effective merger of the wine interests of Foley Holdings and NZWC. The merger will result in NZWC becoming a significantly enlarged wine production and distribution business with an annual wine sales capacity forecast to be in the range of 450,000 to 600,000 cases, depending on annual harvest volume, making it one of the largest companies of its type in New Zealand. Corresponding annual revenue will be in the range of \$35 million to \$45 million based on current prices. In the first twelve months of trading for the June 2013 year, wine sales volumes are expected to be around 450,000 cases due to the 2012 NZWC and FNZ Marlborough grape harvest being significantly lower than in 2011. In a normal vintage year the enlarged company would have expected to have had 600,000 cases of wine available for sale.

Future trading prospects for NZWC are enhanced through the increased size and scale of the merged company which will place it in a better position to compete in the wine industry globally. NZWC will benefit from the strong distribution arrangements that FNZ has in place in New Zealand, Australia and particularly the USA. In the June 2013 year the enlarged company will sell its wines into the distribution channels that are expected to maximise net margins. It is also expected that the enlarged company will achieve operational and administrative cost savings with the merging of marketing and back-office functions. While the sum of the net returns from the two businesses when operating as one merged entity are expected to be stronger than the stand-alone NZWC and FNZ businesses, your directors do not consider that they can provide a reliable forecast at this point due to the current uncertainties facing the New Zealand wine industry.

It is expected that the commercial business risks faced by the enlarged company will remain the same as for NZWC and FNZ, with the key business risks being climatic agricultural harvest risks that impact on supply and price of grapes, wine quality, sales demand for New Zealand branded wines and New Zealand dollar foreign exchange fluctuations. The larger scale of the enlarged company is expected to provide greater ability to manage and contain the business risks and enable NZWC to be one of the largest New Zealand wine producers and exporters in the years ahead

NZWC's financial strength will be enhanced by the merger from the addition of FNZ's substantial asset base and smaller proportion of debt and the addition of \$6 million in cash. The company's equity will increase by \$48 million from \$13 million to \$61 million and importantly financial leverage will reduce from 57% to 31%.

Merger Agreement

The Merger Agreement provides that NZWC will satisfy the purchase price for FNZ, and the \$6 million cash subscription by Foley Holdings, by the issue of new ordinary shares in NZWC. This issue of shares will have the result of diluting the holdings of existing shareholders in NZWC and delivering control to Foley Holdings. Your directors support this outcome. The reasoning behind this is discussed further below.

Impact of the Merger on NZWC Shareholders

The merger will result in existing NZWC shareholders' interests being diluted by 80% and up to 83.3%. The existing shareholders will be diluted from 100% to 20% and then possibly to 16.7% as follows:

•	Foley Holdings new NZWC shares	34,708,796	80%
•	NZWC shareholders existing shares	<u>8,677,199</u>	<u>20%</u>
		43,385,995	100%

If further NZWC ordinary shares were to be issued in the future under the Convertible Note, the position would be as follows:

•	Foley Holdings shares	34,708,796	
•	Foley Holdings Convertible Note conversion shares	<u>8,512,266</u>	
		43,221,062	83.3%
•	NZWC shareholders	<u>8,677,199</u>	<u>16.7%</u>
		51,898,261	100%

By virtue of holding at least 80% of NZWC's expanded voting capital Foley Holdings will exert significant influence on the control of NZWC and, subject to any voting restriction which may apply to Foley Holdings under the NZAX Listing Rules or any other laws or regulations, will be able to pass on its own, both ordinary and special resolutions of the company. Existing NZWC shareholders will become minority shareholders and, subject to such restrictions, will not be able to prevent ordinary resolutions, or special resolutions (requiring the support of 75% or more of the votes being cast) from being passed.

Board Control

The merger will also mean that Foley Holdings will have significant control of the Board, having appointed three of the directors on the four member board.

Conditions of the Merger Agreement

The Merger Agreement is subject to a number of conditions. One key condition is the obtaining of shareholder approval to the purchase of FNZ, which is one of the reasons for convening the meeting of shareholders referred to in the attached Notice of Meeting. If shareholders who together hold more than 10% of the ordinary shares vote against the resolution and require NZWC to buy back their shares, as permitted by the Companies Act 1993, the merger may not proceed. The significance of this is explained in the narrative in Part C of the accompanying Explanatory Notes.

Another key condition requires Foley Holdings to obtain the consent of the Overseas Investment Office (**OIO**) to taking up shares in NZWC. The satisfaction of that condition may not be known until after the meeting of shareholders, and if satisfied settlement of the merger and the issue of shares in accordance with the terms of the Merger Agreement would only then occur.

Calculation of Price

The purchase price payable by NZWC for FNZ totals \$42,114,541 and has been arrived at by considering the fair value, measured using common, like-for-like accounting treatment of the net asset value of FNZ and of NZWC. Your directors considered that this was an appropriate way of approaching the issue of value given that the transaction is in the nature of a merger of similar interests. **Shareholders are urged to read the Simmons Corporate Finance Limited Independent Adviser's Report in its entirety.** Shareholders will see that the Report considers that this comparative approach is reasonable.⁵ The Report also notes that the issue price of NZWC shares to be issued under the merger arrangements is fair.⁶

⁵ See paragraphs 6.1 and 6.2 of the Independent Adviser's Report.

⁶ See paragraph 2.2 of the Independent Adviser's Report.

The process followed by your board in determining value included a due diligence investigation undertaken by your directors with the assistance of the company's executives and external advisers. After all factors were considered, the Board's conclusion was that the 80%/20% relative shareholdings between Foley Holdings and existing NZWC shareholders covering the \$42,114,541 purchase price to acquire the FNZ shares plus the additional \$6 million cash injection by Foley Holdings, was fair and reasonable to shareholders. In satisfying themselves that this was the case, the directors have had regard to the advice of its financial adviser Grant Samuel & Associates.

Satisfaction of the Purchase Price

The purchase price of \$42,114,541 to acquire the FNZ shares will be satisfied by NZWC issuing 30,380,525 new ordinary shares to Foley Holdings credited as fully paid as to the sum of \$1.386 per share. An additional 4,328,271 new ordinary shares will be issued to Foley Holdings at \$1.386 per share in exchange for a cash subscription payment of \$6 million. These shares which total 34,708,796 are described in these Explanatory Notes as the "Consideration Shares".

Rationale for recommending the Merger

The purchase has a strong commercial rationale for NZWC, which as you are aware is required by its banker to reduce debt. The merger:

- deals with NZWC's agreement with the ANZ National Bank through the injection of \$6 million of cash of which \$5 million will be used to repay bank debt and \$1 million used to upgrade the NZWC winery for the production of higher quality and more profitable wines (in the absence of this cash injection NZWC is very much in the hands of the Bank which would require the sales of NZWC assets or other actions which may be to the detriment of shareholders – see "Consequences to shareholders of not granting approvals" below).
- acknowledges a value which results in NZWC shares being issued to Foley Holdings at a price of \$1.386 per share which equates to the value ascribed to the FNZ shares plus the \$6 million cash subscription. This issue price is significantly above the last sale price of \$0.90 per share prior to the announcement of the potential merger on 21 May 2012. As at date of signing of the Merger Agreement on 28 June, the last sale price was \$0.85. It is important to note that it is difficult to determine where the NZWC share price will trade post the merger;
- has the potential to provide a higher return to NZWC shareholders in the medium term than the alternatives of selling the company's assets over an uncertain timeline and when the realization value cannot be quantified with any certainty, or introducing a financial investor to subscribe for new shares sufficient to reduce bank debt by the required amount;
- will provide the scale required for NZWC to be a significant wine business globally, and to make it well placed to participate in the expected consolidation of the wine industry in New Zealand;
- will mean that NZWC is associated with the Foley Family Wines group, a reputable and experienced investor in the wine industry both in New Zealand and in the USA having strong distribution arrangements in New Zealand, Australia and particularly the USA;
- will result in a stronger merged balance sheet with a more conservative debt to equity ratio which will provide better protection against seasonal adversity; and

- provides operational and administrative cost savings with merging of marketing and back-office functions.

In summary, the board of NZWC is delighted that Foley Holding has agreed to become a significant shareholder of NZWC, as the board considers this demonstrates Foley Holdings' view of the need for greater scale through a larger wine company to be able to compete more effectively to improve the prospects and profitability for a larger merged NZWC entity.

Additional Financial and Capital Components

As part of the merger transaction it is proposed that NZWC will issue an 18 month Convertible Note to Foley Holdings for the principal amount of \$11.8 million. FNZ has a current loan liability to Foley Holdings in the amount of \$11.8 million under a promissory note which is interest free and repayable upon demand by Foley Holdings. NZWC has agreed to assume the loan liability to Foley Holdings through the issue of the Convertible Note. This liability has been taken into account in calculating the purchase price payable by NZWC for all of the shares in FNZ.

Conversion of the Convertible Note would result in the issue, by way of off-set against the amount owing to Foley Holdings of \$11.8 million, of up to 8,542,091 further new shares to Foley Holdings at \$1.386 per share.

The issue of the Consideration Shares will result in the shareholding of Foley Holdings in NZWC totalling 80% of the issued share capital of NZWC, and that of existing shareholders totalling 20%. If shares were to be issued under the Convertible Note on conversion, then the shareholding of Foley Holdings could increase from 80% up to 83.3%.

The increased percentage mentioned above in relation to the issue of shares pursuant to the Convertible Note assumes no change in the shareholding of NZWC pending their issue.

Approvals required from Shareholders

The attached Notice of Meeting seeks the approval of shareholders to the following matters:

1. The acquisition by NZWC of all the shares in FNZ in order to give effect to the merger.
2. The issue of new ordinary shares to Foley Holdings in part satisfaction of the purchase price for the shares in FNZ and a cash subscription of \$6 million.
3. The issue of a Convertible Note to Foley Holdings in the sum of \$11.8 million, and the issue of shares in the future if conversion occurs.

Shareholder approval is also sought to a final resolution which deals with the status of the above approvals should the merger not proceed due to the conditions of the Merger Agreement not being satisfied.

Shareholders voting against the first resolution may exercise what is known as a minority buy-out right if that resolution is passed. This is a right to require NZWC to buy back their shares pursuant to s.111 Companies Act 1993. The right must be exercised by the dissenting shareholder, by notice in writing to the Company, within 10 working days of the passing of the resolution. The terms of the Merger Agreement specify that Foley Holdings or NZWC may cancel the agreement if shareholders who vote against the proposal and exercise their buy-out right represent more than 10 % of the issued share capital of NZWC. In that event the merger will not proceed and the buy-out right will lapse. In the event that

OIO does not consent to Foley Holdings taking the shares in NZWC, the resolutions will be deemed to have been rescinded.

Consequences of Shareholders not granting approvals

If the approvals are not granted by Shareholders, the Merger Agreement will be at an end and of no further effect. In that case, NZWC will be very much in the hands of its Bankers.

NZWC entered into a commitment to its Bankers, ANZ National Bank, in December 2011 that it would undertake a capital raising commitment process for a minimum of \$5 million and make satisfactory progress towards achieving that outcome by an anticipated completion date of 30 June 2012. The Bank has confirmed that the Merger Agreement satisfies the Bank's requirement for progress. In the event that the merger is not approved by shareholders, or having been approved, the conditions are not satisfied, and as a consequence, the Merger Agreement is terminated, NZWC would need to seek agreement from the Bank to the orderly realisation of its assets in order to repay Bank debt. Under this scenario the Board estimates that shareholders would receive proceeds in the range of \$0.52 to \$1.19 per share. There is no certainty that the Bank would choose this alternative over placing NZWC into receivership, which is likely to realise a lower amount for shareholders than if there was an orderly realisation, but would likely provide the Bank with more control over the realisation process.

Settlement of the Transaction

Settlement of the merger is scheduled to take place following Foley Holdings receiving approval from OIO to the allotment of shares in NZWC pursuant to the terms of the Merger Agreement. This may occur after the meeting of shareholders and subject to their approval of the proposed merger. While the Merger Agreement remains conditional, NZWC will enter into an Operational Agreement to work collaboratively with Foley Holdings to ensure that pending OIO approval, (and shareholder approval if this occurs after OIO approval) business will continue as usual for both NZWC and FNZ but without detriment to NZWC following the merger, should that OIO approval not be forthcoming.

NZWC will provide further announcements regarding the satisfaction of the outstanding conditions precedent in the Merger Agreement (if any) in due course.

PART B. Legal Requirements

Companies Act, Listing Rules and Takeovers Code

NZWC is listed on the New Zealand Alternative Market (**NZAX**) and must comply with the NZAX Listing Rules (**Listing Rules**) and the Takeovers Code (**Code**). The Code, NZWC's constitution and the Listing Rules contain specific requirements which are relevant to the approvals sought at this Special Meeting. NZWC must also comply with the requirements of the Companies Act 1993 (**Companies Act**) which touch on the proposed merger.

Companies Act Requirements

Since the merger involves a purchase which has a value which exceeds one-half of the value of the assets of NZWC (a "major transaction"), the merger must, in accordance with the Companies Act, be approved by a special resolution of shareholders representing 75% of shareholders entitled to vote and voting. If the resolution is approved, the Companies Act provides that shareholders who vote against the proposal are entitled to require that the company buy back their shares at fair value. This is explained in more detail in the Specific Explanatory notes to Resolution 1 in Part C below.

As required by the Companies Act, also, the directors confirm that in their opinion the consideration for and the terms of issue of the Convertible Note are fair and reasonable to NZWC and the shareholders.

Takeovers Code Requirements

Fundamental restrictions and permitted exceptions

Under Rule 6 of the Code, Foley Holdings may not become the holder or controller (together with its associates) of 20% or more of the voting rights in NZWC, and once it holds 20% or more of the voting rights it may not increase its control of voting rights in NZWC, unless the increase is permitted as an exception to that Rule. An exception contained in rule 7(d) of the Code permits an increase in a party's control of voting rights with shareholder approval.

Approval of Shareholders pursuant to the Code of allotments

NZWC shareholder approval is therefore being sought by way of ordinary resolutions (supported by a simple majority of shareholders) in accordance with the Code to the acquisition and increase in voting control of Foley Holdings and its associates in NZWC which will occur as a result of the issue:

- of the Consideration Shares to Foley Holdings;
- of any NZWC ordinary shares to Foley Holdings pursuant to the Convertible Note.

Rule 16 of the Code specifies certain information that must be disclosed in a Notice of Meeting in relation to the approval of the allotment of the Consideration Shares. The information required by the Code in relation to the Consideration Shares is set out at Appendix 1 of this Notice of Meeting.

PART C. Specific Explanatory Notes to the Resolutions

Resolution 1: As a special resolution - approval of acquisition of the shares in FNZ

The merger is a “major transaction” as defined in s.129 Companies Act 1993 because the value of the shares being purchased exceeds one-half of the value of the assets of NZWC.

As a consequence, shareholders are required by law to approve the acquisition by special resolution. If the resolution is approved, the Companies Act provides that shareholders who vote against the proposal are entitled to require the company to buy back their shares at a fair and reasonable value. Shareholders should not assume that they will receive the same value for their shares as has been assigned to the shares under the Merger Agreement. Shareholders will receive what is a fair and reasonable price calculated at the close of business on the day preceding the passing of the merger resolutions, after making an adjustment to exclude any fluctuation in value that has occurred (whether before or after the passing of the resolutions) that was due to, or in expectation of, the proposed merger. Shareholders will observe that the value assigned to the shares for the purposes of the merger is at a substantial premium to the market price of the shares since the announcement of the proposed merger. Shareholders are recommended to take advice from their own financial advisers as to what may be regarded as a fair and reasonable value for their shares should they choose to vote against the merger and then exercise their minority buy-out rights. The Companies Act requires the Board of NZWC to offer a price in response to a buy-back request which the Board considers is fair and reasonable which, if rejected by dissenting shareholders, is required to be determined by arbitration.

Shareholders who vote against the resolution and who wish to exercise this right to require NZWC to buy back their shares must, pursuant to s.111 Companies Act 1993, within 10 working days of the passing of the resolution, must give written notice that they require the company to buy back their shares. The procedural and pricing rules laid down by the Companies Act relating to the exercise of the buy-out right are summarised in Appendix 3 to these Explanatory Notes.

The terms of the Merger Agreement specify that Foley Holdings or NZWC may terminate the agreement if shareholders voting against the resolution and requiring a buy-back of their shares represent more than 10% of the issued share capital of NZWC. In that case the merger will not proceed, the resolution which approved the merger will be deemed to be rescinded and the buy-out right will lapse. The same outcome will be the consequence of the Overseas Investment Office not approving the proposed acquisition of NZWC shares by Foley Holdings.

The acquisition is, pursuant to rule 9.1 of the NZAX Listing Rules not permitted without 75% shareholder approval by special resolution because the value of the transaction exceeds 50% of the average market capitalisation of NZWC. The passing of Resolution 1 as a special resolution pursuant to s.129 Companies Act satisfies this Listing Rule.

Board Recommendation

The Directors of NZWC have carefully considered the proposal to merge NZWC and FNZ and unanimously recommend that NZWC shareholders vote in favour of Resolution 1. If this resolution is not passed, none of the other resolutions in this Notice of Meeting are able to pass and the Merger Agreement will be terminated.

Resolution 2: As an ordinary resolution – issue of consideration shares

The 34,708,796 Consideration Shares will be issued, at a price per share of \$1.386 being a total consideration of \$48,114,541. This is allocated:

- as to the sum of \$42,114,541 to the purchase price for all the shares in FNZ; and
- as to the sum of \$6,000,000 to the subscription price for NZWC shares subscribed for in cash by Foley Holdings;

NZWC's constitution and Listing Rule 7.3.1 require that the issue of the Consideration Shares be approved by an ordinary resolution of the existing shareholders of NZWC. The Consideration Shares will, on issue, be credited as fully paid and will rank pari passu in all respects with all NZWC ordinary shares on issue at that time. The Consideration Shares will be issued on settlement of the purchase of FNZ. Settlement occurs on the 1st day of the month following satisfaction of the relevant conditions in the Merger Agreement. The final conditional date is 31 December 2012.

Takeovers Code

The issue of the Consideration Shares totalling 34,708,796 ordinary shares is subject to the Code as the issue relates to an allotment of more than 20% of the voting securities of NZWC. In accordance with Rule 7(d) of the Code, the allotment of the Consideration Shares to Foley Holdings must be approved by an ordinary resolution of Shareholders for it to be an exception to the usual Code restriction on acquiring 20% or more of the voting securities of NZWC.

Board Recommendation

The Directors of NZWC unanimously recommend that NZWC shareholders vote in favour of Resolution 2. If this resolution is not approved, Resolution 1, despite approval fails, Resolutions 3 and 4 will not be put to shareholders, and the Merger Agreement will be terminated.

Resolution 3: As an ordinary resolution – Issue of Convertible Note

General

In addition to the issue of the Consideration Shares, NZWC proposes to enter into a Convertible Note agreement with Foley Holdings. The reason for this proposal needs explanation.

FNZ has a current loan liability of \$11.8 million to Foley Holdings under a promissory note. The loan is interest free (being inter-Foley group) and repayable on demand by Foley Holdings. NZWC has agreed to assume that liability by the issue of the Convertible Note. This liability has been taken into account in calculating the purchase price payable by NZWC for all the shares in FNZ. On conversion of the Convertible Note issued by NZWC, a further 8,512,266 shares in NZWC could be issued to Foley Holdings at a price of \$1.386 per share by way of off-set against the amount owing to Foley Holdings under the Convertible Note. Assuming no change in the shares on issue in NZWC between the date of the issue of the Convertible Note and its conversion to new shares, this would when aggregated with the Consideration Shares increase the holdings of Foley Holdings to 83.3%.

Terms of the Convertible Note

The principal terms of the Convertible Note are:

- the term of the Convertible Note is a minimum term of 18 months. After that period or earlier if NZWC is in breach of its obligations under the Convertible Note, the Convertible Note converts at the option of Foley Holdings or alternatively Foley Holdings may demand repayment in lieu of conversion;
- the issue price on the conversion of any shares under the Convertible Note is \$1.386 per share which is the same price at which the Consideration Shares will be issued;
- the Convertible Note does not give Foley Holdings any right to vote. Foley Holdings will acquire voting rights with the ordinary shares it receives on any exercise of the right to convert under the Convertible Note;
- interest is payable, quarterly in arrears (not compounding), on the Convertible Note pending conversion at the rate of 6.5% pa. The interest rate has been agreed between NZWC and Foley Holdings as being representative of market rates for an unsecured loan of its type; and
- all shares issued pursuant to the exercise of the Convertible Note will rank equally in all respects with all other NZWC Shares on issue.

The Convertible Note will not be quoted on the NZAX.

The Convertible Note can be converted at the option of Foley Holdings after 18 months and there are no performance hurdles required to be met before conversion can occur. NZWC can itself elect to repay the Note but this decision is effectively in the hands of Foley Holdings as the majority shareholder of NZWC (subject to any voting restriction which may apply to Foley Holdings under the NZAX Listing Rules or any other laws or regulations).

Your directors believe that the issue of the Convertible Note is in the best interests of NZWC. It will provide future flexibility for equity expansion required for financing, further growth of the company and it bears an interest rate lower than market rates for subordinated unsecured debt.

Issue of Ordinary Shares upon the Exercise of the Convertible Note

The resolution approves the issue of the Convertible Note and the issue of ordinary shares in NZWC on any exercise of the Convertible Note.

The price at which any shares may be issued is \$1.386 per share. This is the same price at which the Consideration Shares will be issued. The reason for this is the issue of the Convertible Note and the shares to be issued pursuant to an exercise of that instrument are requirements of the Merger Agreement and are therefore linked to the issue of the Consideration Shares.

Requirement for Resolution

Listing Rules

Listing Rule 7.3.1 states, in general terms, that shareholder approval must be obtained for any issue of Equity Securities (which includes the Convertible Note) by NZWC. Accordingly, shareholder approval is being sought in accordance with Listing Rule 7.3.1.

Listing Rule 7.5 states, in general terms, that any issue of shares that affects control of the issuer must be approved by an ordinary resolution of shareholders. While NZWC does not believe the issue of shares on the exercise of the Convertible Note will affect control of NZWC given that the issue of the Consideration Shares will result in Foley Holdings

acquiring effective control, it wishes to seek the approval of shareholders to remove any doubt.

Takeovers Code

The Convertible Note gives Foley Holdings the right to acquire shares in NZWC that would increase Foley Holdings' shareholding from 80% to 83.3% of the ordinary shares in NZWC assuming no change in the issued share capital prior to conversion. Since it is likely that Foley Holdings will hold and control more than 20% of the voting rights in NZWC at the time of conversion, the issue of the shares pursuant to the Convertible Note must, in accordance with Rule 7(d) of the Code, be approved by an ordinary resolution for the issue of shares to Foley Holdings to be an exception to the usual Code restriction on Foley Holdings increasing its voting control in NZWC.

Exemption Relief from Rule 16 – Convertible Note

Because the date on which the Convertible Note may be exercised in the future, and the numbers of shares which may be issued on conversion, are unknown, some of the information required by Rule 16 of the Code to be put to shareholders in considering the issue of those securities cannot be stated. This is because rule 16 requires precise details to be disclosed to shareholders about the numbers of shares to be allotted and the percentage of the share capital that those shares may represent.

Clause 10A of the Takeovers Code (Class Exemptions) Notice (No 2) 2001 (the **Class Exemption**) addresses this difficulty by providing an exemption from the Code in relation to those requirements of Rule 16 which cannot be complied with in relation to the conversion of convertible securities. The Class Exemption is subject to conditions which require disclosure to shareholders of prescribed details regarding the numbers and percentages of shares to be issued, the assumptions on which those details have been based and on-going disclosure (Annual Reports and Internet) prior to the issue of shares pursuant to the Convertible Note.

In seeking shareholder approval to the allotment of shares pursuant to the Convertible Note, NZWC is relying on the Class Exemption. The matters required by the Class Exemption to be disclosed are set out in Appendix 1 to this Notice of Meeting.

Board Recommendation

The Directors of NZWC unanimously recommend that NZWC shareholders vote in favour of Resolution 3. If this resolution is not approved, Resolutions 1 and 2, despite approval, fail, Resolution 4 will not be put to shareholders, and the Merger Agreement will be terminated.

Resolution 4: As a special resolution – Rescission of Resolutions

This resolution is both substantive and procedural in nature. It is designed to ensure that NZWC has no obligation to buy back the shares of dissenting shareholders who exercise the buyback right in the event that the proposed merger does not proceed. This could arise in the event that shareholders together representing more than 10% of the issued share capital vote against the first resolution, exercise the buy-out right and as a consequence Foley Holdings or NZWC terminate the Merger Agreement, or if OIO does not consent to Foley Holdings taking up the shares in NZWC. In either case Resolutions 1, 2 and 3 are deemed to be rescinded.

The Directors of NZWC unanimously recommend that NZWC shareholders vote in favour of Resolution 4.

APPENDIX 1

INFORMATION REQUIRED BY THE TAKEOVERS CODE AND THE CLASS EXEMPTION NOTICE IN RESPECT OF RESOLUTIONS 2 and 3

1. Identity of Allottee

The Consideration Shares and the Convertible Note (and any share issued on conversion) will be issued to Foley Family Wines Holdings, New Zealand Limited (Foley Holdings).

2. Particulars of the Voting Securities being Allotted

	Maximum number of voting securities that could be allotted	Maximum number of voting securities that could be allotted expressed as a percentage of the total voting securities on issue after the allotment	Maximum percentage of the total voting securities on issue that could be held or controlled by Foley Holdings after the completion of the allotment	Aggregate of the maximum percentages of the total voting securities on issue that could be held or controlled by Foley Holdings and by associates after completion of the allotment
Consideration Shares to Foley Holdings	34,708,796	80.0%	80.0%	80.0%
Convertible Note to Foley Holdings	8,512,266	3.3%	3.3%	83.3%
Aggregate	43,221,062	83.3%	83.3%	83.3%

3. Assumptions

The above information has been calculated as at 23 July 2012 ("the Calculation Date") on the assumptions that:

- (a) the number of voting securities is the number of voting securities on issue on the Calculation Date;
- (b) there is no change to the total number of voting securities on issue between the Calculation Date and the end of the allotment period, other than as a result of the allotments contemplated by this notice of meeting.;
- (c) Foley Holdings converts all of the securities under the Convertible Note; and
- (d) Foley Holdings is allotted the maximum number of voting securities pursuant to the Convertible Note.

4. If voting securities being allotted are voting securities of a body corporate other than the code Company

- (a) The number of voting securities in the code company that are held or controlled by that body corporate: Not applicable.
- (b) The percentage of the total voting securities of the code company that that number represents: Not applicable.

5. Issue price for voting securities being allotted and when it is payable

The Consideration Shares totalling 34,708,796 ordinary shares are being issued as consideration for, first, the purchase by NZWC of the shares in FNZ and, secondly, shares subscribed for in cash to the extent of \$6 million by Foley Holdings.

The Consideration Shares will be issued at a price per share of \$1.386 being a total consideration of \$48,114,541. This is allocated on settlement of the purchase:

- as to the sum of \$42,114,541 to the purchase price for all the shares in FNZ; and
- as to the sum of \$6,000,000 to the subscription price for NZWC shares subscribed for in cash by Foley Holdings;

Issue Price for the Shares issued pursuant to the Convertible Note

The Convertible Note is being issued in satisfaction of the liability of \$11.8 million owed by FNZ to Foley Holdings – a liability which has been taken into account in calculating the purchase price for all the shares in FNZ. Conversion may occur after 18 months or earlier if NZWC is in breach of its obligations under the Convertible Note, at the option of Foley Holdings. The price at which any shares may be issued on conversion is \$1.386 per share. This is the same price at which the Consideration Shares will be issued.

6. Reasons for allotment

The Consideration Shares are being issued as part of the satisfaction of the purchase price payable for all the shares in FNZ, and the cash subscription of \$6 million.

The Convertible Note and the shares to be issued pursuant to an exercise of that instrument are requirements of the Merger Agreement.

The allotment of the Consideration Shares and the issue of the Convertible Note, once made, will give effect to the proposed merger with Foley Holdings.

7. Statement that the allotment of the Consideration Shares will be permitted under Rule 7(d) of the Takeovers Code

The allotment of the Consideration Shares pursuant to Resolution 2 set out in this Notice of Meeting, if approved, will be permitted under Rule 7(d) of the Takeovers Code as an exception to Rule 6 of the Takeovers Code.

8. Statement as to disclosures in relation to the Convertible Note

The disclosures made in this Notice of Meeting in relation to the allotment of shares pursuant to the Convertible Note, if approved in accordance with Resolution 3, have been modified in reliance on the exemption set out in Clause 10A of the Takeovers Code (Class Exemptions) Notice (No 2) 2001.

9. Statement by person acquiring voting securities setting out particulars of arrangements relating to voting securities or voting rights

Foley Holdings has provided a statement to NZWC in accordance with Rule 16(g) of the Takeovers Code, that other than the proposed allotment of the Consideration Shares and the granting of the Convertible Note (and the shares issued pursuant to them) that has been approved by the Board of NZWC, and that is subject to approval of the shareholders of NZWC, there are no agreements or arrangements (whether legally enforceable or not) that have been, or are intended to be, entered into between Foley Holdings and any other person relating to the allotment, holding or control of the voting securities to be allotted, or to the exercise of the voting rights in NZWC except that Foley Family Wines Holdings, New Zealand Limited has raised the possibility with NZWC that, at an appropriate time in the future, partly paid ordinary shares could be issued to directors and/or other key individuals involved in NZWC as part of an incentive scheme. At this stage, the discussions have been around a potential issue of partly-paid ordinary shares of approximately 2.5% of the issued share capital of NZWC. NZWC has acknowledged that this matter may be considered in future by the board of directors of NZWC at the time (and, if approved by the Board, it may also require shareholder approval).

- 10.** The report from an Independent Adviser, Simmons Corporate Finance Limited, required by Rule 18 of the Takeovers Code is **enclosed** with this Notice of Meeting.
- 11.** The statement by the Directors of NZWC required by Rule 19 of the Takeovers Code is included at Appendix 2.

APPENDIX 2**DIRECTORS' STATEMENT – RULE 19 OF THE CODE**

Each of the Directors of NZWC, James Alton Jamieson, David Robert Appleby and William Francis Wallace, have reviewed the Independent Adviser's Report on the merits of the issue of the Consideration Shares (see Resolution 2) and the Convertible Note (see Resolution 3), from the perspective of shareholders who are not interested in the transaction (a copy of which Report accompanies this Notice of Special Meeting of shareholders).

After careful consideration, the Directors recommend approval under rule 7(d) of the Code of the issue of the Consideration Shares and the Convertible Note and the issue of shares on the conversion of the Convertible Note. The Directors' reasons for their recommendation are that the issue of these securities will give effect to the proposed merger with the interests of Foley Holdings and, in the opinion of the directors, will deliver the following benefits:

- ensure compliance with NZWC's agreement with the ANZ National Bank through the injection of \$6 million of cash of which \$5 million will be used to repay bank debt and \$1 million used to upgrade the NZWC winery for the production of higher quality and more profitable wines (in the absence of this cash injection NZWC is very much in the hands of the Bank which would require the sales of NZWC assets or other actions which may be to the detriment of shareholders);
- the issue of NZWC shares to Foley Holdings at a price of \$1.386 per share being the value ascribed to the FNZ shares. This issue price is significantly above the last sale price of \$0.90 per share prior to the announcement of the potential merger on 21 May 2012. As at date of signing of the Merger Agreement on 28 June 2012, the last sale price was \$0.85. It is important to note that it is difficult to determine where the NZWC share price will trade post the merger;
- the potential to provide a higher return to NZWC shareholders in the medium term than the alternatives of selling the company's assets over an uncertain timeline and when the realisation value cannot be quantified with any certainty, or introducing a financial investor to subscribe for new shares sufficient to reduce bank debt by the required amount;
- the scale required for NZWC to be a significant wine business globally, and to make it well placed to participate in the expected consolidation of the wine industry in New Zealand;
- an association with, Foley Family Wines, a reputable and experienced investor in the wine industry both in New Zealand and in the USA having strong distribution arrangements in place in New Zealand, Australia and particularly the USA;
- A stronger merged balance sheet with a more conservative debt to equity ratio which will provide better protection against seasonal adversity; and
- Operational and administrative cost savings with merging of marketing and back-office functions

The Board considers that the issue price of the Consideration Shares and the issue of shares pursuant to the Convertible Note represents fair and reasonable consideration to NZWC and its shareholders.

APPENDIX 3
(Exercise of the Buy-Out Right)

1. The procedures for a shareholder exercising a buy-out right are governed by sections 110, 111, 112 and 112A-C (inclusive) Companies Act 1993.
2. A shareholder of NZWC who votes against Resolution 1 is entitled to require NZWC to buy-back that shareholder's shares. That right is exercised by giving a written notice to NZWC within 10 working days of the passing of Resolution 1 requiring NZWC to purchase the shares.
3. Within 20 working days of receiving that notice from a shareholder exercising that shareholder's buy-out right, the Board of NZWC must give written notice to the shareholder of the Board's decision to agree to have NZWC agree to purchase the shares, or to arrange for some other person to agree to purchase the shares, or to give notice to the shareholder that Resolution 1 has been rescinded by cancellation of the proposed merger.
4. If the Board agrees to purchase the shares, the Board must give to the relevant shareholder written notice of:
 - (a) The price it offers to pay for those shares, being a fair and reasonable price; and
 - (b) How, in accordance with the Companies Act the fair and reasonable price was calculated.
5. In respect of sub-paragraph (b) of paragraph 4, above, the Companies Act mandates that the price must be a fair and reasonable price (as at the close of business on the day before the date on which the resolution (in this case Resolution 1) was passed, for the shares held by the shareholder, calculated as follows:
 - (a) First, the fair and reasonable value of the total shares in each class to which the shares belong must be calculated (the class value)
 - (b) Secondly, each class value must be adjusted to exclude any fluctuation (whether positive or negative) in the class value that has occurred (whether before or after the resolution was passed) that was due to, or in expectation of, the event proposed (in this case the acquisition to effect the merger) or authorised by the resolution
 - (c) Thirdly, a portion of each adjusted class value must be allocated to the shareholder in proportion to the number of shares he, she or it holds in the relevant class.
6. A different methodology from that set out above may be used to calculate the fair and reasonable value for the shares if using the methodology set out above would be clearly unfair to the shareholder or the NZWC.
7. On the day on which the Board gives notice under paragraph 4 above that the Board agrees to purchase the shares by the company:
 - (a) The legal title to those shares passes to NZWC; and
 - (b) The rights of the shareholder in relation to those shares end.

8. The shareholder may within 10 working days after the date on which the Board gives written notice to the shareholder under paragraph 4 above, object to the price offered by NZWC by giving written notice to NZWC.
9. If NZWC does not receive an objection to the price, NZWC must purchase the shares at the nominated price no later than 10 working days after the date on which the Board's offer under paragraph 4 above is accepted, or if the Board has not received an acceptance, the date that is 10 working days after the date on which the board gave written notice to the shareholder under paragraph 4 above.
10. These time periods may be changed as agreed in writing between the Board and the shareholder.
11. If NZWC receives an objection to the price offered for the shares:
 - (a) NZWC must, within 5 working days of receiving the objection pay to the shareholder a provisional price in respect of each share equal to the price offered by the NZWC Board under paragraph 4 above; and
 - (b) The issues as to the fair and reasonable price for the shares and the remedies available to the holder of the shares or NZWC in respect of any price for the shares that differs as determined by the Board under paragraph 4 above, must be submitted to arbitration.
12. If the price determined under paragraph 11 for the shares:
 - (a) Exceeds the provisional price paid, the arbitral tribunal must order NZWC to pay the balance owing the shareholder; or
 - (b) Is less than the provisional price paid, the arbitral tribunal must order the shareholder to pay the excess to NZWC.