

DUPLICATE

In the High Court of New Zealand
Auckland Registry
I Te Kōti Matua o Aotearoa
Tāmaki Makaurau

CIV-2024-404-002124

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

between: **Arvida Group Limited**
Applicant

Initial orders as to service, representation and directions

Dated: 29 August 2024



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INITIAL ORDERS AS TO SERVICE, REPRESENTATION AND DIRECTIONS

To: The applicant

The interlocutory application made by the applicant on 26 August 2024 was determined by the Honourable Justice Jagose on 29 August 2024.

The determination was made on the papers.

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 Arvida send to Stonepeak Alps BidCo Limited (*Stonepeak*) and the Takeovers Panel by electronic means copies of all documents it files in this proceeding.
- 3 Directing that personal service of the originating application dated 26 August 2024 on affected persons (other than *Stonepeak*) be dispensed with, and instead, that the other affected parties be served in accordance with the orders below.
- 4 Granting leave for the applicant to effect service on those affected persons outside the jurisdiction in the manner referred to below.

B Notice of Scheme Meeting and Shareholder Materials

- 5 Requiring Arvida to send the following information (the *Shareholder Materials*) to each of its shareholders who is entitled under its constitution to receive notice of the meeting of shareholders described in these orders (the *Scheme Meeting*), Arvida's directors and Arvida's auditors, such Shareholder Materials to be sent at least ten working days before the Scheme Meeting and in accordance with the requirements of the Companies Act 1993 (*Companies Act*);

5.1 the Proxy/Voting form; and

5.2 the scheme booklet (the *Scheme Booklet*) in respect of the scheme of arrangement under Part 15 of the Companies Act (the *Scheme*), which will contain the following materials:

- (a) the Chair's letter;
- (b) the formal notice of meeting;
- (c) information about the Scheme, including
 - (i) a summary of the Scheme;



- (ii) a summary of both the reasons to vote in favour of the Scheme and the reasons to vote against the Scheme;
- (d) information equivalent to Schedule 1 of the Takeovers Code;
- (e) information equivalent to Schedule 2 of the Takeovers Code;
- (f) the independent adviser's report prepared by Grant Samuel & Associates Limited;
- (g) the Scheme Plan (as defined in the Scheme Booklet); and
- (h) the deed poll executed by Stonepeak;

in substantially the same form as the drafts which are referred to in and annexed to the affidavit of Anthony Montgomery Beverley save as may be amended, revised or supplemented in accordance with paragraph 11.

- 6 Requiring that the Shareholder Materials be sent to those persons specified in paragraph 5 in:
 - 6.1 electronic format to all shareholders who have elected to receive documents from Arvida in electronic form only; and
 - 6.2 by ordinary mail in hardcopy format to all other shareholders.
- 7 Directing that the approved Scheme Booklet be promptly lodged on the NZX market announcement platform.
- 8 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 6 above.
- 9 Directing that Arvida make:
 - 9.1 electronic copies of the Shareholder Materials available at the Arvida website (<https://www.arvida.co.nz/stonepeak-scheme>);
 - 9.2 hard copies of the Shareholder Materials available on written request to Arvida;
- 10 Permitting Arvida to make such amendments to the Scheme as Arvida may determine are in the best interests of Arvida and its



Shareholders, and to which Stonepeak has agreed in writing, as well as any inconsequential amendments to the Scheme, and the Scheme so amended will be the Scheme to be submitted to Shareholders at the Scheme Meeting for approval.

- 11 Permitting Arvida to make amendments, revisions and/or supplements to the Shareholder Materials. Should Arvida make any material amendments after the Shareholder Materials have been sent to shareholders, those changes will be notified to shareholders as soon as reasonably practicable. Such notification may be made by way of market announcement on the NZX market announcement platform and on Arvida's website at <https://www.arvida.co.nz/stonepeak-scheme>.
- 12 Requiring Arvida to upload complete copies of the following documents to the website: <https://www.arvida.co.nz/stonepeak-scheme>:
 - 12.1 the Scheme Booklet (referred to in paragraph 5);
 - 12.2 the initial orders made by the Court, and the application for final Court orders, in respect of the Scheme;
 - 12.3 the scheme implementation agreement dated 20 July 2024 between Arvida and Stonepeak (in full);
 - 12.4 relevant Arvida NZX announcements; and
 - 12.5 any other relevant updates to shareholders as required.
- 13 Requiring Arvida to provide a copy of the relevant Shareholder Materials on written request to any other person who becomes a registered shareholder of Arvida 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 Arvida 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 Scheme Meeting, but if any such failure or omission is brought to the attention of Arvida, then it shall endeavour to rectify it by the method and in the time most reasonably practicable in the circumstances.
- 15 That Arvida is not required to send the Shareholder Materials to those shareholders for whom Arvida does not have known addresses (as at 21 August 2024, 79 shareholders who hold 2,662,253 or 0.36 per cent of Arvida's shares). In the event that any of those shareholders contacts Arvida to update their address details not less



than 5 working days before the Scheme Meeting, Arvida is required to send a set of the Shareholder Materials to that shareholder.

C Scheme Meeting

- 16 Directing Arvida to hold the Scheme Meeting on 25 September 2024 or such later date to be notified by Arvida (if it considers it necessary or desirable to do so, including to comply with any applicable legal restrictions or other relevant regulatory considerations) at 2pm in person (New Zealand time) at the JW Marriott Auckland, 22-26 Albert Street, Auckland 1010 and virtually through the Computershare Investor Services Limited meeting platform (<https://meetnow.global/nz>), to seek approval of the Scheme between Arvida, Stonepeak and Arvida's shareholders (subject to any amendment or variation made in accordance with these orders).
- 17 Directing that only holders of Arvida shares whose names appear in the register of shareholders as at 5:00pm on 24 September 2024 are entitled to be represented and vote at the Scheme Meeting or any adjournment or postponement thereof.
- 18 Directing that:
- 18.1 all shareholders shall vote in one of two classes:
- (a) a class consisting of William McDonald, Arvida shareholder and former CEO;
 - (b) a further class, consisting of all Arvida shareholders other than Mr McDonald;
- 18.2 the vote be conducted by poll;
- 18.3 the resolution shall be passed if it is approved by:
- (a) a majority of 75 per cent of the votes of the shareholders entitled to vote and voting on the resolution; and
 - (b) a simple majority of the votes of those shareholders entitled to vote;
- 18.4 the Chairperson of the Scheme Meeting shall not have a casting vote;
- 18.5 the resolution sought by Arvida may be put to the shareholders at the same time as, or incorporated into, such other resolutions as Arvida may determine; and



18.6 subject to these orders, the Scheme Meeting is to be conducted in accordance with the provisions of the Companies Act and Arvida's constitution.

19 Directing that:

19.1 to be valid, all proxy votes and postal votes need to be:

- (a) received by the Registrar, Computershare Investor Services Limited, Private Bag 92119, Auckland 1142, New Zealand; or
- (b) lodged online at www.investorvote.co.nz; or
- (c) emailed to corporateactions@computershare.co.nz;

by 2:00 pm on 23 September 2024 (*Voting Deadline*);

19.2 Arvida is entitled to disregard any proxy votes or postal votes received after the Voting Deadline; but

19.3 notwithstanding Arvida's constitution, Arvida may waive, in its discretion, the Voting Deadline if it deems such waiver to be in its best interests and in the best interests of Arvida's shareholders as a whole.

D Reporting the results of the Scheme Meeting

20 Requiring Arvida to notify the outcome of the Scheme Meeting by:

20.1 lodging the results on the NZX Main Board's market announcement platform as soon as practicable after voting at the Scheme Meeting is complete; and

20.2 serving written notice on persons entitled under paragraph 26 below 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 Scheme Meeting is complete.

21 Requiring Arvida, 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;

21.2 confirming the outcome of the Scheme Meeting; and

21.3 confirming the issue of a Takeovers Panel no-objection letter.



E Hearing date for application for final court orders

22 Directing that the matter will be called again for a one hour hearing at 11.45am on 17 October 2024 in order to hear the originating application for orders approving the Scheme (the *Application for Final Court Orders*).

F Rights of appearance and opposition

23 Directing that, if Stonepeak, the Takeovers Panel or an Arvida shareholder wishes to appear and be heard on the Application for Final Court Orders, leave is not required, but any such party must file a notice of appearance or a notice of opposition (as applicable, and in either case containing an address for service), any affidavits and a memorandum of submissions on which they intend to rely by 1 October 2024, and on the same day serve a copy on Arvida.

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 file an application for leave to be heard on the Application for Final Court Orders (containing an address for service), a notice of opposition, any affidavits and a memorandum of submissions upon which that person intends to rely by 1 October 2024 and on the same day serve a copy on Arvida.

25 Directing that by 2 October 2024 Arvida 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 Arvida;

26.2 Stonepeak, if a notice of appearance has been filed in accordance with order 23 above;

26.3 the Takeovers Panel, if a notice of appearance or a notice of opposition has been filed in accordance with order 23 above;

26.4 an Arvida shareholder, if a notice of appearance or a notice of opposition has been filed in accordance with order 23 above;

26.5 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 Court file not to be searched

28 That the Court file in this proceeding may not be searched, inspected or copied without leave of the Court until such time as the Shareholder Materials have been distributed to shareholders in accordance with the orders at paragraph 5 above.

H Leave to apply for variation at short notice

29 Granting Arvida leave to apply at short notice to vary these orders and to apply for such further orders as may be appropriate.

Date: 29 August 2024

Susan Parker

Registrar/Deputy Registrar

**S. J. PARKER
DEPUTY REGISTRAR**

