



**SECURITIES ACT (NZPS PROPERTY TRUST) EXEMPTION
NOTICE 1999**

PURSUANT to the Securities Act 1978, the Securities Commission gives the following notice.

ANALYSIS

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NOTICE

1. Title, commencement, and expiry—(1) This notice may be cited as the Securities Act (NZPS Property Trust) Exemption Notice 1999.

(2) This notice comes into force on the day after the date of its notification in the *Gazette*.

(3) This notice expires on the close of 31 July 2007.

2. Interpretation—(1) In this notice, unless the context otherwise requires,—

“Act” means the Securities Act 1978:

“Convertible securities” means securities that will, upon maturity, be converted into units in a fund:

“Fund” means any of the Broadway Property Fund, the Garden City Property Fund, the Hamilton Central Business District Property Fund, the Hutt Commercial Property Fund, the Three Kings Plaza Property Fund, and the Torrich Property Fund, being separate unit trusts established under the trust deed:

“Manager” means Cascara Group Limited:

“Regulations” means the Securities Regulations 1983:

“Trust” means the unit trust called NZPS Property Trust established under the trust deed:

“Trust deed” means the trust deed dated 13 December 1993 between Cascara Group Limited and Perpetual Trust Limited (as amended) establishing the trust:

“Trustee” means Perpetual Trust Limited:

“Units” means units in a fund.

(2) Any term or expression that is not defined in this notice, but that is defined in the Act or the Regulations, has the meaning given to it by the Act or the Regulations.

3. Exemption for manager and trustee in respect of convertible securities—(1) The manager, the trustee, and every person acting on behalf of both or either of them are exempted from sections 33 (2) and 37 of the Act in respect of any convertible securities in a fund offered to a person who is, when the offer is made, the holder of units in that fund.

(2) The exemption granted by subclause (1) is subject to the condition that—

- (a) The trustee has been appointed the trustee in respect of the convertible securities; and
- (b) The trust deed contains clauses equivalent to the clauses that are deemed by the Fifth Schedule of the Regulations to be included in trust deeds for debt securities; and
- (c) The manager and the trustee have signed the trust deed; and
- (d) The trust deed is lodged with the Registrar under section 9 of the Unit Trusts Act 1960; and
- (e) The investment statement contains a prominent statement in, or substantially in, the following form:

“Under the Securities Act 1978, the trustee and the manager are the issuer of the convertible notes. The Securities Act (NZPS Property Trust) Exemption Notice 1999 avoids duplication of the disclosure obligations affecting the issuer. The disclosure obligations of the issuer will be undertaken by the manager.”

4. Exemption for trustee in respect of convertible securities—The trustee and every person acting on its behalf (but not the manager) are exempted from sections 37A, 38A, and 51 to 54B of the Act and from the Regulations in respect of any convertible securities in a fund offered to a person who is, when the offer is made, the holder of units in that fund.

5. Exemption for manager in respect of convertible securities—The manager and every person acting on its behalf are exempted, in respect of any convertible securities in a fund offered to a person who is, when the offer is made, the holder of units in that fund, from clauses 3 (2), 4 (b), 15 (1), and 18 of Schedule 3D of the Regulations to the extent that those clauses require disclosure of information about the trustee as issuer.

6. Exemption for manager in respect of units relating to convertible securities—(1) The manager and every person acting on its behalf are exempted from section 37 of the Act in respect of units in a fund that are, or are to be, allotted pursuant to the terms of, or the exercise by any convertible security holder of a right conferred by, the convertible securities.

(2) The exemption granted by subclause (1) is subject to the condition that—

- (a) The convertible securities have been allotted under an investment statement that contains key information relating to the units; and

- (b) The holder of the convertible securities was, when the offer of convertible securities in the fund was made, the holder of units in that fund; and
- (c) Before allotment of the units and before the exercise of any right conferred by the convertible securities, there has been sent to every current holder of the same class of convertible security in respect of which the units are allotted or a right is exercised,—
- (i) A copy of the most recent audited consolidated statement of financial position, audited consolidated statement of financial performance, and audited consolidated statement of cash flows of the fund that comply with the provisions of the Financial Reporting Act 1993 relating to financial statements (or, if applicable, group financial statements) and with the provisions of any other enactment to which the manager is subject in respect of the fund; and
 - (ii) If the date of allotment of the units or the date of the exercise of any right conferred by the convertible securities would be later than 9 months after the date of the statement of financial position referred to in subparagraph (i), a copy of—
 - (A) An interim consolidated statement of financial position of the fund as at the end of, and an interim consolidated statement of financial performance and an interim consolidated statement of cash flows of the fund for, a period commencing on the day after the date of the statement of financial position referred to in subparagraph (i) and ending on a date that is not later than 9 months after that date that comply with the provisions of the Financial Reporting Act 1993 relating to financial statements (or, if applicable, group financial statements) and with the provisions of any other enactment to which the manager is subject (except in each case that they need not be audited); and
 - (B) A statement containing a description of the fund; and
- (d) The date of allotment of the units under the terms of, or the exercise of any right conferred by, the convertible securities, is not more than 9 months after the date of the statement of financial position or interim statement of financial position, as the case may be, referred to in paragraph (c).
- (3) “Current holder” in subclause (2)(c) means every person who is, at the time the financial statements are sent, a registered holder of convertible securities of that class.

Dated at Wellington this 16th day of June 1999.

The Common Seal of the Securities Commission was affixed in the presence of:

[L.S.]

E. H. ABERNETHY,
Chairman.

EXPLANATORY NOTE

This note is not part of the notice, but is intended to indicate its general effect.

This notice, which comes into force on the day after the date of its notification in the *Gazette*, exempts the manager and the trustee of NZPS Property Trust, subject to conditions, from certain provisions of the Securities Act 1978 and the Securities Regulations 1983 in respect of convertible securities and units offered to existing unit holders.

Issued under the authority of the Acts and Regulations Publication Act 1989.

Date of notification in *Gazette*: 17 June 1999.

This notice is administered in the Securities Commission.