



Securities Act (Dorchester Property Trust) Exemption Notice 2010

Pursuant to the Securities Act 1978, the Securities Commission gives the following notice (to which is appended a statement of reasons of the Securities Commission).

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Notice

- 1 Title**
 This notice is the Securities Act (Dorchester Property Trust) Exemption Notice 2010.
- 2 Commencement**
 This notice comes into force on the day after the date of its notification in the *Gazette*.
- 3 Expiry**
 This notice expires on the close of 31 August 2010.
- 4 Interpretation**
 (1) In this notice, unless the context otherwise requires,—
Act means the Securities Act 1978

DPT means Dorchester Property Trust, a unit trust established under a trust deed dated on or about 11 June 2010 between the manager and Perpetual Trust Limited

manager means Dorchester Hotel Property Trust Management Limited, the manager of DPT

prospectus means the prospectus for the offer of units in DPT to be registered on or about 21 June 2010

Regulations means the Securities Regulations 2009

specified business means, in respect of each specified property, the business carried on at that property

specified property means each of the following:

- (a) Goldridge Resort, Queenstown (**Goldridge**), comprising all the land in certificates of title 259807, 259809, 259810, and 214824 to 214896, 249259, 259807, 259809, 259810, 296415 to 296456, 296459 to 296462, 296468 to 296484, 296488, 296489, and 296492 to 296500, all Otago Registry:
 - (b) the Emerald Hotel, Gisborne (**Emerald Hotel**), comprising all the land in certificates of title 322351, 322357 to 322384, 322386, and 322388, all Gisborne Registry:
 - (c) 23 units in the Parkview on Hagley, Christchurch, and an associated commercial unit (**Parkview**), comprising all the land in certificates of title 385451 to 385455, 385457 to 385471, 385473, 385476, 385477, 385479, 385482, 385484, 385485, and 385495, all Canterbury Registry:
 - (d) the Frankton Arm Apartments, Queenstown (**Frankton Arm Apartments**), comprising all the land in certificates of title 13C/382 to 13C/419, all Otago Registry.
- (2) Any term or expression that is defined in the Regulations and used, but not defined, in this notice has the same meaning as in the Act or the Regulations.

5 Exemption

The manager, and every person acting on its behalf, is exempted from regulation 5(1)(d) of the Regulations to the extent that that regulation requires a registered prospectus relating to

the offer of units in DPT to contain the matters specified in clause 11(3)(c) and (d) of Schedule 4 of the Regulations.

6 Condition of exemption in clause 5

The exemption in clause 5 is subject to the condition that the prospectus must contain the following:

- (a) prospective pro forma financial statements for DPT that—
 - (i) are prepared for the 12-month period commencing on 1 April 2010; and
 - (ii) are prepared as if, since 1 April 2010, DPT owns and operates each specified business; and
 - (iii) state all material assumptions used in the preparation of the prospective pro forma financial statements; and
 - (iv) include segment analysis of each specified business:
- (b) a report by a qualified auditor on the prospective pro forma financial statements referred to in paragraph (a) that—
 - (i) is signed by the auditor in the name of the auditor or the auditor's firm; and
 - (ii) states whether the prospective pro forma financial statements comply with FRS-42 and, as far as the accounting policies and calculations are concerned, have been properly compiled in accordance with—
 - (A) the assumptions that describe the ownership, composition, and operations of DPT; and
 - (B) the accounting policies set out in the relevant pages of the prospectus that were used in the preparation of the prospective pro forma financial statements:
- (c) summary financial statements, that are derived from the audited financial statements of Dorchester Pacific Limited and comply with clause 8(2) to (4) of Schedule 4 of the Regulations, for the following 3 specified businesses:

- (i) for the specified business at Goldridge, in respect of the 12 months ending on 31 March 2010:
 - (ii) for the specified business at Emerald Hotel, in respect of the period commencing on the date on which Emerald Hotel is acquired by a subsidiary of Dorchester Finance Limited and ending on 31 March 2010:
 - (iii) for the specified business at Parkview, in respect of the period commencing on the date on which Parkview is acquired by a subsidiary of Dorchester Finance Limited and ending on 31 March 2010:
- (d) the following valuation reports for the specified properties:
- (i) for Goldridge, the valuation report prepared for Dorchester Pacific Limited of Goldridge Resort, 592 Frankton Road, Queenstown, dated 26 March 2010:
 - (ii) for Emerald Hotel, the abbreviated valuation report prepared for Dorchester Finance Limited of the hotel, office, retail development, and carpark at 15 Gladstone Road, corner Reads Quay, Gisborne, dated 7 April 2010:
 - (iii) for Parkview, the valuation report prepared for Dorchester Finance Limited of 1 Riccarton Road, Christchurch, dated 25 March 2010:
 - (iv) for Frankton Arm Apartments, the valuation report prepared for Dorchester Finance Limited of corner Yewlett Crescent and Lake Avenue, Frankton, Queenstown, dated 19 April 2010:
- (e) a statement by the directors of the manager describing the purpose for which each valuation report was provided:
- (f) a statement by the directors of the manager disclosing—
- (i) the price paid, or to be paid, for each specified property; and
 - (ii) the dates (if known) and the circumstances of the acquisition of each specified property; and

- (iii) whether the acquisition was, or will be, a related party transaction (as defined in NZ IAS 24 *Related Party Disclosures*); and
 - (iv) the nature of any interest previously held in any specified property by any member of Dorchester group (being Dorchester Pacific Limited and its subsidiaries):
- (g) a statement by the directors of the manager stating that it is the intention of DPT to sell all the specified properties, and when they expect them to be sold:
- (h) prominent statements setting out—
 - (i) the reasons why the information required by paragraphs (c) and (d) of clause 11(3) of Schedule 4 of the Regulations is not able to be provided; and
 - (ii) the reasons why the directors of the manager consider that it would be misleading to provide prospective pro forma financial statements for more than the first accounting period of DPT, which ends on 31 March 2011:
- (i) a statement by the directors of the manager, in respect of each specified business, of whether, in their opinion, after due enquiry by them, any of the following has materially and adversely changed during the period between 31 March 2010 and the specified date in relation to the prospectus:
 - (i) the value of the assets of the business, relative to its liabilities (including contingent liabilities):
 - (ii) the ability of the business to pay its debts as they become due in the normal course of business:
 - (iii) the profitability of each business:
- (j) a statement by the directors of the manager certifying that the income and expenses of DPT in the 2 accounting periods following 31 March 2011 are not expected to be materially different from the income and expenses disclosed in the prospective pro forma financial statements for the year ended 31 March 2011 or, if any material variation is expected, the reasons for the variation

and the assumptions upon which the assessments are based:

- (k) a statement to the effect that—
 - (i) an exemption has been granted to the manager by the Securities Commission from the requirement that the prospectus contains summary financial statements for the preceding 5 accounting periods for each specified business acquired by DPT, and from the requirement to refer to or provide financial statements for those businesses, on condition that other financial information about each business is provided; and
 - (ii) the exemption has been granted because the directors of DPT have advised that the summary financial statements are not available:
- (l) a statement to the effect that, in granting the exemption, the Securities Commission—
 - (i) is neither endorsing nor supporting the accuracy or reliability of the contents of the prospectus; and
 - (ii) is not implying that it has a view on the merits of the proposed offer of units in DPT or the capital reconstruction plan to which it relates.

Dated at Wellington this 15th day of June 2010.

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

[Seal]

N O Todd,
Member.

Statement of reasons

This notice, which comes into force on the day after the date of its notification in the *Gazette* and expires on 31 August 2010, relates to the issue of units in Dorchester Property Trust (**DPT**). It exempts (subject to conditions) Dorchester Hotel Property Trust Management Limited (the **manager** of DPT) from regulation 5(1)(d) of the Securities Regulations 2009 (the **Regulations**) to the extent that that regulation requires the manager to comply with paragraphs (c) and (d) of clauses 11(3) of Schedule 4 of the Regulations. Those paragraphs are about providing historical financial information in relation to businesses acquired for the purposes of a unit trust.

DPT has acquired, or is about to acquire, 4 businesses that are carried on at certain properties (the **specified properties**).

The Securities Commission considers that it is appropriate to grant the exemption because—

- DPT is unable to comply with the requirements of clause 11(3)(c) and (d) of Schedule 4 of the Regulations because of the unavailability of certain historical information. The conditions of the exemption require DPT to provide potential investors with the best available financial information in relation to the specified properties:
- this alternative information includes certain historical financial information on the businesses, 12 months' prospective pro forma financial statements for the businesses, valuation reports for the specified properties, and related information, to enable investors to make informed decisions about their investments:

- the conditions of the exemption require the directors of the manager to—
 - make various statements in the prospectus, including a statement of why they consider that it would be misleading to provide prospective pro forma financial information for more than 1 year; and
 - certify that the income and expenses of DPT in the 2 accounting periods following 31 March 2011 are not expected to be materially different from the income and expenses disclosed in the prospective pro forma financial statements for the year ended 31 March 2011 or, if a material variation is expected, the reasons for the variation and the assumptions upon which the assessments are based; and
 - include in the prospectus a statement that, in granting the exemption, the Securities Commission is not endorsing the accuracy or reliability of the prospectus or the merit of the offer or the reconstruction plan to which it relates.

Issued under the authority of the Acts and Regulations Publication Act 1989.
Date of notification in *Gazette*: 17 June 2010.
This notice is administered by the Securities Commission.
