

Enforceable Undertaking

1. Introduction

1.1 This undertaking is offered to the Securities Commission for acceptance under section 69J of the Securities Act 1978 by:

- (a) Kensington Park Properties Limited (1756692) ("**Company**"), a company incorporated on 18 January 2006, whose registered office is at:

Level 3, Kensington House
52-54 Grafton Road
Grafton
Auckland

C/o Caroline Beaumont

And by the directors of the Company:

- (b) Patrick Marinus Fontein whose address is 192 Orakei Road, Remuera, Auckland and Allan Graham Clarke whose address is 363 Hibiscus Coast, Orewa, Auckland (the "**Directors**")

2. Background

2.1 The Company is the developer of land situated on the site generally bounded by Puriri Avenue, Centreway Road, Millennial Way and Alice Eaves Scenic Reserve in Orewa, Auckland and known as Kensington Park ("**Land**").

2.2 The Company is constructing a predominantly residential development on the Land ("the **Development**"). The Development is due to be completed in the following stages:

Stage	Number of properties	No. under construction	No. completed	Common Facilities (Indicative)
1A	11	11	0	Reserves
1B	56	Not started	0	Reserves
1C	8	Not started	0	Reserves and recreational features
2A	12	Not started	0	Reserves
2B	7	Not started	0	Reserves
2C	30	Not started	0	Reserves and water feature
2D	11	Not started	0	Reserves



Stage	Number of properties	No. under construction	No. completed	Common Facilities
2E	30	Not started	0	Reserves
3A	16	Not started	0	Reserves, water feature,
3B	48	Not started	0	Reserves
3C	64	Not started	0	Reserves
4A	32	Not started	0	Reserves
4B	48	Not started	0	Reserves
4C	32	Not started	0	Reserves
5	145	Not started	0	Reserves and recreational features
6	200	Not started	0	Reserves

2.3 During the course of construction of the Development, numerous common facilities will progressively be established for the benefit of residents of the Development ("**Common Facilities**").

2.4 A society, to be incorporated under the Incorporated Societies Act 1908, (the "**Society**") will be established for the purpose of, inter alia, establishing and enforcing bylaws of the Development; and owning, managing, maintaining and ensuring the proper use of the Common Facilities.

3. **Contravention of Securities Act 1978**

3.1 The Company and the Directors accept that the offer of securities in the form of membership in the Society confers a right to participate in ownership and use of the Common Facilities in the Development. Accordingly, persons who enter into sale agreements to purchase property in the Development also subscribe for participatory securities through membership of the Society ("**Securities**"). Securities have been offered to the public for subscription, without a registered prospectus or an investment statement, in contravention of the requirements of the Securities Act 1978 and the Securities Regulations 1983.

3.2 The Company and the Directors were, at the time of offer of the Securities, unaware that such offers were made in contravention of the Securities Act 1978.

3.3 The Company and the Directors have advised the Commission of the breach, and acknowledge the Commission's concerns about this. The Company and the Directors wish to remedy the situation, and to ensure that no further breaches occur. They have offered the undertakings set out below.

4. Undertakings

- 4.1 The Company and the Directors will not offer further Securities to the public for subscription, other than in an investment statement, registered prospectus, or authorised advertisement that complies with the Securities Act 1978 and the Securities Regulations 1983, or in accordance with any applicable exemption contained in the Securities Act 1978 or granted by the Commission.
- 4.2 The Company and the Directors will put procedures in place to ensure any advertisements containing an offer of further Securities comply with the Securities Act 1978 and the Securities Regulations 1983, subject to any applicable exemption contained in the Securities Act 1978 or granted by the Commission.
- 4.3 The Company and the Director will offer any investor who subscribed for Securities in contravention of the Securities Act 1978 and the Securities Regulations 1983 the opportunity to:
- (a) cancel their subscription and receive a refund of their subscription monies together with interest in terms of section 37 and 37A of the Securities Act 1978; or
 - (b) re-subscribe for their Securities under the terms and conditions of the Securities Act (Kensington Park Properties Limited) Exemption Notice 2007.
- 4.4 If any such investor exercises his or her rights under sections 37 or 37A, then the Company and the directors will cancel the securities allotted to such investors and refund the investor's subscription monies together with interest within 15 working days of the closing date of the offer.

5. Acknowledgments

- 5.1 The Company and the Directors acknowledge that the Commission:
- (a) may issue a media release referring to the undertaking and to the concerns of the Commission which led to the undertaking being executed;
 - (b) may from time to time publicly refer to the undertaking; and
 - (c) will make this undertaking available for public inspection.
- 5.2 The Company and the Directors acknowledge that this undertaking does not derogate from the rights and remedies available to the Commission or to any other person or entity arising from the conduct described in this undertaking.
- 5.3 The Company and the Directors acknowledge that the Commission's acceptance of an enforceable undertaking under section 69J of the Securities Act 1978 does not affect the Commission's power to investigate future conduct of any person, to take any action or to exercise any power under the Securities Act 1978 or any other legislation, or to refer any matter for criminal prosecution or seek any civil penalty.

Signed for and on behalf of Kensington Park Properties Limited by its duly authorised officer:

[Patrick Marinus Fontein]



[Allan Graham Clarke]



Accepted by the Securities Commission pursuant to section 69J of the Securities Act 1978
by its authorised delegate:

A handwritten signature in black ink, appearing to read 'Liam Mason', with a long horizontal flourish extending to the right.

[Liam Mason]

General Counsel

Dated this 5th day of March 2007.