



South Taranaki District Council (Cold Creek Rural Water Supply) Act 2013

Local Act 2013 No 2
Date of assent 18 March 2013
Commencement see section 2

Contents

		Page
1	Title	2
2	Commencement	2
Part 1		
Preliminary provisions		
3	Purpose	2
4	Interpretation	2
Part 2		
Process for obtaining authorisation to transfer scheme		
5	Council to follow transfer process	4
6	Responsibility for conduct of referendum	4
7	Eligibility to vote in referendum	5
8	Requirements for plans and assessments	5
9	Transfer plan	6
Part 3		
Matters relating to transfer of scheme		
10	Application of Part	6
11	Certain matters not affected by transfer of scheme	6
12	Application of Local Government Act 2002	7
13	Taranaki Regional Council to be advised of transfer	7

s 1	South Taranaki District Council (Cold Creek Rural Water Supply) Act 2013	2013 No 2
<hr/>		
14	Taxation and duties provision	7
15	Transfer of land	7
	Schedule 1	9
	Description of land on which Cold Creek Community Water Supply treatment plant situated	
	Schedule 2	10
	Map of scheme distribution area	
<hr/>		

The Parliament of New Zealand enacts as follows:

- 1 Title**
This Act is the South Taranaki District Council (Cold Creek Rural Water Supply) Act 2013.
- 2 Commencement**
This Act comes into force on the day after the date on which it receives the Royal assent.

**Part 1
Preliminary provisions**

- 3 Purpose**
The purpose of this Act is—
 - (a) to specify the process that the South Taranaki District Council must follow to authorise a transfer of the Cold Creek Rural Water Supply Scheme to Cold Creek Community Water Supply Limited; and
 - (b) to provide for certain related matters if the scheme is transferred to the Company.
- 4 Interpretation**
In this Act, unless the context otherwise requires,—
Company means Cold Creek Community Water Supply Limited
Council means the South Taranaki District Council

iwi authority has the same meaning as in the Resource Management Act 1991

Registrar means the Registrar-General of Land

scheme means the Cold Creek Rural Water Supply Scheme that is vested in the Council, and includes the scheme assets

scheme assets—

- (a) means the real and personal property of the Council that is held or used (whether solely or partially) for the purposes of the scheme; and
- (b) includes the following:
 - (i) the intake structure;
 - (ii) the treatment plant;
 - (iii) the land on which the treatment plant is situated, being the land described in Schedule 1;
 - (iv) the in-ground covered reservoir;
 - (v) two waste discharge ponds;
 - (vi) the pipes and pressure-reducing valves;
 - (vii) other valves and supply point connections;
 - (viii) all water meters for the scheme;
 - (ix) the electronic control and monitoring equipment; and
- (c) includes the following resource consents granted under the Resource Management Act 1991:
 - (i) land use consent 5554 (to erect and maintain an intake structure);
 - (ii) water permit 1334–2 (to take up 5 095 cubic metres per day or 59 litres per second);
 - (iii) discharge consent 6077 (to discharge filter backwash water and supernatant); but
- (d) does not include the cross-linkage pipeline (beyond the connection point) used for the purpose of providing water to Opunake residents in certain emergencies

scheme distribution area means the area coloured blue on the map set out in Schedule 2.

Part 2

Process for obtaining authorisation to transfer scheme

5 Council to follow transfer process

- (1) The Council must transfer the scheme to the Company if—
 - (a) the Council has complied with subsection (2); and
 - (b) the transfer is supported, in a referendum conducted under section 9 of the Local Electoral Act 2001 using the First Past the Post electoral system, by more than 50% of the votes cast by the persons eligible to vote under section 7.
- (2) The Council complies with this subsection if—
 - (a) the Council has consulted on the proposed transfer with—
 - (i) the Medical Officer of Health for Taranaki; and
 - (ii) every iwi authority in relation to each iwi whose rohe comes, wholly or in part, within the scheme distribution area; and
 - (b) the Council has made publicly available in a balanced and timely manner prior to the referendum—
 - (i) the views of the Medical Officer of Health; and
 - (ii) the views of every iwi authority consulted under paragraph (a)(ii); and
 - (iii) the transfer plan and the proposed agreement outlining the roles and responsibilities of the Company and any contractors (including the Council) in relation to the scheme, as prepared by the Company under section 8; and
 - (iv) the assessments made by the Company under section 8.

6 Responsibility for conduct of referendum

- (1) The Council is responsible for conducting the referendum under section 5(1)(b).
- (2) The electoral officer of the Council must prepare a special roll of the persons eligible to vote under section 7.

- (3) The provisions of the Local Electoral Act 2001 apply, with any necessary modifications, to the conduct of the referendum under section 5(1)(b).

7 Eligibility to vote in referendum

A person is eligible to vote in a referendum conducted under section 5(1)(b) if the person is qualified as either—

- (a) a residential elector under section 23 of the Local Electoral Act 2001 and the address in respect of which the person is registered as a parliamentary elector is a property—
- (i) serviced by the scheme or capable of being serviced by the scheme; and
 - (ii) within the scheme distribution area; or
- (b) a ratepayer elector under section 24 of the Local Electoral Act 2001 and the property, for the purposes of section 24(1)(a) or (b) of that Act, is a property—
- (i) serviced by the scheme or capable of being serviced by the scheme; and
 - (ii) within the scheme distribution area.

8 Requirements for plans and assessments

- (1) The Company must, to the Council's satisfaction,—
- (a) prepare a transfer plan which complies with section 9; and
 - (b) prepare an analysis of the types of contractual arrangements that the Company will need to enter into with the Council and other parties to obtain goods and services in relation to the maintenance and operation of the scheme; and
 - (c) assess the likely future capital and operating costs of the Company to maintain and operate the scheme for a period of 30 years from the proposed date the scheme is to be transferred to the Company; and
 - (d) assess the ability of the Company to maintain and operate the scheme (including providing water to Opunake residents in certain emergencies) satisfactorily for a period of 30 years from the proposed date the scheme is to be transferred to the Company; and

- (e) prepare a protocol that provides for appropriate consultation by the Company with every iwi authority in relation to each iwi whose rohe, wholly or in part, comes within the scheme distribution area.
- (2) The assessment under subsection (1)(d) must include an assessment of the Company's ability and commitment in relation to any property within the scheme distribution area if the property were to be transferred or leased to another person.

9 Transfer plan

The transfer plan must contain the following:

- (a) a plan of the scheme; and
- (b) a description of the land or property that is serviced by the scheme and that is within the scheme distribution area; and
- (c) further details of any of the scheme assets, including specifying any permits or rights of any kind in respect of any of the scheme assets; and
- (d) any rights conferred by designations under the district plan applying to any land relating to the scheme; and
- (e) any rules in the regional plan relating to the scheme.

Part 3

Matters relating to transfer of scheme

10 Application of Part

This Part applies if the Council transfers the scheme to the Company.

11 Certain matters not affected by transfer of scheme

The transfer of the scheme to the Company—

- (a) does not constitute a breach of contract or agreement, or a civil wrong; and
- (b) is not to be regarded as giving rise to a right for any person to terminate or cancel any contract or arrangement or to accelerate the performance of any obligation; and
- (c) is not to be regarded as placing the Council, the Company, or any other person in breach of any enactment or rule of law or contractual provision prohibiting, re-

- stricting, or regulating the assignment or transfer of any property or the disclosure of any information; and
- (d) does not release any surety or guarantor wholly or in part from any obligation with respect to the scheme; and
 - (e) does not invalidate or discharge any contract or security.

12 Application of Local Government Act 2002

Subpart 2 of Part 7 of the Local Government Act 2002 does not apply to the scheme.

13 Taranaki Regional Council to be advised of transfer

As soon as practicable after the scheme is transferred to the Company, the Council must notify the Taranaki Regional Council that the scheme has been transferred to the Company and the date of the transfer.

14 Taxation and duties provision

- (1) For the purposes of the Goods and Services Tax Act 1985, the transfer of the scheme from the Council to the Company is a transfer of part of a taxable activity as a going concern that is capable of separate operation.
- (2) For the purposes of the Estate and Gift Duties Act 1968, the transfer of the scheme from the Council to the Company is not a disposition of property.

15 Transfer of land

- (1) Subject to subsections (2) to (4), the Registrar, on written application, is authorised on payment of the appropriate fee to make such entries in the registers and do all such things as may be necessary to give effect to the transfer of the scheme to the Company.
- (2) Nothing in sections 40 to 42 of the Public Works Act 1981 applies to the transfer by the Council of any land or interest in land to the Company so long as the land or interest in land continues to be used for the purposes of the scheme.
- (3) However, if all or any part of the land or interest in the land is no longer required for the purposes of the scheme, sections 40 and 41 of the Public Works Act 1981 apply to the land

or interest no longer so required as if the Company were the Council.

- (4) The Registrar must endorse on every computer freehold register transferred to the Company the effect of subsections (2) and (3), when the land or interest in the land is transferred to the Company.
-

Schedule 1

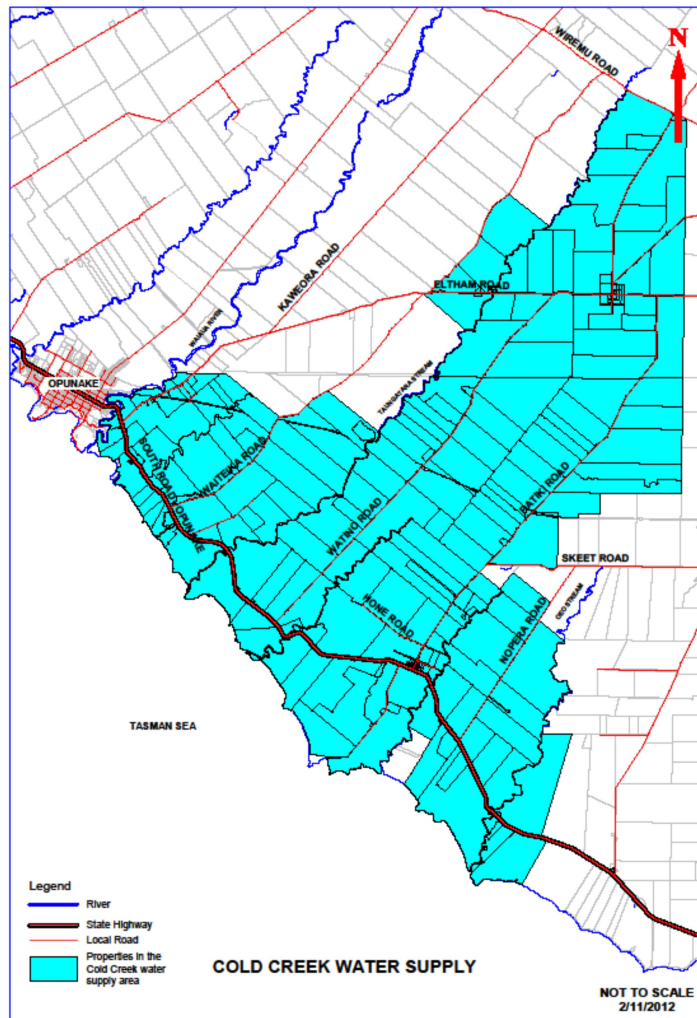
s 4

**Description of land on which Cold Creek
Community Water Supply treatment
plant situated**

Area	Description	Certificate of Title
1.4320 hectares	Lot 1 on DP 16088, being part Section 5 Block V Kaupokonui District	TN H4/479

Schedule 2
Map of scheme distribution area

s 4



Legislative history

6 October 2011	Introduction (Bill 338–1)
21 March 2012	First reading and referral to Local Government and Environment Committee
12 November 2012	Reported from Local Government and Environment Committee (Bill 338–2)
5 December 2012	Second reading
20 February 2013	Committee of the whole House
13 March 2013	Third reading
18 March 2013	Royal assent
