



Shane Ardern

**SOUTH TARANAKI DISTRICT COUNCIL (EGMONT
ELECTRICITY LIMITED SALE PROCEEDS)**

[LOCAL]

ANALYSIS

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- 4. Council to comply with law and enactments in respect of fund
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A BILL INTITULED

5 **An Act to require the South Taranaki District Council and its successors to apply the funds from the sale of the Council's shares in Egmont Electricity Limited only for purposes primarily benefiting the residents and ratepayers of the South Taranaki District as constituted on the commencement of this Act**

WHEREAS—

10 A. On 1 October 1993 the undertaking of the Egmont Electric Power Board vested in Egmont Electricity Limited and all shares in Egmont Electricity Limited held by the Egmont Electric Power Board vested in the South Taranaki District Council; and the vesting of the shares in the Council
15 (establishment plan not to be approved unless share allocation plan endorsed) and 30 (allocation of shares where

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share allocation plan not endorsed) of the Energy Companies Act 1992:

- B. On 23 April 1997 the South Taranaki District Council, after receiving an irrevocable offer from Powerco Limited to buy the Council's shares in Egmont Electricity Limited, resolved to accept the offer in principle and to undertake, under section 88 of the Energy Companies Act 1992 and section 716A of the Local Government Act 1974, consultation as to whether it should sell its shares to Powerco Limited: 5
- C. On 19 June 1997, after the special consultative procedure was completed, the South Taranaki District Council resolved to sell its shares in Egmont Electricity Limited to Powerco Limited: 10
- D. The Council considered it desirable to replace its shares in Egmont Electricity Limited with an asset thought to be safer and to give a better return to the residents and ratepayers of the South Taranaki District: 15
- E. On 26 August 1997 settlement of the sale took place after determination of a judicial review application in the High Court: 20
- F. The net proceeds from the sale of the South Taranaki District Council's shares available for investment as at 26 August 1997 amounted to \$88,731,652:
- G. The money available for investment from the sale of the Council's shares is not subject to any trusts or other equitable obligations: 25
- H. The South Taranaki District Council has included the money available for investment in an investment fund called the Long Term Capital Fund; and by resolution dated 26 June 1998, the Council resolved to invest the Long Term Capital Fund in accordance with the Council's long term financial strategy and investment policy, and the Local Government Act 1974: 30
- I. The South Taranaki District Council recognises a connection between the residents and ratepayers of the current South Taranaki District and the investment arising from the sale of the Council's shares; and, consequently, the Council now considers it desirable that the investment arising from the sale of the Council's shares is managed or applied only for purposes primarily benefiting the residents and ratepayers of the South Taranaki District as constituted on the commencement of this Act: 35 40

- 5 J. It is desirable to ensure, by way of enactment, that the net proceeds from the sale of the Council's shares in Egmont Electricity Limited are managed and applied only for purposes primarily benefiting the residents and ratepayers of the South Taranaki District as constituted on the commencement of this Act:

BE IT THEREFORE ENACTED by the Parliament of New Zealand as follows:

10 **1. Short Title**—This Act may be cited as the South Taranaki District Council (Egmont Electricity Limited Sale Proceeds) Act 1998.

2. Interpretation—In this Act, unless the context otherwise requires,—

15 “Council” means the South Taranaki District Council; and includes its legal successors:

“Fund” means—

20 (a) The money available for investment from the sale of the Council's shares in Egmont Electricity Limited which, as at 26 August 1997, amounted to the sum of \$88,731,652; and

(b) Any accumulations of capital and income on that sum:

25 “South Taranaki District” means the South Taranaki District as it was constituted on 1 November 1989 by clause 74 of the Local Government (Taranaki Region) Reorganisation Order 1989.

30 **3. Fund to be applied for benefit of South Taranaki District**—(1) Subject to subsection (2), the fund, any part of the fund, and income earned from the investment of the fund must be managed or applied only for purposes which the Council considers, on reasonable grounds, are primarily for the benefit of the residents and ratepayers of the South Taranaki District.

35 (2) Despite section 247B of the Local Government Act 1974, neither the fund nor any part of the fund may be applied to any work outside the South Taranaki District.

4. Council to comply with law and enactments in respect of fund—Except as provided in section 3, this Act does not affect the Council's obligations to manage, account for, or apply the fund in accordance with the law, the Local Government Act 1974, and any other enactment.

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5. No trusteeship—This Act does not constitute the Council a trustee of the fund.