



Takeovers Code (Eastern Bay Energy Trust) Exemption Notice 2007

Pursuant to section 45 of the Takeovers Act 1993, the Takeovers Panel gives the following notice (to which is appended a statement of reasons of the Takeovers Panel).

Contents

	Page
1 Title	1
2 Application	1
3 Expiry	1
4 Interpretation	1
5 Exemption from rule 6(1) of Code	2

Notice

- 1 **Title**
This notice is the Takeovers Code (Eastern Bay Energy Trust) Exemption Notice 2007.
- 2 **Application**
This notice applies to acts or omissions occurring on or after the date that it is signed under seal.
- 3 **Expiry**
This notice expires on the close of 30 September 2012.
- 4 **Interpretation**
 - (1) In this notice, unless the context otherwise requires,—
Act means the Takeovers Act 1993
Code means the Takeovers Code under the Act

control percentage means the percentage of voting rights in Horizon that a person holds or controls or is deemed to hold or control

Eastern Bay means the Eastern Bay Energy Trust established by deed of trust dated 1 August 1994

Horizon means Horizon Energy Distribution Limited

trust deed means the Bay of Plenty Electricity Consumer Trust deed of trust in force on 22 August 2002.

- (2) Any term or expression that is defined in the Act or the Code and used, but not defined, in this notice has the same meaning as in the Act or the Code.

5 Exemption from rule 6(1) of Code

Every person who is appointed a trustee of Eastern Bay in accordance with the trust deed is exempted from rule 6(1) of the Code in respect of any increase in that person's control percentage resulting from the appointment.

Dated at Auckland this 1st day of October 2007.

The Common Seal of the Takeovers Panel was affixed in the presence of:

[Seal]

D O Jones,
Chairperson.

Statement of reasons

This notice applies to acts or omissions occurring on or after the date that it is signed under seal and expires on 30 September 2012.

The Takeovers Panel (the **Panel**) has granted an exemption from rule 6(1) of the Takeovers Code (the **Code**) to a person who is appointed as a trustee of the Eastern Bay Energy Trust (**Eastern Bay**) if the appointment will result in the person being deemed to

hold or control (by the operation of rule 6(2)(b) of the Code) an increased percentage of voting rights in Horizon Energy Distribution Limited (**Horizon**). Eastern Bay is a shareholder of Horizon. This notice effectively replaces the Takeovers Code (Eastern Bay Energy Trust) Exemption Notice 2002.

The Panel considers that the exemption is appropriate and consistent with the objectives of the Code because:

- the trustees of Eastern Bay exercise control over that trust's voting rights in Horizon in their capacity as trustees of Eastern Bay and subject to their duties and obligations under the trust deed and at law;
- the cost of obtaining the approval of the non-associated shareholders of Horizon to the appointment of a trustee of Eastern Bay is not justified when that appointment will not in substance represent any change in the control of Eastern Bay's voting rights in Horizon;
- the shareholders of Horizon will not be disadvantaged in not having the opportunity to vote on the appointment of the new trustees at a meeting of shareholders, as it would have no real effect on those shareholders.

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

Date of notification in *Gazette*: 4 October 2007.

This notice is administered by the Takeovers Panel.
