



# New Plymouth District Council (Perpetual Investment Fund) Bill

200—1

Report of the Governance and Administration  
Committee

May 2023

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Ian McKelvie  
Chairperson

# New Plymouth District Council (Perpetual Investment Fund) Bill

## Recommendation

The Governance and Administration Committee has examined the New Plymouth District Council (Perpetual Investment Fund) Bill and recommends that the bill be passed.

## About the bill

On 9 November 2004, New Plymouth District Council (NPDC) established the Perpetual Investment Fund (PIF) using the proceeds of selling the council's shareholding in PowerCo Limited.<sup>1</sup> The purpose of the PIF is to provide long-term financial benefit to the New Plymouth District. It is managed by the New Plymouth PIF Guardians Limited (NPG), a council-controlled organisation which oversees decisions about what to invest the fund in.

The New Plymouth District Council (Perpetual Investment Fund) Bill is a local bill. It seeks to ensure the PIF continues to be used for the benefit of communities in the New Plymouth District. To achieve this, the bill would state that funds from the PIF must be distributed within the New Plymouth District. The bill would also provide assurance that the fund is used in a perpetual manner to meet its purpose.

Once it decided to proceed with a local bill, NPDC opened for community consultation between 13 May and 17 June 2022. It received 52 written submissions. On 26 July 2022, the council decided to proceed with the bill to regulate the PIF. The council concluded that this bill was the most appropriate option to modify the PIF's aims without incurring significant downsides.

## Legislative scrutiny

As part of our consideration of the bill, we have examined its consistency with principles of legislative quality. We have no issues regarding the legislation's design to bring to the attention of the House.

## Submissions process

We opened for public submissions on 15 December 2022 and closed on 3 February 2023. We received a total of five submissions, from the New Plymouth District Council (the promoter of the bill), New Plymouth PIF Guardians Limited, MP Glen Bennett (the sponsor of the bill), and two individual submitters.

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<sup>1</sup> PowerCo Limited is an electricity and gas provider that was established during the energy reforms of the 1990s. It amalgamated Taranaki Energy Limited (formerly New Plymouth Energy and Taranaki Electricity) and Whanganui-based PowerCo.

The submitters generally supported the bill and ensuring that the PIF is appropriately managed and that the investment decisions are made independently of councillors and their interests. One submitter opposed the provision in the bill which would limit the benefits of the PIF to the current district boundaries. He felt this could cause disparities amongst ratepayers. He proposed that this provision be amended to account for future changes to the district area. We received one written submission that was out of scope. It suggested that a percentage of the release of funds from the PIF be used to finance start-up businesses in New Plymouth.

## **Perpetual Investment Fund**

Historically, New Plymouth District Council has maintained a complex business portfolio.<sup>2</sup> Its early investments included Taranaki Energy Limited, Apex consultants, Hobson Investments, New Plymouth airport, and various forestry ventures and plantations. In 1999, numerous energy companies in the region merged to form PowerCo Limited, which NPDC invested in. The council became the largest individual shareholder in the company.<sup>3</sup>

In 2003, PwC conducted a review of the council's investments on behalf of the New Plymouth Equity Advisors Limited (NPEAL). Following the review, NPEAL advised the council to sell its shares in PowerCo Limited, as doing so would diversify its investment portfolio and reduce reliance on a single company and industry. Its recommendation was that NPDC establish its own investment company.

NPDC established the Perpetual Investment Fund in 2004 to operate as a sustainable, "perpetual" fund. This means that money released from the fund should be lower than its earnings, so that the fund's capital base remains the same or grows.

The PIF's opening balance was \$259 million. During the 2008 global financial crisis (GFC), the fund lost around \$113 million in value over a 5-year period. To recover this loss, NPDC reduced releases and increased rates. This bill aims to prevent such issues from recurring.

## **Governance Deed**

The New Plymouth PIF Guardians Limited has managed the PIF since 2017. In 2017, the council and the PIF Guardians agreed to a Governance Deed which sets out both parties' responsibilities. Changing the deed requires the support of 75 percent of elected council members.

The bill would replace the Governance Deed, and the requirement for a 75 percent majority to make any changes would no longer apply. Councils would only be able to make decisions about the fund that comply with the bill. One submitter opposed this, stating that not having the need for a 75 percent majority puts the PIF at risk by making financial decision-making easier.

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<sup>2</sup> See more in [Draft New Plymouth District Council \(Perpetual Investment Fund\) Bill: Background information for community consultation](#).

<sup>3</sup> New Plymouth District Council held 120.67 million shares in PowerCo Limited, which equates to 38.2 percent of total shares.

## **Changing how the PIF is managed and applied**

Although the PIF has recovered since the GFC, the bill aims to prevent similar losses from occurring. Part 2 of the bill addresses how the PIF would be managed. Good management of the fund would ensure it continues to be an alternative source of revenue and can subsidise rates in the New Plymouth District.

Clause 7 lists two principles to govern how this would be achieved. The PIF would be managed and used for the social, economic, environmental, and cultural well-being of New Plymouth communities. In addition, the fund should be managed with the intent of maintaining or increasing the real value of its capital. The council will only be able to reduce the real value of the capital of the PIF in justifiable situations. This requirement is intended to protect the PIF from scenarios like the GFC, while still allowing the PIF to be tapped into if there is a genuine crisis.

## **Potential changes to boundaries**

Clause 4 of the bill defines the New Plymouth District as “the area delineated in clause 35 of the Local Government (Taranaki Region) Reorganisation Order 1989.” The bill would restrict spending from the PIF to the district area, as currently defined in the Act. The bill does not provide the flexibility to account for potential future changes to these boundaries. We asked whether such changes would create any difficulties if the bill were passed. NPDC told us that it has previously dealt with geographically limited funds, and is confident that it can manage the PIF in an effective way.

The bill would not limit or prevent investment of the PIF outside of the New Plymouth District. Money from the PIF could only be paid out in New Plymouth.

## **Independent financial management**

Clause 8 of the bill as introduced requires that investment decisions concerning the PIF are only made by people that the council appoints. Those appointed must act independently of members and those members’ political or personal interests. Further, investment decisions are regulated in clause 8(2) of the bill, which states they must be consistent with: best practice, maximising return without undue risk to the PIF, and avoiding prejudice to the reputations of the council and the communities it represents. These safeguards aim to ensure the fund is appropriately managed by the PIF Guardians, independently of council, and in the best interests of the New Plymouth District.

Section 97 of the Local Government Act 2002 states that certain decisions must be in a council’s long-term plan. Clause 10 of this bill would affirm that this would not apply to investment decisions.

## **Necessary legislation**

We sought further information from NPDC about whether the bill is necessary. NPDC stated that the objects of the bill can only be achieved through legislation.

The council considered three other options before deciding to proceed with the bill. These options included remaining with the status quo, enhancing the status quo, and establishing a new entity to hold the PIF funds. The council concluded that these options would not adequately fulfil the purpose and the intent as the bill would. It is concerned that any other option would limit the council's ability to use the capital base of the PIF when circumstances warrant it. The option to establish a new trust would also have shortcomings because the council considers that it would not adequately protect the PIF.

## Appendix

### Committee procedure

The New Plymouth District Council (Perpetual Investment Fund) Bill was referred to the committee on 7 December 2022. The closing date for submissions was 3 February 2023. We received and considered submissions from five interested groups and individuals. We heard oral evidence from three submitters at hearings in Wellington and via videoconference.

We received advice on the bill from the Department of Internal Affairs. The Office of the Clerk of the House of Representatives provided advice on the bill's legislative quality.

### Committee members

Ian McKelvie (Chairperson)  
Rachel Boyack  
Hon David Bennett (from 8 February 2023)  
Naisi Chen  
Jamie Strange  
Hon Michael Woodhouse (until 8 February 2023)

### Advice and evidence received

The documents that we received as advice and evidence are [available on the Parliament website](#).

### Recording of our hearing

A recording of our hearing can be accessed on our Facebook page:

- [Hearing of evidence 8 March 2023](#)