



New Plymouth District Council (Perpetual Investment Fund) Act 2023

Local Act 2023 No 1
Date of assent 5 July 2023
Commencement see section 2

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The Parliament of New Zealand enacts as follows:**1 Title**

This Act is the New Plymouth District Council (Perpetual Investment Fund) Act 2023.

2 Commencement

This Act comes into force on the day after Royal assent.

**Part 1
Preliminary provisions****3 Purpose**

The purpose of this Act is to ensure the Perpetual Investment Fund continues as a long-term financial investment for the benefit of the social, economic, environmental, and cultural well-being of current and future communities of the New Plymouth District.

4 Interpretation

(1) In this Act, unless the context otherwise requires,—

Council means the territorial authority named in Part 2 of Schedule 2 of the Local Government Act 2002 as New Plymouth District Council, and any legal successor that has the role of giving effect to the purpose of local government in relation to the New Plymouth District

New Plymouth District means the area delineated in clause 35 of the Local Government (Taranaki Region) Reorganisation Order 1989

Perpetual Investment Fund or **PIF** means the fund established by the Council to contain the proceeds of the Council's sale of its shares in Powerco Limited on 9 November 2004, and includes—

- (a) any additional funds that the Council may from time to time add to the PIF; and
- (b) any accumulations of capital and income on the PIF.

(2) A term or expression that is defined in the Local Government Act 2002 and used but not defined in this Act has the same meaning as in the Local Government Act 2002.

5 Relationship between this Act and other legislation applicable to council financial management

The Local Government Act 2002, and any other enactment applicable to council financial management, accountability, and use of funds, apply except to the extent that those enactments are inconsistent with, or modified by, this Act.

Part 2

Perpetual Investment Fund

6 PIF to benefit New Plymouth District

The PIF, or any part of it, must be managed and applied by the Council only for purposes that the Council considers, on reasonable grounds, are wholly or principally for the benefit of current and future communities of the New Plymouth District.

7 Principles for managing and applying PIF

- (1) The Council must manage and apply the PIF in accordance with the following principles:
 - (a) the PIF is a long-term fund which should be managed and applied for the social, economic, environmental, and cultural well-being of current and future communities of the New Plymouth District;
 - (b) the PIF should be managed and applied with the intent of maintaining or increasing the real value of its capital, unless the Council considers, on reasonable grounds, that—
 - (i) the PIF can be applied in a way that will achieve a benefit that is better for the well-being of current and future communities of the New Plymouth District than maintaining the real value of the capital of the PIF; and
 - (ii) reducing the real value of the capital of the PIF is the best available means of achieving that benefit.
- (2) If the applicable principles in subsections (1)(a) and (b) are in conflict in any particular case, and this conflict is not resolved by the application of subsection (1)(b), the Council must resolve the conflict in accordance with the principles set out in section 14 of the Local Government Act 2002.

8 Investment decisions

- (1) The Council must ensure that investment decisions are made only by persons designated or appointed by the Council to make decisions on the investment of the PIF, acting independently of members and those members' personal or political interests.
- (2) Investment decisions must be made on a prudent commercial basis in a manner that is consistent with—
 - (a) best practice portfolio management; and
 - (b) maximising return without undue risk to the PIF as a whole; and
 - (c) avoiding prejudice to the reputation of the Council and the New Plymouth District community.

- (3) Nothing in this Act limits or prevents investment of the PIF outside of the New Plymouth District.

9 Application of sections 7 and 8

Sections 7 and 8 apply to any person making decisions, performing functions or duties, or exercising powers—

- (a) under this Act; or
(b) in relation to the PIF under any other enactment.

10 Investment decisions do not need to be provided for in long-term plan

An investment decision is not a decision to which section 97 of the Local Government Act 2002 applies.

11 Council not trustee

- (1) The Council is not a trustee of the PIF and this Act does not make the Council a trustee.
(2) PIF income is derived by the Council in its capacity as a local authority and the Council is not a trustee in respect of the income.

Legislative history

21 November 2022
7 December 2022

4 May 2023
10 May 2023
7 June 2023
28 June 2023
5 July 2023

Introduction (Bill 200–1)
First reading and referral to Governance and Administration
Committee
Reported from Governance and Administration Committee
Second reading
Committee of the whole House
Third reading
Royal assent