

Have  
Your Say

Draft

New Plymouth District Council  
(Perpetual Investment  
Fund) Bill



Te Kaunihera-ā-Rohe o Ngāmotu

**New Plymouth  
District Council**



*The PIF has enabled NPDC to offer services and build attractions that NPDC could not afford just using rates. This is a key reason why we are considering limiting the PIF to just our current District boundaries and introducing some other protections for it. What do you think? Have your say by 5pm, Friday 17 June so we can hear your views.*

# Introduction

New Plymouth District Council (NPDC) is consulting on a draft New Plymouth District Council (Perpetual Investment Fund) Bill (the Bill).

Once we have heard your feedback, we will then decide if we should put this Bill, with any changes, to Parliament. Parliament will then independently consider whether or not to make it a law. If they do, then that will create new rules that we will have to follow in the future. Why are we considering this?

Our Perpetual Investment Fund (PIF) is a large financial asset that has produced significant benefits for our community. It enables NPDC to offer services that it could not afford just using rates. It underpins our Financial Strategy by helping to reduce our costs of borrowing and insurance needs. We are unusual in having such a fund, and it is of real and significant benefit to New Plymouth residents and ratepayers.

However, we're concerned that there aren't enough controls at present to ensure the PIF continues to provide these benefits to the people of New Plymouth District, into the future. There is nothing that binds it to our current area, so any future changes in local government boundaries could mean the PIF is used elsewhere.

We are also looking at ways to ensure that the PIF is invested sensibly, in a way that maintains or increases its value, and responsibly (i.e. is not invested in anything that might damage our reputation).

In short, we are proposing the Bill now to secure the PIF for the future. The section below on the History of the PIF shows some lessons NPDC has learned about managing the PIF, and we want to make sure those lessons are not forgotten.

We want you to have your say on whether to proceed with this Bill, and if so, whether we have the Bill right or need to make some changes.

## Quick facts about the PIF

- The PIF was formed in **2004** from the sale of PowerCo shares.
- The PIF has been set up as a **long-term fund** to benefit the community into the future.
- The PIF is valued at **\$346m** (as of 30 June 2021).
- The PIF provides a sustainable amount around **3.3%** of its value each year for NPDC to use.
- The PIF has provided funding of **\$9.3m** this year.
- The average residential rates bill is about **\$220** lower this year because of the PIF.
- The PIF has contributed **\$233m** to reduce rates bills since 2004.

# Summary

## What is NPDC proposing?

NPDC is proposing to put a local bill to Parliament about securing the PIF for the future.

This Bill, if enacted, would set rules for future Councils.

There are two key aspects to this draft Bill.

First, it would specify that the PIF can only ever be used for New Plymouth District community, regardless of any future changes to local government boundaries.

Second, the Bill would provide guiding principles that future Councils would have to consider whenever making decisions on the PIF.

## Why is NPDC proposing this?

The PIF is a cornerstone of NPDC's Financial Strategy. It enables NPDC to offer a higher level of services than those we could afford with rates alone.

The Bill would help to protect the PIF into the future, alongside other mechanisms already in place.

## Moving forward

After hearing your feedback, NPDC will decide whether any changes should be made to the draft Bill, and whether to adopt it. Therefore, your feedback should include any changes you think should be made so that the Bill best provides for the protection of the PIF.

If NPDC does decide to introduce a Bill to Parliament, we expect that it would first be considered by the Parliamentary Counsel Office, which may also make changes to how it is written.

The diagram below shows the expected process. The green boxes are NPDC's process, and the blue boxes show when the Bill becomes subject to Parliament's processes and are therefore out of NPDC's control. We've given some indicative timeframes, although things may play out differently.

The draft Bill can be found on pages 16 to 18 and a full draft Bill, which includes the explanatory note is available on NPDC's website [npdc.govt.nz/haveyoursay](https://npdc.govt.nz/haveyoursay)

# Have your say

We're asking for your feedback on the proposal.

Do you agree with putting forward a local Bill to Parliament?

Do you think we have drafted the Bill right?

You can submit the form with this document or you can have your say online.

To get your feedback to us, either:

Do it online: [npdc.govt.nz/haveyoursay](https://npdc.govt.nz/haveyoursay)

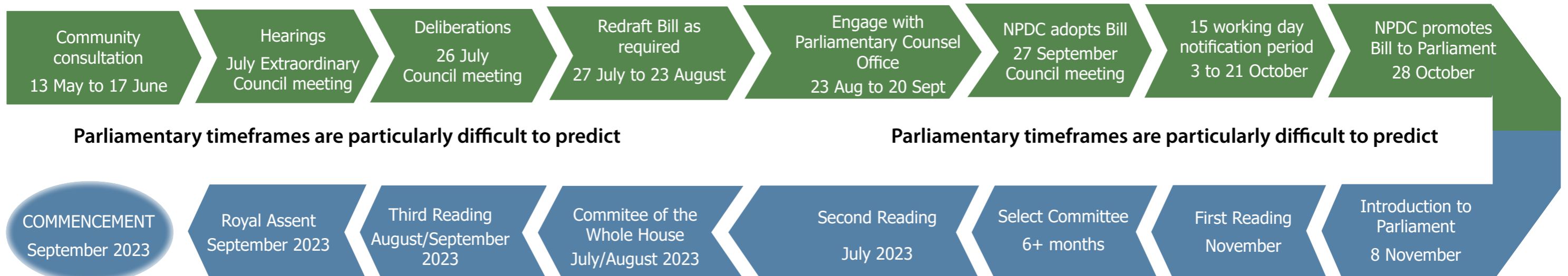
Email it to: [submissions@npdc.govt.nz](mailto:submissions@npdc.govt.nz)

Post it to: NPDC (PIF) Bill, Reply Paid DX, DX Box NX10026, New Plymouth 4342

Deliver it to: Civic Centre, Liardet Street, New Plymouth or to a library and service centre in Bell Block, Inglewood or Waitara

**Submissions close at 5pm on Friday 17 June 2022**

**Late submissions will not be accepted.**



# History of the PIF

When NPDC was formed in 1989 it inherited a range of investments and assets from the previous local authorities. This included the electricity division of the New Plymouth City Council. Over time, this division was merged into PowerCo and NPDC had a substantial shareholding. NPDC used the dividend from PowerCo each year to subsidise rates.

In 2004 NPDC sold its shareholding in PowerCo with the intention of diversifying its investments. NPDC formed the Perpetual Investment Fund (PIF) to do this and outsourced day-to-day management to Taranaki Investment Management Limited (TIML). The original intention was that the PIF would provide NPDC with the same amount each year (plus inflation) that PowerCo had provided through its dividend. TIML was a Council Controlled Organisation to make investment decisions at arm's length from Council.

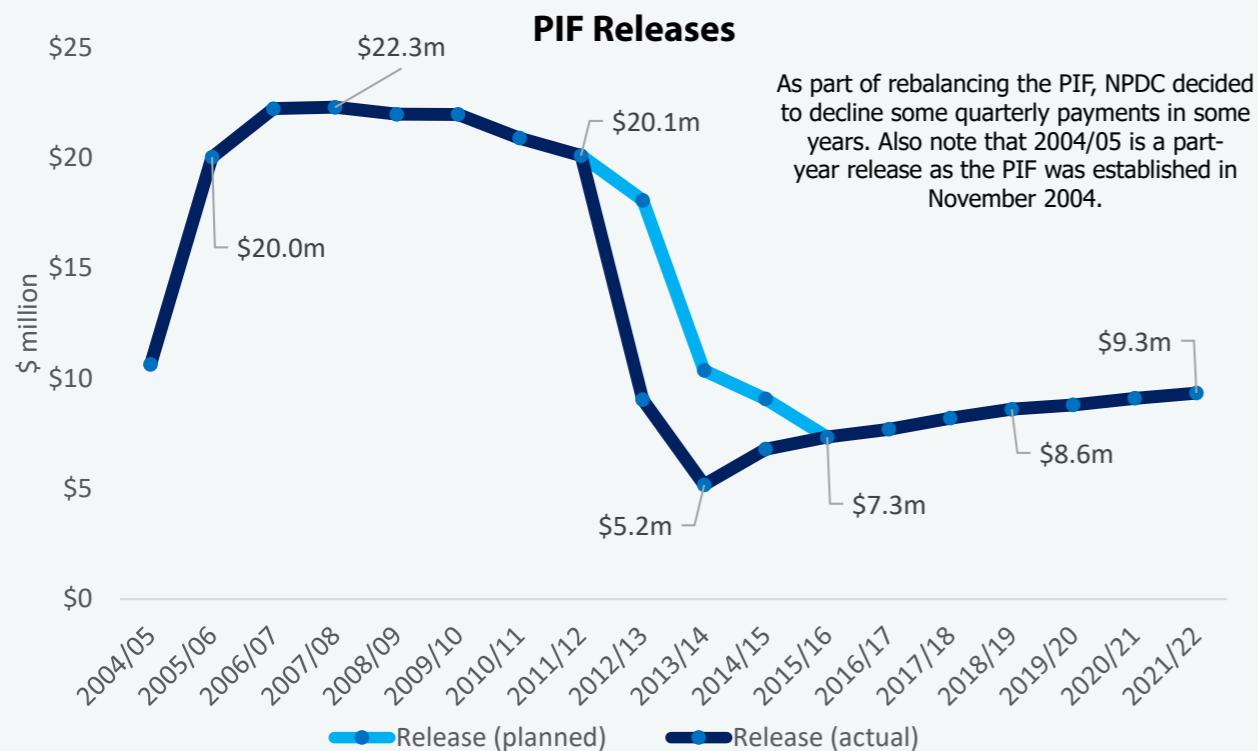
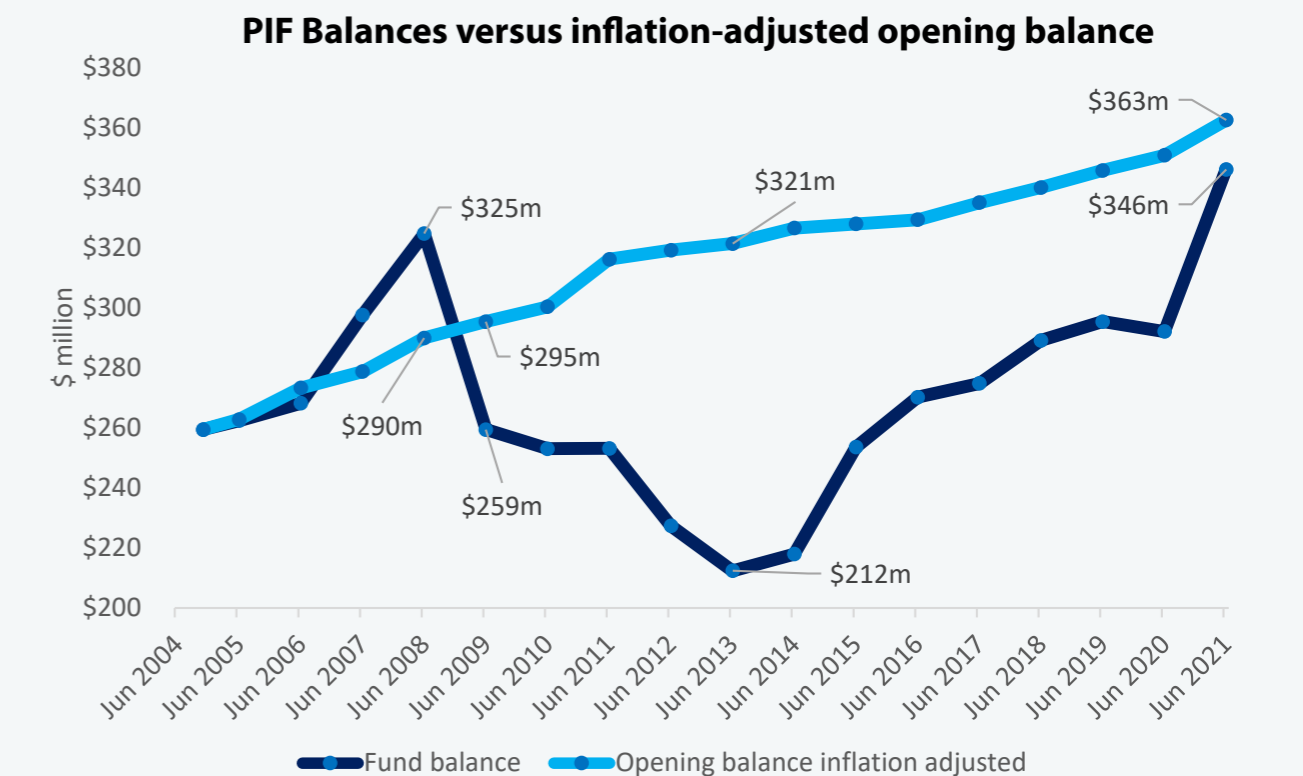
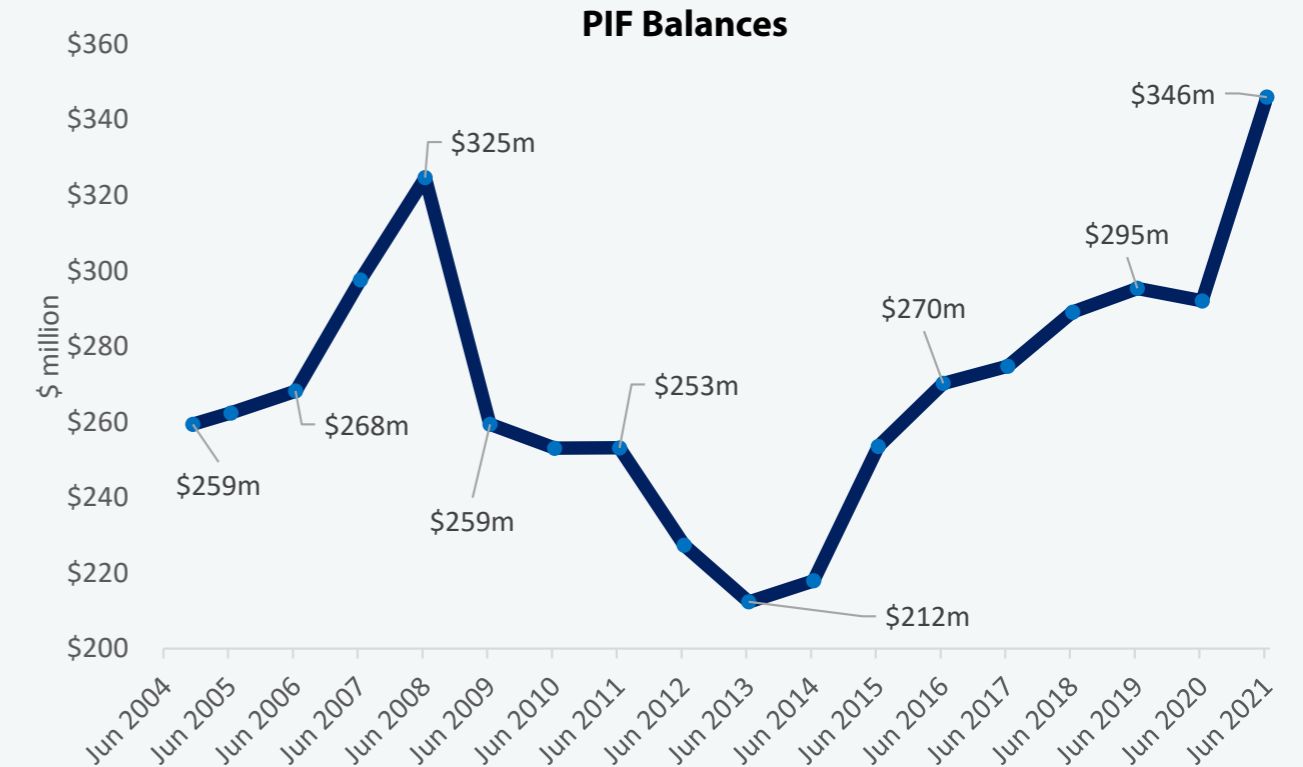
The PIF operated well for the first few years, providing NPDC with substantial returns. However, the Global Financial Crisis (GFC) significantly reduced the PIF's value. At the same time, NPDC still received the same amount from the PIF each year to avoid very large rate rises. The lower return environment after the GFC, coupled with the lower value of the PIF, meant the PIF's value continued to drop.

In 2011/12 NPDC began a significant programme of internal cost savings, reducing some service levels and modest additional rates rises (than would have otherwise been required) in order to make the release level more sustainable. NPDC also declined some quarterly PIF payments during this time. By 2015/16 this programme was completed and the PIF release was at a more sustainable level.

In 2016/17 NPDC reviewed how it would manage the PIF and moved to having the PIF managed by the New Plymouth PIF Guardians. As with TIML, the Guardians are a Council Controlled Organisation. However, there are a number of changes from the TIML model to provide better management. Those Guardians now set the release rule for NPDC rather than having the elected Council set it. The Guardians are contractually bound to manage

the PIF in a sustainable manner. Any change requires a 75 per cent majority vote of Councillors according to NPDC Standing Orders and the Governance Deed. This forms our main way of protecting the PIF for future generations at present.

While today the PIF is managed more sustainably, its value is still lower than originally projected. The closing balance last year was still below the inflation-adjusted opening balance in June 2004



# Questions you might have on the PIF and the draft Bill

## Q. How does NPDC currently protect the PIF for future generations?

A. Council has separated many of the decisions to the New Plymouth PIF Guardians so that there is a strong degree of independence from day-to-day politics. This approach is then protected through a legal agreement, called the Governance Deed, between NPDC and the PIF Guardians.

The PIF Guardians set the investment policy for the PIF, and also set the PIF's release rule. The PIF Guardians also appoint the specialist financial investment firm that does the day-to-day management of the PIF. The agreement can only change if the PIF Guardians and 75 per cent of Councillors agree to make the change.

NPDC talks regularly to the PIF Guardians, and NPDC is responsible for appointing the directors of the PIF Guardians.

The Bill would compliment the existing protections. For instance, the draft Bill includes provisions for making sure investment decisions are made by independent financial managers. This would further enhance the current approach as one of the potential weaknesses is in the appointment of the directors to the PIF Guardians.

However, there are currently no protections in place to ensure the PIF can only ever be used to the benefit of the New Plymouth District community.

## Q. What does the draft Bill do?

A. The draft Bill does two main things. First, it ensures that the PIF can only ever be used to the benefit of New Plymouth District as per its current boundaries. Second, it provides some principles to guide future decision-making. The Bill also clarifies some minor legal issues.

## Q. Do I benefit from the PIF?

A. Each year NPDC takes a small part of the PIF as a release. The release is currently used to subsidise general rates. Almost every New Plymouth District property receives a lower rates bill as a result of the PIF. The amount of this reduction is printed on each rates invoice. The average residential property receives a benefit from the PIF release of approximately \$220 for the 2021/22 year.

## Where can I get more information?

There is a series of papers available on NPDC's website [npdc.govt.nz/haveyoursay](https://npdc.govt.nz/haveyoursay) or phone us on 06-759 6060.

## Q. Does the Bill limit the PIF to the New Plymouth District?

A. The Bill limits the use of the PIF to New Plymouth District. It makes sure that the PIF can only ever be used to benefit the New Plymouth District community. The Bill refers back to the 1989 Government Order that created NPDC and set out the District's boundaries to provide an authoritative source of the area.

This approach is similar to what South Taranaki District Council have done for their Long-Term Investment Fund.

## Q. Is this Bill all about protecting the PIF from the Three Waters Reforms?

A. No. The Government has already said that it won't transfer these types of funds to its proposed new Water Service Entities.

## Q. Does NPDC think local government amalgamation is about to happen?

A. No, although we are aware that this has been an issue that has been talked about for many years. NPDC is looking to ensure the PIF is protected and only used in New Plymouth District. South Taranaki District Council protected its equivalent fund to just South Taranaki in 1999, and amalgamation has not occurred since then.

## Q. Why should those in Stratford and South Taranaki not benefit from the PIF in the future?

A. The PIF originates with NPDC's shareholdings in PowerCo, and before that it was the New Plymouth City Council's electricity division. Both Stratford's and South Taranaki's District Councils have their own investments that benefit their communities. It would be unfair to New Plymouth District residents if their investments were used in other communities but not vice versa.



# Are there alternatives to legislation?

NPDC has considered whether to introduce legislation against a number of different options.

## 1 Status quo

The PIF already has a strong range of measures to help protect it from unsustainable use.

These are outlined above, with the main protection through the Governance Deed with the PIF Guardians.

But we don't have any protection to ensure the PIF is always used to the benefit of New Plymouth District.

## 2 Enhancing the status quo

We could make changes to the status quo. This could include upping the requirement from 75 to 100 per cent of Councillors needing to agree to change the Governance Deed. We could list the PIF as a 'strategic asset' so that we can only change it through a long-term plan process.

These sorts of changes would not ensure the PIF is always used to the benefit of New Plymouth District.

## 3 Setting up a trust for the PIF

We could set up a separate trust to manage the PIF. This trust would then give NPDC the same amount of release as we currently get. This would provide some strong protections for the PIF and would ensure the PIF is only used for New Plymouth District.

But this option could move the PIF off NPDC's balance sheet, having a significant financial impact (such as on NPDC's credit rating and insurance) and would mean NPDC can't access the PIF as a contingency fund.

## 4 Legislation

We can ask Parliament to enact a local Bill. This allows us to craft a Bill to achieve whatever it wants.

While NPDC has some control through the process, it is subject to Parliament agreeing to passing the Bill and Parliament could choose to amend the Bill before enacting it.

**NPDC thinks option 4 – introducing legislation – is the best way to secure the future of the PIF.**

### Q. Can't we use a bit more of the PIF now to subsidise rates given all that is happening in the world?

A. This is always an option, but it is difficult to do because of the agreement mentioned above. Taking more from the PIF to subsidise rates this year might sound attractive, but it pushes the following year's rate increase up significantly. We've estimated that taking more from the PIF so that there is no rates increase next year (forecast at 7 per cent) would mean that the year after has a rates increase somewhere around 14 to 15 per cent. Taking more from the PIF now also reduces the value of the PIF, meaning there is less available in the future.

To date, NPDC has chosen to provide support to ratepayers during tough times through other means, such as using rates remissions or using our capacity to take on more debt.

### Q. Can't we use a bit of the PIF to help fund some of NPDC's big projects?

A. While this is always an option, independent advice shows that utilising debt is a more cost-effective option for funding projects. This is because the earnings of the PIF generally exceed the interest rates on debt. It also means that future communities pay for the projects that they benefit from.

### Q. Should the Bill have stronger rules against taking unsustainable amount from the PIF then?

A. We have considered this, but it has some downsides financially too. Ultimately, the PIF serves as a contingency for a substantial emergency. If we couldn't take from the PIF in an emergency then we would need to pay more to insure our assets and could face downgrades to our credit rating.

### Q. What sort of investments does the PIF have now?

A. The PIF is invested in a wide range of financial assets across the world, with about half of the PIF invested in shares. The Guardians set asset allocation ranges for the investments. NPDC does not direct or control the day-to-day decisions on investments. The PIF is no longer invested in Tasmanian farms.



# Legislation options

## Keeping the PIF for New Plymouth District

The PIF is currently used only for New Plymouth District, and legislation can help keep it that way regardless of changes to local government boundaries. This “geo-fencing” protects the PIF to just our District.

As part of considering this, it is worth remembering that South Taranaki District Council have already put in place a local Act of Parliament for their Long-Term Investment Fund.

### 1 No controls

If the Bill has no controls for the PIF to be used only to benefit New Plymouth District, then it could be used outside the district if we were ever merged with other councils.

This could mean, for instance, that the PIF could be used for projects in Stratford, Hawera or other parts of Taranaki. Because South Taranaki has a local Act of Parliament for its equivalent Fund, their Fund wouldn't be able to be used in New Plymouth District.

### 2 Malleable boundaries

A local bill could refer to New Plymouth District as per option 3, but enable the Government to be able to change it if New Plymouth District is changed. These are called Henry VIII clauses, and are can be hard to justify in legislation.

This option could mean that the PIF is used elsewhere in Taranaki if the Government decided that that would be the best thing to do.

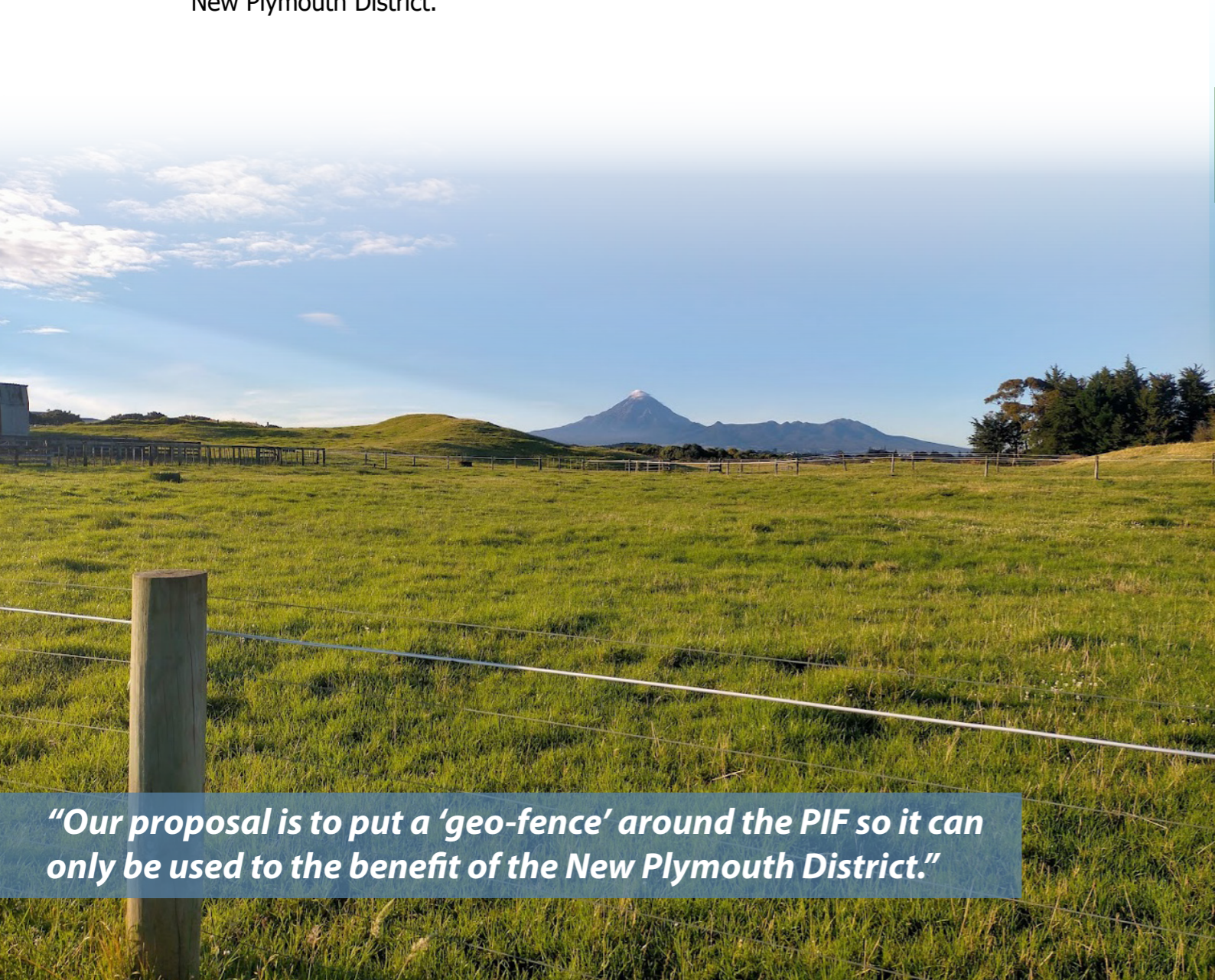
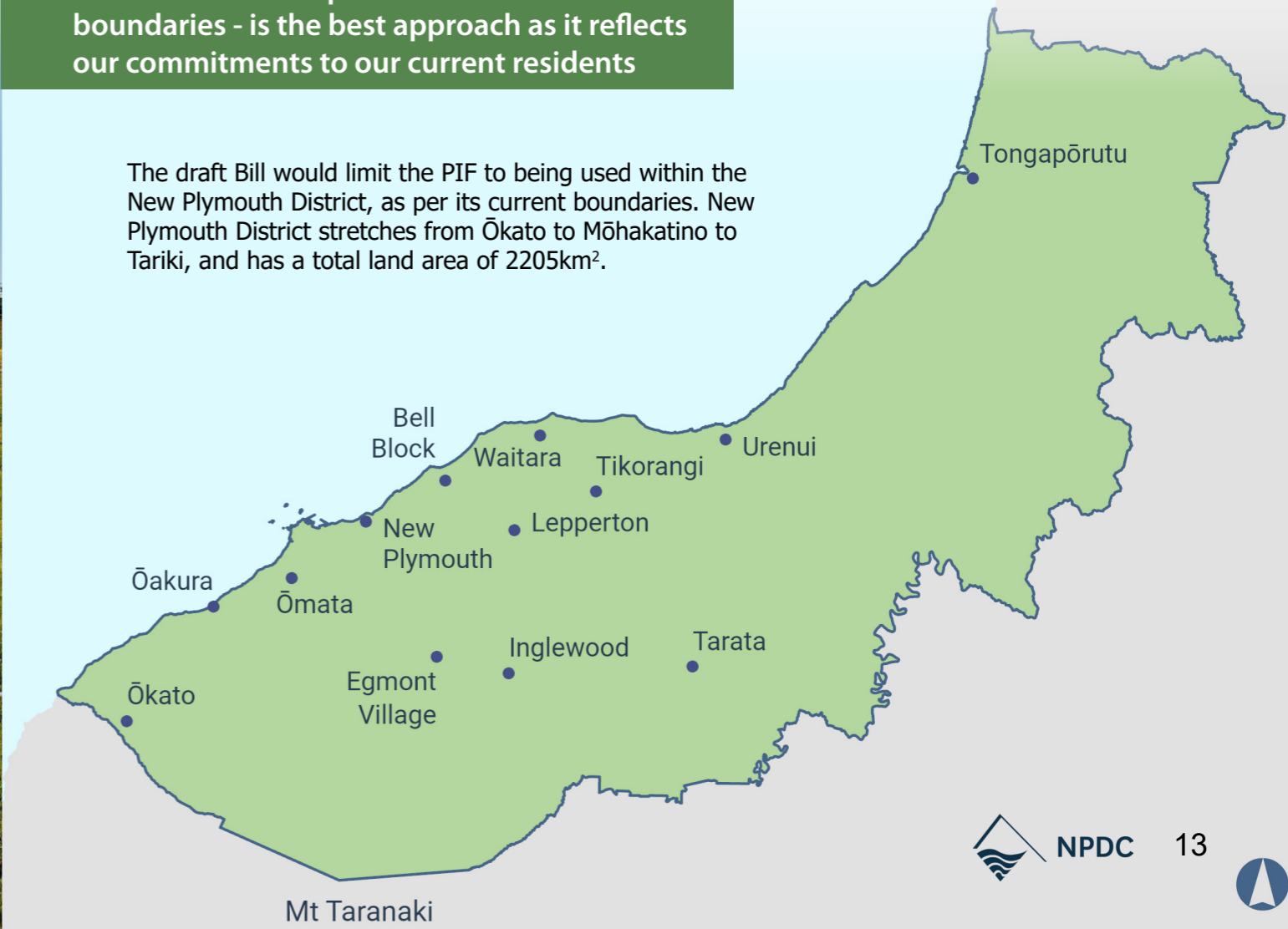
### 3 Fixed to current boundaries

A local Bill can refer to fixed boundaries so that the PIF can only ever be used to benefit the New Plymouth District community, as defined by its current boundaries.

If we did this, then future local government entities would have to use the PIF to benefit the community as contained in today's New Plymouth District boundaries regardless of where those entities boundaries are.

NPDC thinks that option 3 – fixed to current boundaries - is the best approach as it reflects our commitments to our current residents

The draft Bill would limit the PIF to being used within the New Plymouth District, as per its current boundaries. New Plymouth District stretches from Ōkato to Mōhakatino to Tariki, and has a total land area of 2205km<sup>2</sup>.



*“Our proposal is to put a ‘geo-fence’ around the PIF so it can only be used to the benefit of the New Plymouth District.”*

# Legislation options

## Ensuring the PIF is used in a perpetual manner

The PIF has been created as a perpetual fund, but also serves as a potential contingency fund. By 'perpetual fund' we mean one that is used sustainably so that the fund generally grows at the rate of inflation each year (market conditions permitting).

### 1 No controls

NPDC does not need to include any controls on ensuring the PIF is used sustainably in the Bill. This would mean that the status quo protections would continue. The Governance Deed, between NPDC and the PIF Guardians, would be the only protection. This is still a strong protection as the agreement can only change if the PIF Guardians and 75 per cent of Councillors agree to make the change.

### 3 Soft requirement

A local Bill could set out requirements that the PIF be used in a sustainable manner as a perpetual fund. Council would have to follow this requirement. However, the Bill could also enable NPDC to choose not to follow it if needed as a contingency fund.

### 2 Principles

A local Bill could outline principles for the PIF to be used in a sustainable manner, but another principle that acknowledges its role as a contingency fund.

The Governance Deed, as per option 1, would still be in place. This would simply add additional considerations in and complement the status quo.

### 4 Hard requirement

A local Bill could set out requirements that the PIF be used in a sustainable manner as a perpetual fund. Council would have to follow this requirement. Unlike option 3, NPDC would not be able to use the PIF as a contingency fund.

NPDC thinks option 2 – principles – provides appropriate direction to future Councils without creating complicated rules or ruling out using the PIF as a contingency fund (which might have implications for NPDC's insurance approach and credit rating).

## Making sure investments are done in an appropriate manner

The PIF is invested in a wide range of global shares and other investment types. Since it was created it has been independently managed so that investment decisions are made by experts, to maximise returns to the community. We have been increasing our focus on responsible investments (such as factoring in good governance arrangements and climate change concerns).

### 1 No controls

The Bill does not need to have any provisions in it to guide future investment decisions.

### 2 Principles

The Bill could set out some principles for how Council should invest the PIF. This gives NPDC flexibility, rather than being locked in place.

### 3 Requirements

The Bill could set hard requirements. But this would mean that there would not be flexibility if best practice changed.

NPDC thinks that option 2 – principles - is the best approach as it provides flexibility for the future, whilst ensuring that NPDC manages the investments appropriately.

## Other aspects

NPDC has considered other aspects of managing the PIF that could usefully be enacted at the same time. As such, the draft Bill contains two other provisions:

- Exempt investment decisions of the PIF from some potential legal pitfalls.
- Ensure the Bill does not accidentally prevent NPDC's tax exemption status from applying to the PIF.

Generally Bills can only deal with one subject at a time. So it isn't possible for this Bill to include issues other than the PIF that may require Parliamentary action.

**The draft Bill is on the next three pages.**



# DRAFT New Plymouth District Council (Perpetual Investment Fund) Bill

Local Bill

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- 8 Additional principles for investment decisions
- 9 Giving effect to principles
- 10 Investment decisions do not need to be provided for in long-term plan
- 11 Council not a trustee

#### The Parliament of New Zealand enacts as follows:

##### 1 Title

This Act is the New Plymouth District Council (Perpetual Investment Fund) Act 2022.

##### 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 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 the Local Government Act 2002 ([Part 2](#) of Schedule 2) as the 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, as the case requires.

##### 5 Other applicable legislation

The Local Government Act 2002, and any other enactment applicable to the Council's management, accounting for, 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

- (1) The PIF, including any part of the PIF, 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.
- (2) Subsection (1) does not limit the ability of the Council to invest the PIF outside the New Plymouth District.

Compare: 1999 No 5 s 3

##### 7 Principles for managing and applying the PIF

- (1) When managing and applying the PIF, the Council must consider the following principles—
  - (a) the PIF is a long-term fund for the benefit of social, economic, environmental, and cultural well-being of current and future communities of the New Plymouth District;
  - (b) the PIF must be managed and applied with the intent of maintaining or increasing the real value of its capital, unless circumstances warrant otherwise;
- (2) Circumstances that warrant intentionally reducing the real value of the capital of the PIF are where the Council considers, on reasonable grounds, that—
  - (a) 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
  - (b) reducing the real value of the capital of the PIF is the best available means for achieving that benefit.





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