

IN THE MATTER of
the Resource Management Act 1991

AND

IN THE MATTER of
Hearing of submissions and further
submissions on the Proposed Te Tai O
Poutini Plan

MINUTE 1 – INITIAL INTRODUCTION AND
CONFLICTS ON INTEREST

INTRODUCTION

1. On 17 June 2019, the Government issued an Order in Council (Order) that came into force 28 days after the Order was notified, on 21 June 2019, in the New Zealand Gazette.
2. The Order gives effect to the re-organisation scheme adopted by the Local Government Commission on 23 May 2019, which completes the final reorganization proposal given effect to by the Final Proposal Order 2018 made on 5 November 2018 (The Final Order).
3. The Final Order (Clause 6) transferred the Resource Management Act (RMA) section 73 and Schedule 1, district plan obligations of the Buller, Grey, and Westland districts to the West Coast Regional Council. Relevantly, the transferred obligations include the preparation, notification, and adoption of a combined district plan for the three districts councils under section 80 of the RMA, which enables district plans to be prepared.
4. The Order provided for a joint committee to be established by the four West Coast councils and local iwi, known as the Tai Poutini Plan Committee (TTPP Joint Committee), which is to be administered by the West Coast Regional Council.
5. The Order, at clause 8 (3), directs the West Coast Regional Council to delegate to the TTPP Joint Committee its combined district plan obligations under the Final Order.
6. The purpose of the delegation by the Regional Council of its combined district plan obligations to the TTPP Joint Committee is to enable it to:
 - prepare and notify a combined district plan.
 - hear and consider (including through subcommittees as necessary and appropriate) all submissions received on the draft combined district plan.
 - adopt a final combined district plan.
 - monitor implementation of the combined district plan and the need for any amendments; and
 - undertake amendments and reviews of the combined district plan, or ensure these are undertaken, as required.
7. The TTPP Joint Committee prepared and then publicly notified the Te Tai o Poutini Plan (TTPP) on 14 July 2022. Submissions on the TTPP closed on 11 November 2022, with 534 submissions received. The TTPP Joint Committee notified its summary of decisions requested on 28 April 2023 and the period for further submissions is due to close on the 30 June 2023.

MEMBERSHIP AND ROLE OF THE HEARINGS PANEL

8. The TTPP Joint Committee has appointed a five person Hearings Panel of Commissioners under Section 34A (1) of the RMA to hear and make recommendations

to the TTPP Joint Committee on the submissions lodged in relation to the TTPP.

9. The Commissioners appointed are:
 - Dean Chrystal, Chair
 - Sharon McGarry
 - Paul Rogers
 - Maria Bartlett
 - Anton Becker
10. All of the Hearings Panel members are accredited in accordance with s39A of the RMA. The Chair, and Commissioners McGarry and Rogers, hold Chair Endorsement accreditation.
11. The Hearings Panel will hear all the submissions and further submissions and prepare recommendation reports for the TTPP Joint Committees consideration and adoption in respect to the TTPP.
12. The Hearing Panel will issue further minutes on the Hearing Procedures and timeframes leading up to the hearing process.

CONFLICTS OF INTEREST

13. Ensuring a fair and transparent hearing process means that all Commissioners must bring an independent and open mind to the role, free of any real, perceived, or potential conflicts of interest that could result in actual or potential conflicts, bias and or predetermination.
14. Conflicts of interest may arise, for example, where a commissioner:
 - a. Has previously advocated or given evidence in support of a particular position of relevance to the TTPP; or
 - b. Has previously appeared as a witness or advocate for a party who holds an interest and/or lodged a submission on the TTPP; or
 - c. Has a private interest, including but not limited to an interest in property, which may result in an actual or perceived conflict of interest and/or bias.
15. Following appointment, each Hearings Panel member has disclosed any actual, perceived, or potential conflicts of interest and has agreed to disclose any actual, perceived or potential conflicts that may arise as and when they become aware during the course of the hearings. These actual, perceived, or potential conflicts will be recorded on a Register of Interests along with the previous and current involvements and interests held by the Commissioners. The Commissioners will update the Register throughout the hearing process, as and when any conflicts are identified. The Register identifies how any conflicts will be managed.
16. The Register will be available on the TTPP Hearings Page prior to the start of the

- hearings and will be kept up to date through the hearing process.
17. Any party to the hearing process is entitled to raise commissioner conflicts of interests with the Chair. This should occur as soon as possible, and preferably well before the hearing commences, in writing detailing the alleged conflict and be sent to the Hearings Administrator. However, a party may raise a conflict issue at the commencement of the hearing, but doing so will inevitably cause delay.
 18. The Chair is responsible for determining whether a commissioner should stand aside from any specific hearings (and consequently any deliberations and recommendations on those hearings) by reason of any conflict of interest. If any issue arises in respect of the Chair, the balance of the Hearing Panel members will determine the appropriate course of action. The Chair and or the Hearings Panel may issue specific procedural directions to process conflict issues.
 19. In this context we have received a letter (appended to this minute), addressed to Commissioner Becker, from a group of submitters alleging a conflict of interest arising from his involvement in a prior TTPP committee process. The concern raised relates to the Barrytown Mineral Zone, specific policies in the Mineral Zone and General Rural Zone and the extraction of sphagnum moss, a business which Commissioner Becker is involved in.
 20. I can confirm that these matters have been identified by Commissioner Becker as giving rise to a real or perceived conflict. This matter will be included on the Register of Interests.
 21. The matter will be managed by the Hearings Panel by not appointing Commissioner Becker to Hearing Panels considering and making recommendations on the plan provisions relating to the Barrytown Mineral Zone, specific policies in the Mineral Zone and General Rural Zone, and the extraction of sphagnum moss.
 22. All contact regarding the TTPP hearing process or any clarification required in relation to this Minute should be made to the Hearing Administrator, Rachel Vaughan by email at rvaughan@wrc.govt.nz or by telephone on 0274550346. Any hearing participant who wishes to make any request to the Chair of the Hearing Panel should do so via the Hearings Administrator. The Hearings Panel will consider requests and will respond by way of minute.
 23. All information in relation to the hearing process will be uploaded to the Te Tai o Poutini website www.ttpn.nz as soon as possible.



Dean Chrystal

Independent Commissioner – Chair - on behalf of the Hearing Panel members

26 June 2023

12 June 2023

AN OPEN LETTER TO COMMISSIONER ANTON BECKER

Dear Mr Becker,

We are residents of the West Coast who have made submissions upon the proposed Te Tai o Poutini Plan. You are well known for your promotion of the mining of Barrytown and elsewhere. We believe that naturally you will be biased against submissions that ask for changes that could prevent or limit that. You will already be aware this was flagged as a risk at the TTPP Committee meeting on 15 December 2022 when the nominations to the Panel were considered.

"Hearings must be conducted in a manner consistent with the principles of natural justice. This means that decision-makers allow all submitters to have a fair hearing, and there is no appearance or perception of predetermination or bias. For example, if a Committee member has made strong statements indicating a predetermined position in the past, that member would be unlikely to meet the test for a potential hearing commissioner, as any issues of natural justice would leave the decision on the TTPP susceptible to appeal." -- Hearings Commissioner Nominations Process, Jo Armstrong TTPP Project Manager 21-06-2022.

You were a member of the TTPP Committee that wrote the proposed plan. At your prompting the Committee ignored the professional planners' advice on deleting the Barrytown Mineral Zone [MINZ] and on limiting the area that could be mined without consent in the General Rural Zone [GRUZ-R12]. As part of the TTPP Committee you have argued the economic benefits of extractive industries should outweigh the environmental and community amenity impacts, and this viewpoint has formed the proposed plan [with the MINZ, GRUZ-R12, GRUZ-R18, GRUZ-R25 being of particular concern]. Again at the meeting in Barrytown on 31 August 2022 you spoke in favour of the MINZ and the permissive rules for mining.

As submitters on these proposed rules we are seeking your assurance that you will recuse yourself from the Panel in its hearing, discussing and the recommending of changes to them.

And we expect that due to your conflict of interest as the owner of a business involved in the extraction of moss that you will also recuse yourself from the Panel in its hearing, discussing and recommending changes to rules that concern this.

We would appreciate you informing us that you will recuse yourself in these matters.

Thank you for doing the right thing.

Yours sincerely,

David Moore
Laksmi Crick
Sophie Allan
Dave Morris
Garry Hill
Paul Caffyn
Riarnne Klempel