



# Te Tai o Poutini PLAN

*A combined district plan for the West Coast*

## Te Tai o Poutini Plan Committee Extraordinary Meeting

17 February 2026

11.30AM

Online

Livestreamed on YouTube

[@westcoastregionalcouncil5171](https://www.youtube.com/@westcoastregionalcouncil5171)

### AGENDA

<b>11.30am</b>	Welcome and Apologies	<b>Chair</b>
<b>11.35am</b>	Appointing the Positions Subcommittee and Delegating Authority to Settle at Appeals	<b>Project Manager Legal Counsel</b>
<b>12.30pm</b>	Meeting ends	

<b>TTPP Committee Meetings for 2026</b>	<b>Time</b>	<b>Venue</b>
4 March	9.00-12.00	Grey District Council
10 April	9.00-12.00	West Coast Regional Council
11 May	9.00-12.00	Westland District Council
11 June	9.00-12.00	Buller District Council
14 July	1.00-4.00	Grey District Council
11 August	9.00-12.00	West Coast Regional Council
17 September	9.00-12.00	Westland District Council
15 October	1.00-4.00	Buller District Council
12 November	9.00-12.00	Grey District Council
15 December	9.00-12.00	West Coast Regional Council



# Te Tai o Poutini PLAN

*A combined district plan for the West Coast*

Prepared for: Te Tai o Poutini Plan Committee

Prepared by: Jo Armstrong

Date: 17 February 2026

Subject: Appointing the TTPP Positions Subcommittee and Delegating Authority to Settle at Appeals

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## SUMMARY

This paper seeks resolutions from Te Tai Poutini Committee (TTPP Committee) to approve Position setting Option 2 and to delegate authority to settle on Environment Court appeals on TTPP, to enable effective resolution of the appeals on the Te Tai Poutini Plan (TTPP).

## RECOMMENDATIONS

That Te Tai o Poutini Plan Committee Resolve to:

1. Receive this report.
2. Approve Position setting Option 2:
  - a. Appoint a Positions Subcommittee to make decisions on the position setting for resolution of any appeals to the Environment Court on the TTPP; and
  - b. Appoint all members of the TTPP Committee to the Positions Sub-committee; and
  - c. Each Positions Subcommittee shall be made up of at least two members and exclude any members where the Council or Runanga that they represent is a party to an appeal on a relevant topic;
  - d. The quorum for the Positions Sub-committee shall be two members; and
  - e. The Chair of the Positions Sub-committee shall be the Independent Chair of the TTPP Committee; and
  - f. Adopt the Terms of Reference for the Positions Sub-committee attached as Appendix 2.
3. Delegate the authority to make decisions to settle any Environment Court appeals on the TTPP to a TTPP Committee member who is not a party to the appeals and/or the TTPP Project Manager and/or an independent contractor (acting severally) provided such decisions align with the position set on behalf of the TTPP Committee.

Jo Armstrong

**Project Manager**

## **THE TTPP COMMITTEE IS RESPONDENT TO THE APPEALS**

1. The TTPP Committee is the respondent (and a party) to all appeals on the TTPP, as it is the Committee's decisions that have been appealed.
2. As the respondent, the starting point for the TTPP Committee is that it will defend its decisions on the TTPP in the Environment Court. However, it is possible for the TTPP Committee to agree to take a different position, in response to points made in appeals, through direct discussions or a mediated settlement with the parties (or even later in a hearing before the Environment Court).
3. The TTPP Committee is not the decision maker on appeals, the Court is. Any agreements reached between the parties as a result of direct discussions or mediation will need to be submitted to the Environment Court for approval (by way of consent order).
4. Mediations involve compromise on all parties' initial positions in order to be successful. If a mediation is successful, a mediation agreement is signed on the day of mediation containing the general content of any amendments the parties have agreed to. The parties then collaborate to prepare documentation to record that agreement for the Court. Once submitted to the Environment Court, the Environment Court judge considers the agreement reached, and whether it is consistent with the law. If so, usually consent orders are issued, which is effectively a decision of the Environment Court approving the mediated outcome (and resolving the appeal).
5. The TTPP Committee's legal counsel will attend mediation. Their job is to represent the Committee's position in the mediation and to ensure that any agreement reached is consistent with the law.
6. TTPP staff (or other representatives) will provide technical input at mediations. To do so, the representatives will need to be provided direction from the Committee or other delegated body as to the outcome considered appropriate. Legal counsel will then rely on the technical input in order to reach an agreement consistent with the Committee's preferred position.
7. It is the role of delegates with authority to settle on appeals to ensure that overall outcomes reached at mediation are consistent with the position of the TTPP Committee as expressed to staff in the position reports.
8. If mediation is unsuccessful, the next step is to proceed to an Environment Court hearing. This involves parties calling evidence (often provided by experts) in support of their position and having a hearing before an Environment Court judge to decide the appropriate outcome.

## **TTPP POSITION SETTING PROCESS**

9. TTPP legal counsel and technical staff will attend mediations on behalf of the Committee to resolve appeals on the TTPP where that is possible.
10. In order to effectively participate in mediation, the representatives require a clear understanding of the TTPP Committee's position in response to each appeal.
11. For each topic, staff would prepare a 'position setting' report outlining the matters appealed and a recommended position in response. This report will be discussed with members of the Committee with the outcome being a clear direction from the Committee that sets the parameters for resolution of appeals. The position setting meetings would be confidential and the public would be excluded.
12. Where individual Councils or Runanga have either appealed the TTPP or joined other appeals as a section 274 party, it is not possible for the members appointed by those councils to the TTPP Committee to participate in setting the TTPP Committee's position on appeals (members cannot act as both a party to the appeal and the respondent).
13. To the extent that representatives of those organisations wish to influence the outcomes reached through the appeal process, that will have to be achieved through their individual organisations involvement in the mediation / appeals process rather than through participation on the TTPP Committee. The Court is still the final decision maker on all appeals, not the Committee. This means that the Committee's position in mediation has no greater weight than

the position taken by any other party. All of the parties to the mediation must work together to reach a compromise.

14. If the individual organisations decide that they would prefer to participate in the appeals as part of the Committee, they have an opportunity to withdraw parts of their appeals and remove the conflict. The individual organisations should take advice from their legal counsel about the implications of this.
15. Legal advice on this issue (provided to member organisation CEs or Chairs in October and included in the TTPP Committee 19 November 2025 agenda) includes the following options:
  - (a) The TTPP Committee forming the position on the appeals and for mediation, with the representatives of the appellant member organisation recusing themselves (standing aside) from any discussion or voting on matters associated with their organisation's appeal (noting that this requirement for recusal may extend to other related appeal points); or
  - (b) Delegating the full decision-making on mediation to staff or the Committee's independent chair.
16. A practical issue with option (a) (now that appeals and s274 notices have been lodged) is that the Local Government Reorganization Scheme (West Coast Region) Order 2019 requires a quorum consisting of at least one member from four of the six parties to the TTPP Committee. Based on individual Council and Runanga appeals and s274 notices, recusals would result in the Committee being unable to meet this quorum requirement for decision making on some topics. Appendix 1 to this report lists the topics that TTPP Committee members are a party to (either as an appellant or s274 party). The one topic where no TTPP Committee members are a party is Notable Trees. This illustrates that there will be some topics where recusals would result in failure to achieve the quorum for a position setting meeting.

## **APPOINTMENT OF POSITIONS SUBCOMMITTEE**

17. Staff recommend that the TTPP Committee appoint a Positions Subcommittee to set the position for any resolution of appeals, topic by topic. All members of the TTPP Committee would be appointed to this sub-committee and the Positions Subcommittee for each topic would be made up of at least two members and exclude any members whose Council or Runanga are party to an appeal on that topic.
18. In some cases the majority of members of the TTPP Committee may be able to sit on the subcommittee (e.g. where few of the Councils or Runanga have appealed or joined an appeal on the relevant topic as set out in Appendix 1). However, this option also ensures that the quorum can be met when all the District Councils and Runanga have either appealed or joined an appeal on the topic and only the Independent Chair and representatives of the West Coast Regional Council do not have any potential conflict of interest (as they have not lodged or joined any appeals).
19. The reduced quorum of two for the subcommittee would also enable greater flexibility for scheduling of meetings, taking into account Court timetabling and availability of members.
20. Alternative options to the above are:
  - Appointing all of the members to the Positions Subcommittee and dealing with any conflicts of interest for members whose organisations have lodged or joined an appeal on a topic by way of recusals meeting by meeting. While this enables the smaller quorum for a subcommittee to be applied, it provides less certainty that the risk presented by conflicts of interest will be adequately managed.
  - Appointing a Positions Subcommittee with a fixed membership, such as the members whose organisations have not lodged or joined any appeal (i.e. the Independent Chair and the representatives of the West Coast Regional Council) or

some other fixed sub-set of members. The main disadvantage of this option is that the members who are not appointed to the Positions Subcommittee would not be able to participate in decision making on position setting for any topics, even where their organisation is not a party to an appeal on the topic.

- Delegating decision making on all position setting to the Independent Chair (as referred to in the previous legal advice). This option would avoid any risk of perception of conflict of interest, but would also be the most restrictive in terms of participation in the position setting process by TTPP Committee members.

21. A summary of the options for position setting and their advantages and disadvantages is provided in Table 1 below.

**Table 1 – Options for position setting**

Option 1: Position setting by TTPP Committee	<ul style="list-style-type: none"> <li>• Enables potential participation by all members</li> <li>• Risk of perception of conflicts of interest</li> <li>• Requires members to consider recusals meeting by meeting</li> <li>• Risk that quorum for TTPP Committee meeting will not be met</li> </ul>
Option 2: Appoint Positions Subcommittee with 'rolling' membership consisting of at least two members and excluding any members whose organisations are an appellant or s274 party to an appeal on the relevant topic to make decisions on position setting	<ul style="list-style-type: none"> <li>• Enables all members to participate in position setting for all topics where their organisations have not lodged an appeal or s274 notice</li> <li>• Removes risk of perception of conflicts of interest</li> <li>• Removes need to manage recusals at each meeting (except where other conflicts of interest arise)</li> <li>• Removes risk that quorum for meetings will not be met</li> <li>• Enables flexibility for attendance taking into account Court timetabling and member availability</li> </ul>
Option 3: Appoint Positions Subcommittee consisting of all members of TTPP Committee to make decisions on position setting	<ul style="list-style-type: none"> <li>• Enables potential participation by all members</li> <li>• Risk of perception of conflicts of interest</li> <li>• Requires members to consider recusals meeting by meeting</li> <li>• Risk that quorum for meeting will not be met is removed (due to quorum of two applying to subcommittee meetings)</li> </ul>
Option 4: Appoint Positions Subcommittee with fixed membership consisting of some sub-set of members (such as non-appellants) to make decisions on position setting	<ul style="list-style-type: none"> <li>• May remove risk of perception of conflict of interest and need to manage recusals depending on membership</li> <li>• May remove risk that quorum for a meeting will not be met, depending on availability of appointed members</li> <li>• Restricts members who can participate in position setting on any topic to appointed members</li> </ul>
Option 5: Delegate decision making on position setting to the Independent Chair	<ul style="list-style-type: none"> <li>• Avoids risk of perception of conflict of interest</li> <li>• No need for meetings and quorum requirements do not apply</li> <li>• Most restrictive in terms of participation by TTPP Committee members in position setting</li> </ul>

22. Staff recommend Option 2 for position-setting. If the TTPP Committee decides to approve this option, staff recommend that the attached Terms of Reference for the Positions Subcommittee are also adopted to ensure that the purpose and scope of the appointment and delegation are clear (Appendix 2).

## **DELEGATED AUTHORITY TO ENTER AGREEMENTS TO RESOLVE APPEALS**

23. Following position setting on topics, the TTPP Committee's legal counsel, Principal Planner (for each topic), Project Manager and possibly other technical experts or staff will participate in direct discussions and attend Court assisted mediation with parties to attempt to settle appeals points without the need for a hearing. In doing so, these representatives will seek to give effect to the positions that have been set through the position setting process.
24. The Environment Court requires that each party must have at least one representative attending any mediation who has authority to make decisions to settle the appeal (including giving instructions to legal counsel to sign any mediation agreement or consent order). This is set out in the Environment Court Practice Note. The practice note also makes clear that any matters discussed in mediation must be kept confidential and cannot be discussed outside of the mediation. This underscores the importance of having a person in the room with delegated authority to resolve appeals. Council respondents usually delegate this authority to a Council officer.
25. Staff are seeking that the TTPP Committee make such a delegation to enable direct discussions and mediation to proceed efficiently. As the TTPP Committee is made up of six parties, options for delegating this function could be to a sole member of the Committee (such as the Independent Chair), or to TTPP staff. The person(s) must be available throughout the mediation period, be familiar with the content of the TTPP, be able to represent the TTPP Committee's position and be available to provide instructions to legal counsel to sign any mediation agreements on the same day as any mediation agreement is reached. It is recommended that more than one person is delegated this authority to ensure their availability as required.
26. Taking into account these considerations, staff recommend that the TTPP Committee delegate this authority to enter into any agreements to settle any appeals generally in accordance with the positions that have been set through the TTPP position setting process to at least two of the following: a TTPP Committee member who is not a party to the appeals, the TTPP Project Manager or an independent contractor (with any one of them being able to sign the agreement). This delegation would come with the proviso that the delegated authority occurs within the boundaries of the position set by the Positions Subcommittee, and any potential resolution outside those boundaries would require approval of the Positions Subcommittee.

## **CONSIDERATIONS UNDER THE LOCAL GOVERNMENT ACT 2002**

27. Staff consider that the decisions recommended within this paper are of low significance, because they relate to the TTPP Committee's processes regarding the management of appeals rather than the substance of the issues the appeals raise. Additionally, the appeals have been lodged through a participatory RMA process, where interested parties have the ability to participate in the appeals if they choose to do so.

## Appendix 1

### Topics to Which TTPP Committee Member Organisations are Appellants or s274 Parties

<b>Topic</b>	<b>TTPP Committee Member Organisation Parties (Appellants and/or section 274 parties)</b>
<b>Strategic Directions</b>	Buller District Council Grey District Council Poutini Ngāi Tahu
<b>Introduction and General Provisions</b>	Poutini Ngāi Tahu Buller District Council Grey District Council
<b>Energy</b>	Poutini Ngāi Tahu Buller District Council
<b>Infrastructure</b>	Buller District Council Poutini Ngāi Tahu
<b>Transport</b>	Buller District Council
<b>Historic Heritage</b>	Buller District Council
<b>Hazardous Substances</b>	Buller District Council
<b>Natural Character and the Margins of Waterbodies</b>	Buller District Council Poutini Ngāi Tahu
<b>Natural Features and Landscapes</b>	Buller District Council Poutini Ngāi Tahu
<b>Activities on the Surface of Water</b>	Poutini Ngāi Tahu Buller District Council
<b>Coastal Environment</b>	Buller District Council Grey District Council Poutini Ngāi Tahu Westland District Council
<b>Commercial and Industrial Zones</b>	Poutini Ngāi Tahu Buller District Council
<b>Earthworks</b>	Grey District Council Buller District Council Poutini Ngāi Tahu
<b>Ecosystems and Indigenous Biodiversity</b>	Buller District Council Grey District Council Poutini Ngāi Tahu
<b>Light</b>	Buller District Council Grey District Council
<b>Mineral Extraction (General)</b>	Grey District Council Buller District Council Poutini Ngāi Tahu
<b>Mineral Extraction (Buller Coalfield Zone)</b>	Buller District Council Poutini Ngāi Tahu
<b>Mineral Extraction (Mineral Extraction Zone)</b>	Buller District Council Poutini Ngāi Tahu

	Grey District Council
<b>Natural Hazards</b>	Buller District Council Grey District Council Westland District Council Poutini Ngāi Tahu
<b>Noise</b>	Buller District Council Grey District Council Westland District Council Poutini Ngāi Tahu
<b>Rural Zones and Activities</b>	Westland District Council Poutini Ngāi Tahu Grey District Council Buller District Council
<b>Settlement Zone</b>	Poutini Ngāi Tahu Buller District Council
<b>Open Space and Recreation Zones</b>	Buller District Council
<b>Port Zone</b>	Grey District Council
<b>Future Urban Zone</b>	Buller District Council
<b>Scenic Visitor Zone</b>	Poutini Ngāi Tahu Buller District Council
<b>Sites and Areas of Significance to Māori</b>	Poutini Ngāi Tahu Buller District Council Westland District Council
<b>Subdivision</b>	Poutini Ngāi Tahu Buller District Council Grey District Council
<b>Temporary Activities</b>	Poutini Ngāi Tahu Buller District Council
<b>Transport</b>	Buller District Council Grey District Council
<b>Zone Mapping</b>	Poutini Ngāi Tahu Westland District Council
<b>Whole Plan – various cross plan provisions</b>	Grey District Council Poutini Ngāi Tahu Buller District Council Westland District Council

## **Appendix 2**

### **TTPP POSITIONS SUBCOMMITTEE TERMS OF REFERENCE**

The Positions Subcommittee is a subcommittee of the TTPP Committee and is governed by the Local Government Reorganisation Scheme (West Coast Region) Order 2019 and the TTPP Committee Standing Orders.

1. Area of responsibility
  - a. Considering staff advice and making decisions on the general parameters of the TTPP Committee's position on appeals against the TTPP Committee's decision on the TTPP to guide negotiations and potential resolution of appeal points by TTPP Committee delegated representatives.
2. Powers to decide
  - a. The general parameters of the TTPP Committee's position on TTPP appeal points and topics.
3. Membership
  - a. All members of the TTPP Committee are appointed to the Positions Subcommittee.
  - b. Each Positions Subcommittee meeting to consider and decide on an appeal topic or group of topics shall be made up of at least two members and shall exclude any members where the Council or Runanga that they represent is a party to an appeal on a relevant topic.
4. Quorum
  - a. The Quorum for the Positions Subcommittee shall be two members.
5. Chairperson
  - a. The Chairperson of the Positions Subcommittee shall be the Independent Chair of TTPP Committee.
  - b. If the Independent Chair is absent or vacates a meeting, clause 13.1 of the TTPP Standing Orders applies.