

**IN THE ENVIRONMENT COURT
CHRISTCHURCH REGISTRY**

ENV-2025-CHC-130,131

**I MUA I TE KOOTI TAIAO O AOTEAROA
ŌTAUTAHI ROHE**

IN THE MATTER

of an appeal under Clause 14 of the
First Schedule of the Resource
Management Act 1991

AND IN THE MATTER

of the proposed Te Tai o Poutini Plan

BETWEEN

**FOREST AND BIRD PROTECTION
SOCIETY OF NEW ZEALAND
INCORPORATED**

Appellant

AND

**BULLER DISTRICT COUNCIL
Appellant**

AND

**GREY DISTRICT COUNCIL
Appellant**

AFFIDAVIT OF NICOLA LEE SNOYINK

24 April 2026

Royal Forest and Bird Protection Society of New Zealand Incorporated

Solicitor acting: M Downing
Email: m.downing@forestandbird.org.nz
Phone: 0220481970

Counsel: P Anderson
Email: peter@peteranderson.co.nz
Phone: 0212866992

AFFIDAVIT OF NICOLA LEE SNOYINK

I, **Nicola Lee Snoyink**, Regional Conservation Manager for the Royal Forest and Bird Protection Society of New Zealand Incorporated (Forest & Bird) of Springfield, affirm

1. My full name is Nicola Lee Snoyink. I am currently employed by Forest & Bird as the Canterbury West Coast Regional Conservation Manager. I have held this position since July 2018.
2. I am not a planner, and I am not giving expert evidence. However, my role as Regional Conservation Manager requires me to represent Forest & Bird in resource management processes, both at the Council level and in Environment Court appeals. This has involved resource consents and plan appeals, including Regional Policy Statements. I was involved in the currently operative West Coast Regional Policy Statement and the PC18 to the Mackenzie District Plan, which both went through extensive Environment Court processes
3. These experiences have given me an understanding of the planning process, from pre-notification consultation to Environment Court hearings.
4. The TTPP is different from most plans in that it involves multiple districts.

Background to the TTPP Process

5. In 2015, the Local Government Commission (LGC) commenced an investigation into local government arrangements on the West Coast. The investigation considered a range of options for local government in the region. The options included the amalgamation of all the Councils on the West Coast.
6. In December 2017, following its investigation, the LGC announced that its preferred option was the establishment of a combined district planning process for the West Coast. A copy of the announcement and the subsequent recommendation of the LGC are annexed hereto marked "A" and "B".
7. That preferred option was subsequently implemented by two Orders in Council, which transferred the functions for the preparation of district plan from the Buller, Grey, and Westland District Councils to the West Coast Regional Council and then to the Te Tai o Poutini Plan Committee.

My Involvement in the TTPP Process

8. The TTPP was publicly notified in July 2022.
9. I worked on Forest & Bird's submission on the notified TTPP together with an internal Forest & Bird planner. The submission that was lodged was comprehensive.
10. I also worked on Forest & Bird's further submission and participated in the hearing process. I have not attached these documents as I understand that they are already in the Court's file and are easily accessible on the TTPP website.
11. My involvement in the hearings included attending hearings held on the West Coast, reviewing evidence, preparing material for presentation, and engaging with the procedural steps required throughout the hearing process. I received legal and planning support in this role.
12. After the decisions were issued, I assisted with the Forest & Bird appeal. The Forest & Bird appeal is comprehensive, with critical issues relating to the protection of indigenous biodiversity, mining, infrastructure and the coastal environment.
13. A key issue for Forest & Bird in most district plans is the protection of indigenous biodiversity. Forest & Bird's appeal on this topic is comprehensive, reflecting the view that the provisions do not adequately protect indigenous biodiversity.
14. Grey and Buller District Councils (the District Councils) have lodged s 274 notices opposing many of Forest & Bird's appeal points on this topic.
15. The mining topic is another controversial topic. Forest & Bird has been involved in a number of cases relating to mining on the West Coast, particularly on the Buller Coal Plateau.
16. The TTPP, as notified, provided a very enabling pathway for mining. The Forest & Bird submission sought the deletion of these provisions. The submission was not accepted. Forest & Bird has continued to seek the deletion of these provisions in its appeal
17. Grey and Buller District Councils have lodged s 274 notices opposing Forest & Bird's appeal points on this topic.

18. The same applies to the infrastructure and coastal environment chapters. The Buller and Grey District Councils have opposed the Forest & Bird appeal on these topics.

Concerns about the District Council's appeals and s 274 notices

19. After the appeals and section 274 notices were lodged, counsel made me aware of an issue with the appeals and s 274 notices lodged by the District Councils. The issue was whether it was appropriate for the District Councils to lodge appeals and s 274 notices on the TTPP, when the District Councils were represented on the Committee and the functions for the preparation of plans had been transferred to the Committee.

20. My experience of appeals is that Forest & Bird lodges an appeal that challenges parts of the decision. Other parties who have lodged submissions can join the appeal in opposition or support.

21. The appeals are usually then referred to mediation, where the decision-maker, usually a Council, responds to the various appeals and is open to reasonable amendments through the mediation process.

22. In this case, the situation is different. I had understood that the District Council were represented on the Committee and the Committee represented the District Council.

23. However, the District Councils, who have representatives on the Committee, have each lodged their own appeals and section 274 notices. As noted above, the Buller and Grey District Councils oppose Forest & Bird's appeal on critical matters.

24. It is difficult to see what the Councils are adding, particularly the s 274 notices. The Committee and District Councils have taken the same position. The District Councils have done no more than support the Committee and oppose Forest & Bird.

25. It is prejudicial and unfair to have to litigate against additional parties. The more parties that oppose Forest & Bird, the more cost and risk associated with the case.

26. It is fair for Forest & Bird to litigate with the Committee, as the party responsible for plan preparation.

27. However, Forest & Bird is required to litigate with the Committee and two District Councils. It is not fair for Forest & Bird to have to deal with opposition

from two additional parties when those parties are represented on the Committee and have taken largely the same position as the Committee.

28. If this were a District Plan for only the Buller or Grey District, Forest & Bird would have to litigate with one Council responsible for the preparation of the plan. It would not have to deal with opposition from other District Councils. This is fair. Because the TTPP relates to multiple districts, it is unfair to place a significant additional burden on Forest & Bird to deal with the Committee, which has the Council's plan preparation functions, and also face opposition from the Buller and Grey District Councils. As the Councils oppose Forest & Bird's appeal, this is a significant additional burden.

Engagement with the District Councils

29. Counsel for Forest & Bird wrote to the District Councils raising concerns about their appeals and s 274 notices. A copy of this letter is annexed hereto and marked "C".
30. The District Councils responded to the effect that they did not accept the concerns raised by Forest & Bird. They also attached an opinion from Bronwyn Carruthers KC, on which they waived privilege. A copy of this correspondence is annexed hereto and marked "D" and "E".

AFFIRMED at Christchurch this 24th day of April 2026

Nicola Lee Snoyink

Before me:

A Solicitor of the High Court of New Zealand

Commission: 'no' to amalgamation, 'yes' to combined district planning

06 Dec 2017

The Local Government Commission has determined its preferred option for local government reorganisation on the West Coast is the transfer of district plan preparation from the Buller, Grey and Westland District Councils to the West Coast Regional Council. This will include a joint committee of the four councils to be responsible for developing and approving a new combined West Coast District plan.

The Commission will now work with the councils to prepare a draft outlining the details of the proposal and invite submissions from the community on the West Coast in the new year.

Lead Commissioner for the West Coast reorganisation Janie Annear said that while a number of options for local government in the area had been canvassed, only three were found to be reasonably practicable options. These were:

- the transfer of the statutory obligations for preparing district plans under the Resource Management Act from the Buller, Grey and Westland district councils to the West Coast Regional Council

- a unitary authority for the region combining the three district councils and the West Coast Regional Council into a single council, and
- the status quo which by law is always an option.

“The Commission is pleased to inform West Coast councils, the applicants and communities that combined district planning is its preferred option for change – the one that best fits with the purpose of local government and facilitates improved economic performance in the region,” Mrs Annear said.

“This option retains existing democratic decision-making structures while also introducing a single set of planning and development rules for the whole area.”

Mrs Annear noted that over the past two years the Commission had worked closely with the Coast councils through a relationship agreement, focusing on regional efficiency initiatives. She said that building on that work, the councils had already initiated a move towards joint Resource Management Act planning.

“This decision, pending the release of a draft proposal and a period of submissions, will provide certainty on the process for developing a combined plan and enable the Commission to support the councils further in this endeavour.”

While the legal mechanism for shifting district planning preparation responsibilities would involve a formal transfer from the three district councils to the West Coast Regional Council, a joint committee involving all the councils would be established to prepare and approve the combined district plan.

This would enable consideration of local issues and needs within a consistent overall regional approach.

“The move will, I’m sure, underscore the advantages of a joint approach to council responsibilities while maintaining distinct local community voices, and, importantly, the ability to reflect local conditions and requirements in the plan,” Mrs Annear said.

She acknowledged that the West Coast with its vast area, relatively small, widespread population and limited rating base faced some acute challenges,

particularly in resourcing and capacity to meet infrastructure, service delivery and planning needs.

“Financial and operational analysis of the options showed that the option of a unitary authority for the region is workable and would deliver the greatest potential gains for the West Coast,” she said. “But the Commission has come to the view, given the special nature of the West Coast, that just one council along with an unfamiliar local board structure wasn’t the best option at this time to enable democratic local decision-making.”

She added that neither, given the acknowledged challenges facing the West Coast councils, was the no-change option considered tenable as the option to best promote the purpose of local government into the future and achieve improved economic performance.

“Our engagement and community surveys on the West Coast indicated that the majority of people wanted change, be that councils sharing the provision of some services to increase their efficiency and cost-effectiveness, or amalgamation in some form.

“The Commission has now landed on an option that responds to these calls for change.

“We are confident this decision is the right one for the West Coast. It retains local voice and decision-making while providing a platform on which councils can build as they look further to provide for the best possible local government for their communities into the future.”

Next steps

1. The Commission will now begin work on preparing a draft proposal with input from the West Coast councils.
2. In 2018 the Commission will issue the draft proposal and seek submissions on it in the first half of the year.

3. It will hold hearings and consider the submissions received before deciding whether to issue a final proposal.
 4. If it decides to issue a final proposal, the responsibilities for preparing a combined district plan will be transferred to the West Coast Regional Council and a joint planning committee of the four councils will be established.
 5. The joint committee will begin work on preparing the combined district plan in the second half of 2018.
-

Questions and answers

Q. Will the community have a say in this decision?

A. Yes, the Commission will now prepare a draft proposal and circulate it for feedback, submissions and hearings.

Q. What happens after that?

A. Taking into account the submissions received, the Commission will decide whether to adopt the draft proposal as a final proposal, with or without amendments, or possibly adopt another option.

Q. Will there be a poll on the proposal?

A. No.

Q. Why not?

A. The legislation only provides for a public poll on reorganisation proposals involving some form of amalgamation, abolition of councils or formation of unitary authorities.

Q. What is the time frame around this?

A. The Commission hopes to circulate and consult on a draft proposal in the first half of 2018. This includes a call for submissions and a timetable for hearings.

Q. Assuming the proposal goes ahead, what happens next?

A. If there is a final proposal, responsibilities for preparing district plans will be transferred to the West Coast Regional Council and a joint planning committee of the four councils will begin work on a new combined plan.

Q. When would the joint committee first meet?

A. It is expected the committee will begin meeting in the second half of 2018. The new plan will have to be developed, approved and released as a draft for submissions, final decisions, and possible appeals. The Commission can't be sure how long all this will take.

Q. What would happen to the existing district plans?

A. Existing district plans would remain in place until replaced by the combined district plan.

Q. How can this be said to promote local decision-making and democracy?

A. The proposal retains existing democratic decision-making structures and processes. It also provides for the establishment of a joint committee of all the councils to oversee the preparation of the combined plan. This will enable consideration of local issues and needs within a consistent overall regional approach.

Q. If people disagree with this proposal what can they do about it?

A. They can write a submission to the Commission when it releases its draft proposal early in 2018 and make their views known at one of the hearings the

Commission will hold.

Q. Who will bear the costs of the combined planning process?

A. Costs will be apportioned among the four councils. The Commission would also consider providing financial assistance to support the co-ordination required at the set-up stage.

Q. Isn't this just amalgamation by stealth?

A. No – on the contrary, a move towards more cost-effective collaborative council services reduces the case for amalgamation. Also, if a final proposal for combined planning was to come into effect, this would be the end of the reorganisation process. Any further initiatives towards amalgamation would have to be the subject of an entirely new reorganisation application and process.

Q. Was this decision necessary given the councils were working towards joint planning?

A. The Commission's decision and subsequent process – if it proceeds to a final proposal – will give certainty to the councils including the necessary governance structure for enabling them to get on with the development of the combined plan.

Brief history of the application

- In August 2015 the Local Government Commission agreed to assess a reorganisation application seeking change to local government arrangements on the West Coast.
- The application was lodged by Anthea Keenan and Peter Salter and was supported by a petition with 367 signatures, including significant numbers from each of the three West Coast districts.
- The Commission began a series of visits to the West Coast including meetings with the applicants, and the region's mayors, councils and other stakeholders to

understand the region's issues.

- In March 2016, separate to but alongside progressing the reorganisation application, the Commission and the West Coast councils signed a relationship agreement to collaborate on regional efficiency initiatives with two initiatives identified as initial priorities: roading arrangements and RMA planning services.
- Between the end of May and early July 2016, the Commission ran an extensive community engagement programme on the West Coast to help gauge levels of community support for change in local government arrangements.
- In August 2016 the Commission agreed there was sufficient evidence to be satisfied there was demonstrable support in the three districts for some form of change.
- In February 2017 the Commission invited alternative reorganisation applications and other proposals for change, and received 23 responses including 19 proposing some form of structural reorganisation or shared service arrangement
- Between February and September 2017 the Commission carried out detailed communities of interest work and commissioned a consultant's report into financial and operational aspects of possible options.
- In October 2017, the Commission arranged for a UMR survey to be conducted of the West Coast community to gain an updated picture on support for change and particular change options.
- In November 2017, the Commission agreed its preferred option for the West Coast.

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LOCAL GOVERNMENT COMMISSION
MANA KĀWANATANGA Ā ROHE

Local government reorganisation on West Coast

The Local Government Commission gives notice in accordance with clause 13(1)(a) of Schedule 3 of the Local Government Act 2002 that it has determined its preferred option for local government on the West Coast. This is the transfer of statutory obligations for preparing district plans under the Resource Management Act from Buller, Grey and Westland district councils to West Coast Regional Council, and for the establishment of a joint committee of the four councils to prepare and approve a combined West Coast district plan.

In reaching this decision the Commission considered that:

1. The options that met the specific statutory requirements for a reasonably practicable option for the West Coast and were therefore identified by the Commission as reasonably practicable were:
 - a) transfer of statutory obligations to prepare district plans under the Resource Management Act from Buller, Grey and Westland district councils to West Coast Regional Council
 - b) a West Coast unitary authority
 - c) existing local government arrangements on the West Coast.
2. A number of other potential options were determined not to meet the specific requirements under the Local Government Act 2002 for being a reasonably practicable option on the West Coast.
3. In particular, options for the union of Grey and Westland districts and for a combined West Coast district were considered not to meet the tests for being reasonably practicable options because neither would provide an appropriate district for the efficient performance of the local authority role of enabling democratic local decision-making and action by and on behalf of communities.

Having considered all relevant matters under Schedule 3 of the Local Government Act 2002, the Commission is satisfied that the transfer of the statutory district planning obligation is the preferred option as it will, in the affected area, best promote the purpose of local government and will facilitate improved economic performance.

The Commission will now prepare a draft proposal relating to its preferred option for the purpose of consulting the West Coast community in 2018.

Dr Suzanne Doig
Chief Executive Officer



**PETER ANDERSON
BARRISTER**

19 March 2026

Grey District Council
c/- Geraldine Biggs (Corcoran French)

Buller District Council
c/- Chris Thompsen (Fletcher Vautier Moore)

Westland District Council
C/- Katia Fraser / Felicity Wach (Rice Speir)

Copy to

Te Tai o Poutini Plan Committee
c/- Alice Balme / Tracey Ellis (Wynn Williams)

Tēnā koe,

TE TAI O POUTINI PLAN APPEALS BY DISTRICT COUNCILS

1. I act for Forest & Bird in relation to appeals on the proposed Te Tai o Poutini Plan (the TTPP).
2. Forest & Bird has serious concerns regarding the District Council's decisions to lodge appeals on the Te Tai o Poutini Plan Committee's decisions on the TTPP (the TTPP, the appeals and the Committee). The concern extends to the 274 notices lodged by the District Councils on other parties' appeals (the s 274 notices).
3. This raises two important issues:
 - a. Are the District Councils' appeals and s 274 notices lawful?
 - b. If so, how is the integrity of the appeal process to be maintained?
4. Forest & Bird's position is that the District Councils cannot lawfully appeal the Committee's decisions or lodge s 274 notices on other appeals. The District Councils plan making functions have been transferred to the Committee. The District Councils are trying to exercise functions they no longer have.

5. The Orders in Council that provide for the TPPP process anticipate the District Councils collectively contributing to the Committee, of which they are an integral part. The Orders did not anticipate the Councils separately and competitively challenging Committee decisions.
6. Even if they could appeal, serious conflict issues arise. These conflicts prevent the District Councils from participating in the Committee's decision on the relevant appeals. These conflicts cannot be effectively managed and fundamentally undermine the integrity of the appeal process.
7. The District Councils should withdraw their appeals and s 274 notices.

Can the District Councils Lawfully Appeal the Committee's Decisions

8. There is an issue as to whether the District Councils can lawfully appeal decisions made by the Committee. This is an issue because the Committee is exercising the District Council's plan-making powers, which have been transferred from the District Council to the Committee via the Regional Council.
9. This transfer occurred through two Orders in Council: the Local Government Reorganisation (West Coast Region) Final Proposal Order 2018, and the Local Government Reorganisation Scheme (West Coast Region) Order 2019 (the Orders).
10. The combined effect of the Orders is to centralise all district plan functions for the Buller, Grey, and Westland Districts in the West Coast Regional Council, and to require those functions to be delegated to the Committee.
11. This is achieved by transferring each District Council's statutory obligations under section 73 and Schedule 1 of the RMA to the West Coast Regional Council. Those transferred obligations must be fulfilled by preparing, notifying, adopting, amending, and reviewing a single combined district plan for the three districts under section 80 of the RMA.
12. The Orders require the Regional Council to delegate its transferred district plan functions to the Committee, which is responsible for preparing, hearing submissions on, and adopting the TPPP, and for overseeing its ongoing implementation and review.
13. The four councils otherwise continue to exist with their usual powers and responsibilities, except for the district plan functions expressly transferred.
14. Turning to whether the District Councils can lawfully appeal, a similar issue was addressed in *Auckland Council v Auckland Council*.¹ The Environment Court concluded that there is no authority preventing a council, as a consent applicant, from appealing a decision made by the council as consent authority. The Environment Court was clear that it was important that the integrity of the appeals process was maintained.
15. However, the circumstances in *Auckland Council* are materially different from the TPPP appeals. In *Auckland Council*, the Council, as applicant, had statutory functions that

¹ [2018] NZEnvC 56

were advanced by making the application that it did. These functions were distinct from those that the Council, as consent authority, was exercising.

16. In this case, the Council's district plan making functions have been transferred to the Committee. The Committee now exercises the District Council's statutory functions in relation to the TTPP. The District Councils no longer have any district plan-making functions.
17. The District Councils are appealing decisions made under the powers that were transferred from the District Councils. This is a significant difference from the *Auckland Council* case. By lodging the appeals, the District Councils are inappropriately trying to exercise planning functions that they no longer have.
18. The District Councils cannot appeal a decision that, in substance, is their own decision-making function transferred and delegated to the Committee. This situation is akin to a council attempting to appeal decisions made by independent commissioners whom it has itself delegated authority to make decisions. Once a council has transferred its decision-making power to independent commissioners, it cannot then challenge the outcome of that delegated process. Having conferred the function on the commissioners, the council is bound by their determination. The same applies here to the District Councils' powers transferred to the Committee via the Regional Council.

Integrity of the Process

19. A further issue identified in *Auckland Council* was the need to maintain the integrity of the process. That concern is of critical relevance here.
20. The Environment Court allowed the appeal by the Council in its role as applicant to proceed. This was because the Court considered there was a justiciable issue. However, Court was clear that the integrity of the process needed to be maintained. The Court said:

[53] In our view, justice includes ensuring that the Council is fully accountable as both applicant/appellant and as consent authority so that all other parties are fully informed about the Council's position or positions and able to present their cases effectively in support or response. The integrity of the consent process, including the appeal process, must be maintained. There may be grounds for a continuing role for amicus curiae or other steps to ensure appropriate transparency and accountability in the process.
21. The District Council appeals fundamentally undermine the integrity of the appeal process. The proper approach is for the Councils' interests in the TTPP, as they relate to their District, to be represented by the Committee itself, not through separate, competing appeals. The Orders do not anticipate that the District Councils would lodge their own appeals and thereby preclude themselves from participating in the Committee's involvement with the appeal.
22. The publicly available TTPP Committee meetings show that this is an issue that the Committee is grappling with.

23. The advice the Committee has received is that the District Councils are appellants and cannot participate in the Committee's decisions that relate to matters on which they are an appellant or s 274 party. This advice is correct.
24. This creates an untenable situation where the Councils with the greatest interest in particular issues are unable to contribute to the Committee's position on appeals on that issue. In some appeal points, the only non-conflicted party is the Regional Council. The Committee is deprived of the expertise and input of the most affected District Councils, while those same councils advance their interests through their own appeals.
25. The difficulty with this situation is illustrated by the lighting provisions, particularly Rule LIGHT R5. The decision included a 15-kilometre coastal setback, imposed primarily to protect the tāiko / western petrel. The councils most directly affected by the setback are Buller and Grey Districts, as the tāiko / western petrel colony is close to the boundary of these districts.
26. Both the Grey and Buller District Councils have appealed that setback. In doing so, they have excluded themselves from involvement in the Committee's position on this important issue.
27. This undermines the Committee, which will be forced to set a position on appeal without input from the most affected Councils. It also undermines the credibility of the plan-making process. West Coast ratepayers find themselves in an extraordinary position of paying to both defend the plan and covering the cost of three challenges to it.

Appeals and S274 notices should be withdrawn

28. The District Councils' appeals and section 274 notices should be withdrawn. They are unlawful because they constitute an attempt by the District Councils to exercise functions they no longer have.
29. In addition, the appeals are contrary to the Orders, which anticipate that the District Councils would collectively contribute to the work of the committee, rather than separately and competitively. The conflicts that arise from serving as both the respondent and the appellant mean that key committee members will be conflicted and unable to contribute to the Committee's response and position. The difficulty with this is evident when it is understood that on some provisions, only the Regional Council is not conflicted.
30. Having the Regional Council, which has no or limited functions on key District Plan matters such as noise and light, along with the independent chair, as the only committee members to set the Committee's position on appeals, is not what was intended by the Orders.
31. Withdrawing the appeals and s 274 notices is the only way to implement the Orders in the way that they were intended. This would help restore confidence in the integrity of the process and ensure that the Committee can properly perform the plan-making functions transferred to it, with the full participation of the District Councils.
32. Forest & Bird is considering its options, which include applying for the District Councils' appeals and s 274 notices to be struck out under s 279(4) of the RMA. Before seeking to

strike out the District Council appeals and s 274 notices, Forest & Bird would first like to offer the District Councils the opportunity to withdraw their appeals. The Environment Court has directed that any applications for strike out be made by 2 April 2026.

33. Please advise if the District Councils are willing to withdraw their appeals and s 274 notices by 26 March 2026. This will allow Forest & Bird to properly consider its position before the 2 April 2026 deadline.

Yours sincerely

A handwritten signature in black ink, appearing to read 'Peter Anderson', with a long vertical stroke extending upwards from the end of the signature.

Peter Anderson
Barrister

CORCORAN FRENCH

31 March 2026

Peter Anderson
Barrister
By Email

Email: peter@peteranderson.co.nz

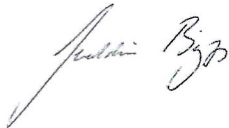
Dear Peter

JOINT RESPONSE TO YOUR LETTER DATED 19 MARCH 2026 REGARDING APPEALS ON THE TE TAI O POUTINI PLAN

1. We act respectively for the Grey District, Buller District, and Westland District Councils.
2. This letter constitutes a joint response on behalf of all three territorial authorities to your correspondence dated 19 March 2026 concerning the appeals and section 274 notices filed on the decisions of the Te Tai o Poutini Plan Committee (**Committee**), in relation to the proposed Te Tai o Poutini Plan.
3. The Councils have obtained an opinion from Bronwyn Carruthers, KC, dated 30 March 2026, which comprehensively addresses the issues raised in your letter. A copy of the opinion is enclosed with this letter.
4. While the Councils waive legal privilege in respect of this particular opinion for the limited purpose of responding to your letter, privilege is strictly maintained over all other communications, discussions, advice, and documents relating to this matter.
5. The Councils do not accept the objections regarding the lawfulness of their appeals and section 274 notices. They are satisfied that their involvement is proper, lawful, and consistent with the intent of the relevant Orders in Council and the Resource Management Act 1991. Any conflicts of interest (both actual and perceived) can, and will, be appropriately managed by the Committee.
6. The Councils accordingly decline your invitation to withdraw their filings. They maintain their rights to participate fully in the appeal process before the Environment Court and will defend such participatory rights robustly if required.

Yours faithfully

CORCORAN FRENCH



GERALDINE BIGGS
on behalf of Grey District Council

FLETCHER VAUTIER MOORE



CHRIS THOMSEN
on behalf of Buller District Council

RICE SPEIR

A handwritten signature in black ink, appearing to read 'R Argyle', written in a cursive style.

ROSIE ARGYLE/FELICITY WACH
on behalf of Westland District Council

Encl: Opinion of Bronwyn Carruthers KC, dated 30 March 2026

Ref: 14091/329 - 4955897

30 March 2026

Buller District Council

c/- cthomsen@fvm.co.nz / ayardley@fvm.co.nz

Grey District Council

c/- geraldine@cflaw.co.nz

Westland District Council

c/- katia.fraser@ricespier.co.nz / felicity.wach@ricespier.co.nz

Bronwyn Carruthers KC

Barrister

LLB (Hons) and BSc (Environmental Science)

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Appeals against the West Coast Region Combined Plan

Context

1. The Local Government Reorganisation (West Coast Region) Final Proposal Order 2018:
 - (a) transferred the RMA obligations “for the preparation, notification, adoption, periodic amendment and review of the district plan” from the three territorial local authorities (**TLAs**) to the West Coast Regional Council;
 - (b) required the transferred obligations to be met by “the preparation, notification, adoption, periodic amendment and review of a combined district plan for the Buller, Grey and Westland districts under section 80 of the RMA”.
2. The Local Government Reorganisation Scheme (West Coast Region) Order 2019:
 - (a) created a permanent joint committee between the four West Coast councils and local iwi known as the Tai Poutini Plan Committee (**TPPC**);
 - (b) Required the transferred obligations to be delegated to the TPPC.
3. The TPPC, acting under delegation from the West Coast Regional Council, has recently issued its decision on submissions on the combined district plan. The three TLAs have filed focussed appeals with the Environment Court seeking clear and specific relief confined to provisions applicable in their individual districts and have also filed s274 interested person notices on other appeals.
4. By letter dated 19 March 2026, Forest & Bird has questioned whether the involvement of the three TLAs is lawful and, if so, how the integrity of the appeal process is to be maintained.
5. You have asked for my opinion on the matter.

Opinion

6. In my opinion:
- (a) The TLA's obligations have been transferred to the Regional Council and subsequently delegated to the TPPC;
 - (b) The ability for the TLAs to submit on the notified plan has not been removed nor eroded;
 - (c) The TPPC decision was made under delegated authority from the Regional Council, but is a decision of the Regional Council;
 - (d) Any submitter is entitled to appeal against that decision, provided it is within the confines of scope set by the Act;
 - (e) There is nothing in either the Act, the orders in council nor any case law to suggest the TLAs are not entitled to appeal;
 - (f) While Forest & Bird have referenced a 2018 decision of the Environment Court relating to a resource consent application, the judgment of Venning J in *Auckland Council v Auckland Council*¹ is of greater assistance. That involved a judicial review by Auckland Council of a decision made by an independent commissioner it had appointed to consider an objection to a development contribution it had imposed. There was no challenge to standing, nor any concern expressed by Venning J as to the Council as both appellant and respondent;
 - (g) I have reviewed the 2018 decision and note:
 - (i) The underlying issue was "the assumption in legal theory that a single entity has unity of intent of purpose".² That does not apply here, as it is the decision of the Regional Council (made by the TPPC under delegated authority) that is subject to challenge by the TLAs. Both the Regional Council and the TPPC are separate and distinct entities to the TLAs.
 - (ii) After extensive review, the Court concluded "there is no express authority" that a council as applicant could not appeal its own decision as consent authority.³ It offered a view that an appeal "can proceed where there is a justiciable issue which requires resolution by the Court"⁴ but

¹ [2025] NZHC 1214.

² At [28].

³ At [45].

⁴ At [47].

did not reach “a final conclusion on the role of the Council” given the circumstances of the particular case.⁵ The Court left “open the possibility” to decide “whether it is lawful or appropriate for a Council to appeal its own decision” “in other circumstances”, particularly “where no other party is involved or there is otherwise no party who acts as contradictor”.⁶ This is not such a circumstance: there is a justiciable issue, the TLAs have not appealed their own decision, and the respondent is involved (as too are any s274 parties).

- (h) I have also been unable to find any instance where a participants’ submission and appeal rights have been curtailed. To the contrary, I note that the collaborative planning process provided in Schedule 1 until 2020:
- (i) enabled members of the collaborative group to make submissions on the proposed policy statement or plan that had been prepared through the collaborative planning process – with no limitation or constraint (clause 53).
 - (ii) required the review panel to give the collaborative group the opportunity to comment on any recommended changes (clause 54).
 - (iii) retained the right for both the collaborative group and any member of the group to appeal.
- (i) Given the focussed nature of the relief sought in each of the three appeals, conflicts of interest (both actual and perceived) can easily be managed during the TPPC’s consideration of the appeal points and the case management process;
- (j) The TPPC holds the delegation to make any amendments to the combined plan as directed by the Court, (clause 16), to approve the combined plan once all appeals have been disposed of (clause 17), and to publicly notify the date on which it will become operative (clause 20). The members of the TLAs on the TPPC will clearly be able to fulfil these obligations.
7. I therefore see no issue with the three TLAs pursuing their appeals, provided each is within scope of their initial submissions and further submissions, and involvement in other appeals in reliance on s274(1)(b).

⁵ At [48] – [50].

⁶ At [50].

Yours sincerely

A handwritten signature in black ink, appearing to be 'Bronwyn Carruthers', written in a cursive style.

Bronwyn Carruthers KC
Barrister