

**IN THE ENVIRONMENT COURT
AT CHRISTCHURCH
I TE KŌTI TAIAO O AOTEAROA
KI ŌTAUTAHI**

IN THE MATTER of the Resource Management Act 1991

AND appeals under clause 14 of the First
Schedule of the Act

BETWEEN GREY DISTRICT COUNCIL

(ENV-2025-CHC-130)

BULLER DISTRICT COUNCIL

(ENV-2025-CHC-131)

Appellants

AND TE TAI O POUTINI PLAN
COMMITTEE

Respondent

**MINUTE OF THE ENVIRONMENT COURT
(7 May 2026)**

Introduction

[1] Forest & Bird's application to strike out the appeals and s274 notices filed by the Buller and Grey District Councils (BDC) (GDC) has been set down for hearing on 22 May 2026. Mediation is scheduled to commence on Topic 15 (Strategic Directions) on 12 May 2026. Mediation on the other topics into which the various appeals have been categorised are scheduled through until late 2026.



[2] In a memorandum dated 1 May 2026 the mining interests¹ seek an adjournment of the mediation schedule until Forest & Bird's application is resolved. The mining interests submit that the scheduled mediations are premature, while the status of the Councils in the appeals is unknown.

[3] In response, the TTPP submits that there is no compelling reason for the mediation schedule to be adjourned and the mediation should proceed as scheduled. The TTPP notes that a considerable amount of work has gone into preparing the mediation schedule to accommodate all parties availability and other logistical considerations. If the schedule is adjourned that work will need to be redone. TTPP submits that there are other instances where the scope or standing of a party remains unresolved while matters are mediated – *Glenpanel Ltd Partnership v Otago Regional Council* is referred to.²

[4] Grey District Council's position³ is that the mediation schedule should be deferred until the outcome of Forest & Bird's application is known. GDC states that the application raises novel administrative law questions and that the effects of the ultimate decision on the application and mediation process cannot be fully predicted at this point. Any agreement reached in mediations may, it is submitted, be called into question if GDC's appeals and/or s274 notices are subsequently struck out. The cost of GDC's participation in the mediations as an appellant and/or s274 party may be wasted if the application is successful.

[5] The memorandum filed by counsel for GDC advises that BDC supports GDC's application (and the mining interests) that the mediations be deferred.⁴

¹ Bathurst Resources Limited and BT Mining Ltd, Birchfield Coal Mines, Birchfield's Ross Mining Ltd, BRM Developments Ltd, Taiko Critical Minerals Ltd and Tasman Mining Ltd and the New Zealand Minerals Council.

² TTPP memorandum to the court dated 4 May 2026.

³ GDC memorandum to the court dated 5 May 2026.

⁴ GDC memorandum to the court dated 5 May 2026.

[6] Forest & Bird's position⁵ is that its application should not result in a deferral of the mediations. Forest & Bird submits that any mediation agreements reached involving the Councils would not be called into question (as suggested by GDC) if the appeals or s274 notices were subsequently struck out. Forest & Bird states that mediation agreements are binding on the parties who signed them and that Forest & Bird would resist attempts to reopen any agreements even if Grey or Buller District Council's involvement as appellants or s274 parties "falls away".

Consideration

[7] Commissioner Wilkinson is involved as mediator for the majority of the currently arranged mediations. The Commissioner and I have carefully considered the implications of the Forest & Bird application for the feasibility of continuing with the current mediation schedule. We are conscious of the following factors:

- (a) the court's jurisdiction to direct the alteration of plan provisions arises only out of an appeal. A mediation agreement reached on an appeal that is subsequently struck out could therefore not be given effect to by the court;
- (b) the legal position is likely quite different where the Council is participating as a s274 party to another party's appeal. But we accept that the uncertainty as to Council status as a s274 party might affect the dynamics of any mediation they are involved in;
- (c) we also accept that there could be disruption and extra costs if parties seek to readdress issues raised by Councils as appellants or s274 parties if Forest & Bird's application is successful. On the other hand, there would be extra costs, particularly to TTPP, if the mediations need to be rearranged;
- (d) the Councils are involved in a limited number of their own appeals

⁵ Forest & Bird memorandum to the court dated 5 May 2026.

but are extensively involved as s274 parties. Almost all of the topics to be mediated have one or more of the Council's participating.

Conclusion

[8] Considerable resources have already been spent by TTPP, the court and the other parties to these proceedings in setting up the mediations as currently arranged. However, we think the uncertainty created by Forest & Bird's application means that the mediations should be briefly deferred. We therefore make the following orders:

- (a) the scheduled mediations on TTPP topics where one or both of the Councils are appellant or s274 parties are to be deferred for a period of two months.



K G Reid
Environment Judge

Issued: 7 May 2026