

**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

**BULLER AND GREY DISTRICT
COUNCILS**

Appellants

AND

**TE TAI O POUTINI PLAN COMMITTEE
Respondent**

**MEMORANDUM OF COUNSEL FOR THE ROYAL
FOREST AND BIRD PROTECTION SOCIETY OF
NEW ZEALAND INCORPORATED REGARDING MEDIATION**

6 May 2026

Royal Forest and Bird Protection Society of New Zealand Incorporated

Solicitor acting: M Downing

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MAY IT PLEASE THE COURT:

1. Forest & Bird supports the TTPP Committee's position that mediation should proceed and disagrees with the mining companies¹ and Grey District Council that mediation should be suspended while the application for strike out is considered and decided.
2. Forest & Bird supports the reasons outlined by the Committee in its memorandum of 4 May 2026 and makes the following additional comments.
3. The main difference between Forest & Bird and Grey District Council appears to relate to the status of mediation agreements. Grey District Council suggests that mediation agreements could be "called into question" if Grey or Buller District Council appeals or s 274 notices are struck out.
4. This is not correct. Agreements made at mediation are binding on the parties who sign them. Forest & Bird would resist any attempts to reopen them, even if the Grey and Buller District Councils' involvement as appellants and s 274 parties falls away.
5. The prejudice associated with proceeding with mediation is a prejudice for Forest & Bird. This prejudice arises from participating in mediation with Grey and/or Buller District Councils when their status is challenged but unresolved. Forest & Bird does not consider this prejudice is significant and falls short of justifying the suspension of the mediation timetable.
6. Forest & Bird also disagrees with the Grey District Council that the effects of the strikeout are unpredictable. The effects of the Court's decision are predictable.
 - (a) If the application is declined, there is no change to the status quo.
 - (b) If the application is granted, then the District Council appeals and s 274 notices are struck out, and their involvement in the appeals as appellants as s 274 parties falls away. The conflicts that arise with the Committee that arise from the appeals and s 274 notices also fall away.
7. Grey District Council suggest that additional days could be scheduled for mediation in June or July with mediation possibly being held online to minimise travel. This is unrealistic. Mediation is currently scheduled in the weeks of 16 and 30 June as well 13 and 20 July. When the need to complete position papers is considered, it would not be reasonable to add to an already full timetable at short notice.

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

8. Forest & Bird had earlier suggested that the mining mediations may need to be postponed but now agrees with the Committee that this is not necessary.

Dated: 6 May 2026

A handwritten signature in black ink, appearing to read "P Anderson" or "M Downing", is centered within a light gray rectangular box.

P Anderson / M Downing
Counsel for Royal Forest and Bird Protection Society of New Zealand Incorporated