

**IN THE ENVIRONMENT COURT OF NEW ZEALAND
CHRISTCHURCH REGISTRY**

**I TE KŌTI TAIAO O AOTEAROA
ŌTAUTAHI ROHE**

**ENV-2025-CHC-000130
ENV-2025-CHC-000131**

UNDER the Resource Management Act 1991 (RMA)

IN THE MATTER of appeals under clause 14 of Schedule 1 of the RMA
against decisions of the Te Tai o Poutini Plan Committee
on the Te Tai o Poutini Plan

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

GREY DISTRICT COUNCIL

BULLER DISTRICT COUNCIL

Appellants

**MEMORANDUM OF COUNSEL FOR TE TAI O POUTINI PLAN COMMITTEE
REGARDING MEDIATION TIMETABLE
4 May 2026**

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AND

TE TAI O POUTINI PLAN COMMITTEE

Respondent

MAY IT PLEASE THE COURT

- 1 This memorandum is filed in response to the memorandum filed by Bathurst Resources Limited and BT Mining Limited, Birchfield Coal Mines Ltd, Birchfields Ross Mining Ltd, BRM Developments Ltd, Tāiko Critical Minerals Limited, Tasman Mining Limited and The New Zealand Minerals Council (**the Mining Companies**) dated 1 May 2026 and the Application for Strike out by Forest and Bird dated 25 April 2026 (**Application**).
- 2 The Mining Companies have sought that the mediation schedule be adjourned until the Application is resolved.
- 3 The Committee considers that there are no compelling reasons for the mediation schedule to be adjourned and that mediation should proceed as scheduled for the reasons detailed below.

Preparation of the mediation schedule

- 4 A considerable amount of work has gone into preparing a mediation schedule that accommodates all parties' availability, the availability of Environment Court Commissioners, and the logistics of getting a large number of people to a relatively remote location for mediation. It has also been created to ensure that issues that have the greatest impact for people on the West Coast, in terms of development and also processing of consents, are scheduled early to enable as much of the TTPP to become operative as early as possible if the appeals can be resolved through mediation.
- 5 If the mediation schedule is adjourned, the time to re-do all of this work will in the Committee's submission significantly outweigh the prejudice to any parties who are required to prepare for and participate in mediation where there is uncertainty about the Grey and Buller District Councils' section 274 interests and the two Grey District Council appeal points that will be mediated in the next three months.
- 6 There are many instances where questions of scope or standing are unresolved when matters are mediated. *Glenpanel Ltd Partnership v Otago Regional Council* is a recent example of a situation where an

Appellant proceeded through mediation on the Otago Regional Plan only to be struck out for lack of standing once the mediation was complete.¹

Topic 15 Strategic Direction and Topic 14: Cross Plan (12 May 2026)

- 7 Mediation is due to commence on 12 May 2026 on the West Coast. The first topic to be mediated is Topic 15: Strategic Direction followed by Topic 14: Cross Plan and the remaining Topic 15 matters on 25 May 2026. The Committee has circulated its position papers in respect of both Topics. All parties to the Topic 15: Strategic Direction have updated the position paper with their respective positions in advance of mediation. Some parties have updated their position in Topic 14: Cross Plan with the deadline for that Topic being 8 May 2026.
- 8 Grey District Council and Buller District Council are not appellants in Topic 15: Strategic Direction. They have a section 274 interest in a number of the other parties appeals.
- 9 Buller District Council is not an appellant in the Cross Plan Topic. They have a number of section 274 Interests. Grey District Council has one appeal point in this topic which relates to the definition of “Site Coverage”. None of the Mining Companies are party to this appeal.
- 10 With the exception of this one appeal point relating to site coverage, the Committee submits that regardless of whether Buller and Grey District Council’s interest in these appeals is struck out, all of the appeal points remain live and must be mediated.
- 11 If the Court is concerned about the parties preparing for the Appeal Point by Grey District Council in Topic 14, mediation on this point could be deferred.

Topic 20: Mineral Extraction Zone Topic (15 June 2026)

- 12 The next topic scheduled for mediation is Topic 20: Mineral Extraction which is due to start on 15 June 2026. The Committee has prepared its position paper in respect of the appeals allocated to this topic and is due to provide that to parties on the 15 May 2026. Parties will be required to update their position in this document by 29 May 2026.

¹ [2025] NZEnvC 399

13 Neither Buller nor Grey District Council have appeal points allocated to this topic. They have a range of section 274 interests although Buller's interest is largely neutral.

14 As with the above topics, the Committee submits that regardless of whether Buller and Grey District Council's interest in these appeals is struck out, all of the appeal points remain live and must be mediated.

Topic 22: Infrastructure, Topic 10: Temporary activities, Topic 29: Activities on the Surface of Water, Topic 11: Historic Heritage and Topic 23: Transport (30 June 2026)

15 The above topics are all scheduled for mediation in the week of 30 June 2026. Again, neither of the District Councils have any appeal points allocated to these topics. They have various section 274 interests in some appeal points.

16 As with the above topics, the Committee submits that regardless of whether Buller and Grey District Council's interest in these appeals is struck out, all of the appeal points remain live and must be mediated.

Topic 18: Mineral Extraction Topic (14 July 2026)

17 Topic 18: Mineral Extraction is scheduled for 14 July 2026. Buller District Council has no appeals allocated to this topic and has a range of section 274 interests.

18 Grey District Council has a number of section 274 interests and also one appeal point allocated to this topic relating to GRUZ-R11. Of the Mining Companies, only Bathurst Resources Limited and Tasman Mining Limited have joined this appeal and both parties support the relief sought by Grey. Birchfield Coal Mines Ltd, WMS Group (HQ) Limited, Tāiko Critical Minerals Limited, Bathurst Resources Limited and Buller Conservation Group have also appealed this rule.

19 With the exception of this one appeal point relating to GRUZ-R11, the Committee submits that regardless of whether Buller and Grey District Council's interest in these appeals is struck out, all of the appeal points remain live and must be mediated. In respect of rule GRUZ-R11 the parties involved in this topic are required to prepare for and respond to the relief sought by all of the other appellants on this rule. It is therefore submitted that responding to the relief sought by Grey District Council will not cause any undue prejudice.

Remaining Topics

- 20 Counsel for the Committee has not worked through the remaining topics in the schedule as it is submitted that the Topics identified above illustrate the point the Committee wishes to make.

Informal mediation

- 21 The Mining Companies have also sought that informal discussions should not continue where Buller and Grey District Council are involved.
- 22 Parties are not required to participate in informal discussions. However, the Committee considers that it is in the interest of all parties that these discussions continue. If appeals can be resolved without the need for Court-assisted mediation, this is an efficient use of resources and parties' time.

Directions sought

- 23 The Committee seeks that the Court confirm that mediation should proceed in accordance with the timetable confirmed by the Commissioner.
- 24 If the Court considers it is necessary, the appeal points by Grey District Council in relation to Site Coverage and Rule GRUZ-R11 could be deferred to another time. However, it is likely that mediation on these points would need to occur remotely.

Dated this 4th day of May 2026



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A H Balme / T M Ellis
Solicitor for Respondent