



# Te Tai o Poutini PLAN

*A combined district plan for the West Coast*

## Te Tai o Poutini Plan Committee Meeting 28 March 2025

9am

West Coast Regional Council Chambers, Paroa  
and

Livestreamed on YouTube

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

### AGENDA

<b>9.00am</b>	Welcome and Apologies	<b>Chair</b>
<b>9.05am</b>	Confirm previous minutes of 25 February 2025	<b>Chair</b>
	Matters arising from previous meeting Report – Commissioner and Consultant/Contractor Expenditure	<b>Chair</b>  <b>Project Manager</b>
<b>9.25am</b>	Advice Regarding Process and Actions to Reach Decisions Version of TTPP	<b>Wynn Williams</b>
<b>9.55am</b>	Financial Report to 31 January 2025	<b>Project Manager</b>
<b>10.00am</b>	Report – Updated Advice on Process for Designations	<b>Senior Policy Planner</b>
<b>10.10am</b>	Report – Updating the TTPP Committee Code of Conduct	<b>Project Manager</b>
<b>10.25am</b>	Project Manager’s Report	<b>Project Manager</b>
<b>10.30am</b>	Public Excluded Session – Confidential Minutes and Process Report	
<b>11.00am</b>	Meeting ends	

<b>TTPP Committee Meetings for 2025</b>	<b>Time</b>	<b>Venue</b>
10 April	9-am	GDC
21 May	9-am	WDC
18 June	9-am	BDC
22 and 23 July Both days	9-am	WCRC
12 August	9-am	GDC
14 August	9-am	WDC
11 September	9-am	BDC
26 September	9-am	WCRC
No October meeting – Local Elections		
19 November	1.30pm	WCRC
11 December	1.30pm	WDC



# Te Tai o Poutini PLAN

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## MINUTES OF MEETING OF TE TAI O POUTINI PLAN COMMITTEE HELD AT CLOCKTOWER CHAMBERS, WESTPORT AT 9AM ON 25 FEBRUARY 2025

### Present

R. Williams (Chairman), Mayor T. Gibson (GDC), Cr B. Cummings (WCRC), Kaiwhakahaere F. Tumahai (Ngāti Waewae), Kaiwhakahaere P. Madgwick (Makaawhio), Cr A. Cassin (WDC), Cr J. Howard (BDC), Mayor J. Cleine (BDC), Cr A. Gibson (GDC)

### In attendance

Joanne Soderlund (GDC), Catriona Bayliss (GDC), Simon Bastion (BDC), Carissa du Plessis (BDC), J. Armstrong (TTPP Project Manager), Barbara Phillips (WDC), D. Lew (WCRC), J. Allen (WCRC), Doug Bray (WCRC), Chu Zhao (WCRC)

### Welcome

### Apologies

Mayor H. Lash (WDC), Cr G. Neylon (BDC) & Cr P. Haddock (WCRC)

**Moved** (R. Williams/ Mayor Cleine)

*That the apologies of Mayor Lash, Cr Neylon and Cr Haddock be accepted.*

*Carried*

**Confirm minutes of the previous meeting held 13 December 2024**

**Moved** (Kaiwhakahaere Madgwick/ Mayor Cleine)

*That the minutes of the meeting held 13 December 2024 be confirmed.*

*Carried*

**Confirm minutes of the previous meeting held 16 January 2025**

**Moved** (Kaiwhakahaere Tumahai / Mayor Cleine)

*That the minutes of the meeting held 16 January 2025 be confirmed.*

*Carried*

## Matters arising from previous meetings

None raised

## Updating Te Tai o Poutini Plan Committee Standing Orders

J. Armstrong presented recommended changes to the TTPP standing orders 1 October 2024 version and sought approval to update them in line with the recommendations.

D. Lew emphasized that the standing orders become increasingly important between now and September as this joint committee has to start to consider recommended decisions from the independent hearing panels.

J. Armstrong highlighted in Section 13 on page 35 the need to change 'a member of a local authorities' to 'the four West Coast councils'.

Kaiwhakahaere Tumahai was happy with this change.

J. Armstrong pointed out the independent chairperson does not have a casting vote, and she briefly discussed the three Options for speaking and moving.

Mayor Cleine said that Option C is what they are doing in the district council because it's more collaborative, and Option C allows an iterative process where someone might move something. Therefore, his preference is Option C. He added that Option A eliminates the well-voiced member to keep reiterating, tweaking, and it is more restrictive.

Mayor Gibson is also happy with Option C, because she said everyone should have the opportunity to speak, and they need to be able to have their voices heard on this committee.

Cr Cassin supported Option C.

The Committee agreed to use Option C.

**Moved** (Mayor Cleine / Cr Cassin)

- 1. That the Committee receive the report.*
- 2. That the Committee discuss and approve updates to the TTPP Standing Orders to take effect from 27 February 2025.*

*Carried*

## Financial Report to 31 December 2024

J. Armstrong noted that a couple of expenditure items are anticipated to be higher than originally budgeted for the year, including the consultants and contractors item and the hearing commissioner fees item.

In terms of the table on page 9. Cr Gibson asked if the meals, travel and accommodation costs would decrease as the commissioners will not have hearings.

J. Armstrong answered yes, but there will be full-day meetings that require consultants, and probably lawyers to come and present to the committee.

J. Armstrong noted that the final column on the table on page 10 is updated every month to show full costs to date. She also noted that the deficit on the right-hand side of \$3,105,000 shows the required loan, which is the difference between the total income to date and the total expenditure to date.

**Moved** (Kaiwhakahaere Tumahai / R. Williams)

*1. That the Committee receive the report.*

*Carried*

### **Report – Preliminary Estimates of Future Expenses**

J. Armstrong provided four definitions for the notified plan, decisions plan, part operative plan and fully operative plan.

Cr Gibson asked if the vagueness of some maps including the boundary of SNA would be a problem.

J. Armstrong answered that a lot of effort has been made to improve the mapping, and they are still looking at more options.

Mayor Cleine asked if the committee would be involved in the appeals mediation.

J. Armstrong said no, only staff and planners.

J. Armstrong noted that the actual column in the table should be on column one and the others move to the right one. J. Armstrong noted that column four is the full-year forecast, and it can be easily compared with column 5, which is the budget for the year.

Cr Cummings wondered how they got it so wrong with the estimates for the hearing commissioner fees and wondered who prepared the estimates, who signed off all this stuff.

R. Williams answered that the staff prepared the estimates according to their knowledge, and the budget was signed off by this committee. He added that the significant costs come back to this committee for approval.

D. Lew commented that he understands the challenges, the regional council is trying to exert some cost control. However, they do not have the ability to control the hearing commissioners' costs. He added that they are trying to provide some insight into the challenges they face in managing costs and identifying areas where they can exert some control.

Mayor Gibson asked how these consultants were chosen.

J. Armstrong answered that three quotes were sought during plan development where there were that number of professionals in NZ. Having the required expertise was crucial, and often there is one expert organization in the country who undertakes this work across councils.

Cr Cummings asked why they have to use consultants for everything.

D. Lew commented that the regional council does not hold expertise in district plan matters because TTPP is a district council set of matters. He added that technical advice, such as noise contours, requires a noise expert. He is more than happy to use technical experts if the district councils have those staff.

J. Armstrong noted that column 6 of the table on Page 15 shows the estimated budget for the July to September 2025 period when decisions on the Plan are expected. She explained the table of Preliminary Estimated Costs July 2019 to 30 September 2025 on page 13 – Life of Project to the 31<sup>st</sup> of December 2024 was \$6.5 million, Forecast costs from 1 January to 30 June 2025 is \$1.5 million, and Estimated costs to 30 September 2025 is \$0.38 million.

**Moved** (Kaiwhakahaere Tumahai / Kaiwhakahaere Madgwick)

*1. That the Committee receive the report.*

*Carried*

## **Report- Draft Budget 2026**

J. Armstrong identified the TTPP 2026 Draft Budget Costs on Page 17 for approval.

**Moved** (Cr Howard / Kaiwhakahaere Tumahai)

*1. That the Committee receive the report.*

2. *That the Committee approve the 2026 draft budget for presentation to West Coast Regional Council for funding approval.*

*Carried*

### **Project Manager's Report**

J. Armstrong noted that the Ministry for the Environment has granted the Committees request for an extension for decisions on TTPP to 14 January 2026.

### **Moved** (Mayor Cleine / Cr Cassin)

1. *That the Committee receive the report.*

*Carried*

R. Williams asked J. Armstrong to comment on the agenda for the March and April meetings.

J. Armstrong noted that she will bring a code of conduct and planning papers to the committee in the next meeting.

She added that the Technical Advisory Team is scheduled to look at the first recommendation reports on the 26<sup>th</sup> of March. The first full-day meeting will be held on the 10<sup>th</sup> of April at Grey District Council. A legal advisor and the principal planner will talk through the processes for making decisions on the recommendation reports. The staff will begin work on a tracked changes version of TTPP to accompany final reports, so that everyone can see what's being decided on.

The meeting then moved to a public excluded session at 10.40am to discuss Remuneration.

Meeting ended at 10.44am.



# 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, TTPP Project Manager

Date: 28 March 2025

**Subject: Te Tai o Poutini Plan Report – Hearing Commissioner Fees and Consultant /Contractor Expenditure**

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## **OVERVIEW**

Following discussion at the 25 February 2025 TTPP Committee meeting on the expenditure for Hearing Commissioners and Consultant/Contractors fees, this report provides detailed information on these items.

The original appointment of the commissioners including their hourly rates was a factor that was considered an approved by TTPP Committee. In the same manner, contractor and consultant contracts above the CE WCRC designation of \$50,000 are brought to TTPP Committee for approval.

The TTPP Project Manager and the GM Policy and Regulation review the invoices and the time spent and expenses submitted have been deemed actual and reasonable throughout the project. Finance reports summarising the costs incurred for the period have been presented to the TTPP committee and been unanimously approved by each meeting.

## **RECOMMENDATIONS**

1. That the Committee receive the report

Jo Armstrong

**Te Tai o Poutini Plan Project Manager**

## **DISCUSSION**

1. Information on the Hearing Commissioner Fees and Consultant/Contractor financial items, including a breakdown of costs to 31 January 2025, is provided below.

### **Hearing Commissioner Fees**

2. At the 21 June 2022 Committee meeting, members decided that decisions on the make-up of the hearing panel should lie with the new TTPP Committee, but suggested that a five-person panel, led by an independent Chair, would ensure that each of the three districts and Poutini Ngāi Tahu were represented.
3. A nominations process was undertaken, and a list of nominees, including their expertise and fees, was provided to the incoming Committee at its 15 December 2022 meeting.
4. A process for selection of an independent Chair was also approved. The selection criteria included Price, Understanding of the West Coast, Technical Knowledge, Experience as a Hearings Chair and Understanding of Local Iwi Issues. An interview process was undertaken early in 2023.
5. At the 21 March 2023 meeting the Committee considered the information on the Commissioner candidates and appointed a five-member independent panel, including a Chair, to hear submissions and evidence on the proposed Te Tai o Poutini Plan, and to make recommendations to the Committee in respect of those submissions.
6. Acting under section 34A of the Resource Management Act 1991, and clause 10 of the Local Government Reorganisation Scheme (West Coast Region) Order 2019 the Committee also delegated all functions powers and duties necessary to undertake the tasks in 5 to the Hearings Panel.
7. Since the appointment of the Hearings Panel, Commissioners have met online to agree on hearings processes, discuss papers for upcoming hearings, and to assess and finalise recommendations reports. Some face-to-face meetings for deliberations are anticipated during the report writing process.
8. TTPP financial information to 31 January 2025 is now available. Hearing Commissioner Fees expenditure has totalled \$1,036,797 since their appointment.
9. Expenditure on this item includes hourly fees for preparation and attendance at hearings, site visits related to submissions, conferencing, decisions recommendation and Minute writing, administration, TTPP staff liaison, and travel time, and is considered a fair reflection of the time spent on these matters.
10. Expenditure for travel, including for flights, rental cars, petrol, accommodation and meals only (no alcohol), is coded separately and included as part of the Meals, Travel and Accommodation expenditure item. Expenditure on Hearing Commissioner travel totalled \$77,122.21 to 31 January 2025.
11. Travel is either arranged and paid for directly by WCRC, or is reimbursed at cost, on presentation of receipts.
12. All invoices received from Hearing Commissioners for time charged and reimbursements are assessed and coded by the TTPP Project Manager and approved by the General Manager Planning for payment by WCRC. Time spent and expenses submitted have been deemed actual and reasonable throughout the project.
13. Financial reports summarising the costs incurred for the period have been presented at TTPP committee meetings, and these have been unanimously approved by the Committee each meeting.
14. Hearings have been taking place since October 2023. At 31 January 2025, twenty three hearings on thirty two topics had been completed.



15. A breakdown of the hearings schedule, number of days each hearing took, number of Commissioners at each hearing and nights accommodation required is provided at Table 1 below.

**Table 1 TTPP Hearings Data to 31 January 2025**

Hearing Topic	Location	Hearing date	Number of commissioners	Number of nights accommodation
<b>Introduction &amp; General Provisions, Strategic Direction</b>	West Coast Regional Council	30th October - 2nd November 2023	5	4
<b>General District Wide Matters: Light, earthworks &amp; Temporary Activities</b>	RSA Hokitika	14th November 2023	3	1
<b>Energy Infrastructure and Transport</b>	West Coast Regional Council	27th & 28th November 2023	5	1
<b>Contaminated Land and Hazardous Substances</b>	Online	6th December 2023	1	N/A
<b>Notable Trees</b>	Online	6th December 2023	1	N/A
<b>Historic Heritage</b>	Online	7th December 2023	3	N/A
<b>Designations</b>	Online	13th December 2023	1	N/A
<b>Reconvening of Energy, Infrastructure and Transport</b>	Online	15th February 2024	5	N/A
<b>Natural Character of Waterbodies and Activities on the Surface of Water</b>	RSA Hokitika	20th & 21st February 2024	4	2
<b>Natural Features and Landscapes</b>	RSA Hokitika & NBS Theatre	4th & 5th; 19th March	5	2
<b>Subdivision, Financial Contributions and Public Access</b>	West Coast Regional Council	16th & 17th April	3	2
<b>Sites and Areas of Significance to Māori</b>	Arahura Marae	30th April - 2nd May	5	3
<b>Mineral Extraction</b>	NBS Theatre & West Coast Regional Council	28th & 29th May; 11th - 13th June	4	4
<b>Industrial and Commercial Zones</b>	West Coast Regional Council	1st & 2nd July	3	1
<b>Open Space Zones</b>	West Coast Regional Council	3rd & 4th July	3	2

<b>Residential Zones and Special Purpose Zones</b>	West Coast Regional Council	16th & 17th July	3	2
<b>Rural Zone, General Rural Zone, Rural Lifestyle Zone and Settlement Zone and its Precincts</b>	Westport NBS Theatre & West Coast Regional Council	29th July - 2nd August	4	5
<b>Signs and Noise</b>	West Coast Regional Council	4th & 5th September	3	1
<b>Natural Hazards Part A and Franz Josef Special and Settlement Zones</b>	Franz Josef St John training room	8th & 9th October	5	2
<b>Coastal Environment Part A and Natural Hazards Part B</b>	Westport NBS Theatre	22nd & 23rd October	5	2
<b>Coastal Environment Part B and Natural Hazards Part C</b>	RSA Hokitika	30th & 31st October	5	2
<b>Ecosystems and Indigenous Biodiversity</b>	Westport NBS Theatre & Hokitika RSA & St John Meeting Room	18th - 22nd November	5	5
<b>Outstanding Matters and Variation 1</b>	Online	4th December 2024	1	N/A

16. Table 1 shows that hearings have been held over 50 days to the end of December 2024. The number of Hearing Commissioners in attendance at each hearing varied, and across the 23 hearings a total of 208 Hearing Commissioner days were expended.

17. The Hearing Commissioners have been accommodating on a number of occasions in lengthening the hours of a day to reduce the number of hearing days and thus associated accommodation and meal costs.

18. Hearing Commissioners stayed at local motels/hotels for 37 nights during this process, totalling 137 nights accommodation.

19. Table 2 shows a breakdown of expenditure on Hearing Commissioner Fees and their Meals, Travel and Accommodation.

**Table 2 Hearing Commissioner Fees and Travel Costs to 31 January 2025**

<b>Hearing Commissioner Fees</b>	
Hearings and report writing preparation and analysis	\$298,150.05
Attendance at hearings	\$406,335.75
Report writing	\$237,738.25
Travel time	\$17,149.48
Administration, meetings and project management	\$77,423.47
<b>Total Fees</b>	<b>\$1,036,797</b>
<b>Hearing Commissioner Travel Expenditure</b>	
Travel – flights, rental cars, mileage, petrol	\$29,542.00
Accommodation	\$39,058.00
Meals	\$8,522.21
<b>Total Travel Expenditure</b>	<b>\$77,122.21</b>

## Consultant/Contractor Expenditure

20. Consultant and Contractor expertise has been utilised since TTPP was first under development.
21. Initially an experienced independent planning consultant was contracted to work with council and iwi planners to draw together a plan that reflects the character of the districts, and the needs of each of the parties involved.
22. During the development of the proposed plan a variety of other consultants were contracted to provide expert advice on topics such as noise contours, SNA identification and flooding risk.
23. After Plan notification and prior to the hearings beginning, additional planning help was sought to represent TTPP Committee at some of the hearings. This included for topics such as Designations, Noise, Light, Mineral Extraction and Natural Hazards.
24. These consultants were selected mainly due to their expertise in these topics.
25. Throughout the hearings the Commissioners have also requested further information to help them with their recommendations. Such information has been to analyse and respond to information provided by submitter experts, to confirm overlay boundaries, to assess the impacts of wastewater on groundwater of rezoning land for development requested by submitters, or to test the impacts of noise levels at airports and rifle ranges on neighbouring properties.
26. Without this additional information the hearings commissioners could not make recommendations on changes sought by submitters.
27. Throughout the planning process contractors have also been appointed to provide ongoing services to produce and update the GIS mapping for the plan, and to provide a submissions and appeals analysis tool.
28. Expenditure on consultants and contractors is tabled below. It is separated into:
  1. plan development expenditure, which includes all consultant and contractor expenditure prior to the hearings, and;
  2. expenditure during the hearings process on consultants whose work was purely to support hearings.
29. There was additional expenditure during 2024 - 31/1/25 on contractors and consultants not providing solely hearings-related services.

**Table 3 Consultant/Contractor Expenditure to 31 January 2025**

Consultant/Contractor Expenditure for Plan Development	<b>\$944,326.30</b>
Consultant Expenditure During Hearings	<b>\$954,366.73</b>



## MEMORANDUM

**Date:** 27 February 2025  
**To:** TTPP Committee  
**From:** Alice Balme | Kate Dickson

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### ADVICE REGARDING PROCESS & ACTIONS TO REACH DECISIONS VERSION OF TTPP

#### Recommendations of TTPP Hearing Panel – actions of TTPP Committee and potential risks

##### Introduction

1. The hearing of submissions on the proposed Te Tai o Poutini Plan (**TTPP**), including the variations, is due to conclude in March 2025. We understand that the TTPP Hearing Panel is due to release its recommendations during 2025 in tranches, with all reports received by the Committee by August 2025. It is anticipated that the first tranche of recommendation reports will be received by the Committee in April 2025.
2. As the TTPP nears the conclusion of the hearing process, the TTPP Committee has the important role of making final decisions on the Hearing Panel's recommendations. These recommendations and ultimately the Committee's decision reflect the considerable time and effort that had been poured into the TTPP by the Committee, staff and the community. The committee can expect recommendation reports that demonstrate how the members of the community and the Committee's views have been heard, tested and distilled into a single document that will ultimately become the Combined District Plan for the West Coast.
3. The purpose of this memorandum is to outline the steps that will need to occur after the Hearing Panel's recommendations are provided to the TTPP Committee, and the options available to the Committee at this time.

##### Executive summary

4. Following the hearings on the TTPP throughout late 2023 – 2024, the Hearing Panel will provide a recommendation report back to the TTPP Committee. This report makes a recommendation on how submissions on the TTPP should be treated and what that ultimately means in terms of drafting in the TTPP.
5. It is for the TTPP Committee to decide whether to accept or reject the recommendations contained in the report, in accordance with clause 10 of Schedule 1 of the RMA.
6. The TTPP Committee has three options when considering the recommendations of the Panel on the TTPP:
  - (a) accept the recommendations in full;
  - (b) accept the recommendations in part (and reject parts of the recommendations); or
  - (c) reject the recommendations in full.
7. If the Committee decided to reject the recommendations (in full or in part) it cannot simply substitute its own decision in place of the recommendations, as this would be subject to a high risk of successful legal challenge. This is because the Resource Management Act 1991 (**RMA**) and the principles of natural justice require the hearing of submissions on the TTPP to follow an appropriate and fair procedure in light of the particular circumstances.
8. The Committee could reduce the risk of successful challenge if it decides to reject the recommendations of the Panel (in part or in full) by adopting one (or a mixture) of the following options:
  - (a) re-hear the submissions itself on the parts of the TTPP that are rejected;

- (b) appoint a differently constituted hearing panel to re-hear the submissions on the parts of the TTPP that are rejected;
  - (c) prepare a variation to amend the TTPP; or
  - (d) withdraw the relevant part(s) of the TTPP (if those parts are able to be severed from the remainder of the TTPP).
9. If the Committee was to re-hear the submissions (and evidence) on the relevant provisions itself (or appoint a hearing panel to do so), the nature of any hearing would depend on the extent and scope of the recommendations that were rejected. For example, where the relevant provisions comprise a discrete and narrow issue with limited submissions, a fair and appropriate hearing process may be for the Committee to conduct a hearing "on the papers" (reviewing the material previously filed with the Hearing Panel, including recordings of the hearing, and making a new decision) before making a decision. We consider the circumstances in which this procedure would be sufficient to be fair and appropriate are likely to be very limited.
10. Where the relevant provisions consist of a wider (or complex) issue, with many different variables (for example, a whole chapter or topic of the TTPP), then it may be fair and appropriate to conduct a re-hearing of the relevant submissions (including evidence etc) so that the Committee / hearing panel has the opportunity to ask questions of the relevant persons. We consider that in most instances this will be the appropriate outcome, which does then carry with it additional cost.
11. Once the TTPP Committee makes a decision, submitters then have the opportunity to lodge appeals with the Environment Court. Provisions that may be seen as more contentious by the community are often appealed, so what is decided on by the Council (or in this case TTPP Committee) is often not the final version of the TTPP provisions that applies. The provisions will often change through mediation and hearing, with the Environment Court judge deciding what the provisions should say.
12. The TTPP Committee will have an opportunity to be involved in the appeals process (as the Respondent on every appeal) and will need to determine the best process for managing this involvement and who it will authorise as a delegate to resolve matters on behalf of the Committee at mediations.
13. Our detailed advice follows.

## Detailed advice: Recommendations of TTPP Hearing Panel – actions of TTPP Committee and potential risks

### Steps after recommendations are provided to TTPP Committee

1. The TTPP Committee was established by the Local Government Reorganisation Scheme (West Coast Region) Order 2019, and was transferred the plan-making functions of each of the three district councils in the region. The TTPP Committee then delegated the Hearing Panel all functions, powers and duties necessary (including powers conferred by sections 41 and 42 of the RMA) to hear submissions and evidence on the proposed TTPP, and make recommendations to the Committee in respect of those submissions.<sup>1</sup>
2. The Hearing Panel will provide its recommendations to the TTPP Committee, in response to submissions made on the TTPP. These recommendations will address whether the Hearing Panel considers each submission point on the TTPP should be accepted or rejected, and how the provisions of the TTPP should be worded to achieve the desired outcome.
3. Once the recommendations are provided to the TTPP Committee, the TTPP Committee is charged with making the decisions on the submissions. This is in accordance with clause 10 of Schedule 1 of the RMA.
4. There are three formal requirements of a decision under clause 10:<sup>2</sup>
  - (a) The submission determination - Each decision must state simply whether the local authority accepts or rejects in whole or in part, each and every submission or group of submissions on a specific provision or matter; and
  - (b) The provision determination - If one or more identified submission(s) is/are accepted in whole or in part, then those decisions should identify clearly, consistently and unambiguously what change is to be made to one or more provision or what provision is to be deleted, or what new provision is to be added; and
  - (c) The reasons - Each decision should contain its reasons in writing.
5. The decision must also include a further evaluation of the TTPP in accordance with section 32AA and the Committee must have particular regard to the further evaluation when making its decision.<sup>3</sup>
6. These requirements are what the Hearing Panel will address through their recommendation report(s). We understand that the Hearing Panel will deliver recommendation reports for each hearing topic separately, which the TTPP Committee will consider in a series of Committee meetings over the course of 2025.
7. The Committee will essentially be making its decision on these reports as they are presented individually, but we understand that the intention is that the final decision is not publicly notified (and therefore the TTPP is not amended) until the Committee has made its decision on the last recommendation report presented to the Committee.
8. Decisions are required to be given no later than two years after notifying the proposed plan under clause 5 of Schedule 1. As the TTPP was notified on 14 July 2022, we understand that an extension to this timeframe has been sought from the Minister for the Environment (and granted) until 14 January 2026.<sup>4</sup>

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<sup>1</sup> TTPP Committee Meeting Minutes, 21 March 2023.

<sup>2</sup> *Queenstown Lakes District Council v Marcam Grand Lakes Ltd* EnvC C156/02, at [43].

<sup>3</sup> RMA, Schedule 1, Clauses 10(2)(ab) and (4)(aaa).

<sup>4</sup> In accordance with cl 10A of Schedule 1 of the RMA – see TTPP Committee meeting minutes from 7 August 2024.

9. Once a decision is made on the TTPP, its provisions will eventually either become operative<sup>5</sup> or be made operative,<sup>6</sup> once any appeals have been determined.<sup>7</sup>
10. Given the power to make decisions on the TTPP was not delegated to the Hearing Panel, it is ultimately up to the TTPP Committee to make decisions on the provisions in accordance with clause 10 of Schedule 1 of the RMA. In order to make its decision on the TTPP, the TTPP Committee will need to decide whether to accept or reject each of the Hearing Panel's recommendations on submission points.
11. As part of making its decisions on the TTPP, the Committee may accept and adopt the report and recommendations of the Hearing Panel (including its appendices) as the Committee's decision on the provisions of and submissions on the TTPP in accordance with clauses 10(1), 10(2) and 10(4)(aaa) of Schedule 1 to the RMA.
12. The Committee has three options when considering the recommendations of the Hearing Panel on the TTPP:
  - (a) Accept the recommendations in full;
  - (b) Accept the recommendations in part; or
  - (c) Reject the recommendations in full.
13. We first address the general principles to be applied when considering each of these options, before addressing each option, in turn, below.

#### **General principles to be applied**

14. Hearings by a local authority require compliance with the basic criteria for a judicial hearing, including the rules of natural justice and fairness, as well as the requirements of the RMA (including Schedule 1).<sup>8</sup>
15. A hearing of submissions on a proposed plan is mandatory (unless no persons have lodged submissions, or no persons have indicated a wish to be heard).<sup>9</sup> However, the TTPP Committee has wide discretion as to the nature of the hearing process, provided that the hearing is held in public and the procedure adopted is appropriate and fair in the circumstances, and conducted so as to avoid unnecessary formality.<sup>10</sup> This largely reflects the principles of natural justice in the decision-making process. The powers to regulate the hearing process in this case were delegated to the Hearings Panel.
16. While the requirements of natural justice vary with the power that is exercised and the circumstances, fairness is at the heart of the issue. Those who have a right to be heard must be given an adequate opportunity to express their views and to influence the decision-maker.<sup>11</sup> An assessment of whether or not a decision-maker has acted fairly is a quintessential judicial task that is highly influenced by context.<sup>12</sup>
17. A hearing process in which interested parties, and supporting evidence, are heard goes a long way to meeting the requirements of fairness. However, decision-makers must also be

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<sup>5</sup> RMA, s 86F.

<sup>6</sup> RMA, Sch 1, cl 20.

<sup>7</sup> RMA, Sch 1, cl 14.

<sup>8</sup> *Queenstown Lakes District Council v Marcam Grand Lakes Ltd* EnvC C156/02 22 November 2002 at [45].

<sup>9</sup> RMA, Sch 1, cl 8B.

<sup>10</sup> RMA, s 39.

<sup>11</sup> *New Zealand Co-operative Dairy Co Limited v Commerce Commission* [1992] 1 NZLR 601 (HC); *Accountants First Ltd v Commissioner of Inland Revenue* [2014] NZHC 2446, at [55].

<sup>12</sup> *Hawke's Bay and Eastern Fish and Game Councils v Hawke's Bay Regional Council* [2014] NZHC 3191 at [117]-[121].

alert to ensure that fairness encouraged by procedure is not undermined by what occurs after and the procedure to that point does not necessarily exhaust the requirements of fairness.<sup>13</sup>

18. Breaching the rules of natural justice (including the right to be heard) when making a decision can amount to an error of law.<sup>14</sup> It is necessary to bear these principles in mind when considering each of the options regarding the recommendations.

#### **Accepting the recommendations**

19. If the Committee is satisfied with the recommendations, then it can accept the recommendations and adopt the recommendations (and reasoning) of the Hearing Panel as its own decision.
20. Accepting the Hearing Panel's recommendations carries little legal risk. The Hearing Panel is the body that was appointed by the TTPP committee for their expertise and has heard all of the submissions, evidence and legal submissions on each of the matters addressed in its report, so it is appropriately placed (and qualified) to determine the most appropriate planning outcome or content of the TTPP. The Hearing Panel was provided the opportunity to ask questions of the individuals who made submissions before delivering their recommendations.
21. While there are some specific requirements for decisions in clause 10 of Schedule 1 (as outlined above), it is anticipated that the Hearing Panel's recommendations will be provided in a form that does achieve each of these requirements (for example, ensuring that the decision includes the reasons for accepting or rejecting the submission points). Staff and legal counsel can assist with this enquiry as necessary.
22. While there may be some appeals to the Environment Court as a result of the TTPP Committee's decision to accept the recommendations, these appeals would be challenges to the merits of the decision, and not the process adopted. These appeals cannot be avoided, and so it is not a risk of the decision to accept the recommendations itself – this is part of the usual planning process under the RMA.

#### **Rejecting any of the Hearing Panel's recommendations**

23. It is open to the Committee to accept some and reject other recommendations of the Hearing Panel. If the Committee decides to reject some recommendations it will need to provide reasons.
24. In our experience, it would be highly unusual for the Committee to reject the recommendations (in part or in full) as the Hearing Panel has heard all submissions and evidence on the TTPP.<sup>15</sup> However, if it does decide to take this action, the Committee will need to decide what to do with the rejected parts of the recommendations / TTPP. The Committee cannot reject the recommendations and substitute them with its own decision, without significant legal risk.
25. If the Committee was to reject part of the Hearing Panel's recommendations, it could reduce the risk of successful legal challenge by adopting one of the following options:
  - (a) Constitute a new hearing panel to rehear submissions and evidence (or for the Committee to hear this directly itself) on the aspects of the TTPP and Panel's recommendations the Committee has rejected;
  - (b) Prepare a variation of the plan as per Schedule 1, clause 16A; or

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<sup>13</sup> *New Zealand Co-operative Dairy Co Limited v Commerce Commission* [1992] 1 NZLR 601 (HC) at [63].

<sup>14</sup> *Hawke's Bay and Eastern Fish and Game Councils v Hawke's Bay Regional Council* [2014] NZHC 3191 at [133].

<sup>15</sup> Parts of a hearing panel's recommendation were rejected in relation to the Auckland Unitary Plan, but this was subject to special legislation that explicitly allowed the Council to accept or reject the recommendations. Other planning processes are also subject to similar legislative provisions (which may have implications for the appeal rights available), but there is no such provision in relation to the process that the TTPP is proceeding through.



- (c) Withdraw the relevant parts(s) of the TTPP (if the parts can be severed from the rest of the TTPP).

*Substituting Committee's own decision*

- 26. As set out above, it is not a viable option for the Committee to simply substitute its own decision for any aspect of the Hearing Panel's recommendations that it rejects. Substituting the recommendations with its own decisions risks the hearing procedure being considered inappropriate and unfair. This approach would also prevent those who have a right to be heard from expressing their views, which may be considered to breach the principles of natural justice.
- 27. Substituting its own decision in place of the Hearing Panel's recommendations would open the Committee up to significant risk of successful legal challenge. To reduce the risk of successful legal challenge, the Committee should only make a decision on submissions after conducting a new hearing so the Committee itself rehears the evidence and submissions on the relevant provisions of the TTPP (option (a) listed above).

*Rehearing submissions*

- 28. The ability to rehear submissions or appoint a new hearing panel to do so will depend on the scope and the extent to which the recommendations are rejected. If the rejection is on a matter that is severable from the rest of the Hearing Panel's recommendations, a re-hearing on only those submissions will carry less risk. However, rejecting key objectives and policies which impact multiple other provisions may give rise to greater risk of successful challenge due to the interrelated nature of the recommendations.
- 29. The nature of any subsequent hearing would need to be determined by the extent and scope of the recommendations rejected, in order to be consistent with the principles of natural justice. What is appropriate and fair turns on the circumstances of the proceedings. For example, if the issue is narrow and discrete, with limited submission points, then the Committee may be able to conduct a hearing "on the papers" (reviewing the material previously filed with the Hearing Panel, including recordings of the hearing, and making a new decision).
- 30. However, in most circumstances (or for contentious issues), we anticipate that it would be fair and appropriate to conduct a re-hearing of the relevant submissions and evidence, so that the decision-maker has the opportunity to ask any necessary questions. This would also be the case where a number of recommendations are rejected (for example in relation to a whole chapter/topic of the TTPP), rather than in relation to a discrete provision. This then incurs additional cost to the district councils, and comes with further delay associated with additional hearing time.
- 31. If there is a rehearing of submissions on the TTPP, it is important appropriate measures are taken to reduce the potential risk of allegations associated with predetermination and bias. One way of achieving this would be to appoint a whole new hearing panel.

*Notification of variation*

- 32. If the Committee was to reject all or some of the Hearing Panel's recommendations, a variation to the TTPP is possible under Schedule 1, clause 16A.
- 33. The preparation and notification of a variation would incur costs. A variation must follow the process set out in Schedule 1 of the RMA, including the notification and hearing of submissions – essentially the same process that the TTPP has followed to date. Following the proper process would also incur timing delays in terms of making the TTPP fully operative (although part of the TTPP may be able to be made operative in advance of the variation progressing to completion).

#### *Withdrawal of part of the TTPP*

34. The Committee may have the option of withdrawing the relevant parts of the TTPP where it has rejected the Hearing Panel's recommendations.<sup>16</sup> However, this will depend on the scope of the parts of the recommendations that are rejected. This is because part of a proposed plan can be withdrawn, provided that it does not have the effect of varying any other parts of the plan left behind.
35. If the withdrawal of part of a proposed plan does vary or affect other parts of the proposed plan, then the withdrawal would be classified as a variation, to which Schedule 1 of the RMA applies.<sup>17</sup> The option to withdraw part of the TTPP would be available where for example, the withdrawal consisted of all of the provisions in relation to the management of a discrete activity, including policies, rules, explanations, definitions, appendices (or part thereof).
36. A withdrawal renders all submissions and/or appeals on that part of the Plan non-justiciable.<sup>18</sup> The withdrawal of a proposed plan (or part of it) does not require a hearing,<sup>19</sup> but the TTPP Committee would be required to give public notice, including reasons for the withdrawal. Depending on the scope of the withdrawal, withdrawing part of the TTPP may undermine the ability of the Council to give effect to relevant higher order documents, for example the West Coast Regional Policy Statement.

#### **When the Committee makes its decision**

37. Once the Committee makes its decision, this must be publicly notified. On and from the date the decision is publicly notified, the plan is amended in accordance with the decision.<sup>20</sup> At this point, the "decisions version" of the TTPP will be in effect and apply to all applications for resource consent. This replaces the "notified version" which is the version that is currently being applied.
38. If the decision is to not accept the recommendation of the Hearing's Panel, we note that the notified version of the TTPP will remain in force (unless all the provisions are withdrawn).
39. When the decision is notified, a copy of the public notice (and clear statement of the period within which an appeal may be lodged) must be served on all submitters.<sup>21</sup>
40. Following notification of the decision, a person who made a submission may appeal to the Environment Court. An appeal is required to be lodged within 30 working days of service of the notice of decision of the TTPP Committee.<sup>22</sup>
41. If no appeals are received in relation to certain provisions, then rules in the TTPP may be treated as operative (in accordance with section 86F of the RMA), or there may be parts of the TTPP that can then be approved by the Committee and made operative.<sup>23</sup> We can provide further advice on these processes once the appeal deadline has passed.
42. We note that from previous experience with planning processes, there are often a number of appeals. This is particularly so for provisions that may be seen as more contentious by the community, so often what is decided on by the Council (or in this case TTPP Committee) is not the final version of the provisions.
43. Once an appeal is lodged, the matter will be managed by the Environment Court. Most often, the parties would first seek to reach an agreed outcome through mediation, but if that cannot

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<sup>16</sup> RMA, Sch 1, cl 8D.

<sup>17</sup> *West Coast Regional Council v Royal Forest & Bird Protection Society of New Zealand* (2006) 12 ELRNZ 269, [2007] NZRMA 32.

<sup>18</sup> *West Coast Regional Council v Royal Forest & Bird Protection Society of New Zealand* (2006) 12 ELRNZ 269, [2007] NZRMA 32 at [31].

<sup>19</sup> *West Coast Regional Council v Royal Forest & Bird Protection Society of New Zealand* (2006) 12 ELRNZ 269, [2007] NZRMA 32 at [65].

<sup>20</sup> RMA, Sch 1, cl 10(5).

<sup>21</sup> RMA, Sch 1, cl 11.

<sup>22</sup> RMA, Sch 1, cl 14.

<sup>23</sup> RMA, Sch 1, cls 17 and 20.

be achieved a hearing before the Environment Court would be necessary. In that instance, it will be the Environment Court judge that has the decision over the appropriate provisions to include within the TTPP.

44. The TTPP Committee will have an opportunity to consider the appeals and to participate in the resolution of appeals through mediation. For practical reasons, the Committee will need to appoint a delegate who has authority to settle the appeals at mediation. This can be determined at a later date.

**Conclusion**

45. We trust that our advice assists. Please let us know if you have any further questions, or would like to discuss.

**Wynn Williams**



# 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, Project Manager

Date: 28 March 2025

**Subject: Financial Report to 31 January 2025**

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## SUMMARY

This report includes the statement of financial performance to 31 January 2025.

## RECOMMENDATION

1. That the Committee receive the report

## REPORT

1. Table 1 below shows that expenditure in January slowed as expected over the holiday period, with no unanticipated expenditure.
2. The Life of the Project to 30 June 2024 Table 2 has been updated to show total Income and Expenditure to 31 January 2025.
3. A contract has been signed to undertake a site assessment of an SNA that was submitted on.

**Table 1**

<b>Statement of Financial Performance to 31 January 2025</b>					
	<b>Year to date</b>			<b>Full year</b>	
	<b>Actual</b>	<b>Budget</b>	<b>Variance</b>	<b>Budget</b>	<b>Variance</b>
<b>INCOME</b>					
Targeted Rates	189,103	189,103	-	324,176	135,073
General Rates Contributions					
Grants & Subsidies					
Other Contributions					
<b>TOTAL INCOME</b>	<b>189,103</b>	<b>189,103</b>	<b>-</b>	<b>324,176</b>	<b>135,073</b>
<b>EXPENDITURE</b>					
Employee costs	99,395	176,959	77,564	303,358	203,963
Consultant Planners and Contractors	611,906	393,400	(218,506)	674,400	62,494
Chair and iwi representatives	35,000	38,500	3,500	66,000	31,000
Governance	1,007	817	(190)	1,400	393
Poutini Ngai Tahu	33,091	29,167	(3,925)	50,000	16,909
TTPP Website	3,772	7,000	3,228	12,000	8,228
Isovist e-plan Platform	7,500	4,667	(2,833)	8,000	500
Meals, Travel & Accom	60,636	40,338	(20,299)	69,150	8,514
Workshops & Events	5,938	4,900	(1,038)	8,400	2,462
Media Costs	17,927	10,500	(7,427)	18,000	73
Legal Advice	58,641	70,000	11,359	120,000	61,359
Hearings – commissioner fees	610,569	124,833	(485,736)	214,000	(396,569)
Interest Payments	-	81,180	81,180	139,165	139,165
Overhead costs	38,616	33,099	(5,517)	66,198	27,583
<b>TOTAL EXPENDITURE</b>	<b>1,583,998</b>	<b>1,015,358</b>	<b>(568,640)</b>	<b>1,750,071</b>	<b>166,073</b>
<b>NET SURPLUS/(DEFICIT)</b>	<b>(1,394,895)</b>	<b>(826,255)</b>	<b>(568,640)</b>	<b>(1,425,895)</b>	<b>(31,000)</b>

**Table 2**

Life of Project 1 July 2019-30 June 2024									
	Prior Year -2024			2023	2022	2021	2020	2019	TOTAL PROJECT COST TO DATE
	Actual	Budget	Variance	Actual	Actual	Actual	Actual	Actual	
<b>INCOME</b>									
Targeted Rates	1,244,713	1,000,000	-	482,497	494,868	255,156	400,000	-	3,066,336
General Rates Contributions						150,000	-		150,000
Grants & Subsidies			-			30,000	200,000		230,000
Other Contributions							50,000		50,000
									-
<b>TOTAL INCOME</b>	<b>1,244,713</b>	<b>1,000,000</b>	<b>-</b>	<b>482,497</b>	<b>494,868</b>	<b>435,156</b>	<b>650,000</b>	<b>-</b>	<b>3,496,336</b>
<b>EXPENDITURE</b>									
Employee costs	205,577	283,957	78,380	183,472	279,060	268,762	199,591	67,022	1,302,880
Consultant Planners and Contractors	695,112	730,000	34,888	172,899	420,035	231,931	108,885	-	2,240,769
Chair and iwi representatives	60,000	65,000	5,000	60,000	60,000	54,500	55,000		324,500
Governance	-	1,610	1,610	747	1,949	-	-	-	3,702
Poutini Ngai Tahu	41,371	15,000	(26,371)	42,000	50,000	-	-	-	166,462
TTPP Website	5,354	8,000	2,646	27,560	5,781	-	5,000	-	47,467
Isovist e-plan Platform	7,463	20,001	12,539	11,273	9,425	3,713	-	-	39,372
Meals, Travel & Accom	78,466	85,251	6,785	9,568	17,680	17,164	19,585	5,372	208,470
Workshops & Events	13,384	15,000	1,616	3,298	3,246	840	14,000	-	40,706
Media Costs	6,494	40,000	33,506	71,088	25,536	5,878	4,950	-	131,873
Legal Advice	100,854	200,000	99,146	27,289	27,343	4,689	907	-	219,723
Hearings – commissioner fees	419,581	500,000	80,419	6,647	-	-	-	-	1,036,797
Interest Payments				40,090					40,090
Overhead costs	150,000	150,000	-	150,000	150,000	150,000	150,000	100,098	888,714
<b>TOTAL EXPENDITURE</b>	<b>1,783,656</b>	<b>2,113,819</b>	<b>330,164</b>	<b>805,930</b>	<b>1,050,055</b>	<b>737,477</b>	<b>557,917</b>	<b>172,492</b>	<b>6,691,524</b>
<b>NET SURPLUS/(DEFICIT)</b>	<b>(538,943)</b>	<b>(1,113,819)</b>		<b>(323,434)</b>	<b>(555,187)</b>	<b>(302,320)</b>	<b>92,083</b>	<b>(172,492)</b>	<b>(3,195,188)</b>

\* Please note that the total cost to date column also includes the current YTD figures (1 July - 31 January 2025)



# Te Tai o Poutini PLAN

*A combined district plan for the West Coast*

Prepared for: Te Tai o Poutini Plan Committee

Prepared by: Doug Bray, Senior Policy Planner

Date: 14 March 2025

Subject: **Update on the Designations Topic: Revised Approach to New Designations and Major Alterations to Existing Designations Sought – In View of Legal Advice to Reporting Officer**

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## **SUMMARY**

This report updates the Te Tai o Poutini Plan (TTPP) Committee on the Designations Topic – and principally with respect to a Legal Memorandum provided on 20 December 2023 to the Reporting Officer for the Designations Topic, and how this will alter the approach, particularly when and where new Designations, and/or significant amendments to existing Designations are sought.

## **RECOMMENDATIONS**

1. That the information be received.
2. That the Committee note that it will continue to be informed of progress on this matter, and that the territorial authorities and other requiring authorities will be notified, as required, of the legal situation and its implications for how Designations are incorporated into the TTPP.

## BACKGROUND

1. The term "Designation" is defined in Section 166 of the Resource Management Act 1991 (RMA) as:

*A provision made in a District Plan to give effect to a requirement made by a requiring authority under Section 168 or Section 168A or Clause 4 of Schedule 1.*

Essentially, it identifies a site that is required for a "designated purpose" by a "requiring authority", which may be a Minister of the Crown, a local authority or a network utility authority approved as a requiring authority under Section 167 of the RMA (e.g. Transpower).

2. Common examples of sites subject to existing Designations in District Plans include schools, landfills and power stations – for which the respective examples of requiring authorities would be the Minister of Education, a Council or a power company. Section 168 deals with those notices of requirement (NORs) submitted to territorial authorities.
3. Section 168A deals with those NORs submitted by territorial authorities, typically for their own public works, infrastructure and other operational needs where restriction on use and/or public access is required.
4. Clause 4 of Schedule 1 of the RMA provides for requirements for Designations to be inserted into district plan reviews, changes and variations prior to that plan review, change or variation being notified. So there exists a degree of scope to include new Designations and modifications to existing ones as part of the plan formulation process – but providing such intentions are sufficiently informed and are included as part of the review, change or variation notification process itself.
5. Typically, existing Designations are simply "rolled over" from existing to new District Plans (i.e. no alterations are made). Clause 16(2) of Schedule 1 of the RMA provides for a local authority to make an amendment to a plan without going through the full process required in Schedule 1, when the alteration is of minor effect and/or simply corrects minor errors. Example of this could be simple misprints in Designation schedules or misidentifications in maps of Operative Plans, or something has been inadvertently misprinted in a new Schedule or misidentified in a Plan Review. Such misidentifications and misprints can typically be corrected using Clause 16(2).
6. Based on this, the TTPP Team had advised the Committee that it was the decisions maker on designations.
7. The Wynn Williams Legal Memorandum (attached) was sought by the Reporting Officer for the Designations topic and is also being used by the Hearing Commissioners to provide guidance on this matter. Consistent with the legal advice, now that Te Tai o Poutini Plan has been notified, the TTPP Committee (hence the Hearing Commissioners and the TTPP Team) no longer have the discretion to accept such additions or changes to the Plan's Designations Schedule.
8. In summary, the Legal Memorandum confirms that the Commissioners cannot add new Designations to the TTPP as part of their decision-making role with respect to submissions, with it not possible for submitters to seek the addition of new Designated Sites via the submission process.
9. Legally, the TTPP has been notified, and until it becomes Operative, new NORs to add Designations to it cannot be considered. New NORs must now be referred back to the District Councils' Planning Teams to action – in terms of getting the Designation inserted into the District Plans, and then "rolled over" into the TTPP once operative.
10. Section 181 deals with Alterations to Designations. Consistent with the Legal Memorandum, because that power has also not been delegated to the TTPP Committee, requests for such alterations will similarly need to be referred back to the territorial authority and/or requiring authority concerned. While this does not foreclose the



opportunity to use Clause 16(2) for the purpose of minor corrections, care will need to be taken to ensure that such alterations do not extend beyond what is legally possible under that provision.

11. The territorial authorities and requiring authorities should be advised of this situation accordingly.

#### **ATTACHMENTS**

- Legal Memorandum (Wynn Williams, 20 December 2023)

Doug Bray

**Senior Policy Planner (TTPP)**

# Attachment



## MEMORANDUM

**Date:** 20 December 2023  
**To:** Briar Belgrave  
**From:** Lucy de Latour | Tegan Wadworth

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### Proposed Te Tai o Poutini Plan – Designations Chapter advice

1. We understand that as part of the hearing on the designations chapter of the proposed Te Tai o Poutini Plan (TTPP), you have been asked to obtain legal advice regarding the relevant Resource Management Act 1991 (RMA) processes that apply to including alterations/modifications to existing designations and new requirements for designations in a proposed plan. In particular, we understand that the independent hearings panel is interested in understanding how the provisions that apply to requiring authorities giving the territorial authority notice of a requirement prior to the district plan being notified, apply to the TTPP.
2. We understand that this opinion will be provided to the independent hearing panel as part of the designations hearing stream. We have not addressed the obligations of the independent hearings panel in relation to the process for making any recommendations in respect of designations included in the TTPP as notified (as a result of any submissions on those).

### Executive summary

3. There are a number of different processes under the RMA that provide for the inclusion of alterations to existing designations or new designations in a proposed district plan. For the purposes of the hearings on the TTPP submissions, there are two processes under clause 4 of Schedule 1 of the RMA:
  - (a) With one process applying to existing designations (which a requiring authority can request be included, with or without modification, prior to the notification of the proposed plan); or
  - (b) A separate process, whereby a territorial authority must include in its proposed plan provision for any notice of requirement for a designation (or alteration) to which section 170 applies (i.e. new designations).
4. In particular, the TTPP committee has been transferred powers under Schedule 1 of the RMA which includes a requirement under clause 4 to give notice to requiring authorities of a new district plan, prior to the proposed plan being notified. Subsequently, requiring authorities may give notice of any modifications to existing designations which then must be included in a proposed plan (or alternatively, a requiring authority can request an existing designation be included without modification).
5. Additionally, if a territorial authority is given notice of a requirement (NOR) for a new designation (or NOR for an alteration), the territorial authority may include that requirement in a proposed plan under section 170 of the RMA, if the territorial authority proposes to notify that proposed district plan within 40 working days of receipt of that NOR. Clause 4(5) of Schedule 1 of the RMA provides that territorial authorities must include, in its proposed plan, provision for any requirements for designations to which section 170 applies.
6. The Order in Council transferring powers to the West Coast Regional Council, which have been delegated to the TTPP Committee, does not explicitly refer to section 170. However, the purpose of the transfer of powers does more broadly refer to the preparation and notification of a district plan.<sup>1</sup> In the context of the preparation and notification of district plans, we consider this includes any NORs for designations prior to the TTPP being notified, particularly given clause 4(5) of Schedule 1 refers to designations to which section 170 applies.

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<sup>1</sup> Local Government Reorganisation Scheme (West Coast Region) Order 2019, clauses 6(1) and 8(4)(a).

7. There are other processes where new designations (or alterations) can be included in a proposed plan. However, we do not consider that the powers and obligations transferred to the TTPP committee extend to these other processes. These include the processes for making alterations to existing designations under section 181 and the inclusion of new designations under section 175. We have further outlined these processes below.
8. Under the RMA, there is no process that provides for the inclusion of NORs for designations in a proposed plan through relief sought in submissions. Therefore, any requests for new designations received via submissions cannot be included in the TTPP.
9. Our detailed advice follows.

**Process for inclusion of new, or alterations to, designations in a proposed plan**

10. There are different ways in which modifications to existing designations, or new designations, can be included in a proposed district plan. For the purposes of the hearings on the TTPP submissions, in summary, these include:
  - (a) Under clause 4 of Schedule 1 of the RMA: when a territorial authority is preparing a new district plan and gives notice to requiring authorities of the new district plan, a requiring authority can notify the territorial authority of a modification to an existing designation (or alternatively, an existing designation can be included without modification). Clause 4 also includes a process for a territorial authority to seek the inclusion of an existing designation; or
  - (b) Under clause 4 of Schedule 1 of the RMA: a territorial authority must include in its proposed plan provision for any NORs for designation to which section 170 applies.
11. It is also important to note that, under the RMA, there is no process that provides for the inclusion of NORs for designations in a proposed plan through relief sought in submissions. Therefore, any requests for new designations received via submissions cannot be included in the TTPP. For new designations to be included in the TTPP, such a request by a requiring authority (including territorial authorities) must have occurred prior to the TTPP being notified on 14 July 2022. Otherwise, any new designations would have to be considered through the standard NOR process, and subsequently included in the TTPP, once decided under section 175 of the RMA. However, submissions can request changes to a designation that was included in the notified version of the TTPP (i.e. a third party can submit on the designation).

*Clause 4, Schedule 1 – territorial authority gives notice of proposed plan and requiring authority gives notice of modification*

12. Clause 4 of Schedule 1 requires territorial authorities to give written notice, prior to the notification of a proposed plan, to any requiring authority that has a designation (which has not lapsed) in the district plan.<sup>2</sup> In this case, the TTPP committee has been designated functions under Schedule 1 which includes giving this notice to requiring authorities.
13. The purpose of the notice is to invite requiring authorities to give written notice to the territorial authority stating whether the requiring authority requires the designation to be included, with or without modification, in the proposed plan.<sup>3</sup> The requiring authorities must have at least 30 working days to respond.<sup>4</sup>
14. If a requiring authority states that a designation is to be included in the proposed plan, with modifications, the requiring authority must notify the territorial authority of the nature of the modifications and the reasons.<sup>5</sup>

<sup>2</sup> RMA, sch 1, cl 4(1A) and (1C).

<sup>3</sup> RMA, sch 1, cl 4(1B).

<sup>4</sup> RMA, sch 1, cl 1D.

<sup>5</sup> RMA, sch 1, cl 4(3).

15. Under clause 4(5), a territorial authority must include, in its proposed plan, provision for any designation it receives notice of under clause 4, including any modifications.<sup>6</sup>
16. If a requiring authority does not notify the territorial authority of any designation required, or modification, no provision for the designation shall be included in the proposed plan.<sup>7</sup>
17. Under clause 4(6), there is also an equivalent process for territorial authorities to seek the inclusion of an existing designation (with or without modification), or a new designation, for which the territorial authority has responsibility.
18. We are unsure how the TTPP Committee notified requiring authorities (including territorial authorities) and under which part of clause 4 of Schedule 1, designations held by the territorial authorities have been included in the TTPP but provided the relevant territorial authorities themselves sought the inclusion of a designation for which it has responsibility, we see no issue with the inclusion of such designations in the TTPP as notified.

*Clause 4, Schedule 1 – territorial authority must include any requirement for designation to which section 170 applies*

19. Under section 170 of the RMA, if a territorial authority receives a NOR for a designation (under section 168) or to alter a designation (under section 181), and the territorial authority proposes to notify a proposed plan within 40 working days of receipt of that NOR, the territorial authority may, with the consent of the requiring authority, include the NOR in its proposed plan.<sup>8</sup>
20. As noted above, the power under section 170 has not explicitly been transferred to the TTPP committee, but the TTPP committee has been transferred powers under Schedule 1. Clause 4(5) of Schedule 1 requires a territorial authority to include in its proposed plan provision for any requirements for designation to which section 170 applies. Therefore, we consider if there were any NORs to which section 170 applied, the TTPP committee was required to provide for those NORs in the TTPP when it was notified.
21. We understand that three new notices of requirement for designation with the Ministry of Education as the requiring authority were included in the notified version of the TTPP. To the extent these were new notices for designation, we assume the process in section 170 and clause 4(5) of Schedule 1 applied, but we have not considered this in detail.

**Other processes not delegated to the TTPP Committee**

*Section 175 – territorial authority must include decision on designation in proposed plan without using the Schedule 1 process*

22. For completeness, a new designation (or any alteration) must also be included in a proposed district plan in accordance with section 175, if there has been a decision on a NOR for designation under section 172 (i.e., a NOR has been considered under the standard process).
23. The power under section 175 has not been delegated to the TTPP Committee. However, it is a requirement that must occur once a decision has been made on a designation. If this scenario arises, a further transfer of powers, or delegation to the TTPP Committee may be necessary to facilitate the obligation under section 175 to include the designation in the TTPP. However, we have not considered this in detail as we are not aware of any proposals for new NORs being considered under the standard RMA processes, and this is not a matter before the independent hearings panel.

*Section 181 – territorial authority may at any time alter an existing designation*

24. Section 181 of the RMA provides that a territorial authority may, at any time, alter a designation in its district plan or requirement in its proposed district plan, without following the standard process, if one the specified exceptions in section 181(3) apply.

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<sup>6</sup> RMA, sch 1, cl 4(5).

<sup>7</sup> RMA, sch 1, cl 4(4).

<sup>8</sup> RMA, s 170(1).

25. The Buller, Grey and Westland District Council's powers under section 181 of the RMA have not been transferred to the West Coast Regional Council or delegated to the TTPP Committee. Only the district council's plan making powers under section 73 and Schedule 1 were transferred to the TTPP Committee.<sup>9</sup> Accordingly, we do not consider the TTPP Committee has powers under section 181 of the RMA.

**Conclusion**

26. We trust that our advice assists. Please let us know if you wish to discuss, or have any further questions.

**Wynn Williams**

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<sup>9</sup> Local Government Commission "2019: West Coast reorganisation" (date unknown) Local Government Commission [www.lgc.govt.nz](http://www.lgc.govt.nz) and "Local Government Reorganisation (West Coast Region) Final Proposal Order 2018" (5 November 2018) (Final Proposal Order). <https://gazette.govt.nz/notice/id/2018-go5585>.



# 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: 28 March 2025

**Subject: Approving a Code of Conduct**

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## **SUMMARY**

This paper presents a Te Tai o Poutini Plan (TTPP) Committee Code of Conduct for your discussion and approval.

The TTPP Committee Standing Orders refer members to a Code of Conduct to guide its standards of behaviour. In the past, the West Coast Regional Council Code of Conduct was used. A more tailored version is now suggested for adoption.

The recommended Code of Conduct is appended.

## **RECOMMENDATIONS**

1. That the Committee receive the report.
2. That the Committee adopts the recommended Code of Conduct with the inclusion of any updates agreed to at the meeting.

Jo Armstrong

**Project Manager**

## **Purpose and objective of the Code of Conduct**

1. The Code of Conduct provides guidance on the standards of behaviour that are expected from TTPP Committee members in their dealings with:
  - Each other
  - All staff employed by member parties
  - The media
  - The general public
2. The objective of the code is to enhance:
  - The effectiveness of the Committee.
  - The credibility and accountability of the Committee within its community.
  - Mutual trust, respect and tolerance between the members as a group and between the members, management and staff.
3. This code of conduct seeks to achieve its objectives by recording:
  - An agreed statement of roles and responsibilities
  - Agreed general principles of conduct
  - Specific codes of conduct applying to particular circumstances or matters.

## **DISCUSSION**

4. The TTPP Committee Standing Orders refer members to a Code of Conduct to guide its standards of behaviour.
5. In the past, the West Coast Regional Council Code of Conduct was used. A more tailored version is being suggested for adoption by the Committee.
6. The recommended Code of Conduct includes sections on the following:
  - a. Purpose and Objectives of a code of conduct, and Principles of Good Governance
  - b. Roles and Responsibilities
  - c. Relationships and Behaviours
  - d. Compliance and Review
7. A recommended version of the Code of Conduct is attached at Appendix 1 for discussion and adoption.



# Project Manager Update

**1 February 2025 – 28 February 2025**

Prepared By: **Jo Armstrong**  
Date Prepared: **28 February 2025**

## Accomplishments this Period

- Consideration as to whether the current TTPP Committee Standing Orders, Deed of Agreement and Code of Conduct should be published on the TTPP website is sought.
- The Joint Witness Statement on Ecosystems and Biodiversity was produced for the Hearings Commissioners following caucusing with identified submitter planning and legal staff.
- The final section 42a report was completed for Variation 2 – Coastal Hazards and was sent to submitters ahead of the hearing in the week of 17 March.
- The Hearing Panel will also hear from the Westport Master Planning staff on 17 March.
- Final hearings information is as follows:
  - Reconvening the Rural and Settlement Zones Hearing in Westport on 17 March.
  - Variation 2 – Coastal Hazards 17 -19 March 2025 in Westport and 20 - 21 March in Hokitika. Additional days have been set aside on 24 and 25 March for online hearings if required.
- The Hearing panel issues Minutes throughout the hearing and report writing process to update information about hearings and schedule changes, and to request further information to aid their decision making.
- The following Minutes have been issued since the last Report:

Minute Number	Topic
58	Extension to Ecosystems and Biodiversity Caucusing
59	Noise Hearing

- All hearing panel Minutes can be found here: [Hearing of Submissions - Te Tai o Poutini Plan | West Coast District Plan \(tpp.nz\)](#)
- An update on TTPP has been provided for a report to the West Coast Regional Council Resource Management Committee.



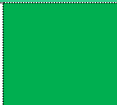



## Plans for Next Period

- First Recommendations Reports received for comment
- Technical Advisory Team meeting
- Prepare for planner workshop on TTPP implementation and guidance requirements
- Ongoing planning for appeals
- Update WCRC Resource Management Committee

## Key Issues, Risks & Concerns

Item	Action/Resolution	Responsible	Completion Date
Decision makers can't agree	Get agreement on pieces of work prior to plan completion	Chairman	Ongoing
Budget insufficient for timely plan delivery	Work with TTPPC to recommend budget, and with WCRC to raise rate to achieve deliverables	Project Manager TTPP Committee CE WCRC	Annually Jan/Feb
Changes to national legislation	Planning team keep selves, Committee and Community updated on changes to legislation and the implications for TTPP	Project Manager Planning Team	Ongoing
Staff safety at public consultation	Committee members to proactively address & redirect aggressive behavior towards staff	TTPP Committee	Ongoing
National emergencies such as Covid-19 lock-down and weather events	Staff and Committee ensure personal safety and continue to work remotely as able.  Work with contractors to expedite work.	Project Manager TTPP Committee	Ongoing
Time and Cost of Appeals Process	A realistic budget was set for best case costs. Awareness that contentious issues such as SNAs, natural hazards, mineral extraction and landscape provisions could see an extended appeals process, increasing costs to reach operative plan status	TTPP Committee  TTPP Steering Group Project Manager	Ongoing
Community concerns over proposed Plan content	Respond to queries by phone, email and public meetings. Update information.	TTPP Committee  Project Manager	Ongoing

## Status

<b>Overall</b>		
<b>Schedule</b>		On track for 14 January 2026
<b>Resources</b>		Future budgets required to cover hearings and mediation
<b>Scope</b>		Schedule 1 processes leading to updates to Plan to achieve operative status

## Schedule

Stage	Target for Completion	Comments
Hearings for Te Tai o Poutini Plan	March 2025	17 March reconvening Rural and Settlement Zones hearing.  Coastal Natural Hazard to be heard 18-21 March. Dates to continue hearing online available if required on 24 and 25 March.
Decisions Te Tai o Poutini Plan	September 2025	Indicative time only
Appeals/Mediation	2026	Indicative time only. Any parts of the Plan not appealed are operative from the end of the Appeal Period.
Environment or High Court	2026 onward	Indicative time only.
Ongoing Decision Making for TTPP	2025 onward	TTPPC is a permanent Committee. Once the Plan is adopted the ongoing Committee role includes monitoring implementation and the need for any amendments, undertaking plan changes and reviews, or ensuring these are undertaken as required.



# Te Tai o Poutini PLAN

*A combined district plan for the West Coast*

## Code of Conduct

## Te Tai o Poutini Plan Committee

**Adopted 28 March 2025**

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# Part One: Introduction

Under the Te Tai o Poutini Plan Committee Standing Orders all members of Te Tai o Poutini Plan Committee (the Committee) are required to comply with the code of conduct.

This code of conduct provides guidance on the standards of behaviour that are expected from the Chairperson and members of Te Tai o Poutini Plan Committee. The code applies to members in their dealings with:

- Each other
- All staff employed by member parties
- The media
- The general public

For the purposes of this Code "member" means a member of:

- Te Tai o Poutini Plan Committee

The objective of the code is to enhance:

- The effectiveness of the Committee as the governance body for TTPP.
- The credibility and accountability of the Committee within its community.
- Mutual trust, respect and tolerance between the members as a group and between the members, management and staff of member parties.

This code of conduct seeks to achieve its objectives by recording:

- An agreed statement of roles and responsibilities (Part Two of the code)
- Agreed general principles of conduct (Part Three of the code)
- Specific codes of conduct applying to particular circumstances or matters (Part Three of the code).

Members are primarily accountable to the electors of the districts through the democratic process. However, members must note that the Auditor-General may hold them to account for unlawful actions or expenditure or for breaches of the Local Authorities (Members' Interests) Act 1968.

The code of conduct that follows is based on the following general principles of good governance:

- **Public Interest.** Members should serve only the interests of the districts as a whole and should never improperly confer an advantage or disadvantage on any one person.
- **Honesty and Integrity.** Members should not place themselves in situations where their honesty and integrity may be questioned, should not behave improperly and should, on all occasions, avoid the appearance of such behaviour.
- **Objectivity.** Members should make decisions on merit including making appointments, awarding contracts, or recommending individuals for rewards or benefits. Members should also note that, once elected, their primary duty is to the interests of the entire districts, not the ward or body that elected them.
- **Accountability.** Members should be accountable to the public for their actions and the manner in which they carry out their responsibilities and should co-operate fully and honestly with the scrutiny appropriate to their particular office.
- **Openness.** Members should be as open as possible about their actions and those of the Committee and should be prepared to justify their actions.

- **Personal Judgement.** Members can and should take account of the views of others but should reach their own conclusions on the issues before them and act in accordance with those conclusions. Decisions will be based upon views put forward as part of the debate in the Committee meetings and pre-determination and bias will be avoided.
- **Respect for others.** Members should promote equality by not discriminating unlawfully against any person and by treating people with respect, regardless of their race, age, religion, gender, sexual orientation, or disability. They should respect the impartiality and integrity of the Committee staff.
- **Duty to uphold the law.** Members should uphold the law and, on all occasions, act in accordance with the trust the public places in them.
- **Stewardship.** Members must ensure that the Committee uses resources prudently and for lawful purposes.
- **Leadership.** Members should promote and support these proposals by example and should always endeavour to act in the best interests of the community.

## Part Two: Roles and responsibilities

This part of the Code describes the roles and responsibilities of members.

Under the Local Government Reorganisation (West Coast Region) Final Proposal Order 2018, the Committee's responsibilities are to:

- Prepare and notify a combined district plan;
- Hear and consider (including through subcommittees as necessary and appropriate) all submissions received on the draft combined district plan;
- Adopt a final combined district plan;
- Monitor implementation of the combined district plan and the need for any amendments; and
- Undertake amendments and reviews of the combined district plan, or ensure these are undertaken, as required.

Members acting as the Committee are also responsible for:

1. prudent stewardship of Committee resources including finances
2. representing the interests of the residents and ratepayers of the West Coast.

Unless otherwise provided in the Local Government Act 2002 or in Standing Orders, the Committee can only act by majority decisions at meetings. Each member present at the meeting has one vote. Any individual member (including the Chairperson) has no authority to act on behalf of the Committee unless the Committee has expressly delegated such authority.

For clarity it should be noted that the Chief Executive, West Coast Regional Council (the Chief Executive), employs all other staff on behalf of the Committee. He / she therefore represents the link between the Committee and its staff.

## Part Three: Relationships and Behaviours

This part of the code sets out the Committee's agreed standards of behaviour.

### Members' commitment

These commitments apply when conducting the business of the Committee as its representative, and communicating with other members, the media, the public, or staff. By adopting the Code of Conduct members agree that they will:

1. Treat all people fairly,
2. Treat all other members, staff, and members of the public, with respect,
3. Share with the Committee any information received that is pertinent to the ability of the Committee to properly perform its statutory duties,
4. Make it clear, when speaking publicly, that statements reflect their personal view, unless otherwise authorised to speak on behalf of the Committee,
5. Take all reasonable steps to equitably undertake the duties, responsibilities, and workload expected of a member,
6. Not bully, harass, or discriminate unlawfully against any person,
7. Not bring the Committee into disrepute,
8. Not use their position to improperly advantage themselves or anyone else or disadvantage another person,
9. Not compromise, or attempt to compromise, the impartiality of anyone who works for, or on behalf of, the Committee,
10. Not disclose information acquired, or given, in confidence, which they believe is of a confidential nature.

**Please note:** a failure to act in accordance with these commitments may result in a complaint being taken against you.

### Principles of Good Governance

Members recognise the importance of the following principles of good governance.

- **Public interest:** members should act solely in the public interest.
- **Integrity:** members should not act or take decisions to gain financial or other benefits for themselves, their family, or their friends, or place themselves under any obligation to people or organisations that might inappropriately influence them in their work.
- **Stewardship:** members should use long-term perspective when making decisions. Decisions which impact on past, current and future generations, also affect collective well-being.
- **Objectivity:** members should act and take decisions impartially, fairly, and on merit, using the best evidence and without discrimination or bias.
- **Accountability:** members will be accountable to the public for their decisions and actions and will submit themselves to the scrutiny necessary to ensure this.
- **Openness:** members should act and take decisions in an open and transparent manner and not withhold information from the public unless there are clear and lawful reasons for so doing.
- **Honesty:** members should be truthful and not misleading.
- **Leadership:** members should not only exhibit these principles in their own behaviour but also be willing to challenge poor behaviour in others, wherever it occurs.

## Relationships with other members

Successful teamwork is a critical element in the success of any democratically elected organisation. No team will be effective unless mutual respect exists between members. With this in mind, members should conduct their dealings with each other in ways that:

maintain public confidence in the office to which they have been elected  
are open and honest  
focus on issues rather than personalities  
avoid aggressive, offensive or abusive conduct

## Relationships with staff

The effective performance of the Committee also requires a high level of co-operation and mutual respect between elected members and staff. To ensure that co-operation and trust is maintained, members will:

- Recognise that the Chief Executive is the employer (on behalf of the Committee) of all Committee employees and as such, only the Chief Executive may hire, dismiss, or censure an employee.
- Make themselves aware of the obligations that the Committee and the Chief Executive have as employers and observe those requirements at all times.
- Treat all employees with courtesy and respect (including the avoidance of aggressive, offensive, or abusive conduct towards employees).
- Observe any guidelines that the Chief Executive puts in place regarding contact with employees.
- Not do anything which compromises, or could be seen as compromising, the impartiality of an employee.
- Avoid publicly criticising any employee in any way, but especially in ways that reflect on the competence and integrity of the employee.
- Raise concerns about employees only with the Chief Executive and concerns about the Chief Executive only with the Chair, West Coast Regional Council.

## Relationships with the community

Effective Committee representation depends on productive relationships between members and the community at large.

Members should ensure that individual citizens are accorded respect in their dealings with the Committee, have their concerns listened to, and deliberated on, in accordance with the requirements of the Act.

Members should act in a manner that encourages and values community involvement in local democracy.

## Contact with the media

The media plays an important part in local democracy. In order to fulfil this role, the media needs access to accurate, timely information about the affairs of the Committee. From time-to-time individual members will be approached to comment on a particular issue either on behalf of the Committee, or as an elected member in their own right. This part of the Code deals with the rights and duties of Committee members when speaking to the media on behalf of the Committee, or in their own right.

The following rules apply for media contact on behalf of the Committee:

- The Chair is the first point of contact for the official view on any issue.
- The Chair may refer any matter to the Chief Executive to deal with.
- No other member may comment on behalf of the Committee without having first obtained the approval of the Chair.



Members are free to express a personal view in the media, at any time, provided the following rules are observed:

- Media comments must state that it represents an individual, personal viewpoint and not that of the Committee.
- Where a member is making a statement that is contrary to a Committee decision, the member must not state or imply that his or her statements represent a majority view.
- Media comments must observe the other requirements of the Code of Conduct, e.g. not disclose confidential information or compromise the impartiality or integrity of staff, and not criticise other Committee members.

## **Confidential information**

In the course of their duties, members will occasionally receive information that may need to be treated as confidential. This will generally be information that is either commercially sensitive or is personal to a particular individual or organisation.

Members must not use or disclose confidential information for any purpose other than the purpose for which the information was supplied to the elected member. Committee members must also maintain practices that will prevent information provided to them from becoming public.

Members should be aware that failure to observe these provisions will impede the performance of the Committee by inhibiting information flows and undermining public confidence in the Committee. Failure to observe these provisions may also expose the Committee to prosecution under the Privacy Act 1993 and/or civil litigation.

## **Dealing with official information**

Members must treat all information, written and otherwise, as official information and therefore confidential to them. Should they receive requests for copies of such information, such requests should be referred to the Chief Executive to deal with in terms of the Local Government Official Information and Meetings Act 1987/Privacy Act.

These Acts provide safeguards in relation to information released.

## **Conflicts of interest**

Members must be careful that they maintain a clear separation between their personal interests and their duties as a member. This is to ensure that people who fill positions of authority carry on their duties free from bias (whether real or perceived) and that no pre-determination is involved. Members need to familiarise themselves with the provisions of the Local Authorities (Members' Interests) Act 1968 which concerns financial interests, and with other legal requirements concerning non-financial conflicts of interest.

The Act provides that an elected member is disqualified from office or from election to office if that member is concerned or interested in contracts under which payments made by or on behalf of the Committee exceed \$25,000 (incl GST) in any financial year.

Additionally, Members are prohibited from participating in any Committee discussion or vote on any matter in which they have a pecuniary interest, other than an interest in common with the general public. The same rules also apply where the member's spouse contracts with the Committee or has a pecuniary interest. Members must declare their interests at Committee meetings where matters in which they have a pecuniary interest arise and must make sure it is duly noted in the minutes of such meetings.

If the member is in any doubt as to whether or not a particular course of action (including a decision to take no action) raises a conflict of interest, then the member should seek guidance from the Chief Executive

immediately. Notwithstanding this or other provisions contained herein, the decision to declare an interest or not remains that of the member.

Members may also contact the Audit Office for guidance as to whether that member has a pecuniary interest. If there is a pecuniary interest, the member may seek an exemption to allow that member to participate or vote on a particular issue in which they may have a pecuniary interest. The latter must be done before the discussion or vote. The Chief Executive must also seek approval from the Audit Office for contractual payments to members, their spouses or their companies, that exceed the \$25,000 annual limit.

Failure to observe the requirements of the Local Authorities (Members' Interests) Act 1968 could potentially invalidate the particular decision made or the action taken, by the Committee.

Failure to observe these requirements could also leave the elected member open to prosecution under the Local Authorities (Members' Interests) Act 1968. In the event of a conviction, elected members can be ousted from office.

Conflicts of interest also extend to non-pecuniary interests. Members will refrain from actively progressing the interests of clubs, bodies, and associations of which they are members. Apart from being able to comply with the pre-determination and bias requirement, it is unfair to other such bodies without elected member representation.

## Standing orders

Members must adhere to the Standing Orders adopted by the Committee under the Local Government Act 2002. These Standing Orders are subject to the same legal requirements as a Code of Conduct with regard to their adoption and amendment.

## Ethics

The Committee seeks to promote the highest standards of ethical conduct amongst its members. Accordingly, members will:

- Claim only for legitimate expenses as laid down by any determination of the Remuneration Authority in force.
- Not influence, or attempt to influence, any Committee employee to take actions that may benefit the member, or the member's family or business interests.
- Not use Committee resources for personal business (especially campaigning).
- Not solicit, demand, or request any gift, reward or benefit by virtue of their position.
- Notify the Chief Executive if any gifts are accepted.
- Where a gift to the value of \$100 or more is offered to a member, immediately disclose this to the Chief Executive for inclusion in the publicly available register of interests.

For the avoidance of doubt, attending a meal, as part of a member's interaction with a third party, will not be seen as a gift. However, attending a sporting event as guest of a body may well represent a gift for purposes hereof.

## Part Four: Compliance and review

This part deals with ensuring that elected members adhere to the code of conduct and mechanisms for the review of the code of conduct.

### Compliance

Members must note that they are bound to comply with the provisions of this code of conduct (Local Government Act 2002, Schedule 7, Section 15(4)).

Members are also bound by the Local Government Act 2002, the Local Authorities (Members' Interests) Act 1968, the Local Government Official Information and Meetings Act 1987, the Secret Commissions Act 1910, the Crimes Act 1961 and the Securities Act 1978.

The Chief Executive will ensure that an explanation of these Acts is made at the first meeting after each triennial election and that copies of these Acts are freely available to members. A short explanation of the obligations that each of these has with respect to conduct of members is attached in the appendix to this code. The process is as follows:

All alleged breaches of the code will be reported to the Chair or, in their absence, the Chief Executive. Any allegation of a breach of a Code of Conduct must be in writing, make a specific allegation of a breach of the Code of Conduct, and provide corroborating evidence.

The Chief Executive will convene the Code of Conduct Committee to hear the allegation of a breach of the Code of Conduct and will appoint an independent member to the Code of Conduct Committee to investigate such alleged breaches of the Code of Conduct. The Chair will be a member unless he / she is accused of a potential breach.

The Committee will investigate the alleged breach and prepare a report with a recommendation for the consideration of Committee. Before beginning any investigation, the Committee will notify the member(s) in writing of the complaint and explain when and how they will get the opportunity to put their version of events.

The Committee will consider the report containing the recommendations of the Code of Conduct Committee in open meeting of the Committee, except where the alleged breach relates to the misuse of confidential information or could impinge on the privacy of a member of staff or of the general public, or where the provisions of Section 6, 7 or 17 of the Local Government Official Information and Meetings Act 1987 apply.

### Responses to breaches of the code

The exact nature of the action the Committee may take depends on the nature of the breach and whether there are statutory provisions dealing with the breach.

Where there are statutory provisions:

Breaches relating to members' interests render members liable for prosecution by the Auditor-General under the Local Authorities (Members' Interests) Act 1968.

Breaches which result in the Committee suffering financial loss or damage may be reported on by the Auditor-General under section 46 of the Local Government Act 2002, which may result in the member having to make good the loss or damage.

Breaches relating to the commission of a criminal offence may leave the elected member liable for criminal prosecution.

In these cases, the Committee may refer an issue to the relevant body as outlined, any member of the public may make a complaint, or affected third parties may take action on their own initiative.

Where non-statutory provisions in the Code, the Committee may, based on the Conduct Review Panel report, take the following action:

Censure.

Removal of the member from the Committee.

A decision to apply one or more of these actions requires a Committee resolution to that effect.

## **Review**

Once adopted, a Code of Conduct continues in force until amended by the Committee. The Code can be amended at any time but cannot be revoked unless the Committee replaces it with another Code. Once adopted, amendments to the Code of Conduct require a resolution supported by 75 per cent or more of the members of the Committee present.

# Appendix

## Legislation bearing on the role and conduct of members

This is a summary of the legislation requirements that have some bearing on the duties and conduct of Members. Copies of these statutes can be found online, or in the office of the Chief Executive.

### Local Authorities (Members' Interests) Act 1968

This Act regulates situations where a member's personal interests impinge, or could be seen as impinging, on their duties as an elected member.

The Act provides that a Member is disqualified from office if that member (or his or her spouse) is concerned or interested in contracts under which payments made by or on behalf of the Committee exceed \$25,000 (GST incl) in any financial year.

Additionally, Members are prohibited from participating in any Committee discussion or voting on any matter in which they have a pecuniary interest, other than an interest in common with the general public. The same rules also apply where the member's spouse contracts with the authority or has a pecuniary interest.

A Member may also contact the Audit Office for guidance as to whether that member has a pecuniary interest, and if so, may seek an exemption to allow that member to participate or vote on a particular issue in which they may have a pecuniary interest. The latter must be done before the discussion or vote. The Chief Executive must also seek approval from the Audit Office for contractual payments to members, their spouses or their companies that exceed the \$25,000 annual limit.

Failure to observe these requirements could also leave the elected member open to prosecution under the Local Authorities (Members' Interests) Act 1968. In the event of a conviction, elected members can be ousted from office and may become ineligible to be elected to public office again.

### Local Government Official Information and Meetings Act 1987

The Act provides how, and under what circumstances, official information and requests for it, be managed. It boils down to the accessibility of information held and the rights of those who are the subject of the information.

The Local Government Official Information Meetings Act 1987 also sets out a list of meetings procedures and requirements. Of particular importance for the roles and conduct of members is the fact that the Chair has the responsibility to maintain order at meetings, but all members should accept a personal responsibility to maintain acceptable standards of address and debate. No member should:

- Create a disturbance or a distraction while another member is speaking
- Be disrespectful when they refer to each other or other people
- Use offensive language about the Committee, other members, any employee of the Committee, or any other individual including the public.

### Secret Commissions Act 1910

Under this Act it is unlawful for a Member (or officer) to advise anyone to enter into a contract with a third person and receive a gift or reward from that third person as a result, or to present false receipts to Committee.

If convicted of any offence under this Act, a person can be imprisoned for up to two years, or fined up to \$1,000, or both. A conviction therefore would trigger the ouster provisions of the Local Government Act 2002 and result in the removal of the member from office.

## **Crimes Act 1961**

Under this Act it is unlawful for a Member (or officer) to:

Accept or solicit for themselves (or anyone else) any gift or reward for acting or not acting in relation to the business of Committee.

Use information gained in the course of their duties for their, or another person's, monetary gain, or advantage.

These offences are punishable by a term of imprisonment of 7 years or more. Members convicted of these offences will also be automatically ousted from office.

## **Financial Markets Conduct Act 2013**

The Financial Markets Conduct Act 2013 essentially places elected members in the same position as company directors whenever Committee debt, equity or such is involved. It is perhaps unlikely that Committee members will be involved but it has to be understood that telephone or one-to-one discussions may result in legitimate expectations being created. Because of the high potential for fraud, loss etc., the rules are stringent. It is meant for the Committee to also ensure that dealings by staff on behalf of the Committee as part of the executive function must comply with the Act.