

I hereby give notice that an Ordinary Council Meeting of the Grey District Council will be held:

**Date:** Monday 27 January 2025  
**Time:** 3:00pm  
**Venue:** Council Chambers, 105 Tainui Street, Greymouth

Joanne Soderlund  
Chief Executive

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# ORDINARY COUNCIL MEETING

## LATE AGENDA

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**Members:**

Mayor: Mayor Tania Gibson  
Deputy Mayor: Councillor Allan Gibson  
Members: Councillor John Canning  
Councillor Peter Davy  
Councillor Kate Kennedy  
Councillor Rex MacDonald  
Councillor Robert Mallinson  
Councillor Tim Mora  
Councillor Jack O'Connor  
Kaiwhakahaere Francois Tumahai

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*The information in this document is provided to facilitate good competent decisions by Council and does in no way reflect the views of Council. Reports and recommendations contained in this agenda are not to be considered as Council policy until adopted.*

## Table of Contents

<b>5</b>	<b>AGENDA ITEMS.....</b>	<b>3</b>
5.1	LATE ITEM: ADOPTION OF HARBOUR MASTER DUTIES.....	3
5.11	ADOPTION OF HARBOURMASTER DUTIES.....	5

## 5 AGENDA ITEMS

### 5.1 LATE ITEM: ADOPTION OF HARBOUR MASTER DUTIES

**File Number:**

**Report Author:** Group Manager Operations

**Report Authoriser:** Chief Executive

**Appendices:** Nil

#### 1. REPORT PURPOSE

- 1.1. In terms of Clause 9.12 of Standing Orders, read with S.46A(7) of the Local Government Official Information and Meetings Act, 1987, an item can be considered as a late item of business.

*9.12 Items of business not on the agenda which cannot be delayed*

*A meeting may deal with an item of business that is not on the agenda where the meeting resolves to deal with that item and the Chairperson provides the following information during the public part of the meeting:*

*(a) The reason the item is not on the agenda; and*

*(b) The reason why the discussion of the item cannot be delayed until a subsequent meeting*

- 1.2. LGOIMA s, 46A(7)

*Items not on the agenda may be brought before the meeting through a report from either the Chief Executive or the Chairperson.*

**Please note** that nothing in this standing order removes the requirement to meet the provisions of Part 6, LGA 2002 with regard to consultation and decision-making.

The Chief Executive and Chairperson has advised their intention to introduce one late item for Council to consider being:

- 1.3 Adoption of Harbour Master Duties:

To apprise Council of developments regarding the above.

## 2. OFFICER RECOMMENDATION

That Council in accordance with Section 46A(7) of the Local Government Official Information and Meetings Act read with Standing Orders 9.12 the following be considered as a late item:

1. Adoption of Harbour Master Duties.

### Confirmation of Statutory Compliance

Compliance with Statutory Decision-making Requirements (ss 76 - 81 Local Government Act 2002).

- (a) This report contains:
  - (i) sufficient information about all reasonably practicable options identified and assessed in terms of their advantages and disadvantages; and
  - (ii) adequate consideration of the views and preferences of affected and interested persons bearing in mind any proposed or previous community engagement.
- (b) The information reflects the level of significance of the matters covered by the report, as determined in accordance with the Council's significance and engagement policy.

**5.11 ADOPTION OF HARBOURMASTER DUTIES****File Number:****Report Author:** Group Manager Operations**Report Authoriser:** Chief Executive**Appendices:** 1. Amended Deed of Transfer Port of Greymouth**1. REPORT PURPOSE**

- 1.1. For Council to consider taking over the duties of Harbourmaster, as it relates to the Port of Greymouth, from the West Coast Regional Council (WCRC).

**2. EXECUTIVE SUMMARY**

- 2.1. Council, in 2018 approached the West Coast Regional Council on the option of taking over regulation of maritime activity under Part 3A of the Maritime Transport Act 1994. The primary objective was to provide a Harbourmaster service, a service that WCRC elected not to provide given the relatively low vessel movement in the Greymouth Port.
- 2.2. An anticipated demand in maritime activity at the Port will create a demand for control of activity through the regulatory powers of a Harbourmaster that are enforceable under the Maritime Transport Act 1994.
- 2.3. After engaging again recently with the WCRC, the WCRC has re-confirmed its agreement to transfer the Harbourmaster function to Council.
- 2.4. This report provides Council the opportunity to confirm or decline the transfer of the Duties of Harbourmaster to it.

**3. OFFICER RECOMMENDATION**

That Council

1. Notes the contents of the report,
2. Notes that the WCRC has now resolved to transfer the Part 3A Maritime Transport Act 1994 responsibilities to Council and also notes the Terms of Transfer in the Deed of Transfer document and either,
3. Accepts the transfer of responsibilities and mandates the Mayor and Chief Executive to sign the transfer, and for Council's Official Seal to be affixed on the agreement and,
4. Instructs staff to provide a report to Council with recommendations for implementation of the regulatory function in the future in the most effective manner.

**OR**

5. Defers the decision to accept transfer of responsibilities until a future time when operational demands related to increased port activity and the intentions of operators is better understood and,
6. Instructs the Chief Executive to thank WCRC for offering to transfer the Part 3A Maritime Transport Act 1994 functions to Council and advises of Council's intentions to reconsider acceptance of transfer at a future time.

**OR**

7. Council thanks WCRC for offering to transfer the Part 3A Maritime Transport Act 1994 functions to Council but, declines the offer, rescinds its 12 November 2018 decision and advises the Minister that the function transfer as earlier advised, will not go ahead.

#### 4. BACKGROUND

- 4.1. Council, on 12 November 2018 resolved as follows:

*Proposed His Worship*

*Seconded Cr Coll*

*“that –*

1. *Council confirms the need to be able to undertake all actions relating to the navigation safety function for the Port of Greymouth and, as a result:*
  - *Approaches the West Coast Regional Council to, subject to compliance with public consultation requirements and the approval of the Minister of Local Government, transfer the powers, responsibilities and duties as outlined in the draft Deed of Transfer attached to the November 2018 agenda.*
  - *Approves the formal notification to the Minister of Local Government as outlined in the November 2018 agenda in draft of its intention to accept the duties, powers and responsibilities as outlined in Part 3A of the Maritime Transport Act 1994 in relation to the Port of Greymouth as a joint notification by the two Councils.*
  - *Approves the joint Summary of Proposal attached to the November 2018 agenda in draft and the placement of an appropriate notice in the local media.*
2. *Council appoints His Worship and Councillor Hay to act on a joint informal hearing panel with the West Coast Regional Council appointees to hear/consider submissions and make a recommendation to Council.”*

#### **Motion Carried**

- 4.2. Since then the following activity has occurred:

- WCRC approved the transfer.
- The public consultation process to confirm the transfer was duly undertaken and no objections were received.
- The Minister was advised of the function transfer.
- The Chair and Chief Executive of WCRC both signed the Agreement of Transfer. It appears that it was not provided to Council for signature and, because of the change in staffing at both Councils, this was not followed up for a period of time.
- A next Chief Executive of WCRC picked the matter up and it was sent to Council for signature of the Transfer Agreement. Unfortunately, it stalled and was not actioned.
- Earlier this year, it was followed up by the GDC Acting Chief Executive. The Agreement signed by the Chair and Chief Executive of WCRC (at that time) was duly signed by the Mayor and GDC Acting Chief Executive and presented to WCRC for that Council’s Official Seal to be affixed.
- The GDC Executive received notification that the matter would be put to WCRC once again.

- WCRC has now decided to transfer the functions to GDC. Attention is drawn to Appendix A, Deed of Transfer of Responsibilities in Terms of Navigation Safety received from WCRC, outlining the Terms of Transfer.
- 4.3. The purpose of this report is for Council to provide direction on the question whether or not Council wants to accept the transfer of functions against the background of the conditions outlined in the WCRC transfer proposal.
- 4.4. Council's earlier decision to request the transfer of function was prompted by two events, namely:
- The Coroner investigating the death of a fisherman when a fishing vessel foundered when crossing the Grey River bar having been highly critical of the fact that the port did not have a Harbourmaster.
  - A growing realisation that Council owed vessels frequenting the Port, a Duty of Care which would likely not be satisfied by the "blue light" and Bylaw provisions making the Skipper responsible for decisions about safe ingress/egress.
- 4.5. An anticipated increase in maritime activity at the Port has prompted the need to re-visit the matter, where the regulatory powers of a Harbourmaster will be necessary to control vessel movements within the Port.
- 4.6. The legal responsibility to provide a Harbourmaster and associated services is that of WCRC. However, it is not obligatory (unless the Minister directs them to do so) and they have over the years elected not to exercise this responsibility. The reality is that the Greymouth Bar conditions can change within a short period of time, and the need for a dependable advisory system was another consideration. Without a Harbourmaster, no Port Bylaw enforcement is possible.
- 4.7. It is important to understand the functions involved in the transfer of Harbourmaster regulatory responsibilities. Part 3A of the Maritime Transport Act includes the following:
- Regulation of ports, harbours waters and maritime related activities (S.33 C)
  - Appointment of a Harbourmaster. (S.33 D). Optional but obligatory if required to do so by the Minister. Functions are outlined in S.33 E&F)
  - Appointment of Enforcement Officers. (S.33 G)
  - Navigation safety (S.33 I) (navigational aids, removal of impediments to navigation etc).
  - Removal of wrecks and abandoned ships (S 33J, K &L)
  - Making of Bylaws (S.33 N)
  - Audits if required (S. 33 P)

## 5. RISK EXPOSURE FOR GREY DISTRICT COUNCIL

- 5.1. Activities that are responsibilities of a Harbourmaster but are currently undertaken by Council's Port staff out of necessity include the maintenance of navigation aids, lights and beacons around the port, maintenance of safe boating signage, including signage at boat ramps, managing abandoned vessels, removing hazards, such as large logs and hazardous debris from local waterways and responding to incidents within the Port area. From that perspective, most of the activities that are duties of a Harbourmaster are already being managed by Council, and in relation to the aspects listed above the degree of risk is the same as if a Harbourmaster were appointed. It is in fact more likely that risk reduces for Council as it undertakes these activities due to the additional knowledge and competency that would be developed as a consequence of introducing a Harbourmaster to existing operations.

- 5.2. Currently Port staff provide advice to vessel operators on the Greymouth bar conditions and skippers make a decision on bar crossings, based on their knowledge and the capability of each individual vessel. The benefit that a Harbourmaster function provides over and above the current situation is that when staff have concerns about safety, the Harbourmaster could provide enforceable instructions to the skipper of a vessel. Currently staff provide instructions to vessel operators for movements within the Port area, lagoon and inside the bar, however without the powers of a Harbourmaster there is nothing that compels vessel operators to follow staff instructions, and they can be ignored. This creates the potential for Council to be drawn into a defence should an incident occur, where it had no authority to enforce actions that result in increased safety and potentially the avoidance of an incident, but as the authority operating the Port has a potential duty of care, as was the case with the historical event that resulted in an incident at the bar and a Coroners inquiry.
- 5.3. Risks associated with the competency and decision making for a Harbourmaster are similar to those that Council is currently exposed to. The appointment of a Harbourmaster would bring an elevated level of knowledge and competency to the Port operation so from that perspective introducing the advice and decision making of a competent Harbourmaster, including those decisions currently made by Council staff, would reduce Council's risk exposure.
- 5.4. The risks associated with increased maritime activity at the Port are likely to create an expectation and calls for a Harbourmaster amongst stakeholders, including the community, current vessel operators who will be impacted by increased large scale vessel movements, Maritime New Zealand and the operators of new large-scale vessels.

## **6. OPTIONS FOR IMPLEMENTATION**

- 6.1. The recommendation in this report includes a near future report to Council with options for implementing the Harbourmaster regulatory functions, should Council elect to take on the function.
- 6.2. For the purpose of supporting a current decision about whether or not to adopt the regulatory function a brief explanation of potential options and their financial implications are explained here.
- 6.3. It is noted that most of the Harbourmaster duties are already a function of current port operations. The additional duties that would be performed by a Harbourmaster would include assessment of maritime activity and providing enforceable instructions to vessel operators, and with increased maritime activity, an increased level of engagement with vessel operators. The function would also enable greater engagement with recreational users. The duty would include the development of a Bylaw, process for performing duties, some training and engagement with the network of Harbourmasters across the regions and an annual report to the Regional Council. This would potentially amount to no more than a few hours each week so considering the degree of integration with current port activities, the logical option is to extend the duties of the current Port Manager position to include the Harbourmaster Function.
- 6.4. The Harbourmaster role is not one that has a formal qualification, but the Harbourmaster must have an appropriate level of competency. The current Port Manager would only require a modest amount of upskilling to achieve a level of appropriate competency. A strong network of South Island Harbourmasters exists, and the GDC Port Manager has existing connections within this network. A supportive environment exists amongst this network and a South Island Harbourmaster meeting occurs twice annually.
- 6.5. Anticipated costs to implement this option would include an increase in salary to acknowledge the additional responsibility, an allowance for training, collaboration with regional peers, and staff time developing a Bylaw and supporting processes. This is estimated to be in the order of \$50,000 to \$60,000 in the first year and reduce slightly in subsequent years, notwithstanding the effects of inflation.



- 6.6. An additional insurance cost may or may not apply and consultation with Council's insurers would be required to fully understand any cost implications. To obtain an indication from insurers a detailed explanation of the option adopted, and the duties would be required first.
- 6.7. Another option is to appoint a dedicated part time Harbourmaster, which is less desirable due to higher cost and complexity associated with integrating current port activities, with an effect of diluting existing staff positions, potentially having employment relations implications.
- 6.8. A consideration is to use the services of the Buller Harbourmaster directly and or appointing the current Port Manager as deputy to the Buller Harbourmaster. This option results in similar issues as described above and the distance between ports would reduce the effectiveness of the role, where a presence at the port of the where activity should be closely monitored is a factor. This has a potential risk that lower-level attendance could result in an oversight lead to an incident. A deputy Harbourmaster option would not reduce costs, in fact it would result in an increase, with a requirement for frequent travel, and would still require training and competency expenses for the Deputy.

## 7. OPTIONS

### 7.1. Option 1.

- 7.1.1. To agree to adopt the Part 3A Maritime Transport Act 1994 responsibilities, as transferred by the WCRC, thereby giving effect to Council's 18 November 2018 decision, noting that:
- 7.1.2. There will be a cost involved with taking over duties, which would require incorporation into the 2025/34 Long Term Plan.
- 7.1.3. The legal process to give effect to the transfer has been fully complied with.

### 7.2. Advantages

- 7.2.1. Addresses the need for regulatory controls in a Port with challenging maritime conditions and potential for increased port activity related to mineral sands operations and the associated safety challenges that the activity will present to all port users.
- 7.2.2. Addresses Duty of Care responsibilities that Council may have.
- 7.2.3. It will legalise current Port practices in relation to navigation aids etc, which is in fact a Regional Council function but undertaken by GDC as a matter of necessity.
- 7.2.4. Reduces risks in relation to current decision making by introducing an elevated level of competency to port operations.
- 7.2.5. Meets stakeholder expectations that the Port should have a Harbourmaster.
- 7.2.6. Provides a legal basis to recover port costs, as per Part 3A, section 33 R of the Maritime Transport Act.

### 7.3. Disadvantages

- 7.3.1. Additional costs.
- 7.3.2. Potential insurance implications, which are not currently understood.
- 7.3.3. The transfer includes a range of conditions in the Terms of Transfer that place certain responsibilities and demands on Grey District Council, including reporting back to WCRC on performance against duties.

### 7.4. Option 2:

- 7.4.1. Council defers the decision to accept transfer of responsibilities until a future time when operational demands related to increased port activity and the intentions of operators is better understood.

7.4.2. This option acknowledges the step up in demand for Harbourmaster regulatory controls in the Port at a time when the arrival of large-scale vessels increase the risk profile in the Port.

**7.5. Advantages**

7.5.1. Delays or avoids additional costs and aligns introduction of the Harbourmaster activity to a time when additional revenue to cover associated costs will be received as a result of increased port activity. Sufficient lead time is required to prepare for the Harbourmaster functionality, such as development of a Bylaw, training and process development. This will take at least 6 months.

7.5.2. Avoids the current uncertainty related to insurance, allowing more time to investigate all implications.

**7.6. Disadvantages**

7.6.1. At the present time allowances for expenditure are being made for the Long Term Plan. It may be more difficult to allow for funding the activity when a decision is not in conjunction with the LTP or Annual Plan. This may not be an issue if additional revenue is available through increased port activity.

7.6.2. Leaves the reasons why Council asked to take over the functions in the first place, unaddressed.

7.6.3. Will not likely meet current maritime stakeholder's expectations.

7.6.4. Status quo whereby no ability to issue enforceable instructions exists which has the potential to result in a maritime incident.

**7.7. Option 3:**

7.7.1. To thank the WCRC for the offer of transfer of the Part 3A maritime Transport Act functions to Council but to advise that Council, because of budgetary constraints will not be taking over the function.

7.7.2. Council rescinds its 12 November 2018 decision.

7.7.3. Council advises the Minister that the transfer of functions did not proceed as earlier advised.

**7.8. Advantages**

7.8.1. Avoid additional costs.

7.8.2. Avoids the uncertainty related to insurance.

**7.9. Disadvantages**

7.9.1. The responsibility remains with WCRC who will not likely provide the service at this time.

7.9.2. Leaves the reasons why Council asked to take over the functions in the first place, unaddressed.

7.9.3. Will not meet maritime stakeholder's expectations.

7.9.4. Status quo whereby no ability to issue enforceable instructions exists which has the potential to result in a maritime incident.

7.9.5. May result in Maritime New Zealand, through the Minister directing the Regional Council to appoint a Harbourmaster under Section 33D of the Maritime Transport Act if large scale vessels are accessing the Port.

**8. CONSIDERATIONS**

## 8.1. Legal and Legislative Implications

8.1.1. Not having a Harbourmaster at a port with one of the more challenging maritime environments along with a potential increase in maritime activity creates risk to legal exposure.

8.1.2. All steps to finalise the transfer are in place.

## 8.2. Financial

8.2.1. As stated, there is a financial implication involved with taking over the function that would require inclusion in the Long-Term Plan.

## 8.3 Existing Policy and Strategy Implications

8.2.2. As stated, Council initiated the transfer.

## 8.3. Fit with Purpose of Local Government Statement

8.3.1. Consistent with the Purpose.

## 8.4. Effects on Mana whenua

8.4.1. No apparent effects.

**9. SIGNIFICANCE AND ENGAGEMENT**

9.1.1.

Issue	Level of Significance	Explanation of Assessment
Is there a high level of public interest, or is decision likely to be controversial?	Low	As stated there is a cost involved.
Is there a significant impact arising from duration of the effects from the decision?	Low	
Does the decision relate to a strategic asset? (refer Significance and Engagement Policy for list of strategic assets)	Low	
Does the decision create a substantial change in the level of service provided by Council?	Low	
Does the proposal, activity or decision substantially affect debt, rates or Council finances in any one year or more of the LTP?	Low	
Does the decision involve the sale of a substantial proportion or controlling interest in a CCO or CCTO?	Low	
Does the proposal or decision involve entry into a private sector partnership or contract to carry out the deliver on any Council group of activities?	Low	
Does the proposal or decision involve Council exiting from or entering into a group of activities?	Low	

9.2. Community Wellbeings and Outcomes

9.2.1. Aligns with community objectives for economic activity.

**10. CONCLUSIONS**

10.1. Overall, the risk exposure to Council is similar to the current situation should it elect to adopt the duties. The activity does increase costs and some demands on staff time, however these disadvantages are potentially outweighed by the benefits to port users and the increased safety that the function brings.

**11. NEXT STEPS**

11.1. Council staff report back the WCRC on the Council decision and prepare a report for the next Council meeting with options on implementation, should the Council decide to take on the Harbourmaster duties.

## Confirmation of Statutory Compliance

Compliance with Statutory Decision-making Requirements (ss 76 - 81 Local Government Act 2002).

- (a) This report contains:
  - (i) sufficient information about all reasonably practicable options identified and assessed in terms of their advantages and disadvantages; and
  - (ii) adequate consideration of the views and preferences of affected and interested persons bearing in mind any proposed or previous community engagement.
- (b) The information reflects the level of significance of the matters covered by the report, as determined in accordance with the Council's significance and engagement policy.

**DEED OF TRANSFER OF RESPONSIBILITIES IN TERMS OF NAVIGATION SAFETY**

This deed was made on 12 December 2024

**Parties:** The West Coast Regional Council (**WCRC**)  
Grey District Council (**GDC**)

**Background**

- A. WCRC is the Regional Council for the area where the Port of Greymouth (**Port**) is located.
- B. WCRC is responsible for various functions, duties and responsibilities and have specific powers relating to navigation safety as it relates to the Port, pursuant to Part 3A (sections 33A-33X) of the Maritime Transport Act 1994 (**Act**).
- C. GDC is the owner and, for the purposes of the Act, the statutory authority for the Port.
- D. WCRC and GDC have a historical arrangement at the Port where GDC exercises navigation safety functions rather than WCRC. The legal basis for this arrangement is unclear and requires formalisation. WCRC and GDC now seek to formalise the legal arrangement in this Deed of Transfer (**Deed**).
- E. Section 33X of the Act empowers WCRC to transfer its responsibilities under Part 3A of the Act to another public authority. The only power which cannot be transferred is the power to further transfer responsibility. The transfer of responsibility requires:
  - (a) The local authorities to be satisfied, following consultation, the benefits of the proposed transfer will outweigh any negative impacts of the proposal;
  - (b) The parties have agreed on the terms of the proposed transfer; and
  - (c) The Minister has been notified of the proposed transfer.

**Terms of Transfer**

1. This Deed revokes any previous arrangements (either formal or informal) between WCRC and GDC regarding the division or transfer of any responsibilities under ss 33A-33X of the Act.
2. WCRC and GDC, following the consultation procedures, both consider that the benefits of the transfer outweigh the disadvantages. Therefore, it is appropriate to continue with the transfer and to do so by means of a formal Deed of Transfer.

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3. WCRC and GDC agree the transfer is a complete transfer of all of WCRC's responsibility under Part 3A of the Act to GDC except for the power to transfer responsibility pursuant to s 33X(2) of the Act.
4. The responsibility transferred is all of the functions, duties, and powers contained in ss 33A-33X in respect of the Port, including but not limited to:
  - a. The power to appoint a Harbourmaster;
  - b. The power to appoint enforcement officers;
  - c. The power to carry out harbor works;
  - d. The power to remove wrecks/ abandoned ships;
  - e. The power to recover costs;
  - f. The power to erect and maintain navigational aids in accordance with maritime rules; and
  - g. The power to make Navigation Bylaws.
5. As noted above, the transfer is a complete transfer of responsibility and therefore, once complete, the only residual power remaining with WCRC is the power to transfer responsibility pursuant to s 33X(2) of the Act. All other functions, duties, and powers under ss 33A-33X will be the sole responsibility of GDC.
6. GDC shall have no right to call upon the WCRC for any contribution to costs incurred by it in accepting the transfer and exercising the responsibilities, powers and duties transferred.
7. GDC shall in response to a reasonable request made by WCRC provide such information that may be required by WCRC to satisfy any residual responsibility (the power to transfer responsibility pursuant to s 33X(2) of the Act) in accordance with this Deed or to determine whether the Transfer remains effective.
8. GDC shall, upon receipt of reasonable notice from WCRC, provide WCRC with such information in such format and within such timeframe as is reasonably acceptable to the Chief Executive of the WCRC, in relation to all material matters relating to GDC's performance of its obligations under clause 4.
9. Without in any way limiting the generality of clause 8, GDC shall provide WCRC with an annual report in a format reasonably acceptable to the Chief Executive of the WCRC, such report to summarise:
  - a. any material maritime incidents within the Port area for the relevant period (including any reported near misses); and
  - b. a brief description of how GDC is currently fulfilling each of the obligations set out in clause 4 (including a description of any respect in which GDC considers that it is not currently fulfilling the obligations set out in clause 4 and a brief description of what GDC proposes to do over the forthcoming 12-month period to begin fulfilling any such obligation).
10. WCRC may not revoke the transfer unless it has cause to do so and has first consulted GDC on such revocation. Any such revocation will be subject

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to the transfer provisions in Part 3A of the Act.

- 11. If either party wishes to reverse the transfer or vary the terms of the transfer, they must:
  - a. Consult with the other party; and
  - b. Comply with the provisions of s 33X of the Act.
- 12. This Deed remains in force until reversed by clause 9 of this Deed or until the Deed is made null and void by an act of Parliament.
- 13. This Deed was executed on the date appearing at the head of the Deed.

**Signed for and on behalf of  
West Coast Regional Council**

Common Seal:



\_\_\_\_\_  
Darryl Lew, Chief Executive

**Signed for and on behalf of  
Grey District Council**

Common Seal:

\_\_\_\_\_  
Chief Executive's signature

\_\_\_\_\_  
Chief Executive's name

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