

# Formalisation of Transfer of Port Navigational Safety Functions from West Coast Regional Council to Grey District Council

## STATEMENT OF PROPOSAL

---

### What is being proposed?

The navigation safety function in relation of the Port of Greymouth is defined in Part 3A of the Maritime Transport Act 1994 and in terms of that Act, the responsibility for these functions rests with the West Coast Regional Council.

The functions and powers involved include (among others):

- The power to appoint a Harbourmaster
- The power to appoint Enforcement Officers
- The power to erect and maintain navigational aids in accordance with maritime rules
- The power to make bylaws

The Port of Greymouth is under ownership and management of the Grey District Council and this 'responsibility split' with the Regional Council makes the safe management of the Port very difficult.

Historically there appears to have been a transfer of the navigation safety functions to the Greymouth Harbour Board, however details of this are not to hand as it is likely this would have been done before 1982.

The West Coast Regional Council, as per Section 17 of the Local Government Act 2002, signals its intention to transfer the powers and responsibilities outlined in Part 3A of the Maritime Transport Act 1994 (navigation safety) to the Grey District Council as owner of Port of Greymouth. Grey District Council, in terms of the same Act, signals its intention to accept such transfer.

It is noted this arrangement is not new and has been in place for many decades but a formal transfer document to substantiate it cannot be found. This process is to formalise the arrangement.

### Why is this being proposed?

With the original transfer documentation not being available, changes having occurred to the mandating legislation and the two Councils involved having also changed, the West Coast Regional Council and Grey District Council would like to formalise the transfer and, as part of the process, give the general public a chance to have their say.

It is noted that the Councils have to comply with certain legislative provisions with regards to this matter, namely:

- Section 33X of the Maritime Transport Act 1994 – *Delegation or transfer of council's responsibilities*: A regional council may transfer any of its responsibilities and must consult as per Section 82 of the Local Government Act 2002.
- Section 17 of the Local Government Act 2002 – *Transfer of responsibilities*: A regional council may transfer one or more of its responsibilities to a territorial authority following consultation as per Section 82 of the Local Government Act 2002 and must notify the Minister of Local Government of its intention.
- Section 82 of Local Government Act 2002 – *Principles of consultation*: Principles which Councils should follow with regards to undertaking consultation.

## What are the options?

There are two options as follows.

### **OPTION ONE: The status quo**

This option assumes that any previous transfer of powers, responsibilities and duties is active despite no documented proof being available. Grey District Council will continue to operate the Port of Greymouth and the West Coast Regional Council will be responsible for all other duties and powers.

This will mean that the Regional Council will have to appoint a Harbourmaster for the Port of Greymouth as Grey District Council has earlier identified this as being a necessity under the Health and Safety at Work Act 2015 and general duty of care responsibilities. It also implies this will be a stand-alone role with such person to work at the Port of Greymouth and the costs to be recovered against the Port of Greymouth. Similarly, the Regional Council will have to appoint Enforcement Officers, second them to Grey District Council and will have to formulate and promulgate navigation bylaws for the Port.

What this will mean is that Grey District Council can take decisions of a strategic nature but will be reliant upon the Regional Council to carry them out. This makes it, in many respects, an unwieldy, impractical and unsafe arrangement.

There will also be costs to appoint a Harbourmaster and Enforcement Officers. It is suggested that option two provides a more cost efficient arrangement – please see below.

### **OPTION TWO: To transfer all responsibilities, functions and powers as set out in Part 3A of the Maritime Transport Act to Grey District Council as owner of the Port**

This option will formally transfer the navigation safety role from the West Coast Regional Council to the Port Operator, namely the Grey District Council.

Grey District Council intends combining the Port Manager and Harbourmaster roles, which will be more cost effective and practical than the two separate positions. This arrangement is already in place in some other district council owned ports and has been shown to be effective.

There will also be cost savings on Enforcement Officers as these duties can be incorporated into existing Port roles.

This option provides for a cohesive approach and is the *preferred option of both Councils*.

It is recommended that people also read the relevant Council report on this matter, attached to this Statement of Proposal.

## **THE WEST COAST REGIONAL COUNCIL**

Prepared for: Council Meeting – 12 March 2019  
Prepared by: Michael Meehan – Chief Executive  
Date: 5 March 2019  
Subject: **Transfer of Powers – Navigational Safety**

---

### **Transfer of Powers to Grey District Council**

Attached is a paper prepared by Grey District Council in relation to a transfer of powers, responsibilities and functions for navigational safety, this sets out the background and reasons behind the request from Grey District Council.

The transfer does not require any funding from West Coast Regional Council and essentially reflects the current arrangements. Staff can work with Grey District Council staff to undertake the necessary consultation in relation to the transfer and undertake the formal process.

### **RECOMMENDATIONS**

1. *Council receives the report.*
2. *West Coast Regional Council, pursuant to S.33X of the Maritime Transport Act 1994 read with S.17 of the Local Government Act 2002, transfers to Grey District Council all responsibilities, powers and duties that it has under Part 3A of the former Act as it relates to the Greymouth Port, including, but not limited to:*
  - *The power to appoint a Harbourmaster*
  - *The power to appoint enforcement officers.*
  - *The power to erect, maintain navigational aids in accordance with maritime rules*
  - *The power to make Navigation Bylaws.*
3. *Council undertake any necessary consultation alongside Grey District Council to give effect to relevant legislation.*

Michael Meehan  
**Chief Executive**