



Te Tai o Poutini PLAN

A combined district plan for the West Coast

Prepared for: Hearing Commissioners - Te Tai o Poutini Plan

Prepared by: Lois Easton, Principal Planner

Date: 8 December 2023

Subject: **s42A Author Right of Reply Notable Trees**

Purpose of Report

1. The purpose of this report is to respond to the questions raised by the Hearings Commissioner during Hearing 5: Notable Trees, and for the Officer to propose any further amendments to the notified version of the Proposed District Plan above those recommended in the Officers s42a evidence report.

Hearing Panel's Questions to the s42a Reporting Officer and their Response

2. The following questions were received from the Hearing Commissioner for the Notable Trees topic which sat on 6 December 2023.

[1] In relation to the Permitted Activity Rules, and the reference to "a Council approved arboricultural contractor" what would the Councils consider when approving the contractor? Should an Advice Note be included with this information?

3. The Council would consider the qualifications and experience of the contractor. I consider an advice note would be

Advice Note: When approving an arboricultural contractor in relation to this rule, the Council will consider the following matters:

1. Whether the contractor has a New Zealand Certificate of Horticultural Services or equivalent qualification.
2. Whether the contractor has significant experience in tree pruning of the type proposed .

[2] Will the Council cover the costs of any arborist work on a notable tree?

4. This is a matter for each of the three individual Councils to determine as part of their Funding Policy and Long Term Plan.

[3] Is a Plan Change required to alter the schedule or to add a notable tree?

5. Yes. This would apply to both altering the schedule (e.g. changing what aspects are considered notable about a tree) and to add a tree. The normal RMA Schedule One process would apply – public notification, including to any affected landowners, submissions, further submissions, hearing, right of appeal.

[4] In relation to Policy TREE – P3 do Poutini Ngāi Tahu need permission to access private property to identify a notable tree? Would the normal STEM process apply?

6. Yes. Permission to access a property would be required, and the tree would be assessed using STEM by a suitably qualified person.

[5] Re Rule TREE – R8 does this apply to Poutini Ngāi Tahu?

7. Yes. Poutini Ngāi Tahu must adhere to all rules set out in the Plan, as does any other landowner. Where there is a different rule for Poutini Ngāi Tahu or their land then that is specified in the rule.

[6] Re Submission Point 194 of Westpower – have you altered your view on this in light of the evidence provided?

8. This submission has sought that the benefits of the activity be included as an assessment criteria. My view remains that this is too broad and unclear. Westpower in their submission clarified they were concerned about the benefits of regionally significant infrastructure. I consider that this is different to the phrase they sought “the benefits to the community of the activity occurring”. I would be more willing to support a matter of discretion that was specific to the benefits of the activity if they were from regionally significant infrastructure as I consider this would then link to the direction in the WCRPS.

[7] In related to the consistent groups of requests of edits from Westpower, can you please clarify why some have been accepted and others rejected.

9. Westpower have consistently sought a number of additions to policies and rules. I have tried to consistently respond to these as follows:
 - a) Add “energy activities”. I have recommended accepting this in relation to the provisions in the Notable Trees chapter. This is based on the arguments put forward by Westpower that because we have a separate chapter for energy activities, this group of activities should be separated out from “infrastructure” for clarity. I do note however that both energy activities and infrastructure are defined terms and all the activities in the definition of “energy activities” are included in the definition of “infrastructure”.
 - b) Add “including critical infrastructure”. I have recommended rejecting this in relation to the provisions in the Notable Trees chapter. I note that the Energy Infrastructure and Transport s42A recommends changing all references in the Plan from Critical Infrastructure to Regionally Significant Infrastructure. But as Regionally Significant Infrastructure is a subset of Infrastructure, I consider it is unnecessary to include the term “including Regionally Significant Infrastructure” in many locations.
 - c) Adding “technical, locational and operational constraints or requirements” – in light of the discussion at hearing 1, and my right of reply, I now recommend in all instances for this report and others that only “operational need and functional need” should be included as I consider this also covers the technical and locational aspects.

Recommended Amendments to the Plan

That the following Advice Note be added to Rules TREE – R2 and TREE – R3:

Advice Note: When approving an arboricultural contractor in relation to this rule, the Council will consider the following matters:

1. Whether the contractor has a New Zealand Certificate of Horticultural Services or equivalent qualification.
2. Whether the contractor has significant experience in tree pruning of the type proposed.