

**IN THE ENVIRONMENT COURT
AT CHRISTCHURCH
I TE KŌTI TAIAO O AOTEAROA
KI ŌTAUTAHĪ**

Decision No. [2026] NZEnvC 185

IN THE MATTER

of the Resource Management Act 1991

AND

an appeal under clause 14 of the First
Schedule of the Act

BETWEEN

WESTPOWER LIMITED

(ENV-2025-CHC-133)

Appellant

AND

TE TAI O POUTINI PLAN
COMMITTEE

Respondent

Environment Judge K G Reid – sitting alone under s279 of the Act

In Chambers at Christchurch

Date of Consent Order: 14 July 2026

CONSENT ORDER

A: Under s279(1)(b) RMA,¹ the Environment Court, by consent, orders that:

- (1) the appeal is allowed to the extent that the changes shown in Appendix A are made to the Te Tai o Poutini Plan;
- (2) the appeal points allocated to Topic 12: TREE – Notable Trees, are



¹ Resource Management Act 1991.

- resolved in full;
- (3) the appeal remains open.

B: Under s285 e RMA, there is no order as to costs.

REASONS

Introduction

[1] This proceeding concerns an appeal by Westpower Limited against the decision of the Te Tai o Poutini Plan Committee on the Te Tai o Poutini Plan (TTPP).

Agreement reached

[2] I have read and considered the consent memorandum of the parties dated 9 July 2026 which proposes to resolve the appeal in respect of the Notable Trees chapter of the TTPP.

[3] The parties have agreed to:

- (a) amend TREE – O3. The parties consider this amendment maintains focus on outcomes supporting protection of the values associated with the notable trees identified in Schedule 2, while recognising that trimming, pruning or removal may be required in some circumstances. The parties agree that ‘regionally significant’ infrastructure sets an appropriate standard for the kinds of infrastructure that will be relevant under this objective;
- (b) add a new policy, as TREE – P7. The parties consider this new policy should be inserted to recognise and provide for the circumstances where it may be appropriate to remove a notable tree;
- (c) amend TREE – P2. This amendment to TREE – P2 changes the focus of the policy from protection to the identification and inclusion

of notable trees in Schedule 2, as protection is addressed in another policy (TREE – P1);

- (d) amend TREE – P4. The parties consider that it is appropriate to amend this policy to recognise the trimming and pruning that may be necessary for the provision and operation of infrastructure and energy activities. ‘Infrastructure’ is more broadly defined in the TTPP than ‘network utility’ infrastructure and includes infrastructure such as pipelines and drainage works as well as network utility infrastructure;
- (e) amend TREE – P5. The parties consider that this amendment appropriately recognises the functional need or operational need of infrastructure and energy activities in this policy, using terminology consistent with the rest of the TTPP;
- (f) amend TREE – R2 to include recognition of the operation of existing infrastructure and energy activities;
- (g) amend TREE – R3 to include recognition of the operation of existing infrastructure and energy activities;
- (h) amend TREE – R4. The parties consider the wording of matter of discretion c. should be changed to use the defined term ‘operational need’ and that it is also appropriate to include benefits to the community as an additional matter of discretion;
- (i) amend TREE – R5. The parties consider that the changes to the heading of TREE – R5 are necessary because of the changes to the related TREE – P4 and TREE – P5. The parties consider that the changes to the matters of discretion should be made for the same reasons as set out for TREE – R4 above; and
- (j) amend TREE – R6. The parties consider that these changes should be made for the same reasons as set out for TREE – R4 above.

Other relevant matters

[4] Buller District Council, Manawa Energy Limited, and Royal Forest and Bird Protection Society of New Zealand Incorporated have given notice of an intention

to become parties under s274 of the RMA and have signed the memorandum setting out the relief sought.

[5] The following s274 parties to the Westpower Limited appeal indicated they have no interest in these specific appeal points:

- (a) Bathurst Resources Limited and BT Mining Limited;
- (b) Buller Electricity Limited;
- (c) Federated Farmers of New Zealand;
- (d) Te Rūnanga o Ngāti Waewae and Te Rūnanga o Makaawhio (collectively, Poutini Ngāi Tahu) and Te Runanga o Ngāi Tahu; and
- (e) Transpower New Zealand Limited.

[6] The consent memorandum records the parties' assurances that all matters proposed for the court's endorsement fall within the court's jurisdiction and conform to the relevant requirements and objectives of the Act including, in particular, Pt 2.

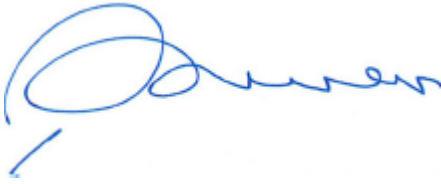
[7] No party seeks costs, all parties agreeing that costs should lie where they fall.

Orders

[8] The court makes this order under s279(1) RMA, by consent, rather than as a decision or determination on the merits under s297.

[9] The court understands, for present purposes, that all relevant parties to the proceeding have executed the memorandum requesting the orders.

[10] Based on the information provided, the court is satisfied that the orders will promote the purpose of the RMA. Accordingly, the appeal is allowed to the extent that the changes shown in Appendix A are made to the Te Tai o Poutini Plan.



K G Reid
Environment Judge

Appendix A

Where provisions are amended, additions are shown in underline and deletions are shown in ~~striketrough~~.

Amend TREE – O3 as follows:

To provide for the protection of notable trees ~~while recognising instances where trimming and/or pruning is required where this~~ while recognising that trimming, pruning, or, where necessary, removal may be required for specific reasons, including:

- a. ~~may improve the health of the tree~~ improving the health of the tree, or
- b. ~~is needed for safety reasons including the safe operation of infrastructure and energy activities; and recognise that there may be instances where removal of the tree is unavoidable due to safety requirements~~ ensuring safety, including the safe operation of regionally significant infrastructure and energy activities.

Insert new policy TREE – P7 as follows:

Recognise and provide for circumstances where it is appropriate to remove a notable tree due to the functional need or operational need of regionally significant infrastructure and energy activities.

Amend TREE – P2 as follows:

Notable Trees are identified and included in Schedule Two where these have ~~with~~ notable botanical, aesthetic, cultural or historic value are protected.

Amend TREE – P4 as follows:

Allow the trimming and pruning of notable trees and activities in the root protection area where the works:

- a. Retain or improve the health of the tree; or

- b. Are necessary to prevent a serious threat to property and people; or
- c. Are necessary for the ongoing provision and operation of infrastructure and energy activities; or
- d. Are for the maintenance of ~~network-utility~~ infrastructure and energy activities to enable compliance with relevant safety standards.

Amend TREE – P5 as follows to insert new paragraph (f):

Ensure that any activity within the root protection area of a notable tree is appropriate having regard to:

- a. The values of the tree and its setting;
- b. If the tree is identified for cultural values, the outcomes of any discussion with and/or assessment undertaken by Poutini Ngāi Tahu;
- c. Whether the activity will compromise the tree's health or result in a reduction or loss of its values;
- d. The impact of the activity on the stature, form or shape, health and vigour, structural integrity and life expectancy of the tree; ~~and~~
- e. Whether the tree renders a site incapable of reasonable use; and
- f. The functional need or operational need of infrastructure and energy activities.

Amend TREE – R2 as follows:

Activity Status Permitted

Where:

- 1. The trimming and/or maintenance is:
 - i. Necessary to improve, maintain or monitor tree health; or

- ii. To enable the ongoing provision and operation of existing infrastructure or energy activities; or
- iii. For compliance with relevant electricity hazard regulations; or
- iv. To prevent a serious threat to people or property; and

2. A council approved arboricultural contractor has certified that the works will not compromise the ongoing integrity, viability or values of the notable tree.

Advice Notes: 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.

Amend TREE – R3 as follows:

Activity Status Permitted

Where:

- 1. The root pruning will not compromise the integrity, ongoing viability and values of the tree; and
- 2. Any machinery associated with undertaking the root pruning is only operated on top of paved surfaces or with ground protection methods use which avoid compaction of the soil around the root zone of the notable tree; and
- 3. The pruning is:
 - i. Necessary to improve, maintain or monitor tree health; or
 - ii. To enable the ongoing provision and operation of existing infrastructure or energy activities; or

- iii. For compliance with the relevant electricity hazard regulations; or
 - iv. To prevent a serious threat to people or property; and
4. A council approved arboricultural contractor has certified that the work will be in accordance with 1 and 2.

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.

Amend TREE – R4 as follows:

Activity Status Restricted Discretionary

Where:

- 1. These will not result in the death or serious threat to the life of the tree as certified by a council approved arboricultural contractor.

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.

Discretion is restricted to:

- a. The potential impact of the activity on the integrity, ongoing viability, and values of the scheduled notable tree;
- b. Effects on amenity values of public places;
- c. Whether there is an operational need or functional need for the activity to be located within the root protection area; and

- d. Whether any practicable alternatives are available to avoid the activity occurring in the root protection area; and
- e. The benefits to the community of the activity occurring.

Amend TREE – R5 as follows (including amendments to the title of TREE – R5 as shown):

TREE - R5 Works for new and existing ~~Network Utilities and Infrastructure~~ and energy activities Within the Root Protection Area of a Notable Tree identified in Schedule Two not meeting Permitted Activity Standards

Activity Status Restricted Discretionary

Where:

1. These will not result in the death or serious threat to the life of the tree as certified by a council approved arboricultural contractor.

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.

Discretion is restricted to:

- a. The potential impact of the activity on the integrity, ongoing viability, and values of the scheduled notable tree;
- b. Effects on amenity values of public places;
- c. Whether there is an operational need or functional need for the activity to be located within the root protection area; and
- d. Whether any practicable alternatives are available to avoid the activity occurring in the root protection area; and
- e. The benefits to the community of the activity occurring.

Amend TREE – R6 as follows:

Activity Status Restricted Discretionary

Where:

1. These will not result in the death or serious threat to the life of the tree as certified by a council approved arboricultural contractor.

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.

Discretion is restricted to:

- a. The potential impact of the activity on the integrity, ongoing viability, and values of the scheduled notable tree;
- b. Effects on amenity values of public places;
- c. Whether there is an operational need or functional need for the activity to be located within the root protection area; ~~and~~
- d. Whether any practicable alternatives are available to avoid the activity occurring in the root protection area; and
- e. The benefits to the community of the activity occurring.

