

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

Decision No. [2026] NZEnvC 247

IN THE MATTER

of the Resource Management Act 1991

AND

appeals under clause 14 of the First
Schedule of the Act

BETWEEN

BIRCHFIELD COAL MINES
LIMITED

(ENV-2025-CHC-103)

and others listed in Appendix A

Appellants

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: 23 September 2026

CONSENT ORDER

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



¹ Resource Management Act 1991.

- (1) the appeals are allowed to the extent that the changes shown in Appendix B are made to the Te Tai o Poutini Plan;
- (2) the following appeal points allocated to Topic 11: Historic Heritage, are resolved in full:
 - (i) Overview;
 - (ii) HH-P7;
 - (iii) HH-P10;
 - (iv) HH-R4;
 - (v) HH-R6;
 - (vi) HH-R10;
 - (vii) HH-M4; and
 - (viii) Schedule 1.
- (3) the appeal points on HH-P6 remain outstanding; and
- (4) the appeals remain open.

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

REASONS

Introduction

[1] These proceedings concern appeals by Birchfield Coal Mines Limited (BCM), Taiko Critical Minerals Limited, Bathurst Resources Limited and BT Mining Limited (Bathurst Resources), Buller Conservation Group, and Westpower Limited (Westpower), 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 10 August 2026 which proposes to resolve the following provisions of the Historic Heritage chapter of the TTPP that are subject to appeal:

- (a) Overview;
- (b) HH-P7;
- (c) HH-P10;
- (d) HH-R4;
- (e) HH-R6;
- (f) HH-R10;
- (g) HH-M4; and
- (h) Schedule 1.

Overview and HH-M4

[3] In their appeal, Westpower sought changes to the Overview.

[4] The parties agree that the Overview should be amended to clarify that any changes to historic heritage items listed in Schedule One would need to go through a plan change process.

[5] The parties also agree that it is necessary and desirable to make a consequential change to HH-M4 where it refers to further assessments of historic heritage items listed in Schedule One to also clarify in this part of the chapter that any changes to historic heritage items listed in Schedule One would need to go through a plan change process.

HH-P7

[6] In their appeals, Westpower and Bathurst Resources sought amendments to HH-P7 dealing with demolition and destruction of historic heritage items identified in Schedule One.

[7] Westpower sought any technical locational, functional or operational constraints or requirements of energy activities be included as a consideration.

[8] The parties agree that functional need or operational need of regionally significant infrastructure should be added to this policy as a matter of consideration, for consistency with relevant national direction and terminology throughout the Plan.

[9] Bathurst Resources sought amendment to HH-P7 to not necessarily require assessment by a suitably qualified heritage professional in every circumstance.

[10] The parties agree that assessment by a heritage professional may not always be required to address the relevant matters for consideration under this policy. The parties agree the wording of the policy should be amended to reflect this.

HH-P10

[11] In their appeal, Westpower sought changes to the wording of HH-P10 relating to allowing new infrastructure on or within historic heritage items or areas identified in Schedule One.

[12] The parties agree that policy HH-P10 should be amended to provide for regionally significant infrastructure on or within historic heritage items or areas identified in Schedule One where it can be demonstrated that it has a functional need or operational need which means that there is no practicable alternative to its location.

[13] The parties consider that the proposed amendments are consistent with relevant national direction and the objectives of the Historic Heritage Chapter.

HH-R4

[14] In their appeal, Westpower sought amendments to HH-R4 to:

- (a) add new energy connections to the controlled activity rule;
- (b) remove the requirement for the application to be accompanied by

evidence of the outcome of consultation with Heritage New Zealand Pouhere Taonga (HNZPT) or demonstration of how the connection accords with any guidelines developed in consultation with HNZPT.

[15] The parties agreed that rule HH-R4 should be amended as sought by Westpower and that an advice note should be added to refer to the potential need for an application to be accompanied with evidence of the outcome of consultation with HNZPT or demonstration of how the connection accords with any guideline in consultation with HNZPT.

HH-R6

[16] In their appeal, Westpower sought that a further matter of discretion relating to any technical, locational, functional or operational constraints or requirements of energy activities be added to HH-R6 (applying to repairs maintenance and other specified activities where permitted activity standards are not met or additions and alterations to historic heritage items identified in Schedule One).

[17] The parties agreed that HH-R6 should be amended as sought by Westpower for similar reasons as referred to above.

HH-R10

[18] In their appeal, Westpower sought to change HH-R10 from non-complying activity status to discretionary activity status.

[19] The parties agreed at mediation that HH-R10 should remain non-complying. Following mediation, on 6 July 2026, Westpower advised the court of withdrawal of this appeal point.

HH-M4

[20] In their appeal, BCM sought clarification of HH-M4 and the process for any changes to any historic heritage items listed in Schedule One.

[21] There is a question whether BCM has scope to seek this relief. The parties consider that this scope question does not need to be resolved, however, due to the changes to HH-M4 required as a consequence of Westpower's appeal on the Overview (addressed above).

[22] BCM's appeal point on this provision is resolved on this basis.

Schedule 1

[23] In their appeal, Buller Conservation Group sought inclusion of the Chasm Creek Walkway as a railway heritage item.

[24] The Chasm Creek Walkway is recorded as an archaeological site in the NZAA database and has been subject to expert assessment, including by Dr Anne McEwan as part of the TTPP hearing process.

[25] The parties agree that the historic values of the Chasm Creek Walkway site warrant its inclusion in Schedule One.

Other relevant matters

[26] The following parties gave notice of an intention to become interested parties to the appeals under s274 RMA, and have signed the memorandum setting out the relief sought:

- (a) Bathurst Resources Limited and BT Mining Limited;
- (b) Birchfield Coal Mines Limited;
- (c) Birchfields Ross Mining Limited;

- (d) BRM Developments Limited;
- (e) Buller District Council;
- (f) Director-General of Conservation;
- (g) Manawa Energy Limited;
- (h) New Zealand Minerals Council;
- (i) Royal Forest and Bird Protection Society of New Zealand Incorporated;
- (j) Tāiko Critical Minerals Limited
- (k) Tasman Mining Limited;
- (l) Te Rūnanga o Ngāti Waewae, Te Rūnanga o Makaawhio and Te Rūnanga o Ngāi Tahu; and
- (m) Westpower Limited.

[27] The following parties withdrew their interest in the Topic 11 appeal points prior to mediation:

- (a) John Caygill;
- (b) Federated Farmers of New Zealand Incorporated; and
- (c) New Zealand Coal and Carbon Limited.

[28] The following appeal points on policy HH-P6 allocated to Topic 11 remain outstanding:

- (a) appeal by Tāiko Critical Minerals Limited;
- (b) appeal by BCM; and
- (c) appeal by Westpower.

[29] 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.

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

Orders

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

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

[33] 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 B are made to the Te Tai o Poutini Plan.



K G Reid
Environment Judge



Appendix A – List of appellants and section 274 parties

Appellants

ENV-2025-CHC-000103	Birchfield Coal Mines Limited
ENV-2025-CHC-000108	Tāiko Critical Minerals Limited
ENV-2025-CHC-000121	Bathurst Resources Limited & BT Mining Limited
ENV-2025-CHC-000125	Buller Conservation Group
ENV-2025-CHC-000133	Westpower Limited

Section 274 Parties

Bathurst Resources Limited & BT Mining Limited
 Birchfield Coal Mines Limited
 Birchfields Ross Mining Limited
 BRM Developments Limited
 Buller District Council
 Director-General of Conservation
 Federated Farmers of New Zealand
 Manawa Energy Limited
 New Zealand Minerals Council
 Royal Forest and Bird Protection Society of New Zealand Incorporated
 Tāiko Critical Minerals Limited
 Tasman Mining Limited
 Te Rūnanga o Ngāti Waewae, Te Rūnanga o Makaawhio and Te Rūnanga o Ngāi Tahu
 Westpower Limited



Appendix B – Changes to the TTPP

Amend Overview to read (underline indicates words agreed to be inserted and ~~striketrough~~ the words to be deleted):

Overview

Items, areas, memorials and buildings may have historic heritage values if they are places or objects that people associate with their identity, history, and events or cultural traditions.

Historic heritage values are important because they provide a tangible insight into our past and can be an important source of knowledge, and a social and cultural link to the past that is important to the community. The destruction or damage of heritage values can cause the loss of this knowledge, as well as a social/cultural link to the past.

As well as meeting the specific duties under section 6 of the Resource Management Act 1991, protecting historic heritage values can help teach people about their past, foster a sense of identity and community, and provide economic opportunities in heritage, tourism, recreation, restoration, and marketing.

Te Tai o Poutini Plan manages different types of historic heritage.

Historic Heritage items are listed in Schedule One, Schedule Two and Schedule Three. Schedule One predominantly covers the built and colonial heritage and also identifies if there are any interior elements of a heritage building that are also protected. Schedule Two covers notable and heritage trees that are important to the community and Schedule Three reflects Poutini Ngāi Tahu historic heritage areas.

Historic areas are also identified in Schedule One. There are eight historic areas - Denniston Historic Area, Reefton Historic Area, Waiuta Historic Area, Greymouth Railway Station Historic Area, Moana Railway Station Historic Area, Brunner Mines Historic Area, Jack's Mill School Historic Area and Ross Historic Area.

Under the Heritage New Zealand Pouhere Taonga Act 2014, archaeological sites are any place in Aotearoa me te Waipounamu/ New Zealand (including buildings and structures) that are associated with pre-1900 human activity, where there is evidence relating to the history of

Aotearoa me te Waipounamu/New Zealand that can be investigated using archaeological methods. There are a large number of archaeological sites identified in Te Tai o Poutini/the West Coast. While all archaeological sites are protected under the Heritage New Zealand Pouhere Taonga Act 2014, archaeological sites predominantly related to European colonial history of particular significance to the community on Te Tai o Poutini/the West Coast are included in Schedule One and the Historic Heritage rules also apply to these archaeological sites. This schedule can also contain post -1900 items and areas. The archaeological sites listed in Schedule One, while an important part of Te Tai o Poutini/the West Coast, are not the full list. Alongside this, the New Zealand Archaeological Association has identified a list of archaeological sites of Māori origin. Further investigation is required to ensure the exact spatial location and extent of these archaeological sites, therefore these are included in Appendix Ten for information. This appendix raises awareness for plan users, particularly resource consent applicants, of the increased likelihood of discovering archaeological material of Māori origin in the vicinity of these areas. Appendix Ten will be mapped and included as an "Alert Layer" on the e-plan maps. The Councils will continue to work with both Heritage New Zealand Pouhere Taonga and Poutini Ngāi Tahu over the next ten years to ensure that the archaeological sites of Māori origin are accurately mapped. ~~before being considered for inclusion in~~ Any changes to Schedule One via would be required to go through a plan change process.

Historic heritage and archaeological sites are also important to Poutini Ngāi Tahu for values other than historic heritage. Some of these sites and areas are identified, with other Sites and Areas of Significance to Māori, in Schedule Three. Notable trees of value to Poutini Ngāi Tahu are identified in Schedule Two. Where a site is scheduled in multiple locations, the provisions of all chapters must be considered. Some objectives and policies of this chapter also apply to sites listed only in Schedule Two or Schedule Three.

.....

Amend policy HH-P7 to read (underline indicates words agreed to be inserted and ~~striketrough~~ the words to be deleted):

HH - P7

Demolition and destruction of a historic heritage item identified in Schedule One will not be allowed unless it can be demonstrated, through investigation and assessment by a suitably qualified or experienced ~~heritage~~ professional that:

- a. The extent of the work required to retain the heritage items is of such a scale that the heritage values and integrity of the heritage item would be significantly compromised;
- b. The item poses a significant risk to public safety and there is no practicable alternative to make the site safe;
- c. The costs to retain or repair the heritage item would be unreasonable;
- d. All other viable alternatives, including relocation and repositioning, have been fully considered; or
- e. There is a functional need or operational need for regionally significant infrastructure.

Amend policy HH-P10 to read (underline indicates words agreed to be inserted and ~~striketrough~~ the words to be deleted):

~~Only allow~~ Provide for regionally significant infrastructure on or within historic heritage items or areas identified in Schedule One where it can be demonstrated that it has a ~~a-~~ functional need or operational need ~~of the infrastructure which~~ means that there is no practicable alternative to its location; ~~and~~

- a. ~~the infrastructure will protect and maintain the heritage values of the item or area.~~

Amend rule HH-R4 to read (underline indicates words agreed to be inserted and ~~strike through~~ the words to be deleted):

**HH-R4 New Infrastructure or new Energy Connections
to a Historic Heritage Item identified in
Schedule One**

Activity Status Controlled

Where:

1. The new infrastructure or new energy connection is to a historic heritage building listed in Schedule One; ~~and~~
2. ~~—— The application is accompanied by evidence of the outcome of consultation with Heritage New Zealand - Pouhere Taonga (HNZPT) or demonstration of how the connection is in accordance with any guideline developed by the infrastructure provider in consultation with HNZPT.~~

Matters of control are:

- a. The location of the customer's connection to the heritage building;
- b. The physical impact / damage to the heritage building; and
- c. Visual impact and how the visual impact might affect heritage value.

Advice Notes:

1. Where work is proposed that could modify an archaeological site (regardless of whether the site is scheduled as an archaeological site in Te Tai o Poutini Plan or not) obtaining archaeological authority from Heritage New Zealand - Pouhere Taonga (HNZPT) is required before any work starts.
2. Any application under this rule may need to be accompanied with evidence of the outcome of consultation with Heritage New Zealand - Pouhere Taonga (HNZPT) or demonstration of how the connection is in accordance with any guideline developed by the infrastructure provider in consultation with HNZPT.

Amend rule HH-R6 to read (underline indicates words agreed to be inserted and ~~striketrough~~ the words to be deleted):

**HH-R6 Repairs and Maintenance, Earthquake
Strengthening, Fire Protection, Service
Connection and Accessibility Upgrades where
Permitted Activity standards are not met, or
Additions and Alterations to Historic Heritage
Items identified in Schedule One**

Activity Status Restricted Discretionary

Discretion is restricted to:

- a. The form and materials in relation to the historic heritage item and its setting;
- b. Methods to minimise the loss or destruction of the values which contribute to the item's historic heritage values as assessed by a suitably qualified or experienced heritage professional;
- c. The treatment of the exterior, including the façade;
- d. The ongoing maintenance and enhancement of the historic heritage values of the item;
- e. The long-term viability, retention or ongoing functional use of the item;
- f. Whether the works are in accordance with good practice conservation principles and methods as assessed by a suitably qualified or experienced heritage professional;
- g. If the historic heritage item is located within a historic heritage area, that the works do not compromise the ability to interpret the historic heritage area; ~~and~~
- h. Whether the works complement the form, fabric and setting of the historic heritage area; and
- i. The functional need or operational need of infrastructure and energy activities.

Activity status where compliance not achieved: N/A

Amend method HH-M4 to read (underline indicates words agreed to be inserted and ~~striketrough~~ the words to be deleted):

HH-M4

Detailed documentation of historic heritage values of items, areas and archaeological sites listed in Schedule One will be undertaken by the end of 2026. ~~The record of these assessments will be placed on the Te Tai o Poutini Plan website and directly linked to Schedule One.~~ Any changes to Schedule One via would be required to go through a plan change process. Priorities for assessment are as follows:

1. Those items and areas which are on private land or are privately owned.
2. Items and areas on Crown land outside of the public conservation estate.
3. Items and areas on district or regional council lands.

Amend Schedule One to read (underline indicates words agreed to be inserted and ~~striketrough~~ the words to be deleted):

Schedule One

SCHED1A- SCHEDULE OF HISTORIC HERITAGE ITEMS AND AREAS				
Unique Identifier	Name, Physical Address, Legal Address	Historic Heritage Values	Extent	Heritage New Zealand Pouhere Taonga Listing Reference and Category
Buller District				
<u>HH42A</u>	<u>Chasm Creek Walkway, Between the Mokihinui-Seddonville Road & the Mokihinui River. (NZTM E1514739 N5400235)</u>	<u>Railway heritage (bridge, railway and tunnel features)</u>	<u>Land Parcel 3660106</u>	<u>NZAA SITE NUMBER: L28/36</u>

