

**Before the Hearings Panel  
At Waimakariri District Council**

**Under** Schedule 1 of the Resource Management Act 1991

**In the matter of** the Proposed Waimakariri District Plan

**Between** **Various**

**Submitters**

**And** **Waimakariri District Council**

**Respondent**

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**Council reply on Energy and Infrastructure and Transport – Andrew  
Maclennan on behalf of Waimakariri District Council**

**Date: 29 September 2023**

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## **INTRODUCTION:**

- 1 My full name is Andrew MacLennan I am a consultant Planner for Waimakariri District Council.
- 2 I have read the evidence and tabled statements provided by submitters relevant to the Section 42A Reports - Energy and Infrastructure and Transport.
- 3 I have prepared this Council reply on behalf of the Waimakariri District Council (**Council**) in respect of matters raised through Hearing Stream 5.
- 4 Specifically, this statement of evidence relates to the matters in the Section 42A Report - Energy and Infrastructure and Transport.
- 5 I am authorised to provide this evidence on behalf of the District Council.

## **QUALIFICATIONS, EXPERIENCE AND CODE OF CONDUCT**

- 6 Appendix D of my section 42A report sets out my qualifications and experience.
- 7 I confirm that I am continuing to abide by the Code of Conduct for Expert Witnesses set out in the Environment Court's Practice Note 2023.

## **SCOPE OF REPLY**

- 8 This reply follows Hearing Stream 5 held on 21 – 24 August 2023. Minute 9 from the Hearing Panel requires Section 42A report author's respond to the Hearing Panels questions by 4pm Friday 29 September 2023, with a complete final reply to be provided to the Hearing Panel by 30 November 2023.
- 9 This reply answers to questions posed by the Panel within Minute 9.

## **Answers to questions posed by the Panel**

### Use of 'manage' in policy

*In all reply reports, please provide any updated recommended amendments having heard the questions from the Hearings Panel and listened to expert responses on the use of manage in a policy framework.*

- 10 I retain the view that the term 'manage' can enable range of management methods, and is a commonly used within plan drafting. I consider 'managing' adverse effects could include: avoiding, remedying, mitigating, offsetting, compensation. I consider that when 'manage' is used within an objective or policy framework it is important that there is additional detail provided as to how the effects will be managed. For example, I consider the use of the term 'manage' within the chapeau of EI-P5 is appropriate, as the following clauses within the policy detail the management approaches to be applied. When used on its own without further qualification I consider the term 'manage' provides little direction as to the intended outcome or action.
- 11 In the context of EI-O2, I have recommended within my s42A replacing 'avoided, remedied, mitigated', with 'manage' without further detailing which management approach is required. On reflection, I acknowledge that using the term 'manage' does not provide direction on the intended outcome. I consider the objective should list the suite of management methods used within the policies of the EI chapter. As such, I recommend that 'avoided, remedied, mitigated' is retained within EI-O2.
- 12 I note that 'offsetting' in the context of biodiversity is also provided for as a management method within EI-P5(5). I consider offsetting within EI-P5(5) is specific to biodiversity offsetting and achieves the requirements of ECO-O1. Therefore, I consider reference to offsetting more generally is not required within EI-O2.

#### Recommendation

- 13 I recommend that EI-O2 be amended as follows:

*Adverse effects of energy and infrastructure on the qualities and characteristics of surrounding environments and community well-being are avoided, remedied or mitigated, while taking into account their operational and functional needs<sup>1</sup>.*

#### EI and HH

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<sup>1</sup> MainPower [249.53], CIAL [254.27] and Waka Kotahi [275.12]

*Mr Maclennan and Ms Steven are to provide a joint response and final recommendations in respect of the request from the Telcos to change the activity status for customer connections in EI-R4 from restricted discretionary to controlled.*

14 As Ms Steven is on annual leave currently, I suggest a response to this question is included within our final reply reports to be provided to the Hearing Panel on 30 November 2023.

#### EI-P4 and TRAN-P2

*Having heard from submitters and responded to questions from the Hearings Panel on TRAN-P2 and EI-P4, please provide any updated recommendations in respect to these policies. In particular, please consider the appropriateness of these policies, where they would best be located, and whether there is scope to move their location.*

15 Starting with EI-P4, firstly in relation to the scope, I note that three parties seek slight amendments to particular clauses within the policy. Of those seeking amendments, I have agreed to the amendments sought by ECan [316.20] and I have agreed in part to the amendment sought by Kainga Ora [325.25]. The only amendments that were not supported were a change to the chapeau sought by Federated Farmers and the deletion of clause (8) sought by Kainga Ora. Given this, the scope for additional change within this policy is very limited.

16 I have re-considered submission from Kainga Ora [325.25] seeking the removal of clause (8) of this policy. I now agree that this clause does not relate to an energy and infrastructure activity. Therefore, I recommended deletion of this clause. Beyond this amendment I consider there is no scope to amend this policy further or recommend it be relocated. If the Hearing Panel were of a view that there was an ability through clause 16 of the RMA to relocate this policy, I would suggest that this policy is more appropriately located within RESZ-P4 of the Proposed Plan which relates to sustainable design of buildings in the residential zone.

17 Turning to TRAN-P2, again the scope provided in submissions is somewhat limited. Parties largely sought amendments to specific

clauses within the policy, most of which I supported as set out within paragraphs 108 – 112 of the s42A report.

- 18 Waka Kotahi's submission [275.18] considered that Clauses (6), (7) and (8) are not specific to the Transport chapter and suggested these clauses seek broader measures relating to environmental sustainability. The submission sought the deletion, relocation, or redrafting of these clauses.
- 19 I have re-considered the submission of Waka Kotahi and I agree that clauses (6) – (8) are not specific to transport activities. I also note that given the aspirational nature of the drafting of the policy ('Encourage ..... where possible'), I consider the outcomes listed within clauses (6), (7) and (8) would need to be offered by an applicant rather than being required by the Council as there are not methods that implement this policy direction.
- 20 Given the lack of specificity to the transport topic I recommended that clauses (6) – (8) be removed from the policy.

#### Recommendation

- 21 I recommend that EI-P4 be amended as follows:

##### ***Environmentally sustainable outcomes***

*Encourage ~~Seek more~~<sup>2</sup> more environmentally sustainable outcomes associated with energy and infrastructure, where possible<sup>3</sup>, including by ~~promoting~~<sup>4</sup>:*

- 1. the use of green infrastructure;*
- 2. the increased utilisation of renewable resources;*
- 3. the use of low impact approaches (such as in site, route or structure selection or construction methodology);*
- 4. using low carbon materials in construction;*
- 5. changing the way activities that generate high greenhouse gas emissions are delivered;*
- 6. offsetting greenhouse gas emissions through activities such as planting carbon sequestering trees excluding wilding or pest species<sup>5</sup>, or the establishment and restoration of wetlands; and*

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<sup>2</sup> Kainga Ora [325.25]

<sup>3</sup> Kainga Ora [325.25]

<sup>4</sup> Kainga Ora [325.25]

<sup>5</sup> ECAN [316.20]

7. energy efficiency and conservation practices, including use of energy efficient design, renewable energy and renewable electricity generation;~~and.~~

~~8. building design with a Homestar™ certification rating of at least 6 for residential buildings, or a Green Star rating of at least 4 for commercial buildings, to assist in reducing energy consumption and greenhouse gas emissions.<sup>6</sup>~~

22 I recommend that TRAN-P2 be amended as follows:

**Environmentally sustainable outcomes**

~~Seek more~~ Promote<sup>7</sup> environmentally sustainable outcomes associated with transport, including ~~by promoting~~<sup>8</sup>:

1. the use of public transport, active transport and sustainable forms of transport;
2. the use of green infrastructure;
3. the increased utilisation of renewable resources;
4. the use of low impact approaches (such as in site, route or structure selection or construction methodology);
5. using low carbon materials in construction;
- ~~6. changing the way activities that generate high greenhouse gas emissions are delivered;~~
- ~~7. offsetting greenhouse gas emissions, where there is a strong likelihood that the offsets will be achieved in perpetuity,<sup>9</sup> through activities such as planting carbon sequestering trees (excluding wilding or pest species)<sup>10</sup> or the establishment and restoration of wetlands; and~~
- ~~8. energy efficiency and conservation practices.<sup>11</sup>~~

Transport chapter

Please respond to the Panel's question as to how your recommended inclusion of micro-mobility in TRAN-O1 is given effect to through the policies and rules in the Chapter.

23 Within my response to the Hearing Panel questions I noted that the use of micro-mobility devices occurs on infrastructure that is created for pedestrian or cycle use. In this sense, wherever infrastructure for active transport is prioritised (i.e., new shared pathways), this will also be

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<sup>6</sup> Kainga Ora [325.25]

<sup>7</sup> Kainga Ora [325.76]

<sup>8</sup> Kainga Ora [325.76]

<sup>9</sup> ECAN [316.31]

<sup>10</sup> Canterbury Regional Council [316.31]

<sup>11</sup> Waka Kotahi's submission [275.18]

prioritising infrastructure for micro-mobility. Therefore, I considered that provisions that implement walking and cycling will also implement micro-mobility.

24 To provide greater clarity as to how micro-mobility is given effect to in the PDP, I have reflected on whether the term 'micro-mobility' should be included within the PDP wherever the term 'active transport' is used<sup>12</sup>. Or alternatively, whether 'micro-mobility' should be incorporated into the definition of 'active transport'.

25 My view is that it is simpler that 'micro-mobility' is incorporated into the definition of 'active transport'.

#### Recommendation

26 I recommend that definition of 'active transport' is amended as follows:

***active transport** means transport involving modes of travel other than conventional motor vehicles and which rely primarily on human power, such as walking and cycling, and includes electric bikes, electric scooters, electric skateboards and other lightweight personally driven electric devices.*<sup>13</sup>

27 As a consequential amendment I no longer consider 'micro-mobility' should be included within TRAN-O1(5).

*Having heard the Panel's questions and considered submitters' evidence, please advise of any updated recommendation in terms of Kāinga Ora's requested amendments to clause 6 of TRAN-P11.*

28 I retain the view that it is appropriate that clause (6) of TRAN-P11 includes direction on the management of stormwater within parking access and manoeuvring areas. However, I consider this clause should be refined to ensure the focus of the policy is on managing the adverse effects of stormwater runoff, rather than 'water quality' more broadly. I note that this clause is given effect to through TRAN-R12(2)(b)(ii) and

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<sup>12</sup> Active transport is referred to within, TRAN-O1(5), TRAN-P2(1), TRAN-P4(5), TRAN-P5(2), TRAN-P9(2), TRAN-MD-11(1)

<sup>13</sup> MoE [277.15]

TRAN-MD15 which are focused on the stormwater ponding and stormwater runoff.

#### Recommendation

29 I recommend that TRAN-P11(6) is amended as follows:

6. manage ~~the~~ adverse effects ~~of on water quality and~~<sup>14</sup> stormwater runoff, preferably through the use of low impact stormwater management methods, including water sensitive design, and stormwater collection and attenuation of runoff;

*Please respond to the tabled statement of Mr Rowe for the Fuel Companies and Z-Energy*

30 This question is addressed in Mr Wilson's reply.

#### Energy and Infrastructure chapter

*Please respond to Ms McLeod's and Federated Farmers' evidence in respect to EI-R2.*

31 Federated Farmers and Ms McLeod did not provide evidence on EI-R2. I addressed the Federated Farmer and Transpower submissions on EI-R2 within paragraphs 197-198 of my s42A report.

*Please respond to the amendments sought by NZART to the amateur radio provisions.*

32 Amateur radio members expressed concerns with the amendments to EI-R29 in particular they raised concern with the addition of clause 1(A) which reads:

*'any part of a pole above 5m height in relation to infrastructure shall have a maximum diameter of 50mm'*

33 They have correctly identified that I have misinterpreted their submission when drafting this additional clause. I agree with the

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<sup>14</sup> Kainga Ora [325.77]



submitter's oral presentation at the hearing that clause 1(A) of EI-R29 can be deleted.

#### Recommendation

34 I recommend that EI-R29(1A) is amended as follows:

~~1A—any part of a pole above 5m height in relation to infrastructure shall have a maximum diameter of 50mm<sup>15</sup>~~

*If the Hearings Panel was of the view that the benefits of infrastructure should be included in SD-O3, please recommend appropriate wording.*

35 I consider the benefits of infrastructure are not fully captured by the notified drafting of SD-O3. I note that RPS Objective 5.2.2 includes acknowledgement of the benefits of regionally significant infrastructure. The objective within the NPSET also highlights the national significance of the electricity transmission network. Therefore, I consider an addition could be made to SD-O3 to recognise the benefit infrastructure provides to the community without replicating the drafting within the EI chapter.

#### Recommendation

36 I recommend that SD-O3(2) is amended as follows:

*To meet the needs of the community*

*Across the district:*

...

*2 infrastructure, including strategic infrastructure, critical infrastructure and regionally significant infrastructure:*

*aa. is recognised for the benefit it provides to the community;<sup>16</sup>*

*a. is able to operate efficiently and effectively; and*

*b. is enabled, while:*

...

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<sup>15</sup> New Zealand Association of Radio Transmitters, Inc. [157.1]

<sup>16</sup> MainPower [249.20042]

*Given your recommended amendment to EI-R18.1.a to remove the requirement for the attachment to the underside of a bridge etc, is there a need for this clause at all, and is there scope to delete it?*

37 One submission was received on EI-R18 seeking the seek deletion of clauses (1)(a) and (1)(c)<sup>17</sup>. There is no scope for further amendments to this rule. I have re-considered the submission of Chorus, Spark and Vodafone [62.32] in relation to clause 1(a). Within my s42A report<sup>18</sup> I had agreed with the removal of the requirement for pipes, cables, conductors or lines to be attached to the underside of a bridge. However, on reflection this makes the rule more restrictive as it removes the option of attaching pipes, cables, conductors or lines to the underside of a bridge. Therefore, to ensure the more flexibility within the rule I recommend that clause 1(a) is retained as notified. For completeness, I retain the view that clause 1(c) should be deleted.

*Is there scope for EI-R42 to be reconsidered as an exemption of height and height in relation to boundary without the need for a rule?*

38 As notified, EI-R42 enables the establishment of new solar hot water systems as permitted activity subject to meeting a permitted standard. The Daiken NZ submission sought to expand the scope of the permitted activity rule, so it was not confined to installation only on the roof of buildings and within specified zones. This amendment is supported within my s42A report.

39 Permitted standards EI-R42(1)(a) requires that a new solar hot water system on a new building, shall comply with the height in relation to boundary requirement for the zone or adjoining zone. This was not opposed by any submitter. Therefore, in my view I do not think there is scope to delete the rule and include this activity within the height in relation to boundary exemption.

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<sup>17</sup> Chorus, Spark and Vodafone [62.32]

<sup>18</sup> Paragraph 289

**Date:** 29 September 2023

A handwritten signature in black ink, appearing to be 'A. K. M.', written on a light grey rectangular background.

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