

Before an Independent Hearings Panel
appointed by the Waimakariri District Council

under: the Resource Management Act 1991

in the matter of: Submissions and further submissions in relation to the
proposed Waimakariri District Plan, Variation 1 and
Variation 2

and: Hearing Stream 4: Natural Features and Landscapes,
Coastal Environment and Natural Character of
Freshwater Bodies

and: **MainPower New Zealand Limited**
Submitter 249

Statement of Evidence of Melanie Foote

Dated: 30 June 2023

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STATEMENT OF EVIDENCE OF MELANIE FOOTE

INTRODUCTION

- 1 My full name is Melanie Karen Foote and I am a Principal Consultant at Resource Management Group Limited in Christchurch.
- 2 I have over 20 years' experience as a planner for local authorities and consultancies in Queenstown, United Kingdom and Christchurch. I hold a Bachelor of Resource Studies and a Post Graduate Diploma in Resource Studies from Lincoln University. I am a full member of the New Zealand Planning Institute.
- 3 I am familiar with the submission made by MainPower New Zealand Limited (submitter number DPR-0249) (*MainPower*) on 26 November 2021 and the planning issues discussed in that submission. I have been authorised by MainPower to provide evidence on its behalf.
- 4 The key documents I have used, or referred to, in forming my view while preparing this statement are:
 - 4.1 Coastal Environment, Section 42A report and appendices of Peter Wilson for Waimakariri District Council, dated 14 June 2023.
 - 4.2 Natural Character of Freshwater Bodies, Section 42A report and appendices of Peter Wilson for Waimakariri District Council, dated 14 June 2023.
 - 4.3 Natural Features and Landscapes, Section 42A report and appendices of Shelly Milosavljevic for Waimakariri District Council
 - 4.4 Evidence of Mark Appleman for MainPower New Zealand Limited, dated 30 June 2023.
- 5 Terms and coding used in my evidence include:
 - 5.1 MainPower – MainPower New Zealand Limited
 - 5.2 WDC – Waimakariri District Council
 - 5.3 PDP – Proposed Waimakariri District Plan
 - 5.4 WDP – Waimakariri District Plan
 - 5.5 RMA – Resource Management Act

CODE OF CONDUCT

- 6 Although this is not an Environment Court hearing, I note that in preparing my evidence I have reviewed the Code of Conduct for Expert Witnesses

contained in the Environment Court Practice Note 2023. I have complied with it in preparing my evidence on technical matters. I confirm that the technical matters on which I give evidence are within my area of expertise, except where relying on the opinion or evidence of other witnesses. I have not omitted to consider material facts known to me that might alter or detract from my opinions expressed.

SUMMARY OF EVIDENCE

- 7 This evidence largely records MainPower’s agreement with Council’s position, apart from the following matters:

Coastal Environment

- CE-P7 Infrastructure in the coastal environment

Natural Character of Freshwater Bodies

- NATC- P6 New and existing structures within and over freshwater bodies.
- NATC-MD4 Buildings, structures and impervious surface within freshwater body setbacks.
- NATC-MD5 Structures within and over freshwater bodies

Natural Features and Landscapes

- NFL- P1 Protect outstanding natural features
- NFL-P3 Protect outstanding natural landscapes
- NFL-P4 Maintain significant amenity landscapes

SCOPE OF EVIDENCE

- 8 My evidence relates to the submissions and further submissions made by MainPower on the the Coastal Environment, Natural Character of Freshwater Bodies and Natural Features and Landscapes.

MAINPOWERS SUBMISSION ON PLAN STRUCTURE

- 9 MainPower’s submissions included opposition to how the EI Chapter links to other District Plan provisions and sought that appropriate hyperlinks in the EI chapter to relevant rules in other chapters. I note that this issue will be addressed at the EI Hearing, rather than as part of each hearing.

MAINPOWER'S SUBMISSION ON THE COASTAL ENVIRONMENT CHAPTER

CE-04

- 10 As part of the original submission, MainPower sought that CE-04 be adopted as notified. Mr Wilson has recommended a minor amendment¹ to CE-04. I agree with the proposed amendments.

CEP-P2

- 11 MainPower supported CE-P2 this objective as part of the original submission but sought further clarity as to what was meant by 'areas adjoining the CMA' (clause 1). Mr Wilson has proposed an amendments² and I agree with the proposed amendments.

CE-P7

- 12 MainPower supported CE-P7 however sought clarification around the final part of the policy which does not allow for any adverse effects on coastal natural area. Mr Wilson has proposed amendments³ and I agree with these.

CE-MD1

- 13 MainPower supports CE-MD1 however sought an additional clause to recognise the functional or operational need of critical infrastructure to locate in the coastal environment. Mr Wilson has accepted the relief sought in the submission, but this has not been carried through to the proposed amendments in Appendix 1 and no changes are proposed to be made. I maintain my view that the following clause (subject to minor amendment suggested by Mr Wilson) be inserted:

"8. Where there is a functional or operational need to locate infrastructure, or carry out maintenance, repair and upgrade of existing infrastructure, within the coastal environment.

MAINPOWERS SUBMISSION ON NATURAL FEATURES AND LANDSCAPES CHAPTER

NFL-P1, NFL3 and NFL-P4

- 14 MainPower sought that the following additional clause be added to NFL-P1, NFL-P3 and NFLP4:

'Recognise that, due to locational, operational and technical requirements, network utilities may need to be located within areas with natural environment values'.

- 15 Ms Milosavljevic has rejected this submission as he does not consider it necessary for a policy and its related rules(s) to be contained within the same chapter. Mr Wilson considers that the most relevant objectives and

¹ S.42A report of Mark Wilson, dated 14 June 2023, paragraph 116 page 19

² S.42A report of Mark Wilson, dated 14 June 2023, paragraph 132, page 22

³ S.42A report of Mark Wilson, dated 14 June 2023, paragraph 174, page27

policies should be looked at regardless of what chapter they are located in. Further he considers that EI-P5 provides a pathway for considering energy and infrastructure activities to locate within ONF/ONL/SAL where there is a functional or operational need.

16 Ms Milosavljevic goes on to say⁴ that subject to the Hearings Panel agreeing with his assessment in relation to NFL-R5 and R6 seeking exemptions for energy and infrastructure activities that these rules would no longer apply to the activities.

17 On the basis of NFL-R5 and NFL-R6 not being applicable to infrastructure I accept that the additional clause above is not required.

NFL-R5

18 MainPower supported this rule but sought an amendment to provide for the replacement, maintenance and repair and realignment existing utility poles as a permitted activity.

19 Ms Milosavljevic has rejected this submission as he considers that this rule does not apply to energy and infrastructure activities, subject to the Hearings Panel agreeing within his assessment.

20 On this basis that NFL-R5 is no longer applicable, I no longer seek a proposed amendment to the rule. However, should the Panel have a differing view to Mr Wilson and determine the NFL-R5 is in fact applicable, then I seek for the amendment as proposed above.

NFL-R6

21 MainPower sought clarification as part of the original submission that this rule is not applicable to energy and infrastructure activities as the matter is covered by Rule EI-R2.

22 As with NFL-R5, Mr Wilson considers that this rule is not applicable subject to the Hearings Panel agreeing with his assessment. We agree with the assessment of Mr Wilson.

MAINPOWERS SUBMISSION ON NATURAL CHARACTER OF FRESHWATER BODIES CHAPTER

NATC-01, 02 and 03

23 MainPower supported these objectives as notified. Mr Wilson has recommended proposed amendments to the wording on NATC-01 and NATC-03. I agree with the proposed amendments outlined in Appendix A.

NATC-P5

24 MainPower supported this policy but sought further clarity with the addition of 'including the maintenance repair, upgrade, development and operation

⁴ S.42A Report of Mr Wilson, dates 14 June 2014, paragraph 119, page 20.

of critical infrastructure'. Mr Wilson rejected the submission and I agree with his reasons, and I no longer propose the amendments.

NATC-P6

- 25 MainPower supports this policy but sought further clarity by inserting 'or any critical infrastructure' into clause 2. Mr Wilson has recommended rejecting this submission point as he considers that this addition would unnecessarily limit the policy's application to just critical infrastructure rather than testing the functional or operational need of all forms of infrastructure⁵. I agree with Mr Wilson's comments and no longer propose the amendment.
- 26 Mr Wilson has proposed an amendment swapping 'provide for' with 'consider'. I prefer the notified version as it provides a clearer direction to plan users. The use of the words 'consider' is ambiguous and it does not assist Plan users understand the intent of the policy.
- 27 Mr Wilson also proposes to remove the word 'avoid' under clause 5 and insert 'minimises'. I agree with this amendment as it aligns better with the intent of this policy.

NATC-MD4

- 28 MainPower supported this matter of discretion, but sought that an additional matter of discretion be added as follows:
- "The functional and operational need of critical infrastructure to locate within setbacks or for a network utility to carry out maintenance, replacement or repair and upgrade".
- 29 Mr Wilson has recommended rejecting⁶ this insertion as he considers that activities that have a functional or operational need to be within the setback, are already enabled by the policies. While I agree that there is coverage of the operational and functional need at a policy level, I consider that the additional matters of discretion provide a follow through of the policy and to ensure that consideration is given to the functional and operation needs as part of an assessment of a proposal.

NATC-MD5

- 30 MainPower supported this matter of discretion however sought that an additional matter of discretion be added as follows:
- "For critical infrastructure, any functional or operational need to locate over a freshwater body".
- 31 Mr Wilson has recommended rejecting⁷ this insertion as he considers that the support sought for function or operational need is already in NATC-P6.

⁵ S.42a report of Mr Wilson, sated 14 June 2023, paragraph 153, page 25.

⁶ S.42A report of Mark Wilson, dated 14 June 2023, paragraph 368, page 58

⁷ S.42a report of Mark Wilson, dated 14 June 2023, paragraph 378, page 59

While I agree that there is coverage of the operational and functional need at policy level, I consider the additional matters of discretion provides a follow through of the policy and will allow any assessment to be undertaken in this regard.

CONCLUSION

- 32 The provisions, as amended, all support the sustainable management of MainPower's network and obligations as a Lifeline Utility Operator. Subject to the amendments sought, I consider that the relevant chapters/section of the PDP considered as part of my evidence would achieve the purpose and principles of the RMA, along with the outcomes sought by other relevant statutory planning documents.

Dated: 30 June 2023



Melanie Karen Foote