

Before the Independent Hearings Panel  
appointed by the Waimakariri District Council

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*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 5: Noise, Notable Trees, Historic  
Heritage, Signs, Light, Energy and Infrastructure,  
Transport, Earthworks

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

## Summary of Evidence of Melanie Karen Foote

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Dated: 23 August 2023

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## SUMMARY OF MELANIE KAREN FOOTE

- 1 My name is Melanie Karen Foote. I am a Senior Consultant Planner at Resource Management Group here in Christchurch. I have provided a brief of evidence dated 8 August 2023 and I have also provided a brief of evidence for Hearing Stream 1 which is relevant to the issues that are being discussed in this hearing.
- 2 I have read the Panels Questions and Council Officers Preliminary response to the written questions for the various chapters. I have commented on each of the relevant questions and answers in the table below where relevant to MainPower.

### Comments on Council Officers preliminary response to written questions - Energy and Infrastructure

| Para/Plan Reference                                 | Questions   | Officers Preliminary response  | My Comments                                     |
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| 1.<br><br>General Question:<br>Strategic Objectives | <p>1. A number of submitters (including MainPower and CIAL) requested amendments to the Strategic Directive Objectives to better recognise the fundamental importance of infrastructure to the community. MainPower sought the following amendment to SD-03:</p> <p><u>2. the infrastructure needs of the community are fulfilled recognising the social, economic, environmental and cultural benefits that infrastructure provides.</u></p> <p>...</p> <p>Taking into account the recommendations made by Mr Buckley on the SD Chapter, please provide your response to this.</p> | <p>...</p> <p>In reviewing the submissions from MainPower and CIAL, I agree with the views of Mr Buckley. Given this is a strategic objective, I agree with Mr Buckley that the direction within SD-03 needs to remain at a high level and the detail can be fleshed out within the EI chapter. Therefore, replicating the language within EI-01 ("social, economic, environmental and cultural benefits that infrastructure provides") is not supported. Similarly, I disagree that SD-03 needs to include recognition and provision for safe, efficient and effective development, upgrading, maintenance, as this is replicating the language within EI-03.</p> | Legal submissions have addressed this matter.   |
|   | You state: "it is likely that the relevant matters of discretion within the   | This was a matter that was picked up when writing the EI memo to   | While I agree with the proposed amendments this |

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| <p>Para 64</p> <p>Relationship with other chapters</p>                    | <p>protective chapters will be cross referenced within the EI chapter”.</p> <p>When exactly do you intend to undertake this exercise and how does it fit within the Hearing Stream timetable? How will interested submitters be able to respond to any further recommended amendments?</p> | <p>the Hearing Panel and there was not time to include this within my s42A report.</p> <p>Suggested additions to the matters of discretion are included below that follow the current style of matters of discretion. The EI-MD1(8) of the PDP as notified already included cross-reference to:</p> <p>‘Any relevant matter set out in NFL-MD1.’</p> <p>Therefore, I have suggested adopting this same style of cross reference for the HH, TREE, SASM, ECO, NACT, and CE chapters as follows:</p> <p>EI-MD1 - Historic heritage, cultural values and the natural environment ....</p> <p>8. Any relevant matter set out in NFL-MD1, <u>HH-MD1, TREE- MD1, SASM-MD1, SASM-MD2, SASM-MD3, ECOMD1, NACT-MD4, CE-MD1.</u></p> <p>The relevant parties can respond to these additional amendments at the hearing.</p> | <p>question raises a larger issue around the how the plan works and the relationship between chapters, in particular the EI Chapter.</p> <p>I note expert conferencing between planners has been initiated by Mr Maclennan and we will work to resolve the plan integration issue.</p> |
| <p>Para 86 and 88</p> <p>EI-01 Provision of energy and infrastructure</p> | <p>The change recommended in response to Mainpower submission does not appear to make sense in the context of this part of the objective. Should functional and operational need be</p>  | <p>I agree the drafting of the recommended amendments could be improved. My suggestion is in red as follows:</p>  | <p>I agree with the remainder of the changes.</p>  |

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|                       | provided for in a separate part of the objective?  | <p><b>EI-O1 Provision of energy and infrastructure</b></p> <p>Across the District:</p> <p>1. efficient, effective, resilient, safe and sustainable energy and infrastructure, including critical infrastructure, strategic infrastructure and regionally significant infrastructure, is developed and maintained to benefit the social, economic, cultural and environmental well-being of the District, <u>region and nation</u>,<sup>1</sup> including in response to future <u>functional, or operational needs and increased sustainability</u><sup>2</sup> <del>needs such as increased sustainability, and changing techniques and technology;</del><sup>3</sup></p> |  |
| Para 149<br><br>EI-P5 | Para 149 – while RPS provides a pathway for ‘regionally significant infrastructure’, should this be read as not allowing a similar pathway for other infrastructure in sensitive environments via District Plan rules? What is the justification for not providing a pathway for all infrastructure when they are often networks that comprise regionally significant components and local components (for example, the electricity network is linear system that starts with the generator, the transmission and then | I consider it is important to note that this ‘pathway for RSI’ is required because there are provisions that seek the avoidance of adverse effects. In sensitive environments large scale electricity generation or transmission could potentially have an adverse effect on a sensitive environment, whereas the ‘local connection’ is less likely to have the same scale of effects, that would need a particular pathway.   | I note the that the whole electricity distribution network is considered to meet definition of ‘regionally significant infrastructure’ and that there is no non-regionally significant part of the electricity distribution network. |

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|                           | <p>the distribution and associated local connection. There is no point in building the regionally significant part of that network if it can't then reach the end user through the non-regionally significant part of the network).</p>  |  |  |
| <p>Para 162<br/>EI-P5</p> | <p>The Panel notes the following:</p> <ul style="list-style-type: none"> <li>• Typo in first line of EI-P5(1) - 'for' to be deleted</li> <li>• Typo in clause 3 - 'and' to be deleted</li> </ul> <p>....</p> <p>In respect to your recommended amendments to EI-P5:</p> <p>a. Comparing clauses 2 to 3, please explain what the difference is between a more than minor upgrade and a major upgrade. How will those administering the Plan determine this distinction?</p> | <p>I acknowledge there is an inconsistency within clauses (2) and (3) that is not clear. I consider reference to 'major' should be amended to 'more than minor'.</p>   | <p>I agree with the amendments.</p>  |
| <p>Para 176<br/>EI-P6</p> | <p>In line with our earlier question, does replacing 'avoid' with 'manage' affect any NC activity status rules?</p>  | <p>I consider replacing 'manage' with 'avoid' in the context of EI-P6 would create a more restrictive consent framework for breaches to the non-complying activity rules related to reverse sensitivity effects. However, the requirement to 'avoid' or 'manage' effects within EI-P6 is qualified by sub-clause (1) – (3) so it would not require strict avoidance of all</p> | <p>I disagree with this assessment. Non-compliance with Rules EI-54, EI-55 and 56 which manage the effects of activities and development on MEDLs, all lead to a NC activity status for each.</p> <p>I prefer the word 'avoid' as it provides a clearer signal and is more directive that other activities shall</p> |

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|                               |   | <p>reverse sensitivity effects.</p> <p>I note that 'manage' in this context is consistent SD-O3(2)(b) therefore support the retention of manage.</p>  | <p>not compromise or constrain energy and infrastructure activities.</p>   |
| <p>Para 256</p> <p>EI-R12</p> | <p>Does EI R12 allow replacement of a complete line of poles or towers? If so, what are the implications of allowing the width of the poles to be increased 3x under EI-R12(4)?</p>   | <p>Yes, it will, provided the permitted standards are comply with. The effect will be a line of pole with an increased width. Given this relates to the replacement of poles I consider the effects of this will likely be minimal.</p>   | <p>I agree with these comments.</p>  |
| <p>Para 399 and 407</p>       | <p>...</p> <p>In respect of your recommended changes to this rule, can you please explain your rationale for including the requirement for compliance with NZECP, given this is a regulation that applies irrespective of the District Plan? In the same vein, please explain the rationale of your inclusion of clause 3.a, and in particular why this is a matter relevant to the District Plan. In doing so, please consider whether this activity is already managed through other legislation and regulations and whether there is a reason under the RMA to duplicate this. Please also advise as to how this clause would be administered as a permitted activity condition.</p> | <p>The requirement to comply with the NZECP was included within the PDP. My recommendation re-drafted the notified version of the PDP. I note that compliance with the NZECP was also included within the ODP.</p> <p>However, I note that more recently reviewed district plans such as the Selwyn District Plan and the CCC District Plan have not included compliance with NZECP as a permitted standard. Instead, they have integrated the setbacks etc of the NZECP into the rules of the plan and included a reference to the NZECP as an advice note. I do not have a fixed view on which approach is best, but I acknowledge it may be clearer to incorporate the requirements of the NZECP into the PDP.</p> | <p>Legal submissions have addressed this.</p> <p>I note the decisions version of the Partially Operative Selwyn District Plan has a rule requirement EI-REQ2A which requires compliance with NZECP 34.2001. We seek consistency in the approach around this.</p> |

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|                    |   | I consider the expert witnesses for Transpower and Mainpower may be able to provide their views and I can provide my final view in the reply report. |  |
| Para 428           | Please consider whether there needs to be a definition provided for 'major electricity distribution lines'.   | Yes, I think that would add to the readability of the PDP.   | I proposed the following definition:<br><br><u>Major Electricity Distribution Lines:</u><br><br><u>An overhead electricity line that is not part of the National Grid and that is designed and built to operate at a voltage of 33kV or greater as shown on the planning maps. MainPower New Zealand assets deemed to be Major Electricity Distribution Lines are as shown on the planning maps.</u> |
| Para 440           | Should the reference in the 'Notification' clause to 'MainPower' be changed to 'relevant electricity distribution line operator'?   | Yes.   | Prefer to keep as MainPower as there are no other electricity distribution line operators in the Waimakariri District.   |
| Para 444<br>EI-R56 | In line with our earlier question, why is it appropriate for a permitted activity to include a condition that requires compliance with the NZECP? How is this different to any other activity that requires compliance with a regulation or code set under other legislation? |  | As above I note the decisions version of the Partially Operative Selwyn District Plan has a rule requirement EI-REQ2A which requires compliance with NZECP 34.2001. We seek consistency around this.   |

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|          | <p>Why is there separate treatment for electricity transmission and distribution lines, to for instance, gas and storage tanks?</p> <p>....</p> <p>If the Panel was to include clause b as a condition of the rule, please consider how it follows from the chapeau of the condition. Also, if it was to be included as a condition of the rule, what would the need for the advisory note that references the NZECP?</p> |   | <p>I consider the advisory note around NZCEP provides a helpful reminder to plan users around the need to comply.</p> |
| Para 575 | <p>Please confirm whether the National Grid includes any distribution lines?</p>  | <p>The definition of the 'National grid' within the PDP refers to the definition within the NPSET which reads:</p> <p>means the assets used or owned by Transpower NZ Limited.</p> <p>I understand Transpower NZ Limited does not own any distribution lines.</p> | <p>Yes correct TP does not operate any electricity distribution lines.</p>  |

**Comments on Council Officers preliminary response to written questions – Historic Heritage**

| <b>Para/Plan Reference</b> | <b>Questions</b>   | <b>Officers' Preliminary response</b>  | <b>My Comments</b>                                       |
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| Para 122/123               | <p>You state that:</p> <p>"The Strategic Directions chapter (SD chapter) was drafted to provide the District with strategic direction on those</p> | <p>In understanding the approach to Strategic Directions, I have relied upon the S32 Report and the S42A Report on strategic Directions and the more recent memo</p> | <p>Discussed below in body of my statement under HH.</p> |



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| <p>Strategic Directions</p> | <p>matters that relate to the District as a whole or relate to a number of zones or chapters and that are of strategic importance.</p> <p>Consequently, numerous specific matters of national and District importance are not provided for in a strategic direction objective. In the drafting of the Proposed Plan, the s32 for strategic Directions notes that the intention was for there to be no hierarchy between the SD objectives and the other objectives and policies across the plan. Under this approach, I do not consider a SD objective specifically for historic heritage is necessary as the objectives and policies in the HH chapter and other related chapters have equal status with the SD objectives.”</p> <p>Would you not consider that this logic will also apply to any request for a policy from any other chapter to be included in the SD Chapter?</p> <p>From the Panel's review of the SDs, these cover all but clauses (f) and (g) of s6. The Panel could understand why (g) is not addressed in the circumstances of Waimakariri, but given the national and regional direction in respect to historic heritage, we remain unclear as to why historic heritage is not addressed. How is historic heritage both</p> | <p>on Strategic Directions in response to the questions from the Panel in Minute 6.</p> <p>It is my understanding that the SD objectives were drafted to not have primacy over the other objectives in the plan. The SD objectives were drafted to provide specific guidance for strategic issues in the District that require guidance or management additional to the objectives in the Proposed Plan.</p> <p>Therefore, not all of the s6 matters may be provided for within a SD objective as this was not the drafting approach.</p> <p>As Mr Buckley has explained in his memo, under the drafting approach “consideration of all provisions within higher order documents would be achieved across the entire plan without directive provisions being subjugated by (potentially) non-directive strategic direction objectives. On this basis, all objectives would be given equal weight and considered based on their intent, through language used, rather than whether they are considered a strategic issue for the district.”</p> <p>Historic Heritage is a matter of national, regional, and local</p> | <p>Addressed as part of legal submissions.</p> |
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|          | <p>nationally and regionally significant, but not so for Waimakariri district?<br/>Compared to all the other s6 matters covered in the SDs? Without a hierarchy as such what do you see is the purpose then of having SD objectives?</p>  | <p>significance and therefore, if the strategic directions were to have primacy over the other objectives in the Plan, then it would be appropriate to consider a SD objective for historic heritage. However, I note that I consider the HH chapter does provide an objective that appropriately gives effect to s6(f) (subject to the discussion in the next question).</p> <p>Additionally, I note that there is no requirement within the National Planning Standards for the strategic directions to have primacy over the rest of the objectives in the plan.</p> |  |
| Para 205 | <p>Mr Maclennan advises that the HH policies will still apply to infrastructure so while the change might not implement rules in the HH chapter, may it not assist in implementing the rules in the EI chapter?</p>   | <p>I had not considered this, and I agree that the policy with the amendment requested by MainPower could assist in implementing the rules in the Energy and Infrastructure chapter.</p>  | <p>I agree with the comments and the amendment I proposed would be appropriate and would assist with implementing the rules in the EI Chapter.</p> |
| Para 207 | <p>You state: "However, in the event that the Panel do not accept the recommendation of Mr Maclennan, I consider that the policy could provide for the maintenance, repair and upgrade of existing infrastructure provided that heritage values remained protected". Can you please explain what you mean. That</p> | <p>The intention of this statement was to convey to the Panel that the primary reason for rejecting the submission was due to the recommendation of the Energy and Infrastructure author, Mr Maclennan that only identified provisions in the HH chapter apply to the EI chapter. As a result of Mr Maclennan's recommendation, it was my view that the</p>   | <p>I agree with the comments and depending on the approach the relief sought as part of our original submission may still be relevant.</p>         |

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|  | Mainpower's relief could be accepted? | proposed amendment to HH-P7 would not support the implementation of the Historic Heritage provisions and would therefore not have the effect that MainPower seek. However, recognising that the Panel had not made a decision on the recommended approach, I wanted to communicate to the Panel that I considered such an amendment could be appropriate if the Panel did not adopt Mr Maclennan's recommendation. I would like to reiterate that any changes to HH-P7 to provide for infrastructure would need to ensure that the heritage values remain protected. |  |
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**Comments on Council Officers preliminary response to written questions –  
Notable Trees**

| <b>Para/Plan Reference</b> | <b>Questions</b>  | <b>Officers' Preliminary response</b>  | <b>My Comments</b>                       |
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| Para 63                    | In relation to Manpower approach, you say that "This is contrary to TREE-O1 and the National Planning Standards (NPS) that directs that provisions relevant to energy and infrastructure are to be located in the Energy and Infrastructure | In relation to plan structure, my understanding of the NPS guidance documents is that such conflicts in district wide matters are to be considered by the following:<br><br>A) What is the overall purpose of the provision; and | Commented on below in body of statement. |

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|  | <p>chapter and similarly for notable trees.”</p> <p>When such conflicts occur, which provision takes precedence?</p> | <p>B) What effects are being managed.1</p> <p>On my reading of the NPS it is not clear whether the 'Historic and Cultural Values' section 7 (para 16) has precedence over the 'Energy, Infrastructure and Transport' section 7 (para 5); however, I do consider that the NPS intention in this situation is not to constrain consideration of where the most appropriate place is for the provision.</p> <p>While I note that my recommendation in the S42A report was to reject the proposed policy, the policy was in relation to enabling infrastructure needs around notable trees, and on this basis, I consider that such a policy may be best located in the EI chapter.</p> |  |
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### Plan Structure

- 3 Whilst amendments have been made to improve clarity for plan users, I still maintain a view that more can be done to improve the usability of the plan by hyperlinking the relevant rule between chapters. I consider this will make it easier for plan users and sav time when navigating the plan. I note this is a common method used by other plans such as the Proposed Selwyn District Plan.
- 4 I understand the Hearings Panel is interested in the integration between the EI chapter and the other chapters in the PDP and as such Mr Maclennan has reached out this morning to initiate conferencing between planning experts with a view to agree on an approach to resolve the plan integration issue. I am happy to be involved and as a group we will report back once we have met.

### **MainPower's Corridor Protection Provisions**

- 5 My and MainPower's strong view is that the corridor protection rules relating to activities, buildings and structures should be located in the relevant zone chapters to ensure they are accessible, recognisable and reduce the likelihood of provisions being missed when development proposal are being considered. Mr McLennan considered that it is more appropriate for rules to remain in the EI chapter and to provide cross references in the zones to these rules along with a generic cross reference within the 'introduction section' of the chapters. I consider this to be an inferior method and runs the risk of plan users overlooking the relevant rules.
- 6 Plan users are more likely to check plan provision in the relevant zone chapters to determine rules affecting their property so in this sense the corridor protection rules are no different to a building setback rule typically found within a zone chapter.
- 7 If you disagree with my view, then I consider appropriate cross referencing via hyperlinks within the zone chapters would be an appropriate relief.

### **MainPower's Submission on Mapping**

- 8 There is one outstanding issue in relation to the colour of the MEDL's on the planning maps. I maintain that a more distinct colour is required for MEDLs lines on the planning maps to make it clearer for plan users. This is especially the case when a number of overlays are being viewed at once.

### **EI-P6 Effects of other activities and development on energy and infrastructure**

- 9 I disagree with Mr Maclennan's preference for the word 'manage' rather than 'avoid'. I prefer the word 'avoid' as it provides a clear signal that other activities shall not compromise or constrain energy and infrastructure activities. Further this aligns with the non-complying activity status for activities which do not comply with the corridor protection provisions.

### **EI-R12 Replacement of a pole or tower**

- 10 I maintain my view that a 40% additional height limit for a replacement tower or pole is appropriate. Mr Appleman as part of his evidence has noted that it is not always possible replace with equivalent replacement poles. For example, with aged 8.5m poles the standard for a replacement pole is now for an 11m pole. Further as demand increases on the network, there are instances where a regulator pole may be required to support voltage regulation on some areas. I refer to you the example provided in Mr Appleman's evidence at para 23.

### **EI-R53 Earthworks adjacent to a 66kv or 33kv electricity distribution line**

- 11 Mr Maclennan and I both agree on the amendments to clauses 1 and 3 however Mr Maclennan did not assess or comment on my proposed amendments to the advisory notes and exemption. I propose the amendments outlined in my evidence at para 41.

### **Definitions: 'Critical Infrastructure', 'Regionally Significant Infrastructure', and 'Strategic Infrastructure' and new definition of 'Important Infrastructure'**

- 12 I opposed the use of the multiple terms used for infrastructure in the PDP and have a preference for consolidating these into a single term 'important infrastructure'. This term is successfully used in the Partially Operative Selwyn District Plan and will simplify and streamline the PDP for users.

**New Policy for physical works around notable trees**

- 13 I sought a new policy to allow for limited works around notable trees. On further review I consider the drafting of the proposed rule can be approved by proposing alternative wording which is consistent with a policy in the Christchurch District Plan. The alternative wording is outlined at para 58 of my evidence. I consider this resolves the issues raised by Mr Maclennan.

**Historic Heritage Chapter and Strategic Directions**

- 14 As currently drafted the Strategic Directions do not have primacy over other parts of the District Plan. I maintain my view that the Strategic Directions ought to have primacy. As stated verbally at Hearing 1, I consider a hierarchy is required to ensure a well-functioning District Plan with appropriate provisions that both enable and protect the operation of infrastructure provider like MainPower.
- 15 If the SD do not take primacy, then I consider that inconsistencies could potentially arise. Sometimes conflicts occur between chapters and provisions, and in some instances, one would look to the SD for guidance. For example, a complex consent application involving multiple chapters of the District Plan may be contrary to one plan chapter, but might be considered consistent with the majority of other provisions. SD ought to set out what the most important matters are for the district to assist with applying the District Plan in this instance.

**Earthworks Chapter: New Rule Exemption for earthworks subject to a building consent**

- 16 I consider my proposed new rule is required to allow for earthworks are subject to a building consent to be a permitted activity. This will remove the duplication in assessment. I note this rule is identical to that included in the decisions version of the Partially Operative Selwyn District Plan.

**New Rule: earthworks adjacent to a major electricity distribution line**

- 17 I have sought the insertion of a new corridor protection rule in relation to earthworks adjacent to the major electricity distribution lines. The s.42A report does not appear to have assessed this. This rule is required as a matter of safety to protect people undertaking activities in close proximity to lines and to protect staff working near or on lines. I propose a new rule as per paragraph 69 of my evidence.

**EW-P2: Earthworks within flood assessment overlays**

- 18 I maintain the proposed additional clause is required as proposed at paragraph 72 of my evidence. The addition of this clause will result in practical support for critical infrastructure to locate a flood assessment overlay where necessary due to functional and operational requirements or to carry out maintenance, repair or upgrades.

Melanie Foote



23.08.2023

