

**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

**Council Officer's Preliminary Response to written questions on Notable Trees
on behalf of Waimakariri District Council**

Date: 21/08/2023

INTRODUCTION:

- 1 My full name is Bryony Annette Steven. I am employed as a Graduate Planner for Waimakariri District Council.
- 2 The purpose of this document is to respond to the list of questions published from the Hearings Panel in response to my s42 report.
- 3 In preparing these responses, I note that I have not had the benefit of hearing evidence presented to the panel at the hearing. For this reason, my response to the questions may alter through the course of the hearing and after consideration of any additional matters raised.
- 4 I also note that given the timing of these questions, my preliminary responses in some instances have not been informed by consideration of evidence or legal submissions lodged with the Council following the issuing of my s42A report. Where I have considered such evidence, I have recorded this within the preliminary answers below.
- 5 Following the conclusion of this hearing, a final right of reply document will be prepared outlining any changes to my recommendations as a result of evidence presented at the hearing, and a complete set of any additions or amendments relevant to the matters covered in my s42A report.
- 6 The format of these responses in the table below follows the format of the questions from the Panel.
- 7 I am authorised to provide this evidence on behalf of the District Council.

Date:
21/08/2023

B. Steven

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Paragraph or Plan reference	Question
Para 63	<p>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 chapter and similarly for notable trees.”</p> <p>When such conflicts occur, which provision takes precedence?</p>
<p>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:</p> <p>A) What is the overall purpose of the provision; and</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>	
Para 109	<p>Please check that the recommendation “rejected in part” for the Ohoka Residents Association is correct.</p>
<p>The further submission by the Ohoka Residents Association [FS137] as it relates to the RIDL [326.239] submission point should be ‘rejected’ not ‘rejected in part’.</p>	
Para 116	<p>The words “<u>emergency situation</u>” are used in TREE-MD2.1, and so would it be better for consistency to also use those words in TREE-R6.2 as recommended to be amended? (alternatively is there scope to amend TREE-MD2.1 to reflect your recommended wording for TREE-R6.2)</p>
<p>I consider that within the context of the provision, these terms are synonymous and either term</p>	

¹ Section 7 Guidance for District Plans Structure and Chapter Standards 2019.

Paragraph or Plan reference	Question
	<p>would be appropriate. I agree that 'emergency situation' would be more consistent as the term is already used in the chapter.</p>
<p>Para 124</p>	<p>Please explain your argument in respect to TREE-R7, given this is a RDIS rule, and TREE-MD1 applies to it.</p>
	<p>This question identifies an error I made in assessing the submission point as TREE-MD1 does apply to TREE-R7.</p> <p>I have reviewed the submission by MainPower on TREE-MD1 with specific reference to TREE-R7. TREE-R7 controls the removal of a notable tree, other than as provided for in TREE-R6, as a restricted discretionary activity. Discretion is restricted to TREE-MD1 <i>Pruning, root protection area, trunk and crown, removal</i>. TREE-MD1 is concerned with the effects of the activity on the tree and does not consider the benefits or the needs of the activity as this is provided for in TREE-MD2 <i>Extent of benefit or need for the activity or works</i>. The amendment proposed by MainPower reads as follows:</p> <p><i>"The need for the activity to undertake any maintenance, repair, upgrade of existing network utilities or the operational and functional need of network utilities."</i></p> <p>Given that TREE-P5 <i>Removal of notable trees</i> enables the removal of notable trees where (4) <i>"it is necessary to avoid adverse effects on the ongoing provision of infrastructure"</i>, I consider there is existing policy direction to amend the matters of discretion to provide for maintenance, repairs and upgrades to infrastructure. I note that TREE-MD2 already provides for the benefits associated with the infrastructure and functional or operational needs for a particular location, however it does not address maintenance, repair, or upgrades to infrastructure.</p> <p>I can see that there is a reasonable basis to this issue and that subject to additional evidence, I am minded to recommend changes to the matters of discretion.</p>
<p>Para 142</p>	<p>Would it be appropriate for Cabbage Tree P004 to be reassessed, in light of other trees being reassessed?</p>
	<p>As I stated in paragraph 142 of the S42A report, it was my view that it was unnecessary to reassess tree P004 due to the fact that the last assessment was completed relatively recently in 2019 and</p>

Paragraph or Plan reference	Question
	<p>scored 87 points which is significantly short of the 130 point threshold. The 2019 STEM assessment noted that the <i>“tree is in significant decline, approx. 50% of crown is dead”</i>. Due to the recent assessment, the low score, and the reported state of the tree as in significant decline, it was my view that a reassessment was unnecessary.</p>
<p>Para 158</p>	<p>Can you please explain why TREE-R3 (Overhead Lines work or maintenance to any notable tree) is the only rule that does not have a non-notification clause.</p> <p>Why do you support this exception being made for a rule that relates only to maintenance - where the work is required under separate legislation and is conducted by a tree expert?</p>
	<p>When assessing the submission I did consider whether TREE-R3 should have a non-notification clause. As the rule manages overhead lines work or maintenance to a notable tree in accordance with the regulations listed in clause 1, potentially significant works could occur on the tree. It is my understanding that public or limited notification is enabled because of the potential for a notable tree to be significantly cut back and such an effect may be of interest to members of the community. Under this rule, works that occur in the crown of a notable tree could potentially impact on amenity and character values for neighbouring properties and the wider community. The wider social values of notable trees mean you may want to notify a resource consent application.</p> <p>In looking at this issue further, I have determined that TREE-R5 also applies but that it is precluded from public or limited notification. Simplistically, under TREE-R3 utility companies need a consent and under TREE-R5 no consent is needed if the works are not undertaken by a utility company. I would like to look at the relationship between TREE-R3, TREE-R5 and TREE-R1 and further and respond to this issue in the right of reply report.</p>