

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

Legal submissions on behalf of MainPower New Zealand Limited

Dated: 6 July 2023

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LEGAL SUBMISSIONS ON BEHALF OF MAINPOWER NEW ZEALAND LIMITED

INTRODUCTION

- 1 These legal submissions are presented on behalf of MainPower New Zealand Limited (*MainPower*).
- 2 MainPower is a submitter (#249) and further submitter (#58) on the proposed Waimakariri District Plan (*Proposed Plan*).
- 3 These legal submissions provide an overview of MainPower's key submission points and requested relief with regards to Hearing Stream 4 (Natural Features and Landscapes, Coastal Environment and Natural Character of Freshwater Bodies) of the Proposed Plan.
- 4 Evidence has also been filed for MainPower from the following witnesses:
 - 4.1 **Mr Mark Appleman** – MainPower operations; and
 - 4.2 **Ms Melanie Foote** – planning.
- 5 MainPower also relies on the legal submissions and evidence of Mr Appleman and Ms Foote filed for Hearing Stream 1.

MAINPOWER'S INTERESTS IN THE PROPOSED PLAN

- 6 As previously explained, MainPower operates the electricity distribution network in the Waimakariri District.
 - 6.1 MainPower's network covers three districts and supplies line services to more than 43,000 customers.
 - 6.2 MainPower is a lifeline utility and must be able to continue operating the electricity distribution network, to the fullest extent possible, during and after an emergency – resilience and easy access to lines for maintenance is key to fulfilling this obligation.
 - 6.3 MainPower is witnessing unprecedented growth in electricity demand from rapid large-scale development in the Waimakariri District.
 - 6.4 The electricity distribution network has a crucial role in securing New Zealand's decarbonisation and climate change adaptation goals – supporting a transition to a low emissions economy.

- 7 The need to protect and enable this important infrastructure is a key issue for the Waimakariri District. The District Plan rules must enable the continued safe and efficient operation, maintenance, use and development of the electricity distribution network.
- 8 MainPower's specific relief points regarding provision for the electricity distribution network are spread across a number of chapters and hearings. We emphasise that the relief being addressed at this hearing is part of the overall suite of provisions sought (particularly in relation to the Energy & Infrastructure chapter).

RELIEF SOUGHT

- 9 In essence, MainPower considers that amendments are required to the Hearing Stream 4 chapters in order to properly recognise the significant role of important infrastructure in the Waimakariri District that has a functional and operational need to locate in certain areas.
- 10 **Ms Foote's** evidence explains the amendments that MainPower seeks in further detail. **Mr Appleman's** evidence provides examples of MainPower infrastructure in locations associated with natural values and explains why the rules must adequately provide for the operation, maintenance, repair and upgrading of MainPower's assets in those locations.
- 11 As outlined at Hearing Stream 1, the location, operation and upgrade of MainPower's network is determined by the location of the existing network, customer need and technical constraints. MainPower seeks that the Proposed Plan provide for the operation, maintenance, repair and upgrade of existing infrastructure (including in areas with natural values) to ensure it can continue to provide a safe, secure and reliable electricity supply to its wide-reaching customer base.

Hyperlinks

- 12 We note our agreement with Council's Section 42A Officers that the issue of hyperlinks between the Energy & Infrastructure chapter and other chapters of the Proposed Plan, including those that are the subject of Hearing Stream 4, is to be addressed at the Energy & Infrastructure chapter hearing.

NFL provisions

- 13 As discussed by Ms Foote, MainPower seeks clarity in relation to NFL-R5 and NFL-R6 and whether it applies to MainPower's infrastructure assets. Council's Section 42A Officer considers the rules do not apply and that EI-P5 instead provides a pathway for considering energy and infrastructure activities that need to locate in certain areas where there is a functional or operational need.

- 14 Provided the Hearings Panel agree with the Officer's assessment, MainPower supports the rules as recommended in the Section 42A report.

NATC-P6

- 15 Ms Foote explains that MainPower supports the Officer's comments and no longer seeks the relief in its submission. However, the recommended change in wording from 'provide for' to 'consider' is inappropriate. 'Consider' is an ambiguous term and it is important that the Proposed Plan provisions are sufficiently clear and certain for plan users. It is submitted that the phrase 'provide for' better achieves the purpose of the Resource Management Act 1991 and gives effect to the higher order planning documents.
- 16 MainPower further submits that an additional matter of discretion is appropriate in NATC-MD5. It is important that the functional and operational requirements of critical infrastructure are expressly referred to ensure those requirements are adequately recognised and reflected in consenting outcomes.

CONCLUSION

- 17 MainPower's concern is to ensure that the Proposed Plan appropriately provide for the operation, maintenance, repair and upgrade of its existing infrastructure in all areas.
- 18 On this basis, MainPower seeks that the Panel accepts the relief sought in its submission and further submissions and as amended in the evidence of **Ms Foote**.

Dated 6 July 2023



J Appleyard / A Lee
Counsel for MainPower Limited