

In the Environment Court of New Zealand
At Christchurch

I mua i te Kōti Taiao o Aotearoa
I te rohe o Ōtautahi

ENV-2025-CHC-

under: the Resource Management Act 1991 (Act)

in the matter of: an appeal under clause 14 of Schedule 1 of the
Resource Management Act 1991

between: **MainPower New Zealand Limited**
Appellant

and: **Waimakariri District Council**
Respondent

Notice of appeal by MainPower New Zealand Limited against
Waimakariri District Council's decision on the proposed
Waimakariri District Plan

Dated: 22 August 2025

Reference: J M Appleyard (jo.appleyard@chapmantripp.com) / (jo.appleyard@al.nz)
M E Davidson (meg.davidson@chapmantripp.com) / (meg.davidson@al.nz)

chapmantripp.com
T +64 3 353 4130
F +64 4 472 7111

PO Box 2510
Christchurch 8140
New Zealand

Auckland
Wellington
Christchurch



**NOTICE OF APPEAL BY MAINPOWER NEW ZEALAND LIMITED
AGAINST WAIMAKARIRI DISTRICT COUNCIL'S DECISION ON THE
PROPOSED WAIMAKARIRI DISTRICT PLAN**

Clause 14(1) of Schedule 1, Resource Management Act 1991

To The Registrar
Environment Court
Christchurch

Introduction

- 1 MainPower New Zealand Limited (*MainPower*) appeals against parts of the decision of the Independent Hearings Panel (*Panel*), adopted by the Waimakariri District Council (*Council*) on the Proposed Waimakariri District Plan (*Proposed Plan*) (*Decision*).

MainPower's interest in these proceedings

- 2 MainPower made a submission and further submissions on the Proposed Plan.
- 3 MainPower is not a trade competitor for the purposes of section 308D of the Resource Management Act 1991 (*RMA*).
- 4 MainPower received notice of the Decision on 12 July 2025. The notice directed that appeals must be lodged within 30 working days.
- 5 The parts of the Decision that MainPower appeals are decisions on:
 - 5.1 SD-O4;
 - 5.2 EW-R8;
 - 5.3 EW-S2;
 - 5.4 EI-P6; and
 - 5.5 EI-R12.

- 6 The reasons for MainPower's appeal are set out below.

Reasons for the Appeal

- 7 MainPower generally supports the Decision on the Proposed Plan and considers that it largely reflects matters raised in it's submission, evidence and discussions with the Hearings Panel and other submitters.
- 8 However, MainPower considers further refinement of the Proposed Plan is appropriate to ensure it is consistent with higher order planning documents and meets the purpose and requirements of the RMA.

- 9 The reasons for the appeal of the provisions referred to above are that:
- 9.1 Parts of the Decision do not accord with the relevant requirements of the RMA, and are contrary to Part 2 of the RMA.
- 9.2 In particular, those parts of the Decision:
- (a) Do not promote the sustainable management of natural and physical resources;
 - (b) Do not appropriately enable social, economic and cultural well-being, meet the reasonably foreseeable needs of future generations, or safeguard the life-supporting capacity of water and ecosystems;
 - (c) Do not promote the efficient use and development of natural and physical resources,;
 - (d) Do not result in the most appropriate plan provisions in terms of section 32 of the RMA;
 - (e) Do not implement Council's functions under section 31 of the RMA; and
 - (f) Are contrary to best resource management practice.
- 10 Without limiting the generality of the reasons above, MainPower's specific reasons for its appeal points are set out below. MainPower seeks that the Proposed Plan be amended in accordance with this Notice of Appeal, or such further or other relief or other consequential or other amendments to these, or other provisions as considered appropriate and necessary to address MainPower's concerns.

Strategic Directions

- 11 The Strategic Directions chapter is critical for guiding the interpretation and application of all other provisions of the Proposed Plan. MainPower's original submission generally supported the Strategic Directions chapter insofar as it relates to the electricity distribution network. MainPower sought amendments to ensure appropriate recognition of reverse sensitivity effects and the significance of important infrastructure to the Waimakariri District, including Major Electricity Distribution Lines. It is important that it is established at a high level in the Strategic Directions chapter given the importance of the chapter in providing direction to the interpretation of the rest of the Proposed Plan.

SD-03 (now SD-04 in the Proposed Plan)

- 12 MainPower's original submissions sought to amend SD-03 (now SD-04 in the Proposed Plan) to simplify the terminology for plan users. It also sought further amendments to recognise the need to manage reverse sensitivity effects and conflict between incompatible activities on infrastructure and to avoid adverse effects on the electricity distribution network and major electricity distribution lines, including by identifying a buffer corridor within which buildings, excavations and sensitive activities will generally not be provided for.
- 13 While MainPower is generally supportive of the intent and wording in SD-04, it seeks amendment to SD-04(2)(b)(ii) so that adverse effects of other activities on infrastructure, including reverse sensitivity effects, are required to be avoided rather than managed.
- 14 The Decision adopts the recommendations and reasons of the section 42A Report author, who preferred the term "manage" over "avoid." The reasoning given was that requiring "avoidance" would necessitate a major rewrite of the Energy and Infrastructure chapter as it may not give effect to the objective if the policy only required management of effects rather than avoidance.¹ The section 42A Report author also considered that retaining "manage" in EI-P6 enables a broader range of responses to adverse effects, rather than the more directive "avoid".
- 15 MainPower does not agree with the Decision and maintains that the amendments sought are necessary to properly recognise the significance of important infrastructure, including ensuring its protection from incompatible activities and reverse sensitivity effects. For completeness, it is noted that MainPower also appeals the Decision on EI-P6 and requests that the term "avoid" is also adopted in EI-P6.
- 16 MainPower's relief gives effect to the higher order planning framework,² provides the overarching direction that is necessary to support objectives and policies relating to important infrastructure throughout the Proposed Plan.

¹ Council reply on Strategic Directions – Planner Mark Buckley on behalf of Waimakariri District Council (16 June 2023).

² Including the Canterbury Regional Policy Statement which directs territorial authorities to avoid reverse sensitivity effects and incompatible land uses in proximity to regionally significant infrastructure through Objective 5.2.2, (Wider Region), Policy 5.3.2 (Wider Region), Policy 5.3.9 (Wider Region), and Objective 6.2.1 (Greater Christchurch).

- 17 MainPower seeks the following amendments to SD-O4:

SD-O4 Energy and infrastructure

Across the District:

1. improved accessibility and multi-modal connectivity is provided through a safe and efficient transport network that is able to respond to technology changes and contributes to the well-being and liveability of people and communities;
2. infrastructure, including strategic infrastructure, critical infrastructure and regionally significant infrastructure:
 - a. is able to operate efficiently and effectively; and
 - b. is enabled, while:
 - i. managing adverse effects on the surrounding environment, having regard to the social, cultural and economic benefit, functional need and operational need of the infrastructure; and
 - ii. ~~managing-avoiding~~ the adverse effects of other activities on infrastructure, including ~~managing~~ reverse sensitivity ~~effects~~;
3. the importance of locally-sourced aggregate supply for infrastructure development is recognised and provided for in appropriate circumstances;
4. the nature, timing and sequencing of new development and new infrastructure is integrated and coordinated; and
5. encourage more environmentally sustainable outcomes as part of subdivision and development, including though the use of energy efficient buildings, green infrastructure and renewable electricity generation.

Earthworks

- 18 MainPower's submission sought a range of amendments to the Earthworks chapter to ensure that the policies, objectives, and rules relating to network utility operators are appropriate, clear, and fit

for purpose. It essential that plan users are able to readily identify which rules apply to network utility operators and which do not.

EW-R8

- 19 MainPower’s submission generally supported EI-R54 as notified in the Proposed Plan but sought amendments to ensure the rule provided sufficient protection against earthworks activities that could adversely affect the support structures and associated foundations of major Electricity Distribution Lines.
- 20 MainPower’s submission also sought the inclusion of a new rule specifically addressing earthworks undertaken adjacent to major electricity distribution lines, to further safeguard the integrity and operational reliability of this critical infrastructure.
- 21 The wording of EI-R54 was agreed during expert conferencing and recorded in a Joint Witness Statement (*JWS*).³ The JWS, together with the final right of reply from the author of the section 42A Report, confirmed that the activity status for non-compliance with EI-P54 is non-complying (as set out in the Right of Reply Report).⁴
- 22 The Decision adopts the recommendations of the Proposed District Plan Hearings Panel (*the Panel*). The Panel accepted the final position reached by the section 42A Report author regarding EI-R54 (and EI-R56), but notes that these rules are intended to apply to activities other than infrastructure itself - specifically, to activities that may have effects on infrastructure. Accordingly, the Panel recommended relocating EI-R54 to the Earthworks chapter and EI-R56 to the rules for ‘all zones’.⁵
- 23 MainPower’s appeal point in relation to this rule is confined to where the Decision diverges from what was agreed in the JWS. While MainPower supports the Decision in so far as it reflects the matters agreed at expert conferencing and supports relocation of the rule to the Earthworks chapter, it remains of the view that a non-complying activity status is appropriate to ensure adequate protection for major electricity distribution lines.
- 24 Accordingly, MainPower seeks the following amendments to EW-R8:

³ Joint Witness Statement – Energy EI - Pūngao me te hanganga hapori - Energy and Infrastructure (Integration) (dated 28 November 2023).

⁴ Council reply on Pūngao me te hanganga hapori - Energy and Infrastructure (EI) – Andrew MacLennan on behalf of Waimakariri District Council (dated 30 November 2023).

⁵ PDP Hearings Panel Recommendation Report 17 Hearing Stream 5 Part 2: District-wide matters – EI – Energy and Infrastructure at [83].

EW-R8	Earthworks adjacent to a major electricity distribution line	
All Zones	<p>Activity status: PER</p> <p>Where:</p> <ol style="list-style-type: none"> 1. earthworks are setback at least 6m from the centreline of a major electricity distribution line as shown on the planning map; or 2. [...] 	<p>Activity status when compliance with EW-R78 (1) not achieved: RDIS</p> <p>Matters of discretion are restricted to:</p> <p>EI-MCD1—Historic heritage, cultural values and the natural environment</p> <p>EI-MCD12—National Grid</p> <p>Activity status when compliance with EW-R78 (2) to (5) not achieved: NC</p> <p>Notification</p> <p>An application for resource consent under this rule is precluded from being publicly notified, but may be limited notified only to <u>the relevant electricity distribution line operator</u> Transpower NZ Ltd where the consent authority considers this is required, absent its written approval.</p>

EW-S2 General Setbacks

- 25 MainPower's submission supported EW-S1 to EW-S7 on the basis that infrastructure will not be required to comply with those standards.
- 26 In relation to EW-S2, the Decision adopts the recommendations of the Hearings Panel, which provide a full exemption from EW-S2

where there is an application for a building consent or where a building consent has been granted. MainPower supports this exemption, as it appropriately recognises the overlap between earthworks and building consent processes, and avoids unnecessary duplication of regulatory controls.⁶

- 27 The Decision's version of the Proposed Plan now also provides a further exemption for earthworks associated with linear infrastructure works within roads, provided any open trenches do not exceed 1 metre in width.
- 28 MainPower maintains that all infrastructure, not just that within roads, should be exempt from the Earthworks standards. This is important to ensure that infrastructure works can be carried out efficiently, without being unduly constrained by earthworks standards.
- 29 MainPower seeks that EW-S2 is amended to clarify that all earthworks associated with linear infrastructure works are exempt from the earthworks standards, provided any open trenches do not exceed 1 metre in width, as opposed to the exemption being limited only to infrastructure located within roads.
- 30 MainPower seeks the following relief:

EW-S2 General setbacks	
This standard does not apply to:	
<ol style="list-style-type: none"> 1. Earthworks associated with linear infrastructure works within roads, provided any open trenches do not exceed 1m in width; or 2. Earthworks which are or will be subject to building consent. 	
<ol style="list-style-type: none"> 1. Earthworks more than 300mm in height or depth shall be set back a minimum of 2m from any boundary of a site in different ownership. 	<p>Activity status when compliance not achieved: RDIS</p> <p>Matters of discretion are restricted to:</p> <p>[...]</p>

⁶ Recommendations of the PDP Hearings Panel: Hearing Stream 5 Part 2: District-wide matters – EW – Earthworks at [40].

Energy and Infrastructure

- 31 MainPower sought a number of amendments to the Energy and Infrastructure chapter to improve rule clarity and interpretation, and to better reflect the manner in which rules address the various elements of the MainPower's network.

EI-P6

- 32 MainPower's submission supported EI-P6 but sought to replace the requirement to 'manage' adverse effects on infrastructure with the requirement to 'avoid' adverse effects on infrastructure.
- 33 The Decision adopts the recommendations and reasoning of the section 42A Report author, who considered that the reference to 'manage' in the chapeau of the policy, rather than 'avoid', allows for a greater range of management responses. The author also noted that clauses (1)–(3) within the policy to explain how this management approach is to be applied.⁷
- 34 MainPower does not agree with this assessment. Clear and directive policy guidance is essential in the Energy and Infrastructure chapter to ensure the effective protection of important infrastructure and to provide certainty for plan users. The policy must also give effect to the higher order planning framework and the requirements of the Resource Management Act 1991.
- 35 MainPower is otherwise supportive of the wording of EI-P6, subject to amendment sought below.
- 36 MainPower seeks the following relief:

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

~~Manage~~ Avoid adverse effects, including reverse sensitivity effects, of incompatible other activities and development on energy and infrastructure, including by the following:

1. ensuring such effects do not compromise or constrain access to or the safe, effective and efficient operation, maintenance, repair, upgrading and development of energy and infrastructure; and
2. with regards to major electricity distribution lines, in addition to (1) above, by ensuring that:
 - a. [...]

⁷ Council reply on Pūngao me te hanganga hapori - Energy and Infrastructure (EI) – Andrew MacLennan on behalf of Waimakariri District Council (dated 30 November 2023) at [98].

EI-R12

- 37 MainPower's submission supported EI-R12 but sought amendments to provide more flexibility. This flexibility is important because when towers and poles are replaced, the replacement structures will often be taller than the original pole or tower in order to comply with modern design standards, network requirements and safety requirements.
- 38 The Decision adopts the recommendations and reasoning of the section 42A Report author, who supported the inclusion of a rule permitting a gradual increase in the height, width, or footprint of poles and towers. However, the author considered the extent of the additional height allowance sought by MainPower to be excessive, noting that the rule applies to all poles and towers, not solely electrical infrastructure. The section 42A Report author considered the additional height allowance requested by Transpower (an increase of 15%) to be more appropriate.⁸
- 39 MainPower maintains that the relief sought in its submission is appropriate and seeks an amendment to EI-R12(2) to allow for a 40% increase in height. MainPower is otherwise generally supportive of the wording and intent of EI-R12.
- 40 MainPower seeks the following relief:

⁸ Proposed Waimakariri District Plan: Pūngao me te hanganga hapori - Energy and Infrastructure (EI) (dated 21 July 2023) at [251].

EI-R12	Replacement of a pole or tower	
All Zones	Activity status: PER Where: <ol style="list-style-type: none"> a pole shall not be replaced with a tower; a replacement pole or tower shall not exceed the height in relation to infrastructure of the replaced pole or tower by more than 4015% as of the date the District Plan was made operative [...] 	Activity status when compliance not achieved: RDIS Matters of discretion are restricted to: EI-MCD1 - Historic heritage and the natural environment EI-MCD3 - Operational considerations EI-MCD13 - Extent of effects

Documents

- 41 The following documents are attached to this notice:
- 41.1 A copy of the MainPower's submission (**Annexure A**);
 - 41.2 A copy of MainPower's further submissions (**Annexure B**);
 - 41.3 A copy of the relevant parts of the Decision (**Annexure C**)
other parts of the Decision are available at:
<https://www.waimakariri.govt.nz/council/district-development/district-plan-review>; and
 - 41.4 A list of names and addresses of persons to be served with a copy of this notice (**Annexure D**).

Signed for and on behalf of MainPower New Zealand Limited by its solicitors and authorised agents Chapman Tripp



Jo Appleyard
Partner
22 August 2025

Address for service of MainPower New Zealand Limited before 29 August 2025:

MainPower NZ Limited
c/- Jo Appleyard, Partner
Chapman Tripp
Level 5, PwC Building,
60 Cashel Street, Christchurch 8140 PO Box 2510

Email Address: jo.appleyard@chapmantripp.com;
meg.davidson@chapmantripp.com

Address for service of MainPower New Zealand Limited after 29 August 2025:

MainPower NZ Limited c/- Jo Appleyard, Partner
Anderson Lloyd
The Regent Building
Floor 2/33 Cathedral Square, Christchurch Central City, Christchurch
8011

Email Address: jo.appleyard@al.nz;
meg.davidson@al.nz

Advice to recipients of copy of notice of appeal

How to become party to proceedings

You may be a party to the appeal if you made a submission or a further submission on the matter of this appeal.

To become a party to the appeal, you must, -

- within 15 working days after the period for lodging a notice of appeal ends, lodge a notice of your wish to be a party to the proceedings (in form 33) with the Environment Court and serve copies of your notice on the relevant local authority and the appellant; and
- within 20 working days after the period for lodging a notice of appeal ends, serve copies of your notice on all other parties.

Your right to be a party to the proceedings in the Court may be limited by the trade competition provisions in section 274(1) and Part 11A of the Resource Management Act 1991.

You may apply to the Environment Court under section 281 of the Resource Management Act 1991 for a waiver of the above timing or service requirements (see form 38).

How to obtain copies of documents relating to appeal

If the copy of this notice served on you does not attach a copy of the appellant's submission (or or) the decision (or part of the decision) appealed. These documents may be obtained, on request, from the appellant.

Advice

If you have any questions about this notice, contact the Environment Court in Auckland, Wellington, or Christchurch.