

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

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

Statement of Evidence of Melanie Foote

Dated: 7 August 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 Energy and Infrastructure Chapter, Section 42A report and appendices of Andrew Maclennan for Waimakariri District Council, dated 21 July 2023.
 - 4.2 Noise Chapter, Section 42A report and appendices of Jessica Manhire for Waimakariri District Council, dated 21 July 2023.
 - 4.3 Notable Trees, Section 42A report and appendices of Bryony Steven for Waimakariri District Council, dated 21 July 2023
 - 4.4 Earthworks Chapter, Section 42A report and appendices of Peter Wilson for Waimakariri District Council, dated 21 July 2023.
 - 4.5 Historic Heritage Chapter, Section 42A report and appendices of Bryony Steven for Waimakariri District Council, dated 21 July 2023.
 - 4.6 Evidence of Mark Appleman for MainPower New Zealand Limited, dated 10 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

5.6 MEDL – Major electricity distribution line

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 however there are some minor points of contention in relation to the following:

Energy and Infrastructure Chapter
EI Introduction and EI Structure
Corridor protection provisions
EI-P6 Effects of activities and development on energy and infrastructure.
EI-R3 Ancillary infrastructure equipment
EI-R12 Replacement of a pole or tower
EI-R54 Earthworks adjacent to 66kV and 33kV electricity distribution lines
New Rule: structures near major electricity distribution lines
EI Definitions
‘Critical Infrastructure’, ‘Regionally Significant Infrastructure’ and ‘Strategic Infrastructure’
New definition: important infrastructure
Notable Trees
New policy

Earthworks
New Rule: earthworks corridor protection
EW-P2

- 8 My evidence relates to the submissions and further submissions made by MainPower on the above chapters.

MAINPOWERS SUBMISSION ON PLAN STRUCTURE

- 9 MainPower’s submission opposed how the EI Chapter links to other PDP provisions, and sought appropriate hyperlinks in the EI chapter to relevant rules in other PDP chapters.
- 10 Mr MacLennan agrees with submitters that further clarity is required within the PDP to determine which provisions apply to energy and infrastructure activities and which do not. I agree with the amendments proposed by Mr MacLennan¹ and consider this provides more clarity for plan users. However, I still maintain the view that further clarity can be provided by hyperlinking the relevant rules. This will make it easier for plan users and save them time when navigating the plan. I note the use of hyperlinks is a useful tool used in many other district plans across the country such as the Proposed Selwyn District Plan.

MAINPOWER’S CORRIDOR PROTECTION PROVISIONS

- 11 MainPower’s submission sought that the PDP corridor protection rules relating to reverse sensitivity effects under Rules EI-54, EI-55, EI-56 and new proposed Rule (Structures near major electricity distribution lines) be located in the relevant zone chapters where they will be easier for plan users to identify. 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 the provisions being missed when development proposals are considered. As such I have sought consequential amendments to the zone rules.
- 12 I note Mr MacLennan has assessed this under Rule EI-R54. He considers that it is more appropriate for the rules to remain in the EI Chapter, and to provide cross references in the nine zone chapters drawing attention to the need for activities in the zones to comply with these EI rules. Mr MacLennan considers that a generic cross reference ought to be provided in the ‘introduction section’ of the chapters. I consider this an inferior method of

¹ S.42A Report of Mr MacLennan, dated 21 July 2023, paragraph 70, page 8.

hyperlinking which runs the risk of plan users overlooking the relevant rules.

- 13 I consider that the rules associated with avoiding land use activities within buffer corridors along MEDL's should not be located in the EI chapter provisions. From a plan usability perspective, I consider it would be most logical to include constraints on land use activities associated with MEDL's within applicable zone chapters so they are clearly visible to landowners. They are more likely to check plan provisions in the relevant zone chapter to determine rules affecting their property. In this sense the corridor protection rules are no different to a building setback rule typically found within a zone chapter.
- 14 However, if the Panel disagrees with my view, I consider that appropriate cross referencing via hyperlinks within the zone chapters would be the appropriate alternative relief.

MAINPOWERS SUBMISSION ON MAPPING

- 15 MainPower supported the mapping as notified in the PDP but sought that the colour of the MEDL's be made more distinctive and that the buffer corridors be deleted. Mr Maclennan has rejected changing the colour but accepted the submission seeking the buffer corridor be deleted, just leaving the MEDL lines. I maintain the view that a more distinct colour is required for MEDL lines on the planning maps to make it clear for plan users, especially when a number of overlays are being viewed at once. This is a simple change that will assist plan users. I agree with the recommendation of Mr Maclennan to remove the MEDL buffer areas.

MAINPOWER'S SUBMISSION ON THE EI CHAPTER

EI-01 Provision of energy and infrastructure

- 16 MainPower supported this objective as part of its original submission but sought amendments to provide more clarity. Mr Maclennan has accepted the submission and proposed amendments to EI-01². I agree with the proposed amendments.

EI-02 Adverse effects of energy and infrastructure

- 17 MainPower supported this objective as part of its original submission but sought amendments to provide more clarity. Mr Maclennan has accepted the submission and proposed amendments to EI-02³. I agree with the proposed amendments.

EI-03 Effects of other activities and development on energy and infrastructure

- 18 MainPower supported this objective as part of its original submission but sought amendments to provide more clarity. Mr Maclennan has accepted

² S.42A report of Mr Maclennan, dated 21 July 2023, paragraph 88, page 16

³ S.42A report of Mr Maclennan, dated 21 July 2023, paragraph 95, page 17

the submission and proposed amendments to EI-03.⁴ I agree with the amendments.

EI-P1 Recognising the benefits of, and providing for, energy and infrastructure

- 19 MainPower supported this rule as part of its original submission but sought amendments to recognise the functional and operational need of infrastructure. Mr MacLennan has rejected the submission as he considers that there is adequate coverage under EI-P5. As such no changes are proposed to EI-P1. I agree with Mr MacLennan that there is adequate coverage under EI-P5.⁵

EI-P4 Environmentally sustainable outcomes

- 20 MainPower supported this rule as notified. Mr MacLennan has recommended proposed amendments to EI-P4⁶ and I agree with the amendments.

EI-P5 Manage adverse effects of energy and infrastructure

- 21 MainPower supported this rule as notified. Mr MacLennan has recommended proposed amendments⁷ and I agree with the amendments.

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

- 22 MainPower supported this rule as notified but sought amendments to provide further clarity. Mr MacLennan has rejected the submission point as he considers the use of the term 'manage' rather than 'avoid' provides a greater breadth of management responses.⁸ I disagree with Mr MacLennan and prefer the stronger word 'avoid' as it provides a clear signal that other activities shall not compromise or constrain energy and infrastructure activities.

EI-R2 Construction or new, or widening or extension of existing, vehicle access tracks ancillary to infrastructure

- 23 MainPower supported this rule as notified. Mr MacLennan has recommended proposed amendments⁹ and I agree with these.

EI-R6 Trimming or removal of trees and vegetation

- 24 MainPower supported this rule as notified. Mr MacLennan has recommended proposed amendments¹⁰ and I agree with these.

⁴ S.42A report of Mr MacLennan, dated 21 July 2023, paragraph 105, page 20

⁵ S.42A report of Mr MacLennan, dated 21 July 2023, paragraph 119, page 23

⁶ S.42A report of Mr MacLennan, dated 21 July 2023, paragraph 130, page 25

⁷ S.42A report of Mr MacLennan, dated 21 July 2023, paragraph 161, page 31

⁸ S.42A report of Mr MacLennan, dated 21 July 2023, paragraph 179, page 36

⁹ S.42A report of Mr MacLennan, dated 21 July 2023, paragraph 201, page 40.

¹⁰ S.42A report of Mr MacLennan, dated 21 July 2023, paragraph 218, page 45

EI-R7 Free standing pole in the road corridor

- 25 MainPower supported this rule as notified. Mr Maclennan has recommended proposed amendments¹¹ and the intention is that EI-R7 is not intended to apply to activities under EI-12, 17, 24, 26, 28, 29, 41 or 44. I agree with the recommended proposed amendments.

EI-R9 Use of temporary infrastructure

- 26 MainPower supported this rule as notified but suggested the inclusion of the word 'transportable' in the rule heading. Mr Maclennan rejected the submission point as transportable infrastructure is captured in the definition of 'temporary infrastructure'.¹² I agree with Mr Maclennan and no longer seek the proposed amendment.

EI-R10 Installation of new infrastructure, or upgrading of existing infrastructure underground

- 27 MainPower supported this rule as notified. Mr Maclennan has recommended proposed amendments¹³ and I agree with these.

EI-R11 Relocation of infrastructure

- 28 MainPower supported this rule as notified. Mr Maclennan has recommended proposed amendments¹⁴ to provide more clarity between EI-R11 and EI-R12 and I agree with these.

EI-R12 Replacement of a pole or tower

- 29 MainPower supported this rule as notified but sought to amend the wording to provide more flexibility. When MainPower replaces towers and poles the replacement structures will often be taller than the original pole or tower in order to comply with the required modern design standards, network requirements and safety requirements. Mr Appleman has addressed this in more detail within his evidence¹⁵. Mr Maclennan has agreed in part to the proposed amendments but considers the extent of the additional height allowance of 40% to be excessive.¹⁶ I agree with the proposed amendments to the rule but also consider that clause 2 of the rule should be amended to a 40% height allowance as per MainPower's original submission.

EI-R13 Addition to a pole or tower

- 30 MainPower supported this rule as notified but sought amendments to have a fixed limit of 2m³ for new equipment and to Clause 2 in relation to height. Mr Maclennan has accepted the proposed changes and recommended proposed amendments¹⁷ and I agree with these.

¹¹ S.42A report of Mr Maclennan, dated 21 July 2023, paragraph 224, page 46

¹² S.42A report of MR Maclennan, dated 21 July 2023, paragraph 233, page 47

¹³ S.42A report of Mr Maclennan, dated 21 July 2023, paragraph 240, page 48

¹⁴ S.42A report of Mr Maclennan, dated 21 July 2023, paragraph 245, page 50

¹⁵ Evidence of Mark Appleman, dated 7 August 2023, paragraphs 21 to 24, page 6.

¹⁶ S.42A report of Mr Maclennan, dated 21 July 2023, paragraph 251, page 52

¹⁷ S.42A report of Mr Maclennan, dated 21 July 2023, paragraph 264, page 55

EI-R15 Replacement of an infrastructure cabinet or infrastructure building

- 31 MainPower supported this rule as notified but sought amendments to provide more clarity and flexibility to upgrade and replace existing infrastructure. Mr MacLennan agreed with the submission and has recommended proposed amendments¹⁸ and I agree with these.

EI-R16 Upgrading above-ground lines, ducts, cables and pipes

- 32 MainPower supported this rule as notified but sought amended wording to provide greater clarity. Mr MacLennan has agreed with some of the submission points and has proposed amendments¹⁹ which I agree with.

EI-R18 Attachment of pipes, cables, conductors or lines to bridges, tunnels or culverts

- 33 MainPower supported this rule as notified on the basis it can have as many clusters of earth peaks, conduits, ducts or pipes as required. Mr MacLennan has recommended amending this rule deleting clause 'c'²⁰ and I agree with the proposed amendments.

EI-R19 New infrastructure cabinet

- 34 MainPower supported this rule as notified on the proviso that electricity cabinets and kiosks are separated out into a separate new rule. Mr MacLennan has accepted this submission and a new rule is proposed along with an amendment to the definition of 'infrastructure cabinet' to exclude electricity cabinets and kiosks.²¹ On this basis Mr MacLennan considers that no amendments to EI-R19 are necessary. I agree with Mr MacLennan that no amendments are required to this rule.

EI-R19A New Rule Electricity Cabinets and Kiosks

- 35 MainPower sought to insert a new relating specifically to electricity distribution cabinets and kiosks. A height limit of 2m and an area of limit of 13m² is proposed as these typically reflect the easement area required for such equipment. Mr MacLennan has accepted that there are technical reasons for a separate rule and related definition however he disagrees with the proposed controlled activity status and has recommended a restricted discretionary activity status. I agree with Mr MacLennan's recommended amendments²² and a restricted discretionary activity status as this provides consistency with the activity status of the majority other EI rules with have a restricted discretionary activity status. Further there could be instances where the height or bulk may not be desirable.

¹⁸ S.42A Report of Mr MacLennan, dated 21 July 2023, paragraph 273, page 57

¹⁹ S.42A Report of Mr MacLennan, dated 21 July 2023, paragraph 286, page 61

²⁰ S.42A report of Mr MacLennan, dated 21 July 2023, paragraph 291, page 63

²¹ S.42A report of Mr MacLennan, dates 21 July 2023, paragraph 301, page 65

²² S.42A Report of Mr MacLennan, dated 21 July 2023, paragraph 190, page 39

EI-R20 New infrastructure building

- 36 MainPower sought to amend this rule as part of the original submission to ensure the rule does not apply to equipment covered under EI-R25. Given Mr Maclennan has updated the definition of 'infrastructure building' to exclude electricity cabinets and kiosks, and proposes to amend EI-R25 to include a note that EI-R25 does not apply to equipment under the new rule, I agree that no changes are proposed to EI-R20.

EI-R23 Construction of new vehicle tracks ancillary to infrastructure which are located in specified sensitive environments

- 37 MainPower supported this rule as notified. Mr Maclennan has recommended proposed amendments²³ and I agree with these.

EI-R25 and EI-R35 Transformers, substations, switching stations, and energy storage batteries (not enclosed within a building)

- 38 MainPower supported this rule but sought more clarity to improve the readability of the rule. Mr Maclennan has recommended that EI-R25 and EI-R35 be deleted and merged into one Rule EI-R19B. I agree with this approach the proposed wording of EI-19B²⁴.

EI-R48 Requirement to provide water supply for fire fighting

- 39 MainPower supported this rule but sought clarification as to whether the rule applies to network utility infrastructure and if so, seeks appropriate exemptions. Mr Maclennan has accepted the submission point and recommends proposed amendments²⁵ which I agree with.

EI-R54 Earthworks adjacent to a 66kV or 33 kV electricity distribution line

- 40 MainPower supported this rule as notified but sought consistency with terminology used, amendments to the clauses '1' and '2' and to the advisory notes and exemptions. Mr Maclennan has recommended proposed amendments to the clauses '1' and '2' but has not commented on the proposed changes to the advisory notes and exemption. I agree with the proposed recommended amendments of Mr Maclennan²⁶ but also consider the following amendments should be made to the Exemptions and Advisory notes:

- 41 Proposed changes are shown as bold and **underlined** and deletions as ~~strikethrough~~.

Exemptions

This rule does not apply to:

²³ S.42A Report of Mr Maclennan, dated 21 July 2023, paragraph 208, page 66

²⁴ S.42A Report of Mr Maclennan, dated 21 July 2023, paragraph 324, page 70

²⁵ S.42A Report of Mr Maclennan, dated 21 July 2023, paragraph 383, page 87

²⁶ S.42A report of Mr Maclennan dates 21 July 2023, paragraph 428, page 104

- earthworks undertaken as part of agricultural or domestic cultivation; or repair, sealing or resealing of a road, footpath, driveway or vehicle access track;
- earthworks that are undertaken by a network utility operator **or their approved contractor on behalf of the network utility operator** (other than for the reticulation and storage of water in canals, dams or reservoirs including for irrigation purposes);
- earthworks for which a ~~dispensation~~ prior written consent has been granted by the relevant electricity distribution line operator under the NZECP 34:2001 New Zealand Electricity Code of Practice for Electricity Safe Distances;
- ~~vertical holes not exceeding 500mm in diameter provided they:~~
 - ~~are more than 1.5m from the visible outer edge of a pole or stay wire; or~~
 - ~~are a post hole for a farm fence or horticultural structure more than 6m from the visible outer edge of a tower.~~

Advisory Notes

- ~~66kV/33kV~~ **Major electricity distribution** lines are shown on the planning maps.
- Vegetation to be planted around electricity distribution lines should be selected and managed to ensure that it will not breach the Electricity (Hazards from Trees) Regulations 2003.
- The NZECP 34:2001 New Zealand Electricity Code of Practice for Electricity Safe Distances contains restrictions on the location of activities and development in relation to electricity distribution lines. Activities and development in the vicinity of these lines must comply with NZECP 34:2001 New Zealand Electricity Code of Practice for Electricity Safe Distances.

EI-R55 Network Utilities within 10m of the centreline of a 66kV or 33kV electricity distribution line

- 42 MainPower supported this rule as notified however sought minor amendments to provide consistency with terminology used. Mr Maclennan supports the submission and proposes recommended amendments²⁷ and I agree with these.

EI-R56 Activities and development (other than earthworks or network utilities) adjacent to a 66kV or 33kV electricity distribution line

- 43 MainPower supported this rule as notified but sought to amend the rule to provide more clarity. Mr Maclennan has recommended proposed amendments²⁸ and I agree with these.

EI-MD2 Amenity values, location and design

- 44 MainPower supported this matter of discretion as notified but sought an additional clause to align with EI-MD1. Mr Maclennan has rejected the submission point. MainPower no longer seeks the proposed amendments,

²⁷ S.42A Report of Mr Maclennan, dated 21 July 2023, paragraph 448, page 109 and 110

²⁸ S.42A Report of Mr Maclennan, dated 21 July 2023, paragraph 444, page 110

and I agree with the recommended amendments²⁹ proposed to EI-MD2 by Mr Maclennan as there is no need to replicate the matters of discretion

EI-MD3 Operational considerations

- 45 MainPower supported this matter of discretion as notified. Mr Maclennan has recommended a minor amendment³⁰ which I agree with.

EI-MD5 Electricity generation

- 46 MainPower supported this matter of discretion but sought to include an additional clause to acknowledge the locational constraints faced by infrastructure. I agree with the comments³¹ from Mr Maclennan, and MainPower no longer seeks the new clause, as whenever EI-MD5 applies so does EI-MD1. As such there is no need to replicate the clause under MD-5.

EI-MD6 Electricity transmission and electricity distribution

- 47 MainPower supported this matter of discretion as notified. Mr Maclennan has recommended proposed amendments³² and I agree with these.

EI-MD9 Construction of new, or extension of existing vehicle access tracks ancillary to infrastructure

- 48 MainPower supported this matter of discretion as notified. Mr Maclennan has recommended proposed amendments³³ and I agree with these.

EI-MD13 Major electricity distribution lines.

- 49 I agree with Mr Maclennan that this matter of discretion can be deleted as the amendments sought to EI-R54 mean the default will be a non-complying activity status³⁴.

EI-MD14 Extent of effects

- 50 MainPower opposed this matter of discretion as it provides no certainty to plan users as to what Council's discretion relates to. Mr Maclennan states that the predominant activity status is restricted discretionary, and this situation necessitates a matter of discretion applicable to a wide variety of situations. Based on this I agree that the matter of discretion should be deleted. Mr Maclennan has proposed recommended amendments³⁵ and I agree with these.

²⁹ S.42a Report of Mr Maclennan, dated 21 July 2023, paragraph 463, page 115

³⁰ S.42A Report of Mr Maclennan, dated 21 July 2023, paragraph 465, page 115

³¹ S.42A report of Mr Maclennan, dated 21 July 2023, paragraph 479, page 117

³² S.42A Report of Mr Maclennan, dated 21 July 2023, paragraph 489, page 118

³³ S.42A Report of Mr Maclennan, dated 21 July 2023, paragraph 500, page 120

³⁴ S.42A report of Mr Maclennan, dated 21 July 2023, paragraph 515, page 123

³⁵ S.42A report of Mr Maclennan, dated 21 July 2023, paragraph 530, page 125

EI CHAPTER DEFINITIONS

Ancillary infrastructure equipment

- 51 MainPower supported this definition as notified by sought amendments to provide more clarity. Maclennan has accepted the submission and recommends proposed amendments³⁶ which I agree with.

'Critical Infrastructure', 'Regionally Significant Infrastructure' and 'Strategic Infrastructure' and new definition: Important infrastructure

- 52 MainPower opposed the use of multiple terms used for infrastructure in the PDP. I prefer consolidating the use of terms and propose that a term 'important infrastructure' be used in the PDP. This term is successfully used in the proposed Selwyn District Plan and will simplify and streamlines the PDP for plan users. The proposed use of multiple terms could be confusing especially for lay persons navigating the plan and determining the applicability of rules.

New definition 'Electricity cabinets and kiosks'

- 53 MainPower proposed a new definition of 'electricity cabinets and kiosks' to accompany the new rule EI-R19A. This new definition does not seem to have been assessed in the s.42A report. I propose to insert the new definition as follows:

"In relation to electricity distribution, means equipment affixed to, or within, the ground that is necessary to operate part of a utility or infrastructure network, including any casing".

Electricity distribution

- 54 MainPower supported this definition but sought to amend the definition to provide further clarity. Mr Maclennan rejected the submission and I agree with his assessment³⁷ and no longer consider the amendments to the definition necessary. I agree that MainPower's assets meet the definition so there is no need to specifically state that MainPower's assets are included.

Electricity distribution line

- 55 MainPower supported this definition but sought to amend the definition to provide further clarity. Mr Maclennan rejected the submission and I agree with his assessment³⁸ and no longer consider the amendments to the definition necessary given 'support structure' is an undefined term.

³⁶ S.42A report of Mr Maclennan, dated 21 July 2023, paragraph 558, page 130

³⁷ S.42A report of Mr Maclennan, dated 21 July 2023, paragraph 567, page 131

³⁸ S.42A report of Mr Maclennan dated 21 July 2023, paragraph 575, page 132

Infrastructure building and infrastructure cabinet

- 56 MainPower supported both definitions but sought amendments to exclude electricity cabinets and kiosks. Mr Maclennan supports the submissions and recommended proposed amendments³⁹ which I agree with.

MAINPOWERS EVIDENCE ON THE NOTABLE TREES CHAPTER

New policy for physical works around notable trees

- 57 MainPower sought to add a new policy to allow for limited works around notable trees for cultivation, maintenance, safety purposes or for network utilities. Ms Steven considers this proposed policy to be difficult to understand and that the policy seeks cultivation to be enabled which is not currently permitted.⁴⁰ I disagree with Ms Steven and consider the Tree chapter policy framework ought to provide for the needs of infrastructure. I have given further thought to the wording of the new policy suggested by MainPower and propose alternative wording consistent with a policy contained in the Christchurch District Plan. I recommend the new policy be reworded to the following:

- 58 Proposed changes are shown as bold and **underlined**.

New Policy: Trees and utilities

Where it would not be reasonable to locate outside of the dripline of a significant tree listed in TREE SCHED1 due to locational, technical or operational requirements, ensure that the utility is appropriately designed, located and installed to maintain as far as practicable the specific values of the tree.

TREE-R6 Removal of any notable tree that is unsafe

- 59 MainPower supported TREE-R6 in part as it provides provision to remove a damaged tree that poses a significant risk to critical infrastructure. However, it is unclear what constitutes a 'severe event'. Ms Steven agreed with MainPower's submission that the term 'severe event' is unclear and has proposed to use the term 'emergency' instead. Ms Steven has recommended proposed amendments⁴¹ and I agree with these.

TREE-MD1

- 60 Ms Steven has clarified that rules TREE-R6 and R7 are not subject to TREE-MD1 or TREE-MD2 and that TREE-R1-5 should not apply to the EI Chapter.⁴² On this basis I agree that the proposed amendments sought in MainPower's original submission are not necessary.

³⁹ S.42A Report of Mr Maclennan, dated 21 July 2023, paragraph 597, page 136

⁴⁰ S.42a Report of Ms Steven, dated 21 July 2023, paragraph 56, page 8

⁴¹ S.42a Report of Ms Steven, dated 21 July 2023, paragraph 116, page 15

⁴² S.42A report of Ms Steven, dated 21 July 2023 paragraph 124, page 16

MAINPOWERS SUBMISSION ON THE HISTORIC HERITAGE CHAPTER

Strategic Directions

- 61 Ms Steven has stated that if the Panel accept MainPower's submission seeking that strategic directions have primacy over other objectives and policies in the PDP, then a SD objective for historic heritage and cultural matters will be required.⁴³ I agree with this assessment and consider that SD are more important and that there ought to be a hierarchy between SD and other plan provisions.
- 62 As stated verbally at Hearing 1, I consider that this hierarchy is required to ensure a well-functioning District Plan with appropriate provisions that both protect and enable the operation of infrastructure providers like MainPower. As outlined in the legal submissions of Ms Hawkins⁴⁴ as part of Hearing 1, the SD sets a framework that recognises and provides protection for electricity distribution infrastructure and for future infrastructure going forward. Further in my view SD are critical for preparing, changing, interpreting, and implementing the District Plan, and all other objectives and policies in all other chapters of the District Plan are to be read and achieved in a manner that is consistent with SD
- 63 If SD do not take primacy, then I consider that inconsistencies could potentially arise in the PDP as notified. Sometimes conflicts can occur between chapters and provisions and, in such instances, one would look to the SD for a guidance. For example, a complex consent application involving multiple chapters of the District Plan may be contrary one plan chapter, but on the whole 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.

HH-P7 Siting of infrastructure

- 64 MainPower supported this objective but sought an amendment to provide for the continued operation as well as upgrading, maintenance and repair of existing infrastructure. Ms Steven states that the EI chapter s.42A report recommended that, except where specified, the HH chapter will not apply to the EI chapter.⁴⁵ As such, I agree that the amendments sought by MainPower's original submission are not necessary.

HH-R3 Construction of a structure, building, or addition to a building within any historic heritage setting listed in HH-SCHED2.

- 65 MainPower supported this rule as notified but noted there was no provision to provide customer connections to electricity. I note that the amendment is no longer required as this matter has been resolved by the EI s.42A report recommendation that specifies that, except for identified rules, the

⁴³ S.42A report of Ms Steven, dated 21 July 2023 paragraph 124, page 21

⁴⁴ Legal Submission of Ms Hawkins, dated 5 May 2023

⁴⁵ S.42A report of Ms Steven, dated 21 July 2023 paragraph 110, page 19

HH chapter does not apply to the EI chapter and are provided for under EI-R4.

MAINPOWERS SUBMISSION ON THE EARTHWORKS CHAPTER

New Rule Exemption for works subject to a building consent

- 66 MainPower proposed a new rule as part of the submission to allow for earthworks as a permitted activity where the earthworks are subject to a building consent. Mr Wilson has not considered this matter fully. I still consider the inclusion of this rule necessary as it is appropriate that earthworks subject to a building consent are permitted. As part of the building consent, erosion and sediment controls and the like are all considered. It is unnecessary for these effects to be considered again under a resource consent. This is a common practice among many other local authorities.
- 67 Proposed changes are shown as bold and **underlined** and deletions as ~~strikethrough~~.

Insert a new Rule as follows:

<u>EW-RX</u>	<u>Earthworks subject to a Building Consent</u>	
<u>All Zones</u>	<p><u>Activity status: PER</u></p> <p>1. <u>Earthworks that are or will be subject to a building consent.</u></p> <p><u>Where:</u></p> <p>a. <u>It occurs within 2m of the outer edge of the exterior wall of the building.</u></p>	<p><u>Activity status when compliance not achieved:</u></p> <p><u>Refer to activity rules to determine activity status and matters of discretion.</u></p>

New Rule: Earthworks adjacent to a major electricity distribution lines

- 68 MainPower sought to insert corridor protection rules relating to earthworks adjacent to major electricity lines. The s.42a report does not appear to have addressed this submission point. This new rule should be inserted into the EW Chapter and covers all earthworks adjacent to the MEDL's. As noted in the evidence of Mr Appleman these rules are required as a matter of safety to protect people undertaking activities in close proximity to lines and to protect staff working on the lines.⁴⁶ Earthworks in close proximity to lines can also complicate operation, maintenance and upgrading activities

⁴⁶ Evidence of Mark Appleman, dated 7 August 2023, paragraph 32, page 5.

and can add significantly to the costs and duration of works. On this basis I recommend a new rule be inserted in the Earthworks Chapter.

- 69 Proposed changes are shown as bold and **underlined** and deletions as ~~strikethrough~~.

Earthworks adjacent to a major electricity distribution line

Activity Status: PER

Where:

1. Earthworks shall be setback at least 6m from the centreline of the Major Electricity Distribution Line as shown on the planning maps or;
2. Meet the following requirements:
 - a. be no deeper than 300mm within 2.2m of the foundation of the major electricity distribution line support structure; and
 - b. be no deeper than 0.75m between 2.2m and 6m from the foundation of the major electricity distribution line support structure; and
 - c. earthworks shall not destabilise a major 66kV or 33kV electricity distribution line pole or tower; and
 - d. earthworks shall not result in a reduction in the ground to conductor clearance distances below what is required by Table 4 in NZECP 34:2001 New Zealand Electricity Code of Practice for Electricity Safe Distances, unless the requirements of Clause 2.2.3 of NZECP 34:2001 New Zealand Electricity Code of Practice for Electricity Safe Distances are met.

Activity status when compliance not achieved: NC

Notification

An application for a non-complying activity under this rule is precluded from being publicly notified but may be limited notified only to the relevant electricity distribution line operator where the consent authority considers this is required, absent its written approval.

EI-P1 Enabling earthworks

- 70 MainPower supported this policy as notified. Mr Wilson recommends proposed amendments⁴⁷ which I agree with.

EW-P2 Earthworks within flood assessment overlays

- 71 MainPower supported this policy as notified but sought amendments to provide for the maintenance, repair or upgrade of existing infrastructure or the functional need for new infrastructure. Often critical infrastructure has no option but to locate in flood assessment overlay areas. Mr Wilson has rejected the submission point as he considers the EW provisions apply alongside the EI and TRANS provisions which could result in duplication or unnecessary stringency.⁴⁸ I disagree with Mr Wilson and consider that the proposed new clause will not result in any duplication or stringency but rather would provide practical support for critical infrastructure to locate in flood assessment overlay area where necessary due to functional and operational requirements, or to carry out maintenance repair or upgrade of infrastructure. I recommend amendments to EW-P2.
- 72 Proposed changes are shown as bold and **underlined** and deletions as ~~strikethrough~~.

Amend EW-P2 as follows:

Allow earthworks within the Urban Flood Assessment Overlay and Non-Urban Flood Assessment Overlay where:

- 1. the earthworks do not increase the flooding risk to the site or neighbouring sites through the displacement of flood waters;*
- 2. the earthworks associated with proposed subdivision, development or use do not increase the risk to life or property; and*
- 3. the ability to convey flood waters is not impeded as a result of the earthworks.*
- 4. the earthworks are associated with development, maintenance, repair, upgrade of critical infrastructure and have an operational or functional need to locate within a Flood Assessment Overlay.**

EI-R8 Earthworks for underground infrastructure

- 73 MainPower supported this rule as notified but sought minor amendments to the rule. I agree with the assessment of Mr Wilson⁴⁹ and agree that the amendments are no longer necessary.

EI-MD1 Activity operation, scale, form and location

- 74 MainPower supported this matter of discretion as notified but sought to amend clause 12 to refer to the electricity distribution network. Mr Wilson

⁴⁷ S.42a Report of Mr Wilson, dated 21 July 2023, paragraph 115 page 20

⁴⁸ S.42a report of Mr Wilson, dated 21 July 2023, paragraph 127, page 16

⁴⁹ S.42a report of Mr Wilson, dated 21 July 2023, paragraph 254, page 40

has accepted this submission in part and recommended proposed amendments⁵⁰ which I agree with.

CONCLUSION

- 75 The provisions, as amended, all support the sustainable management of MainPower's network and obligations as a Lifeline Utility Operator. 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: 7 August 2023



Melanie Karen Foote

⁵⁰ S.42a report of Mr Wilson, dated 21 July 2023, page 82.