

Before the Independent Hearing Panel
Appointed by the Timaru District Council

Under	Schedule 1 of the Resource Management Act 1991 (RMA)
In the matter of	Submissions on the Proposed Timaru District Plan
Between	Various Submitters
And	Timaru District Council Respondent

Andrew Willis - Hearing E - Interim Reply
Addendum - EI-P2 and 3 Waters Rules
3 June 2025

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**anderson
lloyd.**

Introduction

- 1 This evidence responds to Minute 24 which was issued by the Hearing Panel on 3 March 2025 (**Minute 24**) and Minute 32 which was issued by the Hearing Panel on 30 April 2025 (**Minute 32**).
- 2 In Minute 24 the Hearing Panel requested that I respond to a number of matters as set out in that minute. I provided an Interim Reply report dated 17 April 2025 responding to the matters set out in Minute 24, but stated (in paragraphs 9 and 10) that further work was required to respond to the Panel's direction on the "Effects Management Hierarchy" (**EMH**) in EI-P2 and that rules EI-R22, EI-R25 and EI-R26 for three waters needed further consideration in response to submissions to ensure these are the most appropriate. A time extension was sought for this work.
- 3 In Minute 32 the Panel granted a time extension to 30th May.
- 4 This Interim Reply report addendum addresses EMH in EI-P2 and rules EI-R22, EI-R25 and EI-R26 for three waters.
- 5 Where I have recommended changes to the provisions in this Reply report addendum, these are identified in blue font in ~~strike through~~ and underlining to distinguish these from those recommended in my s42A report.

The Effects Management Hierarchy in EI-P2

- 6 For clarity, in Minute 24 (paragraph 8) the Hearing Panel requested that Mr Willis:

"consider the use of the 'Effects Management Hierarchy' approach in EI-P2. Provide further clarity on the application of the effects management hierarchy approach in the context of the EI policies, particularly when considered against the recommendations of Ms White in relation to submissions of the Dir General Conservation the NPS-IB in Hearing D. Is it appropriate to apply the effects management hierarchy, which is a method utilised specifically in the NPS-FM and NPS-IB to the EI provisions? If so, why? In consultation with submitter planning experts, revisit the drafting of EI-P2 and produce a s32AA analysis to support any agreed drafting outcome."

(The parties identified in this direction were Ms Seaton for Primeport and TDHL, MS McLeod for Transpower and Ms Williams for the Dir. General of Conservation.)
- 7 Ms Seaton, MS McLeod, Ms Williams and I have corresponded on the Panel's direction. This has culminated in the Joint Witness Statement (**JWS**) attached as **Appendix 1** to this Interim Reply report Addendum.

- 8 As set out in the JWS, the parties have agreed on minor amendments to EI-P2. The key changes involve:
- Excluding the application of EI-P2 for the coastal environment outside of urban zoned areas (EI-P2(1)(a)¹;
 - A minor change to EI-P2(3)(f) that softens the requirement to avoid RSI and other infrastructure in sensitive environments under clause EI-P2(3)(f)), such that rather than requiring RSI and other infrastructure to be avoided, the amendment enables avoidance to be considered; and
 - Clarifying in EI-P2(3) that the EMH applies when a resource consent is triggered under the District Wide provisions (under clause 16(2)).
- 9 As set out in the JWS in section 4, Ms Seaton, Ms McLeod, Ms Williams and I all consider that it is appropriate to apply an EMH to regionally significant infrastructure (**RSI**) and other infrastructure. Given that the JWS provides explanation for the recommended changes to EI-P2, the amended EI-P2 (in Appendix 1 to the JWS) and a s32AA assessment (in Appendix 2 to the JWS), I will not repeat this here.

Three Waters Rules - EI-R22, EI-R25 and EI-R26

- 10 In Minute 24 the Panel stated that:

“In her Summary Statement, Ms White updated her recommendations to add matters of control or discretion to those activities identified by Ms Pull, with amended wording. Given that all relate to the EI and Stormwater Chapters, please advise whether you would recommend accepting or not the matters of control or discretion for EI-R22, EI-R26, EI-R40 and SW-R6.”

- 11 Related to this, in Minute 32 the Panel asked me to: *“advise whether he recommends accepting the matters of control or discretion for EI-R22, EI-R25 and EI-R26.2.”*
- 12 In my Interim Reply report dated 17 April 2025 (paragraph 44), I stated that I conferred with Ms White over her recommendations. I agreed that it would be appropriate to add matters of discretion for EI-R22 and EI-R26 that relate to the values of Kati Huirapa should those rules remain in the EI chapter, however I was unsure of the scope for this as there were no submissions seeking this on these rules or the EI chapter generally (Te Rūnanga o Ngāi Tahu’s [185.8] submission only seeks matters of control or discretion in zone chapters). I also noted that these rules may be further amended based on Council advice in response to submissions and sought a time extension for this work.

¹ This change was signalled in my Interim Reply Report dated 17 April 2025 but not shown in the recommended changes given the further work required.

- 13 Discussions with the Council's engineers have been ongoing on these three rules. These discussions informed my s42A report recommendations, my advice to the Panel in my Interim Reply report and the subsequent recommended changes included in this Addendum.
- 14 The key changes across the notified PDP, s42A report and this Addendum for these three waters rules is how new underground and above ground infrastructure is grouped and addressed in the rules and how to resolve duplication in the notified provisions.
- 15 Upon further assessment and based on further advice from TDC's engineers I recommend that the rules generally revert back to the notified PDP approach with some minor changes as set out below.

EI-R22

- 16 In my s42A report I responded to the submissions of Opuha Water [181.34] and TDC [42.21] which sought to delete EI-R22 (the maintenance, repair and upgrading of underground water supply infrastructure) to remove duplication with EI-R25 and EI-R26, by amending EI-R25 to cover works to existing above ground three waters infrastructure and EI-R26 to cover new above ground three waters infrastructure.
- 17 Upon further reflection, I consider the requested amendment by Opuha Water and TDC is a preferable solution to remove the duplication with EI-R25 and EI-R26, because this supports my recommended changes to EI-R25 and EI-R26 discussed below. Accordingly, I recommend that the submissions from Ophua Water [181.34] and TDC [42.21] are accepted (these were previously recommended to be accepted in part).

EI-R25

- 18 To avoid the duplication with EI-R22 I recommended that EI-R25 was amended to delete the reference to underground water systems infrastructure. With EI-R22 being deleted, that change is no longer required. This means that maintenance, repair and upgrading activities for both underground and above ground three waters infrastructure can be treated consistently, which I consider is preferable to treating underground maintenance, repair and upgrading differently to above ground maintenance, repair and upgrading, noting that in many instances the same infrastructure network occupies both below and above ground locations or the intersection of these, at different points in the network. I also recommend an amendment to PER-3 under clause 16(2) to only apply outside of rural zones as otherwise maintenance, repair and upgrading in a rural zone that does not comply with EI-S2 would be RDIS, whereas under EI-R26, entirely new three waters infrastructure would be permitted in rural zones. EI-S2 is useful to ensure the activity is

maintenance, repair or upgrading, as opposed to entirely new three waters infrastructure.

EI-R26

- 19 To avoid the duplication with EI-R22 I recommended that EI-R26 was amended to delete the reference to underground water systems infrastructure. With EI-R22 being deleted, that change is no longer required. Similar to EI-R25, this means that the construction of new underground and above ground three waters infrastructure can be treated consistently, which I consider preferable to treating these differently, as set out under EI-R25.
- 20 In addition to reverting back to the notified approach of EI-R26 applying to both underground and above ground three waters infrastructure, I recommend reverting back to permitting these activities in Rural Zones as per the notified PDP. In my s42A report (paragraph 6.44.5) I recommended limiting EI-R26 to above ground reservoirs, storage ponds and treatment facilities for network utilities and that these should be an RDIS activity in all zones, as the matters removed from this new above ground rule (open drains and channels, pipes, water reservoirs, storage ponds; and other ancillary facilities and structures for the reticulation and storage of water for agricultural and horticultural activities (excluding mobile irrigation equipment for agricultural and horticultural activities)) would likely have been permitted in the rural zone (see GRUZ-R13 which permits ancillary structures for reticulation and storage of water for agricultural and horticultural activities). However, I consider it simpler and more transparent to expressly permit these activities in EI-R26 rather than relying on GRUZ-R13. In addition to being more transparent, I note that the EI three waters provisions are intended to take precedence over the rules in the zone chapters, and therefore relying on GRUZ-R13 is problematic.
- 21 As EI-R26 is recommended to be excluded from the Earthworks Chapter under EW-R1, the earthworks chapter s42A author Ms Williams and I agree that an additional matter of discretion should be added to EI-R26.2 to enable consideration of dust nuisance, sedimentation, land instability, erosion and contamination effects for the construction of new three waters infrastructure outside of rural zones (where existing neighbouring activities are more intensive). The scope for this change is Transpower [159.38] who sought to provide clarity in the chapter on which district wide rules applied.

Other three waters changes

- 22 In addition to the above changes, I also recommend (under clause 16(2)) standardising the activity references in EI-R23, EI-R25 and EI-R26 to “water supply, wastewater systems and stormwater infrastructure” rather than various references to “water systems infrastructure” and components of it. In my opinion it is not clear what “water systems infrastructure” is.

- 23 To avoid overlap between EI-R23, EI-R25 and EI-R26, under clause 16(2) I recommend changes to EI-R25 and EI-R26 to exclude those activities covered by EI-R23.
- 24 I also recommend deleting references to EI-S1 under clause 16(2) as this standard applies to network utility poles, towers and antenna which are not typical of three waters infrastructure.

Matters of control or discretion for Kati Huirapa values

- 25 Regarding whether to add matters of control or discretion to EI-R22, EI-R25 and EI-R26 (as identified by Ms Pull) to consider effects on the values of Kati Huirapa, I recommend a matter of discretion is not added to EI-R22 as I am recommending deleting it.
- 26 For EI-R25, I do not consider this matter of discretion is required given the subject of the permitted standards. In my opinion, it is not efficient or effective to consider Kati Huirapa values under this rule as:
- activities within existing buildings are unlikely to affect cultural values (PER-1);
 - buildings that do not comply with the zone bulk and location requirements (PER-2) usually create adverse boundary amenity effects, rather than cultural effects and I note the zone rules themselves do not require the consideration of Kati Huirapa values when the built form standards are breached. I also note that the built form standards were not developed with reference to Kāti Huirapa's values;
 - the rule covers repairs, maintenance and upgrading to existing three waters infrastructure (PER-3), so these activities are already established in the environment, while new three waters infrastructure is covered under EI-R26; and
 - the district wide provisions covering sensitive environments (such as SASMs) continue to apply to the infrastructure.
- 27 With regard to EI-R26, I note that this rule applies outside of rural zones, for example to existing developed residential, town centre and industrial areas. The reason three waters infrastructure was proposed as RDIS activities in these zones in the notified PDP was not because of potential impacts on Kati Huirapa values, but rather because of potential impacts on existing urban activities. In my opinion, it is unlikely significant impacts would occur on such things as water bodies, wetlands, indigenous species and other matters of significance to Kati Huirapa given the urban nature of these zones and also noting that the district wide chapters (including the SASM chapter) and the requirement to obtain an archaeological authority for earthworks continue to apply to three waters infrastructure.
- 28 I also note that three waters infrastructure is varied in type and scale of effects and could comprise relatively minor underground water or wastewater pipes, or a pump station

above ground, or a bore, or a stormwater management area, or a reservoir, or a water treatment plant, or a sewage treatment plant, etc. In my opinion, some three waters infrastructure would not cause adverse effects on Kati Huirapa values due to the minor nature of the activities, or if they did, these would already be addressed by regional council consent requirements, for example in relation to water quality and discharges, and therefore constitute inefficient repetition.²

- 29 As indicated in my Interim Right of Reply report (paragraph 44), I am unsure of the scope for such a change as there were no submissions seeking to include this matter of discretion on these rules or the EI chapter generally (Te Rūnanga o Ngāi Tahu's [185.8] submission only seeks matters of control or discretion in the zone chapters).
- 30 In my s42A Interim Reply report Appendix 1, I showed the changes to EI-R26 for the Panel's consideration. On balance I do not support including such a matter of discretion in EI-R26 for the reasons provided above, and I have therefore not shown these in this Interim Reply report Addendum.

Andrew Willis

3 June 2024

² I note that stormwater is dealt with separately in the stormwater chapter and that consent is required if the Council has not accepted the stormwater discharge into its stormwater network. Kati Huirapa values are a matter of discretion in that instance as the works are private stormwater management works and this matter of discretion was supported by the JWS attendant planners.

Appendix 1 – Joint Witness Statement for the “Effects Management Hierarchy” and EI-P2

**BEFORE THE INDEPENDENT HEARINGS PANEL
APPOINTED ON BEHALF OF THE TIMARU DISTRICT COUNCIL**

UNDER

the Resource Management Act 1991

AND

IN THE MATTER OF

Submissions and further submissions in relation to the Timaru Proposed District Plan – Hearing E – Energy and Infrastructure

AND

PrimePort Limited (submitter 175), Dir. General Conservation (submitter 166) and Transpower (submitter 159)

**JOINT WITNESS STATEMENT
Planning**

Dated: 27 May 2025

1 INTRODUCTION

- 1.1 This joint witness statement relates to a direction of the Hearing Panel (**the Panel**) in Minute 24 (dated 3 March 2025). In Minute 24 (paragraph 8) the Panel requested that Mr Willis:

“consider the use of the ‘Effects Management Hierarchy’ approach in EI-P2. Provide further clarity on the application of the effects management hierarchy approach in the context of the EI policies, particularly when considered against the recommendations of Ms White in relation to submissions of the Dir General Conservation the NPSIB in Hearing D. Is it appropriate to apply the effects management hierarchy, which is a method utilised specifically in the NPSFM and NPSIB to the EI provisions? If so, why? In consultation with submitter planning experts, revisit the drafting of EI-P2 and produce a s32AA analysis to support any agreed drafting outcome.”

The parties identified in this direction were Ms Seaton for Primeport and TDHL, MS McLeod for Transpower and Ms Williams for the Dir. General of Conservation.

- 1.2 In Mr Willis’s Interim Reply report (dated 17 April 2025) he stated that:

“For clarity, the approach I took when applying an effects management hierarchy in the EI chapter was to use this as a tool to manage infrastructure effects. It was a merits-based assessment of what is the most appropriate way to manage effects from these activities, and was not trying to give effect to the NPSIB or NPSFM. I have had correspondence with Ms White in relation to her recommendations on submissions of the Dir General Conservation the NPSIB (considered in Hearing D). I understand that my recommendation is not inconsistent with Ms White’s recommendation as she was applying the NPSIB to the whole ECO chapter and determined that to align it with what is required in the NPSIB would result in that chapter needing to be unpicked and completely reviewed.

However, as it stands the effects management hierarchy approach is ‘on face value’ in conflict with the NPSIB as it expressly specifies that it does not apply to renewable electricity generation assets and activities and electricity transmission network assets and activities (Transpower’s electricity transmission network assets and activities are already excluded as they are covered under proposed new policy EI-PX). This can be resolved by excluding SNAs for renewable electricity generation from the hierarchy, or utilising alternative solutions.

In terms of the Port’s activities specifically, I have had correspondence with Ms Seaton (for Primeport and TDHL), Ms McLeod (for Transpower) and Ms Williams (for the Dir. General of Conservation) on this matter. All parties agree that an exemption to the Policy within the urban parts of the Coastal Environment Overlay that is specific to the PORTZ is appropriate. Ms Seaton and I further consider that the Port and all existing urban zoned areas within the Coastal Environment Overlay should be excluded from the application of the hierarchy, leaving the other overlays still applying, while Ms Williams is not opposed to this option (Ms McLeod did not express an opinion on this matter as none was required). Based on advice from Yvonne Pfluger in relation

to the Coastal environment (included with my Natural Hazards, Coastal Environment and Drinking Water Protection s42A), areas which are already highly modified are not or are significantly less sensitive to RSI. Accordingly, I recommend the exclusion be applied to all urban zoned areas within the coastal environment.

In terms of whether it is appropriate to apply an effects management hierarchy to EI activities at all, and consequently providing a redrafted EI-P2 and s32AA analysis, this matter has not yet been sufficiently canvassed with the parties at this time. I also note Forest and Bird addressed the Panel on this matter at the hearing. Accordingly, a time extension is sought for this as per the Council's legal memorandum."

- 1.3 Further correspondence has now occurred with the parties on this matter which has led to this Joint Witness Statement (**JWS**) being prepared.
- 1.4 This JWS has been prepared in accordance with sections 9.4 and 9.5 of the Environment Court Practice Note 2023, which relates specifically to expert conferencing. The attendees confirm they have read, and agree to abide with, the updated Code of Conduct for Expert Witnesses included in Section 9 of the Environment Court Practice Note 2023.
- 1.5 This JWS sets out all matters agreed (and not agreed by the experts, with an outline of the reasons for disagreement provided where appropriate).
- 1.6 It is assumed that all submitted evidence has been reviewed and understood as a precursor to this JWS.

2 Position of the parties in relation to excluding the PORTZ / urban area of the Coastal Environment from EI-P2

- 2.1 Ms McLeod supports the existing exemption in EI-P2 for the National Grid and recommended new Policy EI-PX that sets out a bespoke approach to the management of effects of the National Grid. Ms McLeod provides no comment on whether EI-P2 should be amended to exclude the urban zoned areas of the coastal environment.
- 2.2 Ms Seaton considers that EI-P2 should exempt the PORTZ and other built-up urban areas too, mostly notably the General Industrial Zones, of which there are 4-5 areas in Timaru that have the coastal environment overlay over them, and also some General Residential Zone areas (a much smaller amount). As existing modified and built-up urban areas, Ms Seaton does not believe it is appropriate for the effects management hierarchy to apply to those areas where the only overlay in question is the coastal environment. If there are other sensitive environments in play in those areas, then the policy would still kick in.
- 2.3 Ms Williams supports an exemption to the Policy within the urban Coastal Environment Overlay that is specific to the PORTZ. Ms Williams is not opposed to the coastal environment urban zoned areas

being excluded in addition, noting that the avoid policy still applies to other overlays, i.e. Significant Natural Areas (SNAs), etc (regardless of whether they are located in urban areas or not).

- 2.4 Mr Willis considers that the PORTZ and all existing urban zoned areas within the Coastal Environment Overlay should be excluded from the application of the hierarchy. Like Ms Seaton and Ms Williams, Mr Willis notes that this leaves the other overlays still applying. Mr Willis also notes Ms Pfluger's evidence in relation to the Coastal environment (included with Mr Willis's Coastal Environment, Natural Hazards and Drinking Water Protection s42A report), which states that areas which are already highly modified are not or are significantly less sensitive. Mr Willis considers that infrastructure is important and it is reasonable to provide for this in existing urban areas of the coastal environment.
- 2.5 Amendments consistent with the above positions are set out in **Appendix 1**, with the amendments shown in blue font as ~~strike-through~~ and underlined.

3 The effects management hierarchy, the NPSIB and renewable electricity generation

- 3.1 In Mr Willis's 17th April 2025 Reply Report, he noted that the effects management hierarchy (EMH) approach is 'on face value' in conflict with the NPSIB, as the NPSIB expressly states it does not apply to renewable electricity generation assets (REG) and activities and electricity transmission network assets and activities.¹ He noted that this can be resolved by excluding SNAs for renewable electricity generation from the hierarchy, or utilising alternative solutions.
- 3.2 Mr Willis raised the option of carving out SNAs for REG from EI-P2 with the parties by referring to EI-PX (the National Grid Policy) for these. Specifically, the following amendment was proposed to EI-P2(3) to refer to EI-PX:
3. where due to functional needs or operational needs, RSI and other infrastructure must be located in the environments identified in EI-P2.1.a, and trigger a resource consent for those environments under the District Wide provisions, apply the following effects management hierarchy:
- [...]
- g. except that for renewable electricity generation, this hierarchy does not apply to significant natural areas, which are instead managed in accordance with EI-PX Managing adverse effects of the National Grid.
- 3.3 Ms McLeod has no comment to make on this matter as long as EI-PX remains unaltered.
- 3.4 Ms Seaton has no comment to make on this matter.

¹ NPSIB Part 1.3(3)

- 3.5 Ms Williams has no objection in principle to the general approach of excluding REG from the EMH provided for in EI-P2. She questions, however, whether the proposed amendment to manage REG under EI-PX aligns with the NPSREG Policy C2 as there is no regard to offsetting measures or environmental compensation for residual environmental effects of REG where activities cannot be avoided, remedied or mitigated (i.e. as per NPSREG Policy C2).
- 3.6 In regard to applying the EMH to infrastructure where there is a functional and operational need within sensitive environments, Ms Williams considers that with respect to Ms White's recommendations in Hearing D (refer to Ms White s42A para 7.8.18 and 7.13.26) her understanding is that Ms White is recommending the NPSIB not be applied in the ECO chapter as it would be too broad an application to apply an NPSIB EMH. This is because of the listed exemptions under Clause 3.11 that may apply and the subsequent 'evaluative judgements' required to determine whether those exemptions apply or not. However, applying a EMH approach in the infrastructure chapter is a much more specific application and exemptions such as for the National Grid have been provided for under proposed policy EI-PX. Ms Williams supports this approach.
- 3.7 Ms Williams also concurs with the point that the use of this approach is not necessarily to align with the NPSIB but that it is considered an appropriate tool to manage infrastructure within sensitive environments where there is a functional and operational need in line with s6 matters. It provides for a consistent approach to dealing with infrastructure in sensitive environments with a functional/operational need. Ms Williams also considers that this approach aligns with the NPSIB for specified infrastructure that is located within a SNA, provides a significant national or regional public benefit, where there is a functional or operational need, and no practicable alternative locations. In these cases the NPSIB Clause 3.10(2) and 3.11 require the assessment of the EMH (3.10(4)).
- 3.8 As stated in his Reply Report, Mr Willis remains of the opinion that using an EMH is a useful tool to manage infrastructure effects and that his position is not inconsistent with Ms White's recommendation as she was applying the NPSIB to the whole ECO chapter and determined that to align it with what is required in the NPSIB would result in that chapter needing to be unpicked and completely reviewed.
- 3.9 Mr Willis agrees with Ms Williams that the solution identified in paragraph 3.2 does not fully give effect to NPSREG Policy C2, which covers offsetting and environmental compensation. Mr Willis notes that, apart from Policy C2, the NPSREG contains little guidance on how to manage adverse effects on sensitive environments. Given the offsetting and compensation omissions in the proposed solution, Mr Willis proposes alternative amendments as set out in **Appendix 1**. These changes still apply the hierarchy but soften the requirement to avoid regionally significant infrastructure (RSI) and other infrastructure in sensitive environments under clause EI-P2(3)(f)), such that rather than requiring RSI and other infrastructure to be avoided, the amendment enables avoidance to be considered. Given the importance of RSI for community wellbeing, Mr Willis considers it may be appropriate to still provide RSI and other infrastructure in sensitive environments where adverse

effects cannot be avoided, minimised, remedied, offset or compensated for and this change enables this option to be considered, based on the evidence presented. Mr Willis also notes that the district wide provisions, which address sensitive environments, have their own objectives and policies and that the definitive 'avoid' statement in EI-P2(3)(f) may 'cut across' those various provisions. Enabling decision makers to consider avoiding the activity will enable the district wide provisions to also apply and be weighed accordingly.

- 3.10 Ms Williams has reviewed the proposed amendment to EI-P2(3)(f). She notes that her points only relate to the considerations made in her evidence and DOC submission points in terms of SNAs, Coastal Environment and the Bat Protection Areas and not how it would apply to the other sensitive environments listed in Policy EI-P2. She considers that although the amendment is less prescriptive, it does allow for a case-by-case assessment and consideration of relevant district wide objectives and policies such as ECO-01 (to protect SNAs), ECO-PY (to avoid significant adverse effects within the Coastal Environment) and ECO-P4 (to protect long tailed bats). This would be further clarified if the proposed amendments to the Energy and infrastructure chapter introduction are adopted, which specifies that the provisions in Part 2 – District Wide matters apply.

4 Is it appropriate to apply an effects management hierarchy to EI activities?

- 4.1 Ms McLeod considers that it is appropriate to apply an effects management hierarchy to EI activities but, in the case of the National Grid, such hierarchy must give effect to the particular effects management direction for the National Grid given in higher order planning instruments, including the NPSET and noting the exclusion for electricity transmission activities in the NPSIB. Ms McLeod considers that this is achieved for the National Grid in proposed Policy EI-PX.
- 4.2 Ms Seaton considers it is appropriate to apply an effects management hierarchy to EI activities, provided the application is limited in respect of the coastal environment within urban zoned areas. The reasons for Ms Seaton's view are set out in paragraph 2.2 above and elaborated on in her evidence on behalf of PrimePort/TDHL for Hearing E.
- 4.3 Ms Williams notes that the evidence she submitted on behalf of the Dir. General of Conservation for Hearing E supported the approach taken in the S42A report to apply an EMH in Policy EI-P2. Her views are further elaborated on in paragraph 3.6 of this JWS. Ms Williams considers it is appropriate to apply an effects management hierarchy to EI activities.
- 4.4 Mr Willis remains of the opinion that applying an EMH is a useful tool to manage infrastructure effects, as set out in his S42A report and Interim Reply report.

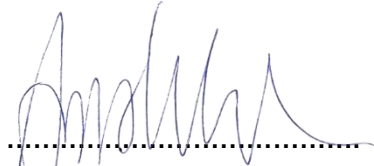
5 S32AA Assessment

- 5.1 The s32AA assessment on the recommended changes to EI-P2 is located in **Appendix 2** and has been prepared by Mr Willis.

Signed:


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Kim Seaton


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Ainsley McLeod


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Liz Williams


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Andrew Willis

CONFIDENTIAL

Appendix 1 – Recommended Amendments to EI-P2

Amendments resulting from this JWS are shown in blue font as ~~strike-through~~ and underlined.

EI-P2	Managing adverse effects of Regionally Significant Infrastructure, <u>Lifeline Utilities</u> ² and other infrastructure
	<p>1. <u>Except as provided for by Policy EI-PX,</u>³ P<u>provide</u> for Regionally Significant Infrastructure, <u>Lifeline Utilities</u>⁴ and other infrastructure where any adverse effects are appropriately managed by:</p> <ul style="list-style-type: none">a. seeking to avoid adverse effects on the identified values and qualities of Outstanding Natural Landscapes and Outstanding Natural Features, Visual Amenity Landscapes, the Coastal Environment <u>outside of urban zoned areas</u>,⁵ Significant Natural Areas, High Naturalness Waterbodies Areas, Sites <u>and areas</u>⁶ of Significance to Māori, historic heritage, cultural, and archaeological areas, riparian margins, <u>bat protection areas</u>⁷ and notable trees <u>in accordance with the relevant Part 2 - District Wide provisions applying to those areas</u>; andb. controlling <u>managing</u>⁸ the height, bulk and location of Regionally Significant Infrastructure and other all infrastructure, consistent with taking into account⁹ the role, function, character and identified qualities of the underlying zone; andc. requiring compliance with recognised standards or guidelines relating to <u>acceptable noise for noise sensitive activities</u>, vibration, radiofrequency fields and electric and magnetic fields <u>to minimise adverse effects on human health, wellbeing and amenity</u>¹⁰; andd. requiring the undergrounding of network utilities <u>lines</u>¹¹ in new areas of urban development; ande. minimising adverse visual effects on the environment through landscaping and/or the use of recessive colours and finishes; andf. allow new water infrastructure, including open drains, ponds and structures for the reticulation and storage of water for agricultural and

² The Telcos [176.40, 208.40, 209.40, 210.40] and Radio NZ [152.32]

³ Transpower [159.36]

⁴ The Telcos [176.40, 208.40, 209.40, 210.40] and Radio NZ [152.32]

⁵ PrimePort [175.20]

⁶ Clause 16(2)

⁷ S42A Report Overarching matters Proposed Timaru District Plan: Part 1 - Introduction and General Definitions, dated 5 April 2024, paragraph 233, responding to a submission from Dir. General of Conservation [166.11]

⁸ Radio NZ [152.32]

⁹ The Telcos [176.40, 208.40, 209.40, 210.40]

¹⁰ Kāinga Ora [229.20]

¹¹ The Telcos [176.40, 208.40, 209.40, 210.40]

~~horticultural activities in sensitive environments where the adverse effects can be minimised; and~~¹²

- g. requiring other infrastructure to adopt sensitive design to integrate within the site, existing built form and/or landform and to maintain take into account¹³ the character and qualities of the surrounding area;

while:

- 2. recognising the functional need¹⁴ or operational need of Regionally Significant Infrastructure, Lifeline Utilities¹⁵ and other infrastructure activities, and having regard to:
 - a. the extent to which adverse effects have been addressed through site, route or method selection; and
 - b. the need to quickly repair and restore disrupted services; and
 - c. the impact of not operating, repairing, maintaining, replacing,¹⁶ upgrading, removing or developing the regionally significant infrastructure or other infrastructure; and
 - d. the time, duration or frequency of adverse effects; and
 - e. their location, including:
 - i. the complexity and connectedness of the networks and services;
 - ii. the potential for co-location and shared use of infrastructure corridors; and
 - iii. the extent to which there are feasible alternative sites, routes or methods available;¹⁷ and
 - f. for renewable energy generation, the need to locate where the natural resources occur.; and
- 3. where due to functional needs or operational needs, RSI and other infrastructure must be located in the environments identified in EI-P2.1.a, and trigger a resource consent for those environments under the District Wide provisions,¹⁸ apply the following effects management hierarchy:
 - a adverse effects are avoided where practicable; and
 - b. where adverse effects cannot be avoided, they are minimised where practicable; and

¹² Opuha Water [181.29]

¹³ The Telcos [176.40, 208.40, 209.40, 210.40]

¹⁴ Clause 16(2)

¹⁵ The Telcos [176.40, 208.40, 209.40, 210.40] and Radio NZ [152.32]

¹⁶ Transpower [159.24], the Telcos [176.25, 208.25, 209.25 and 210.25]

¹⁷ Opuha Water [181.29] and TDC [42.19]

¹⁸ [Clause 16\(2\)](#)

- c. where adverse effects cannot be minimised, they are remedied where practicable; and
- d. where more than minor residual adverse effects cannot be avoided, minimised, or remedied, offsetting is provided where possible; and
- e. if offsetting of more than minor residual adverse effects is not possible, compensation is provided; and
- f. if compensation is not appropriate, [consider whether](#) the activity itself ~~must~~ [should](#) be avoided in the environments identified in EI-P2.1.a.¹⁹

Amend the proposed definition of “urban zoned areas / urban areas” as follows:

“for the purpose of the [Energy and Infrastructure](#),²⁰ Natural Hazards and Coastal Environment chapters, means all zones with the exception of the General Rural, Rural Production, Rural Lifestyle, Future Urban, and any Open Space and Recreation zones that do not share at least 50% of their boundary with a qualifying urban zone.” This definition can be extended to also apply to the EI chapter.

¹⁹ Dir. General Conservation [166.22]

²⁰ [PrimePort](#) [175.20]

Appendix 2 – S32AA Assessment for the Recommended Amendments to EI-P2

Recommended Amendments to Provisions:	
<ol style="list-style-type: none"> 1. The amendments to EI-P2(1)(a) exclude the PORTZ and all existing urban zoned areas within the Coastal Environment Overlay from the application of the clause (and the EMH under EI-P2(3)). The associated amendments to the definition of “urban zoned areas” enables the definition to apply to the energy and infrastructure chapter to support the PORTZ exclusion. 2. The amendments to EI-P2(3)(f) ‘soften’ the requirement to avoid RSI and other infrastructure in sensitive environments - rather than <u>requiring</u> RSI and other infrastructure to be avoided, the amendment enables avoidance to be <u>considered</u>. 	
Costs	Benefits
<ol style="list-style-type: none"> 1. No meaningful costs identified for the PORTZ exclusion as the areas are already highly modified and are not sensitive to energy and infrastructure activities. 2. May result in residual adverse effects, after the EMH is worked through, occurring in identified sensitive environments if justified. 	<ol style="list-style-type: none"> 1. Better enables undertaking energy and infrastructure activities in the highly modified areas of the coastal environment. 2. May enable RSI and other infrastructure in identified sensitive environments where adverse effects cannot be avoided, minimised, remedied, offset or compensated for, if the evidence justifies this.
Efficiency	Better supports energy and infrastructure activities which are important to support community well-being. Provisions are more targeted, and therefore efficient, as they exclude the application of the EMH in highly modified urban areas of the coastal environment.
Effectiveness	The amended provisions still enable the avoidance of adverse effects in the identified sensitive environments if this is justified based on the evidence, but do not require this – they are therefore likely to be more effective in delivering appropriate effects management.
Other Reasonably Practical Options	The EMH could be removed as a tool to manage adverse effects from RSI and other infrastructure, however, this is a useful tool to apply to activities that provide benefits to the community and is more structured than a non-EMH approach.
How the amendments achieve the purpose of the Act	
The proposed changes improve the management of the adverse effects of RSI and other infrastructure for the reasons identified above and therefore better achieve the PDP objectives and are the most appropriate to achieve the RMA.	

Appendix 2 – Recommended EI Chapter Amendments

Where I recommend changes in response to submissions, these are shown as follows:

Text recommended to be added to the Proposed Plan is underlined.

Text recommended to be deleted from the Proposed Plan is ~~struck through~~.

Amendments recommended as a result on the analysis in this Reply Report are shown in blue font as ~~strike through~~ and underlined.

Note:

1. Only EI-P2 and the EI three waters rules (Rules Section C) are included in this Appendix for efficiency. The remainder of the EI chapter is as per the Interim Reply Report dated 17 April 2025
2. The recommended changes to EI-P2 are the same as set out in the JWS.

EI-P2	Managing adverse effects of Regionally Significant Infrastructure, <u>Lifeline Utilities</u>³ and other infrastructure
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- | |
|---|
| <ol style="list-style-type: none"> 1. <u>Except as provided for by Policy EI-PX,</u>⁴ Provide for Regionally Significant Infrastructure, <u>Lifeline Utilities</u>⁵ and other infrastructure where any adverse effects are appropriately managed by: <ol style="list-style-type: none"> a. seeking to avoid adverse effects on the identified values and qualities of Outstanding Natural Landscapes and Outstanding Natural Features, Visual Amenity Landscapes, the Coastal Environment <u>outside of urban zoned areas</u>,⁶ Significant Natural Areas, High Naturalness Waterbodies Areas, Sites <u>and areas</u>⁷ of Significance to Māori, historic heritage, cultural, and archaeological areas, riparian margins, <u>bat protection areas</u>⁸ and notable trees in accordance with the relevant Part 2 - District Wide provisions applying to those areas; and b. controlling <u>managing</u>⁹ the height, bulk and location of Regionally Significant Infrastructure and other <u>all</u> infrastructure, consistent with |
|---|

³ The Telcos [176.40, 208.40, 209.40, 210.40] and Radio NZ [152.32]

⁴ Transpower [159.36]

⁵ The Telcos [176.40, 208.40, 209.40, 210.40] and Radio NZ [152.32]

⁶ PrimePort [175.20]

⁷ Clause 16(2)

⁸ S42A Report Overarching matters Proposed Timaru District Plan: Part 1 - Introduction and General Definitions, dated 5 April 2024, paragraph 233, responding to a submission from Dir. General of Conservation [166.11]

⁹ Radio NZ [152.32]

taking into account¹⁰ the role, function, character and identified qualities of the underlying zone; and

- c. requiring compliance with recognised standards or guidelines relating to acceptable noise for noise sensitive activities, vibration, radiofrequency fields and electric and magnetic fields to minimise adverse effects on human health, wellbeing and amenity¹¹; and
- d. requiring the undergrounding of network utilities lines¹² in new areas of urban development; and
- e. minimising adverse visual effects on the environment through landscaping and/or the use of recessive colours and finishes; and
- ~~f. allow new water infrastructure, including open drains, ponds and structures for the reticulation and storage of water for agricultural and horticultural activities in sensitive environments where the adverse effects can be minimised; and~~¹³
- g. requiring other infrastructure to adopt sensitive design to integrate within the site, existing built form and/or landform and to ~~maintain~~ take into account¹⁴ the character and qualities of the surrounding area;

while:

- 2. recognising the functional need¹⁵ or operational need of Regionally Significant Infrastructure, Lifeline Utilities¹⁶ and other infrastructure activities, and having regard to:
 - a. the extent to which adverse effects have been addressed through site, route or method selection; and
 - b. the need to quickly repair and restore disrupted services; and
 - c. the impact of not operating, repairing, maintaining, replacing,¹⁷ upgrading, removing or developing the regionally significant infrastructure or other infrastructure; and
 - d. the time, duration or frequency of adverse effects; and
 - e. their location, including:
 - i. the complexity and connectedness of the networks and services;

¹⁰ The Telcos [176.40, 208.40, 209.40, 210.40]

¹¹ Kāinga Ora [229.20]

¹² The Telcos [176.40, 208.40, 209.40, 210.40]

¹³ Opuha Water [181.29]

¹⁴ The Telcos [176.40, 208.40, 209.40, 210.40]

¹⁵ Clause 16(2)

¹⁶ The Telcos [176.40, 208.40, 209.40, 210.40] and Radio NZ [152.32]

¹⁷ Transpower [159.24], the Telcos [176.25, 208.25, 209.25 and 210.25]

- ii. the potential for co-location and shared use of infrastructure corridors;
and
- iii. the extent to which there are feasible alternative sites, routes or methods available;¹⁸ and
- f. for renewable energy generation, the need to locate where the natural resources occur.; and
- 3. where due to functional needs or operational needs, RSI and other infrastructure must be located in the environments identified in EI-P2.1.a, and trigger a resource consent for those environments,¹⁹ apply the following effects management hierarchy:
 - a adverse effects are avoided where practicable; and
 - b. where adverse effects cannot be avoided, they are minimised where practicable; and
 - c. where adverse effects cannot be minimised, they are remedied where practicable; and
 - d. where more than minor residual adverse effects cannot be avoided, minimised, or remedied, offsetting is provided where possible; and
 - e. if offsetting of more than minor residual adverse effects is not possible, compensation is provided; and
 - f. if compensation is not appropriate, consider whether the activity itself must should be avoided in the environments identified in EI-P2.1.a.²⁰

Amend the proposed definition of “urban zoned areas / urban areas” as follows:

“for the purpose of the [Energy and Infrastructure](#),²¹ Natural Hazards and Coastal Environment chapters, means all zones with the exception of the General Rural, Rural Production, Rural Lifestyle, Future Urban, and any Open Space and Recreation zones that do not share at least 50% of their boundary with a qualifying urban zone.” This definition can be extended to also apply to the EI chapter.

¹⁸ Opuha Water [181.29] and TDC [42.19]

¹⁹ [Clause 16\(2\)](#)

²⁰ Dir. General Conservation [166.22]

²¹ [PrimePort](#) [175.20]

Rules Section C - Rules for network utilities - Three Waters

EI-R22²²	Construction, maintenance, repair and upgrading of underground water supply, wastewater systems, and stormwater infrastructure	
All Zones	Activity status: Permitted - Where: - PER-1 Any pipe is not located on or within a waterbody, except where it is: <ol style="list-style-type: none"> 1. attached to and/or incorporated within an existing bridge structure; or 2. within an existing conduit or duct. 	Activity status when compliance not achieved: Restricted Discretionary - Matters of discretion are restricted to: <ol style="list-style-type: none"> 1. the functional needs and ^{or}²³ operational needs of, and benefits from, the activity, including the potential impact on the levels of service or health and safety if the work is not undertaken; and 2. the impact on the character and qualities of the surrounding area.

EI-R23	New water <u>supply</u>²⁴, wastewater <u>systems</u>²⁵ and stormwater <u>infrastructure</u>²⁶ connections to existing reticulated networks	
All Zones	Activity status: Permitted	Activity status when compliance not achieved: Not Applicable
EI-R24	Rainwater collection systems for non-potable use	
All Zones	Activity status: Permitted Where: PER-1 The rainwater tank complies with building height, setback and height in relation to boundary standards for the zone.	Activity status when compliance not achieved: Restricted Discretionary Matters of discretion are restricted to: <ol style="list-style-type: none"> 1. the matters of discretion of any infringed standard.
EI-R25	Maintenance, repair and upgrading of existing <u>underground and above ground water systems infrastructure, including:</u> <ul style="list-style-type: none"> <u>water supply, wastewater systems, and stormwater infrastructure <u>not covered under EI-R23</u></u>²⁷ <u>open drains and channels, pipes, water reservoirs, storage ponds; and</u> <u>other ancillary facilities and structures for the reticulation and storage of water for agricultural and horticultural activities (excluding mobile irrigation equipment for agricultural and horticultural activities)</u>²⁸ 	

²² Opuha Water [181.34] and TDC [42.21]

²³ Waka Kotahi [143.27]

²⁴ Clause 16(2) for consistency

²⁵ Clause 16(2) for consistency

²⁶ Clause 16(2) for consistency

²⁷ Clause 16(2)

²⁸ Clause 16(2)

All Zones	<p>Activity status: Permitted</p> <p>Where:</p> <p>PER-1 Building <u>or structure</u> maintenance and upgrades occur within the existing building <u>or structure</u>²⁹ envelope; or</p> <p>PER-2 New buildings and structures comply with the building height, setback, and height in relation to boundary for the zone; and</p> <p>PER-3 El-S1 and³⁰ <u>If located outside a rural zone</u> El-S2 are <u>is</u>³¹ complied with.</p>	<p>Activity status when compliance not achieved with PER-1 or PER-2: Restricted Discretionary</p> <p>Matters of discretion are restricted to:</p> <ol style="list-style-type: none"> 1. the functional needs and <u>or</u>³² operational needs of, and benefits from, the activity, including the potential impact on the levels of service or health and safety if the work is not undertaken. 2. the bulk, height, location and design of the activity, including any associated buildings or structures. 3. the impact on the character and qualities of the surrounding area. <p>Activity status when compliance not achieved with PER-3: Restricted Discretionary</p> <p>Matters of discretion are restricted to:</p> <ol style="list-style-type: none"> 1. the matters of discretion of any infringed standard.
EI-R26	<p>Construction of new underground and above ground water systems infrastructure, including:³³</p> <ul style="list-style-type: none"> • water supply, wastewater systems and stormwater infrastructure <u>not covered under EI-R23</u>³⁴; • open drains and channels, pipes, water reservoirs, storage ponds; and • other ancillary facilities and structures for the reticulation and storage of water for agricultural and horticultural activities (excluding mobile irrigation equipment for agricultural and horticultural activities) 	
1. Rural Zones	<p>Activity status: Permitted</p> <p>Where:</p> <p>PER-1 New buildings and structures comply with the building height, setback, and height in relation to boundary for the zone.</p> <p>PER-2</p>	<p>Activity status when compliance not achieved with PER-1: Restricted Discretionary</p> <p>Matters of discretion are restricted to:</p> <ol style="list-style-type: none"> 1. the functional needs and operational needs of, and benefits from, the activity, including the potential impact on the levels of service or health and safety if the work is not undertaken.

²⁹ Opuha Water [181.35] and TDC [42.22, 42.80]

³⁰ Clause 16(2) – EI-S1 applies to network utility poles, towers and antenna

³¹ Clause 16(2) to avoid conflict with EI-R26 that permits new 3 waters infrastructure in rural zones

³² Waka Kotahi [143.30]

³³ Rooney, et al [249.14, 250.14, 251.14, 252.14, 191.14, 174.14] for all these changes except where separately referenced

³⁴ Clause 16(2)

	<p>EI-S1 is complied with.³⁵</p>	<p>2. the bulk, height, location and design of the activity, including any associated buildings or structures.</p> <p>3. the impact on the character and qualities of the surrounding area.</p> <p>Activity status when compliance not achieved with PER-2: Restricted Discretionary</p> <p>Matters of discretion are restricted to:</p> <p>1. the matters of discretion of any infringed standard.</p>
<p>2. All Zones except Rural Zones</p>	<p>Activity status: Restricted Discretionary</p> <p>Matters of discretion are restricted to:</p> <ol style="list-style-type: none"> 1. the functional needs and <u>or</u>³⁶ operational needs of, and benefits from, the activity, including the potential impact on the levels of service or health and safety if the work is not undertaken. 2. the bulk, height, location and design of the activity, including any associated buildings or structures. 3. the impact on the character and qualities of the surrounding area; <u>and</u> 4. <u>dust nuisance, sedimentation, land instability, erosion and contamination effects.</u>³⁷ 	<p>Activity status where compliance not achieved: Not applicable</p>

³⁵ Clause 16(2) – EI-S1 applies to network utility poles, towers and antenna

³⁶ Waka Kotahi [143.31]

³⁷ Transpower [159.38]