



SECTION 42A REPORT

Officer's written right of reply 21 May 2025

Hearing 11 – Renewable Electricity Generation

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Appendix 1: Officer's Recommended Amendments to Renewable Electricity Generation Provisions



1 Introduction

1.1 Background

1. My name is Kenton Baxter. I am the writer of the original Section 42A Report for Hearing 11 on the Proposed District Plan: Renewable Electricity Generation held on 28-30 April 2025.
2. In the interests of succinctness, I do not repeat the information contained in Section 2.1 of the Section 42A report and request that the Hearings Panel ("the Panel") take this as read.

2 Purpose of Report

3. The purpose of this report is primarily to respond to the evidence of the submitters and provide my right of reply to the Panel. In this Report I also seek to assist the Panel by providing responses to specific questions that the Panel directed to me during the hearing, under the relevant heading.

3 Consideration of evidence recieved

4. The following submitters provided evidence and/or attended Hearing 6/7 raising issues relevant to the Renewable Electricity Generation topic:
 - a) Forest & Bird (S511)
 - b) Top Energy (S483).
5. A number of submitters generally support the recommendations in the Renewable Electricity Generation Section 42A Report (the section 42A report) but raise specific issues. Accordingly, I have addressed only the evidence where I consider additional comment necessary and have predominantly grouped related issues from specific submitters' evidence together, where appropriate. These matters are organized under the following headings:
 - a) Issue 1 – Objectives
 - b) Issue 2 – Policies
 - c) Issue 3 – Notes
 - d) Issue 3 – Rules
 - e) Issue 4 – Definitions
 - f) Additional Information / Questions raised by the Hearing Panel.
6. In order to distinguish between the recommendations made in the s42A Report and my revised recommendations contained in Appendix 1 of this report:



- a) Section 42A Report recommendations are shown in black text (with underline for new text and ~~striketrough~~ for deleted text); and
 - b) Revised recommendations from this Report are shown in **red text** (with red underline for new text and ~~striketrough~~ for deleted text)
7. As a result of recommendations in the Section 42A Report and this Right of Reply, a number of the provisions require renumbering **[delete if not relevant]**. Where I reference provisions in this report, I use the new reference number (consistent with renumbered provisions in **red text** in **Appendix 1**).
 8. For all other submissions not addressed in this report, I maintain my position set out in my original s42A Report.

3.1 Issue 1 – Objectives

Overview

Relevant Document	Relevant Section
Section 42A Report	Key Issue 2: Objectives Paragraph 79 - 129
Evidence in chief Mr Badham on behalf of Top Energy	Paragraph 5.1 – 5.18
Evidence in chief Mr Williams on behalf of Forest & Bird.	Paragraph 3 - 8

REG-O1

Analysis

9. Top Energy does not agree with the recommended amendments in the section 42A report to this objective which are as follows:

"The significant local, regional and national benefits from the use and development of renewable electricity generation activities, ~~and their technical, operational and functional needs and constraints,~~ are recognised and provided for."
10. Top Energy's submission seeks to retain REG-O1 as notified, while accepting the recommended version of REG-O3, which includes reference to the operational and functional needs of renewable electricity generation activities. In Top Energy's opinion, REG-O1 and REG-O3 address different matters and should be retained as separate objectives.



11. I do not agree with Top Energy's position. The terms *operational need* and *functional need* have defined meanings in the Proposed District Plan (PDP), consistent with the National Planning Standards. These are:

Operational need – means the need for a proposal or activity to traverse, locate or operate in a particular environment because of technical, logistical or operational characteristics or constraints.

Functional need – means the need for a proposal or activity to traverse, locate or operate in a particular environment because the activity can only occur in that environment.

12. In my opinion, paragraph 5.5 of Mr Badham's evidence for Top Energy evidence misinterprets the intent and application of these terms. In my view, the operational and functional needs of renewable electricity generation activities are already and appropriately recognised and provided for under Objective REG-O3. Including these matters again within REG-O1 would result in unnecessary duplication within the objectives framework.
13. Top Energy states that REG-O3 is about recognising and providing for the operational and functional need for renewable electricity generation to be located in particular environments. In my opinion, this aligns with the definitions of *operational need* and *functional need*, and it is therefore most appropriate for these matters to be addressed within REG-O3.
14. REG-O1 is intended to recognise and provide for the benefits of renewable electricity generation activities. It does not need to also address the technical, operational, and functional needs or constraints, which are more appropriately covered by REG-O3 in my view.
15. For these reasons, I maintain my recommendation to amend REG-O1 as proposed and consider that the revised REG-O3 appropriately recognises and provides for the operational need and functional need of renewable electricity generation activities to be in particular environments.

Recommendations

16. For the reasons above, I do not recommend any further amendments to REG-O1.

REG-O2

Analysis

17. Top Energy agrees with the premise of the recommended amendments to REG-O2 however they have provided some wording amendments that Mr Badham considers better reflect the intent of the objective. I agree with the requested amendments for the reasons stated, however as noted by Mr Badham at the Hearing some further minor amendments are required to ensure the objective makes sense which I recommend are made.



Recommendations

18. For the reasons above, I recommend the following amendments to REG-O2.

~~Recognise and provide for the following benefits from rRenewable electricity generation activities~~ recognise and provide for the following benefits:

- a. ~~contributing~~ contribute to the reduction in greenhouse gas emissions;*
- b. ~~increasing~~ increase the security of supply of electricity for the district and the region; and*
- c. ~~supporting~~ support the economic, social and cultural well-being of people and communities.*

REG-O3

Analysis

19. Forest & Bird do not support the recommended amendments to REG-O3, as set out in their legal submission. I do not agree with the reasoning provided by the submitter, which suggests that the objective inappropriately limits how adverse environmental effects of renewable electricity generation activities are to be managed. In my opinion, the submitter has misinterpreted the intent of the recommended objective by focusing on particular phases of the objective, rather than the overall purpose.
20. The objective seeks to manage adverse effects of renewable electricity generation activities in a way that recognises and provides for the operational and functional needs of renewable electricity generation activities to be located in certain environments. As discussed above in relation to REG-O1, operational and functional need refers to the locational needs and constraints of REG activities (e.g. to be where the renewable energy resource is located). The wording of REG-O3 does not imply that all REG activities will be recognised and provided for without constraint; rather, it clarifies that adverse effects are to be managed in a manner that recognises and provides for the operational and functional requirements of such activities. This reflects the reality that renewable energy resources are fixed in location and cannot be relocated.
21. Further, I have recommended amendments to make it clear that the provisions in the Renewable Electricity Generation chapter are to be read with the effects management policies in other PDP chapters (including the Ecosystems and Indigenous Biodiversity Chapter) so it is clear in my opinion that REG-O3 does not inappropriately limit how adverse effects of renewable electricity generation activities are managed as suggested by Forest and Bird.
22. I do not agree with the submitter's interpretation that objectives should be limited solely to stating the intended environmental outcomes, with all



implementation detail deferred to the policies. In my opinion, the objective in question does articulate an environmental outcome in a manner that is consistent with higher order documents, including the NPS-REG and National Planning Standards. I consider it appropriate, and in some cases necessary for objectives to provide a degree of context or framing, particularly where competing values must be reconciled.

Recommendations

23. For the reasons above, I do not recommend any amendments to REG-03.

REG-04

Analysis

24. Mr Badham does not support the recommended wording of REG-04, for the reasons set out in his evidence. His reasoning references Policy 5.1.1(e) of the Regional Policy Statement (RPS) and its direction to avoid the potential for reverse sensitivity effects. I also do not agree with Mr Badham's interpretation of Policy 5.1.1(e) and maintain my original position set out in the s.42A.
25. Notwithstanding if the Hearing Panel accepts Mr Badham's interpretation in my opinion, there is also a degree of tension between the NPS-REG and the RPS in this context. As outlined in Top Energy's evidence, the more recent RPS has given effect to the NPS-REG as the higher order policy document. While I agree with this interpretation, I note that the RPS policy applies broadly to all regionally significant infrastructure, whereas Policy D of the NPS-REG, which states that "Decision-makers shall, to the extent reasonably possible, manage activities to avoid reverse sensitivity effects on consented and on existing renewable electricity generation activities", relates specifically to renewable electricity generation.
26. Ultimately, it will be for the Hearings Panel to determine the most appropriate approach. However, in my view, greater weight should be given to the NPS-REG in this instance, as it provides more targeted direction with respect to renewable electricity generation activities and reverse sensitivity effects.

Recommendations

27. For the reasons above, I do not recommend any amendments to REG-04.

Section 32AA Evaluation

28. Minor wording amendments to REG-02 are recommended. As the intent of the objective remains unchanged, no further assessment is considered necessary.

3.2 Issue 2 – Policies

Overview

Relevant Document	Relevant Section
Section 42A Report	Key Issue 3: Policies Paragraph 130 - 236
Evidence in chief Mr Badham on behalf of Top Energy	Paragraph 5.10 – 5.28
Evidence in chief Mr Williams on behalf of Forest & Bird.	Paragraph 9 - 15

REG-P2

Analysis

29. Forest and Bird do not support the recommended amendments to this policy, particularly the use of the term "*enable*" as in their opinion this implies a permitted activity status. I do not agree with this position. In my opinion, the term "*enable*" signals general support or intent, rather than an absolute obligation to set permitted activity status for activities or grant resource consents. It should be considered as contextual within the matrix of factors that apply to any give set of circumstances.
30. Policy REG-P2 seeks to enable the continued operation, maintenance, repair, upgrading, and replacement of renewable electricity generation activities, in order to maintain or increase generation capacity. This policy is implemented primarily through my recommended new rule REG-RX (*Upgrading or repowering existing renewable electricity generation activities*) and REG-R1 (*Operation, maintenance, repair and removal of an existing renewable electricity generation activity*).
31. Where an activity does not meet the permitted activity standards under REG-RX, it defaults to a restricted discretionary activity status. In such cases, specific matters of discretion must be considered. REG-R1 is a permitted activity with no conditions. This is appropriate as operation and removal will have no/negligible effects whereas there are permitted conditions in relation to REG-RX (upgrading or repowering existing renewable electricity generation activities).
32. Given that REG-RX provides for restricted discretionary status with clearly defined matters of discretion, I do not consider the use of the term "*enable*" within REG-P2 to be inappropriate or problematic. In this context, the policy direction does not remove the ability to decline consent where relevant matters are not satisfied. For example, an upgrade proposal with



unacceptable effects on natural environmental values that conflict with other PDP policies.

33. I also do not support the submitter's request to amend the definition of "infrastructure", as I do not consider such an amendment necessary.

Recommendations

34. For the reasons above, I do not recommend any amendments to REG-P2.

REG-P5 and REG-P6

Analysis

35. Forest & Bird supports the approach recommending deletion of REG-P5 and REG-P6 and relying on the relevant effects management policies in the ecosystems and indigenous biodiversity (EIB) chapter, to avoid inconsistencies. However, the submitter is concerned that the problems identified above in relation to REG-O2 and REG-P11, would undermine the effectiveness of this approach.
36. I do not agree that this is an issue, for the reasons outlined in relation to REG-O2, REG-P11, and the s.42A report. In my opinion the proposed amendments to the overview section and Note 1, which are intended to clarify the specific District-Wide Matters chapters that may apply to renewable electricity generation. For example, amended Note 1 states:

"There may be rules in the following District-Wide Matters chapters that apply to renewable electricity generation and that may be more stringent than the rules in this chapter: Heritage Area Overlays, Historic Heritage, Sites and Areas of Significance to Māori, Ecosystems and Indigenous Biodiversity, Natural Character, Natural Features and Landscapes, and Coastal Environment. Refer to the how the plan works chapter to determine the activity status of a proposed activity where resource consent is required under multiple rules."

Recommendations

37. For the reasons above, I do not recommend any amendments to REG-P5 and REG-P6.

REG-P8

Analysis

38. Top Energy do not support the recommended wording of REG-P8 for the same reasons outlined in relation to REG-O4. These reasons are addressed above in relation to REG-O4.



Recommendations

39. For the reasons above, I do not recommend any amendments to REG-P8.

REG-P9

Analysis

40. Top Energy does not support Policy REG-P9 and seeks that it be deleted for the reasons outlined in their evidence. I agree that the policy requires amendment; however, I do not consider that it should be deleted in its entirety. Top Energy states that REG-P9 fails to give effect to the enabling provisions of the NPS-REG, the RPS, and the Strategic Direction chapter of the PDP. In my opinion, the NPS-REG does not require unqualified enabling of renewable electricity generation activities in all zones. While it promotes enabling such activities, it also recognises the need to manage adverse effects. Similarly, the RPS promotes and enables renewable electricity generation, but this direction is not unconditional. As referred to in Mr Badham's evidence, Policy 5.1.1(e) states:

"Subdivision, use and development should be located, designed and built in a planned and co-ordinated manner which:...

e) Should not result in incompatible land uses in close proximity and avoids the potential for reverse sensitivity;"

41. In my opinion, zoning and the associated rules for specific activities assist in giving effect to this policy direction. There is greater potential for adverse effects to arise when large or community-scale activities are located in more sensitive zones, as this may compromise the character and values and underlying purpose of those zones. In contrast, the rural environment can typically accommodate the effects of renewable electricity generation activities, provided they are appropriately located and any adverse effects are effectively managed.
42. I acknowledge, however, that the current wording of REG-P9, which references only the Rural Production Zone, is inconsistent with the recommended amendments to REG-R6 and REG-RY. These rules provide for large- and community-scale renewable electricity generation activities as permitted activities in the Rural Production Zone, Māori Purpose Zone, and Open Space Zone, subject to compliance with permitted activity standards. In my opinion, it is important that REG-P9 be amended to reflect this broader approach, which better aligns with the recommended rule framework.
43. Approximately 65% of all land in the Far North District is zoned Rural Production, and large areas are also zoned Māori Purpose and Open Space. These zones collectively make up the majority of the district. As such, it is appropriate that large and community-scale renewable electricity generation activities are directed to these zones, given their land area, suitability, and lower likelihood of generating reverse sensitivity effects compared to more



intensive zones. I also consider it unlikely that it would be economically viable to establish such activities in more intensive zones, such as Industrial Zones, as suggested by Top Energy. The high value of land in these areas and the competing demand for other industrial activities make this unlikely. There is also a possibility that the scale required to be economic in these zone would put significant stress on industrial land supply more broadly. However, if the panel decided to amend REG-P9 and associated rules to also apply to the Heavy and Light Industrial Zones, this would not create any significant issues in my view.

44. Top Energy also raises concerns regarding the use of the phrase “adverse effects will be no more than minor”, suggesting that it is not appropriate in this context. I disagree. In my opinion, the use of this wording is appropriate because large and community-scale renewable electricity generation activities are considered regionally significant infrastructure. RPS Policy 5.3.3 – “*Managing adverse effects arising from regionally significant infrastructure*” states:

a) Allow adverse effects arising from the establishment and operation of new regionally significant infrastructure and the re-consenting of existing operations where:

(a) The proposal is consistent with Policies 4.4.1(1), 4.4.1(2), 4.6.1(1)(a), 4.6.1(1)(b), 4.6.1(2), and 4.6.2(1);

(b) The proposal does not result in established water quality limits or environmental flows and/or levels being exceeded or otherwise could lead to the over-allocation of a catchment (refer to Policy 4.1.1);

(c) Damage to and/or loss of the relationship of iwi with ancestral sites, sites of significance, wāhi tapu, customary activities and/or taonga is avoided or otherwise agreed to by the affected iwi or hapū; and

(d) In addition to the matters outlined in 1(a)–(c) above, other adverse effects are avoided, remedied or mitigated to the extent that they are no more than minor...”

45. In my opinion, the Renewable Electricity Generation chapter of the PDP gives effect to this policy direction, as clauses (a) to (c) of RPS Policy 5.3.3 relate to district-wide matters addressed in other chapters of the PDP, such as indigenous biodiversity, which apply to renewable electricity generation activities as appropriate. Clause (d) of the policy directs those adverse effects not otherwise addressed in clauses (a) to (c) are to be avoided, remedied, or mitigated to the extent that they are no more than minor. In my view, this provides a clear and appropriate basis for adopting the same effects threshold in REG-P9. Accordingly, I consider that the use of the phrase “adverse effects will be no more than minor” in REG-P9 is appropriate and consistent with the higher order direction.



Recommendations

46. For the reasons above, I recommend the following amendments to REG-P9.

Avoid locating large-scale and community scale renewable electricity generation activities outside the Rural Production, Māori Purpose and Open Space zones unless it can be demonstrated that adverse effects will be no more than minor.

REG-P10 and REG-P11

Analysis

47. Top Energy has requested that Policy REG-P10 be moved and addressed as a matter for consideration under REG-P11. I do not agree with this request, or the reasoning provided. In my opinion, it is not necessary for a specific rule or method to implement REG-P10, as the policy becomes relevant when a resource consent is applied for. At that point, REG-P10 provides a requirement that a commitment is provided to ensure that, during or following decommissioning of any renewable electricity generation activity, all associated structures, buildings, and concrete areas are either removed or otherwise mitigated to be compatible with future land use.
48. In my view, shifting this matter into REG-P11 would reduce it to a 'consideration' that may be disregarded rather than a clear policy requirement. This would not be appropriate in my opinion.

Recommendations

49. For the reasons above, I do not recommend any amendments to REG-P10 and REG-P11.

New Policy

Analysis

50. Top Energy seeks the inclusion of a new policy specifically enabling activities associated with the investigation, identification, and assessment of potential sites and energy sources for renewable electricity generation. I agree with this request for the reasons outlined by Top Energy.

Recommendations

51. For the reasons above, I recommend a new policy is created and REG-P3 is amended as follows.



REG-PX

"Enable activities associated with the investigation, identification and assessment of potential sites and energy sources for renewable electricity generation."

REG-P3

"Enable new small scale renewable electricity generation activities ~~and activities associated with the investigation, identification and assessment of potential sites and energy sources for renewable electricity generation~~ where the activity:

- a. is of a form, location, and scale that minimises adverse effects on the environment; and
- b. will not result in significant adverse effects on the character and amenity values of the zone.

Section 32AA Evaluation

52. The separation of a new standalone policy to "*Enable activities associated with the investigation, identification and assessment of potential sites and energy sources for renewable electricity generation*" provides clearer policy direction by distinguishing investigation activities from new small-scale renewable electricity generation activities. In my opinion, this amendment improves the efficiency and effectiveness of the policy framework by recognising investigation activities as a distinct phase of development. This better gives effect to the RPS, particularly Method 5.4.3, and responds to the directive in clause 1(a) to be "as permissible as possible." It is also consistent with Policy F and G in the NPS-REG which provides separate direction for investigation vs small/community scale.
53. The amendment to REG-P9 to explicitly reference community scale, Māori Purpose, and Open Space zones ensures that the policy framework aligns with the recommended rules in the renewable electricity generation chapter. In my opinion, this change improves clarity by aligning the listed zones with those in which renewable electricity generation activities are already anticipated and can be appropriately located. The amendment does not introduce additional regulatory burden but instead improves internal consistency within the chapter.

3.3 Issue 3 – Notes

Overview

Relevant Document	Relevant Section
Section 42A Report	Key Issue 4: Notes Paragraph 237 - 245



Relevant Document	Relevant Section
Evidence in chief Mr Williams on behalf of Forest & Bird.	Paragraph 16 - 21

Note 1

Analysis

54. I do not agree with Forest & Bird's request that Note 1 should state that Area Specific Matters may apply to Renewable Electricity Generation. New renewable electricity generation activities must give effect to the NPS HPL, but it also should be noted there is a consenting pathway in relation to renewable electricity generation activities within the NPS HPL which is outlined in paragraphs 22-23 and 208-210 of my s.42A report.
55. Forest & Bird raise concerns regarding the permissibility of renewable electricity generation activities within the Natural Open Space Zone where the renewable electricity generation rules override the zone rules as clarified in recommended note 2. I do not agree this is an issue, rules REG-RX, R1, R2 and R3 are the only permitted rules that apply to all zones and relate to the operation, upgrading, and investigation activities or small-scale renewable electricity generation activities. The activities associated with these rules have minimal adverse effects associated with them. All other rules within the renewable electricity generation chapter would require at least a restricted discretionary resource consent and, in some cases, a discretionary or non-complying consent to be located within the natural Open Space zone which provides adequate protection in my opinion. Such applications will be assessed against the relevant objectives and policies of the Natural Open Space Zone, including consideration of potential effects. Additionally, any more stringent provisions that apply under relevant district-wide overlays will continue to apply. In my opinion, the framework appropriately balances the need to enable renewable electricity generation with the protection of identified values through the district-wide matters chapters.

Recommendations

56. For the reasons above, I do not recommend any amendments to Note 1.

Section 32AA Evaluation

57. Not required as no changes are recommended.



3.4 Issue 4 – Rules

Overview

Relevant Document	Relevant Section
Section 42A Report	Key Issue 5: Rules Paragraph 246 - 333
Evidence in chief Mr Badham on behalf of Top Energy	Paragraph 5.29 – 5.38
Evidence in chief Mr Williams on behalf of Forest & Bird.	Paragraph 22 - 28

REG-R3, REG-R4, REG-R5

Analysis

58. Top Energy has sought amendments to Rule REG-R3 to ensure that renewable electricity generation investigation activities themselves are provided for, as the current wording in the section 42A report applies only to buildings associated with such activities, not the activities themselves. I agree with the recommended amendment to the title of REG-R3 to clarify this intent. However, I do not support the amended wording of PER-1, which would allow for an unlimited number of buildings and structures provided the gross floor area (GFA) of each does not exceed 25m². In my opinion, this is not appropriate, as it could result in a proliferation of small structures without adequate control. I consider the recommended wording "*limiting the total GFA of all buildings and structures to 50m²*" to be more appropriate.
59. I support the retention of PER-2 and PER-3 as recommended. In my opinion, it is important to ensure that buildings and structures associated with investigation activities are not located within the identified public or access areas. However, I agree that the provisions (PER-1 to PER-3) should more clearly specify that they apply to buildings and structures, rather than the investigation activities themselves, which are permitted and not subject to any of the standards.
60. The legal submission from Forest & Bird raises concerns regarding the proposed deletion of the matters of discretion relating to vegetation clearance in REG-R3, REG-R4, and REG-R5. They suggest including a specific provision to explicitly state that Part 2 – District-Wide Matters of the PDP applies to renewable electricity generation activities. In my opinion, this is not necessary, as the applicability of the district-wide matters is already appropriately addressed through the recommended Note 1 and text in the overview section that make it clear these chapters apply to renewable electricity generation activities where relevant.



Recommendations

61. For the reasons above, I recommend the following amendments to REG-R3.

REG-R3

~~New buildings or structures associated with~~ in-stream hydro investigation and electricity generation, ~~a r~~Renewable energy generation investigation activities, excluding in-stream structures (new and upgrading)

Activity status: Permitted

Where:

PER-1

~~The building or structure~~ Any building or structure located above ground associated with the investigation activity does not exceed a GFA of 25m² and the total GFA of all buildings or structures shall not exceed 50m² in total.

PER-2

~~It~~ Any building or structure is not located on an esplanade reserve or strip, marginal strip or any consented or planned public access area.

PER-3

~~It~~ Any building or structure is not located on any unformed road.

REG-R6 and REG-RY

Analysis

62. As outlined in Top Energy's evidence, the submitter is supportive of some of the recommended changes to REG-R6 and REG-RY. However, there are several matters they do not support, which I address below.
63. One issue raised is the separation of the rules into "solar" and "wind" provisions. Top Energy states they did not request this separation in their original submission. While they did not explicitly seek a separate rule for wind and solar, submission point S483.101 requested a new restricted discretionary rule for large-scale solar renewable electricity generation activities. I considered this request appropriate. In my opinion, separating the rules is the most efficient method to ensure that non-compliance with the permitted standards for solar generation results in a restricted discretionary activity status, while non-compliance for wind generation defaults to discretionary activity status. Although the two rules are similar, they are not identical and are tailored to the specific characteristics of solar and wind generation activities.



64. Top Energy has also submitted that there is no basis for applying a discretionary activity classification to wind generation compared to solar. In my opinion, there is no scope to alter this classification, as Top Energy's submission specifically addressed restricted discretionary status for solar generation only. I consider that solar generation activities generally result in fewer and more widely accepted effects compared to wind generation, which justifies the different activity statuses. It is also relevant that the hearings panel indicated that a non-complying activity status might be more appropriate for wind generation where permitted standards are not met. In my view this change is appropriate and there is scope to do so given the notified version of REG-R7 was a non-complying activity when the wind farm noise standards are not complied with. I therefore recommend REG-RY is updated to reflect this approach.
65. Top Energy also submitted that the permitted activity rule should apply to "all zones." When queried by the Commissioner, Mr Badham clarified that this might not include all zones, but suggested that at least industrial zones should be included. I do not support applying REG-R6 and REG-RY across all zones, for the reasons outlined under Key Issue 2 – Policies – REG-P9. In my opinion, the currently recommended zones are appropriate. However, if the Hearings Panel determines that the inclusion of industrial zones is appropriate, this would not create significant issues in my opinion.

Recommendations

66. For the reasons above, I do not recommend any amendments to REG-R6.
67. I recommend the following amendments to REG-RY.

"Activity status where compliance not achieved with PER-1, PER-2, PER-3, PER-4, ~~PER-5~~ or PER-6: Discretionary

Activity status where compliance not achieved with PER-5: Non-complying

Section 32AA Evaluation

68. The proposed amendment to REG-R3 clarifies that the rule applies to renewable electricity generation investigation activities, rather than being limited to the construction of buildings or structures associated with such activities. In my opinion, this change is necessary to ensure that the scope of the rule appropriately reflects the intent of the policy framework, which is to enable investigation activities as a legitimate and distinct activity. The amendment addresses ambiguity in the recommended version of the rule, which referred specifically to buildings and structures, and excluded investigation activities that do not involve any built form. In my view, this clarification enhances the efficiency and effectiveness of the rule by ensuring that such activities are explicitly recognised and appropriately managed within the planning framework.



69. The cost of the amendment is minimal, as it does not alter the activity status or introduce any additional regulatory burden. The amendment provides greater certainty for plan users and applicants by clearly signalling that investigation activities, regardless of whether they involve buildings or structures, are subject to the provisions of REG-R3. In my opinion, the amendment represents a more appropriate and efficient way to achieve the objectives and policies of the Renewable Electricity Generation chapter.

3.5 Issue 5 – Definitions

Overview

Relevant Document	Relevant Section
Section 42A Report	Key Issue 6: Definitions Paragraph 334 – 347
Evidence in chief Mr Badham on behalf of Top Energy	Paragraph 5.39

Community Scale Renewable Electricity Generation Activities

Analysis

70. Top Energy has provided evidence seeking the combination of the definitions for “small-scale” and “community-scale” renewable electricity generation activities, and recommends that these be amended to align with the definition in the NPS-REG.
71. In my opinion, combining these definitions is problematic for several reasons. The PDP contains specific rules that apply separately to small-scale and community-scale renewable electricity generation activities. Defining these terms in the same way may create interpretive and implementation issues.
72. In my opinion, combining the definitions also creates regulatory ambiguity. The associated small-scale rules specifically REG-R2 and REG-R5 are linked to the scale and nature of the activity. If the definitions are merged, it may be unclear which rule applies to a given proposal. A larger-scale activity that would otherwise require more comprehensive assessment under the “community-scale” framework could instead be incorrectly permitted as “small-scale.”
73. While I do not support Mr Badham’s recommendation to merge the two definitions, I agree that there is merit in aligning the definitions more closely with the terminology and intent of the NPS-REG. The s.42A provided recommended amendments to the definitions of “large-scale” and “community-scale” renewable electricity generation to improve consistency with the NPS-REG. The definition of “small-scale” is also problematic,



particularly due to the inclusion of an arbitrary threshold that requires at least 50% of the energy generated to be supplied to the site where the activity is located. However, in my opinion, there is no scope in submissions to amend this aspect of the definition. It is also noted that Top Energy supported the notified versions of all these definitions in their original submission.

Recommendations

74. For the reasons above, I do not recommend any amendments to the definitions for small-scale renewable electricity generation and community-scale renewable electricity generation.

Section 32AA Evaluation

75. Not required as no changes are recommended.

Additional Information / Questions raised by the Hearing Panel

76. At the conclusion of the hearing members of the panel raised the following questions:
77. **Explanation of monitoring masts referred to in REG-R4?**
78. Monitoring masts are structures typically used to measure various environmental parameters, such as wind speed, wind direction, temperature, humidity, and atmospheric pressure. These masts are usually equipped with a range of instruments, such as anemometers, wind vanes, and thermometers, positioned at different heights on a tall tower to capture data at multiple levels. The collected data is critical for applications such as wind farm development, where it helps in assessing the viability of wind energy production, as well as for meteorological research, climate studies, and weather forecasting.
79. It is considered appropriate that the monitoring masts referred to in REG-R4 are provided for as permitted activities, subject to compliance with the relevant standards in this rule. Although these masts may exceed typical height limits, they are generally unobtrusive due to their narrow profile. Furthermore, such masts are typically located in areas with low population density.