

**UNDER THE**

Resource Management Act 1991 (*RMA*)

**IN THE MATTER**

of the Proposed Far North District Plan (*PDP*)

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**SUMMARY STATEMENT OF EVIDENCE OF  
DAVID ERIC BADHAM (PLANNING)**

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- 1 The following summarises my evidence prepared on behalf of Top Energy and relates to planning matters associated with the PDP Hearing Topic 11 – Energy, Infrastructure, Transport and Designations.
- 2 I filed my evidence in chief on 14 April 2025 (*EIC*). My *EIC*:
  - (a) describes the pre-hearing meetings process for the Infrastructure topic;
  - (b) sets out the supported recommendations of the Hearing Stream 11 Section 42A Reports as set out in Attachment 1;
  - (c) addresses outstanding issues with regard to the provisions and definitions within the Renewable Electricity, Infrastructure, and Transport Chapters and the content of Top Energy’s designations within the Designations Chapter; and
  - (d) sets out the refined relief now sought by Top Energy as attached to my *EIC*. This includes proposed amendments to the objectives, policies, rules and definitions for the aforementioned chapters as outlined in Attachment 2 of my *EIC*.
- 3 Since the filing of my *EIC*, I have reviewed the following briefs of expert evidence which relate to Top Energy’s submissions for Hearing Stream 11 and the Panel’s decision on those submissions:
  - (a) planning evidence of Mr Andrew McPhee; and
  - (b) planning evidence of Mr Wayne Smith.
- 4 I respond to that evidence in this summary statement. I have also prepared a presentation to accompany this summary statement.

**Planning Evidence of Mr Andrew McPhee**

- 5 Mr McPhee has circulated planning evidence on behalf of the Oromahoe Land Owners. There are several matters raised in Mr McPhee's evidence as it relates to Top Energy's submissions and my EIC that require a response.

*Critical Electricity Lines*

- 6 Mr McPhee notes that the term "Critical Electricity Lines" (*CEL*) is not specifically defined in legislation, the Northland Regional Policy Statement (*RPS*), or the Whangārei District Plan. He also queries whether Top Energy's 33kV lines meet the criteria proposed for CEL protection.
- 7 I agree that the phrase "Critical Electricity Lines" is not defined in legislation or the RPS. However, the CEL aligns with the RPS's identification of "Regionally Significant Infrastructure"<sup>1</sup> which includes:

Regionally significant infrastructure includes:

- 1) Energy, water, communication:
  - (a) ...
  - (b) ...
  - (c) The 'national grid' as defined by the Electricity Industry Act 2010 including facilities for the transmission of electricity from the 'national grid' (such as substations, grid injection points etc.) to the 'network';
  - (d) Network electricity lines and associated infrastructure that constitute the sub-transmission network;**
  - (e) Electricity distribution assets which supply essential public services (such as hospitals or lifelines facilities), large (1MW or more) industrial or commercial consumers, 1000 or more consumers or are difficult to replace with an alternative supply if they are compromised;**
  - (f) Electricity generation facilities (including Ngāwhā geothermal power station and Wairua hydroelectric power station) which supply electricity to either the national grid or the local distribution network;
  - (g) ...
  - (h) ...

[My **emphasis** added]

- 8 The 110kV lines are captured under clause (c) of the RPS definition, as part of the "national grid".
- 9 The 33kV lines are captured within the RPS "Regionally Significant Infrastructure" definition because:

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<sup>1</sup> A full copy of the definition is included in **Attachment 1**.

- (a) All of Top Energy's 33kV network constitute the sub-transmission network, and therefore immediately meet clause (d); and
- (b) Based on the advice of Mr Nishan Sooknandan, all of Top Energy's 33kV lines meet clause (e)<sup>2</sup> because the 33kV network:<sup>3</sup>
  - (i) supplies essential public services (such as hospitals and lifelines facilities);
  - (ii) supplies large (1MW or more) industrial or commercial electricity consumers;
  - (iii) supplies more than 1,000 consumers in a number of locations across the Far North District; and
  - (iv) are difficult to replace with an alternative supply if they are compromised.

10 Therefore, in response to Mr McPhee's evidence, I consider that it is abundantly clear that Top Energy's 33kV network are considered "regionally significant infrastructure" and also meet the proposed PDP definition of "Critical Electricity Lines."

#### *Section 32 evaluation*

- 11 Mr McPhee considers that no section 32 or 32AA evaluation has been undertaken to justify the inclusion of 33kV lines as CEL.<sup>4</sup>
- 12 I disagree, and consider that the section 32 analysis undertaken by Far North District Council (FNDC) for the Infrastructure Chapter has satisfactorily considered the CEL mapping and relevant provisions against the requirements of section 32 of the RMA.<sup>5</sup> I accept that the evaluation of options is broad, in that only the status quo and the proposed provisions are assessed, but that is the generally consistent approach that has been taken by FNDC across the entirety of its section 32 evaluations.

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<sup>2</sup> It is important to note that each criterion in clause (e) is an "either" "or" situation. Therefore, only a single criterion needs to be met to be determined as "regionally significant infrastructure" rather than all full elements.

<sup>3</sup> In fact, large portions of Top Energy's 11kV network also meet one or multiple elements in clause (e) and could arguably justify inclusion within the CEL mapping and provisions. However, within its original submission (see page 7 – 9), Top Energy acknowledged that mapping and including provisions for the 11kV network wouldn't be feasible and instead focussed on the 33kV network.

<sup>4</sup> Evidence of Mr McPhee, at [35].

<sup>5</sup> Section 32 Report for Infrastructure, for example the final paragraph of the Executive Summary, last paragraph on page 4 under heading 2.2, second to last paragraph under heading 5.2 on page 16.

13 Notwithstanding that an assessment has already been undertaken by FNDC, I consider that there is a clear justification pursuant to section 32 of the RMA to include mapping and provisions for Top Energy's 33kV Network because:

- (a) Pursuant to section 75(3)(c) of the RMA, a district plan must give effect to any regional policy statement. There is specific direction within the RPS to recognise and promote the benefits of regionally significant infrastructure,<sup>6</sup> avoid adverse effects, including reverse sensitivity effects of new subdivision, use and development on the operation, maintenance or upgrading of existing or planned regionally significant infrastructure,<sup>7</sup> and identify regionally significant infrastructure<sup>8</sup> as set out in **Attachment 1**.
- (b) I consider that this direction requires the protection of regionally significant infrastructure from adverse effects, including those caused by new subdivision, use and development. Placing controls (e.g., setback requirements) on incompatible activities locating near Top Energy's 33KV electricity line network will allow this established regionally significant infrastructure to be effectively maintained, operated and upgraded in accordance with the direction within the RPS.
- (c) Mapping the 33KV electricity line network as CEL in the PDP is a the most appropriate way to provide clarity to FNDC and landowners as to where these existing assets are located so that proper consideration can be given to them at the time of subdivision and development.
- (d) As outlined in Top Energy's original submission, despite the obligations under the Electricity (Hazards from Trees) Regulations 2003 and New Zealand Code of Practice for Electrical Safe Distance Regulations, land use activities, and in particular establishment of buildings and vegetation within proximity to infrastructure remains a significant cause of supply unreliability. In particular, tree planting, new buildings, and extensions to existing buildings within close proximity to these lines creates risk to the electricity network by restricting access for maintenance and repair.
- (e) Reverse sensitivity effects pose a significant risk to the operation of Top Energy's 33kV network. The setbacks proposed are not solely to manage

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<sup>6</sup> Objective 3.7 of the RPS.

<sup>7</sup> Policy 5.1.3 of the RPS.

<sup>8</sup> Policy 5.3.1 of the RPS.

electrical safety (which is addressed by NZECP 34:2001) but also to avoid the establishment of sensitive activities such as residential dwellings in close proximity to critical infrastructure, consistent with Policy 5.1.3 of the RPS. This is a key justification for SUB-R10. I consider that the subdivision of new land within proximity to CEL is the “thin end of the wedge” and often includes the creation of additional development rights that can result in adverse reverse sensitivity effects. Top Energy has sought the recommended setbacks from its 33kV lines not only to establish minimum safety standards, but also to avoid reverse sensitivity, and enable the appropriate development and management of assets that are critical to the Far North. Therefore, in my opinion, it is important that robust consideration is given via a resource consent process to subdivision within proximity to CEL to ensure that this adequately addressed.

(f) Finally, including provisions within the PDP will achieve a degree of regional consistency, noting the existing provisions within the Whangārei District Plan.

- 14 Overall, I consider that the recommended mapping and provisions for CEL as outlined by the Reporting Officer, and further amended by my EIC, constitute the most appropriate way to achieve the purpose of the RMA in accordance with Section 32(1)(a), while also considering the efficiency and effectiveness of the provisions alongside other reasonably practicable options.

*Definition of upgrading*

- 15 Mr McPhee notes that he cannot see the value in offering a definition of ‘upgrading’ that does not quantify scale or intensity.<sup>9</sup> In particular, he notes that a new policy (I-PX) is proposed throughout the Section 42A Report that references ‘major upgrades’ and that there is no subsequent definition for ‘major upgrades’ provided, nor is the term used anywhere else in the chapter.<sup>10</sup>
- 16 I support the inclusion of the definition of “upgrading” as recommended by the Reporting Officer, and consider that it is beneficial to assist with the interpretation of relevant PDP provisions. In terms of Mr McPhee’s specific concerns regarding quantification of scale or intensity, I consider that this is best done in the rules that manage upgrades, rather than within the definition itself. Within the Infrastructure Chapter itself, I consider that this is achieved within I-R3 which provides specific quantification of scale and intensity as is sought by Mr McPhee.

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<sup>9</sup> Evidence of Mr McPhee, at [28].

<sup>10</sup> Evidence of Mr McPhee, at Para [27].

- 17 With regard to the term 'major upgrades' in the new policy (I-PX), I note that this is in relation to the upgrading National Grid infrastructure and Transpower's submission. This is not of relevance to Top Energy's assets.

### **Planning Evidence of Mr Wayne Smith**

- 18 Mr Smith recommends that the Critical Electricity Line Overlay and its provisions do not apply to the Ngawha Innovation and Enterprise Park Special Purpose Zone (*Special Purpose Zone*). Mr Smith considers that the Special Purpose Zone has already taken into account sufficient setback distances for buildings and development within development envelopes and has landscaping measures approved by Council in relation to the existing CEL.<sup>11</sup>
- 19 In my opinion, there is no planning basis on which to exclude the Special Purpose Zone from the CEL provisions. Like any other area within the District, future subdivision, use and development within proximity to the existing CEL lines within the Special Purpose Zone has the potential to cause adverse electrical safety and reverse sensitivity effects.
- 20 Notwithstanding the above, Mr Smith's evidence provides no specificity regarding the referenced development and landscaping measures said to address the CEL's within the Special Purpose Zone. Although Mr Smith refers to "plans" showing existing setbacks and zone design, no such plans are attached to his evidence, nor is there detail as to how the claimed measures are to be enforced. In the absence of this information, I consider Mr Smith's assertions to be unsubstantiated.

### **Conclusion**

- 21 In conclusion, the matters raised by Mr McPhee and Mr Smith do not alter my opinion as set out in my primary evidence. I remain of the view that the inclusion of Top Energy's 33kV electricity lines within the CEL Overlay, together with the associated PDP provisions, is appropriate, gives effect to the RPS, and is necessary to ensure the ongoing resilience, reliability and safe operation of regionally significant electricity infrastructure within the Far North District.

**David Eric Badham**

**29 April 2025**

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<sup>11</sup> Evidence of Mr Smith, at [32] and [33].

## Attachment 1 – Relevant RPS Provisions

### Regionally Significant Infrastructure<sup>12</sup>

Regionally significant infrastructure includes:

- 1) Energy, water, communication
  - (a) Main pipelines for the distribution or transmission of natural or manufactured gas or petroleum and key delivery points and storage facilities;
  - (b) Key facilities required for communication (including telecommunication, broadband, wireless networks and radio);
  - (c) The 'national grid' as defined by the Electricity Industry Act 2010 including facilities for the transmission of electricity from the 'national grid' (such as substations, grid injection points etc.) to the 'network';
  - (d) Network electricity lines and associated infrastructure that constitute the sub-transmission network;
  - (e) Electricity distribution assets which supply essential public services (such as hospitals or lifelines facilities), large (1MW or more) industrial or commercial consumers, 1000 or more consumers or are difficult to replace with an alternative supply if they are compromised;
  - (f) Electricity generation facilities (including Ngāwhā geothermal power station and Wairua hydroelectric power station) which supply electricity to either the national grid or the local distribution network;
  - (g) Regional and district council water storage, trunk lines and treatment plants and key elements of the stormwater network including treatment devices;
  - (h) Marsden Point oil refinery and truck loading facility.
- 2) Transport
  - (a) State highways;
  - (b) Roads as well as walking and cycling facilities that are of strategic significance as identified in the Regional Land Transport Strategy;
  - (c) Whāngārei, Kaitiāia and Bay of Islands airports;
  - (d) Installations and equipment for air navigation;
  - (e) Northport, including the adjoining land used for the movement and storage of cargo;
  - (f) Railway lines and associated railway facilities.
- 3) Significant social and community facilities:
  - (a) Flood management / protection schemes managed by regional and/or district councils;
  - (b) Public hospitals;
  - (c) The Northland Events Centre and Kensington Stadium;
  - (d) Northland Region Corrections Facility;
  - (e) Northland Polytechnic – (NorthTech) main campuses and Auckland University Faculty of Education – Whāngārei;
  - (f) Puwera Regional Landfill Facility.

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<sup>12</sup> Maps are also included within the definition which have not been included in this attachment as they are not particularly relevant.

## **Objective 3.6 Economic activities – reverse sensitivity and sterilisation**

The viability of land and activities important for Northland's economy is protected from the negative impacts of new subdivision, use and development, with particular emphasis on either:

- (a) Reverse sensitivity for existing:
  - (i) Primary production activities;
  - (ii) Industrial and commercial activities;
  - (iii) Mining\*; or
  - (iv) Existing and planned regionally significant infrastructure; or
- (b) Sterilisation of:
  - (i) Land with regionally significant mineral resources; or
  - (ii) Land which is likely to be used for regionally significant infrastructure.

\*Includes aggregates and other minerals.

## **Objective 3.7 – Regionally Significant Infrastructure**

Recognise and promote the benefits of regionally significant infrastructure, (a physical resource), which through its use of natural and physical resources can significantly enhance Northland's economic, cultural, environmental and social wellbeing.

### **5.1.1 Policy – Planned and coordinated development**

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

- (a) Is guided by the 'Regional Form and Development Guidelines' in Appendix 2;
- (b) Is guided by the 'Regional Urban Design Guidelines' in Appendix 2 when it is urban in nature;
- (c) Recognises and addresses potential cumulative effects of subdivision, use, and development, and is based on sufficient information to allow assessment of the potential long-term effects;
- (d) Is integrated with the development, funding, implementation, and operation of transport, energy, water, waste, and other infrastructure;
- (e) Should not result in incompatible land uses in close proximity and avoids the potential for reverse sensitivity;
- (f) Ensures that plan changes and subdivision to / in a primary production zone, do not materially reduce the potential for soil-based primary production on land with highly versatile soils<sup>10</sup>, or if they do, the net public benefit exceeds the reduced potential for soil-based primary production activities; and
- (g) Maintains or enhances the sense of place and character of the surrounding environment except where changes are anticipated by approved regional or district council growth strategies and / or district or regional plan provisions.
- (h) Is or will be serviced by necessary infrastructure.

Note: in determining the appropriateness of subdivision, use and development (including development in the coastal environment – see next policy), all policies and methods in the Regional Policy Statement must be considered, particularly policies relating to



natural character, features and landscapes, heritage, natural hazards, indigenous ecosystems and fresh and coastal water quality.

### **Policy 5.1.3 – Avoiding the adverse effects of new use(s) and development**

Avoid the adverse effects, including reverse sensitivity effects of new subdivision, use and development, particularly residential development on the following:

- (a) Primary production activities in primary production zones (including within the coastal marine area);
- (b) Commercial and industrial activities in commercial and industrial zones;
- (c) The operation, maintenance or upgrading of existing or planned regionally significant infrastructure; and
- (d) The use and development of regionally significant mineral resources.

### **5.3.1 Policy – Identifying regionally significant infrastructure**

The regional and district councils shall recognise the activities identified in Appendix 3 of this document as being regionally significant infrastructure.

### **5.3.2 Policy – Benefits of regionally significant infrastructure**

Particular regard shall be had to the significant social, economic, and cultural benefits of regionally significant infrastructure when considering and determining resource consent applications or notices of requirement for regionally significant infrastructure.

### **5.3.3 Policy – Managing adverse effects arising from regionally significant infrastructure**

1) 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.

(2) Allow adverse effects arising from the maintenance and upgrading of established regionally significant infrastructure wherever it is located, where:

(a) The adverse effects whilst the maintenance or upgrading is being undertaken are not significant; and

(b) The adverse effects after the conclusion of the maintenance or upgrading are the same or similar to before the activity being undertaken.

(3) When managing the adverse effects of regionally significant infrastructure decision makers will give weight to:

- (a) The benefits of the activity in terms of Policy 5.3.2;
- (b) Whether the activity must be recognised and provided for as directed by a national policy statement;
- (c) Any constraints that limit the design and location of the activity, including any alternatives that have been considered which have proven to be impractical, or have greater adverse effects;
- (d) Whether the proposal is for regionally significant infrastructure which is included in Schedule 1 of the Civil Defence Emergency Management Act as a lifeline utility and meets the reasonably foreseeable needs of Northland.
- (e) The extent to which the adverse effects of the activity can be practicably reduced. Such an assessment shall also take into account appropriate measures, when offered, to provide positive effects, either within the subject site or elsewhere provided that the positive effects accrue to the community of interest and / or resource affected; and
- (f) Whether a monitoring programme for any identified significant adverse effects with unknown or uncertain outcomes could be included as a condition of consent and an adaptive management regime (including modification to the consented activity) is used to respond to such effects.
- (g) Whether the infrastructure proposal helps to achieve consolidated development and efficient use of land.

### **5.3.4 Method – Statutory plans and strategies**

The regional and district councils, through regional and district plans, shall include provisions (objectives, policies, rules and other methods) which:

- a) Implement Policies 5.3.1, 5.3.2 and 5.3.3; and
- b) Reduce constraints on the operation, maintenance and upgrading of regionally significant infrastructure by appropriately using regionally or nationally accepted performance standards.

### **5.3.5 Method – Monitoring and information gathering**

The regional council will work with relevant stakeholders to:

- (a) Maintain a record of regionally significant infrastructure and contact details (where publicly available or permission obtained) and make it freely available; and
- (b) Identify and, where appropriate, map the location of regionally significant infrastructure.