

**Before the Environment Court
Auckland Registry**

**I te Kōti Taiao O Aotearoa
Tāmaki Makaurau Rohe**

ENV-2026-AKL-000141

Under the Resource Management Act 1991 (**Act**)

And

In the matter of an appeal under clause 14(1) of Schedule 1 of the Act

Between

Top Energy Limited

Appellant

and

Far North District Council

Respondent

Section 274 notice of Far North Holdings Limited of wish to
become party to appeal by Top Energy Limited

Dated: 29 September 2026

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TO: The Registrar
Environment Court
Auckland

AND TO: Top Energy Limited

AND TO: Far North District Council

AND TO: Bentzen Farm Limited

AND TO: Director-General of Conservation

AND TO: Mataka Residents Association Incorporated

AND TO: Matauri Trustee Limited

AND TO: Setar Thirty Six Limited

AND TO: Royal Forest and Bird Protection Society of New Zealand
Incorporated

Introduction

1. Far North Holdings Limited (**FNHL**) wishes to become a party to the appeal of Top Energy Limited (**Top Energy**) against decisions of the Far North District Council (**Council**) on the Far North Proposed District Plan (**PDP**), being ENV-2026-AKL-000141 (**Appeal**).
2. FNHL made submissions 320, 375, 510, and 593, and further submissions 114 and 407, on the PDP. Further submission 114 specifically addressed several provisions in the Infrastructure chapter, including relating to regionally significant infrastructure.
3. However, while those submissions and further submissions collectively broadly relate to topics and thematic issues which are the subject of this Appeal, particularly as they relate to infrastructure, none of FNHL's submission or further submission points are on the specific provisions which are the subject of this Appeal which FNHL is interested in.
4. For completeness and the avoidance of doubt, FNHL wishes to become a party to specific provisions which are the subject of this Appeal also on the

basis that FNHL has an interest in the proceedings that is greater than that of the general public for the reasons set out below.

5. FNHL is not a trade competitor for the purposes of section 308C of the Act.

Interest in proceedings

6. FNHL is the commercial council-controlled organisation of the Council. It owns, manages, and develops key maritime, transport, and commercial property infrastructure in the Far North District, including the Bay of Islands Marina and associated landholdings at Opuia.
7. Assets and infrastructure which FNHL is responsible for also includes regionally significant infrastructure such as the Bay of Islands Airport, which it owns, and the Kaitaia Airport, which it manages on behalf of the Council in its capacity as an Airport Authority under the Act.
8. FNHL is also actively involved in property development and housing delivery within the Far North District, including the Ngawha Innovation and Enterprise Park.
9. As a significant landowner, developer, and infrastructure provider, FNHL has a greater interest in the planning framework governing subdivision, land use, development capacity, and the provision of infrastructure, than the general public. That infrastructure supports the social, economic, and cultural wellbeing of the people of the Far North District and constitutes a physical resource for the purposes of the Act.
10. FNHL is interested in supporting and/or opposing the parts of the Appeal identified in **Appendix A**, for the reasons set out therein. Those parts of the Appeal and relief sought which FNHL is interested in broadly relate to:
 - (a) District wide matters – strategic direction (relating to appeal points addressing objectives relating to regionally significant infrastructure and reverse sensitivity);
 - (b) District wide matters – infrastructure matters within the energy, infrastructure and transport chapter;
 - (c) District wide-matters – subdivision; and

(d) District wide matters – noise.

Relief sought

11. FNHL supports and/or opposes the relief sought in **Appendix A** for the reasons set out therein.
12. FNHL agrees to participate in mediation or other alternative dispute resolution of the proceedings.

DATED at Auckland this 29th day of September 2026



Bianca Tree / Olivia Pahulu
Counsel for Far North Holdings Limited

APPENDIX A: FNHL s274 points and position

PDP Provision	Top Energy reasons for appeal	Top Energy relief sought (or alternative wording to the same effect). (Proposed additions <u>underlined</u> , deletions shown as strikethrough)	Far North Holdings Limited position and reasons
Part 2 – District-Wide Matters – Strategic Direction			
Strategic direction – New objectives for Regionally Significant Infrastructure.	Top Energy seeks the inclusion of new objectives within the Strategic Direction Chapter of the PDP for regionally significant infrastructure. The Strategic Direction Chapter is fundamental to the tone and direction of the PDP. While Top Energy supports the inclusion of objectives referencing infrastructure broadly, it considers it important that strategic direction is provided at this level for Regionally Significant Infrastructure through objectives and policies and notes that other District Plans in Northland have specifically included strategic direction in this regard.¹ Top Energy considers this approach is required to give effect to the provisions of the Northland Regional Policy Statement (RPS) relating to Regionally Significant Infrastructure.	<i>Insert new objectives as follows:</i> <u>SD-IE-OXX Regionally Significant Infrastructure is identified and protected.</u> <u>SD-IE-OXX The benefits of Regionally Significant Infrastructure are recognised and provided for.</u> <u>SD-IE-OXX Avoid, remedy, mitigate or offset adverse effects arising from the development, operation, maintenance, and upgrading of Regionally Significant Infrastructure.</u>	Support. It is appropriate to have clear objectives to support and recognise regionally significant infrastructure.
Strategic direction – New objective and policy for reverse sensitivity.	Top Energy seeks the inclusion of a new objective and policy within the Strategic Direction of the PDP that relates to reverse sensitivity effects and reflects the objective in the Northland RPS to protect Regionally Significant Infrastructure from such effects. The Strategic Direction Chapter is fundamental to the tone and direction of the PDP. Top Energy considers there is insufficient strategic direction within the PDP in relation to reverse sensitivity.	<i>Insert a new objective as follows:</i> SD-IE-OX: Avoid conflict between incompatible land use activities from the establishment of new subdivision, use and development, and avoid reverse sensitivity for existing primary production activities, industrial and commercial activities, mining or existing and planned Regionally Significant Infrastructure.	Support in part. It is appropriate to have a clear objective to seek to avoid reverse sensitivity effects. However, it is also appropriate to recognise that conflict can be adequately avoided by mitigation.
Part 2 - District-Wide Matters (Energy, infrastructure and transport) – Infrastructure			
Infrastructure – Policy I-P12	Top Energy considers the wording of Policy I-P12 should be worded so as to recognise and provide for the benefits of new technology in infrastructure. These technologies are likely to	<i>Amend Policy I-P12 as follows:</i>	Support.

¹ See for example the District Growth and Development Objectives for Regionally Significant Infrastructure in the Operative Whangārei District Plan. That section of the Operative Whangārei District Plan contains provisions identifying and protecting Regionally Significant Infrastructure.

PDP Provision	Top Energy reasons for appeal	Top Energy relief sought (or alternative wording to the same effect). (Proposed additions <u>underlined</u> , deletions shown as strikethrough)	Far North Holdings Limited position and reasons
	continue to change over the anticipated life span of the PDP. As such, the PDP should “provide” for these benefits not just simply “recognise” them.	Recognise <u>and provide for</u> the benefits of new technology in infrastructure that: (a) improve access to, and efficient use of, networks and services; (b) increases resilience or reliability of networks and services; (c) protects the on-going safety of the community and the integrity of the network; or (d) results in environmental benefits or enhancements.	It is appropriate to provide for benefits in new technology, and not just recognise the benefits of new technology in infrastructure.
Part 2 – District-Wide Matters – Subdivision			
Subdivision – Objective SUB-O2	Top Energy seeks further amendment to ensure that existing electricity infrastructure is not compromised by subdivision activities. Given the regional significance of the electricity infrastructure network, protection of this infrastructure is required to achieve alignment with the Northland RPS and within the Subdivision chapter.	<i>Amend Objective SUB-O2 as follows:</i> Subdivision recognises and provides for the protection, restoration or enhancement of Outstanding Natural Features, Outstanding Natural Landscapes, Natural Character of the Coastal Environment, wetland, lake and river margins, areas of significant indigenous vegetation and significant habitats of indigenous fauna, Sites and Areas of Significance to Māori, and Historic Heritage <u>and Electricity Infrastructure Network</u> .	Oppose. It is not appropriate to add the Electricity Infrastructure Network to this objective as it is not clear how subdivision can recognise and provide for the protection, restoration or enhancement of the network.
Subdivision – New Policy	Top Energy considers a new policy is required to direct the protection of electricity infrastructure from reverse sensitivity effects generated by inappropriate subdivision and future land use to achieve alignment with the Northland RPS and within the Subdivision chapter.	<i>Add new policy as follows:</i> <u>SUB-OX: Ensure that subdivision and future land uses do not generate reverse sensitivity effects on electricity network by ensuring suitable setbacks are achieved from all electricity infrastructure including by requiring setbacks at the time of subdivision from mapped Critical Electricity Lines.</u>	Support in part / oppose in part. The intent of the new policy is supported insofar that it seeks to avoid reverse sensitivity effects. However, setbacks are not always required to achieve this.
Subdivision – Policy SUB-P11	Top Energy seeks a further matter of consideration is included to require consideration of potential reverse sensitivity effects on infrastructure at the time of subdivision. Including a matter of discretion will provide a trigger for processing planners to encourage consultation with Top Energy where any	<i>Amend Policy SUB-11 as follows:</i> Consider the following matters where relevant when assessing and managing the effects of subdivision:	Support in part / oppose in part. The introduction of reverse sensitivity effects as a

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	subdivision is proposed where not captured by SUB – R9 and SUB - R10.	(a) the potential for reverse sensitivity effects that would prevent or adversely affect activities already established on land from continuing to operate; (b) consistency with the scale, density, design and character of the environment and purpose of the zone; (c) the location, scale and design of buildings and structures; (d) the adequacy and capacity of available or programmed development infrastructure to accommodate the proposed activity; or the capacity of the site to cater for on-site infrastructure associated with the proposed activity; (e) managing natural hazards; (f) any adverse effects on areas with historic heritage and cultural values, natural features and landscapes, natural character or indigenous biodiversity values; and (g) any historical, spiritual, or cultural association held by tangata whenua, with regard to the matters set out in Policy TW-P6.; and <u>any potential for reverse sensitivity effects on electricity infrastructure.</u>	consideration is support in principle; however, further clarity is required.
Part 2 – District-Wide Matters (General District-Wide matters) – Noise			
Noise – Objective NOISE-O2	Top Energy seeks an amendment to the objectives of the Noise chapter to ensure consistency with the Northland RPS. The absence of an avoid directive in the specific reverse sensitivity policy is inconsistent with the directive in Policy 5.1.1 of the Northland RPS to “avoid” the potential for reverse sensitivity effects. Top Energy considers this specific drafting approach is required to give effect to the provisions of the Northland RPS relating to reverse sensitivity.	<i>Amend Objective NOISE-O2 as follows:</i> New noise sensitive activities are designed and/or located to minimise conflict <u>with, and avoid</u> reverse sensitivity effects <u>on, existing lawfully established noise generating activities</u>, and to protect community health and wellbeing.	Support. It is appropriate to recognise existing lawfully established noise generating activities in this objective.

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Noise – Policy NOISE-P2	Top Energy seeks further amendments to Policy Noise-P2 to reflect the relief sought in respect of NOISE-O2.	<i>Amend Policy NOISE-P2 as follows:</i> Ensure noise sensitive activities proposing to locate within the Mixed Use zone, Town Centre zone, Light Industrial zone, and Air Noise Boundary; or on land near state highways or railways; are located, designed, constructed and operated in a way which will minimise adverse noise on community health, safety and wellbeing by having regard to: (a) reverse sensitivity risks to <u>any</u> existing <u>lawfully established</u> noise generating activities and the level of noise that will be received within any noise sensitive building; (b) <u>the need to avoid any reverse sensitivity effects on lawfully established noise generating activities;</u> (c) the primary purpose and the frequency of use of the activity; and (d) the ability to design and construct buildings accommodating noise sensitive activities with sound insulation and/or other mitigation measures to ensure the level of noise received within the building is minimised particularly at night.	Support. It is appropriate to recognise existing lawfully established noise generating activities in this policy.