



# Top Energy – Hearing 12 Presentation

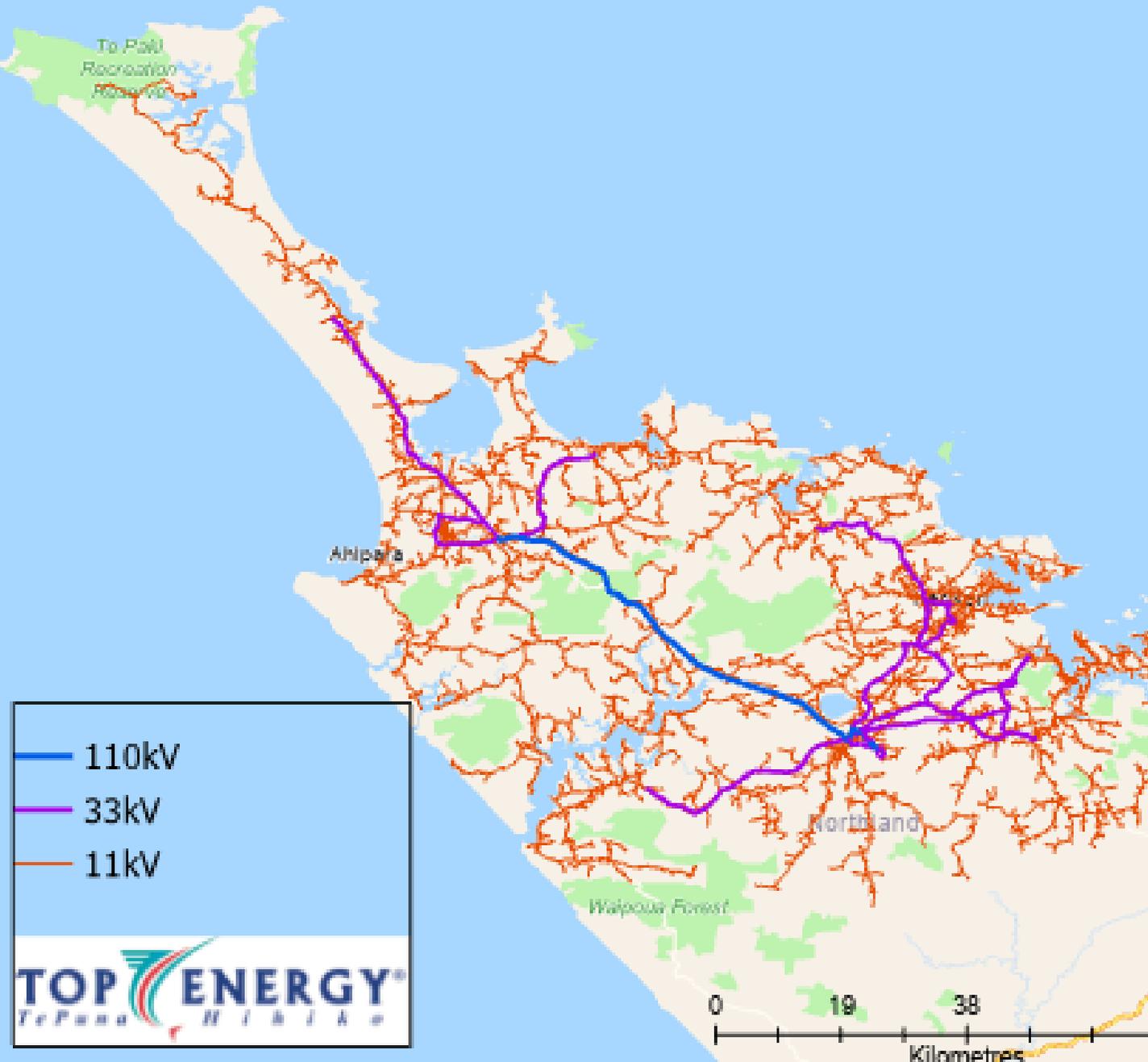
27 May 2025

# Agenda

- Top Energy's Network in the Far North
- Heritage Area Overlay
- Historic Heritage
- Sites and Areas of Significance to Māori
- Notable trees



# Top Energy's Network Map



## Far North Network

- Servicing an area of approx. 7,000m<sup>2</sup>.
- Approx. 32,000 customers.
- Total system length of 4,000+km.
- Both above and below ground.
- The network services many isolated and vulnerable communities, with minimal or no alternatives for power supply.



# Heritage Area Overlay

# Rule HA-R5

- Top Energy sought amendments to HA-R5 to exempt earthworks associated with underground cables.
- Support RO recommended, amendment to PER-1 and deletion of the volume and area thresholds in PER-2 and PER-3.
- Do not support RO recommended replacement of PER-2 and PER-3 with a depth of excavation to 500mm.

## Reason:

- Undergrounding of cables should be encouraged in these sensitive environments because overhead cables are more likely to detract from heritage values.
- PER-1 requires compliance Accidental Discovery Protocol.
- Matters of discretion are largely focused on assessing adverse effects on the heritage values of Heritage Area Overlays or any adjacent scheduled Heritage Resources.
- Given the lack of permanent visual or character impact from earthworks for new underground infrastructure, and the minimum setback requirement for earthworks from scheduled Heritage Resources, it is appropriate to exclude this activity from this resource consent requirement.

# Rule HA-R5 -Amendment

- We recommend the following amendment to Rule HA-R5:

## Rule HA-R5

...

### All zones

...

### PER-1

#### Earthworks associated with new underground network utilities:

1. Are setback a minimum of 20m from a scheduled Heritage Resource; and
2. Comply with standard HA-S3 Accidental Discovery Protocol.

### PER-~~2~~1

#### ~~The~~ All other earthworks:

1. Are setback a minimum of 20m from a scheduled Heritage Resource;
2. Comply with standard HA-S3 Accidental Discovery Protocol; and
3. Do not result in disturbance of sub-soils below a depth of 500mm.
4. ~~Comply with the relevant permitted activity rules within the Earthworks chapter; and~~
5. ~~Are not within 20m of a scheduled Heritage Resource.~~

Note 1: When applying PER-1(1), the 20m distance must be measured from the edge of the footprint of any building, site or structure as described in Schedule 2 – Schedule of historic sites, buildings and objects.

Note 2: The Heritage New Zealand Pouhere Taonga Act 2014 requires all applicants to obtain an authority from Heritage New Zealand Pouhere Taonga before any archaeological site is modified or destroyed. This is the case regardless of whether the land on which the site is located is designated, or whether the activity is permitted under the District Plan or a resource or building consent has been granted.

# Rules HA-R6 & HA-R10 - Amendment

- Top Energy sought a new permitted activity rule for maintenance, upgrade and repair of existing network utilities, buildings and structures. And a new permitted activity rule for new network utilities.
- We support the two different permitted pathways for infrastructure as recommended by the RO, subject to the following:
  - Increase the 1m limit to the location of infrastructure from the original alignment for any maintenance, repair or upgrading to 3m. More flexibility is needed to accommodate replacement assets.
  - Reference to “all zones” in HA-R6 should be deleted to avoid confusion and unintended consequences.
  - The same exemptions are provided for any underground infrastructure, and above ground infrastructure located within the road reserve in HA-R10, as has been in HA-R6.
  - A restricted discretionary activity status shall apply under HA-R10 rather than a discretionary activity status as the potential effects of those activities can be readily identified and captured within the relevant matters of discretion.

# Rule HA-R6 & HA-R10 - amendment

- We recommend the following amendments to Rules HA-R6 and HA-R10:

## Rule HA-R6

...

**All-zones**

...

**PER-1**

**The infrastructure is:**

1. **Located underground;**
2. **Maintenance, repair or upgrading of any existing above ground infrastructure that is located within 3m either side of the original location or where the alignment is wholly located within the road reserve;**
3. **Connections to buildings or structures for network utilities; or**
4. **New above ground infrastructure that is wholly located within the road reserve.**

## Rule HA-R10

...

**All-zones**

...

Activity status: **Discretionary Restricted Discretionary**

**This rule shall not apply to:**

1. **Infrastructure that is located underground;**
2. **Maintenance, repair or upgrading of any existing above ground infrastructure that is located within 1m either side of the original location; or**
3. **Connections to buildings or structures for network utilities; or;**
4. **New above ground infrastructure that is wholly located within the road reserve.**

**Matters of discretion are restricted to:**

- a. **The operational and functional needs of the infrastructure to be located within the site containing the scheduled Heritage Resource;**
- b. **Whether a scheduled Heritage Resource will be adversely affected by the proposed works;**
- c. **Location, scale, design of the proposed works;**
- d. **Any adverse effects on any archaeological site;**
- e. **Any landscaping or fencing to maintain heritage boundary treatments and curtilage;**
- f. **The location and relationship of works in relation to adjoining sites and the road;**
- g. **Any assessments or advice from a suitably qualified and experienced heritage or cultural expert (where provided); and**
- h. **Any consultation with Heritage New Zealand Pouhere Taonga, Department of Conservation and tangata whenua (where provided).**

The background image is a blue-tinted landscape. In the foreground, there is a large, rectangular stone structure, possibly a ruin or a monument, with a textured surface. In the middle ground, a tall, lattice-structured power line tower stands prominently. The background consists of rolling hills or mountains under a clear sky. The overall scene is a mix of natural and man-made elements.

# Historic Heritage

# Rule HH-R6 - Amendment

- Top Energy sought the deletion or amendment to exclude network utilities.
- We support the RO recommended exclusion of the maintenance, repair or upgrading of any existing above ground infrastructure, subject to the following additional amendments:
  - Infrastructure located underground should be excluded from this rule.
  - Increase the 1m limit to the location of infrastructure from the original alignment for any maintenance, repair or upgrading to 3m. More flexibility is needed to accommodate replacement assets.
  - There should be a similar exclusion for new above ground infrastructure located solely in the road reserve.
  - A restricted discretionary activity status rather than a discretionary activity status should apply.

# Rule HH-R6 - Amendment

- We recommend the following amendment to Rule HH-R6:

## Rule HH-R6

Activity status: ~~Discretionary~~ **Restricted Discretionary**

This rule shall not apply to ~~domestic small scale renewable electricity generation, and~~

- 1. Infrastructure that is located underground;**
- 2. Maintenance, repair or upgrading of any existing above ground infrastructure that is located within  $\pm 3$ m either side of the original location; or**
- 3. Connections to buildings or structures for network utilities; or**
- 4. New above ground infrastructure that is wholly located within the road reserve.**

### **Matters of discretion are restricted to:**

- a. The operational and functional needs of the infrastructure to be located within the site containing the scheduled Heritage Resource;**
- b. Whether a scheduled Heritage Resource will be adversely affected by the proposed works;**
- c. Location, scale, design of the proposed works;**
- d. Any adverse effects on any archaeological site;**
- e. Any landscaping or fencing to maintain heritage boundary treatments and curtilage;**
- f. The location and relationship of works in relation to adjoining sites and the road;**
- g. Any assessments or advice from a suitably qualified and experienced heritage or cultural expert (where provided); and**
- h. Any consultation with Heritage New Zealand Pouhere Taonga, Department of Conservation and tanqata whenua (where provided).**



# Sites and Areas of Significance to Māori

# Objectives, Policies and Rules

- Top Energy sought additional provisions that:
  - Recognise the need for the location of new infrastructure within Sites and Areas of Significance to Māori where there is an operational or functional need for that infrastructure, and any adverse effects of that infrastructure are adequately managed; and
  - Provide for the operation, maintenance, repair and upgrading of infrastructure within Sites and Areas of Significance to Māori.

# Objectives, Policies and Rules

- The RO considered that these matters have been addressed in the Infrastructure Section 42A Report, thereby rejecting Top Energy's submission points.
- We note that these submission points were not explicitly addressed in the Infrastructure Section 42A Report or the recent Hearing 11.
- Infrastructure Chapter overview states that in addition to the provisions within that chapter, there are provisions in other Part 2: District Wide Matters that may be relevant for infrastructure, including within the Sites and Areas of Significance to Māori chapter.

# Objectives, Policies and Rules

- We consider the following provisions should be included within the Sites and Areas of Significance to Māori chapter:

## New Objective SASM-OX

**Manage the adverse effects of the development of new infrastructure and upgrading of existing infrastructure within Sites and Areas of Significance to Māori.**

## New Objective SASM-OX

**Enable the safe and efficient use, operation, maintenance and repair of existing infrastructure within Sites and Areas of Significance to Māori.**

## Rule SASM-R1

Activity status: Permitted

Where:

PER-1

The activity is undertaken by the requesting party listed in Schedule 3.

PER-2:

Any indigenous vegetation clearance is for customary purposes.

**PER-3:**

**The activity is undertaken by a network utility provider for the operation, maintenance or repair of existing above ground infrastructure**

## New Policy SASM-PX

**Provide for the establishment of new infrastructure and upgrading of existing infrastructure within Sites and Areas of Significance to Māori, where the following apply:**

- There is a functional need or operational need for its establishment;**
- There is no practicable alternative;**
- The infrastructure will provide a public benefit that could not otherwise be achieved; and**
- The significant adverse effects are avoided, and any other adverse effects are avoided, remedied or mitigated on the cultural values of the Site and Area of Significance to Māori.**

## New Policy SASM-PX

**Provide for the operation, maintenance, and repair of existing infrastructure within Sites and Areas of Significance to Māori in a manner that avoids, remedies or mitigates adverse effects on the cultural values of these sites and areas.**

A blue-tinted landscape photograph. In the foreground, a road or path winds through a valley. In the middle ground, a tall, lattice-structured power line tower stands prominently. The background consists of rolling hills or mountains under a clear sky. The entire image has a monochromatic blue color scheme.

# Notable Trees

# Objective NT-01 - Amendment

- We disagree with the retention of this objective as notified because it only provides for the identification and protection of Notable Trees.
- We consider it important that there is an objective which Policy NT-P4 implements.
- We recommend the following amendment to Objective NT-01:

## Objective NT-01

Notable Trees and groups of trees which contribute to the botanical, ecological, historical, cultural or amenity value of the District are identified and protected, **while enabling the safe and efficient use, development, maintenance, operation, repair and upgrading of infrastructure and network utilities.**

# Policy NT-P2 - Amendment

- We agree with the following elements of the RO recommendation:
  - The inclusion of “on notable trees” within the opening sentence.
  - The deletion of the original clause b.’
- We do not otherwise support the revised wording. In particular, the requirement for a suitably qualified and experienced arborist to supervise all pruning and trimming of branches on notable trees.
- We do not consider this reasonable or realistic as it relates to pruning and trimming of branches to improve public safety, or prevent damage to property or infrastructure, or to enable the safe and efficient use and operation of infrastructure or network utilities.

# Policy NT-P2 - Amendment

- We recommend the following amendment to Policy NT-P2:

## Policy NT-P2

Enable the pruning and trimming of branches on notable trees where the works ~~will~~:

- a. Will retain or improve the health, form and shape of the notable tree and will be supervised or undertaken by a suitably qualified and experienced arborist;
- b. ~~Allow the regular maintenance of the notable tree;~~
- b. ~~Will may~~ improve public safety, or prevent damage to property or infrastructure; ~~and/or~~
- c. Will enable the safe and efficient use, operation, repair or upgrading of infrastructure or network utilities.
- d. ~~Control any other maintenance works to ensure that the works will:~~
  - i. ~~Maintain the health, form and shape of the tree; and~~
  - e. Will be supervised or undertaken by a suitably qualified and experienced arborist.

# Policy NT-P3 - Amendment

- We recommend:
  - The inclusion of the term ‘infrastructure’, ‘activities’ and ‘development’ are not defined terms. ‘Infrastructure’ is a defined term in the RMA and used consistently elsewhere in the PDP.
  - The inclusion of ‘or’ in the policy, which is appropriate to allow flexibility; requiring both conditions (a) and (b) is seen as too restrictive.
  - A grammatical correction changing ‘activity’ to ‘activities’.

## Policy NT-P3

Only allow activities, infrastructure and or development within the root zone area of a notable tree or group of trees where:

- a. It is demonstrated that the activities, infrastructure and or development will not be detrimental to the long-term health and significance of the tree or group of trees; ~~and/or~~
- b. There is a functional or operational need for the activities, infrastructure or development to occur within the root zone area and there are no other practical alternative locations.

# Policy NT-P4 - Amendment

- We disagree that Policy NT-P4 already provides for the trimming and pruning of notable trees to facilitate the use and operation of infrastructure.
- As the policy currently reads, it only enables the trimming and pruning of trees generally.
- We recommend the following amendment to Policy NT-P4 to improve clarity:

## Policy NT-P4

Allow the trimming, pruning of **notable** trees and groups of trees and activities within the root zone area of notable trees or group of trees for the purpose of operating, maintaining, repairing, upgrading or removing infrastructure where:

- a. for existing infrastructure, the work is required to comply with the Electricity (Hazards from Trees) Regulations 2003 or the Telecommunications Act 2001; or
- b. for new infrastructure, there is an operational need or functional need to be located within the root zone area and there are no other practicable alternative locations; and
- c. for both existing and new infrastructure, the work will not compromise the long-term health, natural life or values of the notable tree or groups of trees.

# Policy NT-P5- amendment

- We support the amendment to Policy NT-P5 allowing for the destruction or removal of trees if there is an imminent threat to the safe and efficient use and operation of infrastructure.
- We oppose the new requirement that all scenarios be assessed by an arborist.
- Arborist assessments should not be required in urgent situations involving immediate threats to safety or infrastructure, as quick action may be needed, and waiting for an assessment is unrealistic and unreasonable.
- We also consider that Clause (b) should use the term “not feasible” instead of “not possible”, as feasibility offers a more practical and reasonable standard.

# Policy NT-P5- Amendment

- We recommend the following amendment to Policy NT-P5:

## NT-P5

Avoid the destruction or removal of a notable tree or trees unless:

- a. there is an imminent threat to the safety of people and property; ~~or~~
- b. it is necessary ~~to maintain~~ for the safe and efficient use, operation, maintenance and repair of infrastructure and pruning or relocation of the tree is not ~~feasible~~ possible;
- c. the use and enjoyment of a property and surrounds is significantly compromised or diminished; or
- d. it is dead, or is in terminal decline; and
- e. For all scenarios described in ac-d above, it has been assessed by a suitably qualified and experienced arborist as being suitable for destruction or removal.

# Definition of Emergency Works and Rules NA-R2 and NA-R8

- Top Energy sought a new definition for 'emergency tree works'.
- The RO has supported the inclusion of this definition and recommended amendments to Rules NT-R2 and NT-R8 to provide permitted pathways for emergency tree works.
- Top Energy continue to seek that a Level 4 Qualified Arborist should not be required to undertake a risk assessment as this will create an unnecessary and ultimately unhelpful administrative burden in an emergency situation.
- All works will be undertaken in accordance with the Electricity (Hazards from Trees) Regulations 2003 which includes rules specifying who has responsibility for cutting and trimming trees that encroach on electrical conductors. These rules do not suggest that a Level 4 Qualified Arborist is required.

# Definition of Emergency Works and Rules NA-R2 and NA-R8

- We recommend the following amendments to Rules NA-R2 and NA-R8:

## Rule NT-R2

Activity status: Permitted

Where:

PER-1

The maximum branch diameter must not exceed ~~50mm~~ 200mm at severance.

PER-2

No more than 10% of live growth of the tree may be removed in any one calendar year.

PER-3

The works must be undertaken by a person that is a suitably qualified person as per NT-S1 Qualified Arborist – Level 4

PER-4

Council is advised 14 days prior to the work commencing and is provided with written documentation by the arborist undertaking or supervising work confirming that they have the qualifications required by NT-S1 Qualified Arborist – Level 4.

PER-5

All trimming or alteration must retain the natural shape, form and branch habit of the tree.

PER-6

All pruning and trimming shall adhere to the Minimum Industry Standards: MIS308- Tree Pruning, as per the Arboriculture Australia and New Zealand Arboriculture standards; or

PER-7

Are required for emergency tree works, then PER 1-6 do not apply. Except that a risk assessment must be conducted by a suitably qualified person as set out in NT-S1 Qualified Arborist – Level 4 and that any necessary works must be carried out on behalf of a network utility operator.

## Rule NT-R8

Activity status: Discretionary Permitted

Where:

PER-1

is required as emergency tree works, where a risk assessment must be conducted by a suitably qualified person as set out in NT-S1 Qualified Arborist – Level 4 and any necessary works must be carried out on behalf of a network utility operator.

# Rule NT-R4 - Amendment

- We Disagree with the retention of PER-2 and PER-3.
- We consider PER-2 and PER-3 are unnecessary and onerous when works are already required to be undertaken in accordance with Electricity (Hazards from Trees) Regulations 2003.
- We therefore recommend the following amendment to Rule NT-R4:

## Rule NT-R4

Activity status: Permitted

Where:

PER-1

The works are required to provide for safe and reasonable clearance and is carried out in accordance with clause 14 of the Electricity (Hazards from Trees) Regulations 2003 or clause 128 of the Telecommunications Act 2001.

~~PER-2~~

~~The works must be undertaken or supervised by a person that complies with NT-51 Qualified Arborist—Level 4.~~

~~PER-3~~

~~Council is advised 14 days prior to the work commencing and is provided with written documentation by the arborist undertaking or supervising that they have the qualifications required by NT-52 NT-51 Qualified Arborist—Level 6-4.~~

PER-4

The health and integrity of the tree is retained and the pruning will not result in its decline.

# Summary & Key Takeaways

- We consider the Reporting Officer has made a number of constructive recommendations to address Top Energy's concerns in their submission.
- There are a number of areas where we consider further amendments are necessary.
- These primarily relate to ensuring that new infrastructure and the operation, maintenance, repair and upgrading of existing infrastructure is recognised and provided for within these particularly sensitive environments.

A wide-angle photograph of a solar farm. The solar panels are arranged in neat, parallel rows that stretch across a grassy field towards the horizon. The sky is filled with soft, white clouds, and the overall lighting is bright but slightly diffused. The text "He Patai? | Any Questions?" is overlaid in the center of the image in a white, sans-serif font.

He Patai? | Any Questions?