

**BEFORE THE HEARINGS PANEL**

**UNDER**

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

**IN THE MATTER OF**

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

**STATEMENT OF EVIDENCE OF DAVID BADHAM ON BEHALF OF TOP ENERGY**

**PLANNING**

**13 May 2024**

**1. SUMMARY OF EVIDENCE**

1.1 This evidence has been prepared on behalf of Top Energy Limited (**Top Energy**) as it relates to its submission and further submission on the PDP - Hearing Stream 1. My evidence focuses on responses to the recommendations in both the Strategic Direction and Part 1 Section 42A Hearing Reports (**s42A**).<sup>1</sup>

1.2 In summary, the Reporting Officers for Far North District Council (**Council**) on these topics have made a number of recommendations that agree with and adopt Top Energy's submission. Despite this, several areas remain where I disagree with the recommendations of the Reporting Officers, and consider that further amendments or analysis are required. These specifically relate to:

- (a) The important role of the Strategic Direction Chapter in the PDP. In my opinion, this is the "engine room" for the PDP, which all policy and resource consent assessments are evaluated against. Further work is required to ensure that this Chapter operates effectively. I am particularly concerned with the lack of policies to give effect to the Strategic Direction objectives. In my opinion, this is a significant gap in the Strategic Direction Chapter that I consider needs to be addressed. While the relevant Reporting Officer has said that this is addressed in other chapters of the PDP, no detail or analysis is provided to

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<sup>1</sup> Noting that Top Energy did not make any submissions on the Tāngata Whenua Chapter or Topic .

demonstrate this. I consider that policies to give effect to the objectives are best located within the Strategic Direction Chapter.

- (b) The lack of objectives within the Strategic Direction Chapter relating to Regionally Significant Infrastructure. This is a significant issue raised in Top Energy's submission that has not been appropriately addressed by the Reporting Officer and remains unresolved. In my opinion, the recognition, enablement and management of Regionally Significant Infrastructure is a significant resource management issue that needs to be addressed within the Strategic Direction Chapter in to give effect to the relevant provisions of the Regional Policy Statement for Northland (**RPS**).
- (c) I have addressed several matters from Top Energy's submission that relate to the recommendations in the Part 1 General and Miscellaneous s42A. In my opinion, these are relatively minor matters of clarity and consistency which need to be addressed to ensure the consistent and efficient administration of the PDP. I accept that, in some instances, these matters may need to be further addressed in future hearings.

## 2. INTRODUCTION

- 2.1 My full name is David Eric Badham. I am a Partner and Northland Manager of Barker and Associates (**B&A**), a planning and urban design consultancy with offices across New Zealand. I am based in the Whangārei office, but undertake planning work throughout the country, although primarily in Te Tai Tokerau / Northland.

### **Qualifications and experience**

- 2.2 I have a Bachelor of Planning with Honours (1st Class) from the University of Auckland (2010). I have been a Full Member of the New Zealand Planning Institute since April 2015.
- 2.3 I have over 14 years' experience in planning. During this time, I have been employed in various resource management positions in local government and private companies within New Zealand and Australia including experience in:
- (a) Resource consent planning in the Northland and Auckland regions, including an extensive range of work in the Whangārei, Kaipara and Far North districts.

- (b) Consideration of submissions and formulation of policy advice for Whangārei District Council, Kaipara District Council, Far North District Council and private clients (including Northpower within the Whangārei and Kaipara districts, and Top Energy within the Far North district).
- (c) Providing planning advice, and engaging in consultation with and on behalf of iwi organisations and being involved in the preparation of cultural impact assessments.
- (d) Monitoring and compliance of consent conditions in operational mining environments in Queensland, Australia.
- (e) Preparing expert evidence in the Environment Court for cases relating to kauri dieback provisions in the Whangārei District Plan, for private Plan Change 78 – Mangawhai Central to the Kaipara District Plan and most recently for a resource consent for a private client in Mangawhai.

2.4 I attach a copy of my CV in **Attachment 1** which provides further detail on my experience and expertise.

#### **Purpose and scope of evidence**

2.5 This evidence addresses the submission (#483) and further submission (#FS369) by Top Energy on the PDP.

2.6 My evidence will address the following topics:

- (a) my involvement with the PDP on behalf of Top Energy (Section 3);
- (b) supported recommendations of the s42A (Section 4);
- (c) the important role of the Strategic Direction Chapter (Section 5);
- (d) lack of policies in the Strategic Direction Chapter (Section 6);
- (e) Strategic Direction – Regionally Significant Infrastructure (Section 7);
- (f) Part 1 – General and Miscellaneous (Section 8); and
- (g) Conclusion (Section 9).

#### **Code of conduct**

- 2.7 I have read the Code of Conduct for Expert Witnesses in the Environment Court Practice Note 2023. I have complied with the Code of Conduct in preparing this statement of evidence. My qualifications as an expert are set out above. Unless I state otherwise, this evidence is within my sphere of expertise and I have not omitted to consider material facts known to me that might alter or detract from the opinions I express.
- 2.8 B&A staff have previously assisted the Council with the formulation of section 32 evaluations for a number of PDP topics prior to the notification of the PDP. That engagement did not carry forward post notification of the PDP. I also confirm that Sarah Trinder, an employee of B&A, is the Reporting Officer for the Part 1 Hearing Topic, which I comment on within the body of this evidence. In regard to these matters, I confirm the following:
- (a) B&A is an independent planning consultancy providing planning and resource management advice and services. B&A act on behalf of a number of private and public clients throughout the country.
  - (b) I was not involved in the preparation of provisions, the section 32 evaluation or any advice following notification for the Strategic Direction or Part 1 General and Miscellaneous Topics Hearing Stream 1.
  - (c) While Ms Trinder is Reporting Officer for the Part 1 hearing topic, I was not involved with the completion of this work, which has been undertaken entirely separately to my engagement and independent planning advice for Top Energy.
- 2.9 Noting the above, I have no conflict of interest to declare in regard to the preparation of this evidence, the hearing of these topics, or my future engagement in relation to those topics as part of the PDP review.

### **3. INVOLVEMENT WITH PDP ON BEHALF OF TOP ENERGY**

- 3.1 I have been engaged by Top Energy since early 2021 to provide independent planning evidence on the PDP, including:
- (a) assisting with preparing written feedback on the draft PDP;
  - (b) assisting with preparing Top Energy's original submission on the PDP;

- (c) assisting with preparing Top Energy’s further submission on the PDP; and
- (d) ongoing planning advice associated with those submissions and the hearings relating to those submissions.

3.2 I confirm that I have reviewed the Strategic Direction and Part 1 – General and Miscellaneous s42A reports and the statement of Corporate evidence of Mr Doherty on behalf of Top Energy.

#### **4. SUPPORTED RECOMMENDATIONS OF THE S42A**

4.1 The Reporting Officers have recommended the acceptance of a number of Top Energy’s submission points, or have recommended amendments which are consistent with the relief sought by Top Energy. For some of those, Top Energy has confirmed that it is satisfied with the recommendations. I briefly outline these submission points below and do not address them further within my evidence:

- (a) S483.027 – retention of SD-UFD-O2 as notified.
- (b) S483.029 – retention of SD-IE-O1 as notified.
- (c) S48.028 – amendment to SD-UFD-O3. Top Energy sought to retain this provision as notified and the Reporting Officer has recommended to include “additional infrastructure” as requested by the Ministry of Education. This amended relief is supported.
- (d) S483.030 – amendment to SD-IE-O2. Top Energy sought to retain this provision as notified and the Reporting Officer has recommended to include “repair” as requested by KiwiRail. This amended relief is supported.

#### **5. THE IMPORTANT ROLE OF THE STRATEGIC DIRECTION CHAPTER**

5.1 In my experience and opinion, strategic directions are essential components of an efficient and effective district plan, as they establish the strategic issues, outcomes, aspirations and overarching policy directions for a district. In first generation RMA plans, this policy direction was often identified by different names and locations within plans, more commonly detailed as district wide strategy or growth and development policy chapters. Typically, strategic directions establish the broader resource management context and district policy direction, and are often specifically influenced by national and regional policy drivers that are applicable to a district. In my view, the

proposed Strategic Direction Chapter forms the “engine room” for the PDP, which all policy and resource consent assessments are evaluated against.

- 5.2 The intended role of the Strategic Direction Chapter in that regard is confirmed by the PDP in the proposed Overview which states that:<sup>2</sup>

For the purposes of preparing, changing, interpreting, and implementing the District Plan, all other objectives and policies in all other chapters of this District Plan are to be read and achieved in a manner consistent with these Strategic Directions.

There is no hierarchy between the stated Objectives (i.e. no one Strategic Objective has primacy over another Strategic Objective, and the Strategic Objectives should be read as a whole).

- 5.3 The Reporting Officer has not proposed any changes to that description.
- 5.4 Consequently, as all objectives and policies in the PDP are to be read and achieved in a manner that is consistent with the proposed Strategic Direction provisions, it is important in my opinion to ensure that the Strategic Direction Chapter sets a clear and appropriate umbrella for the entire PDP. I consider that the Reporting Officer has not adequately considered the submissions from Top Energy with regard to the Strategic Direction Chapter, particularly as they relate to the lack of policies across all topics, and the inclusion of objectives for Regionally Significant Infrastructure. In my opinion, a failure to address those matters will lead to significant integration issues and poor outcomes throughout the rest of the PDP.
- 5.5 For example, currently the proposed Infrastructure Chapter as notified includes provisions that recognise and provide for Regionally Significant Infrastructure.<sup>3</sup> However, this does not occur consistently throughout the District Wide Matters and Area Specific Matters Chapters.<sup>4</sup> Therefore, the recognition and provision for Regionally Significant Infrastructure is unevenly addressed throughout the PDP. The simple inclusion of the recommended objectives sought by Top Energy (as I address

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<sup>2</sup> PDP Strategic Direction, Directions Overview (source: FNDC Eplan).

<sup>3</sup> See for instance I-O2, I-P4 and I-P7 as notified.

<sup>4</sup> For instance, the Natural Hazards Chapter includes no direction for Regionally Significant Infrastructure.

further below) within the Strategic Direction Chapter would address this, and ensure the consistent provision for Regionally Significant Infrastructure across the entire PDP.

5.6 Mandatory direction 7.1 of the National Planning Standards specifies the requirements of what must be addressed in the Strategic Direction Chapter:<sup>5</sup>

1. If the following matters are addressed, they must be located under the Strategic direction heading:
  - a. an outline of the **key strategic or significant resource management matters** for the district;
  - b. issues, if any, and objectives that **address key strategic or significant matters for the district and guide decision making at a strategic level**;
  - c. policies that address these matters, unless those policies are better located in other more specific chapters;
  - d. how resource management issues of significance to iwi authorities are addressed in the plan.

5.7 In my opinion, the proposed Strategic Direction Chapter within the PDP does not meet the mandatory direction of the National Planning Standards, and fails to adequately outline and address:

- (a) Significant resource management matters for the Far North district, in particular there is a specific lack of direction relating to “Regionally Significant Infrastructure”).<sup>6</sup>
- (b) The way in which conflicting matters of national, regional and local importance should be addressed, noting that clear direction is needed in this regard for the consideration of resource consents where there is conflict between different areas of strategic direction.
- (c) A lack of clear policies to give effect to the objectives.

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<sup>5</sup> The National Planning Standards include a number of mandatory directions for district-wide matters, page 32.

<sup>6</sup> Regionally Significant Infrastructure is defined in the Regional Policy Statement for Northland – see **Attachment 5**.

5.8 I address each of these matters in further detail below.

## **6. LACK OF POLICIES IN THE STRATEGIC DIRECTION CHAPTER**

6.1 The absence of any policies in the notified Strategic Directions Chapter to give effect to the stated objectives was highlighted in Top Energy's submission:

The objectives need policies to demonstrate how they are going to be achieved in the plan. It is also important at this strategic level of the PDP, that the policies provide clear direction for the consideration of resource consents where there is conflict between different areas of strategic direction.

6.2 In response to that submission, the Reporting Officer considers that the absence of those policies was likely justified under the National Planning Standards Mandatory Direction 7.1.c on the basis that there were better locations for those policies in more specific chapters.<sup>7</sup> In particular, the Reporting Officer stated:<sup>8</sup>

There is no indication in the section 32 report as to why the chapter does not include policies, but it is reasonable to assume that the various PDP portfolio writers were satisfied that the policies were better located in the respective topic chapters. I do not support the inclusion of policies in the strategic direction chapter.

6.3 In my opinion, the assessment provided by the Reporting Officer is inadequate for the following reasons:

- (a) No detail is provided on what those "implementing" policies for the Strategic Directions objectives are in the balance of the PDP, or how they are intended to give effect to those objectives. In my opinion, that is indicative of a lack of integration between the Strategic Direction objectives with policies from other chapters, which has the effect of "isolating" the Strategic Direction objectives from the rest of the PDP.
- (b) The response provided by the Reporting Officer does not support the conclusion that the proposal (being the absence of policies within the Strategic Directions Chapter) is the most appropriate way to achieve the objectives (in

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<sup>7</sup> See paragraph 5.6 above for the wording of Mandatory Direction 7.1.

<sup>8</sup> Strategic Direction s42A, paragraph 308.



this case the Strategic Direction objectives). No clear analysis or assessment has been provided to determine how the policies and provisions achieve the Strategic Direction objectives, and whether those provisions are the most appropriate way to achieve them. In this regard, while I acknowledge that the Section 32 Evaluation Reports (**s32**) from Council include a section titled “Strategic Objectives”<sup>9</sup>, all this does is identify what are considered to be the strategic objectives that are relevant to the chapter or topic addressed by the applicable s32. It does not address the efficiency, effectiveness and overall appropriateness of any objectives or policies within that chapter to achieve the strategic objectives. In my opinion, this will lead to an ineffective plan and ultimately the strategic objectives not clearly being met.

- (c) In the absence of the necessary assessment, it is difficult to determine whether the location of policies in other chapters is in fact the most appropriate location for them. My interpretation of mandatory direction 7.1.c in the National Planning Standards is that the presumption is that the Strategic Direction Chapter contain policies to address the objectives, the exception being where it can be demonstrated that they are better located in more specific chapters. Based on my review of the s42A and other relevant information, I can find no clear evidence of this being demonstrated.

- 6.4 For these reasons, in the absence of any adequate assessment on the location of policies to give effect to the Strategic Direction objectives, it is my opinion that the Hearings Panel needs to recommend policies for inclusion in the Strategic Direction Chapter in order to provide a clear pathway as to how the objectives will be achieved.

## **7. STRATEGIC DIRECTION – REGIONALLY SIGNIFICANT INFRASTRUCTURE**

- 7.1 Top Energy submitted (S488.031) that the Strategic Direction Chapter needs to include objectives that specifically relates to Regionally Significant Infrastructure. It requested the insertion of new objectives as follows:

Regionally Significant Infrastructure is identified and protected.

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<sup>9</sup> For the Infrastructure Chapter Section 32 Evaluation Report, see for instance Section 5.1 on page 15.

The benefits of Regionally Significant Infrastructure are recognised and provided for.

Avoid, remedy mitigate or offset adverse effects arising from the development, operation, maintenance, and upgrading of Regionally Significant Infrastructure.

7.2 In response, the Reporting Officer recommended rejecting the submission point on the basis that:<sup>10</sup>

The objectives were specifically left broad to include infrastructure generally, there are provisions throughout the PDP that address regionally significant infrastructure.

The nature of the overarching objective does not, in my view, mean that all infrastructure will be treated the same. Rather, how this infrastructure is recognised and provided for can be targeted differently between nationally, regionally, and locally significant infrastructure.

7.3 I disagree with the recommendation from the Reporting Officer to reject this relief, and consider that objectives for Regionally Significant Infrastructure should be included in the Strategic Direction Chapter for the following reasons:

- (a) While I support the inclusion of SD-IE O1 and SD-IE O2,<sup>11</sup> I consider that the relief sought by Top Energy is required to give effect to the provisions of the RPS relating to Regionally Significant Infrastructure, and in particular Objective 3.7, Policy 5.3.1, Policy 5.3.2 and 5.3.3 (see **Attachment 2**). I note that other district plans in Northland have specifically included strategic direction in this regard.<sup>12</sup>
- (b) As stated above, the Strategic Direction Chapter outlines the key strategic matters for the district and sets the high-level direction for resource management issues in the district. It is my opinion that Regionally Significant Infrastructure needs to be differentiated from other infrastructure because it is

<sup>10</sup> Strategic Direction s42A, paragraph 202.

<sup>11</sup> Noting the minor edit to this objective referenced in Section 4 above.

<sup>12</sup> See District Growth and Development Objectives for Regionally Significant Infrastructure in the [Operative Whangārei District Plan](#).

a significant resource management issue for the region, and in turn the Far North district.

- (c) Many of Top Energy's assets are considered to be Regionally Significant Infrastructure (see the definition from the RPS in **Attachment 2**). I agree with the evidence of Mr Doherty that the continual functioning of Top Energy's assets is of importance to the functioning of the Far North district and therefore the economic and social wellbeing of businesses, people and communities. Given the prominence of Regionally Significant Infrastructure in the RPS, and its importance to the Far North district, I consider that it is necessary and logical that this is acknowledged and provided for by specific provisions in the Strategic Direction Chapter. In my opinion, this is more efficient and effective than relying on the District Wide and Zone chapters to recognise and manage Regionally Significant Infrastructure, especially noting that no detail is provided within the s42A on how that is done, which is not appropriate for infrastructure of this significance.
- (d) Furthermore, Regionally Significant Infrastructure is not just relevant in the infrastructure chapter; it transcends many areas of the PDP and needs to have clear and consistent direction within the Strategic Direction Chapter. This is particularly important when managing conflicts between areas of strategic direction. At present, Regionally Significant Infrastructure does not have the elevation in the plan hierarchy commensurate to its significance in the region and district. This will likely compromise new, or expansions to existing, Regionally Significant Infrastructure and its ability to be appropriately assessed and balanced against other potentially conflicting matters which are included in the Strategic Direction Chapter. Inclusion of an objective relating to Regionally Significant Infrastructure in the Strategic Direction Chapter would help to resolve that.
- (e) Section 32AA of the RMA provides that further evaluation is required when changes are made to a plan change since the original evaluation was completed. The inclusion of Top Energy's relief requested regarding the additional objectives for Regionally Significant Infrastructure is the most appropriate way to achieve the purpose of the RMA in accordance with section 32(1)(a) for the following reasons:

- (i) The recommended objectives will give effect to the sustainable management purpose in section 5 of the RMA, as Regionally Significant Infrastructure (including Top Energy’s electricity distribution network) is a natural and physical resource that is fundamentally important to the social, cultural and economic well-being and health and safety of people and communities within the Far North.
- (ii) The recommended objectives will help ensure the efficient use and development of natural and physical resources in accordance with section 7(b) of the RMA, by specifically recognising and providing for the benefits of Regionally Significant Infrastructure while still managing adverse effects on the environment.
- (iii) The recommended objectives will specifically give effect to the RPS provisions (see **Attachment 2**) regarding Regionally Significant Infrastructure in accordance with the direction in section 75(3)(c) of the RMA.
- (iv) While the objectives in SD-IE-O1 and SD-IE-O1 recognise the benefits and infrastructure generally, they do not specifically recognise and provide for Regionally Significant Infrastructure, whereas the addition of the recommended objectives do.

## 8. PART 1 – GENERAL AND MISCELLANEOUS

- 8.1 Top Energy submitted<sup>13</sup> that there was a lack of clarity throughout the PDP in terms of how the chapters interact with each other and sought consistency to be provided throughout the plan layers including:
- (a) amendments to the “Applications Subject to Multiple Provisions” section of the How the Plan Works Chapter to provide clarity in terms of how the chapters within the plan interact;
  - (b) amendments to all relevant overlay chapters as necessary to insert rules for “Activities not otherwise listed in this chapter”, consistent with zone chapters; and

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<sup>13</sup> S483.023, S483.025 and 483.194.

- (c) review of all implementation advice notes across the plan to ensure consistency.

8.2 In response to these submission points and other matters, the Reporting Officer recommended the following amendment to the “Applications subject to multiple provisions”:

...If a proposal is subject to one or more provisions, that have a permitted activity status the proposal will need to comply with all the provisions and their standards.

8.3 While this is a helpful amendment, I still consider that there is a lack of clarity and consistency within the PDP with regard to activity status and the hierarchy of provisions. Clarity around integration between chapters is a critical component to usability of planning documents. Top Energy’s submission seeks that it be made clear in the “How the Plan Works” Chapter which rules take precedence, or where users should be directed to refer to the relevant notes within the relevant chapter.

8.4 In particular, from the Reporting Officer’s amendments and the existing notified text, it is still unclear to me as to whether the Overlay provisions override the Zone based provisions. This is important to understand, as the Overlay provisions in a number of instances throughout the PDP include more permissive or more restrictive provisions than the underlying Zone chapters. Noting that this issue is spread across a number of different chapters across the PDP, I consider that this needs to be carefully analysed more specifically in each chapter topic hearing. Until that time, I do not support the rejection of Top Energy’s submission points on this matter, as I consider that the issues raised within the submission still have not been adequately addressed.

## 9. CONCLUSION

9.1 In conclusion, I consider that there are still issues outstanding from Top Energy’s submission that need to be addressed by the Hearings Panel. These primarily relate to the Strategic Direction Chapter and the lack of policies to give effect to the strategic objectives and specific reference to the recognition and provision of Regionally Significant Infrastructure. The Strategic Direction Chapter is the “engine room” of the PDP, and it is important to get it right from the outset.

**David Eric Badham**

**Date:** 13 May 2024

**Attachment 1 – David Badham CV**



## David Badham

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### Partner / Northland Manager

BPlan (1st Class Hons); MNZPI

David has over 14 years' experience as a planner across a number of fields including policy and plan development, land use and subdivision and iwi and hapū engagement. He is skilled in working with multi-disciplinary teams and bringing together a diverse range of stakeholders to achieve positive planning outcomes. David's experience includes applying for and processing complex resource consent applications, input into regional and district plan reviews on behalf of private clients and councils, preparing non-statutory strategies and documents, environmental monitoring and iwi and hapū engagement.

### Expertise

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- Plan reviews and policy development
- Iwi / hapū engagement
- Resource consent preparation
- Council hearing evidence and presentation
- Environment Court appeals, mediation and hearings
- Preparation of non-statutory strategies and documents
- Processing subdivision and land use resource consents on behalf of councils

### Affiliations

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- Full Member of NZPI
- Winner NZPI Best Practice Award Non-Statutory Planning 2018 for Te Tai Tokerau Papakāinga Toolkit

### Projects / Key Experience

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**Marsden City Private Plan Change, Whangārei:** Lead planning consultant for the private plan change to establish a town centre and associated mixed use, commercial and residential activity on a 127ha site in Ruakaka / Marsden Point, Whangārei (2017 – 2023).

**Whangārei District Council District Plan Rolling Review, Whangārei:** Reporting planner (provision drafting, s32's, hearings and Appeals) for topics including strategic rural industries zone, rural urban expansion zone, minerals, papakāinga housing, noise and vibration, heritage trees, regionally significant infrastructure (Whangārei Hospital, Airport and Port), signs and lighting and genetically modified organisms (2015 – 2021).

**Plan Change 1, Natural Hazards Whangārei District Council, Whangārei (2023 – Current):** representing a range of private clients with submissions, further submissions, evidence, hearing attendance and expert caucusing on this topic.

**Northpower Kauri Dieback Environment Court Appeal (ENV-2020-AKL-000127), Whangārei:** Lead planning consultant for Northpower Limited for their submissions, council level hearing and Environment Court appeals relating to the Urban & Services Plan Changes. This included attending mediation, presenting evidence and cross examination in the Environment Court relating to the topic of kauri dieback (2019 – 2022).

**Mangawhai Central Private Plan Change:** Reporting planner (s42A report, hearing, Court mediation and evidence) for Kaipara District Council for the consideration of a private plan change for a 130ha mixed-use centre in Mangawhai (2020 – 2022).

**Attachment 2 –RPS Extracts Regionally Significant Infrastructure**



## **PART 3: OBJECTIVES**

### **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 3.6 addresses the following issues:**

2.3 Infrastructure and economic activities

2.4 Regional form

**Objective 3.6 is achieved by the following policies:**

5.1 Regional form

#### **Explanation:**

This objective recognises there are activities and land that should be protected from the negative impacts of subdivision, use and development because of their importance to Northland's economy.

The impacts councils can manage are those that come from incompatible development and land use, primarily reverse sensitivity and sterilisation (refer to Issue 2.3 for descriptions of reverse sensitivity and sterilisation).

The establishment of any sensitive activity in close proximity to the above mentioned activities, without appropriate mitigation, has the potential to cause reverse sensitivity effects. In Northland, the activities that are most likely to give rise to these effects are residential subdivision and development.

The focus is on protecting the viability of land and activities important for Northland's economy. Rather than absolute protection, it allows for some minor impediment or restriction (for example, noise or discharge restrictions) but not to the extent that it would make the use of

the land or activity unviable, or would substantively interfere with the continued operation of existing lawfully established activities at current levels.

Primary production, commercial and industrial activities, mining and infrastructure have been highlighted because of their particular contribution to the economy (actual and potential) and their sensitivity to the impacts of reverse sensitivity and sterilisation.

Primary production (such as dairy farming, horticulture, forestry, aquaculture and poultry farming) is the biggest contributor to Northland's economy. For rural landowners, subdivision is a 'double-edged sword'. On the one hand it provides an opportunity for rural landowners to make money. But on the other hand, subdivision can result in reverse sensitivity issues (that is, there are more people to complain about the noise, smells and sprays from primary production activities and place pressure on councils to change the rules to limit these activities).

Mining is particularly sensitive to the impacts of residential development and the establishment of other sensitive activities. It is also very important for the regional economy. Aggregates are a critical 'ingredient' for construction (such as roads and buildings), and the main cost of aggregates is transport. The more that can be sourced locally, the cheaper it will be for new construction. There are also direct economic benefits to Northland from the mining itself, such as jobs and the consumption of local goods and services. The objective focuses on land with regionally significant mineral resources, that is, it does not include land which may have regionally significant mineral resources (but have not been identified as such).

Regionally significant infrastructure is inherently important for the regional economy. Its development is generally very costly in terms of capital and in many cases routes or sites are secured years before the infrastructure is developed. Securing alternative sites for existing regionally significant infrastructure is extremely difficult. It is important that protection is afforded to proposed infrastructure sites as well as protecting existing regionally significant infrastructure from the effects of incompatible activities. Policies 3.7(a)(iv) and (b)(ii) are intended to apply to existing and planned regionally significant infrastructure. In this instance, planned means infrastructure that has been identified and provided for in a notice of requirement, designation, consent, a regional or district plan, the Northland Regional Land Transport Strategy or a document prepared using the special consultative process under the Local Government Act 2002.

### **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*

**Objective 3.7 addresses the following issues:**

2.3 Infrastructure and economic activities

2.4 Regional form

2.6 Issues of Significance to Tangata Whenua  
(natural and physical resources)

**Objective 3.7 is achieved by the following policies:**

5.3 Regionally significant infrastructure

**Explanation:**

Northland needs to provide for regionally significant infrastructure. Quality regionally significant infrastructure can attract business and investment to the region, making Northland better able to compete in the national economy, as well as helping to protect health and safety and provide other important social and community functions. Regionally significant infrastructure may however have adverse effects on the environment.

It is important therefore to set the overall integrated direction at the regional level promoting recognition of these benefits alongside the need to avoid, remedy or mitigate adverse effects. Such a framework must however also recognise that the constraints of infrastructure provision mean that adverse effects cannot always be practicably avoided or internalised.

To ensure that the benefits of regionally significant infrastructure can be fully realised, it is also important to recognise the long-term needs of infrastructure providers to operate, maintain and enhance assets.

Recognition and promotion of the benefits of regionally significant infrastructure includes avoiding the unplanned overloading of essential infrastructure.

**PARTS 4 – 8: POLICIES AND METHODS**

## **5 Policies and methods - Regional form and infrastructure**

### **5.3 Regionally significant infrastructure**

#### **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.*

#### **Explanation:**

The purpose of this policy is to identify regionally significant infrastructure. This will allow:

- Regionally significant infrastructure to be protected from adverse effects, including those caused by new use and development (Policy 5.1.3). Placing controls on incompatible activities locating nearby will allow established regionally significant infrastructure to be effectively maintained, operated and upgraded. Where new regionally significant infrastructure is approved, for example, by way of a resource consent, it will ensure that other activities do not compromise its future construction.
- The benefits of a new proposal to be promoted and weighed against any adverse effects (Policies 5.3.2 and 5.3.3).

In determining the list of regionally significant infrastructure, the following matters have been considered:

- Whether the activity is listed in section 2 of the Resource Management Act 1991 (RMA) as 'infrastructure'.
- The extent of public benefit arising from the activity and the nature of these benefits. Generally these will be direct benefits - for example, network electricity infrastructure supplying a large community, allowing people to meet their energy needs. In certain cases however indirect benefits may be significant - for example, network electricity infrastructure supplying a key industrial site that employs a large number of workers, allowing people in the community to meet their employment needs.
- Cross boundary or cross community impacts. Some activities need to operate over long distances, for example, linear infrastructure such as pipelines, transmission lines and roading corridors. Other activities provide important network 'hubs', for example, ports and airports.
- Direction from national policy statements. Recognising the significance of electricity transmission lines, for example, gives effect to the National Policy Statement Electricity Policy Statement and provides support for its development. Policy 5.1.3 provides support for its secure operation.

- The difficulty of repairing or replacing the facility if it is compromised. Infrastructure can be a large capital investment and the larger and more significant the infrastructure, the longer it will take to repair or replace if its functionality is compromised.

Additionally, although the list in the RMA provides the basis for most regionally significant infrastructure identified in the Regional Policy Statement, it is recognised that because of their benefits, there are some significant social and community facilities that need to be recognised as regionally significant infrastructure. The Marsden Point Oil Refinery has been separately identified given its status as a unique and nationally important facility.

### **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.*

#### **Explanation:**

The intent of this policy is to assist regionally significant infrastructure when it comes to the overall judgement to be made in terms of section 5 of the Resource Management Act 1991(RMA), during the resource consent process, by providing clear recognition of the social, economic, and cultural benefits of 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.

**Explanation:**

This policy provides more certainty to proposals for regionally significant infrastructure. It is designed to be flexible and recognises the trade-offs and adaptations that could be made along with practical restrictions that often accompany planning for infrastructure. It will assist regionally significant infrastructure when it comes to the overall judgement to be made in terms of section 5 of the Resource Management Act 1991 (RMA), for example, the determination of resource consents under RMA section 104, and plan development. Policy 5.3.3 takes into

account the decision of the supreme court in King Salmon (Environmental Defence Society Inc v The New Zealand King Salmon Co Ltd [2014] NZSC 38).

The first part of the policy deals with proposals that are consistent with policy addressing important resources elsewhere in the Regional Policy Statement (RPS) or adverse effects on matters of national importance, and where there are minor adverse effects on other matters. Often the establishment of regionally significant infrastructure will have some minor adverse effects which may not be able to be fully avoided or internalised. Additionally, once established, regionally significant infrastructure has an ongoing need to operate, including the use of any resources necessary to allow that asset to function. It is appropriate therefore to provide for these proposals in a straightforward manner, allowing any minor adverse effects where they remain, where otherwise consistent with policy addressing important resources elsewhere in the RPS or adverse effects on matters of national importance.

The second part of the policy supports maintenance and upgrading activities by recognising that these are important to the ongoing resilience of regionally significant infrastructure, for example, by improving its ability to function. It also recognises that despite efforts to avoid or internalise adverse effects, some may remain through the duration of the activity, although often adverse effects will be the same or similar to the existing baseline once the work is concluded. It is appropriate therefore to provide for these proposals in a straightforward manner wherever they are located.

The third part of the policy provides particular guidance on matters to be considered when assessing proposals or developing plan provisions for regionally significant infrastructure.. This includes consideration of the practical restrictions faced by regionally significant infrastructure, which should include recognition of route or site selection processes undertaken by infrastructure providers to minimise adverse effects. Consideration of positive effects could include instances where the offsetting of adverse effects is proposed (such as biodiversity offsets).

### **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.*

**Explanation:**

Method 5.3.4(a) – The regional and district councils need to ensure they incorporate the approach of Policies 5.3.1, 5.3.2 and 5.3.3 into regional and district plans to provide a consistent approach for regionally significant infrastructure. This should include consideration of Policy 6.1.1(f) in this Regional Policy Statement.

Method 5.3.4(b) – These activities can have minimal or very short-term and reversible adverse effects. In these circumstances councils should look at ways to reduce regulatory constraints on these matters through the use of performance standards in plans. Performance standards should, for example, have proven effectiveness or have broad acceptance from council and industry bodies. Where no performance standards exist, councils should consider other ways of reducing constraints (refer to Method 5.3.4(a) above and Policy 6.1.1(f)).

**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.*

**Explanation:**

Method 5.3.5(a) – This method seeks to record all regionally significant infrastructure and can be added to over time. Maintaining a record of regionally significant infrastructure will enable consent authorities and applicants to have a ‘one stop shop’. This will help ensure that adverse effects on regionally significant infrastructure are not inadvertently missed when considering a development proposal. It will also help ensure that the adverse effects of that piece of infrastructure are also considered. The record will be based upon Appendix 3.

Method 5.3.5(b) – District councils must include the electricity transmission grid in district planning maps, consistent with Policy 12 of the National Policy Statement Electricity Transmission. There may be value in including other regionally significant infrastructure on district and regional planning maps; however, there is a risk that they could change quite a bit within 10 years (the life of plans) and soon become outdated. If this approach is taken, it is



likely to be limited to the type of infrastructure that is unlikely to change over 10 years (for example, energy generation facilities).

### **Appendix 3 – Regionally significant infrastructure**

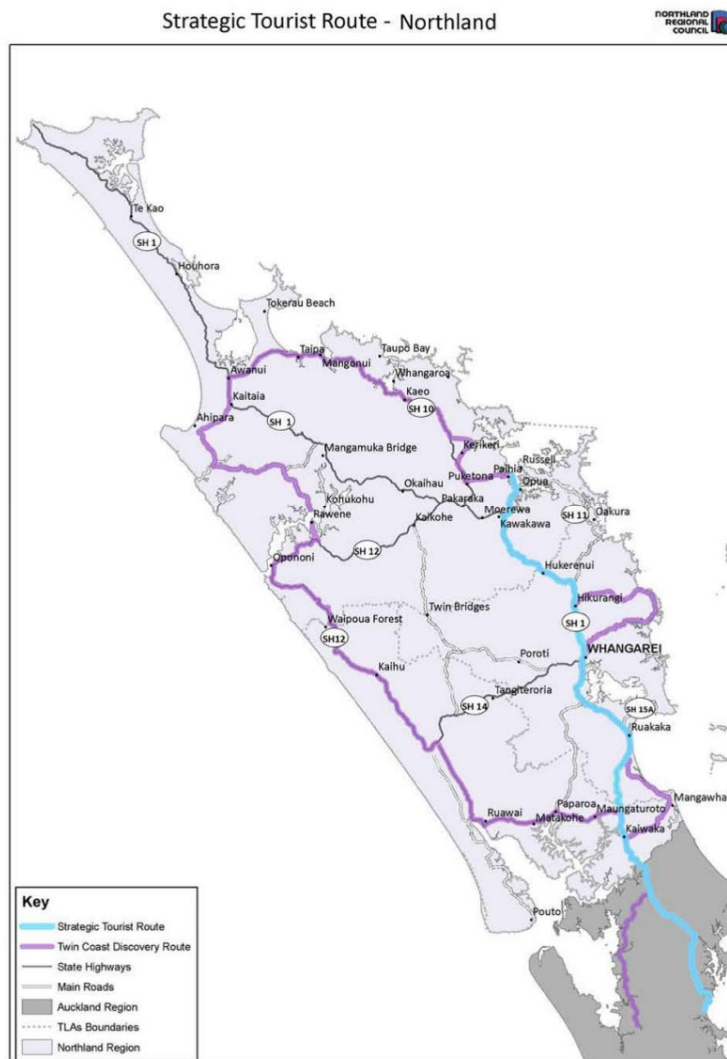
Regionally significant infrastructure includes:

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<sup>25</sup> 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;
  - (h) Regional and district council wastewater trunk lines and treatment plants and key elements of the stormwater network including treatment devices;
  - (i) 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<sup>26</sup>;
  - (c) Whāngārei, Kaitāia 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

**Regional Land Transport Strategy Maps – Strategic Tourist Routes**



# Regional Land Transport Strategy Maps – Strategic Freight Routes

Strategic Freight Routes - Northland



## Regional Land Transport Strategy Maps – National Cycleway Proposal

