

## **Before the Far North Proposed District Plan: Hearings Panel**

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Under the Resource Management Act 1991 (the Act)

In the matter of The Far North Proposed District Plan: – Hearing 1 –  
Strategic Direction, Tangata Whenua and Part 1 /  
General / Miscellaneous

Between **Far North District Council**

And **Transpower New Zealand Limited**  
Submitter 454 and Further Submitter 078

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**Statement of evidence of Sharon Gail Dines**

Dated 13 May 2024

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## **INTRODUCTION**

### **Name, qualifications and experience**

1. My full name is Sharon Gail Dines.
2. I am a Director and Principal Planner at Dines Consulting Limited, based in Auckland.
3. I hold the qualifications of Master of Science (Technology)(Honours) in Earth Sciences obtained in 1995 from the University of Waikato and Post Graduate Diploma in Resource Studies obtained in 2004 from Lincoln University. I am a full member of the New Zealand Planning Institute.
4. I have over 25 years' experience working in planning and resource management in New Zealand. My experience includes assisting clients with the preparation of submissions and further submissions, participating in mediation and witness conferencing and preparing and presenting evidence at Council, Environment Court or Board of Inquiry hearings in the following plan making processes:
  - (a) Waikato Proposed District Plan;
  - (b) Tukituki Catchment Proposal in Hawke's Bay;
  - (c) Proposed Southland Regional Policy Statement;
  - (d) Variation 1 to the Canterbury Land and Water Plan in the Selwyn Te Waihora catchment;
  - (e) Proposed Auckland Unitary Plan;
  - (f) Proposed Regional Plan for Northland;
  - (g) Proposed Southland Water and Land Plan; and
  - (h) Far North Proposed District Plan.
5. I have particular expertise in the energy and infrastructure sectors having provided planning advice in relation to electricity generation and

transmission, water supply, wastewater disposal, airports and ports. I have been providing planning advice to Transpower Limited (Transpower) on a range of matters since about 2018.

6. I was engaged by Transpower in August 2022 to provide planning advice on the Far North Proposed District Plan (FNPDP) and assist them with the preparation of their submission and further submission on the FNPDP. I have subsequently been engaged to liaise with Far North District Council reporting officers regarding Transpower's submission and further submission and prepare expert planning evidence in relation to the matters that have been raised in Transpower's submission and further submissions.

### **Code of Conduct**

7. Although this is not an Environment Court hearing, I have read and am familiar with the Code of Conduct for Expert Witnesses in the Environment Court's Practice Note 2023. I have complied with it in the preparation of this evidence and will follow the Code when presenting this evidence. I also confirm that the matters addressed in this statement of evidence are within my area of expertise, except where I rely on the opinion or evidence of other witnesses. I have not omitted to consider material facts known to me that might alter or detract from the opinions expressed.

### **Scope of Evidence**

8. My evidence addresses the provisions of the Introduction, General Provisions and Tangata Whenua sections of the FNPDP. In the interests of brevity, the body of my evidence only addresses matters where I disagree with the section 42A report recommendations (s42A report). I have attached a table to my evidence that records all Transpower's submission and further submission points for Hearing 1, the s42A recommendation to the submission or further submission and an indication of whether I agree or disagree with the s42A report recommendations.
9. In preparing this evidence, I have read and considered relevant sections of the following documents:

- (a) Far North Proposed District Plan;
  - (b) The Hearing 1 s42A reports - Strategic Direction prepared by Tammy Wooster, Tangata Whenua prepared by Theresa Burkhardt and Part 1 prepared by Sarah Trinder; and
  - (c) National Policy Statement on Urban Development 2020 (NPS-UD).
10. In preparing my evidence, I have also relied on the evidence of Ms Rebecca Eng, Technical Lead, Environmental Policy, for Transpower.
11. My evidence addresses two matters – the How the Plan Works section of the FNPDP and inclusion and use of the term “Additional Infrastructure.”

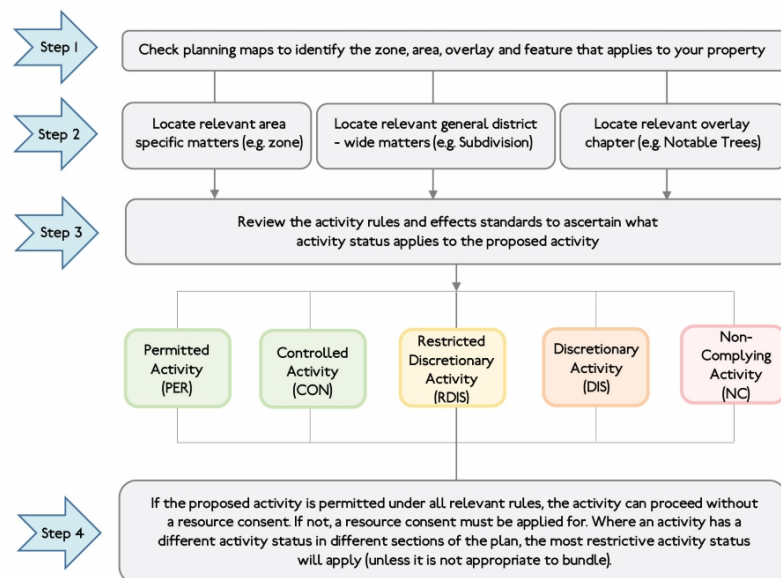
#### **HOW THE PLAN WORKS**

12. Transpower is a further submitter on Top Energy Limited’s submissions (S483.025, S483.194) seeking to amend the How the Plan Works section of the FNPDP to provide additional clarity regarding how the different chapters interact.
13. At paragraph 95 of her evidence, Ms Trinder recommends these submissions be rejected because:
- (a) these matters are addressed within the overlay and zones chapters, so duplication is unnecessary; and
  - (b) the management of zones and overlays varies so consistency in implementation advice notes is unnecessary.
14. I disagree with Ms Trinder.
15. Having considered Ms Trinder’s reasoning, I remain concerned that the FNPDP is not clear enough to ensure that plan users identify all plan provisions that apply to an activity. Further, I am particularly concerned that there are landuse rules included in the infrastructure chapter of the FNPDP (e.g. I-R11) that apply to activities occurring in close proximity to the National Grid but Note 5 at the beginning of the rules section of

that chapter indicates that the rules only apply to network utility operations undertaken by a network utility operator.

16. I will address the specific concern with Note 5 in the Infrastructure Chapter during the hearing for that topic.
17. In respect of the Introduction and General Provisions of the FNPDP, it is my opinion that the plan needs to provide sufficient clarity to assist plan users as much as possible in determining the provisions that apply to a proposed activity. Planning documents are complex, particularly for a lay reader, so clarity and simplicity are important. If different management methods are to be used in the FNPDP, this should be made clear in the General Provisions so that plan users can navigate the document successfully. This could be achieved by including the following wording and diagram within the General approach section of the plan at the end of the Classes of Activities subsection.

“The steps to work out which activity status applies to a proposal is explained below.



As shown in the above diagram, the planning maps will assist to work out the zones, overlays, controls and features that apply to a property. The rules in the relevant chapters will help to determine which activity status applies to a proposed activity. The Activity Rules

in each chapter contain a list of activities and the activity status of each activity. Within each rule, the particular activity standards and effects standards that apply to each activity are also listed. Notes at the beginning of each chapter and at the beginning of each rule section also provide guidance to the plan user<sup>1</sup>.”

18. In my opinion, this would provide a clearer “road map” for determining the provisions of the FNPDP that apply to a proposed activity than currently exists. In terms of s32AA of the Resource Management Act 1991 (RMA), this would be more efficient and effective than the notified provisions and will not add any additional costs while providing additional benefits for plan clarity.

#### **ADDITIONAL INFRASTRUCTURE**

19. Transpower lodged a further submission on the submission by the Ministry of Education (submissions S331.002, S331.009, S331.012-016), regarding the inclusion of the term “additional infrastructure” and its associated definition in the FNPDP. The “additional infrastructure” definition includes “a network operated for the purpose of transmitting or distributing electricity or gas.” The National Grid will therefore be identified as Infrastructure, Regionally Significant Infrastructure and Additional Infrastructure within the FNPDP and in my opinion, this could lead to confusion.
20. Additional infrastructure is a term that is defined and used in the NPS-UD. Additional infrastructure means:
- a. Public open space.
  - b. Community infrastructure as defined in section 197 of the Local Government Act 2002.
  - c. Land transport (as defined in the Land Transport Management Act 2003) that is not controlled by local authorities.
  - d. Social infrastructure, such as schools and healthcare facilities.
  - e. A network operated for the purpose of telecommunications (as defined in section 5 of the Telecommunications Act 2001).
  - f. A network operated for the purpose of transmitting or distributing electricity or gas.

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<sup>1</sup> Figure and (modified) text sourced from Proposed New Plymouth District Plan – Appeals Version.

21. It is my understand that the term is used in the NPS-UD to differentiate between development infrastructure (which is three waters and land transport infrastructure controlled by a local authority) and other infrastructure. Electricity and gas networks (item f. in the above list) are also included in the definition of infrastructure in the RMA (item d.) and the definition of regionally significant infrastructure in the FNPDP (items c. and d.) As a result, the National Grid and other infrastructure is referred to wherever one of these three terms is included in the plan. The Ministry of Education's concern appears to relate to the inclusion of education facilities within the plan. Care therefore needs to be taken in the plan drafting to ensure that the correct matters are captured and unintended consequences are avoided.
22. It may be that the term "social infrastructure" is more appropriate to ensure that schools are considered in the way that the Ministry of Education is seeking, without causing confusion.

**Sharon Gail Dines**

13 May 2024

**Attachment 1 –**



Submission Reference	Provision Submission and Relief Sought	Support/Oppose	Reason	Allow/Disallow	S42A recommendation	Response to recommendation
<b>Transpower Limited</b>						
S454.022	Transpower generally supports the provisions set out on Part 1 of the FNPDP. Retain Part 1 of the FNPDP.	Support	N/A	N/A	Accept the submission in part.	Some amendments sought in evidence in relation to further submissions.
S454.02	Transpower generally support the objectives in the Tangata Whenua section of the FNPDP. Retain the Tangata Whenua objectives of the FNPDP.	Support	N/A	N/A	Accept submission in part. Additional objective added.	Accept changes made.
S454.024- S454.028	Transpower generally supports the intent of the policies. It is noted that existing infrastructure for the National Grid may be located in these areas. Retain the Tangata Whenua policies TW-P1 - TW-P5 of the FNPDP.	Support	N/A	N/A	Accept in part. Some changes made to policies in response to other submissions.	Accept changes made.
S454.029	<p>Transpower supports the intent of policy TW-P6 however notes that there is existing infrastructure such as the National Grid which may be located in or near areas of importance to tangata whenua which must be operated and maintained. In addition, while every effort will be made, through site and route selection to avoid areas of importance to tangata whenua, on occasion, there may be no practicable alternative to locating new infrastructure in or near these areas. Furthermore, infrastructure providers have statutory obligations to develop, upgrade, operate, maintain and repair infrastructure that they must adhere to. In the case of the National Grid, the FNPDP must also give effect to the NPSET. Transpower therefore considers it appropriate for this policy to be amended to take account of this issue.</p> <p>Amend TW-P6 as follows: Consider the following when assessing applications for land use and subdivision that may result in adverse effects on the relationship of tangata whenua with their ancestral lands, water, sites, wāhi tapu and other taonga:</p> <ol style="list-style-type: none"> <li>any consultation undertaken with Iwi, Hapū or marae with an association to the site or area;</li> <li>any Iwi/Hapū environmental management plans lodged with Council;</li> <li>any identified sites and areas of significance to Māori;</li> <li>whether a cultural impact assessment has been undertaken by a suitably qualified person who is acknowledged/endorsed by the Iwi, Hapū or relevant marae, and any recommended conditions and/or monitoring to achieve desired outcomes;</li> <li>any protection, preservation or enhancement proposed;</li> <li>any relevant treaty settlement legislation;</li> <li>any relevant statutory acknowledgement area identified in APP2- Statutory acknowledgement areas;</li> <li>Te Rautaki o Te Oneroa-a-Tōhe/ Te Oneroa-a-Tōhe (Ninety Mile Beach) Management Plan;</li> <li>The functional or operational needs of infrastructure; and</li> <li>any relevant relationship agreements or arrangement between Council and any Iwi Authority or Hapū.</li> </ol>	Amend	N/A	N/A	Rejected.	Accept that the issue should be addressed in the Infrastructure objectives and policies.
<b>Top Energy Limited</b>						
S483.023 S483.024 S483.025 S483.189- S483.194	<p><b>Submission:</b> As noted in Section 2.0 Top Energy considers that there is a lack of clarity throughout the PDP in terms of how the Chapters interact with each other, and some consistency. The How the Plan Works Chapter is key in terms of providing the necessary clarity for plan users.</p>	Support	Transpower support this submission because it will improve the clarity of the proposed plan.	Allow the submission.	Reject the submission.	Alternative relief proposed in evidence.

	<p>The Overlay chapters are one example and are inconsistent with respect to referencing rules for “activities not otherwise listed”. The How the Plan Works chapter includes a statement that indicates <u>some overlays</u> will automatically default to a permitted activity, however resource consent may still be required under other Part 2: District-wide Matters chapters and/or Part 3: Area-Specific chapters (including the underlying zone).</p> <p>Some Chapters include notes which provide some clarity in this regard (e.g. Heritage Overlay) however this isn’t consistently applied through the overlays or the District Wide Chapters generally.</p> <p>Some overlays include a catch all ‘activities not otherwise specified’ activity status (e.g. Treaty Settlement Land Overlay). Some overlays don’t.</p> <p>This lack of consistency (coupled with inconsistent terminology) will cause confusion for Plan users and ultimately, impact the integrity of the plan. This is particularly relevant in the Overlay chapters where each Overlay chapter has a different approach to activity status default rules.</p> <p>With specific regard to the permitted activity default, it is noted that this could lead unintentional consequences, for example:</p> <p>The Coastal Environment is silent with respect to farm quarries. In the absence of a discretionary default for all activities not specified, it is assumed that this activity within this overlay defaults to a permitted activity under How the Plan Works. Rule RPROZ-R12 Farm Quarry provides for this activity as a permitted activity.</p> <p>The lack of clarity around integration between chapters is also apparent in the District Wide Chapters. As an example, in the Infrastructure Chapter:</p> <ul style="list-style-type: none"> <li>• The Notes indicates that the rules only relate to network utility operators, but the Chapter includes setbacks for land use activities;</li> <li>• The Chapter does not provide guidance around Part 3 Area Specific Matters.</li> </ul> <p><b>Relief sought:</b></p> <ul style="list-style-type: none"> <li>• Amend 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.</li> <li>• Amend all relevant overlay chapters as necessary to insert rules for “Activities not otherwise listed in this chapter”, consistent with zone chapters.</li> <li>• Review all implementation advice notes across the plan to ensure consistency</li> </ul>					
Ministry of Education						
S331.002	<p><b>Submission:</b></p> <p>The Ministry requests the inclusion of a new definition: ‘additional infrastructure’ to the Far North Proposed District Plan. The definition is derived from the National Policy Statement on Urban Development 2020 (NPS-UD). Educational facilities are included within the definition of ‘additional infrastructure’. The use of the broad definition of ‘additional infrastructure’ in addition to educational facilities will enable a wider category of infrastructure to be captured by inclusions of the definition within the provisions of the plan. It will allow for activities that provide broadly for communities’ social, economic, and cultural well-being and for their health and safety, to be captured within specific policies and objectives and will be consistent with the NPS-UD wording.</p> <p><b>Relief sought:</b></p> <p><u>Additional infrastructure means:</u></p> <p><u>a. Public open space.</u></p> <p><u>b. Community infrastructure as defined in section 197 of the Local Government Act 2002.</u></p> <p><u>c. Land transport (as defined in the Land Transport Management Act 2003) that is not controlled by local authorities.</u></p>	Oppose	Transpower is not opposed to the treatment of educational facilities as infrastructure within the Proposed District Plan, however the proposed definition of additional infrastructure includes a network operated for the purpose of transmitting or distributing electricity. As a result, the National Grid would be identified as Regionally Significant Infrastructure, Infrastructure and Additional Infrastructure. This is likely to create confusion in interpreting the Proposed District Plan.	Disallow the submission.	MOE submission allowed.	Continue to oppose, recommend that care is taken in use of multiple terms capturing similar matters across the PFNDP. Addressed further in evidence.

	<p><a href="#">d. Social infrastructure, such as schools and healthcare facilities.</a></p> <p><a href="#">e. A network operated for the purpose of telecommunications (as defined in section 5 of the Telecommunications Act 2001).</a></p> <p><a href="#">f. A network operated for the purpose of transmitting or distributing electricity or gas.</a></p>					
S331.009	<p><b>Submission:</b></p> <p>The definition of ‘development infrastructure’ does not include additional infrastructure such as educational facilities. Educational facilities are a crucial form of additional infrastructure that is needed to support development. Coordinating educational facilities with the delivery of development will help meet the needs and demand of the local communities. The Ministry wishes to highlight that Council has an obligation under the NPS-UD to ensure sufficient additional infrastructure (such as educational facilities) is provided with development, and local authorities must be satisfied that additional infrastructure to service the development capacity is likely to be available (see Policy 10 and 3.5 of Subpart 1 of Part 3: Implementation, in particular). The Ministry request additional amendments to SD-UFD-03 to focus on community development and employment activities.</p> <p><b>Relief sought:</b> SD-UFD-03</p> <p><a href="#">There is</a> adequate development infrastructure <a href="#">(including additional infrastructure)</a> in place or planned to meet the anticipated demands for <a href="#">community development including the provision of</a> housing and <a href="#">business employment</a> activities.</p>	Oppose	For the reason set out in relation to S331.002, Transpower opposes this submission.	Disallow the submission.	“and additional infrastructure” added following infrastructure.	See above.

<p>S331.012- S331.016</p>	<p><b>Submission:</b> The definition of 'infrastructure' does not include additional infrastructure (which includes educational facilities). Educational facilities are a crucial form of additional infrastructure that is needed to support development. Coordinating educational facilities with the delivery of development will help meet the needs and demand of the local communities. The Ministry wishes to highlight that Council has an obligation under the NPS-UD to ensure sufficient additional infrastructure (which includes social infrastructure such as educational facilities) is provided with development, and local authorities must be satisfied that additional infrastructure to service the development capacity is likely to be available (see Policy 10 and 3.5 of Subpart 1 of Part 3: Implementation, in particular).</p> <p>The Ministry recommends the inclusion of 'additional infrastructure' into the overview section and the specified objectives and policies and that it is added to the definitions chapter.</p> <p><b>Relief sought:</b> Amend 1-O1, I-O2, I-P1, I-P4 and I-P5 to add "and additional infrastructure" or "(including additional infrastructure)" after "infrastructure"</p>	<p>Oppose</p>	<p>For the reason set out in relation to S331.002, Transpower opposes these submissions.</p>	<p>Disallow the submission.</p>	<p>Continue to oppose</p>	<p>See above.</p>
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