

**BEFORE THE INDEPENDENT HEARINGS PANEL
APPOINTED ON BEHALF OF THE FAR NORTH DISTRICT COUNCIL**

UNDER the Resource Management Act 1991
AND
IN THE MATTER OF the Proposed Far North District Plan
AND the submission (#483) and further
submission (#369) of Top Energy
Limited

**MEMORANDUM OF COUNSEL ON BEHALF OF TOP ENERGY
LIMITED**

Dated: 13 February 2026

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1 INTRODUCTION

- 1.1 This memorandum of counsel is filed on behalf of Top Energy Limited (*Top Energy*), being a submitter on the Proposed Far North District Plan (*PDP*).
- 1.2 Following the invitation of the Independent Hearings Panel (*Panel*), it responds to the memorandum of counsel on behalf the Far North District Council (*Council*) which addresses the implications of ten new or amended national direction instruments to the Panel's recommendations on the PDP (*Council Memorandum*).¹
- 1.3 The new or amended national direction instruments were issued under the Resource Management Act 1991 (*RMA*) on 18 December 2025 and took legal effect on 15 January 2026 (*Updated National Directions*).² Of particular relevance to Top Energy, they include the updated and renamed National Policy Statement for Electricity Networks 2008 (*NPS-EN*), the updated National Policy Statement for Renewable Electricity Generation 2011 (*NPS-REG*), and the new National Policy Statement for Infrastructure 2025 (*NPS-I*).
- 1.4 By way of summary, Top Energy agrees that the Panel is entitled to make changes to its recommendations on the PDP to ensure that the PDP achieves greater alignment with the Updated National Directions. As with all of its recommendations, any such changes by the Panel are subject to the standard scope constraints – namely, that they must fall between the “status quo” (being the notified PDP) and what is sought via submissions.³
- 1.5 **Appendix A** to this memorandum identifies changes within those constraints that will better ensure that the PDP gives effect to the Updated National Directions.

¹ Refer Minute 41 of the Panel, 2 February 2026; Memorandum of counsel for the Far North District Council in response to Minute 40, 30 January 2026 (*Council Memorandum*).

² Described in the Council Memorandum, at [1.2].

³ *Forest & Bird Protection Society Inc v Southland District Council* [1997] NZRMA 408, at [413]; *Countdown Properties (Northlands) Limited v Dunedin City Council* [1994] NZRMA 145, at [166], cited in *Tussock Rise Limited v Queenstown Lakes District Council* [2019] NZEnvC 111, at [51]. *Re an application by Vivid Holdings* C086/99, at [18]; *CBD Development Group v Timaru District Council* C043/99, at [10].

2 CONTEXT

- 2.1 As the Panel is aware, Top Energy owns and is responsible for the operation of the electricity lines network in the Far North District. The reliable, safe, resilient and efficient operation of Top Energy's network is essential to enable the economic and social well-being, safety and health of people and their communities. As New Zealand moves towards a more decarbonised economy, the critical importance of this infrastructure will continue to grow.
- 2.2 Through its submissions and further submissions on the PDP, Top Energy sought a range of amendments to the notified PDP, including additional objectives and policies to better provide for the operation, maintenance, repair and upgrading of its network.⁴
- 2.3 As illustrated in **Appendix A**, the Updated National Directions – and the NPS-EN, NPS-REG and NPS-I in particular – have specific relevance for Top Energy's submissions and further submissions, noting that its assets meet the respective definitions of "electricity distribution network", "infrastructure" and "renewable energy generation assets" in the NPS-EN, NPS-I and NPS REG, and are therefore subject to the enabling directions of those documents.

3 RELEVANCE AND EFFECT OF THE UPDATED NATIONAL DIRECTIONS

- 3.1 The Council Memorandum provided responses to specific questions from the Panel relating to the Updated National Directions including whether those Directions have legal effect and, if so, what are the Panel's obligations in relation to the implementation of those Directions through its recommendations on the PDP.⁵
- 3.2 Top Energy agrees with Council that:
 - (a) District plans must give effect to national policy statements (*NPS*).⁶
 - (b) The NPSs issued as part of the Updated National Directions (including the NPS-EN, NPS-REG and NPS-I) meet the definition of

⁴ Submission #483 and further submission #369.

⁵ Council Memorandum, at [1.3].

⁶ Council Memorandum, at [3.6]; Resource Management Act 1991, sections 75(3)(a) and (ab).

a “national policy statement” under the RMA⁷ and had legal effect from 15 January 2026.⁸

- (c) The timeframes for local authorities to make any amendments to district plans required to give effect to NPSs are set out at section 55(2D) of the RMA. The NPSs issued as part of the Updated National Directions (*Updated NPSs*) do not include any specific direction for local authorities to implement the NPSs within any set timeframe. Consequently, in accordance with section 55(2D), local authorities must make changes to district plans required to give effect to those NPSs “as soon as practicable”.⁹
- (d) However, the Government’s intention (outlined in the guidance included in some of the Updated NPSs, and set out in the “plan stop” provisions in sections 80O – 80Y of the RMA) is that, except in certain circumstances, local authorities will not be required to initiate changes to, or a review of, district or regional plans to give effect to the Updated NPSs.¹⁰ Wholesale implementation of the National Direction at a plan level will instead occur as part of the wider reform of the resource management system.¹¹
- (e) The “plan stop” provisions do not however affect recommendations or decisions on the PDP in the context of the current review process. As the PDP had been largely heard prior to the commencement of the “plan stop” provisions in August 2025, it is excluded from the definition of “proposed planning instrument” and “draft planning instrument” in section 80O.¹² As the Council Memorandum identifies, the “plan stop” provisions would however preclude the Council from notifying a variation or change to the PDP under Schedule 1 of the RMA to give effect to the Updated

⁷ “National policy statement” means a statement issued under section 52 of the Resource Management Act 1991 (*RMA*).

⁸ Council Memorandum, at [2.1].

⁹ RMA, section 55(2D); Council Memorandum, at [3.14] and [3.15].

¹⁰ See for example the explanatory notes of the National Policy Statement for Infrastructure 2025 (*NPS-I*) and the National Policy Statement for Renewable Electricity Generation 2011 (*NPS-REG*) which direct that “[t]his ‘plan stop’ amendment suspends the requirement to review plans and policy statements and prevents notification of new plan or policy statement changes or variations until the end of 2027, when the new resource management system will be in effect. Due to the plan stop amendment, plans and policy statements will not be updated to give effect to this National Policy Statement (unless a relevant exemption applies).”

¹¹ Council Memorandum, at [3.27].

¹² RMA, section 80O: “‘proposed planning instrument’ does not include a proposed planning instrument that has been heard, in whole or in part, before this subpart commences [being 21 August 2025].”

NPSs, unless it secured an exemption from the Minister for that variation or change.¹³

- (f) In that context, and subject to our comments below regarding scope, there is nothing in the RMA or in the Updated National Directions which would preclude the Panel from making changes to its recommendations to ensure that the PDP gives effect to the Updated National Directions.¹⁴
- (g) The Panel's recommendations (including any changes related to the Updated National Directions) remain limited by the scope of the matters "reasonably and fairly raised" in the submissions on the PDP, and any consequential alterations necessarily arising from those submissions.¹⁵ Deciphering whether a proposed change is "reasonably and fairly raised" in the original submission should be approached in "a realistic, workable fashion rather than from the perspective of legal nicety".¹⁶

3.3 In summary, Top Energy agrees that, where there is scope available to the Panel through submissions on the PDP, the Panel is entitled to make changes to its recommendations on the PDP to ensure that those recommendations give effect to the Updated NPSs.

4 IMPLICATIONS

4.1 Attachment 1 to the Council Memorandum includes commentary from relevant Council Officers on the potential implications of the Updated National Directions for the Panel's recommendations on the PDP. Of particular relevance to Top Energy's interests in the PDP, that commentary concludes that the recommended provisions of the PDP Infrastructure Chapter are broadly consistent with the outcomes sought by the NPS-I and NPS-EN, and that the Renewable Electricity Generation Chapter of the PDP is generally aligned with the amended NPS-REG.¹⁷

¹³ RMA, section 80V; Council Memorandum, at [3.23], [3.24] and [3.26].

¹⁴ Council Memorandum at [3.7], [3.19] and [5.4]. Clauses [3.1] of the NPS-I and the NPS-REG additionally require that decision-makers must give effect to those NPSs on and from their commencement dates.

¹⁵ *Forest & Bird Protection Society Inc v Southland District Council* [1997] NZRMA 408, at [413]; *Countdown Properties (Northlands) Limited v Dunedin City Council* [1994] NZRMA 145, at [166], cited in *Tussock Rise Limited v Queenstown Lakes District Council* [2019] NZEnvC 111, at [51].

¹⁶ *Forest & Bird Protection Society Inc v Southland District Council* [1997] NZRMA 408, at page 10.

¹⁷ Council Memorandum, at Attachment 1, PDF pages 16, 22 and 23.

Noting that the recommendations of the Panel have not yet been made publicly available, Top Energy assumes that the Council is referring to the PDP provisions recommended by the Council in its various reply statements. The inference from the Council's commentary is that no further changes to those provisions are required to give effect to the Updated National Directions at this stage.

4.2 Top Energy does not agree with that commentary, and considers that, on a careful analysis of the Updated National Directions, further changes should be made to specific chapters of the PDP to better align those provisions with the Updated National Directions. Those changes, and the submissions and further submissions which provide scope for those changes to be made, are described in **Appendix A**.

4.3 In our submission, incorporating those changes into the Panel's recommendations is appropriate because:

(a) It is consistent with the prevailing obligation under the RMA for district plans to give effect to NPSs. As identified recently by the High Court in *Te Rūnanga o Ngāti Whatua Ōrākei v Auckland Council*.¹⁸

An NPS, as its title suggests, relates to matters of national significance, and an interpretation consistent with the recognition of this basic fact is to be preferred.

(b) The Updated National Directions have, *inter alia*:

- (i) Strengthened the policy directions within the NPS-EN and NPS-REG to create a more certain consenting environment for electricity distribution networks and renewable electricity generation activities.¹⁹
- (ii) Created new, strong directions within the NPS-I to enable, and provide for the benefits of, infrastructure and to

¹⁸ *Te Rūnanga o Ngāti Whatua Ōrākei v Auckland Council* [2024] NZHC 3794, at [262(b)].
¹⁹ Ministry for the Environment (2025) *Updating National Direction: Changes to the National Policy Statement for Electricity Networks*, December 2025, page 2; Ministry for the Environment (2025) *Updating National Direction: Changes to the National Policy Statement for Renewable Electricity Generation*, December 2025, page 1; Refer National Policy Statement for Electricity Networks 2008 (NPS-EN), policy 7; Refer NPS-REG, policy A, policy F and policy G.

recognise the operational and functional need for infrastructure to locate in particular environments.²⁰

- (iii) Recognised the national significance of electricity distribution networks and renewable electricity generation activities and their operational and functional need to locate in particular environments.²¹
 - (iv) Recognised the role of electricity networks in well-functioning urban areas.²²
- (c) The notified PDP and the reply recommendations from the Council on the relevant PDP chapters all pre-date changes to the NPS-EN, NPS-I and NPS-REG effected through the Updated National Directions. It is therefore improbable that the PDP (as notified or as amended by the Council's reply recommendations) sufficiently gives effect to those new directions – and Top Energy's contention is that they do not.
- (d) **Appendix A** identifies a number of efficient and effective amendments to the PDP which, consistent with the strengthened NPS-EN, NPS-I and NPS-REG directions, would enable the PDP to better recognise the significance of electricity distribution networks and renewable electricity generation activities and their importance within urban environments, and better enable the operation, maintenance, upgrading and development of those assets.

²⁰ Ministry for the Environment (2025) *Updating National Direction: New National Policy Statement for Infrastructure*, December 2025, page 2; NPS-I, objective 1, policies 1, 2 and 5.

²¹ NPS-EN, objective 2.1 and policy 1; NPS-REG, policy A and policy C.

²² NPS-EN, policy 9.

4.4 Top Energy thanks the Panel for the opportunity to address it on this matter.

DATED this 13th day of February 2026



F M Lupis

Counsel for Top Energy Limited

APPENDIX A – UPDATED NATIONAL DIRECTIONS ANALYSIS

Top Energy Response to PFNDP Hearing Panel Minute 41

National Direction Instrument	Summary of Changes to National Direction Document	Top Energy Submission	Council Officer's Right of Reply	Analysis
Renewable Electricity Generation				
National Policy Statement for Renewable Electricity Generation 2011 (amended December 2025)	<p>The National Policy Statement for Renewable Electricity Generation (NPS-REG) now includes strong directions in order to better enable renewable electricity generation. The amendments include:</p> <ul style="list-style-type: none"> Strengthened policy direction recognising the significance of renewable electricity generation; A more certain consenting environment, including small-scale initiatives; Recognition of Māori interests; Protection of renewable electricity generation from reverse sensitivity effects; Recognition of the operational and functional need to locate renewable electricity generation where renewable resources are available; and 	<p>Submission Point 483.089 sought the deletion of REG-P9 as it limits the location of large-scale renewable electricity generation activities to Rural Production Zoned land only.</p>	<p>Accept in part –</p> <p>The Reporting Officer does not consider this policy should be deleted, but has agreed that it requires the following amendments:</p> <p><i>“Avoid locating large-scale <u>and community scale</u> renewable electricity generation activities outside the Rural Production, <u>Māori Purpose and Open Space</u> zones unless it can be demonstrated that adverse effects will be no more than minor.”</i></p> <p>The Reporting Officer considers:</p> <ul style="list-style-type: none"> Approximately 65% of all land in FND is zoned Rural Production and large areas are also zoned Māori Purpose and Open Space. As such it is appropriate that large and community-scale renewable electricity 	<p>Policy C(1) of the NPS-REG as amended requires decision-makers to recognise and provide for renewable electricity generation (REG) assets and activities that have an operational or functional need to be in particular locations and environments. It also states that no additional site assessment is needed to demonstrate operational or functional need. Policy F further requires decision-makers to enable REG assets and activities in <u>all</u> locations and environments.</p> <p>Policy F also states that when considering any residual adverse effects of REG assets and activities that cannot be avoided, remedied or mitigated, decision-makers shall have regard to offsetting measures or environmental compensation. The amended NPS-REG clearly provides strong direction that</p>

National Direction Instrument	Summary of Changes to National Direction Document	Top Energy Submission	Council Officer's Right of Reply	Analysis
	<ul style="list-style-type: none"> Alignment with other national direction instruments. 		<p>generation activities are directed to these zones, given their land area, suitability, and lower likelihood of reverse sensitivity effects compared to more intensive zones; and</p> <ul style="list-style-type: none"> The phrase “adverse effects will be no more than minor” is appropriate because large and community-scale renewable electricity generation activities are considered regionally significant infrastructure and Policy 5.3.3(d) requires other adverse effects to be avoided, remedied or mitigated to the extent they are no more than minor. 	<p>REG assets and activities are to be enabled in all locations and environments, and it does not require applicants to demonstrate that adverse effects will be no more than minor for these activities to be located outside of the Rural Production, Māori Purpose and Open Space Zones.</p> <p>The Reporting Planner's position outline within the Right of Reply is clearly inconsistent with, and does not give effect to, this revised direction. In light of this, and to give effect to the amended NPS-REG, Top Energy requests that its proposed deletion of REG-P9 is accepted by the Hearings Panel.</p>
		Submission Points 483.096 to 483.100 sought to amend rules REG-R2 – R6 and RY so that these rules apply to all zones. Renewable energy generation activities are located based on the availability and feasibility of the resource, and should not	Reject – The Reporting Officer does not consider that REG-R6 should apply to all zones. However, if the hearings panel determines that the inclusion of industrial zones is appropriate, this would not create significant issues.	Policy C (1) of the NPS-REG (amended December 2025) requires decision-makers to recognise and provide for renewable electricity generation assets and activities that have an operational or functional need to be located in particular locations and environments. It also states that

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National Direction Instrument	Summary of Changes to National Direction Document	Top Energy Submission	Council Officer's Right of Reply	Analysis
		be constrained by artificial zoning lines on a map. The Overlays will still apply, and can address any particular sensitivities in sensitive environments.		<p>no additional site assessment is needed to demonstrate operational or functional need. Policy F further requires that decision-makers must enable REG assets and activities in all locations and environments.</p> <p>The Reporting Planner's position is clearly inconsistent with, and does not give effect to this revised direction. To give effect to the amended NPS-REG and its strong direction for REG activities be enabled in all locations and environments, Top Energy seeks that its original submission is accepted so that REG assets and activities are enabled in all locations and environments.</p>
Infrastructure				
National Policy Statement for Infrastructure 2025	<u>National Policy Statement for Infrastructure 2025</u> The National Policy Statement for Infrastructure 2025 (NPS-I) requires decision-makers to recognise specified infrastructure as being nationally significant under the RMA. It provides national direction to	Submission Point 483.049 sought to amend Policy I-P11 as follows because it was too restrictive as notified: "Avoid" <u>Manage</u> new infrastructure where it will <u>unduly</u> compromise the ability to develop and use land in the	The Reporting Officer has recommended that I-P11 be amended as follows: <i>"Avoid new infrastructure where it will <u>unnecessarily constrain</u> compromise the ability to develop and use land in the Māori Purpose zone or in the</i>	The NPS-I is directive in that it requires decision-makers to recognise that infrastructure may have an operational need or functional need to operate in, be located in, or traverse particular locations and environments (Policy 2(1)), such

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National Direction Instrument	Summary of Changes to National Direction Document	Top Energy Submission	Council Officer's Right of Reply	Analysis
Electricity Networks 2025	<p>support infrastructure development and upgrades while balancing adverse environmental impacts.</p> <p>It is noted that the NPS-I does not apply to renewable electricity generation or electricity transmission and distribution networks.¹</p> <p><u>National Policy Statement for Electricity Networks 2025</u></p> <p>The National Policy Statement for Electricity Networks (NPS-EN) replaces the National Policy Statement for Electricity Transmission. This change reflects an expanded scope to cover both electricity transmission and distribution.</p> <p>Key amendments include:</p> <ul style="list-style-type: none"> Strengthened policy direction to create a more certain consenting environment; Recognition of the national significance of electricity networks, and the operational 	<p><i>Māori Purpose zone or in the Treaty Settlement overlay unless the owners of the land agree to the new infrastructure, while recognising and providing for the operational and functional need of infrastructure to locate in these areas.</i></p>	<p><i>Treaty Settlement overlay unless the owners of the land agree to the new infrastructure.</i></p> <p>The Reporting Officer has not replaced “avoid” with “manage” as he does not consider that this policy is framed as an absolute “avoid” policy. Rather it is caveated with “unnecessarily constrain” and “unless”.</p>	<p>as the Māori Purpose Zone or Treaty Settlement overlay.</p> <p>To give effect to the NPS-I and its strong direction for infrastructure to be enabled in particular locations and environments, Top Energy considers the replacement of the word “avoid” with “manage” within Policy I-P11 is appropriate.</p>
		<p>Submission Point 483.050 sought to amend I-P12 as follows:</p> <p><i>“Recognise and provide for the benefits of new technology in infrastructure that:</i></p> <ol style="list-style-type: none"> <i>Improve access to, and efficient use of, networks and services;</i> <i>Increases resilience or reliability of</i> 	<p>The Reporting Officer has recommended that this policy be retained as notified because he does not consider it appropriate to put a firm obligation on applicants and council processing planners to provide for these benefits.</p>	<p>Policy 1 of the NPS-I requires that decision-makers must ensure that the national, regional or local benefits of infrastructure, relative to any localised adverse effects on the environment, are recognised and provided for. Policy 4 also requires that decision-makers must provide flexibility for infrastructure providers to use new or innovative technologies and methods to improve the delivery of infrastructure services and/or improve environmental outcomes.</p>

¹ Although Top Energy is an electricity network operator at large, the Infrastructure Chapter provisions apply to Infrastructure generally. It is therefore considered that the direction within the NPS-I is still relevant for the majority of submissions Top Energy made on various provisions within the Infrastructure Chapter.

National Direction Instrument	Summary of Changes to National Direction Document	Top Energy Submission	Council Officer's Right of Reply	Analysis
	<p>and functional need to locate in particular environments;</p> <ul style="list-style-type: none"> Enabling routine maintenance and upgrade activities; Alignment with other national direction, particularly renewable electricity generation and infrastructure instruments; Management of adverse environmental effects of electricity network activities; Recognition of Māori interests, including early engagement to identify and protect cultural values; and Protection of electricity networks from adverse effects arising from third-party activities. 	<p><i>networks and services;</i></p> <p><i>c. Protects the on-going safety of the community and the integrity of the network; or</i></p> <p><i>d. Results in environmental benefits or enhancements."</i></p>		<p>Policy 1 of the NPS-EN also requires that decision-makers <u>must provide for</u> the ongoing benefits of the electricity network to be realised at national, regional and local scales, relative to any localised adverse effects.</p> <p>Given the above, Top Energy continues to request that the benefits of new technology in infrastructure are "recognised" and "<u>provided for</u>" within I-P12.</p>
		Submission Points 483.059 & 483.060 sought structural amendments to Rule I-R3 to remove arbitrary performance standards that make it of limited use in terms of enabling upgrades to above ground network utilities.	The Reporting Officer does not recommend any further amendments to I-R3 as he retains his view that these structural amendments are not necessary.	The amendments sought by Top Energy are consistent with Policy 4 of the NPS-I, which requires decision-makers to provide flexibility for infrastructure providers to use new or innovative technologies and methods that improve service delivery and environmental outcomes. The NPS-I also requires decision-makers to enable the upgrading of infrastructure where this will improve the resilience of infrastructure to the risks from natural hazards and climate change, maintain or improve its level of infrastructure service
		Top Energy sought a 25m height limit for towers within Rule I-R7 in planning evidence for Hearing 11.	The Reporting Officer does not support an increase in the permitted tower height.	

National Direction Instrument	Summary of Changes to National Direction Document	Top Energy Submission	Council Officer's Right of Reply	Analysis
				<p>(including to meet increasing demand) or improve environmental outcomes.</p> <p>In addition, Policies 7 and 8 of the NPS-EN require decision-makers to recognise and provide for the regular maintenance and upgrading of the electricity network, including the need to maintain and improve network capacity and performance over time.</p> <p>Making amendments to these rules will therefore give effect to both the NPS-I and NPS-EN by reducing unnecessary consenting barriers and enabling infrastructure providers to more efficiently undertake the operation, maintenance, repair and upgrading of existing assets</p> <p>As such, Top Energy requests that its suggested amendments to Rule I-R3 and Rule I-R7 are accepted by the Hearings Panel.</p>

National Direction Instrument	Summary of Changes to National Direction Document	Top Energy Submission	Council Officer's Right of Reply	Analysis
Heritage Area Overlay and Historic Heritage				
National Policy Statement for Infrastructure 2025	<p><u>National Policy Statement for Infrastructure 2025</u></p> <p>The NPS-I requires decision-makers to recognise specified infrastructure as being nationally significant under the RMA. It provides a national direction to support infrastructure development and upgrades while balancing adverse environmental impacts.</p>	Top Energy sought further amendments to Rule HA-R6 and Rule HA-R10 to allow for locational flexibility of infrastructure when undergoing maintenance, repair or upgrading (3m rather than 1m).	The Reporting Officer does not recommend any additional locational flexibility for HA-R6 or HA-R10 as she considers that the protection of historic heritage values of the HA overlays should be prioritised over Top Energy's operational requirements.	The amendments sought by Top Energy would be consistent with Policy 4 of the NPS-I, which requires decision-makers to provide flexibility for infrastructure providers to use new or innovative technologies and methods that improve service delivery and environmental outcomes. The NPS-I also requires decision-makers to enable the upgrading of infrastructure where this will improve the resilience of infrastructure to the risks from natural hazards and climate change, maintain or improve its level of infrastructure service (including to meet increasing demand) or improve environmental outcomes.
National Policy Statement for Electricity Networks 2025	<p>It is noted that the NPS-I does not apply to renewable electricity generation or electricity transmission and distribution networks.²</p> <p><u>National Policy Statement for Electricity Networks 2025</u></p> <p>The NPS-EN replaces the National Policy Statement for Electricity Transmission. This change reflects an expanded scope to cover both electricity transmission and distribution.</p>	Top Energy sought further amendments to Rule HH-R6 to allow for locational flexibility of infrastructure when undergoing maintenance, repair or upgrading (3m rather than 1m).	The Reporting Officer does not recommend any additional locational flexibility for HH-R6 as she considers that the protection of historic heritage values should be prioritised over Top Energy's operational requirements.	In addition, Policies 7 and 8 of the NPS-EN require decision-makers to recognise and provide for the regular maintenance and upgrading of

² Although Top Energy is an electricity network operator at large, the Infrastructure Chapter provisions apply to Infrastructure generally. It is therefore considered that the direction within the NPS-I is still relevant for the majority of submissions Top Energy made on various provisions within the Infrastructure Chapter.

National Direction Instrument	Summary of Changes to National Direction Document	Top Energy Submission	Council Officer's Right of Reply	Analysis
	<p>Key amendments include:</p> <ul style="list-style-type: none"> Strengthened policy direction to create a more certain consenting environment; Recognition of the national significance of electricity networks, and the operational and functional need to locate in particular environments; Enabling routine maintenance and upgrade activities; Alignment with other national direction, particularly renewable electricity generation and infrastructure instruments; Management of adverse environmental effects of electricity network activities; Recognition of Māori interests, including early engagement to identify and protect cultural values; and 			<p>the electricity network, including the need to maintain and improve network capacity and performance over time.</p> <p>In order to give effect to the direction within the NPS-I and NPS-EN, Top Energy seek for additional locational flexibility (3m rather than 1m) when maintaining, upgrading and repairing infrastructure within Rules HA-R6, HA-R10 and HH-R6. As presented in evidence for Hearing 12, making this amendment to these rules will therefore give effect to both the NPS-I and NPS-EN by reducing unnecessary consenting barriers and enabling infrastructure providers to more efficiently undertake the operation, maintenance, repair and upgrading of existing assets.</p>

National Direction Instrument	Summary of Changes to National Direction Document	Top Energy Submission	Council Officer's Right of Reply	Analysis
	<ul style="list-style-type: none"> Protection of electricity networks from adverse effects arising from third-party activities. 			
Sites and Areas of Significance to Māori				
<p>National Policy Statement for Infrastructure 2025</p> <p>National Policy Statement for Electricity Networks 2025</p>	<p><u>National Policy Statement for Infrastructure 2025</u></p> <p>The NPS-I requires decision-makers to recognise specified infrastructure as being nationally significant under the RMA. It provides a national direction to support infrastructure development and upgrades while balancing adverse environmental impacts.</p> <p>It is noted that the NPS-I does not apply to renewable electricity generation or electricity transmission and distribution networks.³</p> <p><u>National Policy Statement for Electricity Networks 2025</u></p>	<p>Top Energy sought a new objective, policy and rule to provide for the establishment of new infrastructure within Sites and Areas of Significance to Māori.</p>	<p>The Reporting Officer does not recommend any changes to the objectives, policies and rules relating to new infrastructure.</p> <p>It is the Reporting Officer's recommendation that the establishment of new infrastructure within Sites and Areas of Significance to Māori to be avoided. No real justification has been provided other than that SASMs occupy approximately 1.3% (9,000ha) of the total land area in the Far North District.</p>	<p>In relation to new infrastructure and major upgrades, the NPS-I includes infrastructure enabling direction that applies to all environments. In particular, Policy 2 states that decision-makers must recognise that infrastructure may have an operational need or functional need to operate in, be located in, or traverse particular locations and environments.</p> <p>Similarly, Policy 7 of the NPS-EN also requires that decision-makers must recognise and provide for the operational or functional need of the electricity network to operate in, be located in, or traverse environments, including the</p>

³ Although Top Energy is an electricity network operator at large, the Infrastructure Chapter provisions apply to Infrastructure generally. It is therefore considered that the direction within the NPS-I is still relevant for the majority of submissions Top Energy made on various provisions within the Infrastructure Chapter.

National Direction Instrument	Summary of Changes to National Direction Document	Top Energy Submission	Council Officer's Right of Reply	Analysis
	<p>The NPS-EN replaces the National Policy Statement for Electricity Transmission. This change reflects an expanded scope to cover both electricity transmission and distribution.</p> <p>Key amendments include:</p> <ul style="list-style-type: none"> • Strengthened policy direction to create a more certain consenting environment; • Recognition of the national significance of electricity networks, and the operational and functional need to locate in particular environments; • Enabling routine maintenance and upgrade activities; • Alignment with other national direction, particularly renewable electricity generation and infrastructure instruments; 			<p>need for electricity assets to convey electricity over long distances, and in all locations and environments. Policy 8 of the NPS-EN also requires decision-makers to provide for electricity network activities that have an operational or functional need to be in particular locations and environments, including in areas where section 6 matters apply, even where there may be unavoidable adverse effects on those environments.</p> <p>In light of the above, Top Energy requests that the Hearing Panel accepts its original submission. The provision of a new objective, policy and rule which enable the establishment of new infrastructure, while managing the adverse effects of new infrastructure within Sites and Areas of Significance to Māori is considered to appropriately give effect to the new and amended direction within the NPS-I and NPS-EN.</p>

National Direction Instrument	Summary of Changes to National Direction Document	Top Energy Submission	Council Officer's Right of Reply	Analysis
	<ul style="list-style-type: none"> • Management of adverse environmental effects of electricity network activities; • Recognition of Māori interests, including early engagement to identify and protect cultural values; and • Protection of electricity networks from adverse effects arising from third-party activities. 	<p>Top Energy sought a new objective, policy and rule to enable and provide for the safe and efficient use, operation, maintenance and repair of existing infrastructure within Sites and Areas of Significance to Māori.</p>	<p>The Reporting Officer has recommended a new objective, policy and rule for the use, operation, maintenance, repair and upgrading of existing infrastructure within SASM.</p> <p>The rule includes arbitrary permitted activity standard requirements such as that the operation, maintenance, repair or upgrading of existing above ground infrastructure is no greater than the height of the existing structure, no greater than 20% of the GFA of the existing lawfully established building or structure and does not replace a pole with a pole.</p>	<p>Top Energy's requested amendments are consistent with Policy 4 of the NPS-I, which requires decision-makers to provide flexibility for infrastructure providers to use new or innovative technologies and methods that improve service delivery and environmental outcomes. The NPS-I also requires decision-makers to enable the upgrading of infrastructure where this will improve the resilience of infrastructure to the risks from natural hazards and climate change, maintain or improve its level of infrastructure service (including to meet increasing demand) or improve environmental outcomes.</p> <p>In addition, Policies 7 and 8 of the NPS-EN require decision-makers to recognise and provide for the regular maintenance and upgrading of the electricity network, including the need to maintain and improve network capacity and performance over time.</p>

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				To ensure that the PDP aligns with the direction within the NPS-I and NPS-EN, Top Energy seek amendments to the arbitrary permitted activity standards in SASM-R1 (PER 3) so that infrastructure providers have greater flexibility when operating, maintaining, repairing and upgrading existing infrastructure. This will reduce unnecessary consenting barriers and enable infrastructure providers to more efficiently undertake the operation, maintenance, repair and upgrading of existing assets.
Natural Character, Natural Features and Landscapes, Coastal Environment and Ecosystems and Indigenous Biodiversity				
National Policy Statement for Infrastructure 2025	<u>National Policy Statement for Infrastructure 2025</u> The NPS-I requires decision-makers to recognise specified infrastructure as being nationally significant under the RMA. It provides a national direction to support infrastructure development and upgrades while	Top Energy do not support the default non-complying activity status for any new building or structure unable to comply with PER-1 and CON-1 within sensitive environments (e.g. coastal environment or outstanding natural character, high natural character, outstanding	The Reporting Officer continues to support the non-complying activity statuses for new buildings and structures that cannot comply with permitted and controlled activity rule standards in these sensitive environments.	In relation to new infrastructure, the NPS-I includes an enabling policy that applies to all environments. In particular, Policy 2 states that decision-makers must recognise that infrastructure may have an operational need or functional need to operate in, be located in, or traverse particular
National Policy Statement for Electricity Networks 2025				

National Direction Instrument	Summary of Changes to National Direction Document	Top Energy Submission	Council Officer's Right of Reply	Analysis
	<p>balancing adverse environmental impacts.</p> <p>It is noted that the NPS-I does not apply to renewable electricity generation or electricity transmission and distribution networks.⁴</p> <p><u>National Policy Statement for Electricity Networks 2025</u></p> <p>The NPS-EN replaces the National Policy Statement for Electricity Transmission. This change reflects an expanded scope to cover both electricity transmission and distribution.</p> <p>Key amendments include:</p> <ul style="list-style-type: none"> • Strengthened policy direction to create a more certain consenting environment; • Recognition of the national significance of electricity networks, and the operational 	<p>natural landscape and outstanding natural feature overlays) in Rules NFL-R1 and CE-R1.</p>		<p>locations and environments such as within the coastal environment, outstanding natural character, high natural character, outstanding natural landscape and outstanding natural feature overlays).</p> <p>Similarly, Policy 7 of the NPS-EN also requires that decision-makers must recognise and provide for the operational need or functional need of the electricity network to operate in, be located in, or traverse environments, including the need for electricity assets to convey electricity over long distances, and in all locations and environments. Policy 8 also requires decision-makers to provide for electricity network activities that have an operational or functional need to be in particular locations and environments, including in areas where section 6 matters apply, even where there may be</p>

⁴ Although Top Energy is an electricity network operator at large, the Infrastructure Chapter provisions apply to Infrastructure generally. It is therefore considered that the direction within the NPS-I is still relevant for the majority of submissions Top Energy made on various provisions within the Infrastructure Chapter.

National Direction Instrument	Summary of Changes to National Direction Document	Top Energy Submission	Council Officer's Right of Reply	Analysis
	<p>and functional need to locate in particular environments;</p> <ul style="list-style-type: none"> • Enabling routine maintenance and upgrade activities; • Alignment with other national direction, particularly renewable electricity generation and infrastructure instruments; • Management of adverse environmental effects of electricity network activities; • Recognition of Māori interests, including early engagement to identify and protect cultural values; and • Protection of electricity networks from adverse effects arising from third-party activities. 			<p>unavoidable adverse effects on those environments.</p> <p>To give effect to the strong direction within the NPS-I and NPS-EN - which requires that infrastructure and electricity networks be enabled in all locations and environments, Top Energy considers that a restricted discretionary activity consenting pathway would be appropriate for infrastructure located within the coastal environment or within other natural environment overlays that cannot meet the permitted or controlled activity standards in Rules NFL-R1 and CE-R1.</p>
		<p>Top Energy sought the replacement of a pole with a pi pole to be exempt from Rules CE-R1, NATC-R1, & NFL-R1. As noted in Planning Evidence for Hearing 4, there are situations where a pi-pole replacement is required from a structural and operational perspective (e.g., such as to allow a greater span distance between poles). Where there</p>	<p>The Reporting Officer considered that the replacement of a standard pole with a pi-pole should not be a permitted activity and this requires a more specific assessment through a consenting process.</p>	<p>These requested amendments are consistent with Policy 4 of the NPS-I, which requires decision-makers to provide flexibility for infrastructure providers to use new or innovative technologies and methods that improve service delivery and environmental outcomes. The NPS-I also requires decision-makers to enable the upgrading of</p>

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		<p>is already the presence of an electricity line in an existing environment, and there is a clear operational and functional need to replace that with a pi-pole of the same height in a similar location, imposing an additional consenting requirement again simply adding unnecessary cost and delay without a clear effects-based justification for doing so.</p> <p>Top Energy sought deletion of Clause 8a of Rule CE-R3-PER-1 as the upgrade of any existing network utility would default to restricted discretionary (if within a high natural character area) or non-complying (if inside an outstanding natural character area).</p>	<p>The Reporting Officer has retained Clause 8A of CE-R3-PER-1 and the default restricted discretionary and non-complying activity statuses.</p>	<p>infrastructure where this will improve the resilience of infrastructure to the risks from natural hazards and climate change, maintain or improve its level of infrastructure service (including to meet increasing demand) or improve environmental outcomes.</p> <p>In addition, Policies 7 and 8 of the NPS-EN require decision-makers to recognise and provide for the regular maintenance and upgrading of the electricity network, including the need to maintain and improve network capacity and performance over time.</p> <p>To ensure that the PDP aligns with the direction within the NPS-I and NPS-EN, Top Energy seek the removal of the additional resource consent requirement for replacing an existing pole with a pi-pole. Top Energy also seek the removal of the restrictive default activity statuses - Restricted Discretionary and Non-</p>

National Direction Instrument	Summary of Changes to National Direction Document	Top Energy Submission	Council Officer's Right of Reply	Analysis
				<p>complying - for upgrades to existing infrastructure within high or outstanding natural character areas.</p> <p>It is considered that the removal of these restrictions will give effect to both the NPS-I and NPS-EN by reducing unnecessary consenting barriers and enabling infrastructure providers to more efficiently undertake the operation, maintenance, repair and upgrading of existing assets.</p>
Subdivision				
National Policy Statement for Electricity Networks 2025	<p><u>National Policy Statement for Electricity Networks 2025</u></p> <p>The NPS-EN replaces the National Policy Statement for Electricity Transmission. This change reflects an expanded scope to cover both electricity transmission and distribution.</p> <p>Key amendments include:</p>	<p>Top Energy sought that additional zones be added to SUB-S6 - Power Supply, and that SUB-S6 also included the following (or similar effect):</p> <p><i><u>"Easements shall be provided to the boundary of the site area of the allotment to facilitate future connection"</u></i></p>	The Reporting Officer does not agree that this requirement should extend to all zones.	Policy 2 of the NPS-EN requires decision-makers to recognise that the benefits of electricity networks include supporting the social, economic, and cultural wellbeing of people and communities, meeting the needs of present and future generations, protecting their health and safety, and providing services essential to the functioning and growth of

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	<ul style="list-style-type: none"> Strengthened policy direction to create a more certain consenting environment; Recognition of the national significance of electricity networks, and the operational and functional need to locate in particular environments; Enabling routine maintenance and upgrade activities; Alignment with other national direction, particularly renewable electricity generation and infrastructure instruments; Management of adverse environmental effects of electricity network activities; Recognition of Māori interests, including early engagement to identify and protect cultural values; and Protection of electricity networks from adverse effects 			<p>districts, regions, New Zealand, and the wider economy.</p> <p>Top Energy considers the provision of power supply to be a critical consideration in all zones, as it delivers an essential service that underpins human life and supports development, growth, and economic activity at all scales. Where a power supply cannot be provided as a permitted activity, alternative electricity supply infrastructure should be able to be considered as a restricted discretionary activity.</p>

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	arising from third-party activities.			