

**BEFORE THE HEARINGS PANEL**

**UNDER THE**

Resource Management Act 1991

**IN THE MATTER OF**

the Proposed Kaipara District Plan

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**STATEMENT OF EVIDENCE OF DAVID ERIC BADHAM ON BEHALF  
OF NORTHPOWER LIMITED AND NORTHPOWER FIBRE LIMITED**

**HEARING STREAM 11 (SITES AND AREAS OF SIGNIFICANCE TO  
MĀORI)**

Planning

13 April 2026

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## 1 EVIDENCE SUMMARY

- 1.1 This evidence has been prepared on behalf of Northpower Limited and Northpower Fibre Limited (**Northpower**) on Kaipara District Council's (**KDC**) Proposed Kaipara District Plan (**PDP**), and in particular the Sites and Areas of Significance to Māori Chapter (**SASM**).
- 1.2 As outlined in the previous expert evidence of Andrea Greenhalgh<sup>1</sup>, Northpower is a community owned electricity distribution network operator in Northland. In its submission and further submission, Northpower seeks a planning framework within the PDP that appropriately enables the investigation, development, operation, maintenance, repair, upgrading of its infrastructure.
- 1.3 Since notification of the PDP, significant amendments to national direction have come into force, including the introduction of the National Policy Statement for Infrastructure and amendments to the National Policy Statement for Electricity Networks and associated National Environmental Standards. These instruments strengthen and clarify the directive requirement to enable electricity network activities in all locations and environments, while appropriately managing adverse effects.
- 1.4 I support many of the amendments recommended in the Section 42A Report, particularly those that better align the SASM Chapter with amended national direction. This evidence statement simply seeks to supplement the justification provided by the Reporting Officer for the inclusion of an objective, policies and rules within the SASM Chapter for the provision of existing and new infrastructure as outlined in Northpower's submission.
- 1.5 In my opinion, the amendments proposed in my evidence better give effect to higher order national direction, promote the efficient use and development of infrastructure and the electricity network, and provide a proportionate and effects-based regulatory framework that supports

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<sup>1</sup> See Section 3, pages 2-3 of the Statement of Evidence of Andrea Catherine Greenhalgh on Behalf of Northpower Limited – Hearing Stream 9 (Renewable Electricity Generation).

both environmental and cultural protection and infrastructure resilience within the Kaipara District.

## **2 INTRODUCTION**

- 2.1 My full name is David Eric Badham. I am a Partner and Northland Manager of Barker and Associates, 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, primarily in Te Tai Tokerau / Northland.
- 2.2 My qualifications, experience and involvement with Northpower on the Proposed Kaipara District Plan (*PDP*) are set out in Attachment 1 to my evidence filed on 3 March 2026 which addressed planning matters in relation to Hearing Stream 9 – Renewable Electricity Generation.
- 2.3 I confirm that I have reviewed the SASM s42A report and the statement of engineering evidence of Shaun Brown on behalf of Northpower.

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

- 2.4 This evidence addresses submission (#283) and further submission (#FS82) by Northpower on the PDP.
- 2.5 My evidence will address the following topics:
- (a) Supported recommendations of the s42A (Section 3);
  - (b) New and amended national direction (Section 4);
  - (c) Northpower's relationship with tangata whenua in the Kaipara District (Section 5);
  - (d) New SASM objectives, policies and rules to enable infrastructure (Section 6);
  - (e) Section 32AA evaluation (Section 7); and
  - (f) Concluding comments (Section 8).

### **Code of conduct**

- 2.6 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 area of expertise and I have not omitted to consider material facts known to me that might alter or detract from the opinions I express.
- 2.7 B&A staff have assisted KDC with the formulation of section 32 evaluations for a number of PDP topics prior to the notification of the PDP, and continue to assist in s42A reporting on several other topics in the PDP. In regard to this matter, 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 the SASM provisions, the section 32 evaluation or any related advice or further work following notification of the PDP.
- 2.8 Noting the above, I have no conflict of interest to declare in regard to the preparation of this evidence, the hearing of this topic, or my future engagement in relation to this topic as part of the PDP review.

### **3 SUPPORTED RECOMMENDATIONS OF THE S42A REPORT**

- 3.1 The Reporting Officer has recommended the acceptance of Northpower's submission point 283.145 in relation to their request to retain SASM-P5 as notified. I do not address this submission point any further within my evidence.

### **4 NEW AND AMENDED NATIONAL DIRECTION**

- 4.1 New national direction under the Resource Management Act 1991, came into force on 15 January 2026. Of relevance to Northpower's submissions and interests and the SASM topic and hearing, are the new National Policy Statement for Infrastructure (**NPS-I**), an amended National Policy Statement for Electricity Networks (**NPS-EN**), and National Environmental Standards for Electricity Network Activities

(**NES-EN**). In my opinion, and as they relate to Northpower and other infrastructure provider's interests, these are positive amendments, that give far greater weight to the operational and functional needs of infrastructure that has generally been lacking in the traditional planning framework under the RMA.

- 4.2 Northpower's original submission specifically addressed new and amended national direction and requested that necessary changes are made throughout the process to give effect to the new and amended national direction.<sup>2</sup>
- 4.3 Based on Northpower's and other submissions on the PDP and the wider obligation under Section 55(2D) of the RMA to give effect to the national direction "as soon as practicable", I consider that it is most practicable to make changes to the PDP provisions (and in the case of this hearing, the SASM provisions) now to give effect to the new and amended national direction.

## **5 NORTHPOWER'S RELATIONSHIP WITH TANGATA WHENUA IN THE KAIPARA DISTRICT**

- 5.1 A Statement of Corporate Evidence has already been provided by Andrea Greenhalgh as part of Hearing 9 – Renewable Electricity Generation. Section 3 of this evidence establishes the background to Northpower and should be read together with, and relied upon for the purposes of this hearing, without repetition.<sup>3</sup>
- 5.2 Based on the evidence of Mr Brown, I understand that Northpower acknowledges and recognises the cultural, spiritual, and historical importance of Sites and Areas of Significance to tangata whenua / mana whenua within the Kaipara District, and that their protection is a matter of national significance under Section 6(e) of the RMA. Northpower also acknowledges the requirement under Section 8 of the RMA to "take into account the principles of the Treaty of Waitangi (Te Tiriti o Waitangi)."
- 5.3 Northpower has established processes and a dedicated Kaitakawaenga / Iwi Relationship Lead responsible for liaising directly and on an

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<sup>2</sup> See Section 2.4.3 of Northpower's original submission dated 30 June 2025.

<sup>3</sup> See Section 3 of Statement of Corporate Evidence – Andrea Greenhalgh – Hearing 9 – Renewable Electricity Generation.

ongoing basis with tangata whenua in the Kaipara District. I understand that engagement is undertaken in a proactive and constructive manner, with the aim of fostering and maintaining positive iwi and hapū relationships, understanding cultural values, and identifying potential effects on Sites and Areas of Significance to Māori and other interests at an early stage.

- 5.4 I also acknowledge the importance, in an RMA context, of maintaining strong and enduring relationships with tangata whenua and of achieving the protection of these Sites and Areas of Significance to Māori. I consider that the position outlined in Northpower's submission and further submission does not seek to diminish or undermine these values. Rather, Northpower is endeavouring to achieve an appropriate and balanced outcome that both recognises and respects cultural and historical values in the SASM provisions, while providing for the ongoing development, operation, maintenance, repair and upgrading of existing infrastructure. With regard to new infrastructure, there is an acceptance from Northpower that this needs to be carefully considered in relation to Sites and Areas of Significance to Māori. I consider that this high-level approach is consistent with relevant statutory obligations and national direction, and seeks to ensure that adverse effects are appropriately managed while enabling essential infrastructure services to be provided.

## **6 NEW SASM OBJECTIVES, POLICIES AND RULES TO ENABLE INFRASTRUCTURE**

- 6.1 The below sections set out the outstanding matters that I consider need to be resolved in response to Northpower's submissions on the SASM Chapter of the PDP. Where I have recommended further amendments to the SASM provisions, these are outlined in **Attachment 1** to this evidence.
- 6.2 Northpower sought to include the following within the SASM chapter of the PDP:
- (a) Additional objectives and policies that recognise the need for the location of new infrastructure, within Sites and Areas of Significance to Māori, where there is an operational and

functional need and any adverse effects are adequately managed;<sup>4</sup>

- (b) Additional objectives and policies that provide for the operation, maintenance, repair and upgrading of infrastructure within sites and areas of significance to Māori; and<sup>5</sup>
- (c) New rules to allow for the suitable provision of new infrastructure where there is an operational and functional need, and the ongoing operation, maintenance, repair and upgrading of infrastructure within sites and areas of significance to Māori.<sup>6</sup>

6.3 I acknowledge that the Reporting Officer has recommended acceptance in part of this submission point within the s42A report and considers:

The request by Northpower [S283.143] for an infrastructure objective within the SASM chapter is accepted in part for consideration. Noting that the SASM chapter's objectives are focuses on the protection and recognition of culturally significant sites, whilst infrastructure matters are addressed within the Infrastructure chapter of the PDP, consideration of Regionally significant infrastructure is of importance. HNZPT expressed concern about including infrastructure provisions in the chapter [FS54.18] and Northpower have been in discussions about potential wording regarding infrastructure to be included in the chapter, no resolution has been reached, details are provided below for consideration.<sup>7</sup>

Northpower have suggested proposed new objectives, policies and rules for Infrastructure provision within the SASM chapter.<sup>8</sup>

I support this in part subject to receiving evidence from other parties.<sup>9</sup>

6.4 It is clear that there is high-level support from the Reporting Officer to Northpower's submission on the inclusion of these provisions. However, no consequential amendments have yet been made to SASM Chapter in line with the draft provision wording sought by Northpower. Below I provide some further justification to supplement the Reporting Officer's position.

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<sup>4</sup> Submission 283.143.

<sup>5</sup> Submission 283.143.

<sup>6</sup> Submission 283.143.

<sup>7</sup> Paragraph 142 of the S42A Report for Sites and Areas of Significance to Māori.

<sup>8</sup> Paragraph 282 of the S42A Report for Sites and Areas of Significance to Māori.

<sup>9</sup> Paragraph 3 of the S42A Report for Sites and Areas of Significance to Māori.

- 6.5 I consider that the recommended provisions outlined in **Attachment 1** should be included within the SASM chapter for the following reasons:
- (a) In some instances, there is an operational and functional need for infrastructure to be located within areas identified as being of significance to Māori, particularly given the extent that some of those areas cover in the Kaipara District.
  - (b) Furthermore, Objective 1 and Policies 1, 2, and 5 of the new NPS-I provides clear and strong national direction to enable, and provide for the benefits of, infrastructure and to recognise the operational and functional need for infrastructure to locate in particular environments.
  - (c) Objective 2.1 and Policies 1, 5, and 7 of the amended NPS-EN recognise the national significance of electricity distribution networks. They require decision-makers to provide for routine electricity network activities in all locations and environments, while managing adverse environmental effects through avoidance, remediation, or mitigation where practicable, and acknowledging the existing nature of assets. In particular, Policy 7 directs decision-makers to recognise and provide for the operational or functional need for electricity networks to operate in, be located in, or traverse all environments, including the need to convey electricity over long distances.
- 6.6 In this regard, while I acknowledge that the purpose of the SASM chapter is to protect Sites and Areas of Significance to Māori from inappropriate subdivision and development, it is clear that there is very directive national legislation which requires decision-makers to recognise and provide for the operational and functional needs of the electricity network, including the ability for them to operate in and traverse all environments, subject to the appropriate management of adverse effects.
- 6.7 I consider that the recommended provisions in **Attachment 1** provide a balanced framework for the provision of both existing and new infrastructure, while appropriately managing potential adverse effects

on Sites and Areas of Significance to Māori. On this basis, the provisions provide the following tiered approach:

- (a) Operation, maintenance, repair and upgrading of existing infrastructure within scheduled sites or areas – Permitted. These assets are existing, and in many instances within the Kaipara District, serve isolated and vulnerable communities with little or no alternative should they fail. In my opinion, these existing infrastructure assets have a clear operational and functional need to continue to be enabled to be operated, maintained, repaired and upgraded without the requirement for costly and ultimately unnecessary resource consents.
- (b) Development of new infrastructure within scheduled sites or areas – a restricted discretionary activity, subject to targeted matters of discretion as follows:
  - (i) The operational or functional need of the infrastructure to be located within the scheduled site or area;
  - (ii) The extent of effects on cultural and historical values;
  - (iii) Location, scale, design of the proposed infrastructure;
  - (iv) The requirements of any applicable statutory acknowledgement area or treaty settlement;
  - (v) Any assessments or advice from a suitably qualified and experienced heritage or cultural expert (where provided); and
  - (vi) Any consultation with Heritage New Zealand Pouhere Taonga and tangata whenua (where provided).

The above matters of discretion have been carefully curated to achieve an appropriate balance between protecting Sites and Areas of Significance to Māori, while ensuring that there is a pathway for the new infrastructure, should it adequately address the above matters.

6.8 For the above reasons, I consider that the recommended provisions that are outlined within **Attachment 1** will provide a balanced and reasonable approach within the SASM provisions for both the provision of existing and new infrastructure that also give effect to the NPS-I and NPS-EN, and should therefore be adopted.

### **Policy SASM-P3**

6.9 Northpower sought that this policy also enables the “upgrading” of existing infrastructure.<sup>10</sup>

6.10 The Reporting Officer has accepted in part this submission point in response, recommending:

The request by Northpower [S283.144] to add “upgrading” to clause 5 of SASM-P3 has merit in that infrastructure technology and footprints evolve over time and some upgrading activities are minor in nature. However, I note the concern from HNZPT [FS54.19] that enabling earthworks for network infrastructure as permitted activity on SASM sites could have unintended consequences for unrecorded archaeology and cultural values. The Heritage New Zealand Pouhere Taonga Act 2014 provides separate protections for archaeological sites, and those protections apply regardless of district plan permissions.<sup>11</sup>

I consider that “upgrading” of existing infrastructure can be included in clause 5 where it is limited to the existing alignment or footprint (as enabled by SASM-R1) and does not involve significant new earthworks. An appropriate qualifier would be to add “upgrading within the existing footprint” to clause 5. This responds in part to Northpower’s request while addressing HNZPT’s concern.<sup>12</sup>

6.11 I consider that the Reporting Officer’s recommended amendments are an improvement on the notified wording, particularly through the inclusion of “upgrading” within clause 5 of the policy.

6.12 However, I oppose the Reporting Officer’s recommendation to limit “upgrading” to activities that occur solely within the existing alignment or footprint of infrastructure. In my view, this approach is overly restrictive and does not reflect how infrastructure upgrades are typically designed or implemented in practice.

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<sup>10</sup> Submission 283.144.

<sup>11</sup> Paragraph 171 of the S42A Report for Sites and Areas of Significance to Māori.

<sup>12</sup> Paragraph 172 of the S42A Report for Sites and Areas of Significance to Māori.

6.13 Policy 4 of the NPS-I seeks to enable the upgrading of infrastructure generally, and in doing so, explicitly recognises the need to provide flexibility for infrastructure providers. In particular, the policy anticipates the use of new or innovative technologies and methods to improve the delivery of infrastructure services and/or improve environmental outcomes. This enabling approach is reinforced by Policies 8 and 9 of the NPS-I, which seek to enable both the minor and major upgrading of existing infrastructure in all environments.

6.14 Mr Brown's evidence highlights that upgrades are a routine part of Northpower's corrective maintenance processes to restore Northpower's assets and meet modern standards.

6.15 Although not considered directly as part of this hearing topic, I consider it relevant to note that Northpower sought a more generalised and enabling definition of "upgrading" as follows:<sup>13</sup>

**"means, in relation to infrastructure, an increase in the capacity, efficiency, safety, security or resilience of existing infrastructure."**

6.16 I consider that this definition better reflects the functional reality of infrastructure upgrading and aligns more closely with the intent of the NPS-I. However, I accept that the Panel is not considering this definition within the scope of Hearing 11.

6.17 Nevertheless, it is clear from Mr Brown's evidence that achieving increases in capacity, efficiency, safety, security or resilience of existing infrastructure, will more often than not result in changes to the footprint of existing infrastructure. This is particularly the case where upgrades respond to technological advancements, changing standards, or the need to improve network resilience. In this context, the S42A recommended wording does not, in my view, provide sufficient flexibility for network utility operators to undertake essential upgrades in a practical and effective manner.

6.18 On this basis, I consider that a more appropriate and enabling policy approach would be to allow infrastructure upgrades to occur outside of the existing footprint where necessary to achieve the intended

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<sup>13</sup> Submission 283.15.

functional and operational outcomes. This would then be further enabled by the recommended new permitted activity rule for the operation, maintenance, upgrading and repair of existing infrastructure within scheduled sites or areas.

6.19 I consider that such an approach would better align with the direction of the NPS-I and the practical realities of infrastructure upgrading. I have outlined recommended wording to give effect to this approach in **Attachment 1**.

## **7 SECTION 32AA EVALUATION**

7.1 Section 32AA of the RMA requires further evaluation where changes to provisions are proposed since the original section 32 evaluation was undertaken. I have recommended a number of amendments to the SASM Chapter, which are outlined in **Attachment 1**.

7.2 By way of summary, I consider that the recommended amendments to the provisions that I have proposed will be the most appropriate way to achieve the purpose of the RMA in accordance with section 32(1)(a) for the following reasons:

- (a) **Sustainable Management (Section 5):** The recommended amendments will better enable the use and development of infrastructure, which is critical to the health, safety, and social, cultural and economic well-being of people and communities within the Kaipara District. The changes also provide for environmental protection by recognising the operational and locational constraints associated with these activities, and managing potential adverse effects accordingly.
- (b) **Protection of Sites and Areas of Significance to Māori (Section 6(e) and Section 8):** the recommended provisions still provide a resource consenting requirement for new infrastructure in Sites and Areas of Significance to Māori with targeted matters of discretion which recognise and provide for the relationship of Māori and their culture and traditions with their ancestral lands, water, sites, waahi tapu and other taonga

while also taking into account the principles of the Treaty of Waitangi (Te Tiriti o Waitangi).

- (c) **Efficient Use and Development of Resources (Section 7(b)):** By more appropriately enabling existing infrastructure, the proposed amendments support the efficient use and development of natural and physical resources, including the electricity distribution network.
- (d) **Enablement of Infrastructure (new NPS-I):** The changes give effect to key directives in the NPS-I. These include enabling, and providing for the benefits of, infrastructure and to recognise the operational and functional need for infrastructure to locate in particular environments (Objective 1 and Policies 1, 2, and 5).
- (e) **Enablement of Electricity Distribution Network Activities (amended NPS-EN):** The changes give effect to key directives in the amended NPS-EN. These include recognising and providing for electricity network assets and activities that have an operational or functional need to be in particular locations and environments, and enabling electricity network assets and activities in all locations and environments (Objective 2.1 and Policies 1, 5, and 7).
- (f) **Enabling Functional and Operational Needs:** The recommended amendments better recognise and provide for the functional and operational needs of Northpower's infrastructure, including flexibility for upgrades, and investigation activities. These are essential to supporting the growth and resilience of electricity supply in the Kaipara District.
- (g) **Appropriate Management of Effects:** The recommended provisions provide an improved framework for managing the adverse effects of infrastructure, with appropriate thresholds, matters of discretion, and rule triggers. These recognise the need for both robust environmental outcomes and the efficient operation of essential infrastructure.

- (h) **Costs and Benefits:** I consider that the benefits of the recommended amendments will outweigh any potential costs, as they allow for greater enablement of infrastructure within the district, while recognising and providing for the benefits they provide, and appropriately managing adverse effects that may arise in relation to Sites and Areas of Significance to Māori.

## **8 CONCLUDING COMMENTS**

- 8.1 Overall, I consider that significant progress has been made toward recognising and providing for existing and new infrastructure within the SASM chapter of the PDP. I acknowledge and support many of the recommendations made by the Reporting Officer which align with Northpower's submission and my own opinion and analysis.
- 8.2 My evidence simply seeks to supplement the position of the Reporting Officer and provide more context for the Panel on why I consider the amendments are necessary. As such, and for the reasons outlined above and in the accompanying attachments, I recommend that the amendments proposed in my evidence are adopted. In my opinion, these changes are necessary to give effect to higher order policy documents, promote the sustainable management of natural and physical resources, and provide an enabling yet environmentally and culturally responsible framework for infrastructure in the Kaipara District.

**David Eric Badham**

**13 April 2026**

**Attachment 1 – Track Change Version of Provisions**

S42A recommended wording = additions underlined text deletions ~~strikethrough text~~

David Badham recommended wording = additions underlined text deletions ~~strikethrough text~~

## SASM Chapter

### New Objectives, Policies and Rules

#### New Objective SASM-OX

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

#### New Objective SASM-OX

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

#### New Policy SASM-PX

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

- a. There is a functional need or operational need for its establishment;
- b. There is no practicable alternative; and
- c. The significant adverse effects are avoided, and any other adverse effects on the cultural values of the Site and Area of Significance to Māori are avoided, remedied or mitigated.

#### New Policy SASM-PX

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

#### New Permitted Activity Rule – SASM-RX

Operation, maintenance, upgrading and repair of existing infrastructure within scheduled sites or areas.

##### 1. Activity status: Permitted

##### Where:

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

**New Restricted Discretionary Rule – SASM-RX**

**The development of new infrastructure within scheduled sites or areas.**

- 1. Activity status: Restricted Discretionary**
- 2. Matters over which discretion is restricted:**
  - a. The operational or functional need of the infrastructure to be located within the scheduled site or area;**
  - b. The extent of effects on cultural or historical values;**
  - c. Location, scale, and design of the proposed infrastructure;**
  - d. The requirements of any applicable statutory acknowledgement area or treaty settlement;**
  - e. Any assessments or advice from a suitably qualified and experienced heritage or cultural expert (where provided); and**
  - f. Any consultation with Heritage New Zealand Pouhere Taonga and tangata whenua (where provided).**

**Policy SASM-P3**

Enable the following activities to occur on scheduled sites and areas of significance to Māori where the associated cultural, spiritual and historical values and relationships will be protected:

1. Land disturbance;
2. Animal grazing, pasture management and pest management;
3. Cultivation and small-scale earthworks;
4. Maintenance, repair, alteration, demolition, or removal of existing buildings and structures;
5. Maintenance, operation, **upgrading within the existing footprint**, and repair of existing infrastructure;
6. Cultural practices carried out in accordance with tikanga Māori.