

Ko Pouerua me Taratara nga maunga  
Ko te Wai-a-Ruhe, Manaia me Waitangi nga awa  
Ko Oromahoe te Marae  
Anei nga hapu; Ngati Kawa, Te Ngare Hauata, Te  
Matarahurahu, Te Whanaurara, Ngati Kaihoro me Ngati  
Rahiri.

Tihei Mauriora!



**AW & DM Simpson  
R.A.S. Ltd  
Arran Trust  
Garry Stanners  
Errol McIntyre  
SW Halliday  
SJ & PM Boys  
Oromahoe 18R2B2B2 Trust  
Tapuaetahi Incorporation**

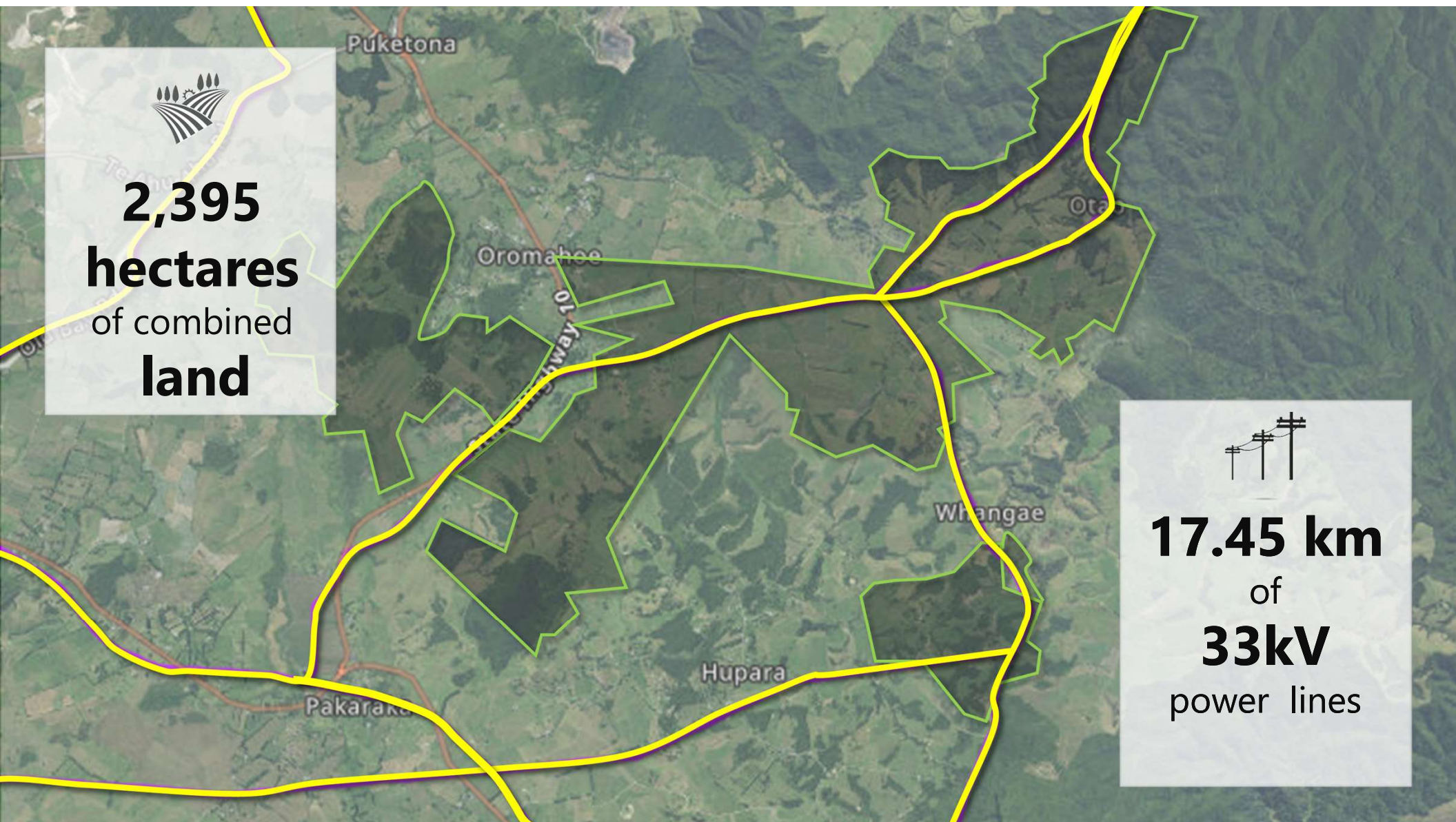




**2,395**  
**hectares**  
of combined  
**land**



**17.45 km**  
of  
**33kV**  
power lines



# Background and Interpretation

- **NPS** – Directs Regional Councils (**RPS**) to protect the National Grid but was not intended for local distribution lines under 110kV.
- **Transpower Only** - highlighted this to FNDC on their submission to PDP.
- NRC adopted the policy in their RPS under Section 3.7, "Regionally Significant Infrastructure."
- *"There may be value..."* Not *"as directed by..."* of the NPS, just a suggestion.
- Not intended for 33 Kv Lines.

## National Policy Statement on Electricity Transmission

The NPSET was gazetted on 13 March 2008. It confirms the national significance of the National Grid and provides policy direction in relation to:

- recognising the benefits of National Grid transmission;
- managing the environmental effects of the National Grid;
- managing the adverse effects of third parties on the National Grid; and
- long term strategic planning for transmission assets.

The NPSET only applies to the National Grid – the assets used or operated by Transpower – and not to electricity generation or distribution networks.

## SECTION 32 REPORT

The PDP infrastructure rules and standards have also been updated and reformatted to be more user friendly and consistent with other second-generation plans and industry standards.

Another key change in the proposed management approach is the introduction of rules to manage activities in proximity to a new 'Critical Electricity Lines' (CEL) overlay. This overlay and associated rules relate to Top Energy's electricity lines network in the Far North District and is intended to ensure resilient electricity network in the Far North District in addition to the rules protecting the National Grid buffer corridor. The rule framework is based on corresponding provisions in the Whangārei District Plan with controls on earthworks, buildings, commercial vegetation and forestry, and subdivision (covered in subdivision chapter) within the 10m and 20m CEL Overlay. This approach has been adopted to recognise the electricity distribution network as regionally significant infrastructure as directed by the Northland RPS and give effect to the Northland RPS provisions to protect this infrastructure from reverse sensitivity effects (Objective 3.6, Policy 5.1.3).

The sections below provide a high-level summary of the objectives, policies, and rules and other methods for the proposed provisions in the PDP infrastructure chapter.

**Method 5.3.5(b) – District councils must include the electricity transmission grid in district planning maps, consistent with Policy 12 of the National Policy Statement Electricity Transmission. There may be value in including other regionally significant infrastructure on district and regional planning maps; however, there is a risk that**



## Line Consenting Issues No 33 Kv identified

Date	Address	Description
Aug-19	Moana Ave, Paihia	Renovation under existing powerline
Mar-19	SH10, Oromahoe	Existing Low Line ?
Jan-20	SH10, Awanui	New Building too close to lines ?
Sep-18	Russell Heights Rd, Russell	Building retaining wall over lines
Jan-19	English Bay Road, Opuā	Renovation near existing powerline
Mar-18	Williams Rd, Paihia	Renovation near existing powerline
Feb-20	Old Hospital Rd, Whangaroa	New Building too close to lines
Jul-21	Pomare Rd, Russell	New Building too close to lines
Nov-18	Titoki Place, Kerikeri	Existing Low Line too close to building
Mar-16	Tapuaetahi Beach Road, Tapuaetahi	New Building close to lines
Sep-18	SH10, Cable Bay	Existing Low Line too close to building
Jan-21	Titore Way, Russell	New Building close to lines
Aug-16	Davis Crescent, Paihia	Renovation near existing powerlines
Feb-18	West Coast Road, Kohukohu	Renovation near existing powerlines
Oct-16	Waimate North Road, Waimate North	New build over cables
Feb-17	Quinces Landing, Kerikeri	New build over cables
Mar-17	Far North Rd, Houhora	New build over cables ?
Sep-16	Pungaere Road, Kerikeri	New build over cables ?
Nov-20	MacFarlane Street, Kawakawa	Erected scaffolding too close to lines
Mar-21	Otatara Marae	New Building under lines
Jul-21	Panguru Transfer Station	Container under the lines
Mar-16	Puketona Road, Kerikeri	New Building too close to lines
Sep-20	Conifer Lane, Kerikeri	New Building too close to lines
Nov-18	SH1, Awanui	New Building too close to lines ?
Feb-20	Pungaere Rd, Kerikeri	New Building too close to lines ?
Mar-20	Kapiro Rd, Kerikeri	New Building too close to lines
Feb-19	Ruapekapeka Rd, Towai	New Building too close to lines
Nov-18	Chapel Street Russell	Erected scaffolding too close to lines
Jan-19	Rawhiti Road	House built directly under line less than 1m clearance
Nov-20	Taikirau Road, Maromaku	Roadway installed under line, breaching compliance clearances
Feb-21	Fern Flat Road	New Building directly beneath lines - too close to lines

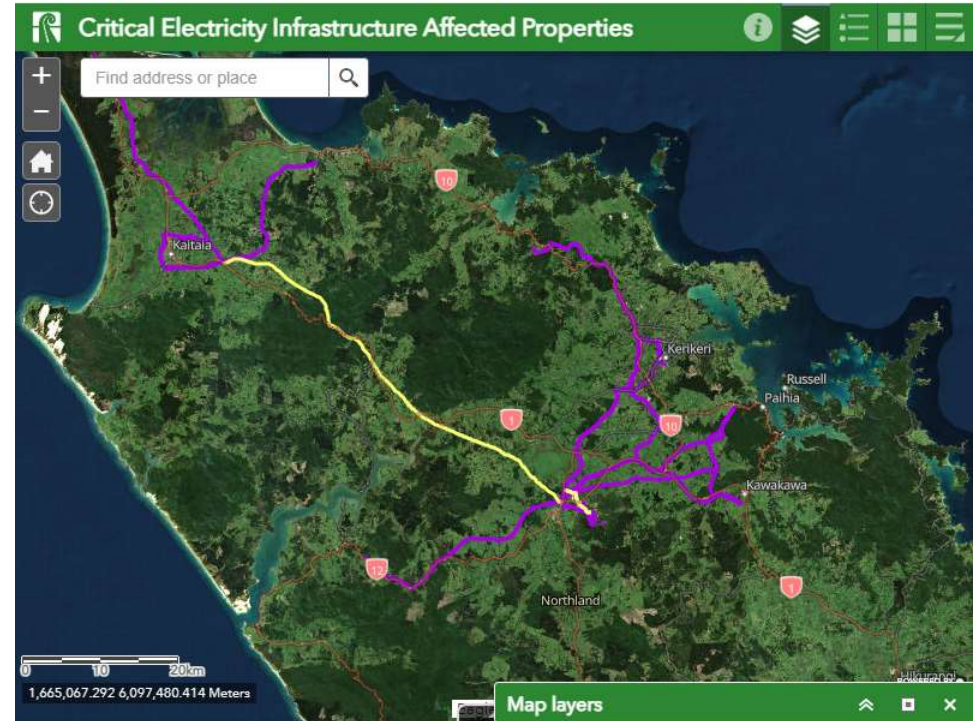
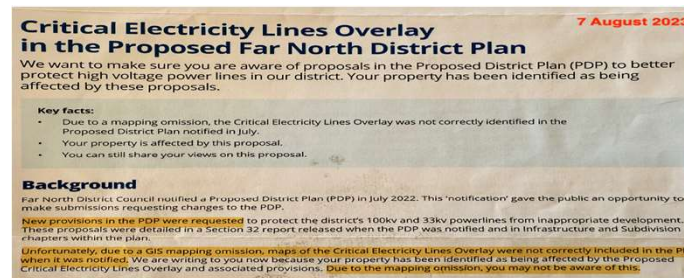


Figure 3 – Top Energy 110kv and 33kv assets (source: PDP Critical Electricity Infrastructure Map)

Comments / Reasons	Relief Sought
<p>important that the leading sentence also acknowledges this.</p> <p>I-P7e addresses the management of landuse and subdivision activities near 'Critical Electricity Lines'. Top Energy provided feedback on the Draft FNDC seeking that some of the critical electricity distribution network be mapped. FNDC has included part of the area requested by Top Energy in the PDP as an Energy Infrastructure Overlay 'Critical Electricity Lines'. As addressed in earlier comments, the extent of mapping is more limited than that sought by Top Energy and only incorporates the 110kv line from Kaikohe to Kaitaia. Top Energy seeks that this be extended to also include the 33kv lines across the District. Top Energy also considers that I-P7e should be amended to include "the identification of critical electricity lines as a mapped overlay."</p> <p>Top Energy has suggested some minor grammatical changes to I-P7e.ii.</p>	<p>e. <u>Identifying Critical Electricity Lines as a mapped overlay and managing landuse and subdivision activities in proximity to Critical Electricity Lines</u> to:</p> <p>i. retain the ability for the network utility operator to access, operate, maintain, repair and upgrade the line;</p> <p>ii. ensure that future buildings and building alterations, earthworks, planting <u>of</u> tress <u>and</u> construction activities do not compromise the effective operation of the electricity distribution network and maintain safe electrical clearance distances under all electricity distribution line operating conditions.</p> <p>f. managing land disturbance and activities sensitive to gas transmission to avoid, or mitigate potential adverse effects on, gas transmission pipelines; and</p> <p>g. managing other activities, through setbacks and design controls where necessary, to achieve appropriate protection of local, regional and nationally significant infrastructure."</p>

## Lack of Notification

- "a GIS mapping omission error" Untrue if - never initially intended.
- 4 weeks notice, none, just a weekend.
- We tried to let other know in our whenua Maori network (5000 ha).
- The district planning needs better consider its rate payers, especially farmers who receive less for their equity share proportionally.
- Onus should be both FNDC and any submitter to properly notify parties that will be affected directly (RMA).
- Renotify – inform affected parties directly.



## Current Legislation

- Seeking powers over private property akin to Transpower
- Overriding national standards and processes
- PDP – Being used as an Instrument to establish a utility easement under the guise of a Critical Electricity Line (CEL)
- Any new transmission lines post-1993 must be registered easements.
- Electricity Act 1993 is adequate

(3) In this section, **maintenance** includes—

### Electricity Act 1993 - 23 (3)

- (a) any repairs and any other activities for the purpose of maintaining, or that have the effect of maintaining, existing works; and
- (b) the carrying out of any replacement or upgrade of existing works as long as the land will not be injuriously affected as a result of the replacement or upgrade.

# Easements

An easement in New Zealand is a legal instrument that grants specific rights to use another person's land for a particular purpose. It's essentially a right of use, often registered against the property title, and can involve things like rights of way, utility services (electricity, water, drainage), or even rights to light and air.

Easements are created to allow one party to use another's land for a specific, defined purpose, as outlined in the easement agreement.

## Types:

- **Right of Way:** Allows access to a property across another's land, often a driveway or footpath.
- **Utility Easements:** Enable utilities like electricity, water, and sewage lines to be installed and maintained across a property.
- **Rights to Light and Air:** Grant the right to unobstructed light and air for the benefit of the benefited land.

## Burdened vs. Benefited Land:

The land over which the easement is granted is known as the "burdened land," while the land benefiting from the easement is the "benefited land".

## Registration:

Easements are generally registered against the property title to ensure they are legally binding on future owners.

## Legal Framework:

The Land Transfer Act 2017 governs easements in New Zealand, including their creation, variation, and removal.

## Examples:

- A property might have an easement for a right of way across a neighbour's land to access their property.
- A utility company might have an easement to install and maintain their infrastructure on a property.

## Impact on Property:

Easements can affect property ownership and use, so it's important to understand what easements exist on a property before buying it.



- Top Energy's submission (483-17), an "upgrade" is defined as: *"An increase in the capacity, efficiency, or security of existing infrastructure."*
- Reclassifying 33kV lines as CELs, "significant upgrade" and a change of status from a sub line to a CEL.
- Imposes excessive restrictions on landowners.
- Forcing affected landowners to contest FNDC on the legality of these changes.

Left side

## Status Quo and Perceived Future Impact

Top Energy already has adequate protection.

- Rent free occupation;
- Free easements and access;
- Future development restrictions on any activities that pose a risk to their transmission lines;
- Setbacks and land use restrictions;
- Electricity Act 1992.

Top Energy seek to use the FNDP to:

- Extended Setbacks;
- New powers to obstruct existing land use resulting in loss of revenue to owners;
- New powers to obstruct development on adjacent land to the proposed extended setbacks;
- Restrictions on existing Farming and Forestry practices;
- Redefining meaning such as the work “Upgrade” and “Significant Upgrade” to avoid compensation (*that they would otherwise be liable for*);
- Lack of regard for current environmental, cultural and health standards.

This would result in:

- Significant losses to private property rights.
- Impose excessive restrictions on landowners’ current land use,
- Result in higher compliance costs,
- Loss of income,
- Limitations on future development.
- Forcing affected landowners to contest FNDP on the legality of these changes.



## In Conclusion – Unfair process

Kia ora Mariaio,

Good to catch up last week. Wishing you all the best for the hearings this week. We agree, support and thank Tapuwaetahi Incorporation for making this submission. As a late comer to the PDP process and an affected party in respect of Top Energy's submission we would appreciate any opportunity to engage.

In respect of FNDC's Proposed District Plan (PDP) process, we do not have resource to fully participate. However, where there are material issues that impact or affect our whenua we will have and do make submissions.

Top Energy's submission to FNDC's PDP, dated Oct 2022 is a material issue in that over 1 linear km of 33KV lines run across our whenua, Waima Topu B block. As an affected party, at no time have Top Energy contacted us about their plans for these lines to become critical infrastructure. The first time we became aware of their submission was on 28 August 2023 when we were sent an email from matua Bill Tane (Oromahoe Trust) about further submissions. Unfortunately, it was too late for us as we had not previously submitted.

Much of the whenua affected by Top Energy's submission is currently a working farm. However, the Trust propose to develop a papakāinga for which it has prepared a resource consent. Stage 2 and 4 of the proposed papakāinga run under the existing 33KV powerlines and have been designed to meet current DP setbacks. Wider setbacks, under the PDP, will reduce the number of proposed dwellings potentially scuttling the development, and any future development.

In effect, this feels like a public works taking enabled by FNDC's PDP process; a cynical and unwelcome confiscation of property rights by Top Energy.

Āku mihi,

Mihi Harris  
Chair  
[www.waimatopu.maori.nz](http://www.waimatopu.maori.nz)



As outlined, there are serious concerns regarding natural justice.

Since submitting, we have encountered numerous landowners who were unaware of:

- The Top Energy submission;
- The CEL overlay inclusion;
- The impact on their properties .

Steve Boys, of OLO, is one such example and was not notified, yet the impact on his future whanau plans is huge.







**520m  
of 33kV lines**

**40m from shed**

**64m  
set back**

**Future  
building  
site**

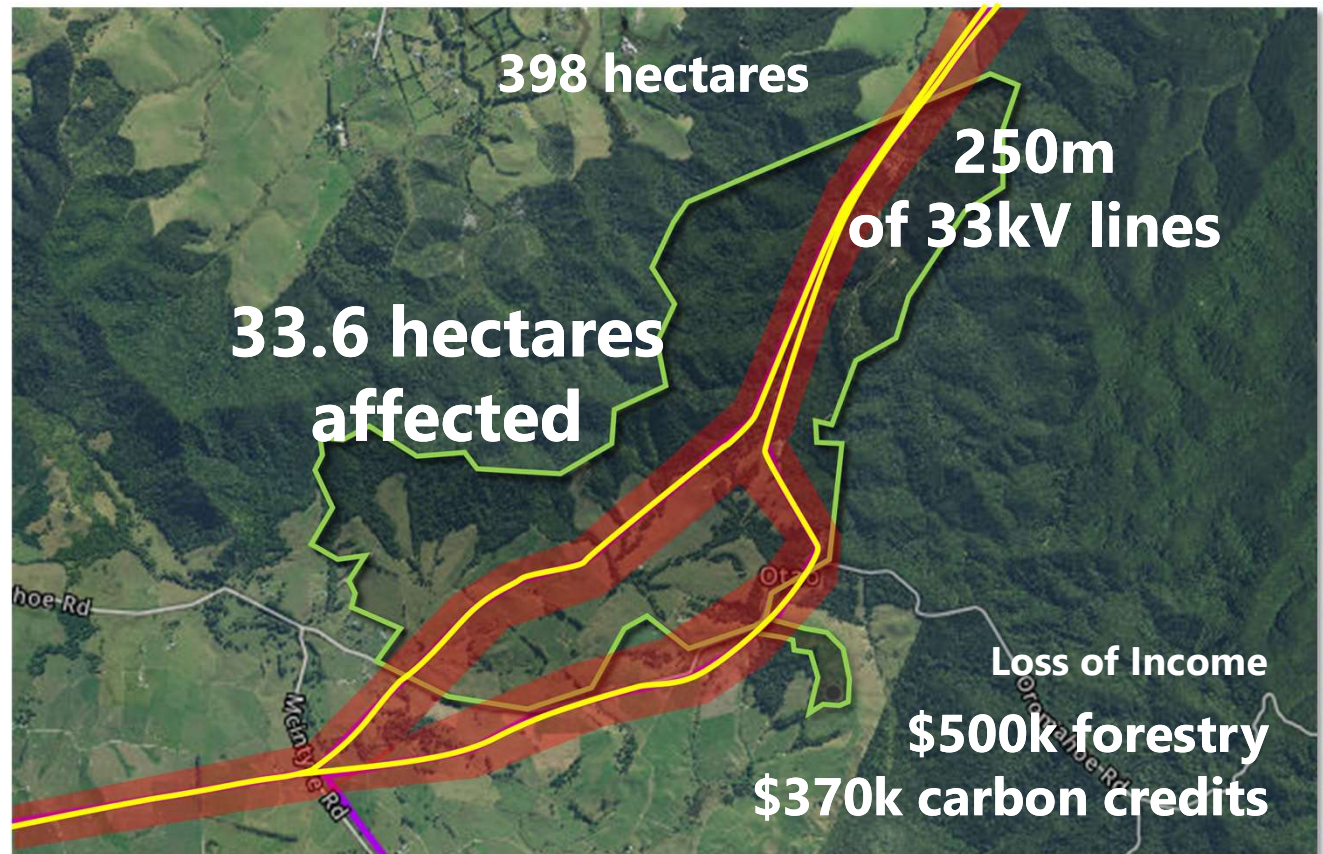
**16 hectares  
total**

**3.6 hectares  
affected by  
33kV lines**



## In Conclusion – Costly process

- Like many, cost too high to participate in the PDP with proper support.
- Even OLO, who engaged a King's Counsel (KC) lawyer for legal submissions, faced insurmountable costs after preliminary discussions.
- The proposed cost of presenting these legal arguments before Commissioners was tens of thousands of dollars.
- Planning process, we resolved to forgo legal representation for now.





## In Conclusion

OLO firmly believes that the current legislation and standards, specifically the Electricity Act 1993, are adequate and that the CEL overlay represents an unnecessary overreach, imposing excessively difficult standards on landowners.

If Far North District Council (FNDC) insists on including a CEL overlay in the District Plan that encompasses 33kV lines, then we believe this decision should be deferred until a proper notification process has been carried out for all affected owners across the Far North District and consideration can be given to how affected owners might be duly compensated.

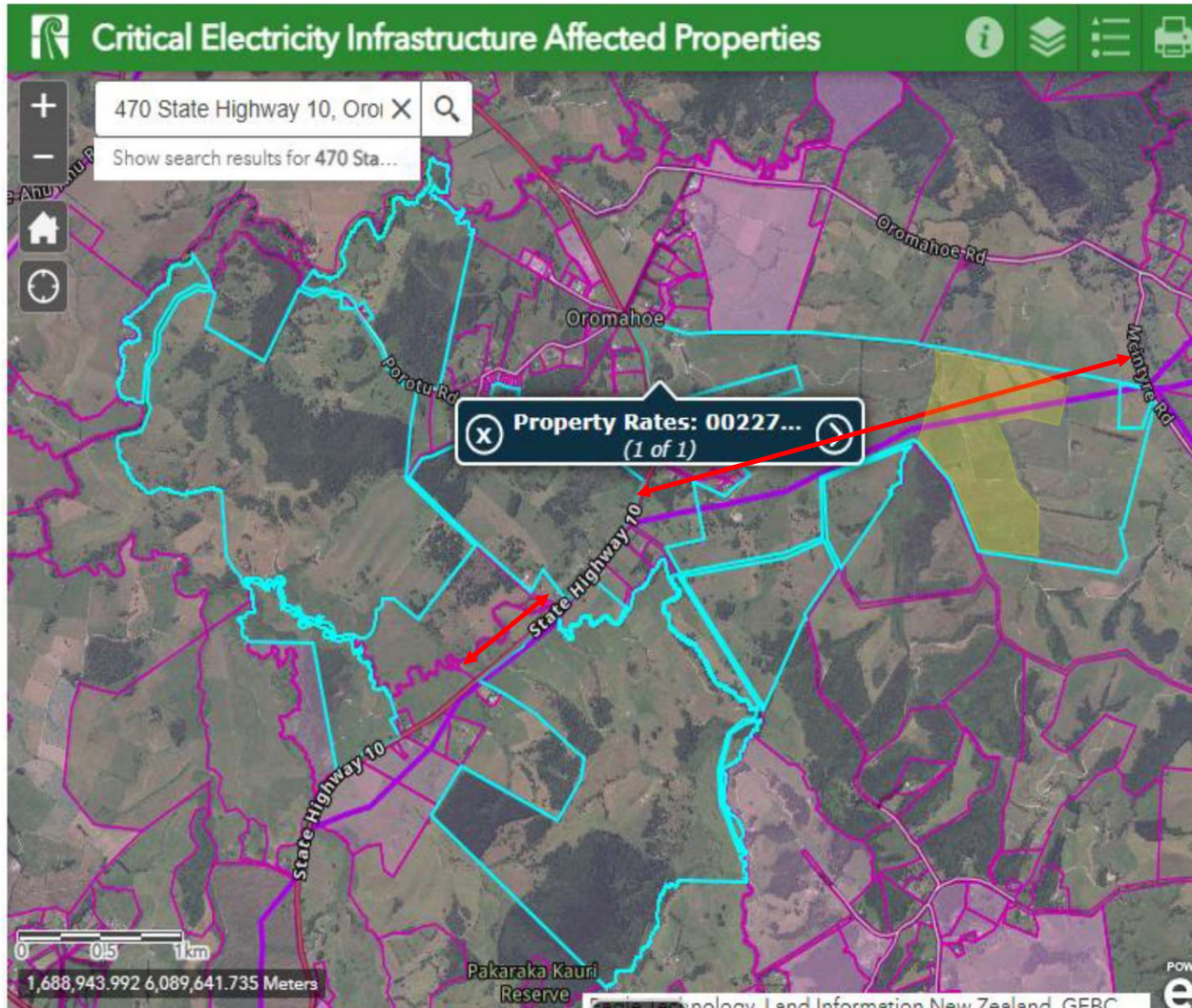
Otherwise, the status quo should remain whereby Top Energy and its lines are adequately protected under existing legislation, without imposing unfair burdens on private landowners.

# Oromahoe 18R2B2B2 Trust



and associated Hapu

**Ngati Kawa, Te Ngara Hauata, Te Matarahurahu,  
Te Whanaurara, Ngati Kaihoro, Ngati Rahiri**



**3.9km  
of  
33kV Lines**

 Potential Horticulture



# Tapuaetahi



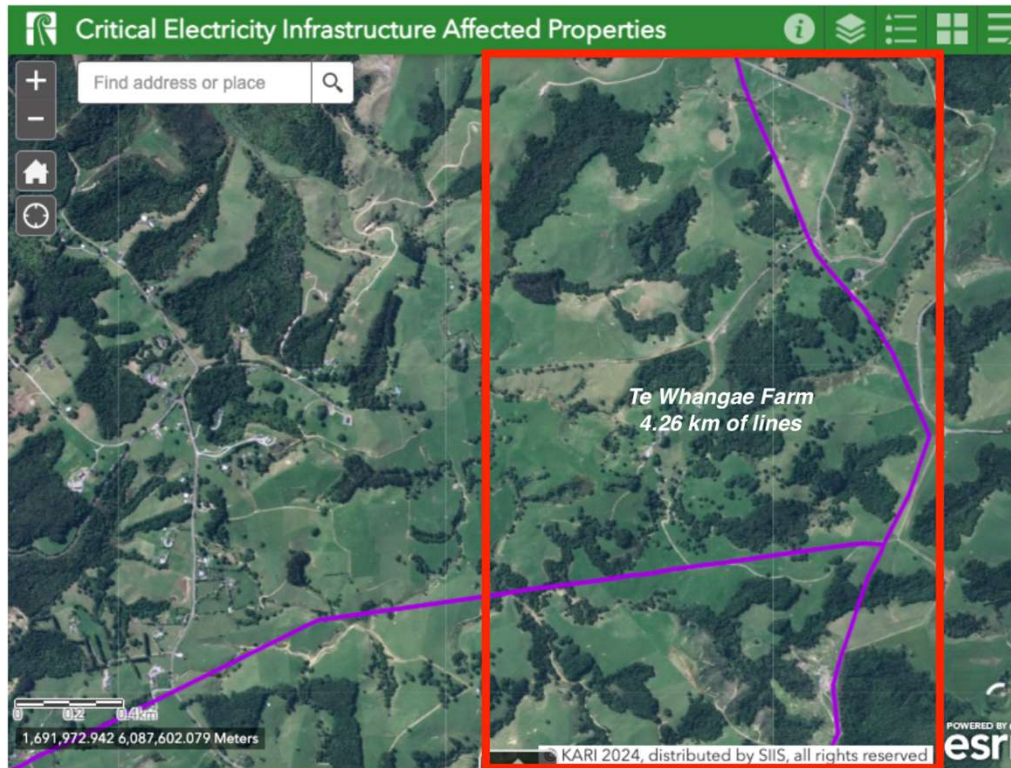
**“Kia kua te whenua e riro ai”** *that the land is never lost.*

- Kāinga o Te Tii,
- March 1965.
- Leasing and Farming Angus/Wagyu cattle.
- 1.8 FTE's FM and EM. 5 CoM.
- Tapuaetahi 310 ha (130 ha).
- Lack of access to finance and lack of security.
- Rates approx 60%, concession approx 20-25%.
- Postponed rates approx. \$500,000.00

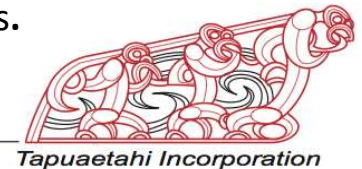


Tapuaetahi Incorporation

# Te Whangae



- 2016 - 198ha property (120 ha)
- Economic scale.
- Potential development opportunities, individual land titles and forestry.
- Rundown state needed for capital investment.
- 2021 - adjacent 76-ha property (52 ha).
- Combined 274-hectare
- Wagyu/Angus breeding
- Procured permits for sustainable Totara harvesting.
- Around 20 titles- no easements are registered
- Est 4.2 km of 33kV lines.



# Issues and Concerns

- Affected owner - No notification (a weekend).
- Resigned to farming with limitation inside new proposed setbacks.
- Further Forestry restrictions
- Due to the gradient, low-production lands, forestry ROI.
- Biggest potential 20 land titles.
- New setbacks and rules, likely impact multiple titles rendering some titles unsuitable.
- Concerned 33kV lines could be upgraded.
- Loss of development potential
- Loss of investment potential
- Loss of market value
- Impacts of Upgrades?





# In Conclusion

Tapuaetahi endorses Andrew's McPhee's evidence on behalf of OLO in its entirety and that:

**a.** He does not believe there is a need to include provisions in the PDP that exceed the thresholds set by national regulation. In principle, district plans should not regulate matters that are already covered by national regulations.

**b.** Top Energy already has the ability to access properties to undertake operational works, including repair, maintenance, and upgrades, through the Electricity Act 1992.

The lay evidence raises concerns regarding how the CEL Overlay was introduced into the PDP, including issues related to interpretation, notification, and legislation.

Tapuaetahi endorses :

**c.** OLO firmly believes that the current legislation and standards, specifically the Electricity Act 1993, are adequate, and that the CEL Overlay represents an unnecessary overreach, imposing excessively difficult standards on landowners.

**d.** If the Far North District Council (FNDC) insists on including a CEL Overlay in the District Plan that encompasses 33kV lines, then we believe this decision should be deferred until a proper notification process has been carried out for all affected owners across the Far North District, and consideration is given to how affected owners might be duly compensated.

**e.** Otherwise, the status quo should remain, whereby Top Energy and its lines are adequately protected under existing legislation without imposing unfair burdens on private landowners.

# A.W and D.M Simpson



# Top Energy PDP Submission



Sub #	Topic	Support/Oppose/Seek Amendment	Comments / Reasons	Relief Sought
51	Infrastructure I -R3 Upgrading of existing above ground network utilities	Seek amendment	Permitted activity status for the upgrade of existing above ground network utilities in all zones is supported by Top Energy. However, the rule contains a number of arbitrary numbers in performance standards making this rule of limited use in terms of enabling upgrades to existing above ground network utilities which are required to ensure this lifeline service to	Delete I-R3 and include new rules as follows:  <i>Upgrading of existing above ground network utilities</i>  <i>Activity status: Permitted</i>

S483.059 &  
S483.060

Where:

Electricity

PER-3

In addition to PER 1 and PER 2, the upgrade of electricity network utilities structures or buildings must not result in:

1. Pole or tower height that exceeds 25m above ground level;
2. More than two additional poles; and
3. Additional towers.

PER -4

1. Additional cross arms must not exceed a length of more than 4m;

