2 April 2025

Oromahoe 18R2B2B2 Trust

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FNDC
Private Bag 952
Kaikohe, 0440

ATTENTION: BILL SMITH, ALAN WATSON, STEVE MCNALLY

RE: HEARING 11
ENERGY, INFRASTRUCTURE, TRANSPORT & DESIGNATIONS

Submitter Number: FS371
Oromahoe 18R2B2B2 Trust and its associated Hapu, Ngati Kawa, Te Ngare Hauata, Te Matarahurahu, Te Whangaurara, Ngati Kaihoro, Ngati Rahiri

Tēnā koutou katoa,

Introduction

The Oromahoe 18R2B2B2 Trust represents approximately 1,500 shareholders from the hapū of Ngāti Kawa, Te Ngare Hauata, Te Matarahurahu, Te Whanaurara, Ngāti Kaihoro, and Ngāti Rahiri. The Trust administers 1,052 hectares of Māori Freehold Land at 470 State Highway 10, Oromahoe.

Historically, the whenua was made up of multiple small whānau land holdings, primarily practicing gardening and latterly farming. By the 1940s, increasing whanau numbers, economic pressures and employment opportunities saw many whanau leave their lands, particularly by younger generations with only their ageing parents and much younger siblings to cope and in most cases with limited resources (labour and financial) to do so. As a result, areas that had once been actively occupied fell into neglect.

The Maori Affairs then systematically invoked various laws to seize the lands, deemed uneconomical, forcing owners and their respective whanau to be displaced, some abandoning their traditional lands forever.

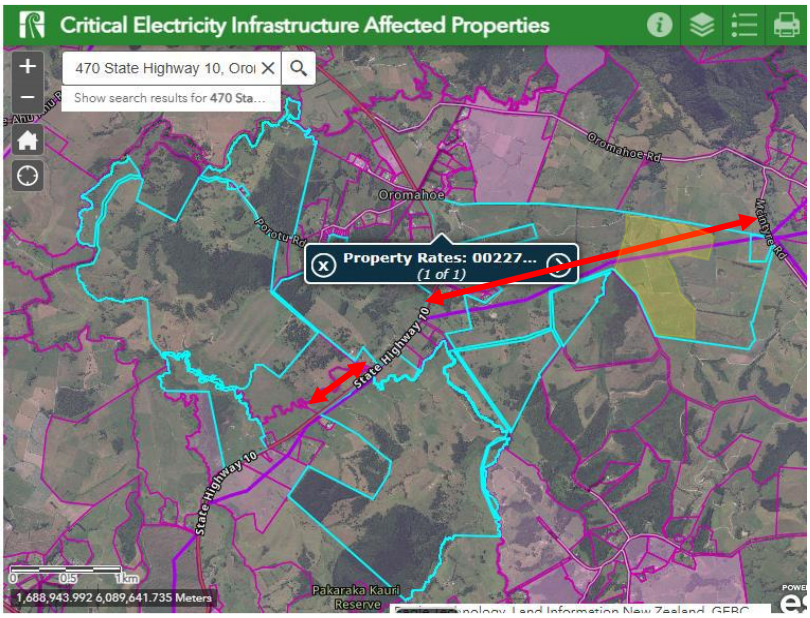
In 1962, the Māori Land Court, with some remaining landowners, consolidated these fragmented holdings into a single unit to be administered by the Department of Lands and Surveys. The intent was to farm the land and return to Māori ownership once it was economically viable. That vision was realised in 1990 when the Oromahoe Trust was formed, and the land was repurchased from the Department of Māori Affairs. By 1993, the debt incurred to reclaim the whenua had been fully repaid. This process took 30 years and was the result of sustained effort and determination from our tupuna.

Given this history, the Trust would be remiss not to challenge regulatory changes that threaten to diminish our control over our own whenua. The proposed reclassification of Top Energy's 33kV lines to Critical Electrical Line (CEL) status is an overreach that directly contradicts the principles of Te Ture Whenua Māori Act 1993. This Act is designed to protect Māori landowners' rights to retain, use, develop, and control their whenua. The proposed reclassification disregards these rights and imposes unnecessary restrictions that will hinder the Trust's future use of their lands for sustainable development.

Objection to Reclassification of 33kV Lines to Critical Electricity Lines (CELs):

Currently the Trust's whenua is utilised for beef and sheep farming, as well as forestry. The property is traversed by approximately 3.9 kilometres of Top Energy's 33kV lines, with no existing easements on the title.

Top Energy's proposal to reclassify existing 33kV lines to CEL status imposes significant constraints on our land use and development aspirations. The proposed CEL designation introduces restrictive setback requirements, including prohibitions on buildings, structures, and earthworks within 10 meters of the CEL overlay; tree planting within 20 meters; and subdivision within 32 meters of the centreline of a CEL. These restrictions directly impede our ability to pursue future developments such as gardens, horticulture, tourism ventures and papakāinga housing, which have been identified as opportunities for the economic and social well-being of our shareholders.



Trust Boundary

33 kV Lines: 3.9kms

Potential Horticulture Development

Future Development Plans

Horticulture

We are in the feasibility stage of assessing water resources and horticultural opportunities. A commissioned report from Williamson Water and Land Advisory has identified a section of our land (highlighted in yellow on the map) with high potential for horticultural development. The increased setback restrictions associated with CEL status would significantly reduce the viable area for such development, undermining our efforts to diversify land use and enhance economic returns.

Papakāinga Housing

In response to the urgent housing shortage affecting our people, the Trust is evaluating land for potential papakāinga development. The proposed CEL designation's constraints on subdivision and building within specified proximities to the power lines would hinder us in providing housing solutions for our community.

Impacts

Loss of Autonomy over Land

The reclassification would impose additional restrictions on how we manage our whenua. This could limit our ability to develop the land in alignment with our long-term strategic goals, which include sustainable farming, environmental restoration, and future economic opportunities for our shareholders.

Lack of Proper Consultation

The Trust has not been adequately consulted about this proposed reclassification, and we challenge the notification process which did not include the 33kV lines in the CEL overlay. The principles of Te Tiriti o Waitangi require any decisions that affects Māori land to be made in partnership with its owners. This has not been the case.

Precedent for Further Encroachment

If this reclassification is approved, it sets a dangerous precedent. It opens the door for additional restrictions on our whenua without our consent, further undermining our tino rangatiratanga (self-determination).

Environment

The Trust has been actively involved in environmental restoration efforts, including tree planting and sustainable land management. Increased restrictions on our land could affect these initiatives and limit our ability to engage in kaitiakitanga (guardianship) over our whenua.

Cultural Considerations

The proposed reclassification is not just a technical change—it is an infringement on the Trust's rights as Māori landowners. Te Ture Whenua Māori Act was created to prevent further alienation of Māori land and to support its owners in exercising full control over their whenua. Additionally, Te Tiriti o Waitangi affirms the Crown's obligation to protect Māori land and taonga.

We the ahi kā and our whenua have been continuously harassed and unjustly subjected to over many generations, with unacceptable European behaviours, successive government legislation, beyond our control and desire, in subjecting us to intolerable pressures and the illegal taking still, of our traditional lands today, without full consultation or collaboration as expected of a full Te Tiriti partner.

The remaining limited lands still in our possession have been fought for "tooth and nail" reclaimed through decades of perseverance by our tupuna and is being nurtured for future generations. To now have an external entity impose further restrictions without proper consultation is a hurdle we are tired of - one that continues to drain our already limited resources as we are forced to navigate it time and again. The Trust has worked tirelessly to uphold its obligation as kaitiaki and opposes the regulatory overreach that will undermine our ability to determine the future of our land.

We urge the Far North District Council to uphold our rights as guaranteed under both Te Ture Whenua Māori Act and Te Tiriti o Waitangi, and to reject this reclassification in recognition of the significant and unjust burden it places on us, the few Māori landowners, left in Aotearoa.

Oromahoe Land Owners (OLO)

The Oromahoe 18R2B2B2 Trust and its associated Hapu, Ngati Kawa, Te Ngare Hauata, Te Matarahurahu, Te Whangaurara, Ngati Kaihoro, Ngati Rahiri (Oromahoe Trust) is a member of another group that is submitting as a small collective called the Oromahoe Land Owners (OLO).

OLO has prepared planning evidence as well as its own collective lay evidence. We humbly request that both the planning evidence and lay evidence be read as supporting documents to this submission. They are attached to this document ***(Attachment 1 and 2)*** for reference.

The Planning Evidence has been prepared by Andrew Christopher McPhee of Bay of Islands Planning (2022) Limited.

Oromahoe Trust endorses Andrew's evidence in its entirety and his conclusions 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.

Oromahoe Trust also endorses these documents in their entirety, having played a key role in the preparation of the OLO lay evidence, and supports their conclusions that:

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.

Ngā mihi pouri rawa atu i tenei wa,
Nāku noa, nā

Wiremu Tane
CHAIRPERSON

Attachment 1

BEFORE HEARINGS COMMISISONERS APPOINTED

BY THE FAR NORTH DISCTRIT COUNCIL

IN THE MATTER	of the Resource Management Act 1991
AND	
IN THE MATTER	of the hearing of submissions on the Proposed Far North District Plan
SUBMITTER	Oromahoe Land Owners: AW & DM Simpson R.A.S. Ltd Arran Trust Garry Stanners Errol McIntyre SW Halliday SJ & PM Boys Oromahoe 18R2B2B2 Trust Tapuaetahi Incorporation
HEARING TOPIC:	Hearing 11 – Energy Infrastructure and Transport

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STATEMENT OF PLANNING EVIDENCE OF ANDREW CHRISTOPHER MCPHEE

14 April 2025

INTRODUCTION

1. My name is Andrew Christopher McPhee. I am a Director / Consultant Planner at Sanson and Associates Limited and Bay of Islands Planning (2022) Limited.

2. I have been engaged by Oromahoe Land Owners, who consist of AW & DM Simpson, R.A.S. Ltd, Arran Trust, Garry Stanners, Errol McIntyre, SW Halliday, SJ & PM Boys, Oromahoe 18R2B2B2 Trust and Tapuaetahi Incorporation[1] (**OLO**), to provide evidence in support of their further submission to the Proposed Far North District Plan (**PDP**).

3. I note that while the Environment Court Code of Conduct does not apply to a Council hearing, I am familiar with the principles of the code and have followed these in preparing this evidence.

QUALIFICATIONS AND EXPERIENCE

4. I graduated from The University of Auckland in 2007 with a Bachelor of Planning (Honours).

5. I began my planning career with Boffa Miskell, where I was a graduate planner until 2009. The same year I joined the Auckland Regional Council in the Policy Implementation Team. When the Auckland Councils amalgamated in 2010, I worked in a number of planning roles, leaving in 2015 as a Principal Planner in the Central and Island Planning Team.

6. I joined the Far North District Council (**FNDC**) in 2015 as a Senior Policy Planner working principally on the review of the district plan. I left FNDC in December 2023 and joined Sanson and Associates Limited and Bay of Islands Planning (2022) Limited with my co-director Steven Sanson.

7. I have been involved in a number of plan change and resource consent hearing processes in my time at Auckland Council, including as the planning lead for a number of topics for the Auckland Unitary Plan process. At FNDC I project managed private plan change 22 and was the portfolio lead for a number of topics for the PDP.

8. I am a full member of the New Zealand Planning Institute and a member of the Resource Management Law Association. In February 2024, I was certified with excellence as a commissioner under the Ministry for the Environment's Making Good Decisions programme.

SCOPE OF EVIDENCE

9. Hearing 11 addresses submission points relating to the PDP – Energy, Infrastructure and Transport topics. The s42A reports splits these matters into four reports and include:

[1] Further Submission 131

- Infrastructure
- Renewable Energy
- Transport
- Designations

10. I have been asked by OLO to provide expert planning evidence arising from their further submission points seeking amendments to provisions in the Infrastructure chapter, principally in opposition to submissions made by Top Energy[2] and their request to include 33kv lines within the consideration of Critical Electricity Lines (**CEL**) and the consequences of that relief sought in the subdivision chapter.

11. The use of the word 'upgrades/upgrading' thought the Infrastructure chapter is also questioned, including the recommendation in the s42A report to introduce a definition of 'upgrading'.

12. I note that the landholdings subject to the OLO submission site are located in Oromahoe and currently zoned Rural Production. Through the notified PDP the site is proposed to be rezoned Māori Purpose and Rural Production zone.

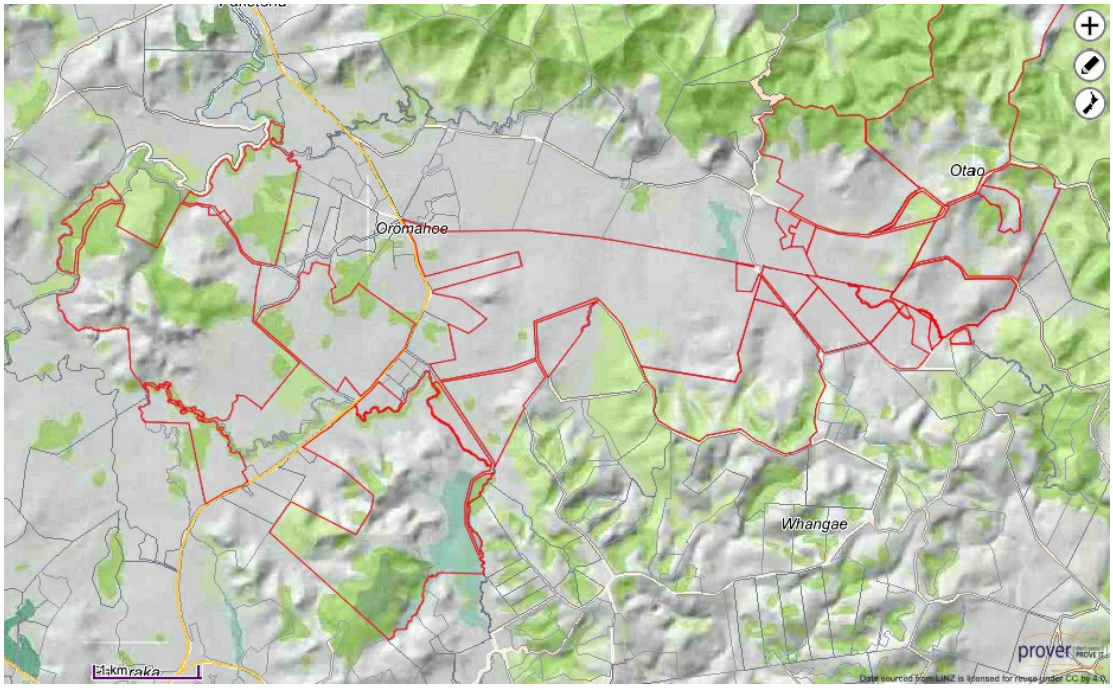


Figure 1 – Orohamoe Land Owners landholdings (source: Prover)

13. In preparing this evidence, I have reviewed the s42A reports for the Infrastructure and Subdivisions chapters. I have adhered to the instructions of hearing Minute 1 'take a lead from the s42A Report in terms of content of evidence, specifically that evidence highlights areas of agreement and disagreement with the s42A Report, outlines any

[2] Submission 483

changes in Plan wording proposed (along with the rationale for these changes) together with an assessment pursuant to S32AA of the RMA'.

ELECTRICITY LINES IN THE FAR NORTH DISTRICT

14. Principally I agree that there is benefit in mapping certain electricity lines in the PDP so it is clear from a landowners perspective where these assets are and what restrictions may apply to the property, in terms of land use and subdivision.

15. It is my understanding that Top Energy's electricity lines are not considered in the context of the National Grid. Definitions detail below that the 'National Grid' is assets used or owned by Transpower New Zealand Limited (**Transpower**).

16. Transpower provides a 110KV line to the Kaikohe substation from the south (see Figure 2 below).

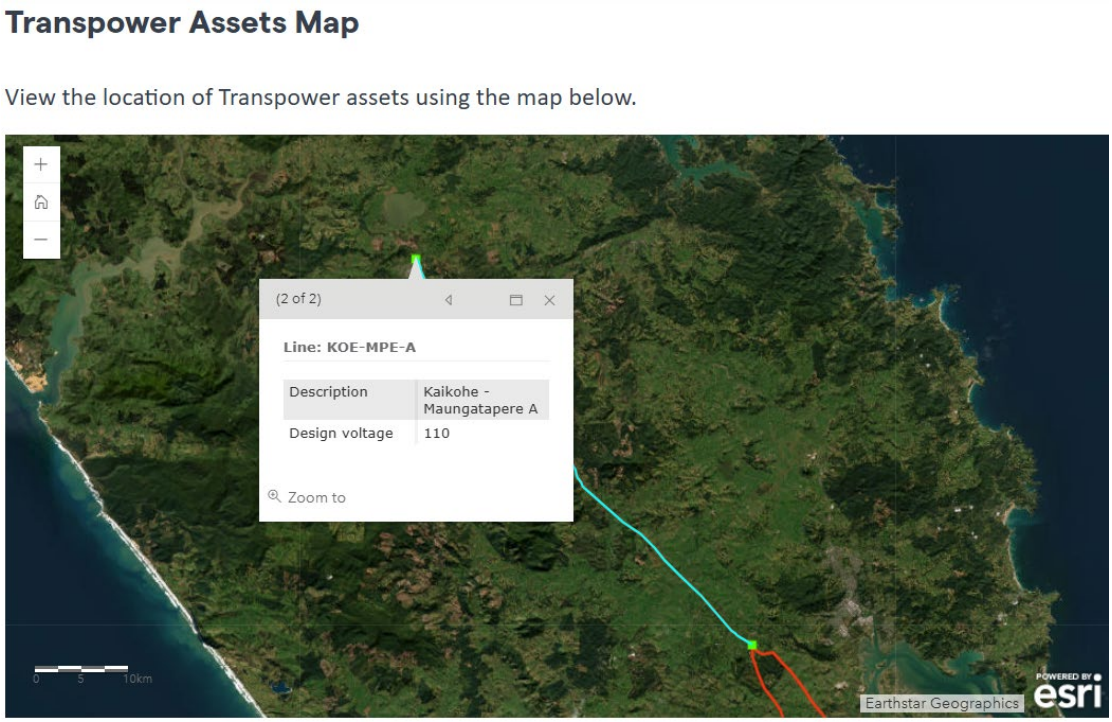


Figure 2 - Transpower Asset Map (source: Transpower)

17. Electricity line assets providing power to Far North communities are owned by Top Energy (see Figure 3 below). Noting these are not the only electricity lines owned by Top Energy and show the 110kv and 33kv lines only.

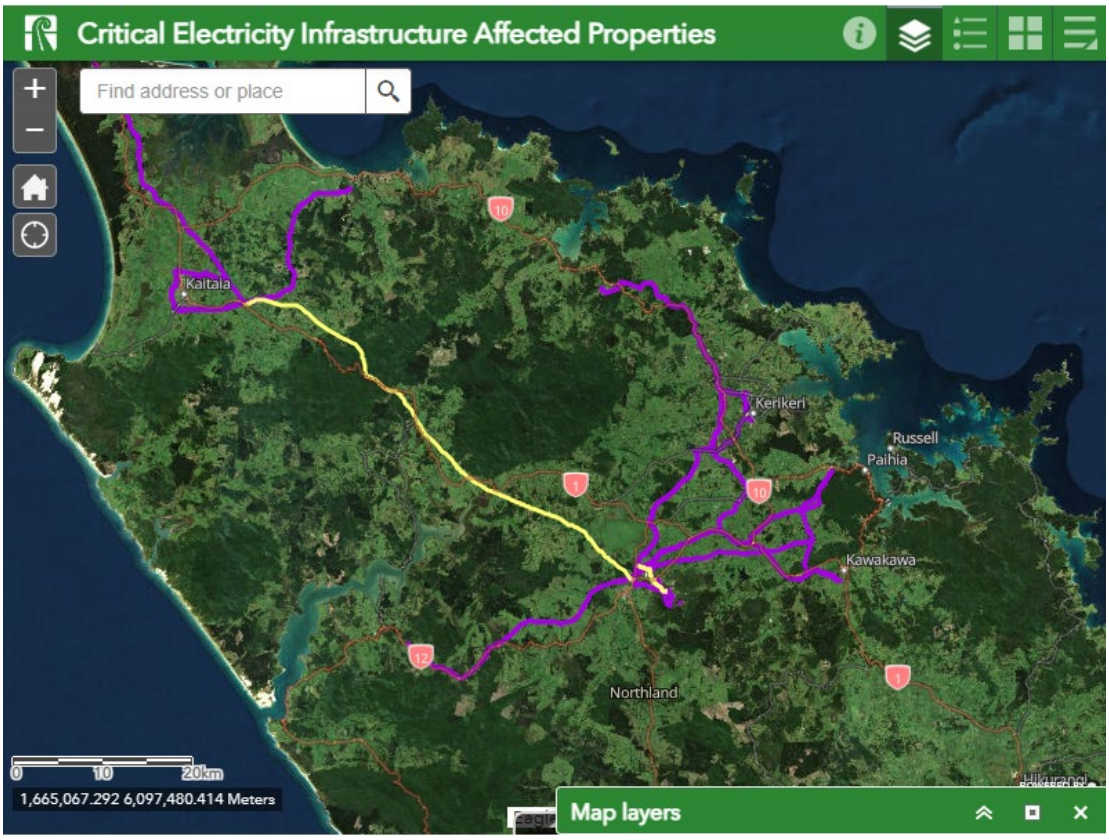


Figure 3 – Top Energy 110kv and 33kv assets (source: PDP Critical Electricy Infrastructure Map)

DEFINITNONS AND REGULATORY CONTEXT

National Grid

18. There are a number of definitions within a suite of legislation and statutory documents that refer to the National Grid. The PDP defines the National Grid as assets used or owned by Transpower New Zealand Ltd[3]. This definition was created through the PDP process and is not derived from the National Planning Standards. The same definition sits within the National Policy Statement on Electricity Transmission (**NPS-ET**)[4].

[3] PDP – Part 1 – Introduction and General Provisions: Definitions

[4] NPS-ET, 2008, Clause 3.2

National Grid Corridor

19. The PDP defines the National Grid Corridor as measured 32m from the centreline of an above-ground transmission line that is part of the National Grid[5]. This definition was created through the PDP process and is not derived from the National Planning Standards. I note the section 42A Report recommends a change to this definition to 'National Grid Subdivision Corridor' and specifically references *"...the area measured either side of the centre line of any above ground National Grid transmission line as follows: 32m of a 110kv transmission line on towers (including tubular steel monopoles where these replace steel lattice towers)..."*

National Grid Yard

20. The PDP defines the National Grid Yard as the area located 12 metres in any direction from the outer edge of a National Grid support structure and the area located 12 metres either side of the centreline of an overhead National Grid line. This definition was created through the PDP process and is not derived from the National Planning Standards.

21. I note the section 42A Report recommends a change to this definition to align with the definition and supporting diagram that was provided by Transpower during pre-hearing meetings.

CEL and CEL Overlay

22. CEL are not defined in any legislation, nor were they defined in the PDP when notified. Furthermore, this term is not mentioned or defined in the Northland Regional Policy Statement (**RPS**) or the Whangarei District Plan.

23. The definition now proposed for CEL through a recommendation in the s42A Report appears to be drawn from the Issues section of the Whangarei District Plan. The s42A Report states in paragraph 361 that this description of CEL draws on the RPS:

> *"CEL's are, or have the potential to be, critical to the quality, reliability and security of electricity supply throughout the district or region. These lines contribute to the social and economic wellbeing and health and safety of the district or region and are lines that:*
>
> - *Supply essential public services such as the hospital, civil defence facilities or Lifeline sites; or*
> - *Supply large (1MW or more) industrial or commercial electricity consumers; or*
> - *Supply 1,000 or more consumers; or*
> - *Are difficult to replace with an alternative electricity supply if they are compromised."*

[5] PDP – Part 1 – Introduction and General Provisions: Definitions

24. I consider that the recommended definition of CEL proposed through the s42A Report is problematic because the recommendation in the s42A Report to include a definition of 'CEL Overlay' specifies that all 33kv lines will by default qualify where they are identified on planning maps. It is not clear if the 33kv lines identified on the planning maps constitute all of the 33kv lines in the Far North District.

25. To my knowledge, no evidence has been provided that demonstrates that any or all the 33kv lines in the Far North fit into the four criteria referenced in the recommended new definition of CEL. Further, no clear rationale through a section 32 evaluation or subsequent 32AA evaluation has been provided to justify protection of 33kv lines akin to the protection of 110kv lines.

Upgrading

26. The term upgrading was not defined in the Interpretation Section of the PDP when it was notified. The inclusion of a definition for 'upgrading' in the PDP was relief sought by Top Energy[6]. The s42A Report recommends changes to the definition proposed by Top Energy to read *"means, in relation to infrastructure, an increase in the capacity, efficiency, safety, security or resilience of existing infrastructure"*.

27. The definition of 'upgrading' impacts a number of Objectives, Policies and Rules within the Infrastructure Chapter. A new policy (I-PX) is proposed through the s42A Report that references 'major upgrades'. There is no subsequent definition for 'major upgrades' provided, nor is the term used anywhere else in the chapter.

28. I cannot see the value in offering a definition of 'upgrading' that does not quantify scale or intensity. I-R3 - upgrading of existing above ground network utilities does this through the permitted standards, determining what upgrades are considered acceptable before requiring resource consent. These permitted standards are more useful in so far that they quantify the word upgrading and includes:

    - The realignment, relocation or replacement of a pole, tower, conductor, cross arm, switch, transformer within 5m of the existing location.
    - A replacement pole or tower is no more than 25m in height or 30% higher than the original (whichever is lesser).
    - Two additional poles for the purpose of achieving NZECP 34:2001 conductor clearance.
    - Additional cross arms no greater than 4m longer than existing.

    Through I-R3 upgrading does not include replacing a pole with a tower, or adding a tower.

[6] Submission S483.021

The National Policy Statement on Electricity Transmission (NPS-ET)

29. My interpretation of the NPS-ET is that it only applies to assets used or owned by Transpower. I draw this conclusion through the Interpretation section of the NPS-ET through the definitions of 'National Grid' and 'Electricity transmission network, electricity transmission and transmission activities / assets / infrastructure / resources / system'. The definition of 'Electricity transmission network, electricity transmission and transmission activities / assets / infrastructure / resources / system' is in reference to the 'National Grid', which refers to assets used or owned by Transpower.

Northland Regional Policy Statement (RPS)

30. Regionally significant infrastructure is defined in Appendix 3 of the RPS and includes both the 'National Grid' and 'Network Electricity Lines and Associated Infrastructure'. I agree that Top Energy's network electricity lines and associated infrastructure may fall within the definition of Regionally Significant Infrastructure.

31. I understand the importance of enabling regionally significant infrastructure, particularly in the case of the electricity network, which provides an essential service to Far North communities. It is important that these facilities are appropriately provided for within the provisions of the PDP.

32. Objective 3.6 of the RPS addresses reverse sensitivity and sterilisation and seeks an outcome to protect regionally significant infrastructure, among other things, from these effects. This objective is supported by Policy 5.1.3 which directs avoidance of adverse effects of new subdivision, use and development on the operation, maintenance or upgrading of existing or planned regionally significant infrastructure.

33. Method 5.3.4 requires regional and district councils, through their district plans to include objectives, policies, rules and other methods to implement the policies in chapter 5 of the RPS and reduce constraints on the operation, maintenance and upgrading of regionally significant infrastructure by appropriately using regionally or nationally accepted performance standards.

34. OLO landholdings have a 33kv lines traversing large areas of their collective landholdings, mainly to the east and northeast of State Highway 10.

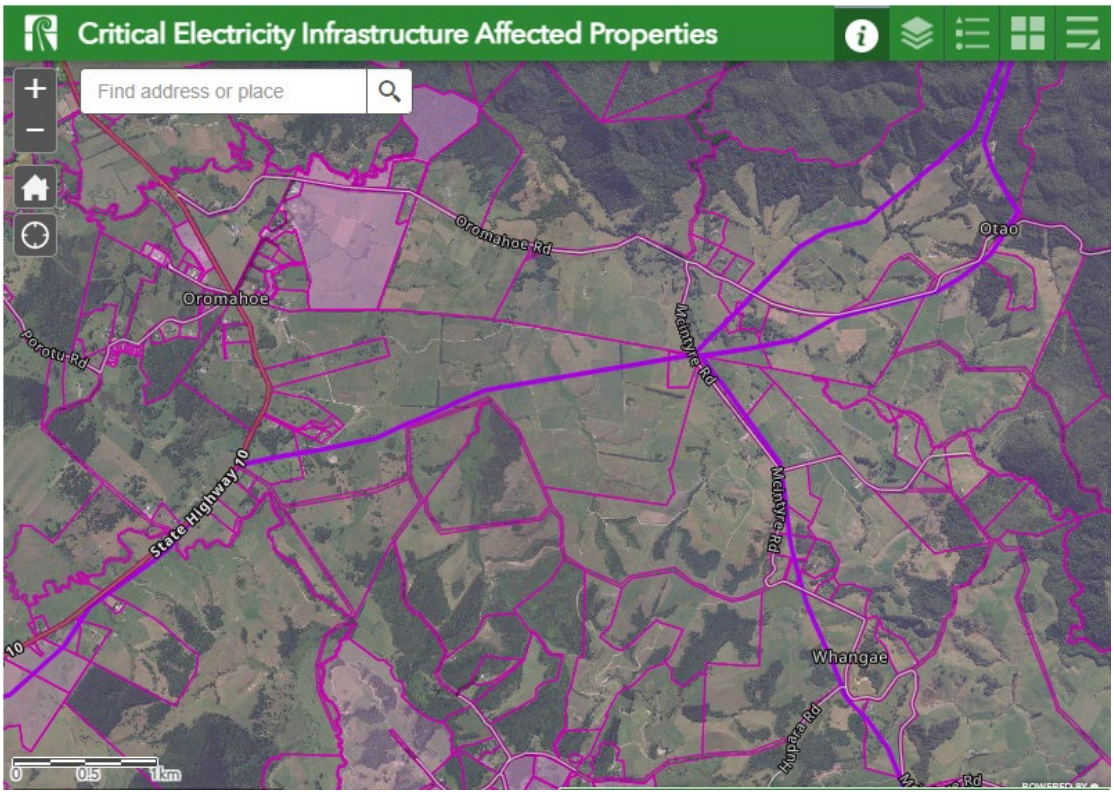


Figure 4 – Top Energy's 33kv line over OLO landholdings (source: PDP Critical Electricy Infrastructure Map)

35. While I accept there is benefit in mapping some of Top Energy's infrastructure as a method used in the PDP, I do not consider that a blanket set of provisions applied to that mapping is appropriate where:

- It has not been demonstrated that all of the lines subject to the recommended new definitions of CEL and CEL Overlay (and subsequent mapping of 110kv and 33kv lines) is appropriate;
- No section 32 or 32AA evaluation has been undertaken to justify the inclusion of 33kv lines;
- National regulation clearly demonstrates that recommended setbacks from 110kv and 33kv lines are different in terms of safe distances.

36. I have not seen clear rationale in any national or regional documentation stating that a 32m buffer from 33kv transmission lines, exceeding nationally accepted performance standards, is appropriate or necessary to enable a lines company to the operate, maintain, and upgrading regionally significant infrastructure.

New Zealand Electrical Code of Practice for Electrical Safe Distances (NZECP 34:2001)

37. Section 2.4 of the NZECP 34:2001 controls the construction of buildings/structures near overhead electric line supports. It states that no building/structure shall be erected

closer to a high voltage overhead electric line support structure than the distances specified in Table 1 (see figure 5).

TABLE 1 MINIMUM SAFE DISTANCES BETWEEN BUILDINGS AND OVERHEAD ELECTRIC LINE SUPPORT STRUCTURES

Circuit Voltage	Pole	Tower (pylon)
11 kV to 33 kV	2 m	6 m
Exceeding 33 kV to 66 kV	6 m	9 m
Exceeding 66 kV	8 m	12 m

Figure 5 – Table 1 Minimum safe distances (Source: NZECP 34:2001)

38. Section 3.3 of the NZECP 34:2001 sets out the safe distance from conductors without engineering advice for conductor spans up to 375m.

TABLE 2 SAFE DISTANCES FROM CONDUCTORS WITHOUT ENGINEERING ADVICE

Circuit voltage	Maximum span length (m)	Minimum distance beneath conductors under normal conditions (m)	Minimum distance to the side of conductors under normal conditions (m)
Not exceeding 1 kV	50	4	3.5
Exceeding 1 kV but not exceeding 11kV	80	5.5	5
Exceeding 11 kV but not exceeding 33 kV	125	7	8.5
Exceeding 33 kV but not exceeding 110 kV	125	7.5	9.5
Exceeding 110 kV but not exceeding 220 kV	125	8.5	11
275 kV d.c. & 350 kV d.c.	125	8.5	7.5
Not exceeding 33 kV	250	8	12
Exceeding 33 kV but not exceeding 110 kV	250	8.5	12.5
Exceeding 110 kV but not exceeding 220 kV	250	10	14
275 kV d.c. & 350 kV d.c.	250	10	11
Not exceeding 33 kV	375	9.5	20.5
Exceeding 33 kV but not exceeding 110 kV	375	10	21
Exceeding 110 kV but not exceeding 220 kV	375	11	22.5
275 kV d.c. & 350 kV d.c.	375	10.5	18
For all other spans		Engineering advice required	

(voltages are a.c. except where specified as d.c.)

Figure 6 – Table 2 Safe distances from conductors without engineering advice (Source: NZECP 34:2001)

39. Applying a blanket control for buildings, structures and for subdivision for both 110kv and 33kv lines is clearly a blunt tool, which goes over and above the national safety regulation in NZECP 34:2001.

PDP PROVISIONS

Infrastructure Chapter

40. PDP provision I-R12 controls 'New buildings or structures, and extensions to existing buildings or structures, and earthworks within 10m of a CEL Overlay'. The inclusion of 33kv lines within the 'CEL Overlay' definition will apply the same controls as the much larger 110kv lines.

41. As can be seen from the NZECP table in figure 5 above, for safety reasons it is not necessary to treat 33kv lines the same as 110kv lines. Provision I-R12 references NZECP 34:2001 to ensure compliance with this regulation.

42. If the decision is made to retain 33kv lines within the definition of 'CEL Overlay' then compliance should only need to accord with the NZECP 34:2001. I therefore agree with the proposed amendments in Appendix 1.1 of the s42A Report in respect of I-R12 PER-2, which allows for new buildings, structures and earthworks as a permitted activity provided that the works comply with NZCEP 34:2001.

43. PDP provision I-R13 controls 'Tree planting within 20m of a CEL Overlay'. This is controlled nationally through the Electricity (Hazards from trees) Regulations 2003. I therefore agree with the proposed amendments in Appendix 1.1 of the s42A Report in respect of I-R13, which allows for tree planting within 20m of the CEL Overlay provided that the works comply with the Electricity (Hazards from trees) Regulations 2003.

Subdivision Chapter

44. PDP provision SUB-R10 controls 'Subdivision of site within 32m of the centre line of a CEL. The s42A Report recommends a change to reference the 'CEL Overlay', which is now recommended to be defined and include mapped 33kv lines.

45. If the decision is made to retain 33kv lines within the definition of 'CEL Overlay' then consideration of setbacks or a buffer should be based on the recommended setbacks under national regulations.

46. The s42A Report has recommended through Appendix 1.1 that new buildings or structures can be placed within 10m of a CEL Overlay as a permitted activity provided that prior to works, notification is provided to Council that the building or structure complies with the safe distance requirements in the NZECP 34:2001.

47. The permitted standard for buildings and structures applied in I-R12 does not translate into the subdivision standards for SUB-R10. I therefore do not agree with the s42A Report writer, where it is recommended that the setback for a building platform be at least 10m

from CEL Overlay as a restricted discretionary activity. If at the time of subdivision proposed building platforms can demonstrate safe setback from the CEL Overlay in accordance with NZECP then this should not require any further consideration. This consideration would be akin to the requirement at subdivision to demonstrate a 14m x 14m or a 30m x 30m building allotment. These building allotments need to demonstrate appropriate setbacks from CEL overlay in accordance with NZECP 34:2001.

48. As such I do not agree with the rationale for making subdivision within 32m of the centre line of a CEL Overlay a restricted discretionary activity where safe setback in accordance with NZECP 34:2001 can be achieved. If the section 42A Report recommends a permitted activity for a new building to be placed within 10m of the CEL Overlay through I-R12, where compliance is met with NZECP 34:2001, there is no apparent reason why consideration over and above a controlled activity status is necessary.

49. I therefore recommend the following changes to SUB-R10 (The amendments are shown in ~~strikethrough~~ and underline).

SUB-R10	**Subdivision of site within 32m of the centre line of a Critical Electricity Line Overlay**	
All zones	**Activity status~~: Restricted Discretionary~~ Controlled** **Where**: **~~RDIS~~CON- 1** Proposed building platforms are identified for each allotment~~ and~~ demonstrating compliance with NZECP 34:2001 in conjunction with SUB-S2. ~~located at least 10m from Critical Electricity Lines Overlay (except where the allotments are for roads, esplanades, accessways and infrastructure).~~ **Matters of ~~discretion are restricted~~ control are limited to:** ~~a. the safe and efficient operation and maintenance of the electricity supply network;~~ ~~b~~a. the location of any future building platform and access as it relates to the critical electricity line; ~~c~~b. effects on access to critical electricity lines and associated infrastructure for inspections, maintenance and upgrading purposes; ~~d. the extent to which the subdivision design allows for any future sensitive activity and associated buildings to be setback from the critical electricity line;~~ ~~e~~c. the mature size, growth rate, location, and fall zone of any associated tree planting;	**Activity status where compliance not achieved with ~~RDIS~~CON-1: Discretionary**

	~~f. including landscape planting and shelterbelts;~~ ~~g~~d. compliance with NZECP 34: 2001 New Zealand Electricity Code of Practice for Electricity Safe Distances; ~~h. effects on public health and safety; and~~ ~~i. the outcome of any consultation with the owner and operator of the potentially affected infrastructure.~~	

TOP ENERGY SUBMISSION

50. While I agree with the statement in the Top Energy submission that *"Mapping CEL will provide certainty to Council and landowners as to the location of these lines. When undertaking subdivision and development, these lines will be clearly identifiable..."* The rationale that follows point blame at the *"ad hoc implementation of the Electricity (Hazards from Trees) Regulations 2003 and New Zealand Code of Practice for Electrical Safe Distance Regulations"*.

51. These documents referenced in this statement within the Top Energy submission are national regulations, which I agree should be followed and referenced in district plans to ensure that subdivision and development is undertaken in accordance with the thresholds set in these documents.

52. The recommendations in the s42A Reports associated with provisions I-R12 and I-R13 align with these documents, which have now been referenced appropriately within the recommend changes to the provisions in the PDP. However, as expressed above, I do not consider that it necessary for Subdivision in SUB-R10 to apply a restricted discretionary status to subdivision where proposed building platforms are identified for each allotment where they can demonstrate a safe distance from the CEL Overlay in accordance with NZECP 34:2001.

53. I do not consider that there is a need to include provisions in the PDP that go over and above the thresholds set by national regulation. In principle, district plans should not be regulating something that is already regulated.

54. In my view the proposed changes to provisions I-R12 and I-R13 recommended in the s42A Report provide adequate consideration of Top Energy's requirements.

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

SECTION 32AA EVALUATION

Effectiveness and Efficiency

56. Enabling landowners to undertake subdivision, use and development while appropriately accommodating regionally significant infrastructure, is an effective and efficient method in achieving the purpose of the RMA.

57. The proposed changes will provide better certainty for landowners by clearly enabling them to proceed with development that is compliant with existing national regulations.

58. Applying appropriate activity status to land use and subdivision will reduce administrative burden on both landowners and council by avoiding unnecessary consent processes.

Costs/Benefits

59. The economic and social benefits include greater certainty and efficiency in using their land within the applied zone framework, while appropriately considering regionally significant infrastructure and national regulations.

60. There will be a reduction in consenting costs as permitted activities need to demonstrate compliance with national regulation. A controlled activity subdivision is less onerous financially but still has to demonstrate the effects on access to critical electricity lines and associated infrastructure for inspections, maintenance and upgrading purposes.

Risk of Acting or not Acting

61. The risk of not acting is that there is the potential for land use and subdivision to be unfairly hamstrung by PDP provisions that go above and beyond national regulations.

CONCLUSION

62. I am of the opinion that no justification has been provided to treat 33kv lines the same as 110kv lines within the provisions of the PDP.

63. The recommended inclusion of a definition for CEL is problematic insofar that it is not easily discernible which of Top Energy's lines fall within this definition, and the subsequent recommendation to include a definition of CEL Overlay, including 33kv lines, lacks an appropriate evaluation to do so.

64. The proposed new definition for upgrading does not add anything to the interpretation of the Infrastructure Chapter, as there are no quantification of scale or intensity.

65. The proposed 32m buffer for CEL Overlay in the subdivision chapter is inconsistent with national regulations and imposes unnecessary land-use restrictions.

66. Existing regulations under NZECP 34:2001 and Electricity (Hazards from trees) Regulations 2003 provides sufficient protection when appropriately referenced within the provisions of the PDP. In principle, district plans should not be regulating something

that is already regulated. Top Energy already has the ability through legislation to operate, maintain, and upgrading regionally significant infrastructure.

67. If a decision is made to retain 33kv lines within the definition CEL Overlay, then:

- the recommendations proposed by the s42A Report for I-R12 and I-R13 are supported; and
- the recommendations proposed in my evidence for SUB-R10 are supported as a controlled activity.

Attachment 2

Oromahoe Land Owners (*Submitter #FS131)*
protectlandrights@gmail.com **(*Submitter #FS131)***
calf_mum@yahoo.co.nz ***(Submitter #FS151)***
Garry.Stanners@xtra.co.nz ***(Submitter #FS242)***
StephenBo@stjohn.org.nz
swedesaver@gmail.com **(*Submitter #FS541)***
my-bil@xtra.co.nz **(*Submitter #FS371)***
mariao@tapuaetahi.com ***(Submitter #FS449)***

14 April 2025

By Email

Attention:
The Hearing Commissioners
Hearing 11: Energy, Infrastructure, Transport & Designations.
Proposed District Plan
Far North District Council

RE: Lay Evidence Submission for Oromahoe Land Owners to the Proposed Far North District Council District Plan, Hearing 11: Energy, Infrastructure, Transport & Designations.

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

Tihei Mauriora!

Introduction

This submission is prepared by the Oromahoe Land Owners (OLO) in opposition to Top Energy's submission seeking to have their lines overlaid in the Proposed Far North District Council Plan (PDP) as critical electricity lines (CELs).

OLO believes that Top Energy, a privately owned distribution lines company, is using the District Planning process as an instrument to effectively achieve legal easements, with extended rights and powers, for their 33kV lines on private property, akin to Transpower and the national grid.

If this were achieved, notwithstanding the impact on personal property rights of landowners in favor of the interests of a private company, OLO believes that Top Energy would circumvent current legislation and rules in the Resource Management Act (RMA) and the Electricity Act 1993, which seek to balance public and private interests.

OLO believes that the current legislation and standards (Electricity Act 1993) are adequate, and the CEL overlay is an overreach, setting unnecessarily difficult standards for landowners.

If Far North District Council is determined to include a CEL overlay in the District Plan that encompasses the 33kV lines, we believe the decision should be deferred until a proper notification process has been undertaken with all affected landowners across the Far North District.

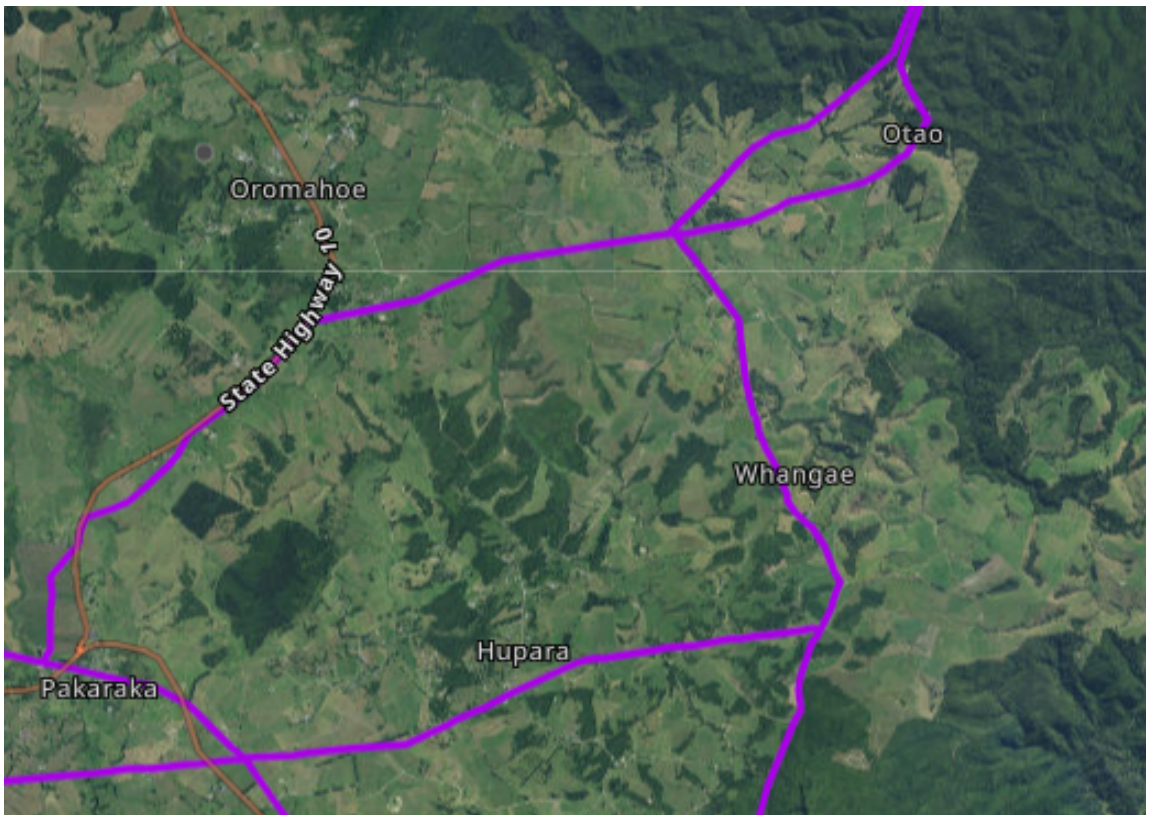
Given the extent of the potential loss of personal property rights for landowners, we feel the District Planning process has let us down by providing only a very short and limited notification process—some 12 months after the initial notification of the Proposed District Plan. We believe this is reflected in the number of affected landowners who remain unaware of the submission by Top Energy to the PDP and its impact on their private interests.

Oromahoe Land Owners

Oromahoe Land Owners (OLO) is a small group of six concerned and affected landowners located in the Oromahoe district. We are neighbors who have come together to share information and resources in an effort to understand Top Energy's submission in the Proposed District Plan (PDP) and the ramifications it might have on our properties and private interests.

We are:

- Errol McIntyre;
- Arran Simpson;
- Garry Stanners;
- Steven Boys;
- Oromahoe Farm Trust (Bill Tane);
- Tapuaetahi Incorporation (Mariao Hohaia).



Our group includes the Oromahoe Farm Trust, a trust made up of various local mana whenua hapū: Ngāti Kawa, Te Ngare Hauata, Te Matarahurahu, Te Whanaurara, Ngāti Kaihoro, and Ngāti Rahiri. Also in our group are families with a long history in the area, such as the McIntyre, Simpson, and Stanners families.

Our properties collectively make up approximately 2,395 hectares of land zoned for rural production, primarily used for farming (sheep, beef, dairy) and forestry. Across this land, we have a combined 17.45 km of 33kV lines.

Background (As We Understand It)

In 2008, the central government directed Regional Councils, through their National Policy Statements (NPS), to map regionally significant infrastructure assets for protection, maintenance, and future upgrading in the nation's interests. Electricity line assets are commonly referred to as "The National Grid."

The collective understands that this directive in the NPS was specifically for Regional Councils to protect the National Grid but was not intended for local distribution lines—those smaller than 110kV. This was highlighted by Transpower in their submission to the Far North District Council (FNDC) on the Proposed District Plan (PDP).

Following the ratification of the NPS, the Northland Regional Council (NRC) adopted the policy in their new Regional Policy Statement (RPS), incorporating a series of statements under Section 3.7, headed "Regionally Significant Infrastructure." In this section, they outline the criteria they believe are appropriate for protection, maintenance, and upgrading under Section 2 of the Resource Management Act (RMA).

Interpretations

In NRC's policy statement 5.3.5(b), it directs that its district councils identify (map) and implement necessary rules to protect National Grid infrastructure. They also suggest that local councils consider whether "There may be value" in doing the same for local distribution networks, even though it is not a legal requirement.

shop'. This will help ensure that adverse effects on regionally significant infrastructure are not inadvertently missed when considering a development proposal. It will also help ensure that the adverse effects of that piece of infrastructure are also considered. The record will be based upon Appendix 3.

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

Upon reviewing the Section 32 Report, it appears FNDC has interpreted "There may be value" as a directive—when in fact, it was merely a suggestion, not a requirement from NRC in the NPS. This is where Top Energy's submission, and all that it seeks, has arisen from.

> 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.

Notice

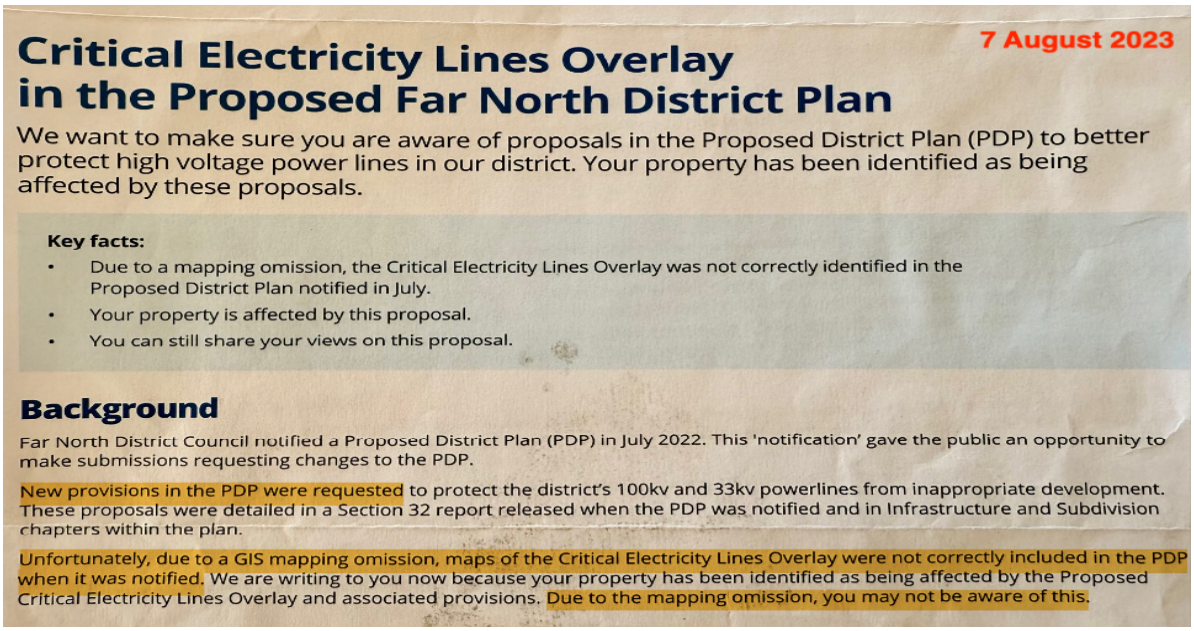
Since FNDC was not legally required to map the 33kV lines as CELs, we are uncertain whether FNDC originally intended to include the overlay in the initial PDP. When it was later decided to include it,12 months after the PDP notification, it was purported that the initial omission was due to "a GIS mapping omission error."

What a "GIS mapping omission error" (resulting in such a large omission from the initial plan) actually means in layman's terms remains unclear. However, it was not a small or minor issue, as the wording might imply.

How does something this significant, which affects landowners, get missed? Should something that impacts existing rights not require greater notice and a clear explanation of its impact on affected owners? Instead, some affected owners were given just four weeks (until 4 September 2023) to grapple with the intricacies of the subject and its ramifications on their properties, before even considering employing assistance and making a submission. And this is if they understood the notice.

Some affected owners received no notice at all.

Members of our group had as little as five days' notice (including a weekend) to prepare a further submission. This required us to drop everything and prioritize the submission. Due to the lack of clear information on the implications for affected owners, it was difficult to unpack and not feel overwhelmed. This is evident in the nature of some of those submissions.



7 August 2023

Critical Electricity Lines Overlay in the Proposed Far North District Plan

We want to make sure you are aware of proposals in the Proposed District Plan (PDP) to better protect high voltage power lines in our district. Your property has been identified as being affected by these proposals.

Key facts:

- Due to a mapping omission, the Critical Electricity Lines Overlay was not correctly identified in the Proposed District Plan notified in July.
- Your property is affected by this proposal.
- You can still share your views on this proposal.

Background

Far North District Council notified a Proposed District Plan (PDP) in July 2022. This 'notification' gave the public an opportunity to make submissions requesting changes to the PDP.

New provisions in the PDP were requested to protect the district's 100kv and 33kv powerlines from inappropriate development. These proposals were detailed in a Section 32 report released when the PDP was notified and in Infrastructure and Subdivision chapters within the plan.

Unfortunately, due to a GIS mapping omission, maps of the Critical Electricity Lines Overlay were not correctly included in the PDP when it was notified. We are writing to you now because your property has been identified as being affected by the Proposed Critical Electricity Lines Overlay and associated provisions. Due to the mapping omission, you may not be aware of this.

As noted in Top Energy's initial submission, through a series of meetings with FNDC, that excluded stakeholders (who are the land owners which the lines traverse), FNDC elected to include 33KW lines as CEL's in the PDP.

It is further noted discussions have since been held in the PDP hearing process with the commissioners presiding over the infrastructure section of the PDP.

It is pleasing to note that the commissioners have taken balance approach in the s42a report and not accepted a number of Top Energies submissions which would override the national standards and requirements.

Current Legislation

Oromahoe Land Owners (OLO) are deeply aggrieved by what Top Energy is proposing in their submission regarding the impacts on private use rights and property of landowners with Top Energy's lines on or near their land.

OLO believes that Top Energy is seeking to embed its future development plans in the District Plan to achieve extended rights and powers over private property akin to Transpower and the National Grid. From our inquiries, it appears Top Energy, in its submissions to the Proposed District Plan (PDP), is attempting to exceed national guidelines for 33kV lines and disregard the Resource Management Act (RMA).

This is unacceptable, and FNDC should not approve the inclusion of Top Energy's distribution network as part of the PDP. In our opinion, by doing so, Top Energy would be enabled to use the PDP as an instrument to establish a utility easement under the guise of a Critical Electricity Line (CEL) by way of being mapped (physically recorded) and restrictions put in place above current legislative requirements which would identified in the new plan. As we understand, any new transmission lines installed post-1993 must be registered easements over private property and, in most cases, have been duly compensated for.

OLO believes that the current legislation and standards, specifically the Electricity Act 1993, are adequate, and the CEL overlay represents an overreach, setting unnecessarily difficult standards for landowners.

If FNDC adopts Top Energy's rationale for including 33kV lines as CELs, then we believe they will circumvent existing legislation and rules in the RMA and Electricity Act 1993—effectively forcing affected landowners (who fund council legal disputes through their rates) to contest the legality of these changes and seek compensation.

Further to this, it is also not totally clear that the directive given to the FNDC to identify Regionally Significant Infrastructure by the NRC in the NRPS 5.3.5{B} is meant to include 33kv lines as their legal, physical and very existence could change over time.

We cannot help but wonder whether delays to power line work on some of our properties have been postponed until the PDP overlay is completed, allowing Top Energy to undertake significant upgrades without compensation, as would normally be required under the Electricity Act 1993.

In Top Energy's submission to the PDP (483-17), an "upgrade" is defined as: "An increase in the capacity, efficiency, or security of existing infrastructure."

What Top Energy is asking for in its submission, reclassifying 33kV lines as CELs, constitutes a significant upgrade beyond the existing provisions of the Electricity Act 1993.This upgrade would impose excessive restrictions on landowners' current land use, resulting in higher compliance costs, loss of income, and limitations on future development.

We firmly believe that any change to the rights and powers that benefits a distribution company, at the expense of landowners, should be properly compensated. Any compensation should accurately reflect future losses and land potential to landowners and include formal agreements (akin to a lease format) to prevent future disputes or ambiguity regarding what new powers or rights the company might claim.

Status Quo and Perceived Future Impact

Top Energy already has adequate protection in place through existing legislation, specifically the Electricity Act 1992,for its 33kV lines. The Electricity Act 1992 ensures that all transmission lines erected prior to 1993 retain their powers and rights for continued occupation and operation.

These rights (as they relate to the concerns of our group of landowners and the matters we are deeply vexed about) are fundamental:

- 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.

We further believe that Top Energy is attempting to apply policy statements and land use criteria originally defined for the National Grid to its 33kV lines. From our enquiries, it appears that Top Energy, in their submission to the Proposed District Plan (PDP), are seeking to exceed national standards for protection criteria while disregarding the guidelines of the Resource Management Act (RMA).

Some additional future impacts we have identified, if Top Energy succeeds in its objectives within FNDC's PDP process, are:

- 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.

All of this would result in significant losses to private property rights, with Top Energy gaining disproportionate commercial benefits over landowners.

Conclusion

As outlined above, there are serious concerns regarding natural justice in relation to the CEL overlay and its impact on affected parties such as OLO.

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

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

Tapuaetahi Incorporation and Oromahoe Farm Trust are part of the Tai Tokerau Māori Farms collective, which makes up several thousands of hectares of land. Many affected landowners within this collective were unaware of Top Energy's submission and its consequences for their properties. Unfortunately, our attempt to notify them came too late, as (in many cases) the email was sent late on a Friday afternoon and not discovered until Monday.

Within our OLO collective, one of our members, Steve Boys, was also not notified and was instead informed by his neighbors. Due to his work commitments, the five-day notice period before the submission deadline was too short, preventing him from submitting an individual response.

Steve's property is located within Tapuaetahi Incorporation farm, adjacent to McIntyre Road, and has a 33kV line running directly through the middle of his 16-hectare property.

Steve is a clear example of how a poor notification process for affected owners can result in the removal of personal property rights, without their knowledge. Like many OLO members, Steve would not have been able to properly participate in the process alone with legal or planning support due to the cost for these to be procured *(See Appendix 1)*.

The process is hugely restrictive for the average ratepayer who might be affected, given the complexity of understanding the issues and putting forward a credible case.

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. Given this is a planning process, we resolved to forgo legal representation for now and do our best using lay evidence.

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.

APPENDIX 1 – Example of prohibited process for affected parties (Steve Boys)

Oramahoe Land Owners
Protect Our Land
Sunday, April 13, 2025

Kia ora

A little introduction with regards to myself and my partner. Patricia and I have two adult children and four beautiful granddaughters. For the past 19 years I have been working in Te Tai Tokerau for St John as a district relief paramedic. Patricia is currently working for City Safe in Whangarei, she loves her job and as she describes it as like being the ambassador for the Whangarei district douncil.

Nine years ago, Patrica and I started looking for a property to future proof our family needs. Fortunately, we found a property which suited our needs as a whanau, which is situated at 404 McIntyres road, Kawakawa. We intended to farm our land building up a specialized breed of cattle, but before that we invested heavily in infrastructure that would allow us to achieve this. We also recognized the need for our extended whanau to potentially have an opportunity to achieve gaining independence by establishing a dwelling or dwelling on our land, (papakainga) and that further thought was why we purchased this property.

Initially we became aware through one of our neighbors, of the proposed changes that Top Energy submitted in the Far North Councils proposed District plan. That proposal involved Top Energy wanting to extend the limitations on what is permitted in and around the existing 33Kva lines that dissects our property. We the had the opportunity to join a group which includes, Tapuaetahi Incorporation, A and D Simpson, Garry Stanners, Errol McIntyre, and Oromahoe Trust.

This group has made a submission as well as individual submissions to the council. As Patricia and I have a small holding, with the fact that we do not rely on our property for an income, we find ourselves fortunate to be involved with our group of neighbors as this allows us to have a voice. Most likely if it was not for this group, Patricia and I would not financially be in the position to question the proposed changes that Top Energy has submitted.

The points of Patricia and I are concerned with is that the current 33kva line runs straight through our property which effectively dissects it in half. With the proposed restrictions that Top Energy is indicating, it will directly impact on any plans that we may have in the future. That could include but not limited to, housing sites for the whanau, potential subdivision, planting of trees and any form of future development that might be considered in the future.

Furthermore, the word "upgrade" within Top Energy's proposal, what that could entail is up for debate as according to the Oxford Languages Dictionary of either "an act of upgrading something" or "raise (something) to a higher standard, in particular improve (equipment or machinery) by adding or replacing components." In my view this statement of the word "upgrade" is full of conjecture as it could mean that a part of Top Energy's future could include an upgrade of the existing 33Kva poles to a more suitable and substantial pole or poles.

A point of conjecture is that in our opinion that there has been distinct a lack of transparency through the lack of communication on the behalf of Top Energy, has been to all the properties throughout Te Tai Tokerau, has been strategically placed through the process of the Far north council's district plan. Also, on our land title, there is no evidence of the existing 33Kva lines, which leads me to believe that there is no easement.

In conclusion this proposal could/will directly affect any plans that Patricia and I might have.

We are also concerned that a private company/trust can expand their rights to conduct their business on our and other parties' property which is not owned, leased or otherwise to them (Top Energy), without any consideration to or any obligation to the landowner or landowner's.

We implore that the council considers the potential ramification if Top Energy's proposal could and will influence the future of our land as well as the many other landowners that are unaware of the restrictions that they could and will encounter if it passes and goes ahead.

Nga mihi

Steve Boys.