

**FURTHER SUBMISSION ON THE PROPOSED FAR NORTH DISTRICT
PLAN**

FS448

Clause 8 of Schedule 1 to the Resource Management Act 1991

To: Planning and Policy
Far North District Council
Private Bag 752
Kaikohe 0440

Name of Further Submitter: L & T Property Investments Limited

Introduction

1. L & T Property Investments Limited (“**L & T**” or “**the Further Submitter**”) makes this further submission on the Proposed Far North District Plan (“**the PDP**”).
2. L & T has an interest in the PDP that is greater than the interest of the general public has as the submission of Top Energy introduces site specific constraints to its landholding at 1945 State Highway 10, Waipapa (Lots 1 and 2 DP 177522).
3. We understand that the FNDC included maps showing the ‘Critical Electricity Lines’ in the PDP as notified in July 2022, being the district’s 100kv lines, and provisions in the PDP relating to Infrastructure and Subdivision.
4. In its primary submission, Top Energy has sought that 33kv lines also be included in the ‘Critical Electricity Lines’ Overlay. FNDC has updated the proposed maps and invited further submissions in this regard.
5. The Overlay now applies to L & T’s property at 1945 State Highway 10, Waipapa, when it previously didn’t (as notified).
6. Firstly, L & T records that in its view, the inclusion of the 33kv lines within the ‘Critical Electricity Lines’ Overlay and associated changes to the PDP maps is beyond the scope of the PDP as notified and the use of the further submission process to seek comments from affected landowners is inappropriate. As such, the proposed change in extent of the ‘Critical Electricity Lines’ Overlay necessitates a variation to the PDP, rather than relying on the further submission process, which in this case, unduly constrains the scope of a submission by an affected landowner.
7. In the absence of that variation process and the opportunity to provide meaningful submissions on the introduction of the Overlay to the site, the following background is provided to assist the Panel with an understanding of the site and the development aspirations of the Further Submitter, and the implications of the Overlay therefore.

Background

8. The property at 1945 State Highway 10, Waipapa is proposed to be rezoned to Heavy Industry under the PDP.
9. The amended PDP maps now show the 'Critical Electricity Lines' Overlay traversing the rear boundary of the site, as shown in purple in Figure 1.
10. The north eastern frontage of the site is occupied by Allied Petroleum which provides 24/7 fuel to surrounding rural and industrial activities. The balance of the site is occupied by the CLL, an entity owned by the Submitter. CLL uses the site for the storage and transportation of construction materials required to service their various projects across the Far North. Currently, the site is used as a storage and logistical base for the company's involvement with the reconstruction of public infrastructure that was damaged during flood events in early 2023, and for the associated logistics of that activity. This involves the presence of tall cranes (up to 40m in height) to load and unload the pipes onto trucks.
11. However, L & T is currently in the process of redesigning the site to enhance the efficiency, operation and safety of existing and future/new activities which will include the construction of new buildings and earthworks. L & T therefore seeks to underground the electricity lines as they currently pose a significant safety hazard when operating the site in accordance with activities that are permitted in the Industrial zone (and proposed Heavy Industry zone), including the use of large cranes.
12. Overall and in summary, L & T seeks to ensure that the PDP facilitates the safe and efficient redevelopment and operation of the site in accordance with the expectations of the Heavy Industry zone.

Figure 1 – Proposed Critical Electricity Lines Overlay (purple) (site in red)



Reasons for further submission

13. The submissions that L & T supports or opposes are set out in the table attached at **Appendix 1** to this further submission.
14. The reasons for this further submission are:
 - a) Firstly, the appropriate procedure to change the extent of the 'Critical Electricity Lines' Overlay as shown on the planning maps is a variation to the PDP (rather than via the further submissions process);
 - b) L & T oppose the inclusion of the 33kv lines within the 'Critical Electricity Lines' Overlay and seeks that the planning maps revert to the version as notified; and
 - c) If the 33kv lines are to be retained as part of the 'Critical Electricity Lines' Overlay, L & T seeks to ensure that the planning framework enables those lines to be undergrounded to facilitate the safe use of the site (above ground), and to enable land use to occur in accordance with the anticipated outcomes of the zone proposed by the PDP.
15. For completeness, L & T consider it is appropriate for land use and development to be carried out in accordance with the Electricity Act 1992 and associated regulations (NZECP 34:2001, the Electricity (Hazards from Trees) Regulations 2003 (SR 2003/375), and the Electricity (Safety) Regulations 2010), but does not consider it is necessary to constrain development over and above this.
16. Without limiting the generality of the above, the specific relief in respect of each Primary Submission that is supported or opposed is set out in **Appendix 1**.
17. Owing to the procedural process adopted by FNDC to resolve the location of mapped infrastructure and associated planning framework via further submissions as opposed to a variation, the Further Submitter reserves the right to present evidence at the hearing accordingly.
18. The Further Submitter wishes to be heard in support of this further submission.
19. If others make a similar submission, the Further Submitter would consider presenting a joint case with them at the hearing.

DATED at Auckland this

4th

day of **September 2023**

Signature:

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Appendix 1 – Further Submission Table

Provision / Chapter Topic	Submitter Name	Submission Point Number	Submission Position	Summary of Decision Requested (Decision Sought)	L & T Property Investments Ltd response (support or oppose)	L & T Property Investments Ltd reasons	Decision(s) sought (allow or disallow)
General / Plan Content / Misc	Horticulture New Zealand	S159.033	Oppose	Define critical electricity lines	Support	L & T Property Investments Ltd agrees a definition of 'Critical Electricity Lines' is required.	Allow FS448.001
General / Plan Content / Misc	Top Energy	S483.188	Not stated	Insert provisions protecting all 'Critical Electricity Lines' (CEL), i.e. extend the provisions applying to 110kv lines to also include 33kv lines [inferred, this also includes amending the mapped overlay to include 33kv lines]. Insert a new chapter addressing the provisions pertaining to the CEL overlay.	Oppose	L & T Property Investments Ltd oppose any provisions that include 33kv lines within the 'Critical Electricity Lines' Overlay.	Disallow FS448.002
Infrastructure	Top Energy	S483.037	Support	Retain Objective I-O5.	Support	Objective I-O5 recognises infrastructure is to be integrated with land use (rather than the other way around) and that infrastructure is to be coordinated at the time of subdivision and development (and not the other way around). The wording as drafted reinforces that infrastructure is intended to <u>provide for</u> planned growth and development and the Further Submitter supports this accordingly.	Allow FS448.003
Infrastructure	Top Energy	S483.039	Support	Amend Policy I-P1 as follows: Provide for the continued operation, <u>repair</u> , maintenance, upgrading and replacement of existing infrastructure.	Support	L & T Property Investments Ltd supports this relief as it provides for the repair, maintenance and upgrading of infrastructure, which could indeed facilitate the undergrounding of electricity lines in order for development and infrastructure to give effect of the outcomes stated elsewhere in the Infrastructure chapter.	Allow FS448.004

Infrastructure	Top Energy	S483.043	Support	Retain Policy I-P5.	Support	<p>Policy I.P5 requires infrastructure to be delivered at the time of land use, subdivision and development so that land use and infrastructure is integrated, efficient and aligned.</p> <p>L & T Property Investments Ltd supports the policy as notified as it requires that development must also be efficient, therefore requiring infrastructure to facilitate and integrate, rather than “trump”, the use, development and subdivision of land. This acknowledges that the overarching purpose of the infrastructure network is indeed to deliver and facilitate use and development, i.e. there is no need for the infrastructure network without land use.</p>	<p>Allow</p> <p>FS448.005</p>
Infrastructure	Horticulture New Zealand	S159.032	Oppose	<p>Amend Policy I-P7 as follows:</p> <p>Protect <u>Ensure that</u> regionally significant infrastructure from the effects of <u>is not compromised by</u> incompatible land use and subdivision, use and development, including reverse sensitivity effects, which may compromise the operation and capacity of infrastructure by:</p> <p>...</p> <p>5. managing land-use and subdivision activities in proximity to Critical Electricity Lines to:</p> <p>i) retain the ability for the network utility operator to access, operate, maintain, repair and upgrade the line</p>	Support	<p>L & T Property Investments supports the changes to Policy I-P7 as it recognises that in many instances, the Critical Electricity Line Overlay is located private land, and clarifies that the provisions only apply to regionally significant infrastructure.</p>	<p>Allow</p> <p>FS448.006</p>

				<p><u>recognising that some lines may cross private land;</u></p> <p>ii) ensure that future buildings and building alterations, earthworks, planting trees 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>6. managing other activities, through setbacks and design controls where necessary, to achieve appropriate protection of local, regional and nationally significant infrastructure.</p> <p>7. managing other activities, through setbacks and design controls where necessary, to achieve appropriate protection of local, regional and nationally significant infrastructure.</p>			
Infrastructure	Top Energy	S483.045	Support	Amend Policy I-P7 as follows: Protect <u>nationally and regionally significant infrastructure and local infrastructure</u> from the effects of incompatible land use and subdivision, including reverse sensitivity effects, which may compromise the operation and	Oppose	L & T Property Investments Ltd oppose the reference to the mapped Overlay in Policy I-P7. For completeness and with reference to the wider submission of Top Energy, L & T Property Investments does not support the inclusion of 33kv lines in the Critical Electricity Lines Overlay, either on the maps or by definition. It considers that site-by-site consideration of the integration of land use and infrastructure can be appropriately managed	Disallow FS448.007

				<p>capacity of infrastructure by: a...</p> <p>e. <u>Identifying Critical Electricity Lines as a mapped overlay and managing landuse and subdivision activities in proximity to Critical Electricity Lines to:</u></p> <p>i...</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</p>		<p>between the landowner and network utility provider, insofar as it relates to the iterative undergrounding of the network as affected land is developed over time.</p>	
Infrastructure	Top Energy	S483.047	Support	<p>Amend Policy I-P9 as follows: <u>Taking into account the operational and functional needs of infrastructure.</u> Encourage new linear infrastructure to be located within roads and, where practicable, adjacent to the carriageway unless this would result in a risk to health and safety.</p>	Oppose	<p>L & T Property Investments Ltd opposes the proposed changes as this appears to give priority to the network utility provider rather than to facilitate land use in a manner that is unencumbered by infrastructure. The road reserve is the appropriate location for new liner infrastructure.</p>	<p>Disallow</p> <p>FS448.008</p>
Infrastructure	Top Energy	S483.051	Support	<p>Amend Policy I-P13 as follows: Manage the adverse effects of infrastructure on the environment by: a.avoiding, remedying, or mitigating, <u>offsetting or compensating</u> the adverse effects of substantial upgrades to, or the development of new</p>	Oppose	<p>L & T Property Investments Ltd opposes the proposed changes to clause (c) as this only relates to the undergrounding of infrastructure in Urban and Settlement zones, which does not include the Heavy Industry Zone, where the ungrounding of network utilities is equally as necessary in order to facilitate the safe and efficient use of the land and zone outcomes.</p>	<p>Disallow</p> <p>FS448.009</p>

			<p>infrastructure, including effects on ...</p> <p>b. avoiding radio, electric and magnetic emissions that do not meet the recognised standards in <u>New Zealand Standards NZS2772.1: 1999 Radiofrequency fields or guidelines in International Commission on Non-Ionising Radiation Protection Guidelines;</u></p> <p>c. requiring the undergrounding of network utilities in Urban zones and the Settlement zone where it:</p> <p>i. <u>it is technically feasible; and</u></p> <p>ii. <u>it is justified by the extent of adverse visual effects; and</u></p> <p>iii. <u>it provides for the safety of the community; or iv. it will not result in adverse effects on the environment that are greater than placing the infrastructure above; or v. there are not natural or physical features or structures that render underground placement impractical or undesirable; or vi. there are not significant operational, functional, technical, cultural, historic heritage or economic reasons that require the infrastructure to be above ground.</u></p>			
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Infrastructure	Top Energy	S483.058	Support	Retain Rule I-R2	Support	L & T Property Investments Ltd supports the permitted activity status for undergrounding infrastructure.	Allow FS448.010
Infrastructure	Top Energy	S483.060	Not stated	<p>Delete Rule I-R3 and insert new rules as follows:</p> <p><u>Upgrading of existing above ground network utilities</u> <u>Activity status: Permitted</u> <u>Where:</u> <u>General PER- 1</u> <u>The upgrade of network utility structures or buildings:</u> 1. <u>is within 5m of the existing alignment location of the original structure or building;</u> 2. <u>does not increase the gross floor area by more than 30 percent in a 10 year period if it is a building;</u> 3. <u>complies with the zone's permitted setback standards if it is a building; and</u> 4. <u>does not result in an increase to the diameter of a replacement pipe by more than 300mm.</u> <u>PER-2 The activity complies with standards:</u> 1. <u>I-S1 Radio frequency fields;</u> <u>and</u> 2. <u>I-S2 Electric and magnetic fields.</u></p> <p><u>Electricity PER-3</u> <u>In addition to PER 1 and PER 2,</u> <u>the upgrade of electricity</u></p>	Oppose	L & T Property Investments Ltd opposes the proposed changes to I-R3.	Disallow FS448.011

			<p><u>network utilities structures or buildings must not result in:</u></p> <ol style="list-style-type: none"><u>1. Pole or tower height that exceeds 25m above ground level;</u><u>2. More than two additional poles; and</u><u>3. Additional towers. PER -41.</u> <p><u>Additional cross arms must not exceed a length of more than 4m;</u></p> <p><u>GasPER - 5 In addition to PER 1 and PER 2, the realignment, relocation or replacement of a gas transmission line is within:</u></p> <ol style="list-style-type: none"><u>1. an existing easement in favour of the pipeline;</u><u>2. 12m of the existing alignment or location</u> <p><u>Telecommunications P ER 6 In addition to PER 1 and PER 21.</u></p> <p><u>A replacement panel antenna does not increase the face area by more than 20 percent in a 10 year period.</u></p> <p><u>2. A replacement dish antenna does not increase in diameter by more than 20 percent in a 10 year period.</u></p> <p><u>Activity Status where compliance not achieved with PER 1, PER 3 - PER 6: Restricted Discretionary</u></p>		
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Infrastructure	Top Energy	S483.069	Support	Amend Rule I-R12 to exempt works with the CEL undertaken by the electricity network utility provider. Review Plan and amend as necessary to ensure the rule applies to all plan users, not just network utility providers.	Oppose	L & T Property Investments Ltd opposes the relief sought.	Disallow FS448.012
Infrastructure	Top Energy	S483.071	Support	Amend Rule I-R12-PER-1 as follows: 1.The building or structure <u>is less than 3m in height and</u> does not require a building consent; or ... Top Energy also seeks that: <ul style="list-style-type: none"> • I-R12 be amended to exempt work undertaken by the electricity network utility provider. • I-R12 is replicated in Zones so the rule applies to all development. • Reference to Electricity (Hazard from Trees) Regulations 2003 be included. 	Oppose	L & T Property Investments Ltd opposes the relief sought, and it considers the need for a building consent is an appropriate threshold.	Disallow FS448.013
Infrastructure	Top Energy	S483.070	Support	Amend Rule I-R13 to exempt work undertaken by the electricity network utility provider. Review Plan and amend as necessary to ensure the rule applies to all Plan users, not just network utility providers.	Oppose	L & T Property Investments Ltd opposes the relief sought.	Disallow FS448.014

				Include reference to Electricity (Hazard from Trees) Regulations 2003.			
Infrastructure	Top Energy	S483.072	Support	Amend Rule I-R13 as follows: PER-1 The planting of trees is not for the purpose of providing a shelterbelt, plantation forestry or commercial horticultural operations. PER-2:Activities that do not comply with PER-1 provided that: 1. prior to <u>works notification being undertaken confirmation</u> is provided to Council and that the proposed activity is being carried out in accordance with the Electricity Act 1992 and associated regulations (NZECP 34:2001, the Electricity (Hazards from Trees) Regulations 2003 (SR 2003/375), and the Electricity (Safety) Regulations 2010).	Oppose	L & T Property Investments Ltd opposes the relief sought as the edits do not refer to planting or landscaping but rather 'all works' – this catch all is not intended by I-R13.	Disallow FS448.015
Infrastructure	Top Energy	S483.055	Oppose	Amend activity status for non-compliance with Standard I-S1 throughout the Infrastructure Chapter from non-complying to discretionary.	Support	L & T supports the Discretionary activity status as sought.	Allow FS448.016
Infrastructure	Top Energy	S483.056	Oppose	Amend activity status for non-compliance with Standard I-S2 throughout the Infrastructure Chapter from non-complying to discretionary.	Support	L & T supports the Discretionary activity status as sought.	Allow FS448.017
Subdivision	Top Energy	S483.168	Oppose	Amend the wording of Rule SUB - R10 to:	Oppose	L & T supports the Discretionary activity status as notified and seeks to reduce the 32m setback as the rationale for this distance is undefined.	Disallow FS448.018

			<p>SUB -R10 Subdivision of a site within 32m of the centre line of Critical Electricity Line Activity status: Restricted Discretionary</p> <p><u>Where :PER -1The proposed building platforms are identified outside of a 32m setback from the centre line of a CEL</u></p> <p><u>Activity Status where not achieved: Non-complying</u></p>			
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