

**BEFORE HEARINGS COMMISSIONERS APPOINTED**

**BY THE FAR NORTH DISTRICT 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

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## 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<sup>1</sup> (**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

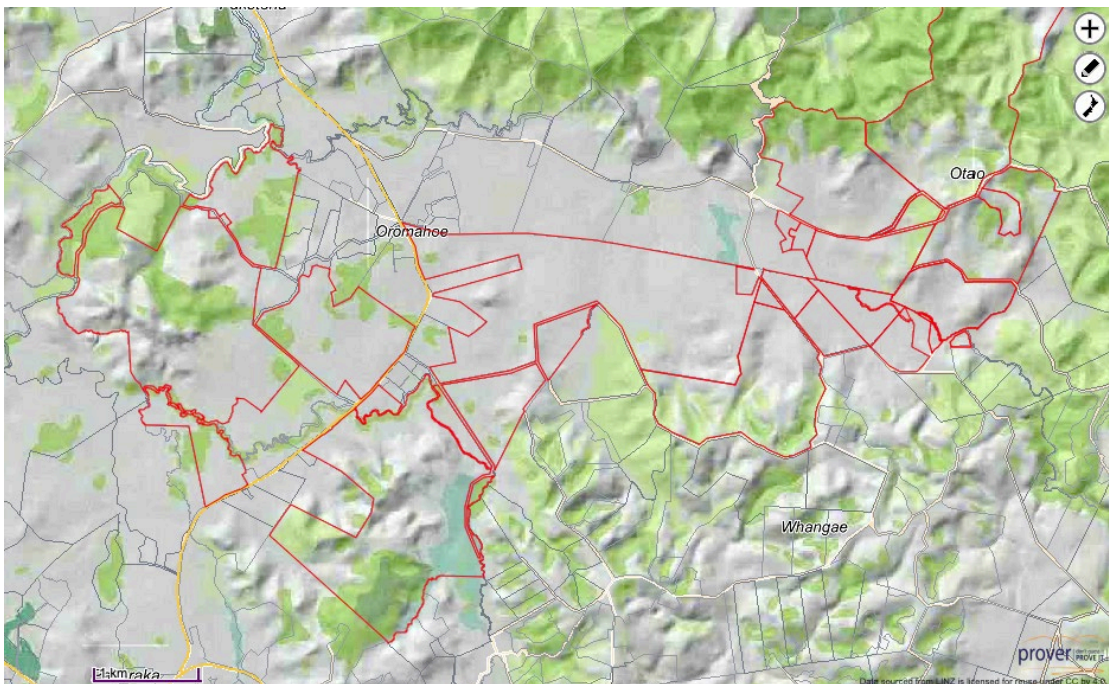
9. Hearing 11 addresses submission points relating to the PDP – Energy, Infrastructure and Transport topics. The s42A reports splits these matters into four reports and include:

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<sup>1</sup> 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<sup>2</sup> 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 – Oromahoe 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

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<sup>2</sup> Submission 483

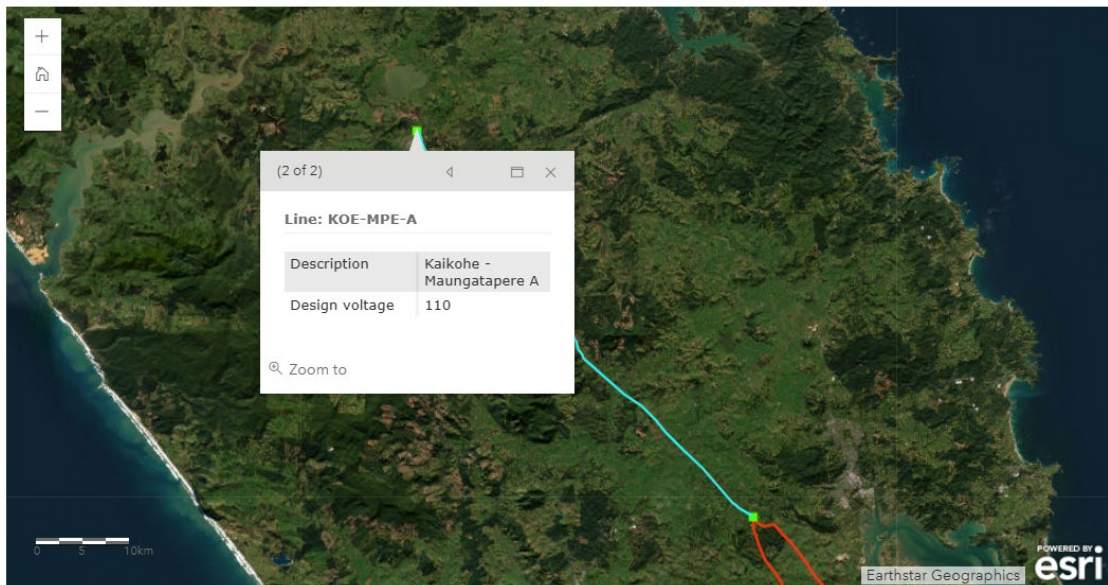
changes in Plan wording proposed (along with the rationale for these changes) together with an assessment pursuant to S32AA of the RMA’.

## 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).

### Transpower Assets Map

View the location of Transpower assets using the map 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.

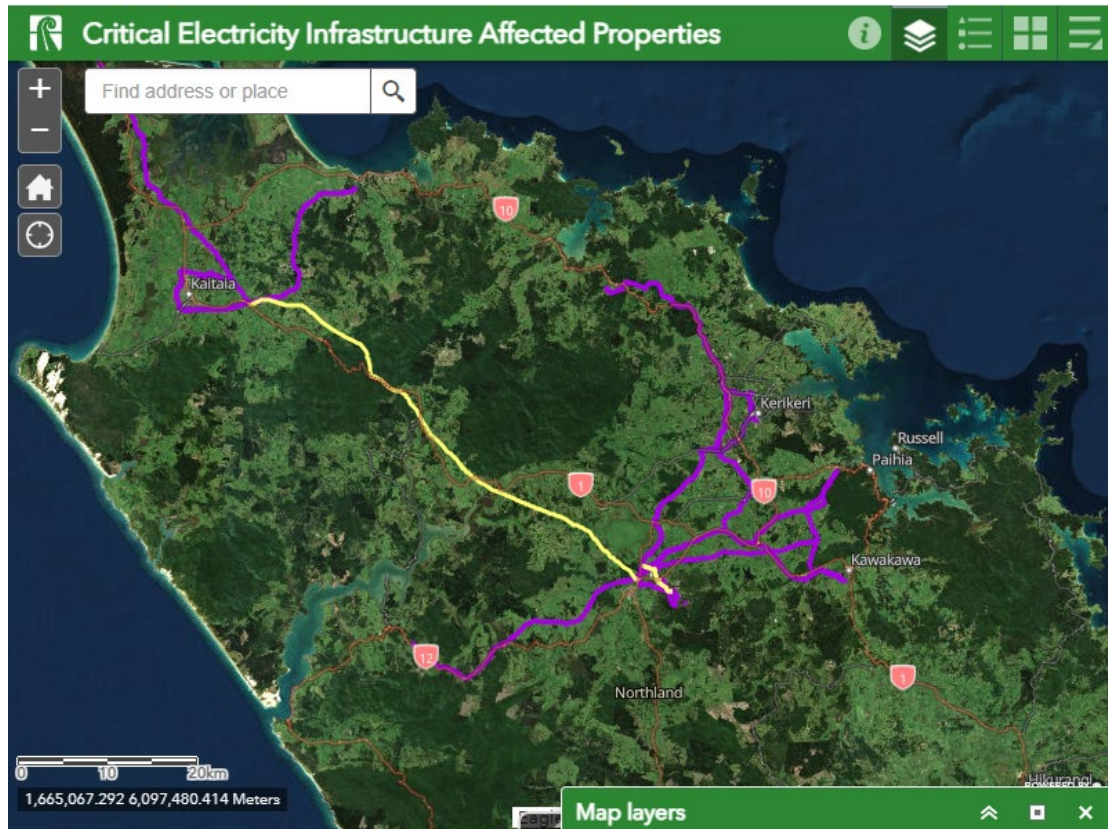


Figure 3 – Top Energy 110kv and 33kv assets (source: PDP Critical Electricity Infrastructure Map)

## DEFINITIONS 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<sup>3</sup>. 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**)<sup>4</sup>.

<sup>3</sup> PDP – Part 1 – Introduction and General Provisions: Definitions

<sup>4</sup> 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<sup>5</sup>. 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.”*

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<sup>5</sup> 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<sup>6</sup>. 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.

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<sup>6</sup> Submission S483.021

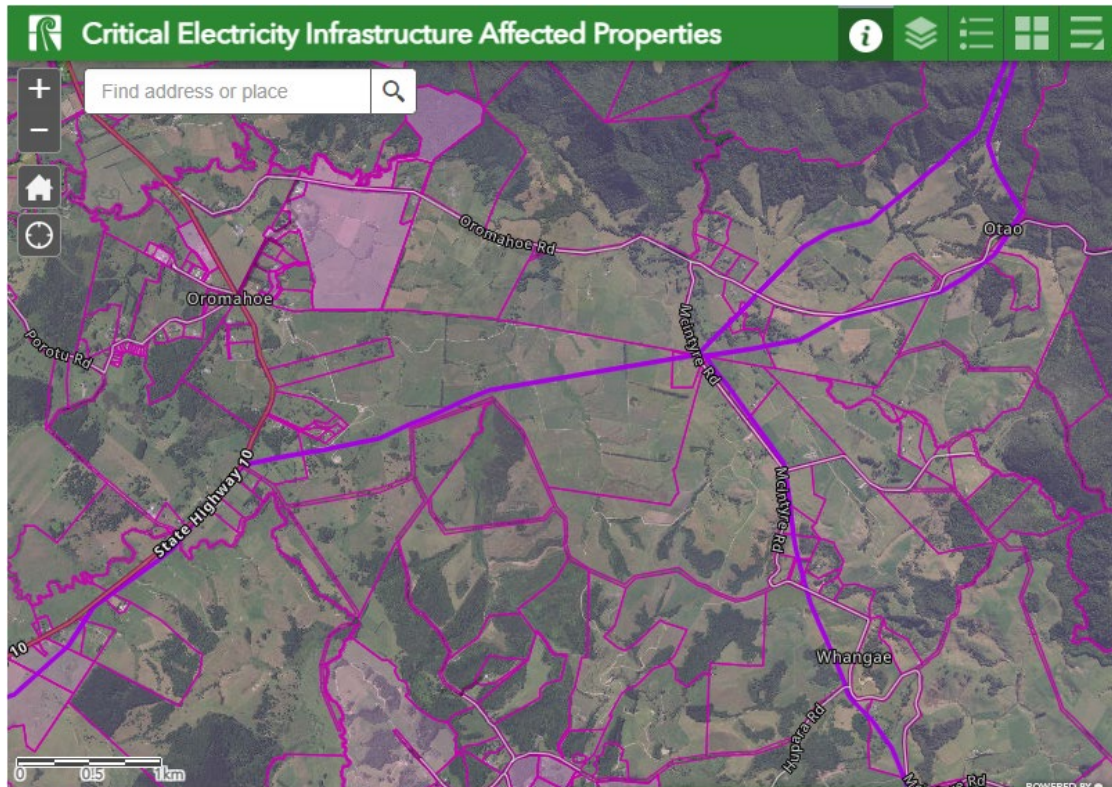
*The National Policy Statement on Electricity Transmission (NPS-ET)*

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 Electricity 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	<p><b>Activity status:</b><del>Restricted Discretionary</del> <u>Controlled</u></p> <p><b>Where:</b></p> <p><b><u>RDISCON- 1</u></b></p> <p><del>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).</del></p> <p><b><u>Matters of discretion are restricted control are limited to:</u></b></p> <p><del>a. the safe and efficient operation and maintenance of the electricity supply network;</del></p> <p><del>b. the location of any future building platform and access as it relates to the critical electricity line;</del></p> <p><del>c. effects on access to critical electricity lines and associated infrastructure for inspections, maintenance and upgrading purposes;</del></p> <p><del>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;</del></p> <p><del>e. the mature size, growth rate, location, and fall zone of any associated tree planting;</del></p>	<p><b>Activity status where compliance not achieved with <u>RDISCON-1</u>: Discretionary</b></p>

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