

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 Matarahuru, Te Whanaurara, Ngati Kaihoru 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.

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.

Critical Electricity Lines Overlay in the Proposed Far North District Plan

7 August 2023

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 council.

Nine years ago, Patricia 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 then 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.