

**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 16 – Subdivision

HEARING STATEMENT

28 October 2025

1. My name is Andrew Christopher McPhee. I am a Consultant Planner and presented planning evidence on behalf of the Oromahoe Landowners at Hearing 11 – Infrastructure on 14 April 2025.
2. I have read Minute 36 of the Hearings Panel, dated 22 October 2025. I acknowledge and concur with the Panel's view that matters relating to Rule SUB-R10, having been considered in detail at Hearing 11, should not be heard again.
3. The purpose of this brief is not to introduce new evidence, but to provide a concise written summary of Oromahoe Landowners established position, directly responding to the evidence from Top Energy which seeks to relitigate the activity status of Rule SUB-R10, a matter extensively canvassed and believed to be appropriately resolved by the Reporting Officer's Right of Reply for Hearing 11.

Procedural Fairness

4. Top Energy's attempt to re-argue the activity status of Rule SUB-R10 in this hearing potentially raises procedural issues as the substance of this rule was fully canvassed in Hearing 11.
5. My concerns about this approach align with the principles the Panel articulated in Minute 35, dated 20 October 2025. In that Minute, the Panel declined a request from other parties to introduce new material after the relevant hearing had closed, stating that to do so:
 - *"...would effectively give the submitters 'another bite at the cherry' after the relevant hearing has been completed."¹*
6. The Panel further noted that such an approach raises issues of *"procedural fairness and natural justice"* because other parties would not have the opportunity to respond².
7. I believe this is the situation here. Allowing Rule SUB-R10 to be relitigated is procedurally unfair to those who participated in good faith in Hearing 11 and considered the matter heard and addressed.

Evidence summary

The Critical Distinction: National Grid vs. Regionally Significant Infrastructure

8. It is fundamental to understand the planning hierarchy and regulatory differences between Transpower's National Grid and Top Energy's electricity lines (defined as Critical Electricity Lines).
9. The National Grid is an asset of national significance, explicitly recognised and provided for by the National Policy Statement on Electricity Transmission. This higher-order statutory instrument directs a high level of protection, which justifies the more stringent restricted discretionary and non-complying activity status' in Rule SUB-R9.
10. Top Energy's Critical Electricity Lines, while important, are defined as Regionally Significant Infrastructure under the Northland Regional Policy Statement. They are not subject to a National Policy Statement. The Regional Policy Statement provides the primary direction for

¹ Proposed District Plan Minute 35, para 2

² Ibid, para 3

their management, which allows for a different, more tailored regulatory response. Equating the two for the purpose of setting an activity status is in my opinion a flawed planning approach.

The Correct Regulatory Method: Applying National Performance Standards

11. My position, as presented at Hearing 11, is that the District Plan should not impose provisions that go over and above established national regulations without clear justification.

12. Method 5.3.4 of the Northland Regional Policy Statement is critical in this context. It directs regional and district councils to:

- *"reduce constraints on the operation, maintenance and upgrading of regionally significant infrastructure by appropriately using **regionally or nationally accepted performance standards.**"*

13. The relevant nationally accepted performance standard for managing development near power lines is the New Zealand Electrical Code of Practice for Electrical Safe Distances (NZECP 34:2001). This document provides the authoritative technical requirements for ensuring safety and operational integrity.

14. Crucially, Top Energy's planning expert, Mr David Badham, has now formally conceded that this national standard is the appropriate benchmark for the rule. In his evidence for Hearing 16, he states:

- *"I now agree with the revised wording of clause 1 which specifically references the safe distance requirements in the New Zealand Electrical Code of Practice for Safe Electrical Distances (NZECP34:2001). On review, I consider that this wording is clearer and more appropriate..."³*

15. This concession is significant. There is now agreement between the parties that the condition of the rule should be a straightforward technical assessment against the NZECP 34:2001. It is therefore illogical in my opinion to then apply a Restricted Discretionary activity status. If the key assessment is a technical compliance check against a fixed national standard, the most efficient and appropriate planning pathway is a Controlled activity.

16. By way of example, the controlled standard would confirm (e.g. via a site plan) that all proposed building platforms within a subdivision application comply with the safe distance requirements of NZECP 34:2001.

17. This approach fulfils Regional Policy Statement Method 5.3.4 for both parties as:

- It ensures that no subdivision can be approved under the controlled standard unless it first proves it meets the national safety standard. This 'reduces the constraint' on Top Energy in an objective way.
- It gives landowners a clear, technical, and non-subjective pathway to develop their land. They are not subject to a broader discretionary process where additional, non-technical matters could be imposed.

³ Statement of Evidence: Mr David Badham, Hearing 16, para 4.12

18. Conversely, a restricted discretionary status would allow Council (and potentially Top Energy as an affected party) to seek concessions beyond what the national standard requires. The Regional Policy Statement tells us to use the national standard and the NZECP 34:2001 is that standard.

The Consequential Activity Status

19. Top Energy seeks a non-complying status where compliance is not achieved, arguing this is necessary to give effect to the RPS directive to 'avoid' reverse sensitivity effects.
20. As my evidence in Hearing 11 concluded, district plans should not be regulating something that is already regulated at a national level. The Hearing 11 Officer's recommendation to focus Rule SUB-R10 on compliance with NZECP 34:2001 is the most appropriate way to give effect to the RPS, using a 'nationally accepted performance standard' as directed by Method 5.3.4. The Officer's recommended Discretionary status for non-compliance is considered appropriate and sufficient.

Conclusion and Relief Sought

21. The matters concerning Rule SUB-R10 were fully canvassed at Hearing 11. The subsequent recommendation of the Reporting Officer was a logical and sound planning outcome based on the evidence presented.
22. Top Energy's expert has now agreed that the use of NZECP 34:2001 is the most appropriate way to frame the rule's condition. This reinforces my position that a Controlled activity status is the most efficient and effective method to implement this nationally accepted performance standard, in direct accordance with Method 5.3.4 of the Regional Policy Statement.
23. I respectfully submit that the matter was appropriately dealt with in Hearing 11 and that the recommendation of the Section 42A Reporting Officer in the Infrastructure hearing be upheld. That recommendation was carried forward by the Section 42A Reporting Officer for Hearing 16.