

BEFORE THE FAR NORTH DISTRICT COUNCIL

IN THE MATTER of the Resource Management Act 1991

AND

IN THE MATTER of the Proposed Far North District Plan:
Hearing Topic 4 in regard to Natural
Environment Values and Coastal
Environment

Statement of evidence of **CHRIS HORNE** on behalf of Chorus New Zealand Limited, Spark New Zealand Trading Limited, One New Zealand Group Limited, Connexa Limited and FortySouth
(Submitter 282)
22 July 2024

INCITE
Resource and Environmental Management
PO Box 3082
Auckland 1140
Ph: 09 369 1465



Statement of Professional Qualifications and Experience

1. My name is Chris Horne. I am a principal planner and director of the resource and environmental management consulting company Incite (Auckland) Limited. I hold the qualifications of the Bachelor of Arts (Geography), and Master of Regional and Resource Planning, both gained at the University of Otago. I am a member of the New Zealand Planning Institute.
2. I have approximately 30 years of professional experience in the field of resource management and have represented a variety of public and private clients on a range of matters that raise planning issues. A significant part of my experience relates to network utility infrastructure, including both project consenting, and planning advice and assistance on resource management documents and changes that may affect the operation or deployment of infrastructure.
3. I have previously acted or currently act for a number of infrastructure clients in regard to telecommunications, broadcasting, electricity transmission, electricity and gas distribution, water supply, rail, and transport infrastructure. Work for these clients has related to both linear infrastructure networks (e.g. lines, submarine cables, pipes, and transport corridors), and site-specific facilities (e.g. radio communication facilities, exchanges, cable stations, electricity sub stations and a satellite earth station).
4. I was a member of the reference group including the Telecommunications Industry, Government Departments and Local Government New Zealand involved in the development of the *Resource Management (National Environmental Standards for Telecommunications Facilities) Regulations 2008*, and later provided advice to the New Zealand Police on the subsequent update to the 2016 regulations now in force: *Resource Management (National Environmental Standards for Telecommunications Facilities) Regulations 2016* (NESTF).
5. I did not prepare the joint submission by Chorus New Zealand Limited (Chorus), Spark Trading New Zealand Limited (Spark), One New Zealand Limited (One NZ – formally Vodafone) and Connexa Limited (Connexa - formally Towerco Limited). The submission was prepared by a colleague, but I have reviewed the submission and I am familiar with it. I have been engaged by the joint submitters, referred hereafter as the *Telecommunications Companies* to provide independent planning evidence in regard to the submission.

6. For clarity on the Telecommunications Companies covered by the submission, Fortysouth Group LP (Fortysouth) has recently acquired the fixed assets of One NZ (poles and cabinets), whilst One NZ operates equipment on these assets such as antennas. Fortysouth are therefore joining these proceedings given the interest they now have in former One NZ assets. Connexa (formally Towerco) have similarly acquired the fixed assets of Spark and 2degrees. Therefore, the parties to this submission are:

- Chorus;
- Spark;
- One NZ;
- Connexa; and
- Fortysouth.

Code of Conduct

7. I confirm that I have read the Code of Conduct for Expert Witnesses contained in the Environment Court Practice Note 2023 and that I agree to comply with it. I confirm that I have considered all the material facts I am aware of which might alter or detract from the opinions I express, and that this evidence is within my area of expertise, except where I state that I am relying on the evidence of another person.

Evidence Outline

8. Telecommunications infrastructure has a relatively unique regulatory framework under the RMA given the NESTF that is in force. I briefly outline this framework for context in my evidence, as this is relevant to the relief being sought. This material will be referred back to in later evidence on the infrastructure topic.

9. The recommendations in the s42 reports relevant to the submission are generally agreed by the Telecommunications Companies, and accordingly there are only limited matters where any further changes from the s42A reports are still being sought. The scope of matters covered in my evidence is as follows:

S42A Report	Issue
<p>Natural Character (NATC) Ben Lee, SLR</p>	<p>Add new rules for telecommunications equipment in roads and crossings of waterbodies.</p> <p>General agreement by reporting planner, an additional clause is recommended in my evidence.</p>
<p>Natural Features and Landscapes (NFL) Ben Lee, SLR</p>	<p>Allow for new infrastructure to be established within road reserve in ONL/ONF.</p> <p>Reporting planner recommends 10m permitted height for poles in road reserve. I support a permitted allowance in roads.</p>
<p>Coastal Environment (CE) Jerome Wyeth, SLR</p>	<p>Exception sought from CE provisions for telecommunications facilities in the coastal environment outside natural character areas.</p> <p>Reporting planner agrees in regard to height CE-S1.</p> <p>I support a further change in regard to more practical standards for pole foundations.</p>
<p>Indigenous Biodiversity (IB) Jerome Wyeth, SLR</p>	<p>Policy IB-P5 as notified was supported.</p> <p>The reporting planner recommends some changes to the policy which in my view are still workable for telecommunications that need to locate in these areas.</p>

Overview of the *Resource Management (National Environmental Standards for Telecommunications Facilities) Regulations 2016* (NESTF) and their relationship to the Proposed Far North District Plan

10. Many elements of telecommunications Infrastructure deployed and operated by the Companies is regulated under the *Resource Management (National Environmental Standards for Telecommunications Facilities) Regulations 2016* (NESTF) which came into force on 1 January 2017. These replaced the 2008 regulations and broadened their scope. The 2008 regulations provided permitted activity rules for upgrading/replacement of existing poles in road reserve to enable attachment of antennas, telecommunications cabinets in road reserve, and radio frequency exposures inside and outside of roads. In summary the 2016 regulations now provide for the following as permitted activities in all district plans subject to standards:

- Telecommunications cabinets in all locations;
- Antennas on existing poles in road reserve (including pole replacement);
- Antennas on new poles in road reserve;
- Antennas on existing poles outside of road reserve, including pole replacements if required (i.e. upgrades to existing telecommunication facilities outside of roads);
- New poles and attached antennas in rural zones;
- Antennas on buildings (this excludes any residential zones unless the point of attachment to the building is at least 15m above ground level);
- Small cell units (integrated radio equipment and antennas not exceeding 0.11m³);
- Customer connection lines (excluding new support poles);
- Aerial telecommunications lines along the same routes as existing telecommunications and power lines;
- Underground telecommunications lines;
- Ancillary earthworks (excluding access tracks); and
- Radio frequency exposures in all locations.

11. The regulations apply to regulated activities undertaken by a *facility operator*¹ which includes:
 - A network operator (as defined in section 5 of the Telecommunications Act 2001); or
 - The Crown; or
 - A Crown agent.
12. Networks operated by entities not falling under the above criteria remain subject to the relevant district plan. This includes organisations such as district and regional councils which rely on telecommunications for activities such as digital flood monitoring, civil emergency networks or wireless streetlights and traffic management systems. Further, activities that are not regulated, such as new poles and attached antennas outside of roads in zones other than rural zones remain subject to the relevant district plan.
13. Regulated activities not complying with the relevant permitted activity standards in the NESTF remain subject to the relevant district plan. Where such an activity would otherwise be a permitted activity in the district plan (but does not meet the standards in the NESTF), it requires resource consent as a controlled activity under Regulation 14. In each other case it is the same status as that included in the relevant district plan.
14. **Of particular note to this hearing topic**, Subpart 5 of the NESTF identifies certain types of district plan rules relating to sensitive environments which still apply to regulated activities where resource consent would otherwise be required in the district plan. Poles, antennas and cabinets are subject to all of these controls, whilst customer connection lines, aerial lines following existing telecommunications or power lines and underground lines may only be subject to some of these matters depending on circumstances. The Subpart 5 matters where district plan controls still apply to regulated activities are as follows:
 - Regulation 44 – Trees and vegetation in roads reserve;
 - Regulation 45 – Significant trees;
 - Regulation 46 – Historic heritage (including cultural heritage);
 - Regulation 47 – Visual amenity landscapes (e.g. significant ridgelines, view shafts etc);
 - Regulation 48 – Significant habitats for indigenous vegetation;

¹ Defined in NESTF Regulation 4

- Regulation 49 – Significant habitats for indigenous fauna;
 - Regulation 50 – Outstanding natural features and landscapes;
 - Regulation 51 – Places adjoining the coastal marine area (in regard to specific coastal protection rules such as coastal yards etc); and
 - Regulation 52 – Rivers and lakes (the regulations do not apply to works in, on, under or over the bed of any river, except that they apply to anything done over a river or a lake such as on a bridge²). Regulation 52 confirms that any relevant regional rules apply in addition to the regulations that may be relevant.
15. These Sub Part 5 matters are relevant to the Hearing 4 sub topics of NATC, NFL, CE and IB.
16. The NESTF does not include any objectives and policies. Therefore, where any resource consent is triggered, the relevant objectives and policies in the Proposed Plan apply in assessing any application.

Natural Character NATC

S42A 6.2.15 Key Issue 14 - Submission 282.013

17. The submission sought the following relief:

Add new rules to NATC to allow for telecommunication activities within road reserve and existing road crossings over waterbodies as permitted activities, as well as new aerial telecommunication lines crossings as appropriate.

18. In my opinion road corridors and existing waterway crossings are appropriate location to allow to for other infrastructure such as telecommunications as they are existing infrastructure corridors that are already characterised by human modification. In particular, linear infrastructure may need to traverse riparian margins within a road and be attached to an existing waterway crossing.
19. The s42A report³ analysis agrees with submissions that the NATC rules should allow telecommunications activities within existing road reserves and existing crossings over waterbodies.
20. The s42A report recommended changes to rule NATC-R1 now provides for poles in roads in NATC overlay up to 10m in height. (clause 8), as well as river crossings

² NESTF Regulation 8

including fords, bridges, stock crossings and culverts. The 10m permitted pole allowance in roads is supported by the Melean Absolum Limited report that helps inform the s42A report. In my opinion, for clarity the list of permitted activities should be expanded to include ducts and lines attached to existing river crossing structures.

Requested Relief

21. Add the following additional clause to Rule NATC-R1:

12. Lines and ducts attached to an existing river crossing structure.

Natural Features and Landscapes (NFL)

S42A 6.2.15, Key Issue 15 - Submission 282.027

22. The submission sought the following relief:

Allow for new infrastructure to be established within road reserve when located within an ONL and ONF.

23. In my opinion road corridors are an appropriate location to allow for some infrastructure such as telecommunications provided they are of an appropriate scale. Roads are existing infrastructure corridors that are already characterised by human modification.

24. The s42A report⁴ analysis agrees with submissions that the NFL rules should allow telecommunications activities within existing road reserves to a maximum height of 10m. The 10m permitted pole allowance in roads is supported by the Melean Absolum Limited report that helps inform the s42A report.

25. A new rule PER-3 is proposed. I support the proposed new rule. Should a taller pole be required for functional and operational reasons, resource consent as a restricted discretionary activity would be required, where the particular merits of any proposal and effects on the values and attributes of the ONF or ONL can be considered on a case-by-case basis.

³ Para 213 NATC s42A report

⁴ Para 221 NFL s42A report

Requested Relief

26. Adopt the recommended version of PER-3 included at paragraph 221 of the s42 Report as follows:

PER-3

Any new building or structure, and extension or alteration to an existing building or structure not provided for by PER-1 or PER-2 and is:

2. infrastructure within a road corridor less than 10m high provided any pole:

a. is a single pole (monopole), and

b. is not a pi-pole or a steel-lattice tower, or

Coastal Environment (CE)

S42A 5.2.9 Key Issue 9 - Submission 282.018/019

27. The submission sought the following relief:

Exempt telecommunications infrastructure activities from needing to comply with the provisions of CE however it is considered that requiring telecommunications infrastructure to comply with CE-S2 can provide an appropriate mitigation measure for instances where such infrastructure needs to be located within the Coastal Environment outside of natural character areas. A rule to this effect is considered appropriate.

28. The Coastal Environment is a large area containing coastal settlements and large areas of human modified working farm areas. However, this overlay could be considered a place adjoining the coastal marine area in terms of Regulation 51 the NESTF where the rules of the Proposed Plan would continue to apply. The rules as notified would in my opinion unnecessarily and unreasonably regulate telecommunications infrastructure required to serve communities throughout the district and support economic and social wellbeing. Areas of high natural character or landscape value already have additional protection through those other overlays.
29. There are other infrastructure rules in the Proposed Plan and NESTF regulations to limit the permitted scale of telecommunications infrastructure in urban and rural areas. New telecommunications infrastructure is not expressly provided for in the CE rules as notified. Therefore, where the infrastructure specific provisions of the Proposed Plan and NESTF are met, the notified CE regime would still require

resource consent for telecommunications poles outside of areas identified as having specific natural landscape/feature or natural character values.

30. The s42A report⁵ analysis agrees with the submission that the CE provisions should exclude telecommunications facilities from CE-S1 (maximum height). I support this recommendation.
31. I also note that CE-S3 includes a maximum depth of cut or fill depth of 1m. I understand that telecommunications poles depending on height and ground conditions may require a pad foundation up to 1.5m deep, or a pile foundation exceeding 1m in depth. These are very localised inground foundation works that will not adversely affect coastal environment values. Accordingly, I recommend that pole foundations are also except from this standard.

Requested Relief

32. Adopt the s42A recommendation to except telecommunications facilities from CE-S1 (maximum height); and
33. Add an exemption for telecommunications or infrastructure poles from the 1m cut or fill height standard in CE-S3 (Earthworks or Indigenous Vegetation Clearance).

Indigenous Biodiversity (IB)

S42A 6.2.9 Key Issue 9 - Submission 282.012

34. The submission supported Policy IB-P5 as notified which includes recognition of the functional and operational needs of regionally significant infrastructure and the need to provide for maintenance, use and operation of existing structures and upgrading of infrastructure in indigenous biodiversity areas.
35. Some changes to the Policy are recommended in the s42A report in response to other submissions⁶. However, I consider that the recommended wording which retains acknowledgement of the functional operational needs of regionally significant infrastructure, allowing maintenance, use and operation of existing structures and allowing for upgrading of regionally significant infrastructure (was previously

⁵ Para 249-252 CE s42A report

infrastructure) is appropriate. In my opinion, provided these key elements of the policy are retained it will achieve an appropriate outcome of infrastructure including telecommunications. It does not provide a free ride to adversely affect indigenous biodiversity, but includes a reasonable framework to consider infrastructure works in these areas in appropriate circumstances.

Requested Relief

36. Retain clauses (b) and (c) of the s42A version of Policy IB-P5 as follows:

- b. recognises the operational need and functional need of ~~some~~ activities, including regionally significant infrastructure, to be located within areas of significant indigenous vegetation and significant habitat of indigenous fauna ~~Significant Natural Areas~~ in some circumstances;*
- c. allows for maintenance, use and operation of existing structures, including infrastructure and the upgrading of regionally significant infrastructure; and*

⁶ Para 188, IB s42A report