

BEFORE CENTRAL HAWKE'S BAY DISTRICT COUNCIL

IN THE MATTER OF

the Resource Management Act 1991

AND

IN THE MATTER OF

Central Hawke's Bay District Council's
Proposed District Plan (Hearing Stream 5 –
Hazards and Risks, Earthworks and
Subdivision)

STATEMENT OF EVIDENCE TOM ANDERSON

ON BEHALF OF

CHORUS NEW ZEALAND LIMITED,

SPARK NEW ZEALAND TRADING LIMITED AND

VODAFONE NEW ZEALAND LIMITED

24 August 2022

Professional Qualifications and Experience

1. My name is Tom Anderson. I am a Principal Planner at and a Director of Incite, a resource management consulting firm. I hold a Bachelor of Science and a Master of Planning (with Distinction), both from the University of Otago. I am a full member of the New Zealand Planning Institute, am a former Chair of the Wellington Branch Committee of that institute. I am also a member of the Resource Management Law Association. I am an Independent Commissioner, certified under the Ministry for the Environment's *Making Good Decisions* programme.
2. I have 15 years professional experience. Throughout my career I have provided advice to a number of telecommunication companies, including Chorus New Zealand Limited (Chorus), Rural Connectivity Group (RCG), Spark New Zealand Trading Limited (Spark – formerly Telecom New Zealand Limited and Telecom Mobile Limited), Two Degrees Networks Limited (2degrees) and Vodafone New Zealand Limited (Vodafone). This advice was initially given as an employee of GHD Limited and since 2011 as an employee of Incite.
3. I have provided the telecommunication companies with advice on regional, district and unitary plan reviews and plan changes, site selection exercises, designation and outline plan of works processes, and consenting activities for mobile and broadband network rollouts and exchange upgrades.
4. On this basis, I consider myself to have a comprehensive understanding of telecommunication networks, and the practical implications of the Resource Management Act 1991 (RMA) framework in relation to telecommunication network installation, upgrade and operation.
5. I assisted with the preparation and drafting of Chorus, Spark and Vodafone's submissions on the Proposed District Plan for the Central Hawke's Bay District (PDP). The submissions are the same, as all companies operate under the same plan provisions. As such I have prepared one brief of evidence relating to the three companies interests.
6. I have read and am familiar with the Code of Conduct for Expert Witnesses (section 5 of the Environment Court Consolidated Practice Note 2006). My evidence has been prepared in compliance with that code. In particular, unless I state otherwise, this evidence is within my area of expertise and I have not omitted to consider any material facts known to me that might alter or detract from the opinions I express.

Scope of Evidence

7. In preparing this evidence I have read all other submissions and further submissions relevant to the telecommunication companies' submissions and the Section 42A (s42A) reports for Hearing 5 – Hazards and Risks, Earthworks and Subdivision. The relevant s42A reports for matters raised in the telecommunication companies submissions are:
- Section 42A – Natural Hazards & Climate Change;
 - Section 42A – Earthworks, Mining & Quarrying; and
 - Section 42A – Subdivision-General.¹
8. My evidence is structured into general subject areas as follows:
- Telecommunication Company operations under the Resource Management Act 1991;
 - General comments on the s42A reports; and
 - Officer recommendations in contention.
9. It should be noted that the requested relief sought within my evidence is to the relevant provisions of the PDP as recommended in the relevant s42A reports.
10. **Appendix 1** contains a table which summarises the telecommunication company submissions relevant to the s42A report recommendations on those submissions, and whether I support acceptance of the Officer recommendation or alternative relief as sought through this evidence. As such, the table is intended to provide a succinct 'one stop shop' for the Panel to identify what outcomes the telecommunication companies are seeking from this hearing. The specific items of requested relief are also within my evidence.

Telecommunication Company Operations

11. The purpose of the RMA, as embodied in Section 5, is the promotion of the sustainable management of natural and physical resources. Telecommunications and radio communications infrastructure is a significant physical resource that is vital to all levels (local,

¹ None of the telecommunication companies submission points are required to be addressed in the Contaminated Land and Hazardous Substances s42A report

regional, national and international) of social, cultural and economic wellbeing, as well as to health and safety, through allowing people and businesses to connect with each other.

12. Corporate evidence outlining the operations of the three companies will be provided at a later hearing for this PDP (likely Infrastructure/Network Utilities). However, to provide some context as to the importance of telecommunications, I have relied on the New Zealand Infrastructure Commission Te Waihanga² *Telecommunication State of Play* discussion document released in December 2020³. This document summarises the importance that telecommunications infrastructure holds in modern society as follows:

“Telecommunications infrastructure connects people and ideas. It connects families, whanau, communities and markets, and is essential in enabling a modern economy and diffusion of knowledge. It is critical to modern education services and increasingly important for essential services like healthcare, as more is done virtually. Further uses include the movement and storage of data that support businesses and other sectors like transport and energy. Ultimately, the influence of the sector and its infrastructure is significant across the four dimensions of wellbeing: Economic, Social, Cultural, and Environmental.”⁴

13. In addition to this summary, the Resource Management (National Environmental Standards for Telecommunication Facilities) Regulations 2016 was promulgated to ensure that specific provision enabling the significant benefits of telecommunication networks are appropriately provided for on a nationally consistent basis.
14. In terms of social and cultural wellbeing, there has been a dramatic increase in the number of telecommunication devices over recent years, allowing people to remain connected with each other at a greater level than ever. Accompanying this has been an increasing customer demand for ubiquitous connectivity to a telecommunications network, particularly in relation to data. The physical translation of this demand is an increase in the provision of telecommunications infrastructure, enabling greater connectivity.
15. Telecommunications play a significant role in the health and safety of all New Zealand communities, with the three telecommunications companies that have submitted on this

² The New Zealand Infrastructure Commission Te Waihanga is described on their website as being *an autonomous Crown entity... which seeks to lift infrastructure planning and delivery to a more strategic level and by doing so, improve New Zealanders' long-term economic performance and social, cultural and environmental wellbeing.*

³ This report can be found at <https://infracom.govt.nz/strategy/state-of-plays/telecommunications/>

⁴ Quoted from Executive Summary of the Discussion Document

District Plan review all listed as 'lifeline utilities' under the Civil Defence Emergency Management Act 2002.

16. It is my view that telecommunications is now of essential importance to modern society and will continue to be so for the foreseeable future.
17. A key feature of telecommunications networks is that they are subject to constant maintenance, modification and upgrading as the number of customers and services increase and changes in technology occur. Generally this work relates to land use aspects, although there are instances, primarily cable crossings traversing waterbodies and the coastal marine area (CMA), as well as other matters such as ancillary earthworks (access construction and utility trenches/directional drilling), where the activities are subject to regional type provisions.
18. Consequently, there is a need to ensure that plan provisions are flexible enough to meet changing customer and technology demands and needs. This must be done while controlling inappropriate environmental effects and appropriately considering the benefits and technical/operational constraints of telecommunications infrastructure in policy frameworks, particularly where there is a need to have consideration of these matters in sensitive environments.

General Comments on the s42A Reports

19. The s42A reports were comprehensive and provided appropriate guidance as to why recommendations had been made.
20. I accept the officer recommendations on the following telecommunication company submission points, and as such no further relief is sought on these matters⁵:

Natural Hazards and Climate Change

- 117.052/118.052/119.052 – seeking amendments to NH-APP1.

Earthworks, Mining and Quarrying

- 117.066/118.066/119.066 – seeking retention of EW-R1 as notified.

⁵ For reference, the s42A report allocates the following numbers to the telecommunication company individual submissions:

Chorus – 117
Spark – 118
Vodafone – 119

Subdivision - General

- 117.058/118.058/119.058 – seeking amendments to SUB-O3;
- 117.060/118.060/119.060 – seeking retention of SUB-P3 as notified;
- 117.061/118.061/119.061 – seeking amendments to SUB-P6;
- 117.062/118.062/119.062 – seeking amendments to SUB-P12;
- 117.064/118.064/119.064 – seeking a new Subdivision standard; and
- 117.065/118.065/119.065 – seeking amendments to SUB-AM8.

21. Submissions 117.059/118.059/119.059 sought that SUB-O4 be retained as notified. SUB-O4 as notified reads:

“Reverse sensitivity effects of subdivision on existing lawfully established activities (including network utilities) are avoided where practicable, or mitigated where avoidance is not practicable.”

22. The recommendation at paragraph 8.3.21 of the s42A report is to amend SUB-O4 as follows:

*“Reverse sensitivity effects of subdivision **and its resulting future land use activities** on existing lawfully established activities ~~(including network utilities)~~ are avoided where practicable, or mitigated where avoidance is not practicable.”*

23. In my view, I support the proposed additional text, and am neutral on the deletion of *(including network utilities)* given network utilities should be lawfully established activities.

24. However, I note that there were a number of other submitters and further submitters who submitted on SUB-O4⁶. I have read these submissions on SUB-O4 and none of the submission points raised seek that the text *(including network utilities)* be deleted. Forest & Bird (FS9.487) in their opposition to 117.059, which states that the amendments and decisions sought in the entire Chorus submission *would result in continued loss of indigenous biodiversity in Hawkes Bay, would not give effect to the RPS, NZCPS and NPSFM or would not achieve the purpose of*

⁶ Relying on the s42A report, these were Hatuma Lime (S98.019), NZTA (S78.024 and FS16.29), Centralines (S90.032), Silver Fern (S116.021), Transpower (S79.073), HortNZ (S81.079), Kāinga Ora (S129.070), Forest & Bird (FS9.487), and Fed Farmers (FS25.33)

the RMA is perhaps the most relevant, although I do not see how a reverse sensitivity objective has an impact on the loss of indigenous biodiversity.

25. I have raised this point as the recommendation in the s42A report to delete (*including network utilities*) in my view is out of scope⁷.
26. The Subdivision-General s42A report also contains one recommendation on a telecommunication companies submission points for which alternative relief is sought.

Officer Recommendation in Contention

SUB-P17

27. Submission points 117.063/118.063/119.063 of the telecommunication company submissions sought that SUB-P17 be retained as notified. This position was also adopted by other submitters, NZTA (S78.026) and Hatuna Lime (S98.020). For reference, the as notified wording of SUB-P17 is:

To ensure, to the extent practicable, subdivision design that takes into account the location of regionally significant infrastructure, network utilities, renewable electricity generation sites and other lawfully established activities, and ensures that future land use activities will not result in reverse sensitivity effects.

28. A submission on SUB-P17 from Centralines (S90.035) suggested that the term *regionally significant infrastructure* be defined, as it is not defined in either the PDP or the Hawke's Bay Regional Policy Statement (RPS). The submitter noted that the RPS has a definition of *Strategic Infrastructure*.
29. The s42A reporting officer does not recommend any amendments to SUB-P17 itself as a result of submissions. However she does recommend that a definition of *Regionally Significant Infrastructure* be included in the Interpretation section of the PDP as a consequential change to provide clarity. This recommended definition includes the following in relation to telecommunications:

Means necessary services and installations which are of greater than local significance, including:

⁷ Clause 10(1) of Schedule 1 to the RMA requires a local authority to give a decision on the provisions and matters raised in submissions. It is my understanding that if a matter is not raised in a submission, then the local authority cannot amend a provision.

(c) *strategic telecommunications and radiocommunications facilities.*

30. I generally support the inclusion of a definition for *Regionally Significant Infrastructure* in the PDP. However in my opinion the reference to *strategic telecommunications and radiocommunications facilities* is problematic.
31. The reason for this is there is no definition in the PDP, RPS or any legislation or other document that I am aware of defining what a *strategic* telecommunication (or radiocommunication) facility is. In particular, Section 5 of the Telecommunications Act 2001 does not define strategic telecommunications facilities and likewise Section 2(1) of the Radiocommunications Act 1989 does not define strategic radiocommunication facilities. Having a definition of *Regionally Significant Infrastructure* which contains an undefined term could generate confusion and uncertainty.
32. In my experience in plan review processes, a local authority proposing a definition of *Regionally Significant Infrastructure* which includes reference to *strategic telecommunications and radiocommunications facilities* is not uncommon. It has come up in plan review processes in Marlborough, Porirua, Greater Wellington, Hutt City and Auckland. Each time, the telecommunications companies have submitted on the matter, and in each case amendments have been made as a result of those submissions.
33. To provide the reasoning as to why a reference to *strategic* is problematic, telecommunications networks operate as a 'whole' with elements being of equal importance. Each element forms part of an integrated network. As an example, an exchange is a telecommunications facility for which the network depends but the exchange can only serve its function provided other elements of the network, such as a line or an antenna, are serving theirs.
34. In my experience, the best summation of this issue was the approach adopted by the Auckland Unitary Plan Independent Hearings Panel, in their report to Auckland Council on Hearing Topic 12 – Infrastructure, energy and transport (July 2016). In the interim guidance (included in the recommendation), Judge Kirkpatrick, Chairperson, of the Independent Hearings Panel stated *"There does not appear to be any reason to limit the focus of the RPS to significant infrastructure, as in the RPS as notified. An essential characteristic of most infrastructure is its construction in the form of an inter-connected network. The efficacy of a network almost always depends on every element of it. Distinguishing between, for example, parts of the roading system or the electricity system on the basis of whether they are significant or not does not serve any apparent resource management purpose."*

35. Essentially, the telecommunications network does not have individual *strategic* elements to it, and the recommended definition of *Regionally Significant Infrastructure* should be amended so that the term *strategic* is removed.
36. The definition refers to *necessary services and installations which are of greater than local significance*. As covered in Paragraphs 11 to 18 of my evidence above, I consider that telecommunications provide for a service which is of greater than local significance.
37. Finally, I note that the Hawkes Bay RPS in its definition of *strategic infrastructure* also includes reference to *strategic telecommunication and radiocommunications facilities*. I am sure that the telecommunications companies will address this with Hawke's Bay Regional Council at an appropriate time.
38. Requested Relief:

Amend the recommended condition of Regionally Significant Infrastructure (as at Paragraph 9.3.81 of the s42A report) as follows:

means necessary services and installations which are of greater than local significance, including:

(c) ~~strategic~~ *telecommunications and radiocommunications facilities*



Tom Anderson

24 August 2022

**Appendix A - Summary of Telecommunication Companies Submissions Points, Officer
Recommendation and Acceptance/Further Relief Sought to Hearing Stream 5 – Hazards and Risks,
Earthworks and Subdivision**

Telecommunication Company Submission Number	PDP Provision	Relief sought through submission	Officer Recommendation	Telecommunication company decision sought through Hearing process
Natural Hazards & Climate Change				
117.052 118.052 119.052	NH-APP1	Amend NH-APP1 as follows: 'Building Importance Category (BIC) 1 Structures presenting a low degree of hazard to life and other property Examples: a. Farm buildings, isolated structures and towers in the Rural Zones, not otherwise identified as BIC 2, 3 or 4. b. Fences, poles masts , walls, in-ground swimming pools. c. Network utility structures and activities that are not classified as BIC 4. d. Other structures with a gross floor area of 30m ² or less.	Accept in Part	Accept Reporting Officer recommendation
Earthworks, Mining & Quarrying				
117.066 118.066 119.066	EW-R1	Retain as notified	Accept in Part	Accept Reporting Officer recommendation
Subdivision-General				
117.058 118.058 119.058	SUB-O3	Amend SUB-O3 as follows: 'The provision of appropriate services network utilities to subdivided lots, in anticipation of the likely effects of land use activities on those lots, so as to ensure the health and safety of people and communities, and the maintenance or enhancement of amenity values.'	Accept in Part	Accept Reporting Officer recommendation
117.059 118.059 119.059	SUB-O4	Retain as notified	Accept in Part	Panel to consider whether or not there is a scope issue with the Reporting Officer recommendation to delete the text (including network utilities).
117.060 118.060 119.060	SUB-P3	Retain as notified	Accept in Part	Accept Reporting Officer recommendation
117.061 118.061 119.061	SUB-P6	Amend SUB-P6 as follows: 'To ensure upon subdivision or development, that all new lots or buildings are provided with a connection to a reticulated water supply, reticulated public sewerage system, and a reticulated stormwater system, where such adequate reticulated systems are available, and that all new lots or buildings are connected to a telecommunications network.'	Accept in Part	Accept Reporting Officer recommendation
117.062 118.062 119.062	SUB-P12	Amend SUB-P12 as follows: 'To avoid or mitigate any adverse visual and physical effects of subdivision and development on the environment, including the appropriate underground reticulation of energy and telecommunication lines in order to protect the visual amenities of the area Residential Zones and Commercial and Mixed Use Zones.'	Accept in Part	Accept Reporting Officer recommendation
117.063 118.063 119.063	SUB-P17	Retain as notified	Accept in Part	The consequential recommended amendment to include a definition of Regionally Significant Infrastructure should be amended as follows: means necessary services and installations which are of greater than local significance, including: (c) strategic telecommunications and radiocommunications facilities
117.064 118.064 119.064	SUB-S10	Add a new Standard to Subdivision Chapter as follows, to be referenced in Rules SUB-1, SUB-R3, SUB-R5, SUB-R7: 'SUB-S10 Telecommunications All Zones All new lots must be able to connect to a telecommunications network.'	Accept in Part	Accept Reporting Officer recommendation
117.065 118.065 119.065	SUB-AM8	Amend SUB-AM8 as follows: SUB-AM8 General 5. The provision of telecommunications to each site	Accept	Accept Reporting Officer recommendation

Note - there were no telecommunication submission points that were raised in the Contaminated Land & Hazardous Substances s42A Report