

BEFORE TIMARU DISTRICT COUNCIL

IN THE MATTER OF

the Resource Management Act 1991

AND

IN THE MATTER OF

Timaru District Council's Proposed District
Plan: Hearing Stream D: Open Space Zones,
Hazards and Risks (excluding Natural
Hazards), and Natural Environment

STATEMENT OF EVIDENCE TOM ANDERSON

ON BEHALF OF

**CHORUS NEW ZEALAND LIMITED, CONNEXA LIMITED, ONE NEW ZEALAND
GROUP LIMITED AND SPARK NEW ZEALAND TRADING LIMITED**

25 October 2024

SUMMARY STATEMENT

- i. My name is Tom Anderson. I am a Principal Planner and a Director of Incite, a resource management consulting firm. My qualifications and experience are set out in my evidence in chief in this statement.
- ii. I have read and am familiar with the Code of Conduct for Expert Witnesses (section 9 of the Environment Court Consolidated Practice Note 2023). 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.
- iii. As provided for in Paragraph 3.6 of Minute 3 of the Hearing Panel (titled *Pre-hearing Directions of Hearing Panel*), this summary statement provides a summary of my evidence in chief.
- iv. Chorus, Connexa, One NZ and Spark (the telecommunication companies) lodged submissions on the Proposed Timaru District Plan (PDP).
- v. Of these submission points, the only points relevant to Hearing Stream D concern Policies ECO-P2 and ECO-P5 regarding indigenous biodiversity, the introduction to the Natural Features and Landscapes Chapter, and the extent and applicability of Outstanding Natural Landscapes (ONLs), Outstanding Natural Features (ONFs) and Visual Amenity Landscapes (VALs) with regard to telecommunications infrastructure.
- vi. The s42A Report recommended relief concerning ECO-P5 and the introduction to the Natural Features and Landscapes chapter is accepted.
- vii. In terms of ECO-P2, the policy as notified was supported by the telecommunication companies. The s42A Report recommends that the operation, maintenance and repair of some, but not all, regionally significant infrastructure networks are provided for through ECO-P2. Through this evidence, I seek that this be extended to all regionally significant infrastructure networks, in order to provide better equality to those providers through the policy.
- viii. Turning to the extent and applicability of ONLs, ONFs and VALs with regard to telecommunications infrastructure, my evidence seeks that there is permitted provision for such infrastructure in each overlay, with the key matter being a restriction on the diameter of the infrastructure. I consider that this provides a balance between the open expanse of such landscapes, coupled with the need for essential infrastructure.

EVIDENCE IN CHIEF

Professional Qualifications and Experience

1. My name is Tom Anderson. I am a Principal Planner 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 and 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 17 years professional experience. Throughout my career I have provided advice to a number of telecommunication and radiocommunication companies, including submitters Chorus New Zealand Limited (Chorus), Connexa Limited (Connexa), One New Zealand Group Limited (One NZ – formerly Vodafone New Zealand Limited)¹ and Spark New Zealand Trading Limited (Spark – formerly Telecom New Zealand Limited and Telecom Mobile Limited), as well as FortySouth Group LP, Two Degrees Networks Limited, Rural Connectivity Group and Vital (formerly TeamTalk). I have provided the telecommunication companies with advice on district and unitary plan reviews and plan changes, site selection exercises, designation and outline plan of works processes, and consenting activities for network rollouts and exchange upgrades.
3. On this basis, I consider myself to have a comprehensive understanding of telecommunication and radiocommunication networks, and the practical implications of the Resource Management Act 1991 (RMA) framework in relation to network installation, upgrade and operation.
4. I drafted and submitted the submissions of Chorus, Connexa, One NZ/Fortysouth and Spark on the Proposed Timaru District Plan (PDP). The submissions of the aforementioned telecommunications companies are exactly the same and have been addressed as a group in the s42A reports.
5. I have read and am familiar with the Code of Conduct for Expert Witnesses (section 9 of the Environment Court Consolidated Practice Note 2023). My evidence has been prepared in compliance with that code. In particular, unless I state otherwise, this evidence is within my

¹ Note, when the submissions were lodged, One NZ was still Vodafone NZ.

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 and Purpose of Evidence

6. This evidence has been prepared in review of the aforementioned telecommunications companies' submissions on the PDP, as they relate to Hearing D. There are only a few points which are relevant to Hearing D, solely in relation to the Natural Environment and in particular Indigenous Biodiversity and Natural Features and Landscapes. There were no submission points on the other matters being considered in Hearing D.
7. For the following provisions, the submissions were either accepted, or the alternate relief recommended in the S42A reports is acceptable, and therefore the submission points on those provisions are no longer being pursued. Those provisions and submissions are:
 - The alternate relief recommended in the s42A report regarding ECO-P5 (submissions 176.71 (Connexa), 208.71 (Spark), 209.71 (Chorus) and 210.71 (One NZ/Fortysouth)); and
 - The retention of the introduction to the Natural Features and Landscape chapter (176.72, 208.72, 209.72 and 210.72);
8. Through this evidence I seek alternate relief on the remaining submission points, which are in relation to ECO-P2, and the extent of and applicability of Outstanding Natural Landscapes (ONLs), Outstanding Natural Features (ONFs) and Visual Amenity Landscapes (VALs) in regard to telecommunication facilities. The reasoning for this is detailed as follows.

ECO-P2

9. Submissions 176.70, 208.70, 209.70 and 210.70 sought that ECO-P2 as notified be retained. The Alternate relief has been recommended in the S42A Report, which specifically identified some (the National Grid, electricity distribution network and rail network) but not all, *Regionally Significant Infrastructure* as defined in the PDP.
10. From my reading of the PDP, this recommendation is the only provision which elevates the importance of some elements of *Regionally Significant Infrastructure* over others. I see no reason for the ECO-P2 to do this. In my view, given that *Regionally Significant Infrastructure* is defined (and includes the National Grid, electricity distribution network, rail network), then that defined term should be referred to in ECO-P2, rather than individual infrastructure networks.

11. Consequently, I seek the following relief. Note, recommended amendments as per the S42A Report are shown in underlined for additional text or ~~strikethrough~~ for deleted text, with my recommended amendments shown in red (underlined for additional text and ~~strikethrough~~ for deleted text):

Amend ECO-P2 as follows:	
ECO-P2	Appropriate indigenous vegetation clearance in significant natural areas
Provide for the clearance of indigenous vegetation in Significant Natural Areas where it is appropriate for health and <u>safety</u> , wellbeing or customary reasons, <u>or to allow for ongoing farming practises</u> , by enabling clearance:	
<ol style="list-style-type: none"> 1. for mahika kai and other customary uses, where this is undertaken in accordance with tikaka protocols; or 2. where it is causing imminent danger to human life, structures, or utilities, <u>or affecting the safe operation of utilities</u>; or 3. where necessary to manage plant or animal pests or unwanted organisms; or 4. for flood protection works by appropriate authorities where those works are required to protect people and communities from the effects of flooding; or 5. for the operation, maintenance or repair of <u>Regionally Significant Infrastructure</u> the National Grid; or 6. for the operation or maintenance of the electricity distribution network, rail network and public roads; <u>or</u> 67. <u>arising from grazing within areas of improved pasture which form part of Significant Natural Areas.</u> 	

Extent of Natural Features and Landscapes

12. Submissions 176.73, 176.74, 176.75, 208.73, 208.74, 208.75, 209.73, 209.74, 209.75, 210.73, 210.74 and 210.75 sought that that roads should be excluded from the provisions relating to the Outstanding Natural Features (ONF), Outstanding Natural Landscapes (ONL) and Visual Amenity Landscapes (VAL) overlays. The reasoning for this is roads are a modified environment. The submissions also sought that rural residential areas should be excluded from VALs as they are defined as rural areas under the NESTF, and therefore sought that the extent of the VAL is amended to exclude areas zoned for rural residential land use.

13. The s42A Report, at Paragraph 9.2.21, states that roads, and other man-made elements, form part of the wider landscape, and that the landscape advisor does not consider it best practice to exclude discrete man-made elements from the wider identified areas. There is however recognition in the s42A Report that as road corridors contain a higher level of man-made modification they may have a greater ability to absorb change than in more natural surroundings. Therefore the advisor considers that a more permissive management regime could be considered within road corridors.
14. Consequently the Reporting Officer does not support the removal of roads from overlay areas. The Reporting Officer then draws attention to the Proposed Queenstown Lakes District Plan, which permits a height of 8m in ONLs², and have recommended that such a height be applied solely to road corridors within ONLs, ONFs and VALs. Consequently, they have recommended a change to Rule NFL-R3 which permits telecommunications activities within formed road reserve where the height of a pole does not exceed the aforementioned 8m, an additional allowance of 3.5m for panel antenna only, and standard NFL-S5 is met.
15. While I agree that there should be a more permissive management regime within road corridors, the cross reference to the Proposed Queenstown Lakes District Plan is in my view too narrow.
16. In my view, the 8m permitted height for telecommunications infrastructure in ONLs in the Proposed Queenstown Lakes District Plan has resulted in good outcomes. Where possible, the telecommunication companies have complied with the permitted provisions, and where not possible, resource consents have been obtained on a non-notified basis, with some weight being given to the permitted baseline that the standard creates. In all instances I have been involved with, the final built facility has been very difficult to discern once constructed, due to the slimline nature, the low reflectivity (as the rule requires poles in ONLs to be finished in colours with a light reflectance value of less than 16%, which is less reflective than the 30% required by PDP Standard NFL-S5) and the vastness of the landscape.
17. The sites which I have worked on in Queenstown are not in legal road. Further, the 8m permitted height limit is becoming more and more difficult to achieve, as new technology makes it more challenging for sites of this height to achieve the required radiofrequency standards under NZS2772.1 at ground level. The 8m height can work in Queenstown on steep sites where public accessibility is limited and the topography is very steep, but I am informed

² Noting that this is now beyond challenge as appeals have been resolved.

by Mr Graeme McCarrison at Spark and Mr Colin Clune at FortySouth it could not be achieved in legal road, to provide a wide coverage footprint required for a sparse density of dwellings in a rural and rural residential environment.

18. Other recently operative District Plans have taken a different approach. The Christchurch District Plan essentially excludes any telecommunication facility in legal road that is within an ONL or ONF or amenity landscape from having to meet the provisions of the ONLs and ONFs. By doing so, it encourages facilities to be co-located in legal road, as was sought by the submission point. 25m is permitted in roads which pass through ONLs, ONFs and amenity landscapes.
19. Consequently, while I conceptually agree with the recommendation of the Reporting Officer, as it encourages telecommunication facilities to be co-located in legal road I consider that a greater height is required in order to achieve the functional and operational requirements of the operators. I consider a permitted height limit of 25m appropriate in formed road. Structures are typically slimline, so I do not consider that they will dominate the landscape. To ensure structures are slimline, I recommend that provision be made to keep the facility (including all attachments), within a 1m diameter, and, like Queenstown, be finished in colours with a light reflectance value of less than 16%. This is shown in my requested relief below.
20. Finally, the heights I seek are the total facility height (excluding lightning rods and GPS antenna, as small, indiscernible structures), not a pole height plus an antenna height, as provided for in the Reporting Officer recommendations for NFL-R3. Further, the provisions apply for all antenna, not just panel antenna as per the Reporting Officer recommendations. It is not the antenna type that matters with regard to effect, but the overall facility width.
21. Turning to VALs, I note that the Reporting Officer considers VALs to be of a lower threshold than ONFs/ONLs (Paragraph 9.2.21 of the Section 42A Report). I agree. Therefore, I do not consider it appropriate for VALs to be subject to the same location provisions as ONFs/ONLs.
22. Similar to ONLs, the four VALs identified in the PDP generally cover vast areas. The underlying zoning for the VALs are typically General Rural (with pockets of Natural Open Space), with VAL-3 being the exception and containing a large expanse of Rural Lifestyle zoned land. As such, the VALs generally apply in areas where people work and live, and as such use telecommunications.
23. Given this, I consider it appropriate that telecommunications services should be readily available. The visual amenity for which the areas are identified are large, and, as stated,

telecommunications infrastructure is generally slim. I am of the opinion that it is not the height of a facility which can detract from appreciation of a view, but bulk.

24. Consequently, I consider that 25m of overall height (excluding lightning rods and GPS Antenna) should be the permitted height in the VALs (regardless of whether the facility is in formed legal road or not. 25m aligns with the underlying permitted height standard for rural (and rural residential) zones under the Resource Management (National Environmental Standards for Telecommunication Facilities) Regulations 2016 (NESTF). However, I consider that the permitted width for a facility should be 1m. This is significantly slimmer than the 6m of width permitted under the NESTF in the rural zones.

25. Based on the above, the following amendments are sought to Rule NFL-R3:

Amend NFL-R3 as follows:

NFL-R3	Network utilities including associated earthworks	
<p>ONF overlay</p> <p>ONL overlay</p> <p>VAL overlay</p>	<p>Activity Status: Permitted</p> <p>Where:</p> <p>PER-1 The work involves the maintenance, upgrading or removal of existing network utilities; or</p> <p>PER-2 The installation of new or upgrading of underground network utilities where:</p> <ol style="list-style-type: none"> 1. within the ONF and ONL overlays, the installation does not include more than 1,000m² of temporary trenching / earthworks; and 2. within the VAL overlay, the installation does not include more than 1,500m² of temporary trenching / earthworks in any 12-month period; and or 3. the installation does not require the clearance of any indigenous vegetation. <p>PER-3</p>	<p>Activity status when compliance not achieved: Restricted Discretionary</p> <p>Matters of discretion restricted to:</p> <ol style="list-style-type: none"> 1. the height, size, scale, external colour/finish, reflectivity and design of the network utility building, structure, or above ground utility line and support structure; and 2. the proposed location of the network utility building, structure or above ground network utility line and support structure and earthworks, specifically in relation to their impact on any landscape values; and 3. effects on landscape values, and qualities of the visual amenity landscape, outstanding natural feature or outstanding natural landscape as described in SCHED8 — Schedule of outstanding natural landscapes, SCHED9 — Schedule of outstanding natural features or SCHED10 — Schedule of visual amenity landscapes; and 4. location and/or routes and designs available; and

	<p>Telecommunications activities which are located within formed road reserve, where:</p> <ol style="list-style-type: none"> 1. the height of any pole <u>and attached antenna (excluding lightning rods or GPS antenna) does not exceed 825m</u>; and 2. <u>any panel antenna is no higher than 3.5m above the height of the pole the diameter of the pole and all attachments does not exceed 1m</u>; and 3. <u>Be finished in colours with a light reflectance value of less than 16%NFL-S5 is complied with.</u> 	<ol style="list-style-type: none"> 5. any operational needs or functional needs or constraints; and 6. the benefits that the network utility provides to the local community and beyond; and 7. Mitigation measures.
<p><u>VAL overlay</u></p>	<p><u>Activity Status: Permitted</u></p> <p><u>Where:</u></p> <p><u>PER-5</u> <u>The work involves the maintenance, upgrading or removal of existing network utilities; or</u></p> <p><u>PER-5</u> <u>The installation of new or upgrading of underground network utilities where:</u></p> <ol style="list-style-type: none"> 1. <u>within the VAL overlay, the installation does not include more than 1,500m² of temporary trenching / earthworks in any 12-month period</u> <p><u>PER-7</u> <u>Telecommunications activities, where:</u></p> <ol style="list-style-type: none"> 1. <u>the height of any pole and attached antenna (excluding lightning rods or GPS antenna) does not exceed 25m;</u> 2. <u>the diameter of the pole and all attachments does not exceed 1m; and</u> 3. <u>NFL-S5 is complied with.</u> 	<p><u>Activity status when compliance not achieved: Restricted Discretionary</u></p> <p><u>Matters of discretion restricted to:</u></p> <ol style="list-style-type: none"> 1. <u>the height, size, scale, external colour/finish, reflectivity and design of the network utility building, structure, or above ground utility line and support structure; and</u> 2. <u>the proposed location of the network utility building, structure or above ground network utility line and support structure and earthworks, specifically in relation to their impact on any landscape values; and</u> 3. <u>effects on landscape values, and qualities of the visual amenity landscape, outstanding natural feature or outstanding natural landscape as described in SCHED8 — Schedule of outstanding natural landscapes, SCHED9 — Schedule of outstanding natural features or SCHED10 — Schedule of visual amenity landscapes; and</u> 4. <u>location and/or routes and designs available; and</u> 5. <u>any operational needs or functional needs or constraints; and</u> 6. <u>the benefits that the network utility provides to the local community and beyond; and</u>

		<u>7. Mitigation measures.</u>
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26. Overall, I consider that such changes appropriately provide for essential and regionally significant infrastructure in a balanced way when considering the landscape qualities identified for each ONF, ONL (and any existing infrastructure within those areas) or VAL.



Tom Anderson

25 October 2024