

PROPOSED WAITOMO DISTRICT PLAN: TRANCHE 2

Chris Horne Summary Statement

1. There were only limited outstanding matters addressed in my evidence in regard to the Telecommunications Companies' submissions, which have further narrowed following review of the s42A addendum reports for the EIT and NFL Topics.

Telecommunications Equipment in Roads Covered by Overlays (EIT)

2. My evidence sought further clarity around the status of telecommunications equipment in roads meeting the *Resource Management National Environmental Standards for Telecommunications Facilities) Regulations 2016* (NESTF) where traversing areas covered by overlays.
3. The s42A report addendum confirms the status of activities in the roads column in the rules overrides the other columns¹ (such as those for overlays), and recommends amended standards for Rule NU-R2 (facilities meeting the NESTF in roads) to clearly exempt this equipment from the overlay provisions due to the scale of such equipment and the role of roads as infrastructure corridors². The reporting planner has made suggested edits and requested I provide feedback on this at the hearing. In my view the proposed amendments generally address the matters raised in my evidence, although I suggest some minor changes to align with the NESTF regulations attached to this statement. This is primarily relating to reference to regulations that are not applicable to equipment in roads.

Telecommunications Poles and Antennas in Zones (EIT)

4. The reporting planner agrees with me in the s42A addendum that there should be a permitted activity allowance in commercial zones including PREC5 for this equipment which is more consistent with other district plans and the operative Waitomo District Plan³. Therefore, we agree on this matter.
5. She does not agree that there should be a permitted activity allowance in the Rural-Residential Zone. I note that the NESTF treats rural-residential zones to be included in the definition of *Rural Zone* and as such a 25m high permitted activity status applies in

¹ Paragraph 60 EIT s42A Addendum

² Paragraph 66 EIT s42A Addendum

³ Paragraphs 70-72 EIT s42A Addendum

such zones under Regulation 35. Therefore, pragmatically the network operators party to the submission can erect equipment of this scale in these zones as a permitted activity in any case. Ideally the district plan rules would align with the NESTF to avoid confusion around this. The commissioners could adopt a 50m set back requirement from the façade of any dwelling on another site to align with the NESTF.

Earthworks for Utility Pole Foundations in Hazard Areas (EIT)

6. In my evidence I recommended an exemption for utility poles from the earthworks depth restriction of 0.5m in flood and coastal hazard areas in Rule NU-45 on the basis these controls are unnecessary for utility poles and impractical for many pole foundation designs. The reporting planner agrees with me in the Addendum⁴.

Coastal Setbacks for Telecommunications Equipment (EIT)

7. My evidence supported the submission seeking an exemption from the 200m open coast and 50m Kawhia Harbour and river mouth setbacks for telecommunications equipment in roads and for customer connections. The setbacks in the Proposed Plan are intended to manage coastal hazards.
8. In my evidence I set out that this equipment is non-habitable and follows rather than leads development to serve development already in these areas. I expressed an opinion that it is unnecessary and inefficient to require resource consent for such equipment to service existing or enabled development in these areas, which includes a number of existing settlements. I note that in many cases (i.e. where the equipment is regulated by the NESTF), Regulation 57 already disapplies any district plan rules relating to natural hazards. The User Guide for the NESTF notes⁵:

Regulation 57 makes it clear that natural hazard rules in district plans do not apply to a regulated activity under the NESTF. It also makes clear that territorial authorities cannot make natural hazard rules that apply to regulated activities under the NESTF. This is because resilience is already factored into industry practice, and they will either avoid hazard areas or engineer structures to be resilient to the hazard risk. Natural hazards encompass the full breath of hazards including flooding, instability, earthquake and climate change.

⁴ Paragraph 82 EIT s42A addendum

⁵ NESTF user guide, 5.11, p93

9. The reporting planner does not agree with me in the s42A Addendum and considers that the Restricted Discretionary Activity status is consistent with the policy framework for natural hazards.⁶ I continue to support the relief requested in my evidence:

***Amend** Rules NU-38 and NU-39 such that do not apply to customer connections, and network utility structures in existing roads.*

10. I consider this to be consistent with proposed Policy NU-PX in the tracked changes to the NU provisions in the s42A Addendum.

NU-PX Enable network utilities in natural hazard overlays that:

1. Do not increase the risk from the natural hazard to people, other property or other infrastructure;

2. Have a functional need or operational need to be located within the area subject to the hazard; and

3. Where necessary and appropriate include design measures to reduce the potential for damage in a natural hazard event.¹²

Natural Features and Landscapes Policies and Infrastructure

11. I supported amendments to Policy NFL-P1 to make it clear that network utilities are managed in accordance with the bespoke policy framework in Policies NU-P11 and NU-P12 (now recommended to be consolidated into NU-P12 which I support). This is to recognise that there are functional and operational reasons why some adverse effects in such areas may be justified for network utilities and may not always be able to be avoided in accordance with the Policy NFL-P1. The reporting planner agrees in the s42A Addendum. I agree with the recommended amendments to Policy NFL-P1⁷.

⁶ Paragraph 76, EIT s42A Addendum

⁷ Paragraph s 48-50 NFL s42A Addendum

Additional Changes Recommended to Rule NU-R2 from s42A Addendum Version

NU-R2.1 to NU-R2.4 are permitted by NESTF where the relevant standards in NESTF are complied with and the activity is not located within overlays, scheduled sites and features: *where resource consent is otherwise required.*

1. Telecommunication cabinets (Regulation 19 to 25):
 - (i) ~~In the road reserve~~
 - (ii) Outside the road reserve
 - (iii) On buildings outside the road reserve
2. Antennas (Regulation 26 to 37):
 - (i) ~~On existing poles in road reserve~~
 - (ii) ~~On new poles in road reserve~~
 - (iii) Replacement, upgrading and co-location of existing poles and antennas outside road reserve (with different conditions in residential and non-residential areas)
 - (iv) New poles and antennas in general rural zones
 - (v) Antennas on buildings outside the road reserve (above a permitted height in residential areas)
3. Small-cell units on existing structures outside the road reserve (Regulation 38)
4. Telecommunication lines underground, on the ground and overhead outside the road reserve (Regulations 39 to 43)

NU-R2.5 to NU-R2.8 are permitted by NESTF in the road reserve where the relevant standards in NESTF are complied with:¹⁸

5. Telecommunication cabinets (Regulation 19 to 25):
 - (i) In the road reserve
 - (ii) On buildings
6. Antennas (Regulation 26 to 37):
 - (i) On existing poles
 - (ii) On new poles
 - (iii) Replacement, upgrading and co-location of existing poles and antennas (with different conditions in residential and non-residential areas)
 - (v) Antennas on buildings (above a permitted height in residential areas)
7. Small-cell units on existing structures (Regulation 38)
8. Telecommunication lines underground, on the ground and overhead (Regulations 39 to 43)

RDIS: Where the standards in NESTF are not complied with unless the equivalent equipment not regulated by the NESTF is otherwise provided for as a permitted activity in the NU Rules (except for Reg 55 Radio Frequency which is NC in accordance with NESTF).

NC: Where the standards in NESTF are not complied with or the activity cannot comply with the Te Kūiti Aerodrome flightpath height restrictions.

¹⁸ Chorus, Connexa, Spark, Vodafone [09.11]