

Form 5

**Submission on publicly notified proposal for policy statement or plan, change or variation
Clause 6 of Schedule 1, Resource Management Act 1991**

To: Waitomo District Council
PO Box 404
Te Kuiti 3941

Attention: districtplan@waitomo.govt.nz

Name of submitter: Chorus New Zealand Limited
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This is a submission on the following proposed plan, change or variation: **Proposed Waitomo District Plan**

Chorus New Zealand Limited (Chorus), Connexa Limited (Connexa), Spark New Zealand Trading Limited (Spark) and Vodafone New Zealand Limited (Vodafone) have lodged a joint submission to the Proposed Waitomo District Plan.

Chorus, Connexa, Spark and Vodafone could not gain an advantage in trade competition through this submission.

The specific provisions of the proposal that the submission relates to, the submission points, reasons and decisions sought are detailed in the attached table. Chorus, Connexa, Spark and Vodafone seek that the decisions sought as set out in the attached table are adopted, or any other such relief and/or consequential amendments that achieves an equivalent outcome.

¹ Connexa is an independent mobile towers and infrastructure business, previously a part of Spark. Spark retains a shareholding in Connexa. Connexa (previously named Spark TowerCo Limited) operates a nationwide portfolio of over 1240 mobile sites and is responsible for an ongoing build programme for the growth of passive mobile assets across New Zealand

Chorus, Connexa, Spark and Vodafone wish to be heard in support of their submission. If others make a similar submission, Chorus, Connexa, Spark and Vodafone will consider presenting a joint case with them at a hearing.



Signed:

On behalf of Chorus New Zealand Limited

Date: 19 December 2022



Signed:

On behalf of Connexa Limited

Date: 19 December 2022



Signed:

On behalf of Spark New Zealand Trading Limited

Date: 19 December 2022



Signed:

On behalf of Vodafone New Zealand Limited

Date: 19 December 2022

Address for Service:

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These submissions made are to ensure that there is a practical and workable planning regime for deploying critical network utility infrastructure in the Waitomo District. The submission requests that either:

- i. the specific relief as set out in the table below; or
- ii. Such other relief to similar effect to address the matters outlined in the submission to the submitter’s satisfaction; and
- iii. In relation to i and ii above, any consequential amendments necessary as a result of the amendments to grant the relief sought.

Glossary of Acronyms:

Resource Management (National Environmental Standards for Telecommunications Facilities) Regulations 2016 (NESTF)

Part 1 – Introduction and General: 9. Definitions

Proposed District Plan Provision	The Submission is that:		Decisions sought:
	Oppose / Support	Reasons	
Regionally Significant Infrastructure	Support	The definition appropriately recognises the regional significance of telecommunications networks.	Retain notified definition of <i>Regionally Significant Infrastructure</i>

Part 2 – District Wide Matters: 16. Strategic Direction, Urban Form and Development - SD

Proposed District Plan Provision	The Submission is that:		Decisions sought:
	Oppose / Support	Reasons	
Objective SD-O30	Support in part	SD-O30 is supported, however, it should be re-numbered and relocated under the District Wide Matters sub-heading rather than the Urban Form and Development sub-heading as it is a relevant district wide matter.	Amend the provision number for SD-O30 and re-locate it under the District Wide Matters sub-heading. Retain the wording of the provision as notified.

Part 2 – District Wide Matters: 19. Network Utilities NU

Proposed District Plan Provision	The Submission is that:		Decisions sought:
	Oppose / Support	Reasons	
Objective NU-01 and NU-02	Support	These provisions provide an appropriate and workable framework for telecommunications infrastructure.	Retain Objectives NU-01 and NU-02.
Policy NU-PI, NU-P2, NU-P7, NU-P9, NU-P14, NU-P16 and NU-P19	Support	These provisions provide a workable and appropriate policy framework for telecommunications infrastructure.	Retain Policies NU-PI, NU-P2, NU-P7, NU-P9, NU-P14, NU-P16 and NU-P19.
Policy NU-P8	Oppose in part	An amendment to the policy to provide for enablement of some minor vegetation clearance in overlays and riparian margins is requested to support a rules framework for minor clearance in these areas for necessary network utility works. The policy does not reflect the existing rules allowances for vegetation clearance in overlays in Rule NU-R33.	Amend Policy NU-P8 as follows or a change of like effect: <i>Enable clearance of indigenous vegetation outside of overlays, scheduled sites and features, cave entrances and sinkholes, coastal and water body margins, <u>and manage indigenous vegetation clearance in other locations to minimise adverse effects on the values and attributes of these more sensitive environments.</u></i>

Policy NU-P10	Oppose	<p>Clause 1 of the policy is not supported as it is unclear how it will be applied to new network utilities in regard to the permitted activity rules framework or where a resource consent is required, as third parties may prefer to not have necessary network utility infrastructure sited close to them if required for operational need and/or functional need. It is unclear what is meant by <i>required separation distances</i>.</p> <p>In regard to Clause 3, for telecommunications equipment in particular, landscaping/screening is generally not an appropriate response for typical equipment deployed, so Clause 2 should not set an expectation that all network utility works will be landscaped/screened.</p> <p>Clause 3 refers to industrial buildings which appears to be out of context with provisions addressing the effects of network utilities.</p>	<p>Amend Policy NU-P10 as follows or a change of like effect:</p> <p><i>Ensure the location, scale and operation of network utilities and their ancillary activities avoid, remedy or mitigate adverse effects on nearby sensitive activities as far as practicable, including by:</i></p> <p>1. Maintaining required separation distances to ensure reverse sensitivity effects are minimised; and</p> <p>2. Ensuring sites are sufficiently landscaped and screened where appropriate; and</p> <p>3. Ensuring that industrial buildings to house network utilities are designed as far as practicable to not overshadow or overly dominate the wider surrounding area.</p>
Sub heading to Policies NU-P11 and NU-P12 Hazards, overlays, scheduled sites and features	Oppose in part	Reference to natural hazards does not make any sense in regard to the content of the two policies which relate to overlays and scheduled sites/features.	Delete the word “Hazards” from the sub heading above Policies NU-P11 and NU-P12
New Policy Natural Hazards	Support	A new policy is requested that recognises that network utilities are appropriate in natural hazard areas where they have a functional need or operational need to be there, do not exacerbate the hazard in terms of risks to people and property, and take into account design measures where necessary and appropriate for resilience in a natural hazard event. It is noted that regulated telecommunications infrastructure is exempt from district plan hazard rules in the NESTF, reflecting the natural hazard risk profile for this type of infrastructure.	<p>Add a new Policy as follows (or wording of like effect):</p> <p><u>NU-PX</u> <u>Enable network utilities in natural hazard overlays that:</u></p> <p>1. <u>Do not increase the risk from the natural hazard to people, other property or other infrastructure;</u></p>

			<p>2. <u><i>Have a functional need or operational need to be located within the area subject to the hazard; and</i></u></p> <p>3. <u><i>Where necessary and appropriate include design measures to reduce the potential for damage in a natural hazard event.</i></u></p>
Policy NU-P15	Oppose in part	The general intent of the policy to support adoption of new technologies is supported. However, Clauses 1-5 are linked by “and” rather than “or” meaning that all clauses would need to be met to be consistent with the policy. These clauses should all be disjunctive as new technologies may deliver some but not all of the stated outcomes in the policy, but still benefit the wellbeing of communities.	Amend Policy NU-P15 such that clauses 1-6 are all disjunctive.
Introductory statement on how the network utilities rules work	Support	The statement clearly sets out how the network utilities rules work and their relationship to other parts of the district plan. The generally self-contained nature of the network utilities rules in Chapter 19 is supported.	Retain the introductory statement on how the networks utilities rules in Chapter 19 work.
Rule NU-R2	Oppose in part	This rule applies to activities regulated under the NESTF 2016. The structure of the rule is quite complex. One of the elements of the rule is that all regulated telecommunications equipment in overlays and scheduled sites/features are automatically discretionary of restricted discretionary activities regardless of scale or location. This is a blunt instrument which may unreasonably regulate necessary equipment that may need to locate in these areas due to operational need or functional need to provide a service to communities. Some exemptions from these default provisions for overlays and scheduled sites/features is sought for customer, cabinets in roads, and poles and antennas in roads (otherwise meeting NESTF	<p>Amend Rule NU-R2 such the that following is exempt from default DIS or RDIS status in overlays and scheduled sites and features listed in columns 3, 4 and 5 of the rule table:</p> <p>Customer connections, cabinets in roads, and poles and antennas in roads (otherwise meeting NESTF Regulations 26-29) other than in an Outstanding Natural Feature.</p>

		Regulations 26-29) other than in an Outstanding Natural Feature.	
Rule NU-R3, NU-R4, NU-R5, NU-R6, NU-R7, NU-R11, NU-R12, NU-R17, NU-R19, NU-R22, NU-R30 and NU-R37 as notified.	Support	These permitted activity rules which apply to telecommunications infrastructure are supported as notified.	Retain Rule NU-R3, NU-R4, NU-R5, NU-R6, NU-R7, NU-R11, NU-R12, NU-R17, NU-R19, NU-R22, NU-R30 and NU-R37 as notified.
Rule NU-R13	Oppose	<p>This rule unnecessarily restricts network utilities within rail corridors as KiwiRail controls access to these areas via property rights and/or designations. These locations are often good locations for telecommunications infrastructure.</p> <p>The requirement for a 20m set back from indicative roads is not supported for telecommunications lines as this equipment may be caught where running down an existing road that intersects with an indicative future road. It is also considered to be unnecessary from customer connections. Further, the 5m setback from rail corridors would restrict lines (including underground lines) in roads at rail crossings.</p>	<p>Amend Rule NU-R13 such that it does not restrict:</p> <ul style="list-style-type: none"> • Network utility structures within rail corridors; • Lines within roads from any indicative road or rail corridor setbacks; • Customer connections from indicative road setbacks.
Rule NU-R14	Oppose in part	The rule unnecessarily restricts the realignment of underground infrastructure to 5m (due to its link to Table 2 NU-R43) in zones and overlays where this activity is permitted.	Amend Rule NU-R14 or NU-R43 such that realigning underground infrastructure permitted by NU-R14 is not subject to a 5m restriction on realignment/relocation.
Rule NU-R15	Oppose in part	Resource consent for new underground network utilities is required in several overlays and is permitted in roads. Roads may traverser a number of these overlays. It is unclear what the status is where an overlay extends over a road.	Amend Rule NU-R15 to make it clear that permitted activity status in roads applies even where the road traverses an overlay where it is otherwise not permitted.
Rule NU-R21	Oppose	The rule applies to new telecommunications poles and antennas attached to poles that are not regulated by the NESTF (i.e., outside of rural zones and roads). This equipment should be permitted in the Rural Residential Zone (which is specifically treated as a Rural Zone in the NESTF), and the Commercial Zone (COMZ) and Te Kuiti CBD Precinct PREC5 where larger scale built	Amend Rule NU-R21 such that poles and attached antennas are a permitted activity in the Rural Residential Zone, Commercial Zone (COMZ) and Te Kuiti CBD Precinct PREC5. Proposed standards are included in the submission on Table 2 (NU-R48).

		development is better able to absorb the effects of these structures and where service is likely to be required to support business and surrounding environments. A height in relation to boundary control from adjacent residential zoned land can protect the amenity of more sensitive zones.	
New Rule	Support	<p>A new rule covering poles and attached antennas in roads, not regulated by or complying with the NESTF, is requested. This infrastructure is now routinely deployed in roads to serve communities, particularly in regard to fast wireless broadband. This is often the only practical way to serve residential areas. Whilst networks endeavour to comply with the NESTF, sometimes existing poles in roads are not of sufficient heights to practically provide for a replacement structure (existing height plus 3.5m) as a permitted activity. Typically a pole of up to 15m is used in a road-side solution to clear adjacent obstructions such as trees and buildings. Accordingly, a new controlled activity rule is sought for poles and antennas in roads up to 15m in height, or the permitted height limit for poles and attached antennas in the adjacent zone, whichever is the greater. The headframe diameter can be limited to 700mm, consistent with the NESTF, to ensure slimline solutions are deployed in roads.</p> <p>By way of comparison, Waipa District allows for 15m high poles as a permitted activity in roads in residential zones, and 20m in commercial zones.</p>	<p>Add a new NU Rule that provides for poles and attached antennas in roads not regulated by or complying with the NESTF as a controlled activity subject to the following standards:</p> <ul style="list-style-type: none"> • 15m or the permitted height limit for poles and attached antennas in the adjacent zone, whichever is the greater. • 700mm maximum width for antennas, antenna headframe and any shroud mounted on the pole.
Rule NU-R33	Oppose	<p>Earthworks for new network utilities should be exempt from the 5m setback requirement from waterbodies in the same manner as maintenance is provided for in standard (3)(i) of the rule. This is particularly relevant where roads or tracks run adjacent to or cross rivers and streams.</p>	<p>Amend Rule NU-R33, clause (3)(i), as follows:</p> <p>....</p> <p><i>PER and RDIS activities must:</i></p> <p>....</p> <p><i>3. Earthworks are permitted within 5m from the edge of a water body where:</i></p>

			<p>(i) The works are for maintenance <u>or installation</u> purposes on or within 2m of existing roads, driveways, tracks, fences or water intake structure; or</p> <p>.....</p>
Rule NU-38	Oppose	The rule requires structures to be set back 200m from the open coast. This may unnecessarily restrict network utility structures in existing roads (e.g. service poles, cabinets), and customer connections to existing buildings.	Amend Rule NU-R38 such that the 200m set back from the open coast does not apply to customer connections, and network utility structures in existing roads.
Rule NU-39	Oppose	The rule requires structures to be set back the greater of 50m or other slope related measures from Kawhia Harbour or any river in the Coastal Marine Area. This may unnecessarily restrict network utility structures in existing roads (e.g. service poles, cabinets), and customer connections to existing buildings.	Amend Rule NU-R38 such that the setbacks from Kawhia Harbour or any river in the Coastal Marine Area do not apply to customer connections, and network utility structures in existing roads.
Rule NU-R40	Oppose in part	Minor utility structures, poles, towers, antennas attached to poles and streetlights are exempt from the 25m water body set back in this rule. Whilst these exemptions are supported, lines should be included. These may be attached to poles, placed across bridges or drilled under a riverbed.	<p>Amend Rule NU-R40 as follows:</p> <p>....</p> <p>OR</p> <p>2. Be a minor utility structure, a pole, tower, <u>line</u>, antennas attached to poles or streetlight; or</p> <p>....</p>
Table 2 Performance Standards Rule NU-R43	Oppose	Clause 1 restricts the relocation or realignment of underground lines and pipes (excluding gas transmission pipelines) as part of upgrading to 5m from the existing location. Unless being restricted due the sensitivity of a particular overlay where resource consent is required in any case, this restriction on location associated with upgrading is not justified.	Delete Clause 1 of Rule NU-R43.
Table 2 Performance Standards Rule NU-R44	Oppose in part	The antenna upgrading allowance in Clause 12(i) is supported. However, for clarity the allowable increase in face area of 20% should be changed to <u>largest</u> face area.	<p>Amend Rule NU-44 as follows:</p> <p>....</p> <p>12. In all locations:</p>

			<p>(i) A replacement panel antenna must not increase the largest face area by more than 20 percent; and</p> <p>....</p>
Table 2 Performance Standards Rule NU-R45	Oppose	<p>The restrictions on earthworks in natural hazard areas require some exemptions for backfilled utility trenches, trenchless excavation (e.g., directional drilling) and pole foundations to avoid unnecessary regulation for these works which would not be expected to exacerbate hazards.</p>	<p>Amend Rule NU-R45 by adding an additional clause as follows:</p> <p><u>4. Except that the excavation volumes in (1) and depth in (3) shall not apply to backfilled network utility trenches, excavation by trenchless means (e.g. directional drilling) or pole foundations.</u></p>
Table 2 Performance Standards Rule NU-R47	Oppose	<p>Clause 2 of the rule requires every site to be provided with a vehicle access point to a formed road, formed and constructed in accordance with the performance standards in TRAN - Table 2. Telecommunications equipment generally involves cabinets, poles and antennas, some on land outside of roads (often a small lease area on another property). This equipment is not staffed and does not require a vehicle access. Any requirement for an access should be limited to staffed facilities.</p>	<p>Amend Rule NU-R47, clause 2 as follows:</p> <p>.....</p> <p>2. Every site for a network utility <u>that is permanently staffed</u> must be provided with a vehicle access point to a road</p>
Table 2 Performance Standards Rule NU-R48	Oppose	<p>The standards provide a permitted envelope for telecommunications poles and attached antennas that are not regulated under the NESTF. New permitted activity standards are sought for the Rural Residential zone (which is treated as rural zone under the NESTF), Commercial Zones (COMZ) and Te Kuiti CBD Precinct (PREC5).</p> <p>An additional 5m allowance for co-locating the antennas of two networks on the same pole is also sought. This will encourage co-siting and is also consistent with the upgrade allowances in the NESTF.</p>	<p>Amend Rule NU-R48 such that the scope of the rule includes the Rural Residential Zone, COMZ and PREC5.</p> <p>Amend the standards such that the height limits are:</p> <ul style="list-style-type: none"> • Industrial, general rural, rural production and rural residential zones, PREC3 and PREC5: 25m • COMZ: 20m • An additional 5m allowance above the maximum height limits where the

			antennas of two different operators are sited on the same pole.
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Part 2 – District Wide Matters: 26. Ecosystems and Indigenous Biodiversity ECO

Policy ECO-P3	Oppose in part	The policy includes a list of circumstances where removal of indigenous vegetation will be enabled for permitted activities and the continued operation of lawfully established activities. The rules in the Network Utilities chapter provide for some allowances to remove indigenous vegetation. Accordingly, the policy should be amended to reflect this.	<p>Amend Policy ECO-P3 by adding the following additional matter to the list of activities covered by the policy:</p> <p><i>10. Limited indigenous vegetation removal to establish, operate, maintain and remove network utilities.</i></p>
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Part 2 – District Wide Matters: 28. Natural Features and Landscapes NFL

Policies NFL-P1	Oppose	Clause 2 of the Policy takes an avoidance approach for adverse effects on the values and character of Outstanding Natural Features and Landscapes. In regard to infrastructure (which is specifically addressed in Clause 2), the policy approach takes a more directive avoidance approach in regard to infrastructure than the Waikato RPS provisions (NFL-O1 and NFL-P1), where the focus is on avoiding adverse effects from <u>inappropriate</u> subdivision, use and development. Network Utilities may need to be located in these environments due to functional and operational need, so an avoidance approach without these wider considerations is inconsistent with the policy approach in the RPS (if determined to be appropriate development) and the policies in the Network Utilities Chapter (NU-P11 and NU-P12). The Network Utilities chapter framework clearly anticipates	<p>Amend Policy NFL-P1 as follows:</p> <p>.....</p> <p><i>2. Ensuring the location, scale, materials, design, colour and grouping of buildings; and structures and infrastructure avoid adverse effects on the values and character of outstanding natural features and landscapes; and</i></p> <p>.....</p> <p><u>11. Network utilities are managed in accordance with Policies NU-P11 and NU-P12.</u></p>
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		network utilities in natural environments such as outstanding natural features and landscapes in appropriate circumstances and provides a policy framework for considering this.	
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Part 2 – District Wide Matters: 29. Subdivision SUB

SUB-R18	Oppose in part	A standard requiring telecommunications connections to all allotments is supported. However, all new subdivisions within the Rural Lifestyle and urban zones should require a connection to an open access fibre network. If the relevant type of connection is not provided or the purpose of the subdivision does not require a connection, then that can be explained through a resource consent application and evaluated on its merit.	<p>Amend SUB-R18 as follows:</p> <p>....</p> <p>4. <u>Except in the Te Maika precinct (PREC7), Every allotment in Residential, settlement, tourism, rural lifestyle, commercial and industrial zones and the Te Kuiti CBD precinct must have provision for telephone and/or ethernet connections to an open access fibre network.</u></p> <p>5. <u>For every allotment in the Future Urban, Rural Production, Tourism, Open Space and General Rural zones the applicant must provide written confirmation from a telecommunication network operator confirming that a telecommunications connection (fibre, mobile or wireless including satellite) can be provided to all new allotments and describing how this can be achieved.</u></p>
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			<p>6. <u>In all zones except the Te Maika precinct (PREC7), at the time of subdivision, sufficient land for telecommunications, and any associated ancillary services must be set aside. For a subdivision that creates more than 15 lots, consultation with telecommunications network utility operators will be required.</u></p> <p>7. <u>All necessary easements for the protection of telecommunication network utility services must be duly granted and reserved.</u></p>
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