

BEFORE THE WAITOMO DISTRICT COUNCIL

IN THE MATTER of the Resource Management Act 1991

AND

IN THE MATTER of the Proposed Waitomo District Plan:
Tranche 2 (Excluding ECO Topic)

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 Group LP

(Submitter 09)

4 November 2024

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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 over 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 addressed 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 prepared the joint submission and further submissions by Chorus New Zealand Limited (Chorus), Spark Trading New Zealand Limited (Spark), One New Zealand Limited (One NZ) and Connexa Limited (Connexa). I have been engaged by the joint submitters, referred hereafter as “*the Companies*” to provide independent planning evidence in regard to their submissions on these Tranche 2 Topics.
6. For clarity on the Companies covered by the submission, Fortysouth Group LP (Fortysouth) has recently acquired the fixed assets of One NZ (e.g. poles), 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 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 will outline this framework for context in my evidence, as this is relevant to the relief being sought.
9. The recommendations in the s42 reports relevant to the submission are largely accepted by the 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 | Issues |
|--|---|
| 19, Network Utilities NU Caroyne Wratt | <p>Telecommunications equipment in roads within overlays (09.11, 09.15)</p> <p>Permitted activity status and standards for telecommunication poles and attached antennas in some zones where they currently require resource consent as a discretionary activity regardless of scale (09.16, 09.26)</p> <p>Coastal setbacks for telecommunications equipment in roads (09.19, 09.20)</p> <p>Earthworks controls for network utilities in Hazards Zones (09.08, 09.24)</p> |
| 28. Natural Features and Landscapes NFL Cathy O'Callaghan | Integration of NFL Policy NFL-P1 with the network utilities specific policy framework in NU Chapter (09.28) |

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

- Many elements of telecommunications Infrastructure deployed and operated by the Companies are 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 exiting poles in road reserve (including pole replacement);
- Antennas on new poles in road reserve (where there are existing utility poles such as streetlights);
- 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

¹ Defined in NESTF Regulation 4

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. 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 road 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;
 - 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. The NESTF does not include any objectives and policies. Therefore, where any resource consent is triggered, the relevant objectives and policies in the relevant

² NESTF Regulation 8

district plan apply in assessing any application. In regard to this hearing, this includes the Network Utilities Chapter objectives and policies as well as any relevant overlay objectives and policies such as those in the Natural Features and Landscapes chapter.

Telecommunications Equipment in Roads covered by Overlays

NU s42A 196-198, 227-228 - Submission Points 09.11, 09.15

16. The submissions sought the following relief:

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:

Customer connections, cabinets in roads, and poles and antennas in roads (otherwise meeting NESTF Regulations 26-29) other than in an Outstanding Natural Feature.

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.

17. The Companies' submission on Rule NU15³ (new underground utilities) sought clarity that permitted status in roads was not overridden by the activity status in the various overlays that may cross over roads. The s42A report (196-198) recommends the submission be rejected on the basis that the introduction to the rules makes it clear that the activity status is the rules columns overrides other columns including overlays:

For the purposes of this chapter, irrespective of whether a scheduled site, feature or overlay is shown on the planning maps, the only column in the tables below that applies to roads is labelled "All roads and new roads approved as part of a resource consent".

18. I consider that this explanation satisfactorily resolves the submission on NU-R15.

19. However, the submission on NU-R2⁴ dealing the activities regulated by the NESTF the rule structure works differently. The "Roads" column provides for telecommunications equipment permitted by the NESTF regulations provided they are

³ 09.15

⁴ 09.11

not located within an overlay. So the overlay rules in this case applies to the “Roads” column.

20. I find the structure of this rule quite confusing, and unnecessarily restrictive to regulated equipment in roads traversing many of the overlays. The submission sought permitted activity status for telecommunications cabinets and poles/antennas in roads complying with the NESTF regardless of overlays as a permitted activity, aside from Outstanding Natural Features where the Companies were happy that the overlay provisions still apply.
21. The s42A Report recommendation (Para 227-228) is to reject the submission on the basis NU-R6 already provides for customer connections and given the sensitive nature of the overlays it is appropriate for resource consent to be required for the other structures.
22. I agree that Rule NU-R6 adequately provides for customer connections and accordingly no change is required to NU-R2 in this regard. However, for cabinets, pole and antennas, I consider that the rules are unnecessarily restrictive in many instances for this equipment in roads.
23. Within roads, the NESTF only enables small scale roadside equipment cabinets which will have very limited effects on overlays, and poles supporting antennas where the allowable scale is benchmarked to the scale of existing poles in roads such as light poles, with a narrow profile height extension provided for (3.5m height increase with all antennas contained within a 700mm wide x 3.5m high notional cylindrical envelope. Therefore, there are strict parameters on what would be enabled as a permitted activity (e.g. not large bulky poles with wide headframes or poles in roads where there are no existing poles in the area. A typical permitted upgrade in the NESTF is shown in the figure below:

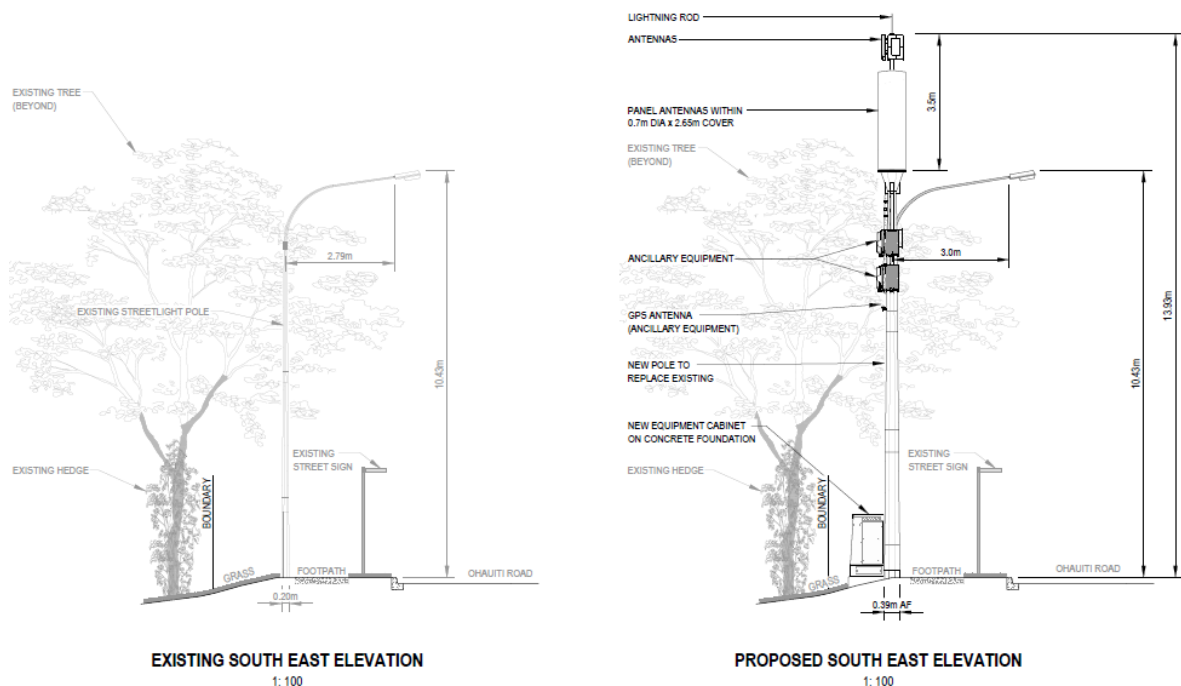


Figure 1: Typical NESTF Permitted Pole Replacement Example (Source: Fortysouth)

24. In my view, telecommunications equipment of the scale enabled in the NESTF within roads which are in themselves infrastructure corridors are not unreasonable where running through overlay areas. Roads are already modified corridors, and poles and antennas are only allowed where there are existing poles in the roads which already form part of the values and attributes of any overlay areas.
25. I therefore generally support the relief required by the Companies. I also note that given the directives of the New Zealand Coastal Policy Statement 2010 (NZCPS), permitted activity status may not be appropriate in the certain overlays in the Coastal Environment.

Requested Relief

26. Amend the standards Rule NU-R2 as follows:

*NU-R2.1 to NU-R2.4 are permitted by the NESTF where the relevant standards in the NESTF are complied with and the activity is not located within overlays, scheduled sites and features. **For activities permitted by the NESTF in Roads, the only overlays, scheduled sites or features that apply are Outstanding Natural Features in all locations, and Outstanding Natural***

Landscapes and Outstanding Natural Character in the Coastal Environment.

.....

Telecommunications Poles and Antennas in Zones

NU s42A 230-233 - Submission Points 09.16, 09.26

27. The submissions sought the following relief:

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).

Amend Rule NU-R48 such that the scope of the rule includes the Rural Residential Zone, COMZ and PREC5.

Amend the standards such that the height limits are:

- 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.

28. The rules as notified provide for new poles and antennas in zones not regulated by the NESTF as permitted activities in Industrial, Rural Production and PREC3 Zones subject to standards.

29. The submission sought permitted status for Commercial Zone (COMZ) and PREC5 (Te Kuiti CBD) where resource consent is currently required regardless of scale, permitted height limits of 20m COMZ and 25m PREC5, and an additional 5m height in all zones where permitted for co-location by more than one operator. The 5m height additional height reflects that once built the NESTF would also allow a further 5m to accommodate another operator so it makes sense to enable this for more than one operator at the outset to encourage co-location solutions at the outset.

30. The s42A report recommendation is to allow for the 5m additional height for the zones as notified providing for poles and antennas as permitted activities in recognition of the NESTF height 5m additional height allowance for upgrading where there is more

than one operator but does not support permitted activity status for the COMZ Zone including PREC5 (paragraphs 230-233).

31. In my experience, district plans typically provide for poles and antennas as permitted activities in commercial zones including town centres, and it appears out of step for resource consent to be required regardless of scale in these zones. In my opinion commercial zones are appropriate locations for infrastructure such as telecommunications poles and antennas, and these zones are better able to absorb these effects than residential zones. Permitted activity status in commercial zones will incentivise using these zones rather than more sensitive areas such as residential zones.
32. The current operative Waitomo District Plan provides for this equipment as a permitted activity in commercial zones up to 25m (see clause (g) in rule extract below:

| Activity | Zone | | | | |
|--|-------------|----------|--------|------------|--------------|
| | Residential | Business | Rural | Industrial | Conservation |
| (e) Any above ground network utility operations where the structure for that activity is located on road reserve, - up to 5m ² in gross floor area; - over 5m ² in gross floor area. | P D | P P | P D | P P | D D |
| (f) Lines as defined by Section 2(1A) of the Telecommunications Act 1987 and not otherwise provided for in this rule. | P | P | P | P | D |
| (g) Telecommunications and radio communication masts, antennas, (excluding dish antennas) and accessory structures not exceeding 25 metres in height | D | P | P | P | D |

Figure 2: Waitomo District Plan Network Utilities Table

33. In adjacent districts the permitted height standards for telecommunications poles and antennas in commercial zones are as follows:
 - Waipa 20m
 - South Waikato: 20m
 - Ruapehu: 20m
 - Otorohanga: 7m (Otorohanga does not have a commercial zone – it has an urban effects area covering all urban zones ranging from residential zones to industrial zones. Changes will be sought to how this plan manages network utilities at the next review).
34. As the CBD of Te Kuiti is not characterised by multistorey buildings, I consider that 20m in the PREC5 Zone would be satisfactory as the permitted standard in this instance (equivalent to COMZ). Existing standards such as the height in relation to boundary control will manage the interface with more sensitive zones.

35. The NESTF note to column 2 of the rule table is also confusing as it refers to the general rural zone only, whereas all rural zones including the rural production zone are defined as rural in the NESTF.

Requested Relief

36. **Amend** Rule NU-R21 as follows:

Column 1 Discretionary Activities

Residential, future urban, rural lifestyle, settlement, ~~commercial~~, Māori purpose, tourism, open space and natural open space zones, all precincts except PREC3 and PREC5

Column 2 Permitted Activities

PER: Industrial, commercial, general rural and rural production zones, ~~and PREC3 and PREC 5~~

Refer to NESTF: ~~General~~ All rural zones.

37. **Amend** Rule NU-R48 as follows:

Column 1 – Zones covered by rule

Industrial, commercial (including PREC 5), general rural and rural production zones and PREC3

Column 2 Standards (tracks are on s42A report version):

1. *The maximum height of any pole must not exceed 20m for COMZ/PREC5 and 25 m for other zones, except where the antennas of two different operators are sited on the same pole, the maximum height of that pole must not exceed 25m for COMZ and PREC 5 and 30m for other zones; and*
2.

Coastal setbacks for Telecommunications Equipment in Roads

NU s42A 331-334 - Submission Points 09.19, 09.20

38. The submissions sought the following relief:

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.

Amend Rule NU-R39 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.

39. The submission sought that customer connections and network utility structures in roads are exempt from these rules controlling buildings and structures within specified setbacks from the Open Coast and Kawhia Harbour/river mouths. The matters of discretion indicate that these rules are intended to manage risks from coastal hazards.

40. The s42A report recommendation is to reject these submissions, although the author invites the submitter to provide further justification at the hearing (331-334).

41. There are a number of existing coastal communities adjacent to the Coastal Marine Area that will be captured by these rules:

- Mokau (Map 38) and Marokopa (Map 41) – Open Coast
- Te Waitera (Map 45) and Te Maika (Map 46) – Kawhia Harbour

42. I accept that further development in coastal areas may be vulnerable to coastal hazards. However, network utilities such as telecommunications are not leading development to these areas, they are providing service to communities that already exist in these areas. Telecommunications and electricity distribution infrastructure that may be needed to serve these communities is non habitable, and the network utility operators can make their own risk assessment about how to provide service to these existing communities. Accordingly, I do not consider it necessary or efficient for the district plan to regulate these types of structures to serve existing development.

43. I note in the case of telecommunications, under Regulation 57 district plan natural hazard rules are disapplied to regulated equipment under the NESTF in any case so much of the equipment telecommunications operators may seek to deploy would not be subject to these rules in any case.

Requested Relief

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

Earthworks in Hazard Areas

NU s42A 272, 317 - Submission Points 09.08, 09.24

45. The submissions sought the following relief:

Add a new Policy as follows (or wording of like effect):

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.**

Amend Rule NU-R45 by adding an additional clause as follows:

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.

46. In regard to the new policy, this was requested to recognise 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. I note that regulated telecommunications infrastructure is exempt from district plan hazard rules in the NESTF under Regulation 57, reflecting the natural hazard risk profile for this type of infrastructure.
47. The reporting planner recommends that this submission be accepted (para 317). I support this recommendation.
48. The rules in the district plan need to implement the policies. The Companies sought some amendments to the earthworks rules in NU-R45 in regard to utility trenches and pole foundations not being subject to volume and depth standards. The reporting planner recommends that this submission be rejected (para 272).

49. Whilst the earthworks volume thresholds could potentially capture a linear project such as fibre cable project, underground telecommunications lines and ancillary earthworks are permitted under the NESTF and exempt from district plan natural hazard rules, so pragmatically the Companies will not pursue this relief.
50. The volume thresholds are considered to be workable for pole foundations. However, based on projects I have been involved in I consider the 0.5m depth allowance to be problematic for business-as-usual pole foundations. I have recently supported exemptions for pole foundation earthworks depth standards in the Whangarei and Nelson natural hazard plan changes and reached an agreed position with reporting planners that these standards are not necessary for poles. The Corporate evidence shows typical pole foundation designs that may include 1.5m deep pad foundations or pile foundations that are 6m or deeper depending on ground conditions.
51. Typical telecommunications equipment that may need to be installed in natural hazard areas to serve communities include telecommunications lines and support poles, equipment cabinets, and poles supporting antennas. Linear infrastructure such as lines may need to traverse a hazard area to reach a customer group. This is often within a road corridor. Place-based telecommunications equipment may have functional and operational requirements to be located in hazard areas (e.g. a wireless telecommunications facility needing to be close to a customer group to provide services such as fixed wireless broadband).
52. As I stated earlier, much of the network equipment deployed by telecommunications companies is regulated by the NESTF which came into force on 1 January 2017. This includes new underground telecommunication lines, customer connections, new overhead lines in some instances, telecommunication cabinets, and new poles supporting telecommunications antennas in rural zones and in roads where there are existing utility poles (including streetlights or traffic lights). In other circumstances, new poles supporting antennas are regulated by district plans (e.g. in urban zones outside of roads). In all zones and roads, upgrading existing telecommunication poles and antennas, including pole replacements, is regulated by the NESTF.
53. Under Regulation 57 of the NESTF, district plan rules in regard to natural hazard areas are specifically disapplied to regulated activities following a consideration of the risk profile of this type of equipment in making the regulations. Regulation 57 of the NESTF is as follows:

57 District rules about natural hazard areas disapplied

- (1) *A territorial authority cannot make a natural hazard rule that applies to a regulated activity².*
- (2) *A natural hazard rule that was made before these regulations came into force, does not apply in relation to a regulated activity.*
- (3) *In this regulation, natural hazard rule means a district rule that prescribes measures to mitigate the effect of natural hazards in an area identified in the district plan as being subject to 1 or more natural hazards.*

21. Section 6.11 of the *Resource Management (National Environmental Standards for Telecommunication Facilities) Regulations 2016 Users' Guide*, published by the Ministry for the Environment (August 2018), outlines the rationale for this exemption from natural hazard rules, via the following statement:

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 breadth of hazards including flooding, instability, earthquake and climate change.

54. It is important to note here that the poles and antennas are regulated in rural zones and roads, and replacement poles (which may be larger and not in the same location as the pole they are replacing) in all zones. Therefore, new poles in urban zones are the same equipment allowed in rural zones/roads or as replacements in all zones, it is not different equipment with different types of effects in regard to natural hazard risks.
55. Provided hazard areas are mapped in district plans, telecommunications providers can make decisions around route or site selection and any mitigation. For example, I have been involved in wireless telecommunications facilities in flood prone areas where the infrastructure provider elected to provide the radio equipment cabinet on an elevated plinth to reduce risk of water damage to sensitive radio equipment in a flood event. In my experience sensitive electronic equipment on poles is located well up a

pole away from the ground. The Companies' view is that telecommunications companies should be able to make their own decisions around the siting of their infrastructure given the nature of the structures involved rather than needing to potentially seek resource consents for such. This approach is reflected in Regulation 57 of the NESTF.

56. In my view it is also important to recognise that siting telecommunications equipment in hazard areas is not about telecommunications providers wanting to lead development into hazard areas. It is about providing infrastructure to serve existing or planned development that for functional or operational reasons may need to be located in or traverse such areas.
57. As outlined in the evidence of Mr McCarrison, regardless of any regulatory controls, the Companies have obligations under the Civil Defence Emergency Management Act 2002 (CDEMA) to provide resilient infrastructure. This is regulated under the CDEMA, and therefore district and regional plans are adding another layer of regulation of resilience they need to contend with.
58. Natural hazards have different potential risk issues for telecommunication poles. Whilst flooding and coastal hazards are primarily about resilience of the infrastructure (which can be designed for and mitigated with temporary back-up solutions such as transportable generators or temporary transportable cell sites), other hazards such as the building platform stability areas have the potential for poles to affect third parties if not appropriately sited and designed. Whilst the industry can properly address this through industry good practice and their CDEMA obligations, I understand why on the face of it this may raise concerns with the Council from these types of risk areas. Accordingly, pragmatically the Companies have agreed to limit their relief in this instance to the rules for Flood and Coastal Hazards only.
59. I support an exemption for telecommunications poles and attached equipment in the Flood and Coastal Hazard Areas given the effects on a new pole in an urban zone are no different to a new pole in a rural zone or road, or a replacement pole in an urban zone for which the NESTF has determined that any form of district plan regulation is not necessary. I am not aware of any issues resulting in adverse effects on third parties from surface flooding or coastal inundation around telecommunication poles, and as previously outlined, these can be designed with sensitive equipment above expected flood levels, while temporary coverage solutions can be implemented where necessary to ensure network resilience. Equipment will only be contemplated in such areas where there is an operational or functional reason for it to be sited there

to provide service, whilst mapping of the hazard areas enables the provider to understand and design for the hazard risk.

Requested Relief

60. Amend clause 3 of Rule NU-R45 as follows:

....

3. *Earthworks must not exceed a maximum depth of excavation of 0.5m below natural ground level, **except the maximum depth of excavation shall not apply to network utility poles in Flood and Coastal Hazard Areas.***

Natural Features and Landscapes NFL

NFL s42A 55 - Submission Point 09.28

61. The submission sought the following relief:

Amend Policy NFL-P1 as follows:

.....

*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*

.....

11. Network utilities are managed in accordance with Policies NU-P11 and NU-P12.

62. This has been a reoccurring theme in plan and policy statements reviews I have been involved with where there is a network utilities section that acknowledges in some circumstances adverse effects in natural environments such as NFL overlays may be justified, but in the same vein the NFL chapter has an avoidance policy framework which may have the effect of overriding the intended approach for network utilities due to the more directive avoid language.
63. The s42A report (Para 54) recommends that the submission be rejected on the basis that it is an unnecessary change as the NU provisions will also apply. The reporting planner does invite the commissioners to consider a cross-reference note to the relevant NU provisions.
64. In my opinion, relying on the weighing of general NU provisions against directive NFL chapter provisions would result in a risk the policies will be interpreted overall to require infrastructure to avoid adverse effects on the values and attributes of

outstanding natural features and landscapes. Equipment such as wireless telecommunications facilities are extensively located in elevated areas throughout New Zealand where these overlays may apply, and the policy framework may have unintended consequences with negative outcomes for communities requiring service.

65. A directive avoid policy approach in regard to infrastructure is more restrictive than the Waikato RPS provisions (NFL-O1 and NFL-P1), where the focus is on avoiding adverse effects from inappropriate 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).
66. The Network Utilities s42A report recommends the following changes to NU-P11 and P12:

~~Hazards~~ areas, coastal hazard areas, overlays, scheduled sites and features

~~NU-P11.~~ ~~Ensure consideration of the values, qualities and characteristics of overlays, scheduled sites and features when proposing new infrastructure or undertaking significant upgrades to existing infrastructure.~~ ¹⁰

NU-P12. ~~Consider~~ Provide for regionally significant infrastructure within overlays, scheduled sites and features where: ¹¹

1. There is a demonstrated functional or operational need for the infrastructure to be located within the overlay, scheduled site or feature; and
2. It is demonstrated through an options assessment that locating within the overlay, scheduled site or feature is the best practicable option, having particular regard to the financial implications, social, cultural and environmental effects of the preferred option, compared to alternative options.

67. The Network Utilities chapter framework clearly anticipates network utilities in natural environments such as outstanding natural features and landscapes in appropriate circumstances and provides a policy framework for considering this. However, NFL-P1 as it currently stands takes a more directive avoidance approach in regard to the adverse effects of infrastructure in NFL overlays.
68. Clarification of the integration between network utilities and natural features and landscapes provisions has come up in other resource management policy statements and plans I have been involved in as an expert planner. For example, the decisions version of the proposed Otago Regional Policy Statement 2021 clarifies in the wording of Policy NFL-P2 that adverse effects on the values of outstanding natural

features and landscapes are managed in accordance with the bespoke policy EIT-INF-P13 in the infrastructure chapter as follows:

NFL-P2 – Protection of outstanding natural features and landscapes

Protect outstanding natural features and landscapes from inappropriate *subdivision*, use and development by:

- (1A) avoiding exceeding the landscape capacity of the natural feature or landscape,
- (1) maintaining the values that contribute to the natural feature or landscape being considered outstanding, even if those values are not themselves outstanding,
- (2) avoiding, remedying or mitigating other adverse *effects*; and
- (3) managing the adverse effects of infrastructure on the values of outstanding natural features and landscapes in accordance with EIT-INF-P13.

69. A similar approach was agreed in expert planners conferencing for the Proposed Waimakariri District Plan and recorded in a joint witness statement for energy and infrastructure integration dated 28 November 2023 (available on the Hearings Page on the Waimakariri District Council website) as follows:

18 Amend NFL-P1 (via 195.88):

"Recognise the values of the outstanding natural features identified in NFL-APP1 and protect them from the adverse effects of inappropriate activities and development, except where the effects of regionally significant infrastructure are managed by EI-P5, by:....."

19 Amend NFL-P3 (via 195.89):

"Recognise the values of the outstanding natural landscapes identified in NFL-APP1 and protect them from the adverse effects of inappropriate activities and development, except where the effects of regionally significant infrastructure are managed by EI-P5, by:....."

20 Amend NFL-P4 (via 195.90):

"Recognise the values of the significant amenity landscapes identified in NFL-APP1 and maintain them except where the effects of regionally significant infrastructure are managed by EI-P5, by:....."

70. In my opinion the proposed amendment to policy NFL-P1 in the Proposed Waitomo District Plan is consistent with these other approaches and is appropriate.

Requested Relief

Amend Policy NFL-P1 (notified version) as follows:

.....

*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*

.....

11. Network utilities are managed in accordance with Policies NU-P11 and NU-P12.

Note: if NU-P11 is deleted as proposed in the NU s42A report, this proposed clause can be modified accordingly.