

BEFORE NAPIER CITY COUNCIL

IN THE MATTER OF

the Resource Management Act 1991

AND

IN THE MATTER OF

Napier City Council's Proposed District Plan:
Hearing Stream 2

STATEMENT OF EVIDENCE TOM ANDERSON

ON BEHALF OF

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

18 November 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 for Hearing Stream 1. 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.
- ii. I have been engaged by the Telecommunication Companies Chorus New Zealand Limited, Connexa Limited, FortySouth Group LP, One New Zealand Group Limited and Spark New Zealand Trading Limited to assist with their inputs into the Proposed Napier District Plan (PDP).
- iii. As provided for in Paragraph 30 of Minute 1 of the Hearing Panel (titled *Hearing Procedures*), this summary statement provides a summary of the evidence in chief.
- iv. With regard to the submissions on the Natural Features and Landscape chapter, and some of the submissions in the Earthworks and Subdivision chapters, the recommendations in the S42A Reports are accepted. There were no submissions made concerning the Coastal Environment, Light or Temporary Activities chapters.
- v. In terms of where relief remains sought, these concern some matters in the Earthworks and Subdivision chapters.
- vi. With regard to the Earthworks chapter, my preference, and my reading of the National Planning Standards, is that provisions which relate to infrastructure should be located in the infrastructure chapter. As such the relief sought through my evidence is that the earthworks provisions that concern only infrastructure matters in the PDP are located in the Network Utility chapter. An amendment is also sought to EW-S2 to allow for underground infrastructure to be installed using trenchless methods when located in close proximity to a stream or flood protection works.
- vii. With regard to the Subdivision Chapter, the only amendment is sought to SUB-S16 to provide clear alignment with the recommended policy wording, and additional clarity as to the different types of telecommunication service that should serve new allotments in rural and urban areas.
- viii. The detail for all recommended relief is provided in the following evidence in chief.

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. My qualifications and experience are as set out in my evidence in chief for Hearing Stream 1.
2. I reiterate that 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.

Scope and Purpose of Evidence

3. This evidence has been prepared in review of the telecommunications companies submissions on the PDP, as they relate to the S42A Reports prepared for HS2. In preparing this evidence I have read all other submissions and further submissions relevant to the telecommunication companies submissions and the S42A Reports for HS2.
4. For the most part, the submissions were either accepted, or the alternate relief recommended in the S42A Reports is acceptable, and therefore changes to those provisions are no longer being pursued. For completeness, those provisions and submissions are:

S42A Report 002 – Earthworks

- The rejection of Submission 151.67 regarding how the earthworks provisions interact with the overlay provisions.

S42A Report 004 – Natural Features and Landscapes

- The acceptance in part of Submission 151.56 regarding clarifying the relationship between the Network Utilities and Natural Features and Landscapes chapters; and
- The rejection of Submissions 151.57, 151.58, 151.59 regarding how network utilities in Natural Features and Landscapes should be provided for.

S42A Report 005 – Signs

- The rejection of Submission 151.78 regarding the definition of a sign.

S42A Report 006 – Subdivision

- The acceptance in part of Submission 151.62 and the subsequent amendments to SUB-P9 and SUB-P12, providing clarity on how new allotments in urban and rural areas respectively are to connect with or be enabled for telecommunications services;
 - The acceptance of Submission 151.63, retaining SUB-P13 as notified;
 - The acceptance of Submission 151.64, retaining SUB-R1 as notified; and
 - The acceptance of Submission 151.65, retaining SUB-R3 as notified.
5. Note, there were no Telco submission points which were considered in HS2 s42A Reports 001 (Coastal Environment); 003 (Light); and 007 (Temporary Activities).
 6. Giving particular consideration to s42A Report 004 – Natural Features and Landscapes, the Reporting Officer makes it clear that all provisions relating to network utilities in a natural features and landscape overlay are to be provided for in the Network Utilities Chapter. As such the Reporting Officer’s recommendations to relocate NFL-P7 to the Network Utilities Chapter and the additional wording at the introduction to the NFL – Natural Features and Landscapes Rules Table, which clarifies that network utilities are not subject to the table, are supported.
 7. Through this evidence, I seek alternate relief on the remaining Telco submission points considered under HS2, which relate to s42A Report 002 – Earthworks and s42A Report 006 - Subdivision. The reasoning for this is detailed as follows.

Earthworks

8. Submission 151.68 sought that the earthworks provisions relating to network utilities should be located in the Network Utilities chapter.
9. The Reporting Officer, at Paragraph 42 of the Section 42A Report, is of the view *“that the earthworks provisions relating to network utilities are most appropriately located in the Earthworks Chapter due to it not explicitly being required under the National Planning Standards and for general Plan consistency”*. An analysis as to how this conclusion is met is helpfully provided at Paragraphs 36 to 41 of the Section 42A Report.

10. I agree that the National Planning Standard is not abundantly clear in this regard and as such is open to interpretation.
11. However, in my view, earthworks for infrastructure are provisions which relate to infrastructure, and as such, under National Planning Standard Part 7 District-wide matters Standard, sub-heading Energy, Infrastructure and Transport number (5), the earthworks provisions are provisions that *relate to energy, infrastructure and transport that are not specific to the Special purpose zones chapter or sections and therefore must be located in one or more chapters under the Energy, Infrastructure and transport heading.*
12. Consequently, the relief sought in the submission continues to be sought, in that Rule EW-R5 be retained, but moved to the Network Utility Chapter.
13. Based on this preference, I request the following relief be included in the Decisions Version of the PDP.

Requested Relief:

Move all provisions relevant to earthworks necessary for infrastructure, including EW-R5 and EW-S5 from the Earthworks Chapter to the Network Utility Chapters.

14. Given there is no overall change in direction from what is recommended in the S42A Report (it is simply the location of the provision in the plan), I do not consider there a need to provide a Section 32AA assessment.
15. Submission 151.69 sought that any earthworks which do not alter ground level are excluded from the setback requirements from streams or flood protection works in EW-S2.
16. The Reporting Officer recommends that this point is rejected *“on the basis that there is insufficient evidence to indicate that trenching does not result in potential effects that render a setback from streams unnecessary. I consider that the potential environmental effects including sediment runoff mean that a setback from streams and overland flow areas is appropriate”* (Paragraph 209 of the Section 42A Report).
17. Having reconsidered the point, I agree that methods like trenching could adversely affect streams and flood protection structures. However, I do not consider that installation of infrastructure by trenchless means such as directional drilling would have such effects. I have been involved in several projects that have installed cables and ducts by trenchless means

including under waterways, and managed in a way which mitigates effects such as sedimentation (through limiting the entry point area).

18. As such, the following relief is sought. Note, the relief requested is shown in blue, with additions underlined and ~~deletions as strikethrough~~.

Requested Relief:

Amend EW-S2as follows:

1. *Cut and fill does not exceed 2.5 m vertically.*
2. *The cut and fill depth does not exceed the distance from the nearest site boundary as measured on a horizontal plane.*
3. *The cut and fill depth does not exceed 1m vertically where the top of the excavation is within 10 m of buildings or surcharge loads.*
4. *The cut or fill is no closer than (measured on a horizontal plane):*

o Stream: 10 m

o Flood protection works: river control structure or overland flow paths: 50 m.

except for works which are for infrastructure installed by a trenchless method such as directional drilling where:

o The surface area of any associated entry or exit pit must not exceed 1m²;

o Any machinery shall be operated on top of paved surfaces or ground protection measures; and

o The trenchless method depth shall be a minimum of 1m where under trees.

Subdivision

19. Submission 151.66 supported Standard SUB-S16, but sought an amendment seeking that each allotment is designed with an *ability to connect to a telecommunications network* as opposed to a telecommunication line.
20. A separate Submission 184.3 was also lodged by the same companies on SUB-S16, which sought a similar outcome to Submission 151.66, but noted a difference between urban and rural land

uses. Chorus also provided their own submission (212.1) seeking to mandate connection to an open-access fibre network.

21. In considering each of these submission points, the Reporting Officer recommends Standard SUB-S16 require *all allotments must be provided with a telecommunication connection, either hard-wired infrastructure or wireless technology.*
22. I agree with the intent of this recommendation, however consider that further amendments would provide clearer outcomes for plan users, and more specific understanding of how telecommunication services are to be provided for new allotments.
23. Firstly, I seek an amendment to recognise key differences between urban and rural areas. This difference is primarily being the availability of fibre in urban areas, and that fibre should be utilised where it is available. I am informed by Chorus that it is available in Napier's urban areas. This amendment is to subclause (3), and negates the need for telecommunications to be referred to in subclause (4).
24. I also seek an amendment that recognises that larger subdivisions (of 100 lots or more), regardless of zoning, should be serviced by both fibre and mobile/wireless telecommunication networks. People living and working in such subdivisions are more than likely to want to connect to the internet for business or leisure reasons, and have a mobile phone. This provision works in with subclause (6) which is to ensure that sufficient land is available at the time of subdivision for telecommunications. Note an amendment is sought to subclause (6) to ensure that the land that is set aside for the network utilities is suitable, and approved by the network utility operators. There is no point setting land aside for infrastructure if it does not achieve the needs of the infrastructure, and the most informed entities in that regard are the operators of the infrastructure.
25. Finally, a matter of discretion is sought concerning identification of any allotments that are proposed without provision of a connection to a telecommunications network. In such an instance, the applicant should provide notification through methods, such as a consent notice placed on a Record of Title, so that any perspective purchasers of the allotment are fully aware that it is not serviced by telecommunications.
26. Based on the above, the following relief is requested:

Requested Relief:

Amend SUB-S16 as follows

SUB-Utility Services		
All zones	<ol style="list-style-type: none">1. <u>Each allotment in an urban environment must connect to an electrical network.</u>2. <u>Each allotment in a rural environment must make provisions for an electrical connection.</u>3. <u>All allotments must be provided with a telecommunication connection, either hard wired infrastructure or wireless technology, that achieves the following:</u><ol style="list-style-type: none">a. <u>Confirmation in writing from telecommunication network operator/s that:</u><ol style="list-style-type: none">i. <u>In urban zones, new fibre connections from each proposed allotment can connect to an existing open access fibre network; and</u>ii. <u>In rural zones, and for any subdivision in any zone creating 100 allotments or more, fibre connections are provided and there is coverage and capacity of the existing mobile/wireless networks to serve the subdivision.</u>4. Each allotment must be designed and located so that provision is made for existing power lines, gas distribution pipes (where available) and <u>telecommunication lines.</u>	Matters of discretion: <ol style="list-style-type: none">1. 1. The ability of the site to be adequately serviced by network utilities, and2. Public health and safety.3. <u>For any allotment proposed without connection to a telecommunications network, the method(s) by which prospective purchasers of each site are to be informed that such a connection is not available or has not been installed.</u>

	<ul style="list-style-type: none">5. With the exception of industrial and rural zones, all utility services must be laid underground.6. At the time of subdivision, sufficient land, <u>as agreed by the relevant network utility operators</u>, for telecommunications, transformers and any associated ancillary services must be set aside.7. All necessary easements for the protection of network utility services must be duly granted and reserved	
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27. In my view, this gives effect to the recommendation in the S42A Report, but does so in a way which provides greater clarity. Given there is no overall change in direction from what is recommended in the S42A Report, again I do not consider there a need to provide a Section 32AA assessment.

Concluding Comments

28. There are no further matters which I consider require consideration for this hearing.



Tom Anderson
18 November 2024