

BEFORE GORE DISTRICT COUNCIL

IN THE MATTER OF

the Resource Management Act 1991

AND

IN THE MATTER OF

Gore District Council's Proposed District
Plan: Hearing Stream 11 – Natural Hazards

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**

19 February 2025

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 my statement to Hearing Stream 7.
- ii. As provided for in Paragraph 5.21 of Minute 5 of the Hearing Panel (titled *Hearing Procedures*), this summary statement provides a summary of the evidence in chief.
- iii. Chorus, Connexa, FortySouth, One NZ and Spark (the telecommunication companies) lodged submissions on the Proposed Gore District Plan (PDP).
- iv. Only one submission point relates to Hearing Stream 11. This concerns providing an exemption for telecommunications infrastructure from the provisions within the Natural Hazards Chapter of the Proposed Gore District Plan (PDP). Such an exemption would align the PDP with Regulation 57 of the *Resource Management (National Environmental Standards for Telecommunication Facilities) Regulations 2016* (NESTF).
- v. The reporting officer has accepted the point, but their recommended relief does not give full effect to the submission. The submission sought that all telecommunications infrastructure was exempt from the Natural Hazards Chapter. The reporting officer recommended relief exempts telecommunications infrastructure that is regulated by the NESTF.
- vi. The NESTF regulates most, but not all, telecommunications infrastructure. The NESTF does not regulate new poles on private sites in urban zoned areas. As such, any proposed new pole on a private site in an urban zoned area which is within a natural hazard overlay would be subject to the Natural Hazards Chapter of the PDP. Exactly the same site on legal road would be exempt from having to comply with the Natural Hazard Chapter by the NESTF.
- vii. As such, my evidence seeks a minor amendment to the reporting officer's recommended relief on this matter, so that there is clear consistency in application between the PDP and NESTF.

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 set out in my Evidence in Chief for Hearing Stream 7. 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

2. This evidence has been prepared in review of the telecommunication companies submissions on the Proposed Gore District Plan (PDP), as they relate to Hearing Stream 11 (HS11). In preparing this evidence I have read all other submissions and further submissions relevant to the companies' submissions and the S42A reports for HS11.
3. The only matter that I wish to draw to the panel's attention is the exemption sought by the telecommunication companies for their infrastructure with regard to the natural hazards chapter.

Telecommunications and Natural Hazards

4. Submissions S32.039, S33.039, S35.039, S37.039 and S154.09 (respectively from One New Zealand Group Limited (One), FortySouth, Chorus New Zealand Limited (Chorus), Connexa Limited (Connexa) and Spark New Zealand Trading Limited (Spark) sought a specific exemption for telecommunication infrastructure from having to comply with the provisions in the natural hazard chapter.
5. The genesis for these submissions was to align the PDP with Regulation 57 NESTF. The submission seeks that the PDP follow the same approach as the NESTF. For completeness, Regulation 57 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 activity.*

(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.*

6. At Paragraph 327 of the S42A Report, the reporting officer accepts the request and considers it *“appropriate to provide for the exemption in accordance with the NESTF regulations”*. Subsequently they recommend that the following *note* be included in the introduction to the Natural Hazards Chapter of the PDP:

Note 3 Telecommunication Infrastructure

Telecommunication infrastructure is a regulated activity under the NESTF and is exempt from complying with the provisions in this chapter.

7. Unfortunately, in my opinion, the reporting officer’s recommendation does not give the full relief sought through the submission. The recommendation assumes that all telecommunications infrastructure is a regulated activity under the NESTF. This is not the case.
8. Regulated activities under the NESTF include all telecommunications activities (lines, cabinets, antennas and poles) in all zones, except for new poles on private sites in urban areas. Consequently, as it stands, the note as recommended would not be applicable to new telecommunication poles on private sites in urban areas, making these sites an outlier with respect to the direction provided in Regulation 57. The associated cabinets, which typically go hand in hand with poles, are regulated by the NESTF. My understanding is that the NESTF deliberately does not regulate poles on private sites in urban areas as it was considered more appropriate for district plans to determine what parameters with regard to bulk and location should apply on such sites.
9. To provide some background on why Regulation 57 exists in the NESTF, I have referred to the *Resource Management (National Environmental Standards for Telecommunication Facilities) Regulations 2016 Users’ Guide*, published by the Ministry for the Environment (August 2018).
10. This guide confirms the exemption of regulated telecommunications activities from having to comply with District Plan 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 breath of hazards including flooding, instability, earthquake and climate change.¹

11. In any instance, from my experience, regardless of the regulatory settings, the telecommunication companies will seek to avoid locating in a hazard area in the first instance. If this is not possible, resilience factors are included as part of the facilities design.
12. In forming a view as to whether the telecommunication companies should pursue their submission point for this hearing, I reviewed the PDP maps regarding the natural hazard overlays which apply to private sites in urban zones. From this, a large portion of urban zoned Gore falls within a Natural Hazard area (either Stop Bank Protection Area or Actual or Potential Inundation overlay), all of Mataura's and all of Madeville's urban zoned land is within the Actual or Potential Inundation overlay, as is all of Pukerau's (noting this is also in a Liquefaction Risk overlay).
13. Based on this analysis, there are a number of potential instances where new telecommunication infrastructure in urban areas may not fit within the exemption as recommended by the reporting officer.
14. Therefore, there are potential areas where if telecommunication infrastructure was to be located in legal road, it would be exempt from the chapter, but if located in a private site, would need to consider the chapter, despite both locations being within a natural hazard overlay. I do not consider this to be an efficient approach, particularly when noting the reasons why the NESTF has included Regulation 57 as noted earlier.
15. In my view, there should be consistency between the PDP and NESTF, and I consider that this can be achieved with a small amendment to Note 3 as recommended in the s42A report, as follows (noting the amendment to the s42A recommended text is shown in red, with the deletion as ~~strikethrough~~. No additional text is sought):

¹ Page 93 of the *Resource Management (National Environmental Standards for Telecommunication Facilities) Regulations 2016 Users' Guide* (copy at <https://www.mbie.govt.nz/dmsdocument/1347-nestf-2016-draft-users-guide-pdf%20>)

Amend NU Note 3 as follows:

Note 3 Telecommunication Infrastructure

Telecommunication infrastructure ~~is a regulated activity under the NESTF and~~
is exempt from complying with the provisions in this chapter.

16. The following is an analysis of the requested relief to Note 3 under the framework provided in s32AA of the Resource Management Act 1991:

Reason

The requested relief seeks to provide better alignment between the PDP and the NESTF.

How the requested relief achieves the purpose of the Resource Management Act

The requested relief provides for the efficient management of a physical resource (infrastructure) that provides for peoples social and economic wellbeing, as well as providing for health and safety.

Benefits including Opportunities for Economic Growth and Employment

Infrastructure helps achieve economic growth and employment.

Costs

There will be reduced costs to applicants from the requested relief as less resource consents will be needed, as identified by national direction.

Risk of Acting or Not Acting if Information is Uncertain or Insufficient

No risks around uncertain or insufficient information in relation to this matter have been identified.

Efficiency and Effectiveness

The efficiency and effectiveness of the recommended relief is high because it provides greater alignment between two RMA documents.

Other Reasonably Practicable Options for Achieving the Objectives

Another reasonably practicable option is to retain the wording as proposed in the s42A report. This would have the disadvantage of misaligning the PDP with the NESTF.

Concluding Comments

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



Tom Anderson

19 February 2025