

BEFORE THE KAIPARA DISTRICT COUNCIL

IN THE MATTER of the Resource Management Act 1991

AND

IN THE MATTER of the Proposed Kaipara District Plan:
Hearing Topic 19 in regard to Natural
Features and Landscapes

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 26)

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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 relates to 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). I have been involved in providing advice to several telecommunications companies on the latest proposed updates to the NESTF consulted on by the Government in 2025.
5. I assisted by the joint submitters, referred hereafter as the *Telecommunications Companies* in preparing their submissions on the Proposed Kaipara District Plan, and they have engaged me to provide independent planning evidence in regard to the submissions.

Code of Conduct

6. 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

7. Telecommunications infrastructure has a relatively unique regulatory framework under the RMA given the NESTF that is in force. I briefly outline this framework for context in my evidence, as this is relevant to the relief being sought. This material will be referred back to in later evidence on the infrastructure topic.
8. Since the submissions were made there have also been changes to national direction with the introduction of a new *National Policy Statement for Infrastructure 2025* (NPS-I). I provide a brief overview of the relevance of this instrument.
9. The recommendations in the s42A report relevant to the submissions are generally agreed by the Telecommunications Companies. However, there are still dependencies on the final version of the Infrastructure Chapter that is the subject of a later hearing in regard to the policy framework for infrastructure in Outstanding Natural Features (ONF) and Outstanding Natural Landscapes (ONL), and a restructure of relevant rules to infrastructure in these areas from the notified version of the Plan is now recommended in the s42A Report. My evidence focusses on these matters.

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

10. Many elements of telecommunications Infrastructure deployed and operated by the Companies is 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 provide for the following as permitted activities in all district plans subject to standards:

- Telecommunications cabinets in all locations;
 - Antennas on existing poles in road reserve (including pole replacement);
 - Antennas on new poles in road reserve;
 - 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, utility equipment remote control and traffic

¹ Defined in NESTF Regulation 4

management systems. Further, activities that are not regulated by the NESTF, such as new poles and attached 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. **Of particular note to this hearing topic**, 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 roads 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.

² NESTF Regulation 8

15. The NESTF does not include any objectives and policies. Therefore, where any resource consent is triggered, the relevant objectives and policies in the Proposed Plan apply in assessing any application.
16. A review of the NESTF is underway and has already been consulted on by the Government. The Recommendations and Decisions Reports on the NESTF amendments were released on Monday 4 May 2026 and are available on the Ministry for the Environment's website. The link is [National Environmental Standards for Electricity Transmission Activities and National Environmental Standards for Telecommunication Facilities: Report on Recommendations and Decisions | Ministry for the Environment](#). The Telecommunications Companies understand that a revised NESTF is likely to come into force later in 2026 which would then change the permitted activity framework from that described above in line with the decisions report which is more enabling than the current provisions. District plan rules in areas such as ONF and ONL will continue to apply.

Overview of NPS-I

17. The Objective of the NPS-I is to (*paraphrased*):
 - Ensure local, regional and national benefits of infrastructure are provided for;
 - Enable infrastructure to support people and communities;
 - Enable infrastructure to support development and change in urban and rural environments;
 - Ensure infrastructure is well-functioning, resilient, and compatible, as far as practicable, with other activities; and
 - Deliver infrastructure in a timely and efficient manner while managing adverse effects from and on infrastructure.
18. Policy 1 requires decision-makers to ensure that national, regional or local benefits of infrastructure, relative to any localised effects, are recognised and provided for.
19. Policy 2 requires decision-makers to recognise that infrastructure may have an operational need or functional need to operate in, be located in, or traverse particular locations and environments. In my opinion, these would include ONF and ONL environments.

20. Policy 7 outlines relevant considerations for decision-makers assessing and managing the effects of infrastructure activities. This includes considering the technical and operational requirements of infrastructure, having regard to the extent adverse effects are avoided, remedied or mitigated through section of the route, site or method, and ensuring that mitigation measures are proportionate to the scale of adverse effects.
21. Policy 9 requires decision makers to enable new infrastructure or major upgrades in all environments. Clause (2) of the Policy also states:
 - (2) Where infrastructure activities are proposed to locate in or are likely to have adverse effects on environments and values provided for in section 6 of the Act, the provisions of this policy must be read alongside other relevant national direction, regional policy statements and regional and district plans.
22. In my opinion, the relatively enabling framework of the NPS-I therefore needs to be read alongside the more protective elements of the *New Zealand Coastal Policy Statement 2010* (NZCPS) such as *Policy 15 Natural Features and Natural Landscapes*, and therefore provides some more flexibility for infrastructure in these environments compared with activities in general. In my view the s42A recommendations have generally captured this approach.
23. Under Clause 3.1 of the NPS-I, decision makers must give effect to the NPS on and from the commencement date, which is 15 January 2026.

Natural Features and Landscapes Policies

NFL-P4 and NFL-P5 - Submissions 26.66 and 26.77

24. As notified, these policies cover adverse effects outside the Coastal Environment (CE) - (NFL-P4), and operation maintenance and upgrading of *Regionally Significant Infrastructure* (RSI) inside and outside of the CE - (NFL-P5).
25. The way the Proposed Plan is structured, as set out in the overview section to the INF Chapter, the chapters and provisions in Part 2 – District Wide matters apply to infrastructure. Therefore, as well as the bespoke policy framework for infrastructure in the INF Chapter, the objectives and policies in the NFL Chapter also apply and these provisions must be read together.

26. Given this, the Telecommunications Companies made submissions on policies in both the INF and NFL chapters. The submissions included supporting retention of Policy NFL-P5 which covers operating, maintaining and upgrading existing *Regionally Significant Infrastructure* (RSI) in ONF and ONL environments, and an amendment to NFL-P4 to include specific consideration of new infrastructure (which not covered by NFL-P5), outside of the CE.
27. The s42A recommendation is to reject these submissions. However, my interpretation of these recommendations is that this is not on the basis of the merits of how infrastructure is provided for in ONF and ONL environments, but that structurally the reporting planner considers it is more appropriate that the policy framework for infrastructure in natural environments overlays is contained in the INF Chapter and not duplicated in the NFL Chapter. Whilst the NFL policies would still be relevant, in my opinion, they would need to be read through the lens of the INF provisions that are more specific to infrastructure, thus allowing more flexibility for infrastructure than activities in general in ONF and ONL environments. I agree with this approach in principle. However, I note that the Telecommunications Companies have a submission on Policy INF-P5 seeking amendments which is the key provision in the INF Chapter for RSI in overlays such as ONF and ONL.
28. I note that in some other plan and policy statement reviews I have been involved in which use the National Planning Standard format, the NFL provisions, particularly where there is *avoid language* used, have provided a cross reference back to relevant INF provisions that moderate the assessment framework to provide certainty to plan users on how these provisions work. I provide some examples as follows:

Otago Regional Policy Statement

NFL-P2 – Protection of outstanding natural features and landscapes

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

- (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 and EIT-INT-Px.

Partially Operative Waimakariri District Plan

NFL-P1	Protect Outstanding Natural Features
	<p>Recognise the values of the outstanding natural features identified in NFL-APP1 and protect them from the adverse <i>effects</i> of inappropriate <i>subdivision</i> activities and development, except where the <i>effects</i> of <i>regionally significant infrastructure</i> are managed by EI-P5, by:</p> <ol style="list-style-type: none">1. avoiding use and development that detracts from the very high biophysical values and high sensory and associative values identified in NFL-APP1 for the Waimakariri River;2. avoiding use and development that detracts from the very high biophysical and sensory values, and high associative values of the Ashley River/Rakahuri Saltwater Creek Estuary identified in NFL-APP1, including on:<ol style="list-style-type: none">a. coastal physical processes;b. ecological habitat and <i>indigenous biodiversity</i>; andc. the experience of the <i>elements</i> and processes of (a) and (b);3. enabling community scale erosion and flood control <i>structures</i> where adverse impacts on the values are mitigated;4. avoiding any significant loss of <i>indigenous vegetation</i>;5. avoiding activities such as <i>commercial forestry</i>, <i>woodlots</i>, <i>shelterbelts</i>, <i>mining</i> and <i>quarrying activities</i> and large <i>buildings</i> or groups of <i>buildings</i> or other <i>structures</i> which create adverse <i>effects</i> on the identified values;6. providing for other <i>primary production</i> where this does not detract from the identified values; and7. enabling <i>conservation activities</i> and <i>non motorised recreation activities</i>.

29. While there are subtle differences in plan structures and how they are intended to work, I consider there is still merit in considering a cross-reference from NFL-P3 and NFL-P4 to the relevant provisions in the INF Chapter – particularly to the current INF-P5. It would be helpful for the reporting planner to comment on this approach at the hearing. As this is a plan-wide integration/consistency issue, wider discussions internally between the Council advisers may be necessary to address this.

Requested Relief

30. The reporting planner to consider before the hearing if it is appropriate or necessary to refer back to the management framework in INF-P5 from NFL-P3 and NFL-P4.

Natural Features and Landscapes Rules

NFL-R2, NFL-R3, NFL-R4, NFL-R5. NFL-S1: Submissions 26.68, 26.69, 26.70 26.71, 26.72

31. The Telecommunications submitters lodged a number of submissions in regard to infrastructure and associated earthworks and vegetation clearances in ONF and ONL overlays. The intent of the submissions was to make some practical provision for infrastructure works in these areas in appropriate circumstances. The s42A recommendations are to reject or accept in part these various submissions. However, this is primarily on the basis that the reporting planner proposes a restructure of the rules, so in practice the general outcomes sought in the submissions are in my opinion still achieved.
32. In regard to infrastructure, my interpretation of the effect of the s42A report recommendations would be as follows:

Recommended Provision	Matter controlled	Infrastructure Outcome
NFL-R2	New Buildings and structures	Amendments to NFL-S1 provide some additional permitted activity height allowances for antennas on buildings and poles and antennas in roads. In the rules as notified, RSI was a permitted activity in ONL/ONF with no standards so the Telcos proactively recommended limits in their submission.
NFL-R3	Indigenous vegetation clearance	Permitted activity limits are 50m ² in CE and 150m ² outside CE.
NFL-R4	Earthworks	Permitted activity limits are 50m ³ inside CE and 150m ³ outside CE in ONLs, and for ONFs variable depending on sensitivity of features – ranging from 0m ³ to 50m ³ in CE and to 50m ³ to 150m ³ outside CE.

NFL-R5 ³	Additions and alterations to infrastructure	Permitted standards include exterior colour/reflectivity, GFA limits, and height limits to match existing or otherwise meet permitted height in NFL-S1. Activity status is restricted discretionary where these standards are not met.
NFL-S1	Height standard	In addition to the general 5.5m height standard, allowances for antennas attached to existing buildings and poles and attached antennas in roads as requested in Telco submission included as follows: <ul style="list-style-type: none"> • Building height plus 5m for antenna attached to existing building. • Pole and antennas in a road, 20m height, 1.2m max diameter.

33. For the rules above, aside from additions and upgrades under NFL-R5, where permitted standards are not met, the activity status is restricted discretionary outside the CE, and for RSI discretionary inside CE (non-complying for other activities).
34. I understand from reviewing the report in Appendix D to the s42A report that the permitted activity thresholds framework now proposed, including the specific height allowances in NFL-S1⁴, are supported by the Council's landscape architect advisor Mr Brad Coombes.
35. In my opinion the overall outcome of these recommended changes meets the intent of the submissions of the Telecommunications Companies and adopts the intent of the NPS-I to enable some more flexibility for infrastructure in sensitive overlays where there is an operational need and/or functional need to do so, and where there are no reasonable alternatives. Whilst there can always be debate over what the exact permitted activity standards should be (e.g. height, vegetation clearance, earthworks), I support a worst-case discretionary activity status for RSI in ONL/ONF in the CE

³ Telcos do not have a specific submission point on this policy, but the amendments are part of an overall restructure of the rules including those submitted on which provides scope to the Telcos.

⁴ Para 301, s42A Report, Para 40 s42A Appendix D, Brad Coombs

which still provides a consent pathway to consider the merits for any particular proposal not meeting permitted standards.

Requested Relief

36. Adopt the s42A recommendations in regard the amendments to NFL-R2, NFL-R3, NFL-R4, NFL-R5 and NFL-S1.