

BEFORE WELLINGTON REGIONAL COUNCIL

IN THE MATTER OF

the Resource Management Act 1991

AND

IN THE MATTER OF

Wellington Regional Council's Proposed
Natural Resource Plan (Hearing Stream 3:
Water Allocation and Natural Form and
Function)

**STATEMENT OF EVIDENCE TOM ANDERSON
ON BEHALF OF
SPARK NEW ZEALAND TRADING LIMITED AND
CHORUS NEW ZEALAND LIMITED**

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INCITE

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Introduction

1. My name is Tom Anderson. My qualifications and experience are outlined in my evidence in chief for Hearing Stream 1, dated 5 May 2017.
2. I reiterate that I have read and am familiar with the Code of Conduct for Expert Witnesses in the current Environment Court Practice Note (2014), have complied with it, and follow the Code when presenting evidence.

Scope of Evidence

3. The Spark/Chorus submission points on the topics covered in Hearing Stream 3 relate only to natural form and function. There were no submission points relating to water allocation.
4. In preparing this evidence I have read all other submissions and further submissions relevant to the Spark/Chorus submissions and the Section 42A (s42A) reports for Hearing Stream 3. Please note that the requested relief sought within my evidence is to the 'redline' versions of the PNRP.
5. My evidence is structured into the three Spark/Chorus submission points which concern Hearing Stream 3, being:
 - Points S98/016 (Spark) and S144/014 (Chorus) relating to Policy P24;
 - Points S98/014 and S144/015) relating to Policy P25; and
 - Points S98/018 and S144/018 relating to Policy P49.
6. I then conclude this evidence by making a brief comment on the independent "*Review of the objectives of the PNRP*".
7. **Appendix 1** contains a table which summarises Spark's and Chorus's submissions, the s42A report recommendations on those submissions, and whether I support acceptance of the Officer recommendation or alternative relief as sought through this hearing. As such, the table provides a succinct 'one stop shop' for the Commissioners to identify exactly what outcomes Spark and Chorus are pursuing from this hearing. The specific items of requested relief are also within my evidence.

Policy P24: Outstanding Natural Character

8. Policy P24 seeks to preserve outstanding natural character in the coastal marine area (CMA) through a number of criteria, including the avoidance of adverse effects on natural character, requiring use and development to maintain the natural character, requiring built structures to be subservient to natural character, maintain the highest level of naturalness, and again avoid adverse effects of activities, including individual and cumulative effects.
9. The Spark and Chorus submission points S98/016 and S144/014 sought that the words 'remedy and mitigate' be included in the policy sub-clauses (a) and (e) alongside the requirements in those criteria to avoid adverse effects. The reason for this submission was because the use of the word 'avoid' on its own was not considered too absolute, and that, in the absence of knowing what areas in the Wellington Region are considered to be of 'outstanding natural character', it is impossible to know if any telecommunication infrastructure, and in particular, coastal cables, could be located in such areas.
10. As was discussed by Ms Mary Barton, Environmental Planning and Engagement Manager at Chorus, in her brief of evidence for Hearing Stream 1, there are a number of Chorus telecommunication cables located in the CMA, with the Miramar to Eastbourne cable identified as likely to be replaced in the lifetime of the PNRP. Based on knowledge from other regions where areas of outstanding natural character have been identified, in particular the Bay of Plenty Region where the entirety of Tauranga Harbour was identified as such an area, it is possible that there are locations in the Wellington Region where infrastructure is established which may also be identified as areas of outstanding natural character.
11. The s42A reporting officer has rejected the submission points, on the basis that the Policy P24 is consistent with New Zealand Coastal Policy Statement (NZCPS) Policy 13, which requires that the natural character of the coastal environment is preserved and is protected from inappropriate subdivision, use and development, with sub-clause (a) to that policy stating that adverse effects on the natural character of the coastal environment with outstanding natural character be avoided.
12. However, the NZCPS also includes two policies (6 and 7) which essentially recognise that the provision of infrastructure in the coastal environment can be necessary and have a functional need and operational requirement to be located in the CMA, and that regional policy statements and plans should consider where particular activities (such as the provision of infrastructure) should be located.

13. Policy P24, in my opinion, appropriately details a high threshold for the use and development of an area of outstanding natural character, in particular through sub-clauses (b), (c) and (d) which require use and development to maintain the natural character values, have built elements be subservient to the natural character values, and that high levels of naturalness of the areas be maintained. However there are no measures which recognise any existing infrastructure or other built features already located in any perspective area.
14. Further, to my mind, any use and development in such an area will give rise to some degree of adverse effect, and sub-clauses (a) and (e) state that these effects must be avoided, and therefore could be construed as being absolute.
15. Without knowing where the areas of outstanding natural character are, it could be assumed that an area with an existing cable crossing may be identified as such at some stage in the future. Further, given that the cables are subject to ongoing use, maintenance and upgrade, there is the potential need for a resource consent to undertake works on such a cable.
16. Such work would be undertaken in a manner consistent with sub-clauses (b), (c) and (d), but, in my opinion, not consistent with the current wording of (a) and (e). This is because all work provides at least some degree of adverse effect. In the potential future scenario with the cable as outlined, some excavation of the seabed around the cable may be necessary, and this has the potential to have some degree of adverse effect on that immediate area. The effect would more than likely be temporary, however for the time in which the disturbance is occurring, the effects on the immediate works area could be adverse. This would be inconsistent with the current wording of Policy 24 (and it has to be acknowledged, with Policy 13 of the NZCPS). Once the work is completed, the adverse effect would cease to occur. However, in this scenario, and there are likely to be others, there is a finite period where effects, no matter how short the timeframe and how localised the degree of adverse effect is, still give rise to an adverse effect. It comes down to the interpretation of the Council resource consent processing officer at the time that the decision is being made.
17. As such, I consider that the wording of Policy P24 needs to be amended. The high threshold for use and development with areas of outstanding natural character needs to be maintained, and Policy 13 of the NZCPS must be given effect to, but a degree of recognition for the functional need and operational requirement of certain uses is, to my mind, also critical, particularly in the instance of the replacement of the Miramar to Eastbourne telecommunications cable. As such, the following relief is sought

18. Requested Relief:

Amend Policy P24 as follows:

Areas of outstanding natural character in the coastal marine area will be preserved by:

- (a) avoiding adverse effects of activities on natural character in areas of the coastal marine area with outstanding natural character **unless effects are localised, temporary and there is a functional need or operational requirement which has caused such an effect**, and*
- (b) requiring use and development to be of a type, scale and intensity that will maintain the natural character values of the area, and*
- (c) requiring built elements to be subservient to the dominance of the characteristics and qualities that make up the natural character values of the area, and*
- (d) maintaining the high levels of naturalness of these areas, and*
- (e) avoiding the adverse effects of activities, including those located outside the area, that individually or cumulatively detract from the natural character values of the outstanding natural character area **unless effects are localised, temporary and there is a functional need or operational requirement which has caused such an effect**.*

19. Note, consideration was given to limiting the requested relief solely to Regionally Significant Infrastructure. However given the uncertainty as to how Regionally Significant Infrastructure applies to telecommunications under the PNRP, I decided that the relief under Paragraph 18 was more appropriate in this instance.

Policy P25: Natural Character

20. Policy P25 seeks to avoid significant adverse effects on natural character in the CMA, natural wetlands, lakes and rivers, and avoid, remedy or mitigate other adverse effects of activities, while taking into account a number of matters, including functional need.
21. Spark and Chorus submitted (Submission points S98/014 and S144/015) that the words 'remedy' and 'mitigate' be included alongside 'avoid' in regard to significant adverse effects.
22. The s42A reporting officer has rejected the submission points, on the basis that adding the words 'remedy or mitigate' would not "*assist a decision maker in managing the potential adverse effects on natural character*", and also "*would not be the most efficient way of*

implementing the objective or giving effect to the New Zealand Coastal Policy Statement (NZCPS)”.

23. In giving the Policy further consideration, including the changes made in the redline version of the PNRP, I consider that its current wording is generally appropriate. This is because, in my experience, the necessary deployment of telecommunication infrastructure does not tend to give rise to significant adverse effects on natural character. It does give rise to a degree of effect, however, in my view, these do not tend to be significant. Telecommunications infrastructure in the CMA, natural wetland, river or lake, is typically limited to cable crossings. The effects of such a crossing are well known and are managed. As such significant effects are avoided, with other adverse effects being appropriately avoided, remedied or mitigated. This is provided for in the Policy.
24. However a minor change is sought. Clause (e) considers the functional need for an activity to be located in the CMA. Telecommunications infrastructure is only ever located in the CMA if there is a functional need to do so. Likewise, such infrastructure is only ever located in a natural wetland, river or lake if there is a functional need to do so. As such, I consider that clause (e) be widened to include the functional need for locating in a natural wetland, river or lake as well as the CMA, as opposed to the current wording limiting functional need solely to the CMA.
25. Requested Relief:

Amend Policy P25 as follows:

Use and development shall avoid significant adverse effects on natural character in the coastal marine area (including high natural character in the coastal marine area) and of natural wetlands, lakes and rivers, and avoid, remedy or mitigate other adverse effects of activities, taking into account:

(a) the extent of human-made changes to landforms, vegetation, biophysical elements, natural processes and patterns, and the movement of water, and

(b) the presence or absence of structures and buildings, and

(c) the particular elements, features and experiential values that contribute significantly to the natural character value of the area, and the extent to which they are affected, and

(d) alternative locations, design or form of development that have less adverse effects, and

*(e) the extent to which the activity has a functional need to be located in the coastal marine area, **natural wetland, lake or river** that limits location and development options, and*

(f) the ecosystems, natural flow characteristics and hydrodynamic processes, and the natural pattern and range of water level fluctuations in natural wetlands, rivers and lake and their margins.

Policy P49: Use and development adjacent to outstanding natural features and landscapes and special amenity landscapes

26. Policy P49 in the redline version of the PNRP seeks to control the use and development of the CMA on sites adjacent to specific areas recognised in planning instruments for certain values, including the avoidance of cumulative effects on the characteristic and qualities as to why those areas are valued.
27. Spark and Chorus submitted (Submission points S98/018 and S144/018) in general support of the policy, but sought that the policy focus on inappropriate use and development. The reason for this submission point was to provide clarity to the policy, so that it was not interpreted as requiring absolute protection and avoidance of all adverse effects from all activities.
28. The s42A reporting officer has rejected the submission points, on the basis that it would duplicate other provisions in the PNRP.
29. It is acknowledged that there are other policies in the PNRP which would also apply when there is a proposal to use or develop an area adjacent to an outstanding natural feature or landscape or special amenity landscape. However, this requires a plan user or decision maker to weigh the objective and policy framework. As such, it is considered that an amendment to Policy P49 is appropriate to assist a plan user or decision maker when it comes to such an exercise.
30. The Policy, as currently written, has directive wording, in that visual and biophysical linkages must be 'protected' and that cumulative effects on character and quality of an outstanding natural feature or landscape must be 'avoided'.
31. In my mind, it is important that the margins of outstanding natural features or landscapes or special amenity landscapes are considered in the planning framework. However I am also of the opinion that, if such areas themselves are to be rightly afforded a high level of protection, then it is reasonable to expect that use and development will occur adjacent to them. In fact, to me

the use of the margins should almost be encouraged, as opposed to discouraged, in order to provide an additional means of protection to the high value areas themselves.

32. The relief requested in the submission to me provides an appropriate balance between providing a transition from an area of outstanding natural feature or landscape, or a special amenity landscape, to not being such an area, while allowing for uses in that margin which are appropriate. The appropriateness of such an activity can be put forward during the resource consent process and determined on its merits at that time.
33. Requested Relief:

Amend Policy P49 as follows:

Policy P49: Use and development adjacent to outstanding natural features and landscapes and special amenity landscapes

Use and development in the coastal marine area on sites adjacent to an outstanding natural feature or landscape or special amenity landscape identified in a district plan shall be managed by:

- (a) protecting visual and biophysical linkages between the site and the outstanding natural feature or landscape, and*
- (b) avoiding adverse cumulative effects on the characteristics and qualities of an outstanding natural feature or landscape **from inappropriate use and development.***

Comment on the “Review of the Objectives of the PNRP”

34. While I did not make comment at the time, I have read the “Review of the objectives of the PNRP for the Wellington Region” by Mr Gerard Willis. I wish to have it on record that I agree with the conclusion reached under section 3.4 of that report, being that Objective O12 and O13 can be combined.



Tom Anderson

25 August 2017

Appendix A - Summary of Spark and Chorus Submissions Points, Officer Recommendation and Acceptance/Further Relief Sought to PNRP Hearing Stream 3

Spark/Chorus Submission Number	PNRP Provision	Relief sought through Spark/Chorus submission	Officer Recommendation	Spark/Chorus decision sought through Hearing process
S98/016 S144/014	Policy P24: Outstanding Natural Character	Support with amendment – Amend Policy P24 as follows: Areas of outstanding natural character in the coastal marine area will be preserved by: (a) avoiding avoid, remedy or mitigate adverse effects of activities on natural character in areas of the coastal marine area with outstanding natural character, and (b) requiring use and development to be of a type, scale and intensity that will maintain the natural character values of the area, and (c) requiring built elements to be subservient to the dominance of the characteristics and qualities that make up the natural character values of the area, and (d) maintaining the high levels of naturalness of these areas, and (e) avoiding avoid, remedy or mitigate the adverse effects of activities, including those located outside the area, that individually or cumulatively detract from the natural character values of the outstanding natural character area.	Rejected	Amend Policy P24 as follows: Areas of outstanding natural character in the coastal marine area will be preserved by: (a) avoiding adverse effects of activities on natural character in areas of the coastal marine area with outstanding natural character <u>unless effects are localised, temporary and there is a functional need or operational requirement which has caused such an effect</u> , and (b) requiring use and development to be of a type, scale and intensity that will maintain the natural character values of the area, and (c) requiring built elements to be subservient to the dominance of the characteristics and qualities that make up the natural character values of the area, and (d) maintaining the high levels of naturalness of these areas, and (e) avoiding the adverse effects of activities, including those located outside the area, that individually or cumulatively detract from the natural character values of the outstanding natural character area <u>unless effects are localised, temporary and there is a functional need or operational requirement which has caused such an effect</u> .
S98/014 S144/0015	Policy P25: Natural Character	Support with amendment – Amend Policy P25 as follows: Use and development shall avoid avoid, remedy or mitigate significant adverse effects on natural character in the coastal marine area (including high natural character in the coastal marine area) and in the beds of lakes and rivers, and avoid, remedy or mitigate other adverse effects of activities, taking into account: (a) the extent of human-made changes to landforms, vegetation, biophysical elements, natural processes and patterns, and the movement of water, and (b) the presence or absence of structures and buildings, and (c) the particular elements, features and experiential values that contribute significantly to the natural character value of the area, and the extent to which they are affected, and (d) whether it is practicable to protect natural character from inappropriate use and development through: (i) using an alternative location, or form of development that would be more appropriate to that location, and (ii) considering the extent to which functional need or existing use limits location and development options.	Rejected	Amend Policy P25 as follows: Use and development shall avoid significant adverse effects on natural character in the coastal marine area (including high natural character in the coastal marine area) and of natural wetlands, lakes and rivers, and avoid, remedy or mitigate other adverse effects of activities, taking into account: (a) the extent of human-made changes to landforms, vegetation, biophysical elements, natural processes and patterns, and the movement of water, and (b) the presence or absence of structures and buildings, and (c) the particular elements, features and experiential values that contribute significantly to the natural character value of the area, and the extent to which they are affected, and (d) alternative locations, design or form of development that have less adverse effects, and (e) the extent to which the activity has a functional need to be located in the coastal marine area, <u>natural wetland, lake or river</u> that limits location and development options, and (f) the ecosystems, natural flow characteristics and hydrodynamic processes, and the natural pattern and range of water level fluctuations in natural wetlands, rivers and lake and their margins.
S98/018 S144/018	Policy P49: Use and development adjacent to outstanding natural features and landscapes and special amenity landscapes	Support with amendment – Amend Policy P49 as follows: Use and development in the coastal marine area on sites adjacent to an outstanding natural feature or landscape or special amenity landscape identified in a district plan shall be managed by <u>seeking to</u> : (a) protecting visual and biophysical linkages between the site and the outstanding natural feature or landscape, and (b) avoiding adverse cumulative effects <u>from inappropriate use and development</u> on the values of an outstanding natural feature or landscape.	Rejected	Amend Policy P49 as follows: Use and development in the coastal marine area on sites adjacent to an outstanding natural feature or landscape or special amenity landscape identified in a district plan shall be managed by: (a) protecting visual and biophysical linkages between the site and the outstanding natural feature or landscape, and (b) avoiding adverse cumulative effects on the characteristics and qualities of an outstanding natural feature or landscape <u>from inappropriate use and development</u> .