

**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 1:  
Overall Policy Framework, Beneficial Use  
and Development, and Areas and Sites with  
Significant Manawhenua Values)

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

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**5 May 2016**

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## **Professional Qualifications and Experience**

1. My name is Tom Anderson. I am a senior resource management consultant at Incite, a resource management consulting firm. I hold a Bachelor of Science and a Master of Planning (with Distinction), both from the University of Otago. I am a full member of the New Zealand Planning Institute and am currently Chair of the Wellington Branch Committee of that institute.
2. I have nine years professional experience. Throughout my career I have provided advice to Spark New Zealand Trading Limited (Spark – formerly Telecom New Zealand Limited and Telecom Mobile Limited) and Chorus New Zealand Limited (Chorus). This advice was initially given as an employee of GHD Limited and for the last six years as an employee of Incite. I have provided Spark and Chorus with advice on district and unitary plan reviews and plan changes, site selection exercises, designation and outline plan of works processes, and consenting activities for mobile and broadband network rollouts and exchange upgrades. I have also undertaken consenting work for Two Degrees Mobile Limited and Vodafone New Zealand Limited.
3. On this basis, I consider myself to have a comprehensive understanding of telecommunication networks, and the practical implications of the Resource Management Act 1991 (RMA) framework in relation to telecommunication network installation, upgrade and operation.
4. I assisted with the preparation and drafting of both Spark's and Chorus's submissions on the Proposed Natural Resources Plan (PNRP). Both submissions are the same, as both companies generally operate under the same plan provisions. As such, I consider it appropriate to present one brief of evidence relating to both companies interests.
5. I have read the Hearing Commissioners minute and direction on Procedures for the Hearing of Submissions and Code of Conduct for Expert Witnesses (section 5 of the Environment Court Consolidated Practice Note 2006). 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 of Evidence**

6. 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 1. Please

note that the requested relief sought within my evidence is to the 'redline' versions of the Proposed Plan.

7. My evidence is structured into general subject areas as follows:

- Spark and Chorus Operations;
- General Comments on the s42a reports
- Officer Recommendations in Contention
  - Definition of Regionally Significant Infrastructure;
  - Objective 12 and Policy 12; and
  - Policy 7

8. **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.

### **Spark and Chorus Operations**

9. Mr Graeme McCarrison, Engagement and Planning Manager at Spark, has provided evidence on Sparks' operations in the Wellington Region, New Zealand and internationally, the role of telecommunications networks as a 'lifeline utility' under the Civil Defence Emergency Management Act 2002, and has included an outline of the *Resource Management (National Environmental Standards for Telecommunication Facilities) Regulations 2016*, (referred to herein as the NESTF 2016). Ms Mary Barton, Environmental Planning and Engagement Manager at Chorus, will provide a corporate statement outlining Chorus's operations.

10. My observations of the two companies' operations under the framework of the Resource Management Act 1991 (RMA or the Act) are as follows.

11. The purpose of the RMA, as embodied in Section 5, is the promotion of the sustainable management of natural and physical resources. Telecommunications and radio communications infrastructure is a significant physical resource that is vital to all levels (local,

regional, national and international) of social, cultural and economic wellbeing, and to health and safety, through allowing people and businesses to connect with each other.

12. The economic importance of telecommunications was noted in the Ministry of Business Innovation and Employment (MBIE) 2014 briefing for the incoming Communications Minister, which stated that *“the use of communications services has the ability to lift productivity across all sectors of the economy”*. The briefing also referenced a Productivity Commission report on ‘Boosting Productivity in the Services Sector’ which states that *“[Information Communications Technology] is catalysing social and economic change on a scale comparable to those resulting from pervious breakthrough technologies such as steam power, the internal combustion engine, and electricity... such breakthrough technologies occur rarely – perhaps less than once in a generation.”*
13. In addition to this economic importance, to my mind the mere fact that the NESTF 2016 (and its pre-cursor, the NESTF 2008) is in existence provides an indication that telecommunication networks are considered to be nationally significant.
14. In terms of social and cultural wellbeing, there has been a dramatic increase in the number of telecommunication devices over recent years, allowing people to remain connected with each other at a greater level than ever. Accompanying this has been an increasing customer demand for ubiquitous connectivity to a telecommunications network, particularly in relation to data and internet connectivity. Mr. McCarrison has detailed the forecast increase in demand on the telecommunications network. The physical translation of this demand is an increase in the telecommunications infrastructure, enabling greater connectivity.
15. Mr McCarrison has also outlined network resilience, and the role the telecommunications network plays as a lifeline utility. Telecommunications play a significant role in the health and safety of all New Zealand communities. On a personal note, immediately after the 2016 Kaikoura earthquake, I found myself using my phone (in particular Twitter and live streaming of Radio NZ) in order to find out information. It was noticeable that I was receiving Civil Defence updates on twitter before that same information was relayed through Radio NZ. It is my opinion that telecommunication networks devices (and social media) are a key tool that people turn to in the aftermath of a natural disaster.
16. In my opinion it is clear that telecommunications is of the utmost importance to modern society and will continue to be so for the foreseeable future.

17. All telecommunications networks are subject to constant maintenance, modification and upgrading as the number of customers and services increase and changes in technology occur. Generally this work relates to land use aspects, and as such is within the jurisdiction of the relevant district (or unitary) plan. However there are instances, primarily cable crossings traversing waterbodies and the coastal marine area (CMA), as well as other matters such as ancillary earthworks (access construction and utility trenches/directional drilling), where the activities are subject to regional plans.
18. As such, there is a need to ensure that plan provisions are flexible enough to meet changing customer and technology demands and needs. This must be done, whilst controlling inappropriate environmental effects and appropriately considering the benefits and technical/operational constraints of network utilities in policy frameworks, particularly where balancing these matters in sensitive environments.

#### **General Comments on the s42a Reports for Hearing Stream 1**

19. The s42a reports for Hearing Stream 1 were comprehensive and provided appropriate guidance as to why recommendations had been made.
20. I support the officer recommendations on the following Spark and Chorus submission points, and as such no further relief is sought on these matters:
  - S98/006 and S144/006 – Objective 13;
  - S98/008 and S144/008 – Policy 4;
  - S98/010 and S144/010 – Policy 9;
  - S98/012 and S144/012 – Policy 13; and
  - S98/013 and S144/013 – Policy 14.
21. The s42a report also contains recommendations on Spark and Chorus submission points for which I seek alternative relief, for reasons discussed in the following sections.

## Officer Recommendations in Contention

### Definition of Regionally Significant Infrastructure

22. The PNRP as proposed had a definition of *“Regionally Significant Infrastructure”* that defines such infrastructure as including *“strategic facilities to the telecommunication network, as defined in section 5 of the Telecommunications Act 2001”* and *“strategic facilities to the radio communications network, as defined in section 2(1) of the Radio Communications Act 1989”*
23. Spark and Chorus submitted (Submission points S98/004 and S144/004) that the words ‘strategic’ and ‘facilities’ be removed from the definition, as neither the Telecommunications Act 2001 and Radio Communications Act 1989 define *“strategic facilities”* to their respective networks. To my mind it is inappropriate that PNRP contains erroneous cross references.
24. The s42A reporting officer has rejected the submission points, on the basis that *“the reference to ‘strategic facilities’ remains clear”* and that *“the definition is intended to identify what is regionally significant, and to specify which elements of an infrastructure network provides regional scale benefits”*.
25. It is my opinion that the definition is far from clear, and in no way specifies which elements of the telecommunications and radio communications networks provide regional scale benefits. From my experience, the telecommunications networks operate as a ‘whole’ with elements being of equal importance, and neither Spark or Chorus, or any other telecommunications company I have provided advice to, have a ‘network hierarchy’ which outlines parts of their infrastructure as being more important than others.
26. This whole of network approach was also the approach adopted by the Auckland Unitary Plan Independent Hearings Panel, in their report to Auckland Council on Hearing Topic 12 – Infrastructure, energy and transport (July 2016). In the interim guidance (included in the recommendation), Judge Kirkpatrick, Chairperson, of the Independent Hearings Panel stated *“There does not appear to be any reason to limit the focus of the RPS to significant infrastructure, as in the RPS as notified. An essential characteristic of most infrastructure is its construction in the form of an inter-connected network. The efficacy of a network almost always depends on every element of it. Distinguishing between, for example, parts of the roading system or the electricity system on the basis of whether they are significant or not does not serve any apparent resource management purpose.”*

27. The definition as proposed in the PNRP has been copied from the *Regional Policy Statement for the Wellington Region 2013* (RPS). As I understand it, Spark and Chorus have been in discussions with Greater Wellington around a plan change to amend the RPS definition in order to provide clarity. I understand that the timeframe for this plan change has been suggested as commencing in mid-2018, and as such is likely to have some synergy with the PNRP time line.
28. Given the RPS definition, and the requirement for lower order planning documents (regional plans and district plans) to give effect to the RPS, this is not the first time the definition has been an issue. It was previously raised by Spark and Chorus in submissions and subsequent evidence on the Porirua, Upper Hutt and Hutt City District Plan network utility chapter plan changes. In each of these plans, reference to telecommunications and radio communications has been completely removed from the definitions of what they refer to as “*Regionally Significant Network Utilities*”.
29. Given the importance of telecommunications to the people of New Zealand (as identified in Paragraph’s 11 to 16 above, and in Mr McCarrison’s evidence), telecommunications must, in my opinion, be recognised in planning documents as being ‘regionally significant’ (in the absence of certain infrastructure being listed in such documents as ‘nationally significant’).
30. To my mind, the most efficient way of addressing the matter in the PNRP is to remove the words “*strategic*”, “*facilities*” and “*network*” from the definition, so that there is an accurate cross reference to telecommunications and radio communications as those terms are defined in their respective Acts.
31. Requested Relief:

Amend bullet’s 2 and 3 of the definition of Regionally Significant Infrastructure as follows:

*Regionally significant infrastructure includes:*

- ~~*strategic facilities to the telecommunications network*~~, as defined in section 5 of the *Telecommunications Act 2001*
- ~~*strategic facilities to the radio communications network*~~, as defined in section 2(1) of the *Radio Communications Act 1989*

## Objective 12 and Policy 12

32. Spark and Chorus submitted on Objective 12 of the PNRP (Submission points S98/005 and S144/005), seeking that the health and safety benefits of regionally significant infrastructure should be recognised alongside social, economic, cultural and environmental benefits specified in the objective as proposed. The submission also sought that the Objective should recognise that aspects of regionally significant infrastructure has a functional need to be located and operated in a particular environment.
33. In regard to the health and safety aspect of the submission point, the s42A report recommends rejection of this on the basis that *“health and safety considerations are a concern for the provider and not the proposed plan”* and that *“when consent applications for new infrastructure are considered, these matters form part of the assessment of adverse and positive effects”*.
34. As has been outlined by Mr McCarrison and myself, the identification of telecommunications and radio communications as a “lifeline utility” is a clear indicator that these networks have a wider public good in regard to health and safety. However, I agree that this is a matter which forms part of an effects assessment, and as such I support the officer’s recommendation on this part of the submission point.
35. In regard to the functional need aspect of the submission point, the s42A report recommends rejection of this on the basis that *“Policy P12 provides for functional need and operational requirement to be located in the CMA”*. Whilst part (e) of Policy 12 does provide for operational requirements for all regionally significant infrastructure, it is not specific to the CMA. Further, the only ‘functional need’ recognised in the CMA is for port activities.
36. As such, I support the officer’s recommendation to reject the submission point on Objective 12, however further relief is sought in regard to Policy 12.
37. Chorus infrastructure has a functional and operational need to be located in or traverse the CMA. There are instances all over New Zealand where communities are located on islands or across harbours, and require a telecommunications connection. Examples of this in the Wellington region include the northern extent of the Cook Strait cable crossings between the North and South Island (including space rented from the Transpower HVDC inter-island cable which terminates at Oteranga Bay, Makara and a telecommunications only cable from Lyall Bay to Kaikoura). Other submarine cables are located between Miramar and Eastbourne in Wellington Harbour, Paraparaumu and Titahi Bay, and the southern extent of the line between

Wanganui and Waikanae Beach. All telecommunications technology, including mobile phones, generally require use of a cable at some stage of an individual communication. As detailed in Mr McCarrison's evidence, cellular technology does not remove the need for cables. The networks depend on the cable connections.

38. Given this function need, Chorus and Spark submitted (Submission points S98/0011 and S144/0011) that Policy 12(e) be amended to recognise the "*functional need for*" in addition to the operational requirements that are outlined in this subsection of the policy. A number of specific value areas were also sought to be included.
39. The submission point was rejected on the basis that "*if the activity is not dependant on having its location in a specific place, then it is not appropriate to add to the policy. Most activities are not functionally dependant on a specific location; the port must obviously be located in the CMA*".
40. The reasoning for the rejection is generally sound. However, using this reasoning, I consider it appropriate that all infrastructure which must obviously be located within the CMA (i.e. there is no practicable alternative) should be recognised in the policy, not just ports. Chorus's cable crossings of the CMA must, to achieve their function, traverse and thus be located within the CMA. As such, the following alternative relief is sought:
41. Requested Relief:

Amend Policy P12 as follows:

*Policy P12: Benefits of regionally significant infrastructure and renewable electricity generation facilities*

*The benefits of regionally significant infrastructure and renewable energy generation activities are recognised by having regard to:*

*(a) the strategic integration of infrastructure and land use, and*

*(b) the location of existing infrastructure and structures, and*

*(c) the need for renewable energy generation activities to locate where the renewable energy resources exist, and*

- (d) *the functional need for port **and aspects of other regionally significant infrastructure** activities ~~to~~ **which must** be located within the coastal marine area, and*
- (e) *operational requirements associated with developing, operating, maintaining and upgrading regionally significant infrastructure and renewable energy generation activities.*

## Policy 7

42. Spark and Chorus's submission on Policy 7 (Submission points S98/009 and S144/009), sought that Regionally Significant Infrastructure be specifically recognised as a land and water use which provides cultural, social and economic benefits.
43. The submission point does not appear to have been addressed in the s42A report. It has also not been included in the 'redline version' of Chapter 4. As such it is assumed that the recommendation on the submission point has been to reject it.
44. The use of land and water for Regionally Significant Infrastructure provides a large range of cultural, social and economic benefits, and as such it is requested that the Policy is amended to recognise this.
45. Requested Relief:

Amend Policy P7 as follows:

*Policy P7: Uses of land and water*

*The cultural, social and economic benefits of using land and water for:*

- (a) *aquaculture, and*
- (b) *treatment, dilution and disposal of wastewater and stormwater, and*
- (c) *industrial processes and commercial uses associated with the potable water supply network, and*
- (d) *community and domestic water supply, and*
- (e) *electricity generation, and*
- (f) *food production and harvesting, and*

(g) gravel extraction from rivers for flood protection and control purposes, and

(h) irrigation and stock water, and

(i) firefighting, and

(j) contact recreation and Māori customary use, and

(k) transport along, and access to, water bodies, and

(l) hard-rock quarries, **and**

**(m) regionally significant infrastructure**

shall be recognised.



Tom Anderson

5 May 2017

**Appendix A - Summary of Spark and Chorus Submissions Points, Officer Recommendation and Acceptance/Further Relief Sought to PNRP Hearing Stream 1 Topics**

Spark/Chorus Submission Number	PNRP Provision	Relief sought through Spark/Chorus submission	Officer Recommendation	Spark/Chorus decision sought through Hearing process
S98/004 S144/004	Definition of Regionally Significant Infrastructure	Oppose – Amend bullet point two and three of the definition as follows: <ul style="list-style-type: none"> <li><del>strategic telecommunication facilities</del>, as defined in section 5 of the Telecommunications Act 2001</li> <li><del>strategic radiocommunications</del> as defined in section 2(1) of the Radiocommunications Act 1989.</li> </ul>	Rejected	Amend bullet's 2 and 3 of the definition of Regionally Significant Infrastructure as follows: Regionally significant infrastructure includes: <ul style="list-style-type: none"> <li><del>strategic facilities to the telecommunications network</del>, as defined in section 5 of the Telecommunications Act 2001</li> <li><del>strategic facilities to the radio communications network</del>, as defined in section 2(1) of the Radio Communications Act 1989</li> </ul>
S98/005 S144/005	Objective 12	Oppose in part - Amend Objective O12 as follows: <b>Objective O12 (Coastal)</b> The social, economic, cultural, <del>and</del> environmental <b>and health and safety</b> benefits of regionally significant infrastructure and renewable electricity generation activities. <b>Objective O12A</b> <b><u>Recognise that some regionally significant infrastructure has a functional need and/or operational requirement to be located and/or operated in a particular environment.</u></b>	Rejected	Accept Reporting Officer Recommendation
S98/006 S144/006	Objective 13	Support – Amend Objective O13 as follows: The <b>existing</b> use and ongoing operation of regionally significant infrastructure and renewable energy generation activities in the coastal marine area are protected from new incompatible use and development occurring under, over, or adjacent to the infrastructure or activity.	Rejected	Accept Reporting Officer Recommendation
S98/008 S144/008	Policy 4	Oppose in part - Amend Policy P4 as follows: Where minimisation of adverse effects is required by policies in the Plan minimisation means reducing adverse effects of the activity to the smallest amount <b><u>practicable having regard to the nature and objectives of the activity</u></b> and shall include:....”	Rejected	Accept Reporting Officer Recommendation
S98/009 S144/009	Policy 7	Support with amendment - Amend Policy P7 as follows: The cultural, social and economic benefits of using land and water for: <b><u>(l) Regionally Significant Infrastructure</u></b>	Rejected	Amend Policy P7 as follows: Policy P7: Uses of land and water... <b><u>(m) Regionally Significant Infrastructure</u></b> ...
S98/010 S144/010	Policy 9	Support with amendment - Amend Policy P9 as follows: Reduction in the extent or quality of public access to and along the coastal marine area and the beds of lakes and rivers shall be avoided except where it is necessary to: <b><u>(d) protect Regionally Significant Infrastructure</u></b>	Rejected	Accept Reporting Officer Recommendation
S98/011 S144/011	Policy 12	Support with amendment - Amend Policy P12 as follows: (e) <b><u>the functional need for and the operational requirements associated with developing, operating, maintaining and upgrading regionally significant infrastructure and renewable energy generation activities, including where those activities are proposed within areas of outstanding natural character and landscapes, high hazards, sites of significant value, ecosystems and habitats with significant indigenous biodiversity value, natural features, sites significant historic heritage value, and sites with significant Mana Whenua.</u></b>	Rejected	Amend Policy P12 as follows: Policy P12: Benefits of regionally significant infrastructure and renewable electricity generation facilities The benefits of regionally significant infrastructure and renewable energy generation activities are recognised by having regard to: (a) the strategic integration of infrastructure and land use, and (b) the location of existing infrastructure and structures, and (c) the need for renewable energy generation activities to locate where the renewable energy resources exist, and (d) the functional need for port <b>and aspects of other regionally significant infrastructure</b> activities <del>to</del> <b>which must</b> be located within the coastal marine area, and (e) operational requirements associated with developing, operating, maintaining and upgrading regionally significant infrastructure and renewable energy generation activities.
S98/012 S144/012	Policy 13	Support with amendment - Amend Policy P13 as follows: The use, operation, maintenance, <del>and</del> upgrade, <b>and removal</b> of existing regionally significant infrastructure and renewable energy generation activities are beneficial and generally appropriate.	Rejected	Accept Reporting Officer Recommendation
S98/013	Policy 14	Support with amendment - Amend Policy P14 as follows:	Accepted	Accept Reporting Officer Recommendation

Spark/Chorus Submission Number	PNRP Provision	Relief sought through Spark/Chorus submission	Officer Recommendation	Spark/Chorus decision sought through Hearing process
S144/013		<i>Regionally significant infrastructure and renewable energy generation activities shall be protected from new incompatible use and development occurring under, over or adjacent to it, by locating and designing any new use and development to avoid, remedy or mitigate any <b>adverse effects, including any</b> reverse sensitivity effects.</i>		