Roxanne Davies

From: Chris Horne <Chris@incite.co.nz>
Sent: Thursday, 4 March 2021 11:03 a.m.
To: District Plan Submissions
Cc: Fiona Matthews; Clune, Colin, Vodafone NZ
Subject: Submission on Variation 2 by Spark and Vodafone
Attachments: Variation 2 Submission Spark and Vodafone.pdf

Follow Up Flag: Follow up
Flag Status: Completed

Please find attached a joint submission by Spark and Vodafone on Variation 2 to the 2GP.

Please confirm receipt.

Regards

_____

Chris Horne
Director

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Michaela Groenewegen

From: chris@incite.co.nz
Sent: Monday, 8 March 2021 10:19 a.m.
To: District Plan Submissions
Subject: Variation 2 submission

Follow Up Flag: Follow up
Flag Status: Flagged

Categories: Michaela Doing

Submission Form Submitted

Reference number 808895

Submitter name
Chris Horne

Organisation
Spark New Zealand Trading Limited & Vodafone New Zealand Limited

Contact person/agent
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I could gain an advantage in trade competition through this submission
No

If you could gain an advantage in trade competition through this submission please select an answer

Variation 2 change ID

Provision name and number, or address and map layer name

My submission seeks the following decision from the Council
Multiple submission points/decisions outlined below

Details

Reasons for my views
See Attached files

Supporting documents (file name/s)
No file uploaded

Do you wish to speak in support of your submission at a hearing
Yes

If others make a similar submission, would you consider presenting a joint case at a hearing
Yes

Form 5

Submission on publicly notified proposal for policy statement or plan, change or variation

Clause 6 of Schedule 1, Resource Management Act 1991

To: Dunedin City Council
PO Box 5045
Dunedin 9054

districtplansubmissions@dcc.govt.nz

Name of submitter: Spark New Zealand Trading Limited
Private Bag 92028
Auckland 1010

Vodafone New Zealand Limited
Private Bag 92143
Auckland 1142

This is a submission on Variation 2 to the Proposed Dunedin 2nd Generation District Plan (2GP).

Spark New Zealand Trading Limited (Spark) could not gain an advantage in trade competition through this submission.

Vodafone New Zealand Limited (Vodafone) could not gain an advantage in trade competition through this submission.

The specific provisions of the proposal that the submission relates to, the submission points, reasons and decisions sought are detailed in the attached submission. Spark and Vodafone seek the specific relief sought in the submission, or relief of like effect, including any consequential changes to Variation 2 that may be required.

Spark and Vodafone wish to be heard in support of this submission. If others make a similar submission, Spark and Vodafone will consider presenting a joint case with them at a hearing.

Signed: .....

On behalf of Spark New Zealand Trading Limited

Signed: .....

On behalf of Vodafone New Zealand Limited

Dated at Auckland this 4th day of March 2021.

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Introduction

The New Zealand mobile market is growing, with consumers using significantly more data than previous years whilst also demanding greater speeds. In 2019, New Zealand mobile data average usage increased 35% compared to 2018[1]. Success in wireless-based products and services is underpinned by investment in the mobile network.

Telecommunications networks are essential and critical national infrastructure that underpin urban development by ensuring New Zealanders are digitally connected to each other and the world. The economic and social benefits of this connectivity have been widely acknowledged. The applications and services that these networks enable are rapidly becoming indispensable for businesses and residential users who expect high speed and reliability wherever they are and whatever they are doing.

COVID-19 was a reminder that as a 'lifeline utility' telecommunications play an important role in keeping people connected. For customers, almost every interaction with the outside world during lockdown was enabled by a phone or internet connection. COVID-19 was the biggest test of mobile infrastructure as Kiwis moved to work, learn and be entertained at home. The divide between having an internet connection and not has never been as stark as during COVID-19 lockdowns. As businesses, schools and services shifted online during COVID-19 lockdown, Kiwis without an internet connection found it difficult to do anything, including banking, facilitating medical care and access to social services, compounding inequality within our community. Telecommunications infrastructure enables people to stay connected and allows for disaster resilience by providing a comprehensive and robust telecommunications network.

New developments are likely to make use of internet of things (IoT) technology, using smart devices and remote probes which communicate in real time over telecommunication networks for a range of applications including road management and environmental monitoring.

Telecommunications is a regulated industry partly to ensure that customers have access to a choice of service providers, competitive pricing and fixed and wireless service options. Within an urban development, customers have an expectation there will be choice of service.

The *Resource Management (National Environmental Standards for Telecommunications Facilities) Regulations 2016* (NESTF) came into force on 1 January 2017. These replaced the 2008 regulations and broadened their scope to enable network operators as determined under the Telecommunications Act to ensure networks can be upgraded with new technology. 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 now provide for the following as permitted activities in all district plans subject to standards:

[1] Commerce Commission Annual Telecommunications Monitoring Report 2019

- Telecommunications cabinets in all locations;
- Antennas on existing poles in road reserve (including pole replacement e.g. a streetlight integrated to include antennas);
- 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 0.11m^3);
- Customer connection lines (excluding new support poles);
- Lines attached to existing poles;
- Underground telecommunications lines; and
- Radio frequency exposures in all locations.

The limitations of the NESTF are that the range of permitted activities as described above do not extend to include new wireless radiocommunication facilities (other than small cell units) outside the road reserve in urban areas means that mobile network providers rely on the rules for network utilities in the 2GP. Therefore, mobile network providers would be relying on provisions from both the NESTF 2016 and the 2GP to build new facilities to service urban growth. Accordingly, it is preferable to deal with infrastructure requirements at the time of land development rather than rely on retrofitting it later where this may potentially involve consenting constraints.

Development Planning

Engagement with telecommunication operators at the early planning stages of development is essential to ensure future generations of property owners can obtain the telecommunication services they reasonably expect. It is also critical for the deployment of affordable infrastructure solutions that take into account the telecommunications market, technological developments, or the ongoing requirements for managing telecommunications infrastructure.

A key consideration for developments is recognising where existing infrastructure is in situ, as moving it is often extremely expensive and if there is no alternative this needs to be factored into the developer's costs. The location of telecommunications infrastructure does not necessarily influence development, but sufficient capacity will support growth by facilitating

connectivity (with associated economic and social benefits). For urban areas – telecommunication reticulation should be implicit in development plans.

The location of development relative to other supporting and enabling telecommunications infrastructure can significantly influence the cost of providing telecommunications services. It is important that these costs are considered at the early stages of development and not left to be borne by individual property owners. Where infrastructure to support telecommunications connections is deferred there are additional costs and disturbances where ducting is required to be laid in newly formed road reserve/ footpaths to support fibre and or cabinets and poles to support wireless solutions.

2GP Variation 2

Variation 2 includes a suite of changes throughout the 2GP to enable additional housing capacity to give effect to the National Policy Statement on Urban Development 2020 (NPS-UD). In general, the Variation 2 provisions have a strong focus on public infrastructure (e.g. 3-waters and roading), and less of a focus on additional infrastructure such as telecommunications and electricity distribution which are also critical components for functioning urban environments. The importance of telecommunications in particular has been brought into focus by COVID-19 and the need for efficient and effective telecommunications for work at home solutions, particularly in regard to broadband services and use of video conferencing platforms such as Teams and Zoom. Supporting work from home solutions also supports climate change initiatives by reducing the need for travel to works places.

Variation Change D1 includes an amended Chapter 12 addressing New Urban Land Provisions. This chapter includes a number of urban transitional zones than can revert to live zones where certain criteria to be certified by the Dunedin City Council chief executive are met. Again, this focusses on public infrastructure and any necessary funding arrangements, and not other infrastructure necessary to support urban development such as telecommunications. This is inconsistent with the higher order policy framework and does not adequately provide for well-functioning urban environments.

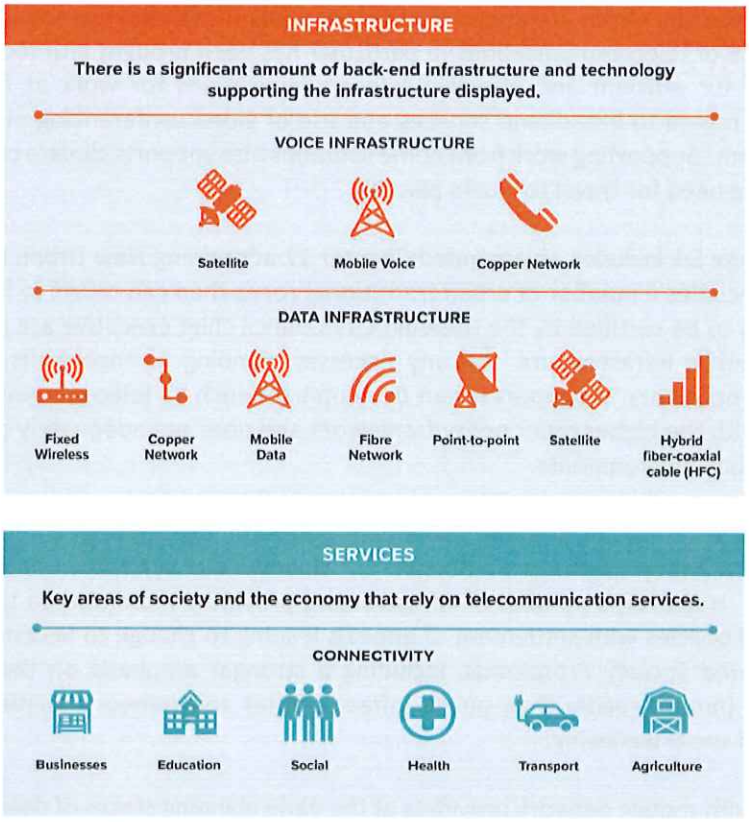
The s32 assessment outlines how the Variation is guided by the Strategic Directions chapter of the 2GP, with a heavy emphasis on Section 2.7 *Dunedin has Affordable and Efficient Public Infrastructure.* However, a number of infrastructure providers submitted on the 2GP strategic objectives and policies with settlement of appeals leading to change to Section 2.3 *Dunedin is Economically and Socially Prosperous*, including a stronger emphasis on the importance of infrastructure (more broadly than public infrastructure) and network utilities for economic prosperity and social wellbeing.

Engagement with mobile network providers at the early planning stages of development is vital to ensure new growth areas receive the level of telecommunications services that a property or business owner purchasing within new development would expect.

In addition, the amended provisions for service connections for subdivision appropriately require connections for telecommunications and power (9.3.7.X). However, in regard to telecommunications this makes specific reference to requiring a connection to UltraFast Broadband where available, which is a fibre solution. With a move to 5G wireless technology and likely further future technology improvements, high quality broadband services can also be delivered by wireless means. Accordingly, the requirement for a telecommunications connection should not be specific to a particular technology or provider, allowing choice for developers to demonstrate how telecommunications services will be provided to new development.

The New Zealand Infrastructure Commission has recently released a discussion document entitled *State of Play: Telecommunications*. This helpfully sets out diagrammatically the range of data infrastructure available, and the key areas of society and the economy reliant on telecommunications.

Figure 1: Telecommunications infrastructure and corresponding services



Source: New Zealand Infrastructure Commission, Te Waihanga

Variation 2 also makes some changes to residential zone provisions including some density controls to enable additional residential development capacity. No changes to existing 2GP height limits are proposed for residential zones, although a drive for more density and yield may result in instances of application being made to exceed height limits. Where height limits are exceeded, the current assessment rules do not provide specific guidance on relevant matters to consider.

Height infringement consents typically focus on amenity considerations. However, they may also impact on adjacent infrastructure such as radiocommunication facilities. Telecommunications providers can plan around district plan height limits where providing wireless infrastructure (e.g. mobile phone and wireless broadband coverage). However, where a site developer seeks to exceed these height limits to maximise yield, it has the potential to block transmission from existing network utility infrastructure resulting in high costs to providers to relocate infrastructure. Accordingly, as part of the consent process to exceed height limits for residential development, applicants should have to consider and where necessary mitigate any adverse effects on existing adjacent infrastructure.

High level planning framework

The overall strategy for the 2GP and its relevance to infrastructure and network utilities is set out separately above.

The Otago Regional Policy Statement requires urban growth and development to be well designed, occur in a strategic and coordinated way, and integrate effectively with adjoining urban and rural environments[2]. Policy 4.5.1 *Providing for Urban Growth and Development* in particular requires:

> *Provide for urban growth and development in a strategic and coordinated way, including by:*
>
> .....
>
> *(e) Coordinating the development and the extension of urban areas with infrastructure development programmes, to provide infrastructure in an efficient and effective way;*
>
> .....

The National Policy Statement on Urban Development 2020 (NPS-UD) which came into effect on 20 August 2020 replaces the National Policy Statement on Urban Development Capacity 2016 (NPS-UDC). The NPS-UD addresses both urban development capacity and achieving well-functioning urban environments.

[2] Objective 4.5 and related policies

NPS-UD Objective 1 seeks to ensure:

> *"well-functioning urban environments that enable all people and communities to provide for their social, economic, and cultural wellbeing, and for their health and safety, now and into the future."*

NPS-UD Objective 6 seeks to deliver local authority decisions on urban development integrated with infrastructure planning and funding decisions. Policy 10 requires local authorities to engage with providers of infrastructure (telecommunications is included as *"additional infrastructure"*) to achieve integrated land use and infrastructure planning.

Policy 1 recognises the need to support reductions in greenhouse gas emissions in planning decisions on urban environments, which supports providing for efficient and effective telecommunications as part of urban development to support work from home solutions and support travel demand management initiatives.

NPS-UD Clause 3.11(1) in Part 3 Implementation provides direction when making plans or changing plans to ensure that development achieves well-functioning urban environments. In particular, reference to additional infrastructure NPS-UD 3.5 *"Availability of additional infrastructure"* requires that local authorities must be satisfied that the additional infrastructure to service the development capacity is likely to be available. This means that providers of additional infrastructure, in our case telecommunications are required to be engaged with.

Requested Relief

Spark and Vodafone seek the relief as set out in the attached table.

The submission requests that either:

i. the specific relief as set out in the table below is adopted; or
ii. Such other relief to similar effect to address the matters outlined in the submission to the submitter's satisfaction; and
iii. In relation to i and ii above, any consequential amendments necessary as a result of the amendments to grant the relief sought.

District Plan or Proposed Plan Change Provision	The Submission is that:		Decisions sought:
	Oppose / Support	Reasons	
General – Variation 2	Oppose	Variation 2 does not adequately provide for consideration of infrastructure other than public infrastructure (i.e. 3-waters and roads) in the provisions dealing with urban growth and land development.	**Amend** the provisions such that the following outcomes are achieved: 1. Telecommunications network utility operators including mobile network operators to be consulted with and the outcome of that consultation recorded for any urban growth plan changes or certification of release of transitional zones to live urban zones to ensure that telecommunications is recognised as essential infrastructure and additional infrastructure required to support well-functioning urban environments under the NPS-UD is properly identified. 2. Telecommunications network utility operators including mobile network operators are consulted to ensure that there is adequate infrastructure to support the demand for telecommunication services generated by development.

			3. Telecommunications network utility operators including mobile network operators are consulted with to ensure staging of infrastructure is appropriate and telecommunications infrastructure to support growth is provided for where required to serve new urban development. **Note: Changes to give effect to this submission may be broader than the specific submission points below.**
Rule 9.3.7.X Telecommunications and power (Change F1-1)	Oppose in part	Spark supports the intent of this rule that subdivision activities must provide all resultant sites with telecommunications to the site boundary. However, it opposes making specific reference to ultrafast broadband where available which is a fibre solution. With a move to 5G wireless technology and likely further future technology improvements, high quality broadband services can also be delivered by wireless means. Accordingly, in Spark's view the requirement for a telecommunications connection should not be specific to a particular technology or provider, allowing choice for developers to demonstrate how telecommunications services will be provided to new development.	**Amend** Rule 9.3.7.X as follows: ***9.3.7.X Telecommunications and Power*** ***(a) Subdivision activities must provide all resultant sites with telecommunication ~~(including UltraFast Broadband where available)~~ and power supply to the site boundary.*** ***(b) Activities that contravene this performance standard are restricted discretionary activities.***

Rule 9.5.12 Assessment of Restricted Discretionary Activities (Performance Standard Contraventions) – Service Connections (no change currently proposed)	Oppose	Where proposed Rule 9.3.7.X in regard to telecommunications and power connections is contravened, the assessment rules in 9.5.3.12 would apply. The current provisions only address water and wastewater. This needs to be amended to provide guidance for assessing applications where telecommunications or power connections cannot be adequately provided. Where lots are created and adequate telecommunications connections to support good quality broadband services cannot be provided, methods such as consent notices on titles to inform purchasers may be appropriate.	**Amend Rule 9.5.3.12** assessment of performance standard contravention – service connections by providing guidance for assessing applications where telecommunications or power connections cannot be adequately provided. In regard to telecommunications, suggested wording is as follows: *(i) The adequacy of telecommunications infrastructure connections to any new lot or site, and where not able to be provided the methods by which prospective purchasers of a lot or site are to be informed if these connections are not available.*
Policy 12.2.1.1 Residential Transition Overlay Zone (Change H2) Policy 12.2.2.1 Harbourside Edge Transition Overlay Zone (no change currently proposed) Policy 12.2.3.1 Industrial Transition Overlay Zone (no change currently proposed)	Oppose	These policies set provide the framework for land in transition overlay zones to be released and developed in a coordinated way. The certification process referred to has a focus on method, timing and funding of public infrastructure but not other infrastructure that may be required to support growth such as telecommunications. This is inconsistent with the NPS-UD.	**Amend** Policies 12.2.1.1, 12.2.2.1 and 12.2.3.1 such that the certification process to transition to live urban zonings must consider the method, timing and funding or all necessary infrastructure to support urban growth, not just public infrastructure.

Objective 12.2.x (Change D1)	Oppose	The objective requires future residential growth areas to be developed in a way that achieves the plans Strategic Directions for certain matters including efficient public infrastructure under Objective 2.7.1. However, it does not include consideration of infrastructure and network utilities to support economic productivity and social wellbeing under Objective 2.3.1.	**Amend** Objective 12.2.X by adding reference to infrastructure and network utilities to support economic productivity and social wellbeing under Strategic Objective 2.3.1, and any consequential amendments to the policies under 12.2.X to give effect to the amended objective.
12.3 Rules for Transition Overlay Zones (Various changes including D1, D4, D5, D6, D7, D8, E2, E3, E5, H2)	Oppose	The rules include the requirements to be met for certification by the Chief Executive for land to be released to live zoning. This includes details on the capacity of public infrastructure and any agreements for upgrades in place. Further, structure plans or development plans for subdivision in transition zones as minimum requirements must show public infrastructure, but there is no requirement to show plans for other infrastructure necessary to support urban development.	**Amend** the rules package under 12.3 Rules for Transition Overlay Zones such that all infrastructure necessary to support urban development (e.g. including telecommunications and electricity distribution) is adequately considered in decision making to release transition overlay zones to live zones and for subdivision in transition overlay zones.
Rule 15.10 (Residential Zones) Assessment of Restricted Discretionary Activities (Performance Standard Contraventions) (no chance currently proposed)	Oppose	Objective 2.3.1 in the Strategic Directions acknowledges the importance of network utilities to economic productivity and social wellbeing and seeks to ensure they are protected from competing or incompatible land uses. Objective 5.2.2 in the Network Utilities Chapter seeks to ensure that the operational efficiency and effectiveness of network utilities is not compromised by development locating near these activities. Increased residential densities may result in pressure for development to	**Add** a new clause to the assessment rules for restricted discretionary activities in regard to infringement of maximum height limits as follows: *X. The extent to which an exceedance of the height standard results in reverse sensitivity effects on adjacent infrastructure networks and how this can be mitigated.*

		exceed height limits to maximise development yield. Telecommunications providers can plan around district plan height limits where providing wireless infrastructure (e.g. mobile phone and wireless broadband coverage). However, where a site developer seeks to exceed these height limits to maximise yield, it has the potential to block transmission from existing network utility infrastructure resulting in high costs to providers to relocate infrastructure. Accordingly, as part of the consent process to exceed height limits for residential development, applicants should have to consider and where necessary mitigate any adverse effects on existing adjacent infrastructure.	