

BEFORE THE DUNEDIN CITY COUNCIL

IN THE MATTER of the Resource Management Act 1991

AND

IN THE MATTER of **Proposed Variation 2** to the
Proposed Dunedin Second Generation
District Plan (Hearing 1)

Statement of evidence of **CHRIS HORNE** on behalf of Spark New Zealand Trading Limited
and Vodafone New Zealand Limited (Submitter S224)

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Statement of Professional Qualifications and Experience

1. My name is Chris Horne. I am a resource management consultant and director of the resource and environmental management consulting company, Incite. I hold the qualifications of 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 been engaged by Spark New Zealand Trading Limited (Spark) and Vodafone New Zealand Limited (Vodafone), to provide evidence as an independent planner regarding their submissions on Proposed Variation 2.
3. I have over 25 years' 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. During this time I have assisted a number of telecommunications network providers as a consultant planner including Telecom New Zealand Limited (Telecom) and its two successor companies Chorus New Zealand Limited (Chorus) and Spark, Vodafone, Two Degrees Mobile Limited, Teamtalk Limited (recently rebranded as Vital), and New Zealand Police Information and Technology Group (Police Radio Network). Work I have assisted these organisations with has included site selection studies, project consenting, designations, and assistance in responding to resource management plans and reviews.
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 of the 2016 regulations now in force: *Resource Management (National Environmental Standards for Telecommunications Facilities) Regulations 2016* ("NESTF").
5. I previously assisted Spark and Vodafone along with Chorus New Zealand Limited (Chorus) on the full district plan review leading to the current appeals version of the Proposed Dunedin Second Generation District Plan (2GP).

6. Although this matter is not before the Environment Court, I can confirm that I have read the Environment Court's Code of Conduct for Expert Witnesses. My evidence has been prepared in compliance with that Code. In particular, unless I state otherwise, the evidence is within my field of expertise, and I have not omitted to consider material facts known to me that might alter or detract from the opinions I express.

Submission Overview and Context

7. The general nature of the networks operated by Spark and Vodafone are set out in the evidence of Mr McCarrison and Mr Clune. Within urban environments, the networks provided by these companies along with Two Degrees Mobile Limited (2degrees) are primarily mobile networks for phone and broadband, while Chorus is the ultra-fast broadband (UFB) provider for the Dunedin area.
8. 2GP Variation 2 along with numerous other plan changes or plan reviews around New Zealand are changing plan provisions to give effect to the National Policy Statement on Urban Development 2020 (NPS-UD). The NPS-UD now clearly contemplates consideration of infrastructure other than roads and 3-Waters in urban growth provision. Telecommunications networks (fixed-line and wireless) fall under Clause (e) of the definition of "*additional infrastructure*" under the NPS-UD as follows:

additional infrastructure means:

- (a) public open space
 - (b) community infrastructure as defined in section 197 of the Local Government Act 2002
 - (c) land transport (as defined in the Land Transport Management Act 2003) that is not controlled by local authorities
 - (d) social infrastructure, such as schools and healthcare facilities
 - (e) a network operated for the purpose of telecommunications (as defined in section 5 of the Telecommunications Act 2001)
 - (f) a network operated for the purpose of transmitting or distributing electricity or gas
9. As part of the current pre-Variation 2 version of the 2GP, telecommunications companies and Aurora pursued better recognition of Infrastructure other than public infrastructure via submissions and appeals. Appeal settlements ultimately led to stronger recognition of this infrastructure in the Strategic Directions objectives and policies of the 2GP (e.g., Objective 2.3.1 and Policy 2.6.2.1).

10. The Variation 2 provisions need to give effect to the NPS-UD and be consistent with the Strategic Directions objectives and policies of the 2GP. Spark and Vodafone considered that there was still insufficient focus on *additional infrastructure* such as telecommunications in the notified provisions, with most focus on land use change and development being on public infrastructure. The importance of telecommunications to functioning urban environments is set out in the evidence of Mr McCarrison and Mr Clune.
11. Policy 10 of the NPS-UD requires Tier 1, 2 and 3 local authorities to engage with the providers of *development infrastructure* and *additional infrastructure* to achieve integrated land use and infrastructure planning. Under Part 3: Implementation - Clause 3.5 is:

3.5 Availability of additional infrastructure

- (1) Local authorities must be satisfied that the additional infrastructure to service the development capacity is likely to be available.

12. The consent order version of Strategic Directions Objective 2.3.1 and Policy 2.6.2.1 to which Spark, Vodafone and Chorus were s274 parties (regarding Aurora appeals) are:

Objective 2.3.1 {Transpower, Aurora}

Land, and facilities and infrastructure that are important for economic productivity and social well-being, which include industrial areas, major facilities, key transportation routes, network utilities; and productive rural land ~~are~~:

- a. are protected from less productive competing uses or incompatible uses, including activities that may give rise to reverse sensitivity; and
- b. in the case of facilities and infrastructure, are able to be operated, maintained, upgraded and, where appropriate, developed efficiently and effectively.

and;

Policy 2.6.2.1 {Aurora, KiwiRail, ORC, Transpower}

Identify areas for new residential zoning based on the following criteria:

...

- d. considering the zoning, rules, and potential level of development provided for, the zoning is the most appropriate in terms of the objectives of the Plan, in particular:
 - i. the character and visual amenity of Dunedin's rural environment is maintained or enhanced (Objective 2.4.6);
 - ii. land, and facilities and infrastructure {Transpower, Aurora} that are important for economic productivity and social well-being, which include industrial areas, major facilities, key transportation routes, network utilities and productive rural land ~~are~~:
 1. are protected from less productive competing uses or incompatible uses, including activities that may give rise to reverse sensitivity; and
 2. in the case of facilities and infrastructure, are able to be operated, maintained, upgraded and, where appropriate, developed {Transpower, Aurora} efficiently and effectively (Objective 2.3.1).

13. Accordingly, the high-level policy framework supports engagement with the telecommunications sector in urban growth and capacity matters, integration of this infrastructure with urban development, and protection of this infrastructure from incompatible uses.
14. This in part relates to having a suitable regulatory framework in the district plan for deploying wireless infrastructure in urban areas including roads which is outside the scope of Variation 2, but also any measures that can be included in the planning framework to drive conversions between developers and the telecommunications industry at the subdivision and land development stage to seek to better coordinate and integrate delivery of this infrastructure with urban development.
15. The submission sought the following outcomes (submission point references as allocated in the s42A report):
 - General – include plan provisions to ensure there is engagement with telecommunications network operators including mobile network operators (and outcomes of consultation recorded) for urban growth plan changes and certification of transitional zones to live urban zones to ensure provision of

additional infrastructure under the NPS-UD is given proper consideration (S224.006);

- General - include plan provisions to require engagement with telecommunications network operators including mobile network operators to ensure there is adequate infrastructure/staging of infrastructure to support demand generated by urban growth and development (S.224.004);
- Change F1 - amend proposed rule 9.3.7.X for telecommunications connections to apply more generally to telecommunications and not specifically to ultra-fast broadband, and addition of a related assessment rule where the standard is not met **(to be addressed in s42A report for 3-Waters)**;
- Amendments to Policies 12.2.1.1, 12.2.2.1 and 12.2.3.1 in regard to the certification process for transitional zones **(deemed to be out of scope in the out of scope report and not challenged by Spark and Vodafone)**;
- Change D1- amendments to Objective 12.2.X requiring future residential growth areas to be developed in a way that achieves the 2GP's Strategic Objectives (more recognition of infrastructure and network utilities other than public infrastructure is sought) (S224.004);
- Changes D1, D4-D8, E2, E3, E5, H2 - changes to the rules for Transitional Overlay Zone certification to require consideration of infrastructure other than public infrastructure (submission point allocation unclear – assumed to be part of S224.004); and
- A new restricted discretionary activity assessment criteria under Rule 15.10 (Residential Zones) requiring consideration of the adverse effects on infrastructure where zone height limits are exceeded (S224.005/007)

Engagement with Telecommunications Network Operators including Mobile Networks

16. The request for engagement as part of plan changes for urban growth is allocated submission point number S224.006. The reporting officer does not consider any specific amendments to the 2GP are required as the NPS-UD already requires this, and Council staff did consult with telecommunications operators as part of Proposed Variation 2. I agree that this is already required by the NPS-UD. In this instance however, I understand that the Council only formally sought comment initially from Chorus, and that Spark became aware of this as both companies had the same address for service from the previous 2GP process. This shows there is often a

misunderstanding of the role mobile networks play in supporting urban growth. This is probably more of an education matter rather than requiring a specific amendment to the 2GP.

17. The other element of the submission point is seeking engagement with telecommunications network operators so that development to serve urban growth is served by adequate infrastructure (allocated submission point S224.004). This crosses over with the relief sought on telecommunications connections which is being addressed in the later 3-Waters Topic. The s42A report does not provide a specific recommendation in regard to this submission point. However, this submission also crosses over with the requested change to the Residential Transition Overlay Zone (RTZ) process discussed separately below.

Objective 12.2.X Development of Future Residential Growth Areas

18. As part of Change D1, the following objective is proposed in regard to future residential growth areas (s224.004):

Objective 12.2.X {Change D1}

Future residential growth areas are developed in a way that achieves the Plan's strategic directions for:
{Change D1}

- a. facilities and spaces that support social and cultural well-being (Objective 2.3.3): {Change D4}
- b. indigenous biodiversity (Objective 2.2.3): {Change D6}
- c. environmental performance and energy resilience (Objective 2.2.2): {Change D5}
- d. form and structure of the environment (Objective 2.4.1): {Change D7}
- e. a compact and accessible city (Objective 2.2.4): and {Change D8}
- f. efficient public infrastructure (Objective 2.7.1). {Change D8}

19. The submission requests Strategic Directions Objective 2.3.1 is also referred to in this objective. The objective requires future residential growth areas to be developed in a way that achieves the 2GP's 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 (e.g., telecommunications networks).
20. The s42A report considers that this change is unnecessary as Strategic Directions such as Objective 2.3.1 will already need to be taken into account. However, on that basis there would be no need to directly refer to any of the topic areas and associated

Strategic Directions objectives under Objective 12.2.X. In my opinion an additional clause can easily be added to address this submission as follows:

g. effective and efficient infrastructure (that is not public infrastructure) and network utilities (Objective 2.3.1).

21. Subdivision in a **new development mapped area** would then need to take *additional infrastructure* into account under Policy 12.2.X.5, which is relevant to rules in the 2GP relating to service connections.

Rules for Residential Transition Overlay Zone (RTZ)

22. Spark and Vodafone sought changes to these rules (particular edits were not formulated) to ensure as part of the certification process to move from transition to live zones, that all infrastructure necessary to support urban development (including telecommunications and electricity distribution) is adequately considered.
23. This submission appears to be allocated to submission point S224.004, although I was not able to identify a specific recommendation in the s42A report on this particular point. The current certification process focusses on specific performance criteria in relation to 3-Waters and DCC roading infrastructure which does not appear to properly implement Clause 3.5 in Part 3 of the NPS-UD.
24. As set out in the evidence of Mr McCarrison and Mr Clune, in practice what the submitters are seeking is an operational procedure to ensure telecommunications networks are engaged with in regard to the release of further urban land so they can identify any constraints and plan for what is required. There would be no particular performance criteria to meet other than to certify that the telecommunications network operators (and ideally other non-public infrastructure operators such as electricity and gas distribution which would be within the scope of the submission) have been advised.
25. In my opinion the following amendment to 12.3 Rules for Transition Overlay Zones would address the Spark and Vodafone submission point.

Rule 12.3.1 Release of land in the Residential Transition Overlay Zone (RTZ)

....

2. The Chief Executive Officer or their delegate must certify to release land in a Residential Transition Overlay Zone (RTZ) following receipt of an application demonstrating that:

.....

d. All network utility companies providing telecommunications (fibre or mobile networks), electricity distribution and gas reticulation to the RTZ have been advised of the expected timing and enabled capacity of development.

26. Whilst these changes would ideally also be made to the Harbourside Edge Transition Overlay Zone and Industrial Transition Overlay Zone, it is acknowledged that these are existing provisions so appear to be out of scope of Proposed Variation 2.

Residential Zones Assessment of Restricted Discretionary Activities (Height Infringements)

27. The evidence of Mr McCarrison sets out how approximately 4 Spark cell sites per year need to be relocated due to adjacent built development. The costs are in the order of \$1.2 - \$1.5M. Similar data for Vodafone was not provided.
28. As set out in the submission, Spark and Vodafone are concerned that increased residential densities may give rise to development pressures to exceed district plan height limits to increase development yield. I understand from Spark and Vodafone that 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.
29. Accordingly, as part of the consent process to exceed height limits for residential development, in my opinion it is reasonable that applicants should have to consider and where necessary mitigate any adverse effects on existing adjacent infrastructure.
30. The submission seeks an additional clause to the assessment rules under Rule 15.10 (Residential Zones) Assessment of Restricted Discretionary Activities (Performance Standard Contraventions) 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.

31. In my opinion the relief requested is consistent with the policy framework of the 2GP including Strategic Objective 2.3.1 and Policy 2.6.2.1, which require that infrastructure important for economic productivity and social well-being, including network utilities, are protected from incompatible activities, and can be operated efficiently and effectively. Accordingly, I support the relief sought. Spark and Vodafone are seeking this same relief in other current district plan reviews and rolling plan changes to give effect to the NPS-UP including the Proposed Selwyn District Plan and Proposed Plan Change 26 to the Tauranga City Plan.
32. The s42A report raises a potential scope issue not raised in the earlier out of scope submissions report. In my opinion, as there a number of changes being made to the standards for residential zones as part of the variation, and the requested relief relates to an urban growth issue, it is reasonable to consider it under proposed Variation 2. The s42A report also requests more evidence is provided by to support the submission. Spark has provided further evidence in relation to its network that it has to relocate on average 4 sites per annum due to adjacent development.