

BEFORE THE TE TAI POUTINI PLAN JOINT COMMITTEE

IN THE MATTER of the Resource Management Act 1991

AND

IN THE MATTER of the Proposed Te Tai Poutini Plan in  
regard to:

- Historic Heritage

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Statement of evidence of **CHRIS HORNE** on behalf of Chorus New Zealand Limited, Spark  
New Zealand Trading Limited, One New Zealand Group Limited and FortySouth  
(Submitter s663)  
8 November 2023

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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 (Auckland) Limited.
2. I have been asked by Submitter 663, the Telecommunications Companies (**the Companies**), to provide planning evidence in regard to their submissions on the Historic Heritage chapter.
3. My relevant experience and qualifications, and statement on the *Code of Conduct for Expert Witnesses* contained in the Environment Court Practice Note, are set out in my statement of evidence in relation to Energy, Infrastructure and Transport, dated 27 October 2023.

## Evidence Outline

4. The scope of this evidence relates to the Historic Heritage chapter and in particular the rules for telecommunications service connections to buildings on scheduled historic heritage sites.
5. Whilst customer connections are provided for as a permitted activity in the *Resource Management (National Environmental Standards for Telecommunications Facilities) Regulations 2016 (NESTF)*, any rules that would otherwise require resource consent in regard to historic heritage take precedence<sup>1</sup>.
6. The Companies made two submissions which in general requested:
  - Changes to the permitted activity standards for Rule HH-R3 in regard to underground telecommunications service connections; and
  - Retention as notified of controlled activity Rule HH-R5 in regard to service connections to scheduled heritage buildings.

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<sup>1</sup> Regulation 46 NESTF

7. The s42A report recommendations in both cases are to accept the submissions in part. In my opinion some changes to the s42A report recommended provisions should be made.

## **Outstanding matters arising from s42A Report**

### **HH-R3 Permitted Activity: Earthworks for underground customer connections on Historic Heritage Sites**

8. Rule HH-R3 provides for minor earthworks in a scheduled historic heritage area or site, including replacing service connection poles and maintaining existing underground energy assets, as a permitted activity.
9. To avoid unnecessary resource consents for minor earthworks, the Companies' submission sought that the activities allowed for be extended to maintaining existing underground telecommunications assets (in addition to energy assets already provided for), and provision for new underground customer connections unless the description of the scheduled item in the heritage schedule specifically refers to archaeology<sup>2</sup>.
10. The s42A report recommendation is to accept the submission in part, by adopting the change to provide for maintenance of underground telecommunication assets in the same manner as is already provided for underground energy assets<sup>3</sup>. However, the request to include new underground customer connections where the building or item has not been scheduled in regard to archaeology is recommended to be rejected<sup>4</sup>.  
The reason given is:

I do not support this part of the submission. While not being specifically scheduled as Archaeological Sites, many historic heritage sites and items may have archaeological values or other historic values associated with the land. Therefore this activity could impact negatively on archaeological or heritage values of a site and should be assessed as part of a resource consent process.

11. I understand that service connection to customers only require relatively narrow and shallow excavations from the road to the building. Chorus has advised be that trenching of a service connection requires a minimum 200mm depth and its width is in the order of a "spade width". The disturbed land is then reinstated. I understand from Chorus that where a customer connection is required there is an expectation of

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<sup>2</sup> S663.036

<sup>3</sup> s42A. para 115

a quick delivery of service. Therefore in my opinion any regulation needs to have a clear resource management purpose to justify the extent of delay and cost that would result. Where a site has been scheduled for a purpose that does not include archaeology (i.e. a building representing a certain architectural period), then in my view requiring a resource consent for minor excavations for customer connections is not justified in regard to protecting the historic heritage values of the heritage area, building or item. The effects on heritage values from excavating a new connection versus excavating and repairing or replacing an existing one, would be similar in my view.

12. If a pre-1900 building or item is scheduled by Heritage New Zealand Pouhere Taonga (HNZPT), then I understand that an archaeological authority is automatically triggered for earthworks. Therefore there would appear to be no reason to have a duplicate process in the District Plan to address this particular issue.

### ***Recommended Relief***

13. Amend Rule HH-R3 as requested in the submission as follows:

#### *Activity Status Permitted*

##### *Where:*

1. *These are earthworks that will not result in damage, demolition or destruction of heritage items and are associated with:*

.....

- d. *Installing fence posts and the replacement of poles for overhead network utility lines provided the area of land disturbed is limited to what is necessary to maintain an existing fence along its existing alignment and does not involve installation or digging of new post holes; or*
- e. *Maintaining existing underground energy **or telecommunications** activity assets;*
- e2. Installing new underground customer connections where the building or item has not been scheduled in regard to archaeology;**
- f. *Maintenance and repair of existing drains within the existing footprint of the drain; or*
- g. *Maintaining roads, tracks, carparks, accessways or paved areas within the footprint or modified ground compromised by the existing road, track, carpark, accessway or paved area; and*

2. *An Archaeological Authority has been issued by Heritage New Zealand - Pouhere Taonga, or an Accidental Discovery Protocol commitment has been completed and submitted to the relevant District Council at least 10 working days prior to the commencement of any earthworks.*

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<sup>4</sup> s42A para 116

## **HH-R5 Controlled Activity: New infrastructure connections to a scheduled Historic Heritage Item**

14. The Proposed Plan as notified included a controlled activity rule for infrastructure customer connections to scheduled heritage buildings. The Companies supported the rule as notified<sup>5</sup>.
15. The s42A report recommendation is to accept the submission in part, but based on a submission from the Department of Conservation recommends that one of the conditions to be met to be a controlled activity is to require the written approval of HNZPT<sup>6</sup>. Based on the summary in the s42A report, HNZPT supported the DoC submission in part in regard to consulting HNZPT.
16. The Companies have promoted and supported the equivalent controlled activity rule as notified on a number of district plan reviews on the basis that Chorus has previously worked with HNZPT at a national level and prepared guidelines establishing best practice for providing connections to heritage listed buildings. In my view a controlled activity consent is appropriate in that it reflects that allowing a connection supports reasonable ongoing use of heritage listed buildings that in turn supports ongoing heritage building maintenance, whilst retaining control over the actual design of the connection.
17. I am unclear if deferring the determination of compliance or otherwise within a rule to a third-party organisation as proposed is vires. However, in the case of Chorus, as they have an existing guideline developed at a national level in consultation with NZHPT, it appears to be unnecessary and unreasonable to require a further written approval at the local level. Further, it may not follow that all buildings scheduled in the Proposed Plan are even on the HNZPT list.
18. In acknowledgment that other infrastructure providers may not have developed a similar approach in consultation with HNZPT, I suggest as an alternative that the condition requires the applicant to either show the outcome of consultation with HNZPT, or demonstrate it is operating in accordance with any guideline document developed in consultation with HNZPT. The Council can then take this into account in any conditions on the consent.

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<sup>5</sup> S663.037

<sup>6</sup> s42A paras 136, 139, 143

## **Recommended Relief**

19. Amend the s42A recommended version of the rule as follows:

*Activity Status: Controlled*

*Where:*

1. *The new infrastructure or energy connection is to a historic heritage building listed in Schedule One.*
2. ~~*The written approval of Heritage New Zealand – Pouhere Taonga for the connection is provided.*~~ **The application is accompanied by evidence of the outcome of consultation with Heritage New Zealand Pouhere Taonga (HNZPT) or demonstration of how the connection is in accordance with any guideline developed by the infrastructure provider in consultation with HNZPT.**

*Matters of control are:*

- a. *The location of the customer's connection to the heritage building;*
- b. *The physical impact / damage to the heritage building; and*
- c. *Visual impact and how the visual impact might affect heritage value.*

**Advice Note:** *Where work is proposed that could modify an archaeological site regardless of whether the site is scheduled as an archaeological site in Te Tai o Poutini Plan or not) obtaining archaeological authority from Heritage New Zealand Pouhere Taonga (HNZPT) is required before any work starts.*