

BEFORE MACKENZIE DISTRICT COUNCIL

IN THE MATTER OF

the Resource Management Act 1991

AND

IN THE MATTER OF

Mackenzie District Council's Proposed District Plan Change 28 (Hazards and Risks, Historic Heritage and Notable Trees) and 29 (Open Space and Recreation Zones, Noise, Signs and Temporary Activities)

STATEMENT OF EVIDENCE TOM ANDERSON

ON BEHALF OF

CHORUS NEW ZEALAND LIMITED, CONNEXA LIMITED, FORTYSOUTH GROUP LP, ONE NEW ZEALAND GROUP LIMITED AND SPARK NEW ZEALAND TRADING LIMITED

8 May 2025

SUMMARY STATEMENT

- i. My name is Tom Anderson. I am a Principal Planner and a Director of Incite, a resource management consulting firm. My qualifications and experience are set out in my evidence in chief in this statement.
- ii. I have read and am familiar with the Code of Conduct for Expert Witnesses (section 9 of the Environment Court Consolidated Practice Note 2023). 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.
- iii. As required in Paragraph 17 of Minute 1 of the Hearing Panel (titled *Directions of Hearing Panel*), this summary statement provides a summary of the evidence in chief.
- iv. Chorus, Connexa, FortySouth, One NZ and Spark (the Telcos) lodged joint submissions on Plan Changes 28 and 29 to the Mackenzie District Plan.
- v. 16 of the joint submission points concerned Plan Change 28, and six concerned Plan Change 29. I agree with the Council officer recommendations in the Section 42A (S42A) report on all submission points, except for one regarding Plan Change 28, and one regarding Plan Change 29.
- vi. The only matter regarding Plan Change 28 which remains in contention concerns HH-R2 (*Customer Connections to Items included in HH-SCHED2*). This is a permitted activity, which when conditions are not met within the notified version of the PDP cascaded to restricted discretionary activity. Submission point 35.12 sought that the cascade be to controlled activity. This was recommended by the reporting officer to be rejected.
- vii. In my view, when permitted activity conditions are not met that a controlled activity for a customer connection is an appropriate activity classification, as the Council retains control over the effects of the customer connection. As a result, any heritage item owner/occupier has certainty that their building/item can connect to an infrastructure network, therefore sustaining the modern usability of the building. This would give direct effect to Objective HH-O1, and, in particular, HH-P3.
- viii. As such, the same relief as sought in submission point 35.12 continues to be sought through my evidence.

- ix. Turning to Plan Change 29, the only matter which remains in contention is SIGN-R5. Submission point 15.05 sought that SIGN-R5 (*Off-site Signs Not Otherwise Specified in SIGN-R1.9, SIGN-R2, SIGN-R3 and SIGN-R4*) be deleted, with such signs being regulated through SIGN-R1.
- x. The reporting officer recommended that the submission point be rejected on character and amenity effects, including a potential proliferation of signs.
- xi. While I can understand where the reporting officer is coming from, I note that SIGN-R5 only provides discretionary activity status for signs it regulates. In my view, given that as notified Plan Change 29 includes matters of discretion for signs (being SIGN-MD1 and SIGN-MD2) which include consideration of character and amenity effects, the activity status for activities regulated under SIGN-R5 should be restricted discretionary, with Councils discretion restricted to the aforementioned matters. I consider this would provide greater certainty to any applicant, while addressing the concern raised by the reporting officer.

EVIDENCE IN CHIEF

Professional Qualifications and Experience

1. My name is Tom Anderson. I am a Principal Planner and a Director of 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 a member of the Resource Management Law Association. I am an Independent Commissioner, certified under the Ministry for the Environment's *Making Good Decisions* programme.
2. I have 18 years professional experience. Throughout my career I have provided advice to a number of telecommunication and radiocommunication companies, including submitters Chorus New Zealand Limited (Chorus), Connexa Limited (Connexa), FortySouth Group LP (FortySouth, formerly Aotearoa Towers Group), One New Zealand Group Limited (One NZ – formerly Vodafone New Zealand Limited) and Spark New Zealand Trading Limited (Spark – formerly Telecom New Zealand Limited and Telecom Mobile Limited), as well as Two Degrees Networks Limited, Rural Connectivity Group and Vital (formerly TeamTalk). I have provided the telecommunication companies 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 network rollouts and exchange upgrades.
3. On this basis, I consider myself to have a comprehensive understanding of telecommunication and radiocommunication networks, and the practical implications of the Resource Management Act 1991 (RMA) framework in relation to network installation, upgrade and operation.
4. I drafted the submissions of Chorus, Connexa, FortySouth, One NZ and Spark on Proposed Plan Changes 28 and 29 (PC28 and PC29) to the Mackenzie District Plan¹. I note that the Section 42A reports (S42A reports) for PC28 and PC29 collectively refers to this group of submitters as 'the Telcos' so for continuity I shall do the same.
5. I have read and am familiar with the Code of Conduct for Expert Witnesses (section 9 of the Environment Court Consolidated Practice Note 2023). My evidence has been prepared in compliance with that code. In particular, unless I state otherwise, this evidence is within my

¹ For the record, there were no submissions from the Telcos on Plan Change 30 (Special Purpose Zones)

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 and Purpose of Evidence

6. This evidence has been prepared in review of the Telcos joint submissions PC28 and PC29. In preparing this evidence I have read all other submissions and further submissions relevant to the Telcos submissions and the S42A reports relating to PC28 and PC29.
7. For the most part, particularly for PC28 in regard to natural hazards, the Telcos joint submissions were either accepted, or the alternate relief recommended in the S42A reports is acceptable. Therefore changes to those provisions are no longer being pursued. For completeness, those provisions and submissions are:

PC28

- Amendments to the definition of *critical infrastructure* (Submission Point 35.01);
- Retention of the definition of *non-critical infrastructure* (35.02);
- Retention of the definition of *qualified arborist* (35.03);
- Retention of the definition of *root protection zone* (35.04);
- Retention of Table 1 in the Infrastructure Chapter Introduction (35.05);
- Acceptance in Part of amendments to NH-O2 (35.06);
- Retention of NH-R3 (35.07);
- Acceptance in Part of amendments to NH-R4 (35.08);
- Acceptance in Part of amendments to NH-R6 (35.09);
- Acceptance in Part of amendments to NH-R8 (35.10);
- Retention of HH-P2 (35.11);
- Retention of TREE-P3 (35.13);
- Retention of TREE-P5 (35.14);

- Alternate relief for TREE-R2 (35.15); and
- Rejection of amendment to TREE-R4 (35.16).

PC29

- Retention of the definition of *freestanding signs* (15.01);
- Rejection of amendment to NOISE-R4 (15.02);
- Rejection of amendment to SIGN-R2 (15.03);
- Acceptance in part of amendment to SIGN-R4 (15.04); and
- Rejection of amendment to SIGN-S1 (15.06).

8. Through this evidence, I seek alternate relief on the remaining submission points that have been considered in the S42A reports of PC28 and PC29, detailed as follows.

Plan Change 28

9. There is one submission point on PC28 (35.12) which the relief sought through the submission was recommended to be rejected by the S42A officer, but continues to be pursued for this hearing.
10. Submission point 35.12 seeks controlled activity status instead of restricted discretionary activity status for HH-R2 (*Customer Connections to Items included in HH-SCHED2*) when the permitted activity matters are not met.
11. The submission contends that, should the permitted activity parameters not be achieved, controlled activity status is more appropriate than restricted discretionary status (as notified), as it would provide certainty to the owner/occupier of the heritage item that they will be able to connect to an infrastructure network, while also providing certainty to the Council that effects on the heritage item can be appropriately avoided, remedied or mitigated.
12. At Paragraph 110 of Section 42A Report Part B: Plan Change 28, the reporting officer states that they:

Consider that restricted discretionary activity consent is appropriate, as it provides greater protection for heritage items and allows Council to decline consent based on the level of effects, if required.

13. In my view, the recommendation, and its reasoning has not considered the breadth of the issue.
14. Ensuring that a heritage item remains sustainably used means ensuring that it is connected to modern day infrastructure. By ensuring connectivity of heritage items, the amendment sought by the submission is giving direct effect to Objective HH-O1, and, in particular, HH-P3.
15. HH-P3 is titled *Use, Development and Re-use of Historic Heritage Items*, and seeks to *enable the appropriate use, development, including adaptive re-use, of scheduled historic heritage items*.
16. In my view, ensuring that a scheduled historic heritage item can connect to an infrastructure network directly enables the use and development of that item.
17. Customer connections are typically small utility boxes attached either at ground level or roof level (depending on whether the service is underground or overhead), and enables the building to connect to telecommunications fibre (or power, gas in some places, waste water, storm water and sewer networks). They are essentially the infrastructure equivalent of a gate or driveway. Typically, they are small, and much less conspicuous, than, for example, a heat pump.
18. Ultimately, while it is agreed that it is appropriate for the effects of customer connections on heritage buildings to be carefully managed, I fundamentally do not think is appropriate for Council to decline customer connections given they are important part of the ongoing use of many heritage buildings. Controlled activity status provides the certainty to the building owner, and, through the matters of control, the certainty to Council that the customer connection is achieved with the least effect possible.
19. The matters of control sought through the evidence are the matters of discretion that were included for the rule as notified (with restricted discretionary activity status). These matters include the *functional need* or *operational need* for the customer connection to be attached to the primary feature or front façade of the heritage resource.
20. *Functional need* and *operational need* are defined in the National Planning Standards (and adopted by the District Plan), and set a high bar. They essentially require other alternatives to be explored first.

21. Further, the matters of control as sought allow Council to have control over *any resultant adverse effects on the heritage listed item*. This matter allows Council to place conditions on any resource consent to avoid, remedy or mitigate any adverse effects on the heritage item, while still providing for that item's ongoing use.
22. Overall, the relief sought through submission 35.12 continues to be sought through the hearing, as follows (~~red strikethrough~~ being words deleted from the as notified version, and red underline being wording sought to be added through this evidence):

Relief Sought:

Amend HH-R2 as follows:

Activity status when compliance is not achieved with R2.1: REDIS CON

Matters of ~~discretion control are restricted limited to:~~

- a. The functional need or operational need for the customer connection to be located on a primary feature or the front façade of the heritage resource;*
- b. Any positive effects of providing a customer connection to a heritage resource; and*
- c. Any resultant adverse effects on the heritage listed item.*

23. My analysis of the proposed amendment to HH-R2 under Section 32AA of the RMA is as follows, should it be of use to the Panel:

Reason

The requested relief seeks to ensure that historic heritage items can be connected to infrastructure.

How the requested relief achieves the purpose of the Resource Management Act

The requested relief provides for the efficient deployment of a physical resource (infrastructure) that provides for peoples social and economic wellbeing, as well as providing for their health and safety.

Benefits including Opportunities for Economic Growth and Employment

Infrastructure helps achieve economic growth and employment.

Costs

There may be reduced costs to applicants from not having to apply for a resource consent.

Risk of Acting or Not Acting if Information is Uncertain or Insufficient

No risks around uncertain or insufficient information in relation to this matter have been identified, given that through Controlled Activity status, matters of concern can be appropriately addressed.

Efficiency and Effectiveness

The efficiency and effectiveness of the recommended relief is high because it provides certainty.

Other Reasonably Practicable Options for Achieving the Objectives

The other reasonably practicable option is to adopt the recommendations in the s42A report, which will require resource consents when this situation arises (at cost to the applicant, and uncertainty to the party needing to connect to infrastructure).

Plan Change 29

24. Submission points 15.03 and 15.05 both concerned provisions relevant to third party signage (i.e. signage used for advertising purposes). I understand from Mr McCarrison from Spark, that Spark is in the process of removing existing telephone boxes, replacing them with a new structure which provides digital connectivity, enables free calling and wifi. I have been informed that digital signage forms a part of the design. Like telephone boxes, the location of these telecommunication facilities will continue to be in the road berm in commercial areas in main centres such as Fairlie, Twizel and Tekapo. Part of their intended function is to support tourism.
25. Submission point 15.03 sought a new permitted activity clause for SIGN-R2 (*Signs Located Within the Footpath*), and also proposed a new standard for signs on street furniture, which sought to control size, heritage, lighting and the digitisation of signage.
26. This was recommended to be rejected in the S42A Report (Paragraph 203), due to the commercial and industrial areas in the district being small, and that a consent process to consider if the signs will maintain the character and amenity value of the area such a sign is proposed to be located in, is appropriate. I note that the activity status for such signs is Restricted Discretionary under SIGN-R2, with the matters of discretion being SIGN-MD1 and

SIGN-MD2, which I have reviewed and consider to be appropriate. As such, the officer's position on this submission point is accepted, and no further relief is sought.

27. Submission point 15.05 sought that SIGN-R5 (*Off-site Signs Not Otherwise Specified in SIGN-R1.9, SIGN-R2, SIGN-R3 and SIGN-R4*) be deleted, with such signs being regulated through SIGN-R1.
28. At Paragraph 205 of the S42A Report, the reporting officer recommends that the submission point be rejected, considering that the submission point *would allow for a much greater proliferation of signage*, and again noting factors such as the district's low population, small townships and minimal commercial areas. The reporting officer states that in their view *permitting all off-site signage...would not maintain the anticipated character and amenity of the surrounding environment, and therefore not achieved SIGN-O1*.
29. I accept this point of view. However, I note that the activity status for any sign regulated by SIGN-R5 is discretionary. I also note that, given the concern is character and amenity, that matter of discretion SIGN-MD1(b) is *the visual impact of the sign and its potential effects on the anticipated amenity values and character of the area*. I also note that SIGN-MD1(d) is the *scale, design, number, and nature of existing signs on any building or site, and whether the proposed sign will result in visual clutter* (therefore addressing any "proliferation" of signage that concerns the reporting officer).
30. Given that the matters of discretion relating to signage are comprehensive and address the reporting officer's concerns, I consider that restricted discretionary activity status is more appropriate than discretionary. This provides a more balanced approach from what was notified in the PDP, and what was sought through submission point 15.05.
31. As such, I request the following relief:

Relief Sought:

Amend SIGN-R5 as follows:

Activity status: ~~DIS~~ RDIS

Matters of discretion are restricted limited to:

a. SIGNS-MD1; and

b. SIGNS-MD2.

32. My analysis of the proposed amendment to SIGN-R5 under Section 32AA of the RMA is as follows, should it be of use to the Panel:

Reason

The requested relief seeks to provide certainty to both the Council and applicants regarding what is to be assessed for offsite signs not otherwise provided for.

How the requested relief achieves the purpose of the Resource Management Act

The requested relief provides for the effects associated with signage to be appropriately avoided, remedied or mitigated.

Benefits including Opportunities for Economic Growth and Employment

Offsite signage provides additional income for a landowner, and therefore can assist economic growth and employment.

Costs

There may be reduced costs to applicants from having certainty as to the matters which will be considered for any resource consent application under this rule.

Risk of Acting or Not Acting if Information is Uncertain or Insufficient

No risks around uncertain or insufficient information in relation to this matter have been identified, given that the as notified matters of discretion appropriately address effects from offsite signage.

Efficiency and Effectiveness

The efficiency and effectiveness of the recommended relief is high because it provides certainty.

Other Reasonably Practicable Options for Achieving the Objectives

The other reasonably practicable option is to adopt the recommendations in the s42A report, which will require uncertainty as to what to assess in any resource consent process (at cost to the applicant).

Concluding Comments

33. There are no further matters which I consider require consideration for this hearing.



Tom Anderson

8 May 2025