



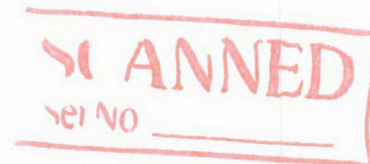
Form 5

ECM Project:	DPRPh5-03
ECM #
Submission #	129453
Customer #	14765
Property #	N/A

**Submission on publicly notified proposal for policy statement or plan, change or variation
Clause 6 of Schedule 1, Resource Management Act 1991**

To: Waikato District Council
Private Bag 544
Ngaruawahia 3742

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



This is a submission on the following proposed plan: **Proposed Waikato District Plan.**

Spark New Zealand Trading Limited, Chorus New Zealand Limited and Vodafone New Zealand Limited have lodged individual but identical submissions to the Proposed Waikato District Plan¹. While individual submissions have been lodged, the submitters intend preparing and presenting a joint case.

Spark New Zealand Trading Limited 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 tables.

Spark New Zealand Trading Limited wishes to be heard in support of its submission. If others make a similar submission, Spark New Zealand Trading Limited will consider presenting a joint case with them at a hearing.

Signed: 

On behalf of Spark New Zealand Trading Limited

Dated at Auckland this 9th day of October 2018.

Address for Service:

Spark New Zealand Trading Limited
C/- Incite
P O Box 3082
Auckland 1140

Contact Details:

Attention: Chris Horne
Telephone: 027 4794 980
E-mail: chris@incite.co.nz

Spark contact details

Graeme McCarrison
027 4811 816
graeme.mccarrison@spark.co.nz

¹ Other than in relation to submissions on Chorus designations

We appreciate the proactive engagement process that Council has undertaken in the development of the Proposed District Plan. In most instances specific amendments have been sought, while in other instances the submission has sought a more general relief (e.g. to enable alignment and changes that maybe be required due to the National Planning Standards coming into effect in April 2019) without identifying the specific drafting changes to resolve the issues identified. The submissions made are to ensure that there is a practical and workable planning regime for deploying critical network utility infrastructure. It is envisaged that workshop sessions with Council staff, telecommunications submitters and possibly other network utility submitters maybe required to develop suitable drafting responses to several of the matters raised in the submission. The submission requests that either:

- i. the specific relief as set out in the table below; 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 – General Structure

Proposed District Plan Provision	The Spark Submission is that:		Decisions sought:
	Oppose / Support	Reasons	
District Plan Structure – Compatibility with National Planning Standards	Oppose	<p>National Planning Standards are currently under consideration by the Ministry for the Environment. It is likely at least some standards will have legal effect prior to the issue of decisions on the Proposed Plan. Should this occur, the submitter requests that the decision maker considers reformatting the notified content and any changes made as part of this process into the National Planning Standards requirements, for example F-4 Spatial Planning Tools (District) Standard.</p> <p>The purpose of this submission point is to give the Council scope to change the notified content and any changes made as part of this process to</p>	Amend the format of the District Plan as necessary to adopt the format and requirements of the National Planning Standards including F-4 Spatial Planning Tools (District) Standard should these come into effect before decisions on the Proposed Waikato District Plan are made.

		meet any obligations of the approved National Planning Standards that are likely to come into effect in April 2019.	
--	--	---	--

Chapter 3 Natural Environment Objectives and Policies

Proposed District Plan Provision	The Spark Submission is that:		Decisions sought:
	Oppose / Support	Reasons	
<p>Objective 3.1.1 Indigenous Vegetation and Habitats and related Policy 3.1.2.</p> <p>Objective 3.2.1 Significant Natural Areas and related Policies 3.2.2 – 3.2.7.</p> <p>Objective 3.3.1 Outstanding Natural Features and Landscapes and related Policies 3.3.2-3.3.4.</p> <p>Objective 3.4.1 Significant Amenity Landscapes and related Policies 3.4.2-3.4.4.</p> <p>Objective 3.5.1 Natural Character and Related Policies 3.5.2-3.5.4</p>	Support	<p>Policy 6.1.10 in the Infrastructure section directly addresses infrastructure in “Identified Areas” which requires a consideration of the values and attributes of these areas where new infrastructure or significant upgrades are required in these areas. That provision will need to be read in conjunction with the Natural Environment provisions where assessing proposals in these areas. The submitter considers that the Natural Environment Provisions as drafted set out a workable framework for assessing telecommunications infrastructure in these areas, particularly where they are assessed in conjunction with Policy 6.1.10.</p> <p>The submitter wishes to preserve its standing on these provisions should changes be sought by other parties.</p>	<p>Retain the following provisions as notified:</p> <ul style="list-style-type: none"> • Objective 3.1.1 Indigenous Vegetation and Habitats and related Policy 3.1.2. • Objective 3.2.1 Significant Natural Areas and related Policies 3.2.2 – 3.2.7. • Objective 3.3.1 Outstanding Natural Features and Landscapes and related Policies 3.3.2-3.3.4. • Objective 3.4.1 Significant Amenity Landscapes and related Policies 3.4.2-3.4.4. • Objective 3.5.1 Natural Character and Related Policies 3.5.2-3.5.4.

Chapter 6 Infrastructure Objectives and Policies

Proposed District Plan Provision	The Spark Submission is that:		Decisions sought:
	Oppose / Support	Reasons	
<p>Objective 6.1.1 Development, operation and maintenance of infrastructure and related Policies 6.1.2 and 6.1.4-6.1.7 (see separate submission on Policy 6.1.3 below).</p> <p>Objective 6.1.8 Infrastructure in the community and identified areas and related Policies 6.1.9-6.1.14.</p>	Support	These provisions are generally consistent with the policy framework in the draft National Planning Standard for Infrastructure and are considered to provide a workable policy framework for telecommunications infrastructure.	<p>Retain the following provisions as notified:</p> <ul style="list-style-type: none"> Objective 6.1.1 Development, operation and maintenance of infrastructure and related Policies 6.1.2 and 6.1.4-6.1. Objective 6.1.8 Infrastructure in the community and identified areas and related Policies 6.1.9-6.1.14.
<p>6.1.3 Policy - Technological advances</p> <p><i>(a) Provide flexibility for infrastructure operators to use new technological advances that:</i></p> <p><i>(i) Improve access to, and enable the efficient use or development of infrastructure;</i></p> <p><i>(ii) Allow for the re-use of redundant infrastructure and structures where appropriate; and</i></p> <p><i>(iii) Result in positive environmental and community outcomes.</i></p>	Oppose	Policy 6.1.3 seeks to provide flexibility to use new technologies subject to a number of conjunctive limbs (i.e. all have to be met). It is unclear how clause (iii) would be interpreted where a new technology may have a significant community benefit but does not necessarily reduce environmental effects. The wording of the equivalent policy in the draft National Planning Standard for Network Utilities is a preferred approach to promoting the use of technological advances, as it provides alternative means to satisfy the policy. The draft National Planning Standard for Network Utilities is currently being developed by a working group of network utilities including Kiwirail, NZTA, the Telecommunications sector, Electricity National Association, First Gas and LGNZ represented by	<p>Amend Policy 6.1.3 by replacing it with the following wording as proposed in the draft National Planning Standard for Network Utilities or other changes of like effect:</p> <p><i>Provide flexibility for network utilities to adopt new technologies that:</i></p> <ol style="list-style-type: none"> <i>improve access to, and efficient use of, networks and services;</i> <i>allow for the re-use of redundant services and structures;</i> <i>increase resilience, safety or reliability of networks and services;</i> <i>result in environmental benefits and enhancements; or</i> <i>promote environmentally sustainable outcomes including green infrastructure</i>

		Wellington Water, Watercare and Christchurch City. The draft National Planning Standard for Network Utilities provisions are being used as best practice by the stakeholders for discussion with councils undertaking plan reviews and the content of submissions.	<p><i>and the increased the utilisation of renewable resources.</i></p> <p>Or, amend the current policy by using "or" rather than "and" to remove the conjunctive nature of the clauses.</p>
--	--	--	--

Chapter 14 Infrastructure and Energy

Proposed District Plan Provision	The Spark Submission is that:		Decisions sought:
	Oppose / Support	Reasons	
Chapter 14 Infrastructure and Energy	Support	Generally, Chapter 14 is supported in regard to infrastructure and particularly sections 14.1 to 14.3 and 14.10 telecommunications except where specific amendments have been requested.	No change except where specific amendments have been requested in this submission.
14.2 Rules Applying to all Infrastructure P1 New Infrastructure 14.2.1.1 Activity Specific Conditions	Oppose	Support poles associated with service connections should be exempt from any height in relation to boundary controls either where within a road or outside of a road (e.g. along a right of way) on the basis that have very minor bulk compared with more substantial buildings and structures.	Amend the activity specific conditions in Rule 14.2.1.1 by providing an exemption for service connections including any associated support poles from all height in relation to boundary controls.
14.3 General Infrastructure P2 Minor Infrastructure Upgrading 14.3.1.1 Activity Specific Conditions	Oppose	<p>A number of the proposed conditions relevant to telecommunications are impractical to support rapid technical changes or maintenance requirements and are not aligned with the draft National Planning Standard for Network Utilities.</p> <p>The submitter seeks various amendments to seek more alignment with the National Planning Standard that is currently under development,</p>	<p>Amend the activity specific conditions in Rule 14.3.1.1 as follows:</p> <ul style="list-style-type: none"> (1)(b) amend the permitted height increase for an existing pole to <i>"the lesser of 25m or 30%"</i>. (1)(c) amend the permitted pole or support structure width to twice the width of the

		<p>which are being designed to provide a practical envelope for typical infrastructure upgrading activity to respond with rapidly changing technology requirements and/or necessary maintenance activities.</p>	<p>existing pole at the widest point, unless a double pole is required to replace a single pole where the permitted pole or support structure width required is three times the width of the existing pole at the widest point (double poles may be required for electricity networks).</p> <p>(3) <i>The addition, replacement or relocation of existing antennas where:</i></p> <p>(a) <i>The antennas shall not increase in <u>the face</u> area by more than 20% of the relevant permitted standard for new <u>panel</u> antennas and shall not increase the <u>diameter of a dish antenna by more than 20% of the relevant permitted standard for a new dish antenna</u>; and</i></p> <p>(b) <i>The antennas shall not increase in height by more than 20% of the relevant permitted standard for <u>new dish and panel</u> antennas.</i></p> <p><u><i>Note that the area controls are not applied to other antennas types such as those that are made up of rods and tubes, which are controlled by standard 3(b).</i></u></p>
--	--	---	--

<p>14.3 General Infrastructure</p> <p>P4 Earthworks activities associated with infrastructure</p> <p>14.3.1.3 Activity Specific Conditions</p>	Oppose	<p>These standards include earthworks thresholds in many <i>Identified Areas</i>, but not all the Identified Areas including Significant Natural Areas (SNA), and includes a standard not allowing earthworks on scheduled historic heritage sites. It is unclear if earthworks not subject to a specific threshold in an overlay, or subject to a rule that does not allow any earthworks as a permitted activity, would then default to be a non-complying activity regardless of scale under Rule 14.2.3, NC3 (earthworks in an Identified Area not otherwise provided for by a rule in Chapter 14). For the avoidance of doubt the submitter seeks relief that Rule 14.3.1.3 and the associated rules cascade makes it clearer what the status is of earthworks either not covered by a standard in 14.3.1.3 or are subject to a rule not providing for them as a permitted activity in a particular area (e.g. scheduled historic heritage), and to ensure that these do not cascade by default to a non-complying activity under Rule 14.2.3 NC3.</p>	<p>Amend Rule 14.3.1.3 and the related rules cascade such that it is clear what the activity status is in all <i>Identified Areas</i> where earthworks either exceed the permitted volumes in Rule 14.3.1.3, are restricted by a clause in Rule 14.3.1.3 (e.g. scheduled historic heritage site), or where the rule is silent (e.g. SNA). The submitter seeks relief that earthworks ancillary to infrastructure do not cascade by default to non-complying activity status under Rule 14.2.3 NC3.</p>
<p>14.3 General Infrastructure</p> <p>14.3.2 - New Controlled Activity:</p> <p>C2 Service connections to an area, façade or item specifically listed in Schedule 30.1,</p>	Support	<p>Rule P8 in the General Infrastructure rules provides for service connections as a permitted activity other than where connected to an area, façade or item specifically listed in Schedule 30.1. There has been ongoing discussion between telecommunications operators and Heritage New Zealand Pouhere Taonga over how service connections to heritage listed buildings should be addressed. Agreement has been reached on other plans that these are</p>	<p>Add a new controlled activity rule under 14.3.2 as follows, or wording to like effect:</p> <p>C2 A service connection to an area façade or item specifically listed in Schedule 30.1.</p> <p>Matters of Control:</p> <ul style="list-style-type: none"> • Design and placement of the service connection to minimise impacts on the

		appropriately dealt with as a controlled activity to enable the method of connection to be controlled to minimise impacts on the heritage item whilst still allowing for reasonable and practical use of heritage listed buildings.	<i>values and attributes of the listed area, façade or item.</i>
14.10 Telecommunications and radiocommunications P4 Antennas and lines attached to retaining walls, tunnels, bridges and other structures located within the road.	Oppose	The activity specific controls in 14.10.1.3 include a 0.6m "width" restriction for dish antennas. This should be changed to "diameter".	Amend Rule 14.10.1.3(a)(iii) by changing the permitted dish antenna size descriptor from 0.6m "width" to 0.6m " <u>diameter</u> ".
14.10 Telecommunications and radiocommunications P7 Antennas not attached to a building and/or structure	Oppose	It is unclear what this rule is intended to cover. All antennas will be attached to a building or a structure (even if a purpose-built pole). These types of antennas could be deployed on an existing building or structure covered by Rules P4 and P5, or on a pole as provided for under P9. These antennas have low visual impact which makes them appropriate on the top of buildings and poles or in an Identified Area.	<p>Amend activity rule 14.10.1 (P7) and any other rules as necessary such that the equipment covered by the activity specific conditions in Rule 14.10.1.5 may be attached to buildings, structures and poles covered in Rules P4, P5 and P9.</p> <p>Amend the activity title <u>Other antennas not attached to a building and/or structure</u></p> <p>14.10.1.5</p> <p>(a) Antennas that comply with all of the following conditions are excluded from any height standards in 14.10.1 P4, P5 and P9:</p> <p>(i) GPS antennas that do not exceed the following dimensions:</p> <p>A. 300mm high: and</p> <p>B. 130mm in diameter.</p>

			<p>(ii) <i>Omni-directional 'whip' or di-pole type antennas that do not exceed the following dimensions:</i></p> <p>A. 1.6m high;</p> <p>B. 1.5m horizontal length whip or rod; or</p> <p>C. Cross section element no more than 60mm in diameter.</p> <p>(iii) <i>Are not located within an Identified Area.</i></p> <p>(iv) <i>Do not connect to an area, façade or item specifically listed in Schedule 30.1.</i></p>
14.10 Telecommunications and radiocommunications P8 Small cell units exceeding the permitted volumetric dimension of 0.11m ² regulated in the NESTF.	Oppose	<p>This rule uses m² rather than m³ in the activity rules and standards which needs to be amended to m³. The volumetric dimension in the NESTF 2016 is 0.11m³.</p> <p>Further, it is unnecessary to restrict this equipment in an <i>Identified Area</i> given its very small scale. The rule would still restrict connecting to a scheduled heritage item.</p>	<p>Amend activity rule 14.10.1 (P8) and the related activity standards by changing all use of m² to <u>m³</u> and delete activity specific standard 14.10.1.6 (ii) that relates to <i>Identified Areas</i>.</p>
14.10 Telecommunications and radiocommunications Poles, antennas and headframes+ ¹	Oppose	<p>There appears to be an incorrect reference in Rule 14.10.1.7 (c) as rule refers Rule 14.10.1.7(1) rather 14.10.1.7(a) as there is no Rule 14.10.1.7(1).</p>	<p>Amend activity Rule 14.10.1.7 (c)</p> <p>(c) Rule 14.10.1.7(1a) does not apply to lightning rods and GPS antenna, omni directional whip antenna, ancillary telecommunication devices and earthpeaks.</p>

14.10 Telecommunications and radiocommunications P10 Externally mounted telecommunication satellite dishes and ancillary components	Oppose	Activity specific condition 14.10.1.8(a)(i) limits the diameter of a satellite dish to 1m. As part of the Rural Broadband Initiative Phase 2 Project (RBI2) which also includes parts of Waikato District, some rural communities may need to be connected to broadband via a satellite link. Higher capacity links may require a satellite dish up to 1.8m in diameter.	Amend activity specific standard 14.10.1.8(a)(i) <i>(a) Externally-mounted telecommunication satellite dishes and ancillary components that comply with the following conditions:</i> <i>(i) Do not exceed 1.0m in diameter, <u>or 1.8m in diameter in industrial, rural residential and rural zones;</u></i> <i>(ii) Are attached to existing buildings, and/or including a pole or structure other than a building when located in the <u>rural residential and rural zones;</u></i>
14.10.2 Controlled Activities C7 Small cell units	Oppose	This rule uses m ² rather than m ³ in the activity rules and standards which needs to be amended to m ³ . Further, it is unnecessary to restrict this equipment in an <i>Identified Area</i> given its very small scale. The rule should instead only cover equipment connecting to a scheduled heritage item which would not be a permitted activity under the amended Rule P7.	Amend activity rule 14.10.1 (C7) as follows: C7 Small cell units located in an Identified Area <u>that connect to an area, façade or item specifically listed in Schedule 30.1</u> exceeding the maximum volumetric dimension of 0.11m ²³ regulated in the NESTF, up to a maximum volume of 0.25m ²³ .