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Ruakaka Ground Station, Sandford Road Ruakaka, Lots 2 and 3 DP 523767 – Permitted Activity

Under both the Operative and Decision version Whangarei District Plans, the proposed Ground Station at Ruakaka is a Permitted Activity because it is a Network System that will be used and operated by Network Utility Operators for the purpose of telecommunications.

Pursuant to Rule NTW.2.9 and definitions for 'Network System' and 'Network Utility Operator', Network Utility Operators will be using and operating the antenna once established on the Ground Station. Approximately three quarters of the antennas will be used and operated by Network Utility Operators meeting the District Plan definition. Great South, as owner of the site and infrastructure, will be using or operating the remaining antennas.

Great South does not currently meet the definition of Network Utility Operator in the District Plan, because is it not yet a gazetted Network Operator under the Telecommunications Act 1987[1]. However, Great South has lodged an application to the Ministry of Business, Innovation and Employment to become Network Operator, as defined by s2(1) of the Telecommunications Act 1987.

A different implementation model has been used for this Ground Station, with a 'third party' (Great South) establishing the Ground Station, while Network Utility Operators will use and operate the antennas. There is no difference in effects on the environment between the Network Operator establishing and operating the Ground Station site, compared to if they use and operate antennas on an already established Ground Station site. The District Plan makes no such distinction between these scenarios in Rule NTW.2.9. Rather, the District Plan actually provides for infrastructure owned OR used by network utility operators.

Operative and Decision version Whangarei District Plans

Network Utilities Chapter (NTW)

Rule NTW.2.9 Telecommunication Facilities states –

> *No rule in any chapter of this Plan that duplicates or conflicts with the National Environmental Standard for Telecommunication Facilities (NESTF 2016) shall apply. The NESTF 2016 applies in addition to all other rules in any chapter of this Plan.*
>
> *Implementation Notes:*
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> 1. *NESTF regulations 10-18 specifies the activity status for the proposed telecommunication activity by linking back to the relevant District Plan. Each activity must be assessed against the appropriate District Plan definition and rule.*
>
> 2. *NESTF regulation 44-52 specify that the proposed telecommunication activity must comply with the following relevant District Plan Resource Area Provisions:*
>   a. *Landscape and Natural Features*
>   b. *Notable and Public Trees*
>   c. *Sites of Significance to Maori*
>   d. *Historic Heritage*

[1] Since repealed and superseded by the Telecommunications Act 2001

National Environmental Standard for Telecommunication Facilities 2016 (NESTF)

Network Utility Operators will be operating and using the antenna on the Ruakaka Ground Station. They are defined as a **Network Operator** under s2(1) of the Telecommunications Act 1987 and under s5 of the Telecommunications Act 2001. The Ruakaka Ground Station will be a regulated activity carried out in accordance with the standard. It will be a RFG facility[2] complying with regulation 55. Therefore, it is a Permitted Activity under the NESTF.

Rule NTW.2.9: Implementation Note 1

The Ground Station site is located within the Rural Production Zone. Pursuant to Eligibility Rule RPZ.2.1.5, any activity not requiring consent as a discretionary or non-complying activity is a permitted activity. The Ground Station does not require consent under any of the RPZ.2.3 Discretionary Activity rules, therefore it is a Permitted Activity.

Rule NTW.2.9: Implementation Note 2

None of the sites or features listed in Implementation Note 2 are present on the subject site.

Definitions of Network System and Network Utility Operator

The antennas on the Ruakaka Ground Station will be operated and used by Network Utility Operators, who will operate a network for the purpose of telecommunications as defined in section 2(1) of the Telecommunications Act 1987. The Network Utilities Operators' purpose is to provide reticulation from a network system to and from individual properties and structures.

Rural Production Environment and Rural Production Zone

Rule RPE.2.1.4 of the Operative District Plan and Rule RPZ.2.1.5 both state that "[a]ny other activity not requiring consent as a discretionary or non-complying activity is a permitted activity". There are no specific land use provisions relating to the establishment or operation of network utilities infrastructure or network systems within the Rural Production Environment/Zone. Rather, activities of this nature are regulated under the Network Utilities sections of the District Plan.

As the proposed Ground Station will be owned and/or operated by one or more Network Utility Operators, its establishment and operation is a permitted activity, in accordance with the NESTF and as illustrated above. Because the Rural Production Environment/Zone provisions do not specify network utilities or network systems as discretionary or non-complying activities, Rule RPW.2.1.4 and Rule RPZ.2.1.5 apply to the proposed activity, and it is therefore permitted under the Operative and Decision version District Plans.

Activity status conclusion

The proposed Ground Station is deemed to be a permitted activity pursuant to the relevant rules in the Network Utilities and Rural Production Environment/Zone sections in the District Plan. The activity will comply with the relevant standards in the NESTF, will be owned and/or operated by one or more Network Utility Operators, and meets the definitions of network system and network utility for the purpose of telecommunications communication, as defined in the District Plan.

The establishment and operation of a network system/network utility infrastructure is a permitted activity under Rule RPE.2.1.4 / RPZ.2.1.5, as it is not specifically provided for as a discretionary or non-complying activity within the Rural Production Environment/Zone. Subject to compliance with the relevant development controls and permitted activity standards for the underlying zone, resource consent is not required and the activity can be undertaken as of right.

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[2] Defined in the NESTF as:

(a) an antenna or a small cell unit, if it generates radiofrequency fields or will do so when it is in operation; or

(b) a cabinet, if the equipment in the cabinet generates radiofrequency fields or will do so when the equipment is in operation

Please confirm your agreement that this activity is Permitted under the Whangarei District Plans.

Venessa Anich
Senior Planner

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Definitions: Decision version Whangarei District Plan

Network System
means any building or major structure owned or operated by a network utility operator whose purpose is to provide reticulation from a network system to and from individual properties and structures, including all structures and equipment owned or used by a network utility operator.

Network Utility Operator*
means a person who:

a. undertakes or proposes to undertake, the distribution or transmission by pipeline of natural or manufactured gas, petroleum or geothermal energy; or

b. operates or proposes to operate a network for the purpose of telecommunication or radio communication, as defined in section 2(1) of the Telecommunications Act 1987; or

c. is an electricity operator or electricity distributor, as defined in section 2 of the Electricity Act 1992, for the purpose of line function services, as defined in that section; or

d. undertakes or proposes to undertake, the distribution of water for supply (including irrigation); or

e. undertakes or proposes to undertake, a drainage or wastewater system; or

f. constructs, operates or proposes to construct or operate, a road or railway line; or

g. is an airport authority, as defined by the Airport Authorities Act 1966 for the purposes of operating an airport, as defined by that Act; or

h. is a provider of any approach control service within the meaning of the Civil Aviation Act 1990; or

i. includes the establishment and operation of facilities and installations or equipment to measure, collect and distribute meteorological information, including telecommunication, radio and satellite links required as part of meteorological activities; or

j. undertakes, or proposes to undertake, a project or work prescribed as a network utility operation for the purposes of this definition by regulations made under this Act. The words "network utility operation" have a corresponding meaning.