

BEFORE KAIKŌURA DISTRICT COUNCIL

IN THE MATTER OF

the Resource Management Act 1991

AND

IN THE MATTER OF

Kaikōura District Council's Proposed Plan
Change 3 – Natural Hazards

**STATEMENT OF EVIDENCE TOM ANDERSON
ON BEHALF OF
SPARK NEW ZEALAND TRADING LIMITED**

29 October 2021

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Professional Qualifications and Experience

1. My name is Tom Anderson. I am a Principal Planner at 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, am a former Chair of the Wellington Branch Committee of that institute. I am also 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 14 years professional experience. Throughout my career I have provided advice to a number of telecommunication and radiocommunication companies, including Spark New Zealand Trading Limited (Spark – formerly Telecom New Zealand Limited and Telecom Mobile Limited), Chorus New Zealand Limited, Two Degrees Networks Limited, Vodafone New Zealand Limited, Rural Connectivity Group (RCG) and Vital (formerly TeamTalk). This advice was initially given as an employee of GHD Limited and since 2011 as an employee of Incite. 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 assisted with the preparation and drafting of the Spark's submissions on the Kaikōura District Council's Proposed Plan Change 3 – Natural Hazards (PC3), and participated in a pre-hearing meeting with Graeme McCarrison (Spark), Kerry Andrews and Matt Hoggard (Kaikōura District Council) to discuss the submission on 23 August 2021.
5. I have read and am familiar with the Code of Conduct for Expert Witnesses (section 5 of the Environment Court Consolidated Practice Note 2006). 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.

Scope of Evidence

6. In preparing this evidence I have read all other submissions and further submissions relevant to Spark's submission and the Section 42A (s42A) reports for PC3.
7. My evidence is structured into general subject areas as follows:
 - General Comments on the s42A report;
 - Officer Recommendations in Contention;
 - Section 32AA Analysis; and
 - Concluding Comments
8. **Appendix 1** contains a table which summarises the Spark's submission points, the s42A report recommendations on those submissions, and whether I support acceptance of the Officer recommendation or alternative relief as sought through this evidence. As such, the table is intended to provide a succinct 'one stop shop' for the Panel to identify what outcomes Spark are seeking from this hearing. The specific items of requested relief are also within my evidence.

General Comments on the s42A Report

9. The s42A report was comprehensive and provided appropriate guidance as to why recommendations had been made.
10. I accept the officer recommendations on the following submission points, and as such no further relief is sought on these matters:
 - 4.1 (definition of Critical Infrastructure);
 - 4.2 (definition of Hazard Sensitive Building);
 - 4.3 (definition of Earthworks);
 - 4.4 (definition of Land Disturbance);
 - 4.5 (definition of Operational Need);
 - 4.7 (Policy 8.3.2 – Risk Based Approach);
 - 4.8 (Policy 8.3.6 – Operation, maintenance, replacement and repair of all infrastructure);

- 4.10 (Policy 8.3.13 – Debris Flow Fan and Landside Debris Inundation Overlays);
- 4.11a¹ (Policy 8.3.14 – Fault Avoidance and Fault Awareness Overlays); and
- 4.11b (Rule 8.5.8 – All zones within the Urban Flood Assessment or Non-Urban Flood Assessment Overlays).

11. The s42A report also contains three recommendations on Spark’s submission points for which alternative relief is sought through this evidence, for reasons discussed below.

Officer Recommendations in Contention

12. The officer recommendations on Spark’s submission points which I do not agree with, and therefore remain in contention are:

- 4.6 (Objective 8.2.2 – Infrastructure);
- 4.9 (Policy 8.3.7 – New and upgrading of non-critical infrastructure and Policy 8.3.8 Critical infrastructure); and
- 4.12 (Rule 8.5.9 – All zones within the Urban Flood Assessment, Non-Urban Flood Assessment, Landslide Debris Inundation, Fault Avoidance or Fault Awareness Overlays).

13. The fundamental disagreement between the s42A reporting officer and myself is that I do not consider there to be a need for Council to regulate the resilience of critical infrastructure within a natural hazard area.

14. Mr McCarrison outlines in Section 4 of his evidence how Spark provides resilience across their networks, including how engineers are required to design in natural hazard areas.

15. In coming to my opinion that there is no need for Councils to regulate the resilience of infrastructure in natural hazard areas I rely on the aforementioned evidence of Mr McCarrison and also on my experience working with telecommunication companies over the past 14 years.

16. When Spark, or any other telecommunications company for that matter, require a new site, they send through to their planning consultant the wider area within which this site is needed. It is then my job as planning consultant to review the relevant district plan and advise Spark on the zoning, overlays (including natural hazard), and activity status of locating in each area. The

¹ It is noted that the s42A Report labels two Spark submission points as 4.11, one for the submission on Policy 4.3.14 (referred to in this evidence as 4.11a) and one for the submission on Rule 8.5.8 (referred to in this evidence as 4.11b).

identified area is then typically visited as a team, including a project manager, radiofrequency engineer, civil engineer, myself (or other planning consultant) and a property adviser. On such site visits the team look at all localised factors, to determine what is the most appropriate site (as well as alternative options in case tenure of land cannot be secured). In my experience, the project manager will typically avoid any district plan identified natural hazard area (or a non-district plan identified hazard such as localised unstable ground identified by the civil engineer). However, for technical and operational reasons this is not always possible. Mr McCarrison has explained the additional engineering work undertaken, in particular to fulfil Civil Defence Emergency Management Act 2002 (CDEMA) obligations, if infrastructure is to be located in a natural hazard area.

17. In my view, the Spark decision to avoid natural hazard areas in the first instance is not driven by the regulatory requirement (as it is also my experience that it is rare that a local authority regulates the resilience of infrastructure), but by logic in that it is better not to be in the natural hazard area, and in the knowledge that it is likely to be more expensive to construct infrastructure in that location in order to achieve the resilience desired.

18. I also note that the conclusions reached in the s42A report are reliant on the direction provided under Policy 11.3.4 of the Canterbury Regional Policy Statement (CRPS).

19. However, I can understand how the reporting officer has come to their conclusion to reject the submission point. Policy 11.3.4 of the CRPS is directive. For completeness, this policy is as follows:

New critical infrastructure will be located outside high hazard areas unless there is no reasonable alternative. In relation to all areas, critical infrastructure must be designed to maintain, as far as practicable, its integrity and function during natural hazard events.

20. Whilst directive, the policy does not align with Regulation 57 of the Resource Management (National Environmental Standards for Telecommunication Facilities) Regulations 2016 (NESTF). Regulation 57 of the NESTF is as follows, and clearly exempts regulated activities under the NESTF from having to comply with District Plan rules about natural hazards:

57 District rules about natural hazard areas disapplied

- (1) *A territorial authority cannot make a natural hazard rule that applies to a regulated activity².*
- (2) *A natural hazard rule that was made before these regulations came into force, does not apply in relation to a regulated activity.*
- (3) *In this regulation, natural hazard rule means a district rule that prescribes measures to mitigate the effect of natural hazards in an area identified in the district plan as being subject to 1 or more natural hazards.*

21. Section 6.11 of the *Resource Management (National Environmental Standards for Telecommunication Facilities) Regulations 2016 Users' Guide*, published by the Ministry for the Environment (August 2018) confirms the exemption of regulated telecommunications activities from having to comply with District Plan natural hazard rules, via the following statement:

Regulation 57 makes it clear that natural hazard rules in district plans do not apply to a regulated activity under the NESTF. It also makes clear that territorial authorities cannot make natural hazard rules that apply to regulated activities under the NESTF. This is because resilience is already factored into industry practice, and they will either avoid hazard areas or engineer structures to be resilient to the hazard risk. Natural hazards encompass the full breath of hazards including flooding, instability, earthquake and climate change.³

22. In considering the conflict between the CRPS and the NESTF on this matter, I have turned to the RMA.
23. There is no explicit requirement under Part 5 of the RMA for regional policy statements to give effect to a national environmental standard.
24. Under Section 43B of the RMA, a rule in a District Plan cannot be more stringent than a National Environmental Standard (NES) regulation, unless expressly allowed under that NES. There is no such expression in the NESTF.

² Regulated activities under the NESTF include all telecommunications activities (lines, cabinets, antennas and poles) in all zones, except for new poles on private sites in urban areas.

³ Page 93 of the *Resource Management (National Environmental Standards for Telecommunication Facilities) Regulations 2016 Users' Guide* (copy at <https://www.mbie.govt.nz/dmsdocument/1347-nestf-2016-draft-users-guide-pdf%20>)

25. Section 74(1)(f) requires a District Plan to be in accordance with any regulations. The NESTF includes regulations.
26. Section 75(3) of the RMA requires a District Plan to give effect to any national policy statement, national planning standard and regional policy statement. NESs are not included at this section.
27. In my view these sections do not provide absolute clarity as to the approach taken when there is a conflict between an NES and RPS.
28. The CRPS was made operative in 2013. The NESTF came into force on 1 January 2017. As the NESTF is the more recent document to have legal effect, and it forms part of national direction under Subpart 1 to Part 5 of the RMA, I consider that the direction it establishes should be followed.
29. On this basis, and on the basis of Mr McCarrison's evidence, it is my that a local authority regulating the resilience of telecommunications infrastructure in natural hazard areas is unnecessary.
30. Given my view, I seek alternative relief to the Officer's recommendations on the provisions which remain in contention. My discussion on these is as follows.

Objective 8.2.2 – Infrastructure

31. Spark submission point 4.6 sought an amendment to Objective 8.2.2 which would result in critical and non-critical infrastructure being enabled within all natural hazard overlays, provided that the infrastructure does not increase the effect on other parties. It would also remove the need for Council to consider the resilience of the critical infrastructure.
32. The s42A reporting officer rejected the point as they consider that critical infrastructure requires special consideration that is separate to non-critical infrastructure⁴.
33. I have outlined above in paragraphs 13 to 29 why I consider Council's do not need to regulate the resilience of telecommunications. Consequently, I consider that the relief sought through submission point 4.6 is included as part of PC3.

⁴ Paragraph 115 of the s42A report

34. Requested Relief:

Amend Objective 8.2.2 as follows:

1. *Upgrading, maintenance and replacement of existing infrastructure and new ~~non-critical~~ infrastructure within all-natural hazard overlays is enabled where the infrastructure does not increase the risk to life or property from natural hazard events, or transfer the risk to another site; and*
2. ~~*New critical infrastructure avoids High Flood Hazard Areas, but where this is not possible or is impractical, is designed to maintain its integrity and ongoing function during and after natural hazard events or can be reinstated in a timely manner.*~~

Policy 8.3.7 – New and upgrading of non-critical infrastructure and Policy 8.3.8 – Critical Infrastructure

35. Spark submission point 4.9 sought an amendment to Policies 8.3.7 and 8.3.8 which would align these policies with the relief requested to Objective 8.2.2.

36. The s42A reporting officer rejected the point as they consider that allowing critical infrastructure in high hazard areas would be contrary to Policy 11.3.4 of the CRPS⁵.

37. For the reasons discussed above, I consider that the NESTF direction must be followed in the District Plan. The NESTF effectively creates a national permitted baseline allowing regulated telecommunication facilities to be constructed in natural hazard areas. In my view it is an incongruous position to require a resource consent for NESTF unregulated telecommunication facilities to require resource consent. Further, Spark must fulfil their obligations as a lifeline utility under the CDEMA.

38. As such, I consider that the relief sought through submission point 4.9 is included as part of PC3.

39. Requested Relief:

Amend Policies 8.3.7 and 8.3.8 as follows:

Policy 8.3.7 New and upgrading of ~~non-critical~~ infrastructure

⁵ Paragraphs 149 and 150 of the s42A report

1. *Enable the development of new ~~non-critical~~ infrastructure and upgrading of existing ~~non-critical~~ infrastructure in flood hazard assessment overlays only where the infrastructure does not increase flood risk on another site; and*
2. *Provide for the development of new ~~non-critical~~ infrastructure and upgrading of existing ~~non-critical~~ infrastructure in all other identified natural hazard overlays*

Policy 8.3.8 Critical infrastructure

- ~~1—Enable the upgrading of existing critical infrastructure in Flood Assessment Overlays only where the infrastructure does not increase flood risk on another site;~~
- ~~2—Provide for upgrading of existing critical infrastructure in all other identified Natural Hazard Overlays;~~
- ~~3—Manage new critical infrastructure in all Natural Hazard Overlays which are outside of High Flood Hazard Areas to ensure that there is a low risk to life and property damage;~~
- ~~4—Avoid new critical infrastructure in High Flood Hazard Areas unless:

 - ~~a.—Avoidance is impossible or impracticable, in which case critical infrastructure must be designed to maintain, as far as practicable, its integrity and ongoing operation during and after natural hazard events, or be able to be reinstated in a timely manner; and~~
 - ~~b.—The critical infrastructure does not significantly increase the natural hazard risk to life, or increase risk to life and property on another site~~~~

Rule 8.5.9 – New critical infrastructure activities in all zones and all natural hazard overlays

40. Spark submission point 4.12 sought changes to Rule 8.5.9 to provide permitted activity status for critical infrastructure with a footprint of 20m² or less in hazard overlays that were provided for under this rule. This was to provide a permitted level of development in hazard areas for NESTF unregulated which is of a small enough size to not exacerbate the hazard on any other party. It also sought to clarify the relationship between Rule 8.5.8 and 8.5.9.
41. In the pre-hearing meeting, Council Officers explained the relationship between Rules 8.5.8 and 8.5.9. This is accepted and no further relief in regard to that part of the submission point is sought.

42. In regard to the exemption for small footprint critical infrastructure to be provided as a Permitted Activity, the s42A reporting officer rejected the point on the basis that telecommunications are exempt under Regulation 57 of the NESTF, and that it is appropriate to retain the rule for other critical infrastructure⁶. As explained, only regulated activities are exempt under the NESTF.
43. For this reason, in my view there needs to be interaction between the NESTF and District Plan, in the form of providing for an appropriate activity status in District Plans for those activities which are not regulated by the NESTF.
44. In my experience, a structure of up to 20m² in a hazard area does not exacerbate the effect of that hazard on any other party. In terms of the resilience of infrastructure in hazard areas, I have previously explained why I do not consider it appropriate for Councils to regulate this aspect.
45. Relief is requested which is slightly different to that which was sought through submission point 4.12, noting the clarification of the relationship with Rule 8.5.8 from the pre-hearing meeting.
46. Requested Relief:

Amend Rule 8.5.9 as follows:

All zones with the Urban Flood Assessment Overlay, Non-Urban Flood Assessment Overlay, Landslide Debris Inundation Overlay, Fault Avoidance Overlay or Fault Awareness Overlay

New Critical Infrastructure

Permitted where

a. the footprint of the critical infrastructure structures do not exceed 20m² [or similar relief]

Restricted discretionary

Matters of discretion are restricted to:

- 1. The extent to which infrastructure exacerbates the natural hazard risk or transfers the risk to another site;*

⁶ Paragraph 224 of the s42A report

2. *The ability for flood water conveyance to be maintained;*
3. *The extent to which there is a functional or operational requirement for the infrastructure to be located in the High Flood Hazard Overlay and there are no practical alternatives;*
4. *The extent to which the location and design of the infrastructure address relevant natural hazard risk and appropriate measures that have been incorporated into the design to provide for the continued operation*

Section 32AA Analysis

47. The following is an analysis of the requested relief in this evidence under the framework provided in s32AA of the Resource Management Act 1991:

Reason

The requested relief seeks to provide consistency to the regulation of all telecommunication activities in hazard areas, given the differences in approach between the PC3 and the NESTF.

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

The requested relief provides for the social and economic wellbeing and health and safety of telecommunication users.

Benefits including Opportunities for Economic Growth and Employment

Telecommunication infrastructure helps achieve economic growth and employment.

Costs

There are no obvious costs that result from the requested relief. There are compliance costs to telecommunication operators if the requested relief is not included in PC3.

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.

Efficiency and Effectiveness

The efficiency of the recommended relief is high because the benefits outweigh the costs. The effectiveness of the recommended relief is high because they better enable the outcomes sought.

Other Reasonably Practicable Options for Achieving the Objectives

Another reasonably practicable option is to retain the wording as proposed in the s42A report. This would have the disadvantage of increasing costs to telecommunication companies, as well as being an incongruous position with the regulated activities in the NESTF.

Concluding Comments

48. Overall, it is my view that given the requirements and obligations that apply to lifeline utilities under CDEMA, particularly in regard to resilience to natural hazards, and the direction in the NESTF exempting regulated facilities from complying with District Plan natural hazard rules, there is no need for local authorities to also regulate resilience. The changes I seek through this evidence to the provisions of PC3 reflect this position.



Tom Anderson

29 October 2021

**Appendix A - Summary of Spark's Submissions Points, Officer Recommendation and
Acceptance/Further Relief Sought to PC3**

Spark Submission Number	PC3 Provision	Relief sought through submission	Officer Recommendation	Spark decision sought through Hearing process
4.1	<i>Definition of Critical Infrastructure</i>	Retain the definition of Critical Infrastructure as notified.	Reject	Accept Reporting Officer Recommendation – noting that the changes made to the definition of Critical Infrastructure do not impact on Spark’s recognition as being critical infrastructure.
4.2	<i>Definition of Hazard Sensitive Building</i>	Support with amendment to exclude any network utility building from the definition of a hazard sensitive building.	Reject	Accept Reporting Officer Recommendation – noting that the changes made to the definition of Hazard Sensitive Building essentially give effect to Spark’s position.
4.3	<i>Definition of Earthworks</i>	Retain the definition of Earthworks as notified.	Accept	Accept Reporting Officer Recommendation
4.4	<i>Definition of Land Disturbance</i>	Retain the definition of Land Disturbance as notified.	Accept	Accept Reporting Officer Recommendation
4.5	<i>Definition of Operational Need</i>	Retain the definition of Operational Need as notified.	Accept	Accept Reporting Officer Recommendation
4.6	<i>Objective 8.2.2 Infrastructure</i>	Support with amendment – the objective allows for new non-critical infrastructure in all hazard areas, provided that the non-critical infrastructure does not elevate the risk profile of the hazard. This should be widened to allow for new critical infrastructure in all hazard areas, as the risk and resilience of the critical infrastructure should be determined by the asset owner, not Council.	Reject	Amend Objective 8.2.2 as follows: <ol style="list-style-type: none"> 1. <i>Upgrading, maintenance and replacement of existing infrastructure and new non-critical infrastructure within all-natural hazard overlays is enabled where the infrastructure does not increase the risk to life or property from natural hazard events, or transfer the risk to another site; and</i> 2. <i>New critical infrastructure avoids High Flood Hazard Areas, but where this is not possible or is impractical, is designed to maintain its integrity and ongoing function during and after natural hazard events or can be reinstated in a timely manner.</i>
4.7	<i>Policy 8.3.2 Risk based approach</i>	Retain Policy 8.3.2 as notified.	Reject	Accept Reporting Officer Recommendation – noting that the changes made to Policy 8.3.2 do not fundamentally change Spark’s position.
4.8	<i>Policy 8.3.6 Operation, maintenance, replacement and repair of all infrastructure</i>	Retain Policy 8.3.6 as notified.	Accept	Accept Reporting Officer Recommendation
4.9	<i>Policy 8.3.7 New and upgrading of non-critical infrastructure And Policy 8.3.8 Critical infrastructure</i>	Support with amendment – in line with the submission point on Objective 8.2.2, it is considered that Policies 8.3.7 and 8.3.8 can be combined to recognise that the risk to critical infrastructure from a natural hazard is best managed by the asset owner, but the risk from an infrastructure hazard on another party, i.e. if a new structure increases the risk on another party, it is a matter that should be regulated by Council.	Reject	Amend Policies 8.3.7 and 8.3.8 as follows: <i>Policy 8.3.7 New and upgrading of non-critical infrastructure</i> <ol style="list-style-type: none"> 1. <i>Enable the development of new non-critical infrastructure and upgrading of existing non-critical infrastructure in flood hazard assessment overlays only where the infrastructure does not increase flood risk on another site; and</i> 2. <i>Provide for the development of new non-critical infrastructure and upgrading of existing non-critical infrastructure in all other identified natural hazard overlays</i> <i>Policy 8.3.8 Critical infrastructure</i> <ol style="list-style-type: none"> 1 <i>Enable the upgrading of existing critical infrastructure in Flood Assessment Overlays only where the infrastructure does not increase flood risk on another site;</i> 2 <i>Provide for upgrading of existing critical infrastructure in all other identified Natural Hazard Overlays;</i> 3 <i>Manage new critical infrastructure in all Natural Hazard Overlays which are outside of High Flood Hazard Areas to ensure that there is a low risk to life and property damage;</i> 4 <i>Avoid new critical infrastructure in High Flood Hazard Areas unless:</i> <ol style="list-style-type: none"> a. <i>Avoidance is impossible or impracticable, in which case critical infrastructure must be designed to maintain, as far as practicable, its integrity and ongoing operation during and after natural hazard events, or be able to be reinstated in a timely manner; and</i> b. <i>The critical infrastructure does not significantly increase the natural hazard risk to life, or increase risk to life and property on another site</i>
4.10	<i>Policy 8.3.13 Debris Flow Fan Overlay and Landslide Debris Inundation Overlay</i>	Retain Policy 8.3.13 as notified.	Accept	Accept Reporting Officer Recommendation
4.11a	<i>Policy 8.3.14 The Fault Avoidance Overlay and Fault Awareness Overlay</i>	Retain Policy 8.3.14 as notified.	Accept	Accept Reporting Officer Recommendation

Spark Submission Number	PC3 Provision	Relief sought through submission	Officer Recommendation	Spark decision sought through Hearing process
4.11b	<i>Rule 8.5.8 All zones with the Urban Flood Assessment Overlay or Non-Urban Flood Assessment Overlay</i>	Retain Rule 8.5.8 as notified	Reject	Accept Reporting Officer Recommendation – noting that the changes made to Policy 8.3.2 do not fundamentally change Spark’s position.
4.12	<i>Rule 8.5.9 All zones with the Urban Flood Assessment Overlay, Non-Urban Flood Assessment Overlay, Landslide Debris Inundation Overlay, Fault Avoidance Overlay or Fault Awareness Overlay</i>	<p>Oppose – the rule provides for all new critical infrastructure in all natural hazard overlays as restricted discretionary activities. An allowance should be provided for in the rule through the provision of a degree of permitted activity in all natural hazard overlays for critical infrastructure, which could be achieved through footprint control or other mechanism, where the effect of such infrastructure will be negligible on life and property.</p> <p>As such, the following amendments are sought to Rule 8.5.9:</p> <p><i>Rule 8.5.9</i> All zones with the Urban Flood Assessment Overlay, Non-Urban Flood Assessment Overlay, Landslide Debris Inundation Overlay, Fault Avoidance Overlay or Fault Awareness Overlay <i>New Critical Infrastructure</i> <u>Permitted where</u> <u>a. the footprint of the critical infrastructure structures do not exceed 20m² [or similar relief]</u> <i>Restricted discretionary</i> <i>Matters of discretion are restricted to:</i></p> <ol style="list-style-type: none"> 1. <i>The extent to which infrastructure exacerbates the natural hazard risk or transfers the risk to another site;</i> 2. <i>The ability for flood water conveyance to be maintained;</i> 3. <i>The extent to which there is a functional or operational requirement for the infrastructure to be located in the High Flood Hazard Overlay and there are no practical alternatives;</i> 4. <i>The extent to which the location and design of the infrastructure address relevant natural hazard risk and appropriate measures that have been incorporated into the design to provide for the continued operation</i> 	Reject	<p>Amend Rule 8.5.9 as follows:</p> <p><i>All zones with the Urban Flood Assessment Overlay, Non-Urban Flood Assessment Overlay, Landslide Debris Inundation Overlay, Fault Avoidance Overlay or Fault Awareness Overlay</i> <i>New Critical Infrastructure</i> <u>Permitted where</u> <u>a. the footprint of the critical infrastructure structures do not exceed 20m² [or similar relief]</u> <i>Restricted discretionary</i> <i>Matters of discretion are restricted to:</i></p> <ol style="list-style-type: none"> 1. <i>The extent to which infrastructure exacerbates the natural hazard risk or transfers the risk to another site;</i> 2. <i>The ability for flood water conveyance to be maintained;</i> 3. <i>The extent to which there is a functional or operational requirement for the infrastructure to be located in the High Flood Hazard Overlay and there are no practical alternatives;</i> 4. <i>The extent to which the location and design of the infrastructure address relevant natural hazard risk and appropriate measures that have been incorporated into the design to provide for the continued operation</i>