

From: Graeme McCarrison <Graeme.McCarrison@spark.co.nz>
Sent: Friday, 3 September 2021 11:26 a.m.
To: RPS
Cc: Chris Horne (Incite Resource & Environmental Management) (chris@incite.co.nz)
Subject: Proposed Otago Regional Policy Statement 2021 (Proposed RPS 21) - Spark, Chorus & Vodafone
Attachments: 20210902 Proposed Otago RPS Submission Telcos Final.pdf

Categories: Submission - Sector stakeholder

Kia ora

Attached is the joint submission on the Proposed Otago Regional Policy Statement 2021 (Proposed RPS 21) by Spark, Chorus and Vodafone. We look forward meeting to discuss the submission along side other infrastructure companies/organisations that have submitted.

Ngā mihi nui

Graeme



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Form 5

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

To: Otago Regional Council
Private Bag 1954
Dunedin 9054

Attention: ORC Policy Team

Name of submitter: Chorus New Zealand Limited
P O Box 632
Wellington

Spark New Zealand Trading Limited
Private Bag 92028
Auckland 1010

Vodafone New Zealand Limited
Private Bag 92161
Auckland 1142

This is a submission on the following proposed policy statement: **Proposed Otago Regional Policy Statement.**

Chorus New Zealand Limited (Chorus), Spark New Zealand Trading Limited (Spark) and Vodafone New Zealand Limited (Vodafone) have lodged a joint submission to the Proposed Otago Regional Policy Statement.

Spark, Chorus and Vodafone 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 table. Spark, Chorus and Vodafone seeks that the decisions sought as set out in the attached table are adopted, or any other such relief and/or consequential amendments that achieves an equivalent outcome.

Spark, Chorus and Vodafone wishes to be heard in support of their submission. If others make a similar submission, Spark, Chorus and Vodafone will consider presenting a joint case with them at a hearing.



Signed:

On behalf of Chorus New Zealand Limited

Date: 3 September 2021



Signed:

On behalf of Spark New Zealand Trading Limited

Date: 3 September 2021



Signed:

On behalf of Vodafone New Zealand Limited

Date: 3 September 2021

Address for Service:

Chorus, New Zealand Limited, Spark New Zealand Trading Limited and Vodafone New Zealand Limited
C/- Incite
P O Box 3082
Auckland 1140

Contact Details:

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

These submissions are made to ensure that there is a practical and workable planning regime for deploying critical telecommunications infrastructure in the Otago Region. Unfortunately, we were not provided the opportunity to be engaged with as a key stakeholder along with other network utilities in formulation of the proposed provisions. However, we would be open to attending workshop sessions with Council staff and other network utility submitters to develop suitable drafting responses to the matters raised in the submission and/or to better understand the intent of the some of the provisions addressed in these submissions. 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.

Part 1 – Introduction and General Provisions

Proposed Regional Policy Statement Provision	The Submission is that:		Decisions sought:
	Oppose / Support	Reasons	
Definitions “Nationally Significant Infrastructure”	Oppose	The definition of “Nationally Significant Infrastructure” does not include components of telecommunications networks vital to New Zealand such as international cables and inter-regional telecommunication and radiocommunication backbone/trunk services. These are vital for New Zealand international and inter-regional connectivity for broadband services, data transfer and telecommunications.	Amend the definition of “Nationally Significant Infrastructure” by adding the following: <ul style="list-style-type: none"> • International and inter-regional telecommunications links
Definitions – new “Telecommunication and Radiocommunication Facilities”	Oppose	The policies of the RPS provide a different policy framework for Nationally and Regionally Significant Infrastructure compared with other infrastructure, particularly when in sensitive environments. The definition of “Regionally Significant Infrastructure” includes “Telecommunication and Radiocommunications	Add a new definition of “Telecommunication and Radiocommunication Facilities” that encompasses all lines and wireless networks <u>or</u> Amend the definition of <i>Regionally Significant Infrastructure</i> by changing the listed term “Telecommunication and Radiocommunication

	<p><i>Facilities</i>". However, that term is not defined so it is unclear what it covers. For example, it is unclear if it would cover a fibre distribution network which is critical infrastructure for the region but may not be considered a facility. This would be inconsistent with providing for other network infrastructure in the definition such as electricity sub-transmission infrastructure. The implication of not including key elements of telecommunications and radiocommunications networks as Regionally Significant Infrastructure is that in certain environments where this infrastructure may be required to be located for functional and operational reasons, the policy approach in the notified RPS is often to avoid adverse effects.</p>	<p><i>Facilities" to "Telecommunication and Radiocommunication Networks".</i></p>
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Part 2 – SRMR – Significant Resource management Issues for the Region

Proposed Regional Policy Statement Provision	The Submission is that:		Decisions sought:
	Oppose / Support	Reasons	
Significant Resource Management Issue – New	Oppose	<p>The Significant Resource Management Issues (SRMI) are considered to be deficient in giving effect to the RMA in regard to proper recognition of the need to operate, maintain, develop, and upgrade infrastructure which included telecommunications networks. These networks are important physical resources that support the well-being of people and communities.</p> <p>Infrastructure including telecommunications networks may need to be located in valued natural environments due to functional and operational requirements, and it will therefore not always be possible to avoid these environments.. The need for infrastructure and its particular functional and operational requirements needs to be weighed against protecting the values of these natural resources.</p>	<p>Add a new SRMI that addresses the need to operate, maintain, develop and upgrade infrastructure. This submitter welcomes the opportunity to work with the Council and other Infrastructure organisations to develop suitable text in regard to important infrastructure including but not limited to telecommunications networks.</p> <p>Initial drafting to include <u>The operation, maintenance, upgrade and development of infrastructure is essential to enabling people and communities to provide for their social, cultural and economic well-being and necessary to support safe, responsive and resilient communities. Infrastructure are often also lifeline utilities and must be able to function to the fullest possible extent in emergencies.</u></p>

Part 3 – EIT – Energy, Infrastructure and Transport

Proposed Regional Policy Statement Provision	The Submission is that:		Decisions sought:
	Oppose / Support	Reasons	
EIT-INF-04 – Provision of Infrastructure	Oppose in part	The objective uses the phrase “ <i>within environmental limits</i> ” which uses terminology proposed in the Draft Natural and Built Environments Bill. As the Proposed RPS has been notified under the RMA, it is unclear what the implications of using this terminology will be in the transitional period in moving towards the future legislation. The submitter wish to be involved in any further discussions on the implications of this terminology through the hearing process and may review its position following further debate on this matter.	Amend Objective EIT-INF-04 by deleting reference to “ <i>within environmental limits</i> ” terminology and use terminology more consistent with the current RMA framework.
EIT-INF-05 - Integration	Support	The objective is supported as notified. In particular it recognises the need for land use change to occur in a coordinated way to increase the efficiency in the delivery, operation and use of infrastructure.	Retain Objective EIT-INF-05 as notified.
EIT-INF-P11 – Operation and Maintenance	Oppose	The policy provides for the operation and maintenance of existing nationally and regionally significant infrastructure. This should be broadened to encompass all existing infrastructure including that which may not meet the threshold of nationally or regionally significant infrastructure. All components of existing infrastructure will contribute to the overall functionality of a network. Objective EIT-	Amend Policy EIT-INF-P11 as follows: <i>Except as provided for by ECO-P4, allow for the operation and maintenance of existing nationally and regionally significant infrastructure while :</i>

		INF-O4 Provision of Infrastructure applies to all infrastructure.	
EIT-INF-P13 – Locating and managing effects of infrastructure	Oppose	The Policy provides a hierarchy for managing the effects of <i>Nationally and Regionally Significant Infrastructure</i> in identified sensitive environments, whilst for other infrastructure, the requirement is to avoid the adverse effects of infrastructure on the values that contribute to the area’s outstanding nature or significance. This avoidance approach is considered to be too directive and will have likely unintended consequences. For example, it may preclude providing a service connection to a heritage building which may be needed to support its viable use or installing services in a road over which a character or heritage overlay may apply. Due to functional and operational requirements, some infrastructure not meeting the nationally and regionally significant infrastructure threshold may be required in the listed sensitive areas. As drafted, the policy will preclude this by use of the avoidance of effects approach, even where there are minor adverse effects and community benefits.	Amend Policy EIT-INF-P13 the effects management regime in Clause 2(a) of the policy applies to all infrastructure.
EIT-INF-17 – Urban Growth and Infrastructure	Support	Provision of <i>additional infrastructure</i> required to support urban growth, which by definition in the National Policy Statement on Urban Development 2020 (NPS UD) includes a network operated for the purposes of telecommunications, is supported	Retain Policy EIT-INF-P17 as notified.

Part 3 – HAZ – Hazards and Risks

Proposed Regional Policy Statement Provision	The Submission is that:		Decisions sought:
	Oppose / Support	Reasons	
HAZ-NH-P4 – Existing Activities	Oppose in part	<p>Clause 5 is not supported on the basis that the appropriate location of lifeline utilities is adequately addressed under the Civil Defence and Emergency Management Act 2002 and does not require duplication of process under the RMA. Further, Clause 5 provides no policy support for finding a new location which may also be either a natural hazard area or be located in a sensitive environmental overlay. Telecommunications equipment may need to be located in hazard areas to serve communities due to functional and operational requirements. Where telecommunications equipment is regulated under <i>the Resource Management (National Environmental Standards for Telecommunication Facilities) Regulations 2016</i> (NESTF) such as poles in roads and rural zones, cabinets in all locations and underground lines (including ancillary earthworks), the NESTF specifically disapplies natural hazard rules in District Plans to regulated activities under NESTF Regulation 57 following a consideration of the risk profile of this type of equipment in making the regulations.</p>	<p>Delete Clause 5 of Policy HAZ-NH-P4.</p> <p>Retain Clause 6 of Policy HAZ-NH-P4 as notified</p>

		Clause 6 is supported as it promotes enabling development, upgrade, maintenance and operation of lifeline utilities for essential and emergency services as a means of reducing natural hazard risks.	
HAZ-NH-P8 – <i>Lifeline utilities</i> and facilities for essential and emergency services	Oppose	<p>The Policy is not supported on the basis that the appropriate location and design of lifeline utilities is adequately addressed under the Civil Defence and Emergency Management Act 2002 and does not require duplication of process under the RMA.</p> <p>Telecommunications equipment may need to be located in hazard areas to serve communities due to functional and operational requirements. Where telecommunications equipment is regulated under <i>the Resource Management (National Environmental Standards for Telecommunication Facilities) Regulations 2016</i> (NESTF) such as poles in roads and rural zones, cabinets in all locations and underground lines (including ancillary earthworks), the NESTF specifically disapplies natural hazard rules in District Plans to regulated activities under NESTF Regulation 57 following a consideration of the risk profile of this type of equipment in making the regulations.</p> <p>A more appropriate policy focus for lifeline utilities is to require district plans to adequately identify and map natural hazards to enable</p>	<p>Amend Policy HAZ-NH-P8 as follows:</p> <p><i>Locate, relocate, and design lifeline utilities and facilities for essential and emergency services to:</i></p> <ol style="list-style-type: none"> 1. <i>Maintain their ability to function to the fullest extent possible, during and after natural hazard events, and</i> 2. <i>Take into account their operational co-dependence with other lifeline utilities and essential services to ensure their effective operation.</i>

		lifeline utility providers to have adequate information available in deciding where to locate their infrastructure. This is already addressed under Policy HAZ-NH-P1.	
HAZ-NH-P11 – Kaitiaki decision making	Oppose in part	It is unclear what the role of kaitiaki decision making would be in regard to freehold land that is susceptible to natural hazards.	Amend Policy HAZ-NH-P11 by deleting reference to freehold land. We will further consider this relief if further clarity on the intent of this policy is provided.

Part 3 – HCV – Historical and Cultural Values

Proposed Regional Policy Statement Provision	The Submission is that:		Decisions sought:
	Oppose / Support	Reasons	
HCV-WT-P2 – Management of wāhi tūpuna	Oppose in part	<i>Wāhi tūpuna</i> is defined in the Proposed RPS and includes the concept of cultural landscapes. It is unclear how these areas will be defined but may be quite expansive. Clause 4 of the policy requires <i>wāhi tūpuna</i> to be protected by <u>avoiding</u> any activities that may be considered inappropriate in <i>wāhi tūpuna</i> as identified by Kāi Tahu. Whilst the importance of landscapes and places that embody the relationship of mana whenua with their culture and traditions is fully acknowledged, Clause 4 of the policy as drafted is very uncertain in regard to the extent of areas affected and activities that Kāi Tahu may consider inappropriate.	Amend Policy HCV-WT-P2 by either deleting clause 4 of the policy or amending it such that it is more certain how it will apply.
HCV-HH-P5 – Managing historic heritage	Oppose in part	It is important to recognise that Infrastructure connections to heritage buildings support their ongoing use and therefore protection and upkeep. The policy should recognise this.	Amend Policy HCV-HH-P5 by adding a new clause recognising that infrastructure connections support the ongoing use and protection of historic heritage.

Part 3 – NFL – Natural Features and Landscapes

Proposed Regional Policy Statement Provision	The Submission is that:		Decisions sought:
	Oppose / Support	Reasons	
NFL-P2 – Protection of outstanding natural features and landscapes	Oppose	<p>The Policy seeks to protect outstanding natural features and landscapes by avoiding adverse effects on the values that contribute to the natural feature or landscape being considered, even if those values are not in themselves outstanding. This avoidance approach is considered to be impractical for infrastructure that many have functional and operational requirements to locate in such areas. For example, in areas such as Queenstown Lakes District, expansive areas are located within Outstanding Natural Landscapes. Wireless networks have been located in many such areas due to the topography to provide services to communities. The effects of such infrastructure can be mitigated by location, design and colour. However, an avoid approach is considered to be too stringent for areas outside of the Coastal Environment not subject to Policy 15 of the New Zealand Coastal Policy Statement 2010 (NZCPS). The policy should be amended or an additional policy inserted in regard to infrastructure such it takes into consideration the functional and operational requirements of Infrastructure, extent of benefits, practical alternatives and the extent to which adverse effects are mitigated.</p>	<p>Amend Policy NFL-P2 or add a new policy such that it takes into consideration the functional and operational requirements of Infrastructure, extent of benefits, practical alternatives and the extent to which adverse effects are mitigated.</p>

Proposed Regional Policy Statement Provision	The Submission is that:		Proposed Regional Policy Statement Provision
	Oppose / Support	Reasons	
APP9 – Identification criteria for outstanding and highly valued natural features, landscapes and seascapes	Oppose	<p>CE–P6 – Natural features, landscapes and seascapes in coastal environments and FL–P1 – Identification of areas and values of outstanding and highly valued natural features and landscapes to manage outstanding and highly valued natural features and landscapes, rely on APP9 to identify the areas. APP9 sets the criteria for identifying highly valued natural features, landscapes and seascapes are areas which contain attributes and values of significance under Sections 7(c) and 7(f) of the RMA 1991. We request that Regional Council explore the opportunity to for the identification criteria of APP9 be updated to reflect Te Tangi a te Manu - Aotearoa New Zealand Landscape Assessment Guidelines developed collaboratively and recognised by Te Tau a Nuku (the Māori group of landscape architects) and New Zealand Institute of Landscape Architects Tuia Pito Ora. The following is the link to the draft.</p> <p>https://nzila.co.nz/media/uploads/2021_04/210_430_Te_Tangi_a_te_Manu_Revised_Final_Draft_clean_.pdf</p>	Amend APP9 to Te Tangi a te Manu - Aotearoa New Zealand Landscape Assessment Guidelines or similar outcome.

Part 3 – UFD – Urban Form and Development

Proposed Regional Policy Statement Provision	The Submission is that:		Decisions sought:
	Oppose / Support	Reasons	
UFD-02- Development of Urban Areas	Support in part	Clause 9 of the Objective promotes urban growth that achieves the integration of land use with existing and planned <i>development infrastructure</i> and <i>additional Infrastructure</i> and facilitates the safe and efficient ongoing use of regionally significant infrastructure. This approach supports well-functioning urban environments.	Retain Clause 9 of Objective UFD-02 as notified.
UFD-P3 – Urban Intensification	Oppose in part	Clause 2 of Policy UFD-P3 supports enablement of intensification in urban areas where it is well served by existing or planned <i>development infrastructure</i> and <i>additional infrastructure</i> . This aspect of Clause 2 is supported. However, the clause should also address the safe and efficient ongoing use of regionally significant infrastructure as promoted in Clause 9 of Objective UFD-02 to ensure well-functioning urban environments.	Amend Clause 3 of Policy UFD-P3 as follows: <i>Within urban areas intensification is enabled where it:</i> 2. <i>Is well served by existing or planned development Infrastructure and additional infrastructure, <u>and does not compromise the safe and efficient ongoing use of infrastructure,</u></i>