

**IN THE MATTER**

of the Resource Management Act 1991 ("**RMA**")

**AND**

**IN THE MATTER**

of the Proposed Otago Regional Policy Statement  
2021 (Non-freshwater parts) ("**PORPS**")

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**EVIDENCE OF CHRISTOPHER MARK HORNE FOR  
CHORUS NEW ZEALAND LTD, VODAFONE NEW ZEALAND LTD AND SPARK  
NEW ZEALAND TRADING LTD**

**PART 3 NFL NATURAL FEATURES AND LANDSCAPES**

**23 NOVEMBER 2022**

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## **1. INTRODUCTION**

- 1.1 My full name is Christopher Mark Horne. I am a resource management consultant and director of the resource and environmental management consulting company, Incite (Auckland) Limited.
- 1.2 My relevant experience and qualifications, and statement on the *Code of Conduct for Expert Witnesses 2014* contained in the Environment Court Practice Note, are set out in my statement of evidence in relation to Part 3 EIT Energy, Infrastructure and Transport, also dated 23 November 2022.

## **2. SCOPE AND STRUCTURE OF EVIDENCE**

- 2.1 In accordance with the First Minute and Directions of the Hearing Commissioners,<sup>1</sup> I have prepared my evidence on the PORPS on a chapter-by-chapter basis.
- 2.2 Because a significant proportion of the Telecommunications Submitters' submission points relate to EIT – Energy, Infrastructure and Transport, I have provided a general overview of the overall submissions approach and my relevant experience and qualifications in that statement.
- 2.3 This statement of evidence only applies to Policy NFL-P2 *Protection of outstanding features and landscapes* and Policy NFL-P3 *Maintenance of highly values natural features and landscapes*.

## **3. EXECUTIVE SUMMARY (NFL MATTERS)**

- 3.1 The Telecommunications Submitters' submission requested either an amendment to Policy NFL-P2 (protection of outstanding features and landscapes), or the addition of a new policy, to recognise the functional and operational requirements of infrastructure, extent of benefits, practical alternatives and the extent to which adverse effects are mitigated. They also supported a further submission by Otago Water Resource Users Group ("**OWRUG**") on Policy NFL-P3 (maintenance of highly values natural features and landscapes)<sup>2</sup> such that the management regime in Policy EIT-INF-P13 applies to these environments.

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<sup>1</sup> Dated 3 October 2022.

<sup>2</sup> OWRUG submission point 00235.142.

- 3.2 The Telecommunication Submitters consider the strong avoidance approach in the notified version of NFL-P2 to be an impractical and unworkable approach for infrastructure. There are often functional and/or operational requirements that make it necessary to locate infrastructure in areas identified as highly valued natural features or landscapes. A further submission in support of the OWRUG submission in regard to Policy NFL-P3 was made to ensure a workable policy approach for infrastructure being sited in the environments covered by this policy.
- 3.3 Mr MacLennan's supplementary evidence on the NFL topic recommends changes to Policy NFL-P2. I consider that these are appropriate, provided that the definition of *Regionally Significant Infrastructure* is amended as recommended in Mr Langman's supplementary evidence on the EIT section.
- 3.4 If Mr Langman's changes to the definition of *Regionally Significant Infrastructure* are not adopted by the Hearing Commissioners, or in the alternative, changes are not made to Policy EIT-INF-P13 as notified, then further amendments to Policy NFL-P2 will be required. This is to ensure that the aspects of Telecommunications infrastructure not currently included in the definition for *Regionally Significant Infrastructure* as notified (eg fibre networks), are adequately recognised and provided for.
- 3.5 In regard to Policy NFL-P3, I consider an amendment is required to cross refer to Policy EIT-INF-P13 (equivalent to that recommended in NFL-P2) to ensure a consistent approach.

#### **4. POLICY NFL-P2 AND NFL-P3**

- 4.1 Policy NFL-P2 as notified seeks to protect outstanding natural features and landscapes by:
- (a) Avoiding adverse effects on the values that contribute to the natural feature or landscape being considered outstanding, even if those values are not in themselves outstanding, and
  - (b) Avoiding, remedying or mitigating other adverse effects.

##### **Submission**

- 4.2 The Telecommunications Submitters' submission requested either an amendment to Policy NFL-P2, or the addition of a new policy, to recognise the functional and operational requirements of infrastructure, extent of benefits, practical alternatives and the extent to which adverse effects are mitigated.

- 4.3 This was because the strong avoidance approach in NFL-P2 is an impractical and unworkable approach for infrastructure from a planning perspective. There are often functional and/or operational requirements that make it necessary to locate infrastructure in areas identified as highly valued natural features or landscapes. For example, in areas such as Queenstown Lakes District, expansive areas are located within Outstanding Natural Landscapes ("**ONLS**") making it difficult for infrastructure to avoid these landscapes altogether. This is particularly so for essential lifeline infrastructure, where such networks often need to locate within or traverse ONLs to provide services to people and communities.
- 4.4 Given that the effects of infrastructure on ONLs can be mitigated by location, design and colour, the Telecommunication Submitters consider that an avoid approach is too stringent for areas outside of the Coastal Environment not subject to Policy 15 of the New Zealand Coastal Policy Statement 2010.
- 4.5 The Telecommunications Submitters also support a further submission by OWRUG on Policy NFL-P3 (maintenance of highly valued natural features and landscapes)<sup>3</sup> which seeks that the management regime in Policy EIT-INF-P13 also apply to these environments.

#### **s42A Report**

- 4.6 The reporting planner for chapter 14 addressed the interrelationship between the provisions in the NFL Chapter and infrastructure in section 14.3.1.3 of the report. Of particular significance, at paragraph 26, the reporting planner states:

I agree with the submitters that there needs to be greater clarity regarding the overall direction that applies to the management of infrastructure. To remedy the disconnect between the EIT and NFL chapters, I recommend that a new policy is inserted into the NFL chapter that specifies that outside of the coastal environment, the effects of regionally significant infrastructure on values of the outstanding natural features and landscapes are addressed by EIT-INF-P13. This new policy which adopts the same approach as NFL-P6 will ensure that there is consideration of the functional and operational need of nationally and regionally significant infrastructure to locate within ONFs and ONLs but also clear direction that this should be avoided where possible, or effects on the values of these areas are to be minimised. As with NFL-P6, EIT-INF-P13 will also contribute to achieving NFL-O1.

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<sup>3</sup>

OWRUG submission point 00235.142.

- 4.7 The reporting planner initially recommended amendments to Policy NFL-P2 and insertion of a new Policy NFL-P7 as follows:

**NFL-P2 – Protection of outstanding natural features and landscapes**

Protect outstanding natural features and landscapes by:

1. avoiding adverse effects on the values of the natural features and landscapes where there is limited or no capacity to absorb change<sup>4</sup> that contribute to the natural feature or landscape being considered outstanding, even if those values are not themselves outstanding, and

[...]

**NFL-P7 – Natural features and landscapes and infrastructure**

Outside of the coastal environment, the effects of nationally significant infrastructure and regionally significant infrastructure on the values of outstanding natural features and landscapes are managed by EIT-INF-P13.<sup>5</sup>

- 4.8 Following pre-hearing discussions, this recommendation has been amended in the supplementary evidence such that there is no new Policy NFL-P7 added, and Policy NFL-P2 is amended as follows:<sup>6</sup>

**NFL-P2 – Protection of outstanding natural features and landscapes**

Protect outstanding natural features and landscapes outside the coastal environment from inappropriate subdivision, use and development by:

avoiding adverse effects on the values of the natural features and landscapes where there is limited or no capacity to absorb use or development ~~that contribute to the natural feature of landscape being considered outstanding, even if those values are not themselves outstanding, and~~

avoiding, remedying or mitigating other adverse effects, and

managing the adverse effects on infrastructure on the values of outstanding natural features and landscapes in accordance with EIT-INF-P13.

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<sup>4</sup> 00318.034 Contact Energy Limited

<sup>5</sup> 00310.014 Telecommunications Companies, 000306.074 Meridian, 00321.037 Infrastructure NZ

<sup>6</sup> Supplementary Evidence of Andrew MacLennan, 11 October 2022 at [11], [14], [18-22] and [24-26].

- 4.9 The changes recommended to Policy NFL-P3 in the supplementary evidence include a clarification that the policy applies outside of the Coastal Environment, but do not include an equivalent to proposed clause (3) of policy NFL-P3.<sup>7</sup>

### **Planning Assessment**

#### *Functional and operational needs of infrastructure*

- 4.10 In my view, there will be situations where there are operational or functional needs for infrastructure (including telecommunications networks) to be located in sensitive natural environments including ONLs and other high amenity areas in some areas of New Zealand. This is particularly the case for essential lifeline infrastructure in areas with a high prevalence of ONLs, like Queenstown Lakes District. People and communities expect to be able to connect to networked infrastructure, and such connection is important for people's general wellbeing. To ensure that infrastructure can be appropriately located to meet the demands of people and communities, there needs to be a workable framework in the PORPS NFL chapter that enables infrastructure in ONLs and other high amenity landscapes if appropriate in the circumstances. For ONLs in particular, a strong avoidance framework would have perverse outcomes in my view.
- 4.11 As an example, in Queenstown Lakes District there are currently a number of existing wireless telecommunications facilities located within ONLs to service local communities. These activities are provided for as a permitted activity in the appeals version of the Proposed Plan up to 8m in height<sup>8</sup> (these rules are beyond any appeal challenge) and several 8m high facilities have been deployed in such areas. I support that approach. A requirement to avoid adverse effects on such areas (as is currently required by the notified version of the Policy NFL-P2) would be incompatible with the rule framework in the Proposed Plan which has provided a practical means of deploying telecommunications facilities in elevated ONL areas in Queenstown Lakes District.
- 4.12 In regard to other highly valued landscapes that do not meet the outstanding threshold, the policy directive in areas covered by Policy NFL-P3 is to avoid significant adverse effects which provides more flexibility. However, in my

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<sup>7</sup> Supplementary evidence of Andrew Maclennan at [15].

<sup>8</sup> Subject to a 16% reflectivity standard, see Rule 30.5.6.6.

opinion the same management regime in Policy EIT-INF-P3 should apply to these lower order natural landscapes as applies to Policy NFL-P2.

*Policy framework proposed in s42A Report*

- 4.13 I support the approach of the recommended amendments to Policy NFL-P2. This is on the basis that the recommended changes to the definition of *Regionally Significant Infrastructure* as recommended in the supplementary evidence of Mr Langman on the EIT section are adopted by the Hearing Commissioners.
- 4.14 In my evidence on the EIT Section (Chapter 11 s42A Report) at section 5, I set out how not all components of the telecommunications network will be included within either the notified definitions of *Regionally Significant Infrastructure* or *Nationally Significant Infrastructure*. As such, while I support the approach of proposed Policy NFL-P2 which refers back to Policy EIT-INF-P13 in regard to managing the effects of infrastructure, should the proposed amendment to the definition of *Regionally Significant Infrastructure* recommended by Mr Langman not be adopted by the Hearing Commissioners, or in the alternative, changes are not made to Policy EIT-INF-P13 as notified, then further amendments to Policy NFL-P2 will be required. This is to ensure that the aspects of Telecommunications infrastructure not currently included in the definition for *Regionally Significant Infrastructure* as notified (eg fibre networks), are adequately recognised and provided for
- 4.15 For consistency, I consider a similar amendment in regard to cross referring to Policy EIT-INF-P13 should also be adopted. I note that clause (1)(h) of Policy EIT-INF-P13 covers environments subject to Policy NFL-P3.

**Recommendation**

- 4.16 **Amend** the definition of *Regionally Significant Infrastructure* as recommended in Mr Langman's supplementary evidence on the EIT section.
- 4.17 And **Amend** Policy NFL-P2 as recommended in Mr MacLennan's supplementary evidence as follows:

**NFL-P2 – Protection of outstanding natural features and landscapes**

Protect outstanding natural features and landscapes outside the coastal environment from inappropriate subdivision, use and development by:

~~avoiding adverse effects on the values of the natural features and landscapes where there is limited or no capacity to absorb use or development that contribute to the natural feature of landscape being considered outstanding, even if those values are not themselves outstanding, and~~

avoiding, remedying or mitigating other adverse effects, and

managing the adverse effects of infrastructure on the values of outstanding natural features and landscapes in accordance with EIT-INF-P13.

4.18 And **amend** Policy NFL-P3 as follows:

NFL-P3 – Maintenance of highly valued natural features and landscapes

Maintain or enhance highly valued natural features and landscapes outside the coastal environment by:

avoiding significant adverse effects on the values of the natural features or landscape, and

avoiding, remedying or mitigating other adverse effects, and

managing adverse effects or infrastructure on the values of the natural features or landscape in accordance with EIT-INF-P13.

**5. CONCLUSION**

5.1 The Telecommunications Submitters' submission requested either an amendment to Policy NFL-P2, or the addition of a new policy, to recognise the functional and operational requirements of infrastructure, extent of benefits, practical alternatives and the extent to which adverse effects are mitigated. They also supported a further submission by OWRUG on Policy NFL-P3 (maintenance of highly values natural features and landscapes) such that the management regime in Policy EIT-INF-P13 applies to these environments.

5.2 Mr Maclennan's supplementary evidence on the NFL topic recommends changes to Policy NFL-P2, which, subject to an amended definition of *Regionally Significant Infrastructure* as recommended in Mr Langman's supplementary evidence on the EIT section, are in my opinion appropriate and would resolve the concerns raised by the Telecommunications Submitters.

5.3 If changes to the definition of *Regionally Significant Infrastructure* are not adopted and in the alternative changes to Policy EIT-INF-P13 are not made, then in my opinion further amendments to Policy NFL-P2 will be required, to ensure that telecommunications infrastructure (not covered by the notified



definition of *Regionally Significant Infrastructure*), such as fibre networks, are adequately recognised and provided for.

- 5.4 In my opinion Policy NFL-P3 should also cross refer to Policy EIT-INF-P13, equivalent to the recommended approach in NFL-P2, to provide a consistent approach.

**Christopher Mark Horne**

**23 November 2022**