

HEARING STATEMENT OF CHRISTOPHER HORNE ON EIT TOPIC ON BEHALF OF THE TELECOMMUNICATION COMPANIES¹

1. This statement summarises the key matters raised in my primary statement of evidence on the EIT chapter of the Proposed Otago Regional Policy Statement ("**PORPS**"). In my opinion, it is both appropriate and necessary from a planning perspective that the PORPS include workable and generally enabling provisions for essential infrastructure, including telecommunications infrastructure. The telecommunications network plays an important role in supporting people and communities in New Zealand and the Otago Region. This includes fixed location infrastructure such as wireless telecommunications network sites and exchanges, as well as linear infrastructure such as fibre cables.
2. I set out in my evidence several concerns I have with the notified provisions of the EIT chapter and related definitions that, in my view, may unreasonably and unnecessarily constrain the location of telecommunications infrastructure in Otago. These concerns particularly relate to situations where infrastructure needs to be sited or traverse sensitive environments as a result of their functional needs and operational needs. District plan rules in such areas, which need to give effect to higher order planning documents, still apply to equipment regulated under the *Resource Management (National Environmental Stands for Telecommunications Facilities) Regulations 2016*, and the objectives and policies of the relevant planning documents apply where a resource consent is required.
3. In my opinion there needs to be a pathway to ensure that essential infrastructure can locate in sensitive environments in appropriate circumstances. I am not suggesting that infrastructure get a free pass in sensitive environments, however, a pathway should be provided that enables consideration of what infrastructure may be appropriate or inappropriate in certain contexts.
4. The EIT provisions do provide a framework for considering *Regionally Significant Infrastructure* and *Nationally Significant Infrastructure* in sensitive environments designed to protect particular identified values and attributes² - which would translate to overlays or scheduled sites or areas in district plans. However, that framework does not extend to infrastructure more generally where it does not fall within the defined terms for *Regionally*

¹ Chorus New Zealand Limited, Spark New Zealand Trading Limited and Vodafone New Zealand Limited.

² See EIT-INF-P11 and P13

Significant and Nationally Significant Infrastructure. In my view an 'avoid' framework for elements of a network not falling within these defined terms may have unintended consequences of not allowing communities to properly realise the benefits of infrastructure networks. For example, as notified it is likely that fibre networks which are critical for communications and broadband connectivity would not be *Regionally Significant Infrastructure* or *Nationally Significant Infrastructure* and therefore have the benefit of the pathway provided to locate in sensitive environments if required and reasonable in the circumstances.

5. The Supplementary Evidence from Marcus Langman on the EIT Chapter recommends an amendment to the definition of *Regionally Significant Infrastructure* to cover telecommunication and radiocommunication networks, rather than *facilities*, which largely resolves this critical matter for telecommunications. I support this amendment as it ensures that the entire telecommunications network has the benefit of the pathway established by Policy EIT-INF-P13 for new infrastructure or upgrades.
6. Further, as set out in my evidence, Policy EIT-INF-P11 addressing the operation and maintenance of existing infrastructure also needs an amendment to apply more generally to all infrastructure, rather than *Regionally Significant Infrastructure* or *Nationally Significant Infrastructure*. This will provide greater consistency with Objective EIT-INF-O4 which the EIT-INF policies must implement, which applies more generally to effective, efficient, and resilient *Infrastructure*.
7. I have also set out in my evidence the concerns I have with use of the term "*Environmental Limits*" in Objective INF-EIT-O4 which appears to be an attempt to align with language in the exposure draft of the Natural and Built Environments Act. Mr Langham's supplementary evidence has recommended changes to Objective EIT-INF-O4 (from *Environmental Limits* to *Limits*). Whilst this is an improvement from the notified provisions as it is no longer limited to biophysical limits, I do not consider the proposed amendment fully resolves the concerns I have in relation to using terminology derived from the proposed new legislation to replace the Resource Management Act 1991 ("**RMA**"), whilst still operating under an RMA framework. I see no benefit in using this terminology over more well understood RMA terminology while in this transitional period between different legislative arrangements and planning instruments. I have suggested some amendments to Objective EIT-INF-O4 to address these concerns.

Responses to queries from the Panel

8. At the HCV hearing, Commissioner Sullivan had a question in relation to Policy HCV-HH-P5 where I had indicated a concern that customer connections to heritage buildings may be subject to an 'avoid' policy framework if Policy EIT-INF-P13 as notified was to remain. This is because clause (6) of Policy HCV-HH-P5 directs consideration of infrastructure to Policy EIT-INF-P13 and states that the preceding clauses (1)-(5) of the policy do not apply. In the absence of adopting the amendment to the definition of *Regionally Significant Infrastructure* recommended by Mr Langman, or amending Policy EIT-INF-P13 2(b) to provide a more workable framework for infrastructure that is not *Regionally Significant Infrastructure*, then in my opinion a direct amendment to Policy HCV-HH-P5 would be required to practically provide for infrastructure connections to heritage buildings.

9. Further, Commissioner Sullivan queried whether Policy HCV-HH-P5 should cross reference both Policy EIT-INF-P12 (P12), which covers upgrades to infrastructure³, and EIT-INF-P13 (P13), which only relates to the provision of new infrastructure. In my opinion there is a logic to only cross referring to P13 in Policy HCV-HH-P5 as P13 is the relevant INF policy that provides a specific management framework for infrastructure in sensitive environments that would also include heritage overlays and features. P12 does not contain that same management framework for sensitive environments. I have reflected on Commissioner Sullivan's query and consider that the wording of P13 to only refer to "new" infrastructure potentially creates a policy gap as there is no specific management framework for upgrades to infrastructure in sensitive environments (only new). One simple solution to address this would be to amend the wording of P13 to make reference to both new and upgrades to *infrastructure, regionally significant infrastructure and nationally significant infrastructure*, which would then ensure an appropriate pathway was available for upgrades in sensitive environments.

Chris Horne

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³ The notified version was limited to Regionally Significant Infrastructure and Nationally Significant Infrastructure but the s42A recommendation is for it to apply to Infrastructure more generally.