

**BEFORE THE CANTERBURY REGIONAL COUNCIL**

**IN THE MATTER OF** the Resource Management Act 1991 (RMA)

**AND**

**IN THE MATTER OF** the Proposed Canterbury Regional Council's  
Land and Water Regional Plan (pLWRP)

**BETWEEN** **TELECOM NEW ZEALAND LTD AND CHORUS NEW  
ZEALAND LTD**

The Submitters

**AND** **CANTERBURY REGIONAL COUNCIL**

Local Authority

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**WRITTEN STATEMENT OF TELECOM NEW ZEALAND LTD AND CHORUS  
NEW ZEALAND LTD IN SUPPORT OF THEIR SUBMISSIONS TO THE  
PROPOSED LAND AND WATER REGIONAL PLAN**

**PREPARED BY PENELOPE LEMON**

**REVIEWED BY DAVID MCMAHON**

**4 FEBRUARY 2013**

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## INTRODUCTION

- 1 My name is Penelope Lemon. I am a Consultant Planner for the Resource Management Group Ltd (RMG), a Christchurch-based resource and environmental management firm.
- 2 I have the qualifications of a Bachelor of Arts (Geography) and Master of Applied Science (Environmental Management) and am an Associate Member of the New Zealand Planning Institute.
- 3 I have over 6 years' experience in the planning and resource management fields, in Christchurch and Southland, through which I have provided various planning services to a range of public and private clients.
- 4 Of particular relevance to the matters being considered is my experience with the development of District Plan provisions. For a 12 month period, I worked in-house as part of a small team at Southland District Council preparing the second generation Southland District Plan.

## SCOPE OF WRITTEN STATEMENT

- 5 My written statement addresses the submissions of Telecom New Zealand Ltd (Telecom) and Chorus New Zealand Ltd (Chorus) to the pLWRP. Telecom and Chorus have elected to file this written statement to set out their position in support of their submissions, to the pLWRP covered by this Group 1 hearing.
- 6 Telecom and Chorus lodged two separate notices of submission to the pLWRP as follows:
  - (a) The first submission notice relates only to Rule 5.164 and is herein referred to as 'the original submission'.
  - (b) Following that, a more detailed submission was prepared by RMG on their behalf which traverses the provisions of the pLWRP in greater detail. That submission is herein referred to as 'the latter submission'. Please refer to **Appendix One** for a copy of both submissions.

- 7 I have assumed that the Commissioners are familiar with the detail of the submissions, and rather than repeating them in full, I have summarised the key points in *Table One* below. I have structured the summary and following statement to match the order of chapters/topics in the pLWRP.

Table One: Summary of Submission Points

| Chapter/Topic                       | Relevant Provision                    | Submission                                                                                                                                                                  | Statement Point(s)    |
|-------------------------------------|---------------------------------------|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-----------------------|
| On-Site Wastewater Treatment System | Definition – Section 2.10             | <ul style="list-style-type: none"> <li>• Use of term ‘holding tank’</li> <li>• Use of term ‘domestic wastewater’</li> </ul>                                                 | • 10 – 19             |
|                                     | Discharge – Rule 5.7(6)(b)            | <ul style="list-style-type: none"> <li>• Lawfully established discharges on ‘potentially contaminated land’</li> </ul>                                                      | • 20 – 24             |
| Stormwater                          | Activity Status – Rules 5.72 and 5.73 | <ul style="list-style-type: none"> <li>• Discharges from, onto or into Potentially Contaminated Land</li> </ul>                                                             | • 25 - 30             |
| Beds of Lakes and Rivers            | Rule 5.113                            | <ul style="list-style-type: none"> <li>• Use of the wording ‘whether attached to a structure or not’</li> <li>• Requirement to be ‘perpendicular to the channel’</li> </ul> | • 31 – 36 and 37 - 41 |
|                                     | Rule 5.114                            | <ul style="list-style-type: none"> <li>• Use of the wording ‘whether attached</li> </ul>                                                                                    | • 31 – 36 and 42      |

|                      |                                          |                                                                                                                                                                                                    |                                                                       |
|----------------------|------------------------------------------|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-----------------------------------------------------------------------|
|                      |                                          | <ul style="list-style-type: none"> <li>to a structure or not'</li> <li>Proximity of activities to structures</li> </ul>                                                                            | - 45                                                                  |
| Hazardous Substances | Definition – Section 2.10 and Schedule 4 | <ul style="list-style-type: none"> <li>Consistent use of definition</li> </ul>                                                                                                                     | <ul style="list-style-type: none"> <li>46 - 49</li> </ul>             |
|                      | Storage – Rule 5.164                     | <ul style="list-style-type: none"> <li>Inspection and reconciliation requirements</li> </ul>                                                                                                       | <ul style="list-style-type: none"> <li>50 - 55</li> </ul>             |
| Contaminated Land    | Policies 4.16                            | <ul style="list-style-type: none"> <li>Consistent of the use of terms (contaminated land/potentially contaminated land/contaminated sites)</li> </ul>                                              | <ul style="list-style-type: none"> <li>56 - 59</li> </ul>             |
|                      | Policy 4.23                              | <ul style="list-style-type: none"> <li>Consistent of the use of terms (contaminated land/potentially contaminated land/contaminated sites)</li> <li>Use of wording 'no adverse effects'</li> </ul> | <ul style="list-style-type: none"> <li>56 – 59 and 60 - 62</li> </ul> |
| Recovery Activity    | Rule 5.5                                 | <ul style="list-style-type: none"> <li>Activity timeframe</li> </ul>                                                                                                                               | <ul style="list-style-type: none"> <li>63 - 67</li> </ul>             |
| Other                | Definition – Section 2.10                | <ul style="list-style-type: none"> <li>Definition of 'network utilities'</li> <li>Definition of</li> </ul>                                                                                         | <ul style="list-style-type: none"> <li>68 - 70</li> </ul>             |

|  |  |                                                      |  |
|--|--|------------------------------------------------------|--|
|  |  | 'telecommunication and radio-communication facility' |  |
|--|--|------------------------------------------------------|--|

## PLANNING AND STATUTORY CONTEXT

- 8 In my view Telecom and Chorus infrastructure is of local, regional and national importance. Telecommunication and radio-communication play a key role in the maintenance and enhancement of the Region's social and economic wellbeing. For clarity, Chorus own and operate the communication network facilities and infrastructure and Telecom, as a telecommunication and radio-communication retailer, utilise that network and provide communication services to people and business throughout the Region. Telecom also owns a number of key exchanges including Christchurch central,
- 9 An outline of the background about Chorus and Telecom is appended as **Appendix Two** to this statement. This background covers:
- Details of Chorus and Telecom as companies; and
  - The type of infrastructure including processes and activities required to ensure their network utility infrastructure functions effectively and efficiently in providing the essential service of telecommunications and radio-communications to customers.
- 10 This background is important as it provides a context in which the Commissioners can assess and understand Chorus and Telecom's submission on the pLWRP.
- 11 The Canterbury Regional Policy Statement (2013) (the CRPS) recognises 'Regionally Significant Infrastructure' as including telecommunication facilities (which includes radio-communication facilities). Policy 5.3.9 of the CRPS provides for the continued maintenance and operation of existing infrastructure, together with the expansion and development of new

infrastructure. More specifically, Policy 5.3.10 relates to telecommunication infrastructure and enables telecommunication infrastructure to be developed and operated.

## THE ISSUES

### Discharges

#### *On-Site Wastewater - Definition*

- 12 The pLWRP contains provisions relating to the discharge of wastewater from existing, new or upgraded on-site domestic wastewater treatment systems onto or into land. These provisions are of interest to Telecom and Chorus as many of their staffed sites and facilities may require temporary or permanent on-site wastewater treatment system to enable these critical lifeline facilities to operate during a emergency when waste-water facilities are not available.
- 13 As defined by the pLWRP, an on-site wastewater treatment system includes *“a system that...treats and applies the wastewater to a land application system or a holding tank.”* Telecom and Chorus consider the reference to ‘holding tank’ in the definition confusing, as the rules relating to on-site wastewater treatment control the discharge of treated wastewater onto or into land; and not its storage.
- 14 **In that regard, Telecom and Chorus, through their latter submission, seek the reference to ‘holding tanks’ be deleted from the definition.**
- 15 The Section 42A report makes a recommendation to this effect.
- 16 In my opinion, the term ‘holding tank’ is superfluous and I agree with Telecom and Chorus’ latter submission and the Section 42A report that the term be deleted. This amendment will address the relief sought by Telecom and Chorus.
- 17 Also of interest to Telecom and Chorus is the matter of ‘domestic’ wastewater. The scope of Australian/New Zealand Standard for ‘On-Site

Domestic Wastewater Management' (AS/NZS 1547:2012) for which Rules 5.7 and 5.9 relate, includes domestic wastewater as *"systems for treating wastewater originating from household or personal activities ..... Such domestic wastewater includes that from facilities serving staff/employees/residents in institutional, commercial and industrial establishments."*

- 18 Telecom and Chorus support the AS/NZS 1547:2012 definition, particularly that part which encompasses facilities serving employees in commercial and industrial establishments. While Rules 5.7 and 5.9 make reference to AS/NZS 1547:2012, it is not clear whether the pLWRP applies the same definition of 'domestic wastewater'. This will affect the permitted status of the activity.
- 19 **In that regard, Telecom and Chorus, through their latter submission, seek the inclusion of a separate definition of 'domestic wastewater'.**
- 20 The Section 42A report recommends the definition of on-site wastewater treatment system be amended to reflect AS/NZS 1547:2012.
- 21 In my opinion, the amendment recommended by the Section 42A report is appropriate as it will clarify those users considered 'domestic', reduce confusion for plan users and provide certainty for permitted activities. This amendment will address the relief sought by Telecom and Chorus.

#### *On-Site Wastewater - Discharge Rules 5.7-5.9*

- 22 The Ministry for the Environment's Hazardous Activities and Industries List (HAIL) includes *"storage tanks or drums for fuel, chemicals, or liquid waste"*; these activities and facilities exist at many of Telecom and Chorus' sites. Furthermore, Schedule 3 of the pLWRP lists these as 'hazardous industries'. Because of this, a number of sites and facilities owned and operated by Telecom and Chorus fall within the definition of 'potentially contaminated land'.
- 23 A key issue for Telecom and Chorus is Condition 6(b) of Rule 5.7, which triggers the requirement for consent from lawfully established on-site wastewater treatment systems where the discharge will be onto or into

‘potentially contaminated land’. To avoid this (presumably) unintentional consequence, it has been suggested by Telecom and Chorus that either telecommunication and radio-communication facilities, or all network utilities, be exempt from this condition where it can be demonstrated that the storage of hazardous substances has been approved by Council; primarily by way of a discharge permit and/or land use consent.

24 **In that regard, Telecom and Chorus, through their latter submission, seek the addition of an exemption to condition 6(b) of Rule 5.7.**

25 The Section 42A report recommends the inclusion of the suggested exemption to Rule 5.7(6)(b), but rather than specifying particular activities, it exempts any activity where a discharge permit and/or land use consent for the storage of hazardous substances exists. It also recommends the inclusion of the exemption to Rule 5.9(3)(b) for new or modified systems.

26 It is my view that if the storage of hazardous substances at a site has already been considered through a discharge permit and/or land use consent, then the exemptions recommended by the Section 42A report will appropriately avoid duplication. Even though not specifically addressed in the latter submission, in my opinion the addition of an exemption to Rule 5.9(3)(b), as proposed by the Section 42A report, will provide consistency within the rule framework. These amendments will address the relief sought by Telecom and Chorus

*Stormwater - Discharge Rules 5.72 and 5.73*

27 The discharge of stormwater from, onto or into ‘potentially contaminated land’ raises a similar issue to that discussed immediately above regarding *Discharge Rules 5.7-5.9*, as a number of Telecom and Chorus’ sites and facilities fall within the definition of ‘*potentially contaminated land*’. Condition 2(a) of Rule 5.72 results in the discharge of stormwater from, onto or into ‘*potentially contaminated land*’ to Rule 5.73 being a non-complying activity.

28 It is recognised that stormwater generated from or discharged onto or into ‘*potentially contaminated land*’ could mobilise contaminants and that Council



needs to control these activities. However, Telecom and Chorus consider the non-complying status onerous; particularly as rain events cannot be avoided and industry standards are available to avoid, remedy or mitigate any adverse effects. They are concerned that this could prevent them from carrying out essential upgrades at existing sites and facilities as well as the development of new sites and facilities. It is their view that restricted discretionary status is more appropriate.

- 29 In that regard, Telecom and Chorus, through their latter submission, seek an amendment to Rule 5.73 to reflect a restricted discretionary status where the Conditions of Rule 5.72 are not met; or; to amend Rule 5.73 to allow for discharges from or onto potentially contaminated land as a discretionary activity status.
- 30 The Section 42A report recommends that Rule 5.73 be amended to become a discretionary activity and states that a discretionary status is more appropriate (than restricted discretionary status) as it provides for the consideration of all aspects, rather than just the conditions of Rule 5.72 (now recommended to be split as 5.72(a) and 5.72(b)) which it does not meet.
- 31 In my opinion, the deferral to Rule 5.73 will enable Council to consider discharges on 'potentially contaminated land' through the resource consent process. I agree with Telecom and Chorus that the non-complying status is particularly onerous. In my opinion, a non-complying status indicates that an activity is generally not appropriate, and I question whether this was the original intent of the pLWRP provision.
- 32 I consider a status which enables more discretion, such as a discretionary or restricted discretionary activity, would be more appropriate. Based on my experience in drafting Plan provisions, it is my opinion that often a 'discretionary' status provides an umbrella for those activities where effects are so variable that it is not possible to prescribe standards to control them in advance. However in the case of stormwater discharges, by listing the permitted activity standards Council have indicated the conditions which are to be met in order to avoid, remedy or mitigate adverse effects; and by default have listed the matters in which discretion should be limited to and

applied. For this reason, I believe the effects of the discharge are able to be anticipated and controlled by the pLWRP through a restricted discretionary status without the need for full discretionary status which would (perhaps unintentionally) allow other unrelated matters to be considered.

- 33 In summary, whilst the recommendation in the Section 42A report goes some way to meeting the Telecom/Chorus concerns, by replacing non-complying activity status as the default category, it is my view that a restricted discretionary status is a more appropriate activity status. Such status would make it clear to plan users the matters over which matters Council can exercise its discretion; while allowing the Council to retain the ability to decline an application if warranted by the adverse effects of the activity.

### **Beds of Lakes and Rivers**

#### *Associated Support Structures – Rules 5.113 and 5.114*

- 34 The pLWRP contains provisions relating to structures in the beds of lakes and rivers. These are of interest to Telecom and Chorus as pipes, ducts, cables and wires and associated support structures form an essential part of the telecommunication and radio-communication networks and are often required to be located in or adjacent to these environments throughout the region .
- 35 Rule 5.113 provides for the placement, use, altering, reconstruction, maintenance or removal of pipes, ducts, cables and wires “*whether attached to a structure or not*” over the bed of a lake or river as a permitted activity. In the place of the wording “*whether attached to a structure or not*” Telecom and Chorus, through their latter submission, seek the substitution of the wording “*and any associated support structures*” to clarify that the rule provides for new and existing network utility poles and other such support structures.
- 36 Similarly, Rule 5.114 provides for drilling, tunnelling or disturbance associated with the installation, maintenance or removal of pipes, ducts, cables or wires in or under the bed of a lake or river as a permitted activity. Again, Telecom and Chorus seek the inclusion of that same wording (as Rule 5.113).

37     **In that regard, Telecom and Chorus, through their latter submission, seek the amendment of Rule 5.113 and 5.114 to reflect the wording proposed.**

38     The Section 42A report dismisses the wording proposed for Rule 5.113 as they consider the reference to ‘structures’ sufficiently infers that the rule incorporates support structures. The discussion associated with Rule 5.114 details that inclusion of the wording is also dismissed for that rule for consistency with Rule 5.113, however interestingly the wording sought by Telecom has been included as an amendment to the ‘recommended condition’. Therefore, it is not clear in the Section 42A report whether or not Rule 5.114 is being amended. Clarification should be provided.

39     In my opinion, the proposed current wording of both rules are unclear. It is of particular concern to me that the rules are unclear to a recognised provider of telecommunication and radiocommunication facilities who deal with rules throughout the country covering this type of activity. Further, and as planner with experience in drafting plan provisions, I understand and concur with the concern expressed by the submitter in this example. The current wording in the pLWRP does not make it explicit that the Rules provide for new structures, rather than simply attached to an existing structure. Therefore I agree with Telecom and Chorus’ latter submission, and do not support the recommendation of the Section 42A report. It is my view that both Rule 5.113 and Rule 5.114 should be altered in the manner suggested by the submitter in order to produce certainty for all plan users.

*Perpendicular to the Channel – Rule 5.113*

40     A key issue for Telecom and Chorus is Condition 1 of Rule 5.113, which according to the Section 42A report attracted a number of submissions. The condition requires “*The pipes, ducts, cables or wire run perpendicular to the channel...*”.

41     It is the Chorus/Telecom view (and the view of many utility operators) that for cost and efficiency purposes infrastructure is generally directed along the shortest route. However in some cases the shortest route is not practical given topographical constraints. Often, given the changeable nature of the

Region's braided rivers it could be difficult to identify the true course of the channel and ascertain what is in fact 'perpendicular'.

- 42 **In that regard, Telecom and Chorus, through their latter submission, seek either the deletion of the reference to perpendicular OR the following amendment:**

*"The pipes, ducts, cables or wires ~~run perpendicular to the channel and~~ are run taken the shortest practicable route across the river, and do not prevent access to or over the bed or to lawfully established structures, including flood protection works, or to flood control vegetation."*

- 43 The Section 42A report recommends the deletion of the reference to 'perpendicular', but not the alternative wording proposed by Telecom and Chorus.

- 44 In my opinion, there is no obvious environmental effect for which the reference to 'perpendicular' will control. Therefore I agree with the Section 42A reports' recommended deletion of the reference to 'perpendicular'. On the basis that the reference is deleted, I agree that the additional (alternative) wording suggested by the submitter is not necessary.

*Proximity to Structures – Rule 5.114*

- 45 Telecom and Chorus are concerned with the wording of condition 3 of Rule 5.114 in that any drilling, tunnelling or disturbance in the bed of a lake or river within 10m of the listed structures/vegetation would defer the activity to a discretionary status under Rule 5.121. Their concern being that this would restrict their activities within 10m of their 'own' structures. The condition also lists activities that cannot be undertaken within 150m of a water level recorder or 50m from and flood protection work; however Telecom and Chorus are not concerned with these restrictions. It is Telecom and Chorus' view that owners should be able to undertake activities within the specified limits of their 'own' structures.

- 46     **In that regard, Telecom and Chorus, through their latter submission, seek the inclusion of additional wording to Condition 3 of Rule 5.114.**
- 47     The Section 42A report identifies merit in the inclusion of additional wording but recommends a broader scope than that proposed by Telecom and Chorus. It recommends that activities should be able to be undertaken within the listed buffers from structures by the owner OR a party acting on their behalf OR where written permission is provided from the owner of the structure.
- 48     In my opinion, the intent of the rule is to protect the structural integrity of the listed structures. I agree with the Section 42A report that activities should also be able to be undertaken by a party acting on behalf of the owner or with the written permission of the owner, without necessitating resource consent. Therefore the alteration suggested in the Section 42A report will give effect to the relief sought by Telecom and Chorus.

### **Hazardous Substances and Contaminated Land**

#### *Hazardous Substance – Definition*

- 49     The pLWRP provides two definitions of a hazardous substance; one in Section 2.10 (the definitions chapter) and the other in Schedule 4 (Hazardous Substances). Both define a hazardous substance as containing one or more of the listed intrinsic properties or being of a nature that may generate a substance with any one or more of those properties; wording taken from the RMA which refers to the Hazardous Substances and New Organisms Act (HSNO). The difference between the two definitions being that the definition in Schedule 4 refers to the Hazardous Substances (Minimum Degrees of Hazard) Regulation 2001; a regulation that defines the level of hazard that triggers when a substance becomes hazardous.
- 50     Through day to day operation and maintenance activities, Telecom and Chorus use and store hazardous substances. **For consistency, they seek that all hazardous substance provisions refer to a single definition; their preference being the Schedule 4 definition. In that regard, they seek the definition in Section 2.10 be deleted.**

- 51 The Section 42A report notes the discrepancy between the definitions and recommends that the definition in Section 2.10 be amended to reflect that in Schedule 4 (and not deleted).
- 52 In my opinion, and based on my experience in drafting plan provisions, the consistent use of any term is vital, and the provision of a single definition will provide clarity for plan users. It is my view that the definition in Schedule 4 is the more appropriate of the two as it provides clarity on the level at which a substance is considered hazardous and this would provide greater certainty for activities. The Section 42A report recommendation will give effect to the relief sought by Telecom and Chorus.

*Hazardous Substance – Storage and Use - Rule 5.164*

- 53 Rule 5.164 relates to the storage and use of hazardous substances (other than in a portable container) and this is of interest to Telecom and Chorus as hazardous substances are stored and used at many of their sites. Primarily this is diesel fuel for use in emergency generators. Telecom and Chorus support this rule insofar as it provides for the storage and use of hazardous substances as a permitted activity; however they are concerned with conditions (3) and (4)(b) and (4)(c) relating to monthly tank inspections and stock reconciliation requirements. It is their view that these conditions are not practical or reasonable and could be costly for unstaffed and remote sites that are not regularly visited. In some periods of the year, remote sites may in fact be inaccessible.
- 54 **In that regard, Telecom and Chorus, through their original submission, seek the deletion of conditions 3, 4(b) and 4(c) of Rule 5.164. However through their latter submission alternative relief is suggested, in the form of amendments to conditions 3, 4(b) and 4(c) of Rule 5.164, rather than deletions per se, as follows:**

*Amend conditions 3, 4(b) and 4(c) to exempt unstaffed and remotely located telecommunication and radio-communication facilities OR alternatively reduce the frequency of monitoring and recording requirements for unstaffed and remotely located sites to once per annum.*

- 55 The Section 42A report recognises that the monitoring and recording requirements for unstaffed and remote sites is “impractical” and as such recommends amendments to Rule 5.164(3). It also recognises that Conditions 4(a) and (b) duplicate the requirements of HZNO, and therefore recommends they be deleted.
- 56 I agree with Telecom and Chorus that the inspection and reconciliation requirements for unstaffed and remote sites is onerous. However because of the magnitude of adverse effects that can arise from the leakage or spillage of hazardous substances, it is my opinion that inspections should still be undertaken to identify any defects. After discussion with Telecom and Chorus’ the original submission which seeks the outright deletion of this requirement has been altered to reflect the latter submission and the Section 42A report that recommends inspections at unstaffed and remote sites be reduced to one inspection annually (condition 3).
- 57 I also agree with the Section 42A report and other submitters that as stock reconciliation procedures are covered by other legislation (in this case HZNO), their inclusion as part of the pLWRP provides unnecessary duplication. Therefore I agree with the Section 42A report that condition 4(b) be deleted.
- 58 With regards to Condition 4(c), it is my opinion that the substitution of the requirement to retain three months’ worth of reconciliation records with the requirement to retain ‘recent’ reconciliation records is pragmatic. Such record keeping would likely be an onerous requirement for unstaffed and remote sites. However I suggest that the use of the term ‘recent’ could be problematic in the future and it may be useful for Council to better define what is meant by “recent”.

*Contaminated Land and Potentially Contaminated Land, Policies 4.16 and 4.23*

- 59 For the purposes of consistency within the contaminated land framework, Telecom and Chorus seek the substitution of the term ‘contaminated sites’ with the term ‘potentially contaminated land’ in Policy 4.16 as the rules to which this

policy relates refer to 'potentially contaminated land'. Further, Telecom and Chorus note that the term 'contaminated site' is not defined.

60 **Similarly, Telecom and Chorus seek the substitution of the term 'contaminated land' with the term 'potentially contaminated land' in Policy 4.23.** They consider reference to the latter term more relevant as that is the term used in the relevant rules.

61 The Section 42A report recommends the amendment to Policy 4.23, but not to Policy 4.16. However no discussion is provided as to why the reference to 'contaminated sites' in Policy 4.16 is recommended to be retained. It is therefore not certain whether the lack of a similar alteration to Policy 4.16 is an oversight or intentional.

62 In my opinion, consistency of terms is vital and provides clarity for plan users. I agree with the amendments sought by Telecom and Chorus. If the Commissioners are of a mind to adopt the recommendation of the Section 42A report, the term '*contaminated sites*' should be defined in Section 2.10 (definitions). If the Section 42A report recommendation is not ultimately adopted, then the relief sought by Telecom and Chorus still stands.

#### *Contaminated Land – No Adverse Effects, Policy 4.23*

63 Telecom and Chorus are concerned with the terminology used in Policy 4.23, being "*any discharges...shall be managed to ensure there are no adverse effects on ...*". **It is their view that terminology should be consistent with the policy framework and relevant rules, and that a reference to 'avoiding' adverse effects should be substituted.**

64 The Section 42A report dismisses the wording substitution on the premise that the 'alternative' does not 'improve' the pLWRP.

65 In my opinion, the terminology in the pLWRP sets an extremely high threshold; one that is in fact, higher than that directed by the purpose of the RMA of 'avoiding, remedying or mitigating adverse effects'. I agree with Telecom and Chorus in this respect. I question whether the nature of the terminology fits with the permitted activity structure of the rules (which



implement the policy). For that reason, I do not agree with the recommendation of the Section 42A report. Rather, I support the relief sought in the submission.

### **Recovery Activity**

66 The pLWRP provides for 'recovery activities', through Rule 5.5 as a restricted discretionary activity. This is of interest to Telecom and Chorus as the telecommunication network and service is a lifeline, particularly during times of State of Emergency.

67 In their submission, the Royal Forest and Bird Protection Society (RFBPS) seek to restrict the duration of 'recovery activities' through an additional condition to Rule 5.5. It is Telecom and Chorus' view that this would defeat the purpose of the rule, which is to provide flexibility for 'recovery activities'.

68 **In that regard, Telecom and Chorus, through their latter submission, request that Rule 5.5 is retained without the amendment sought by RFBPS.**

69 The Section 42A report also rejects the inclusion sought by RFBPS.

70 I agree with Telecom and Chorus that restriction of the duration of 'recovery activities' contradicts the intent of the rule and that the submission point made by RFBPS be rejected. The first 'matter of discretion' under that rule is the duration of the activity and it is my opinion that this provides adequate opportunity for the length of time of activities to be controlled by Council. Therefore I agree with the Section 42A report recommendation.

### **Other**

*Definition of Network Utilities and Telecommunication / Radio-Communication Facilities*

71 **Telecom and Chorus seek the inclusion of definitions of the terms 'network utilities' and 'telecommunication and radio-communication facilities'** as these terms are used within a number of provisions in the pLWRP. They also propose definitions for the terms.

72 While the Section 42A report lists and discusses a number of additional definitions proposed by submitters, the definitions of ‘network utilities’ and ‘telecommunication and radio-communication facilities’ are neither included on the list nor discussed in that report. Again this is assumed to be an oversight as the terms in question and their definitions are a live issue via the submissions lodged.

73 In my opinion, as the terms are contained within the provisions of the pLWRP, the inclusion of definitions are essential in order to provide clarity for plan users. Therefore I agree with Telecom and Chorus that definitions should be provided.

## SUMMARY AND CONCLUSIONS

74 My written statement addresses the submissions of Telecom and Chorus. Of which the key issues are as follows:

- *On-Site Wastewater – Discharge Rules 5.7 – 5.9*

The Section 42A report recommends the inclusion of the exemption to Rules 5.7(6)(b) and 5.9(3)(b) for the discharge to ‘*potentially contaminated land*’ from existing, new or modified on-site wastewater treatment systems where the storage of hazardous substances has been previously considered by Council. This reflects the relief sought by Telecom and Chorus (albeit for Rule 5.7(6)(b) only).

I agree that the exemptions recommended will avoid duplication and the inclusion of the exemption to both Rule 5.9(3)(b) and Rule 5.9(3)(b) will provide consistency within the rule framework.

- *Beds of Lakes and Rivers – Perpendicular to the Channel – Rule 5.113*

The Section 42A report recommends the deletion of the reference requiring pipes, ducts, cables or wire run perpendicular to the channel; this reflects the relief sought by Telecom and Chorus. In my opinion, this is a rational recommendation.

- *Beds of Lakes and Rivers – Proximity to Structures – Rule 5.114*

The Section 42A report recommends that activities should be able to be undertaken by the owner or a party acting on their behalf OR

where written permission is provided. This meets the relief sought by Telecom and Chorus.

I am of the view that the recommended amendments will continue protect the structural integrity of the named structures, while providing greater clarity on who, and what process, activities can be carried out within the setbacks.

- *Beds of Lakes and Rivers - Associated Support Structures – Rules 5.113 and 5.114*

Telecom and Chorus seek the substitution of wording in Rule 5.113 and the addition of wording in Rule 5.114 to provide clarity that the rules provide for new and existing support structures. The Section 42A report dismisses this relief as it is of the view that the current wording is sufficient to infer that the rules include structures.

In my opinion, the proposed wording is critical as it makes it more explicit that the rules provide for new structures, as well as existing structures. Therefore I agree with Telecom and Chorus' relief sought, and reject the recommendation of the Section 42A report.

- *Hazardous Substance – Storage and Use – Rule 5.164*

The Section 42A report recommends a number of deletions in this rule as it recognises the monitoring and recording requirements for unstaffed and remote sites as “impractical” and notes that a number stock reconciliation requirements duplicate other legislation. The deletions proposed give effect to the relief sought by Telecom and Chorus in their latter submission.

I agree with the recommendations of the Section 42A report.

75 Other issues relate to defining terms used and the consistency of those terms within provisions, both of which will provide clarity for plan users.

76 In conclusion, it is my view that the relief sought by Telecom and Chorus, is largely provided for in the Section 42A report. In the few identified situations

where the relief sought by Telecom and Chorus has not been granted (even in part), I strongly recommend that the Commissioners give careful consideration to the reasons advanced here and in the original notices of submission for requiring this relief. Telecom and Chorus continue to pursue the specific relief sought in those few matters not recommended in the S42A report to be accepted.

- 77 A decision by the Commissioners to accept that contested relief, in combination with the other recommendations where the relief has been accepted (in part or in full) will provide for the statutory objectives of pLWRP, better reflect the CRPS's direction for 'regionally significant infrastructure', and more broadly the purpose of the RMA.

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Penelope Lemon

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Date

**Appendix One:** Copy of Telecom and Chorus original and latter notices of submission.

**Appendix Two:** Background information re Telecom and Chorus relevant to this submission

Chorus, Telecom

**Form 5**

**Clause 6 of the First Schedule to the Resource Management Act 1991**

**Submission on Proposed Canterbury Land and Water Regional Plan**

**To:** Environment Canterbury  
PO Box 345  
Christchurch 8140

**Submitter:** Chorus New Zealand Limited and Telecom New Zealand Limited

**Submission on:** Proposed Canterbury Land and Water Regional Plan

**1. Submitter Details**

Chorus New Zealand Limited  
PO Box 6640  
Auckland

and

Telecom New Zealand Limited  
C/- Chorus  
PO Box 6640  
Auckland

See address for service contact details below.

**2. Trade Competition**

Chorus and Telecom could not gain any advantage in trade competition through this submission.

Chorus and Telecom are directly affected by the subject matter to which this submission relates. The subject matter relates to environmental affects and not trade competition or the effects of trade competition.

**3. Attendance at Council Hearing**

Chorus and Telecom both operate infrastructure affected by this proposed plan. Chorus is currently contracted by Telecom to manage its response to resource management plans. Chorus and Telecom do wish to be heard at the Council hearing in support of their submission, and will present a joint case.

#### **4. Overview of Submission**

At midnight on 30 November 2011, Chorus and Telecom demerged into two separate companies. This process involved the transfer of a number of existing Telecom assets to Chorus including most exchanges and radio/microwave stations, although some strategic sites such as major exchanges as well as the mobile network were retained by Telecom. Accordingly, both companies have similar interests in terms of the implications of the Proposed Canterbury Land and Water Regional Plan ("Proposed Plan") on their respective telecommunication and radiocommunication network infrastructure.

The matters of specific interest to both companies are the provisions relating to the storage and use of hazardous substances, and specifically Rule 5.164 in relation to the storage and use of diesel fuel. Chorus and Telecom have an extensive network of communications sites within the Environment Canterbury area. This includes 85 diesel fuel tanks associated with backup electricity generators located across 61 sites. Most of these sites are unstaffed, and many are in remote areas that may not be visited for months in some instances, and may be snowed in and inaccessible at times.

Chorus and Telecom support in part Rule 5.164 insofar as it provides for the storage and use of fuels such as diesel as a permitted activity. However, they oppose some of the performance standards, particularly those in relation to regular tank inspections and fuel reconciliations. These provisions appear to be designed for regularly staffed sites which are more regularly visited and filled. In many cases the Chorus and Telecom sites may only be filled once per annum unless generators are run for extended electricity outages. Further, as generators are remotely run regularly for short periods to ensure they remain operational, it is difficult to accurately reconcile fuel volumes on a regular basis across all sites in the network. It is also noted that where consents are obtained under the current operative rules, the consent conditions do not generally require reconciliation as proposed in the permitted activity performance standards.

All new tanks installed are double wall containment tanks, and Chorus and Telecom have ongoing programmes to replace old tank plant with this equipment. New tanks are installed above ground where possible. All equipment is installed in accordance with the relevant HSNO Regulations, and Chorus and Telecom prepare and maintain spill response plans for all new tank installations. Accordingly, removal of the reconciliation conditions is requested, if not in their entirety, then at least in relation to fuel storage for network utility backup/emergency generators.

#### **5. The specific provisions to which this submission relates, and the decisions sought, are set out in Table 1 attached to this submission.**

Chorus and Telecom would be prepared to have further discussions with the Council regarding this submission and the specific matters of relief sought, and are prepared to consider alternative relief that delivers an equivalent outcome.

Signed:.....  
Jane Hollow-Jones  
Head of Property Acquisition, Chorus NZ Ltd

Dated at Auckland this            day of            2012

Signed:.....  
 Ron Brown  
 Head of Property, Telecom NZ Ltd

Dated at Auckland this            day of            2012

**Address for service:**

Chorus  
PO Box 6640  
Auckland

Contact person: Graeme McCarrison  
Telephone: 09 357 7042 or 0274 811 816  
E-mail: [graeme.mccarrison@chorus.co.nz](mailto:graeme.mccarrison@chorus.co.nz)

**Table 1: The specific provisions of the Proposed Canterbury Land and Water Regional Plan this submission relates to.**

| <b>Specific Provision</b> | <b>Support</b> | <b>Support in Part</b> | <b>Oppose</b> | <b>Submission</b>                                                                                                                                                                                                                                                                                                                                                                              | <b>Requested Decision</b>                                                                                                                                                               |
|---------------------------|----------------|------------------------|---------------|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| Rule 5.164                |                | ✓                      |               | A rule providing for the storage and use of diesel fuel (other than in a portable container) as a permitted activity is supported. However, as set out in other submission points, some of the specific permitted activity conditions are opposed.                                                                                                                                             | Retain a Rule 5.164 insofar as it provides for the storage and use of diesel fuel, other than in a portable container, as a permitted activity, but delete conditions 3, 4(b) and 4(c). |
| Rule 5.164(3)             |                |                        | ✓             | A monthly inspection is not practical or reasonable, particularly in cases where sites are remote and not regularly visited. It would be a major and unreasonable cost to inspect all diesel fuel tanks on all sites within the ECAN area on such a regular basis. For remote sites in winter months, they may also be inaccessible to complete such inspections at certain times of the year. | Delete performance standard 5.164(3).                                                                                                                                                   |
| Rule 5.164(4)(b)          |                |                        | ✓             | The stock reconciliation requirements are considered to be impractical and unreasonable for unstaffed and remote sites that are not regularly visited. Fuel usage by running of diesel generators from power outages or regular maintenance runs would be difficult and costly to monitor across the sites to determine fuel usage as part of any reconciliation programme.                    | Delete performance standard 5.164(4)(b)                                                                                                                                                 |
| Rule 5.164(4)(c)          |                |                        | ✓             | The stock reconciliation requirements are considered to be impractical and unreasonable for unstaffed and remote sites that are not regularly visited. Fuel usage by running of diesel generators from power                                                                                                                                                                                   | Delete performance standard 5.164(4)(c)                                                                                                                                                 |



|  |  |  |  |  |                                                                                                                                                                |  |
|--|--|--|--|--|----------------------------------------------------------------------------------------------------------------------------------------------------------------|--|
|  |  |  |  |  | outages or regular maintenance runs would be difficult and costly to monitor across the sites to determine fuel usage as part of any reconciliation programme. |  |
|--|--|--|--|--|----------------------------------------------------------------------------------------------------------------------------------------------------------------|--|



# SUBMISSION ON THE PROPOSED LAND AND WATER REGIONAL PLAN

## *Under clause 6 of the First Schedule of the Resource Management Act 1991*

**TO** Canterbury Regional Council  
P O Box 345  
CHRISTCHURCH

**NAME OF SUBMITTERS** Chorus New Zealand Ltd (“**Chorus**”) and  
Telecom New Zealand Ltd (“**Telecom**”)

### **A. SUBMISSION BACKGROUND**

#### **Format and Content of Submission**

This part of the submission provides background about Chorus and Telecom. This background covers:

- Details of Chorus and Telecom as companies; and
- The type of infrastructure including processes and activities required to ensure their network utility infrastructure functions effectively and efficiently in providing the essential service of telecommunications and radio-communications to customers.

This background is important as it provides a context in which the Council can assess and understand Chorus and Telecom’s submission on the Proposed Land and Water Regional Plan (proposed plan).

#### **About Chorus and Telecom**

Chorus was formed in March 2008 as a Telecom business unit operating at arm’s length from the rest of the organisation, to give all service providers access to the local fixed line network. In December 2011, Chorus formally became a separate entity from Telecom. Currently, Chorus is New Zealand’s largest telecommunications infrastructure company. They maintain and build a network predominantly made up of local telephone exchanges, cabinets and copper and fibre cables. Around 1.8 million lines are connected to homes and businesses throughout the country. They work with many different phone and internet providers to give access to the network. They also deliver ultra-fast broadband to more than 830,000 homes and businesses across New Zealand.

Telecom is NZs largest telecommunications and IT service provider. Telecom provides fixed, mobile and IT products and services to consumer, small and medium-sized enterprise (SME), corporate, enterprise and wholesale customer segments with:

- Over 1 million fixed line residential and SME customers in New Zealand;
- Over 2 million mobile connections (consumer and business) in New Zealand;
- Over 800,000 fixed and mobile internet and broadband customers in New Zealand;
- Over 3,000 business clients across Australasia using Gen-i's ICT services; and
- Over 6,000 business and 300 wholesale customers in Australia using AAPT's services.

Therefore, overall Chorus provides and manages the physical infrastructure and Telecom provides the services using Chorus's infrastructure.

## **Infrastructure Overview**

The activities associated with the telecommunications and radio-communications network provided by Chorus and Telecom have the potential to impact on land and vegetation resources within the Canterbury region. Chorus and Telecom are responsible for the construction, use and maintenance of an efficient network which involves the following infrastructure:

- Underground and overhead lines;
- Telecommunications and radio-communications structures and buildings (including cabinets, equipment shelters, etc); and
- Access tracks.

Chorus and Telecom's key areas of concern are the effect of the rule framework in the proposed plan on the activities or processes that are required to establish and maintain the above infrastructure. There are certain land use activities associated with establishing new infrastructure and maintaining existing infrastructure which involve:

- The excavation of land,
- The disturbance/deposition of soil,
- Vegetation clearance and
- Potential discharges to land and water.

Currently Chorus and Telecom undertakes these activities in accordance with strict Industry Codes of Practice, local authority requirements, and Technical Specification standards.

It is noted that while appeals have been received on the proposed Canterbury Regional Policy Statement 2011, this document currently contains policies which enable the effective operation, maintenance, development and upgrade of regionally significant infrastructure, which includes the telecommunication facilities. This submission has been made in the context of ensuring that the proposed plan implements these policies, by seeking amendments to rules which restrict Chorus and Telecom's ability to carry out its functions and also by supporting rules which are enabling.

## **B THE SPECIFIC PROVISIONS OF THE PROPOSED PLAN THAT THE SUBMISSION RELATES TO ARE:**

The specific provisions of the proposed plan that this submission relates to are as follows:

- Section 2.10 – Definitions
- Section 4 - Policies
- Section 5 – Region-wide Rules

## **C. DETAILS OF THE SUBMISSION:**

Full details of this combined submission are outlined as follows:

### **Submission Point 1 – New Definitions**

Chorus and Telecom oppose the lack of definitions for “network utilities” and “telecommunication and radio-communication facilities” in the proposed plan. As these terms are used in the rules in this proposed plan they should be defined for clarity purposes. Further, the term “telecommunication and radio-communication facilities” is defined in the Canterbury Regional Policy Statement (decisions version) (CRPS).

### **Submission Point 2 – Section 2.10 – Definition of Contaminated Land**

The definition of “contaminated land” in the proposed plan reads:

*“means land that has a hazardous substance in or on it that –  
a) has significant adverse effects on the environment; or  
b) is reasonably likely to have significant adverse effects on the environment”*

Chorus and Telecom oppose the inclusion of this definition. Even though this definition is from the Resource Management Act, the use of it in this proposed plan does not clearly explain to plan users what makes a parcel of land contaminated. It could be interpreted to mean any site that has contained hazardous substances on it (such as fuel storage) as if a substance escaped it would be reasonably likely to have significant adverse effects on the environment. Plan users would likely have to refer to other documents outside the proposed plan in order to understand how the definition was to be interpreted. Further, and most importantly, this definition causes confusion because there are no rules which refer to “*contaminated land*”, only rules which refer to “*potentially contaminated land*”, which is separately defined.

The definition also does not align with Policy 4.23 which is the only place in the proposed plan which refers to contaminated land. Policy 4.16 also refers to “contaminated sites”, which is different terminology again, and is not separately defined. Policy 4.23 seeks to ensure there are no adverse effects on people’s health and safety, human or stock drinking water, and surface water. This definition only covers land where “significant” adverse effects exist.

Chorus and Telecom consider that the definition of contaminated land is not required, and should be removed.

### Submission Point 3 – Section 2.10 – Definition of hazardous substances

The definition of “hazardous substances” in the proposed plan reads:

*“includes, but is not limited to any substance—*

*a) with 1 or more of the following intrinsic properties:*

*(i) explosiveness:*

*(ii) flammability:*

*(iii) a capacity to oxidise:*

*(iv) corrosiveness:*

*(v) toxicity (including chronic toxicity):*

*(vi) ecotoxicity, with or without bioaccumulation; or*

*b) which on contact with air or water (other than air or water where the temperature or pressure has been artificially increased or decreased) generates a substance with any 1 or more of the properties specified in paragraph (a)”*

This definition does not match the definition in Schedule 4 of the proposed plan, which states that substances must also be defined in terms of the Hazardous Substances (Minimum Degrees of Hazard) Regulations 2001. The definition of hazardous substances in Section 2.10 of the proposed plan comes straight from the Resource Management Act 1991 and would capture a broad range of substances that are not necessarily hazardous. The rules for storage of hazardous substances refer to the definition in Schedule 4. It is considered that other rules which have conditions which trigger consent because of hazardous substances being present on a site (such as Rule 5.31 and 5.33) should also refer to the definition in Schedule 4.

Chorus and Telecom consider that, for consistency, all rules which relate to hazardous substances should refer to the same definition of hazardous substances (contained in Schedule 4). Therefore, the definition of hazardous substances in the definitions section of the proposed plan is not necessary and should be removed. It may be that there are also policies which should also refer to the definition contained in Schedule 4.

### Submission Point 4 – Section 2.10 – Definition of On-site wastewater treatment system

The definition of “on-site wastewater treatment system” reads:

*“means a system that receives domestic wastewater from a single site and treats and applies the wastewater to a land application system or a holding tank.”*

Chorus and Telecom consider this definition to be confusing, as rules relating to on-site wastewater treatment systems only cover situations where a discharge to land is occurring. If wastewater is being held in a holding tank on a site, there is no discharge, and therefore the rules relating to on-site wastewater treatment systems do not apply. The definition of on-site waste water treatment system includes holding tanks, when there is no discharge from these tanks. Accordingly, Chorus and Telecom seeks for the reference to holding tanks to be removed from this definition.

## Submission Point 5 – Section 4 – Policy 4.16

Policy 4.16 reads:

*“4.16 The discharge of contaminants to groundwater from earthworks, excavation, waste collection or disposal sites and contaminated sites is avoided or minimised by ensuring that:*

- (a) activities are sited, designed and managed to avoid the contamination of groundwater;*
- (b) existing or closed landfills and contaminated sites are managed and monitored to minimise any contamination of groundwater; and*
- (c) there is sufficient thickness of undisturbed sediment in the confining layer over the Coastal Confined Aquifer System to prevent the entry of contaminants into the aquifer.”*

Chorus and Telecom oppose the wording of this policy, as it refers to “contaminated sites”, for which there is no definition in the proposed plan. It is considered that the policy would be more effective if it referred to “potentially contaminated land”, which is consistent with the rule framework in the proposed plan. There are no rules for “contaminated sites”, only rules relating to land which is potentially contaminated. As the rules in the proposed plan seek to manage “potentially contaminated land”, it would seem more relevant for this policy to also refer to potentially contaminated land rather than contaminated sites.

## Submission Point 6 – Section 4 – Policy 4.23

Policy 4.23 reads:

*“4.23 Any discharges of hazardous substances from contaminated land, including existing and closed landfills, shall be managed to ensure there are no adverse effects on people’s health or safety, on human or stock drinking water supplies, or on surface water.”*

Chorus and Telecom oppose the wording of this policy. It is inconsistent with the general policy framework. Most policies seek to avoid adverse effects on the environment, rather than ensuring that there are no effects whatsoever. This is a subtle difference, but Chorus and Telecom believe that this policy should be consistent with the rest of the policy framework, and with the rules which relate to these policies.

The policy also refers to managing contaminated land, however there are no rules which specifically refer to contaminated land – rather there are rules which relate to potentially contaminated land. This policy could be made more relevant to the implementation methods by referring to “potentially contaminated land”, rather than contaminated land.

Chorus and Telecom consider that this policy could be amended to be more consistent with other policies, and also to make it more relevant to the rules which are proposed to implement the policy.

## Submission Point 7 – Section 5 – Rule 5.5 Recovery Activities

Rule 5.5 reads:

*“5.5 Any recovery activity that would otherwise contravene sections 9(2), 13(1), 14(2), s14(3) or s15(1) of the RMA and is not listed as a permitted activity in this Plan is a restricted discretionary activity.*

*The CRC will restrict discretion to the following matters:*

- 1. The duration and scale of the activity;*
- 2. The adequacy of the management plan prepared in respect of the activity, and in particular, the identification of the effects and the proposed mitigation; and*
- 3. The extent to which the proposed activity is consistent with the objectives and policies of this Plan.”*

Chorus and Telecom generally support the inclusion of this rule. It complements the emergency works provisions in the Resource Management Act. The emergency works provisions allow land use activities to be carried out without first obtaining a resource consent in certain circumstances, but require a resource consent to be lodged after the works have been completed. In situations where the works have been undertaken when a regional or national state of emergency has been declared, the rule overrides the activity status of the works to make it a restricted discretionary activity.

Chorus and Telecom consider that the approach of making land use activities undertaken in a regional or national state of emergency a restricted discretionary activity is a pragmatic approach, and is supportive of this rule.

## Submission Point 8 – Section 5 – Rules 5.7-5.10 On-site wastewater

*See Appendix One for these rules.*

Chorus and Telecom are generally supportive of the proposed on-site wastewater rules. However, they seek clarification that the rules are intended to apply to on-site wastewater systems, other than purely domestic type activities. The Australian/New Zealand Standard 1547:2012 referred to in these rules defines domestic wastewater as being *“wastewater originating from activities including water closets, urinals, kitchens, bathrooms (including showers, washbasins, baths, spa baths but not spa pools or hot tubs) and laundries. Such domestic wastewater includes that from facilities serving staff/employees/residents in institutional, commercial and industrial establishments”*.

It is not clear whether these rules apply the same definition of domestic wastewater. If the rules only provide for household domestic wastewater, instead of also providing for similar sized systems used for institutional, commercial and industrial establishments, this could result in waste water treatment systems for toilets at Chorus and Telecom’s staffed facilities not being permitted.

Chorus and Telecom are also concerned that all lawfully established on-site wastewater treatment systems which are on land that is potentially contaminated now require a discharge permit under condition 6(b) of Rule 5.7. This would include any staffed sites which have hazardous substances stored on them. All hazardous substances on Chorus and Telecoms facilities are contained with containment bunds, meaning that the sites should not have contaminants in the soil, however they are caught by the definition of “potentially contaminated”.



Chorus and Telecom believe there should be an exception for telecommunication and radio-communication facilities specifically, or a more general exemption for network utilities where it can be demonstrated that hazardous substances have been managed so that they are not able to enter the soil on a site, i.e. where a discharge permit and/or land use consent for storage of hazardous substances exists which demonstrates that hazardous substances are managed and can be contained so that the land will not become contaminated.

#### **Submission Point 9 – Section 5 – Rules 5.72-5.73 Stormwater**

*See Appendix One for these rules.*

The proposed plan states that any discharge which is not to a community or network utility operator stormwater system, or is not from or onto potentially contaminated land, and which fails to comply with the standards in Rule 5.72 is a non-complying activity under Rule 5.73.

The definition of stormwater includes runoff generated by modifying the surface of land which increases or accelerates runoff (including construction activities). Under proposed rule 5.42, construction phase and post-construction (or even remediation) stormwater runoff/discharge on a site which does not meet any of the rule conditions becomes non-complying. The proposed plan states that generally consent would not be granted for non-complying activities except for in exceptional circumstances.

Chorus and Telecom consider that the proposed non-complying activity status for stormwater which does not comply with permitted activity rule 5.72 is too onerous, given that stormwater runoff/discharge cannot be avoided and there are recognised industry best practices to ensure any adverse effects from stormwater are avoided, remedied or mitigated to an acceptable level.

#### **Submission Point 10 – Section 5 – Rule 5.89 Water for construction and maintenance**

*See Appendix One for this rule.*

Chorus and Telecom support the inclusion of this rule, which allows the take and use of water for infrastructure construction, maintenance and repair with reasonable conditions of use attached.

#### **Submission Point 11 – Section 5 – Rule 5.113 Structures**

*See Appendix One for this rule.*

Chorus and Telecom support the inclusion of this rule, as it permits pipes, ducts cables or wires. However, Chorus and Telecom seek amendments to the wording to ensure this rule permits associated support structures. The current wording is not sufficiently clear for plan users. Unless amended the situation would arise whereby the pipes, ducts, cables or wires would be permitted but their associated support structures would require consent. Support structures are integral components and should be treated as one.

It also is not clear from reading the rule why a pipe, duct, cable or wire must be run perpendicular to a river channel, as required under condition 1 of Rule 5.113. While it is obviously the shortest route across a river channel, it is often not practical to do this, and it can also be difficult to determine a perpendicular course on a river in which the channel meanders across the bed. For example, it can be difficult to lay pipes, ducts, cables and wires perpendicular to the channel where there is a cliff on one side of the river, or if there is a tree obstructing a perpendicular crossing.

Consequently, Chorus and Telecom seek an amendment to condition 1 to remove the requirement to construct pipes, ducts, cables and wires perpendicular to the channel.

#### **Submission Point 12 – Section 5 – Rule 5.114 Structures**

*See Appendix One for this rule.*

Chorus and Telecom support the inclusion of this rule, as it permits bed disturbance, and the installation of pipes, ducts cables or wires. However, as for the same reasons outlined in Submission Point 11, Chorus and Telecom seek amendments to the wording to ensure that this rule permits associated support structures as well. The current wording is not sufficiently clear for plan users.

Chorus and Telecom also have concerns that the current wording of condition 3 would prevent the owners of the listed structures from carrying out works within 10m of their own structures. For example, Chorus would not be able to carry out drilling, tunnelling or disturbance within 10m of their network utility poles. This might become an issue if an overhead line is to be undergrounded through the river bed from an existing pole. Chorus and Telecom seek amendments to ensure that drilling, tunnelling and disturbance can be carried out within 10 m of a structure listed in condition 3 by the person or company that owns the structure.

#### **Submission Point 13 – Section 5 – Rule 5.147 Vegetation clearance in riparian areas**

*See Appendix One for this rule.*

Chorus and Telecom support the inclusion of this rule, as it permits vegetation clearance within riparian areas, with reasonable conditions attached. Chorus and Telecom are particularly supportive of Condition 6, which provides exemptions for network utilities for vegetation clearance in riparian areas associated with the establishment, maintenance and repair of these utilities.

Chorus and Telecom also consider a definition of the term ‘network utilities’ is necessary in the proposed plan for clarity purposes – see Submission Point 1.

#### **Submission Point 14 – Section 5 – Rule 5.148 Earthworks in riparian areas**

*See Appendix One for this rule.*

This rule permits earthworks within riparian areas, with reasonable conditions attached. Chorus and Telecom are particularly supportive of Condition 7, which provides exemptions for network utilities for earthworks in riparian areas associated with the establishment, maintenance and repair of these utilities.

Chorus and Telecom also consider a definition of the term ‘network utilities’ is necessary in the proposed plan for clarity purposes – see Submission Point 1.

#### **Submission Point 15 – Section 5 – Rule 5.150 Vegetation and earthworks in erosion prone areas**

*See Appendix One for this rule.*

This rule permits earthworks and vegetation clearance within erosion prone areas which are associated with the establishment, repair or maintenance of telecommunication lines and radio-communication structures, with reasonable conditions attached.

While generally supportive of this rule, Chorus and Telecom seek an amendment to the rule, to ensure that earthworks and vegetation clearance for support structures for telecommunication lines are also covered by this rule.

They also seek the inclusion of a definition of ‘telecommunication and radio-communication facilities’ in the proposed plan for clarity purposes – see Submission Point 1. If this definition is accepted through decisions then the terminology used in Rule 5.150 should match the new definition, i.e. facilities rather than structures.

#### **Submission Point 16 – Section 5 – Rule 5.164 Hazardous substances**

*See Appendix One for this rule.*

An in-house submission has been prepared by Chorus and Telecom on this rule. That submission is generally supportive of the approach taken to the management of hazardous substances in the proposed plan, i.e. no specific volume limits other than for portable containers. However, Chorus and Telecom oppose some of the conditions in relation to regular tank inspections and fuel reconciliations. This is particularly in relation to unstaffed sites with backup/emergency diesel generators (with a storage tank) in remote areas that may not be visited for months and may only be refuelled once per annum.

Chorus and Telecom believe the monthly tank inspection and stock reconciliation requirements are too onerous for unstaffed remote sites and an exemption should be given for those sites.

### **D. THE FOLLOWING DECISION IS SOUGHT FROM ENVIRONMENT CANTERBURY:**

#### **Submission Point 1 – Definition of Network Utilities and Telecommunication and Radio-communication Facilities:**

Insert new definitions of “network utilities” and “telecommunication and radio-communication facilities” as follows:

*“Network Utilities – means a structure that is part of an operation undertaken or proposed to be undertaken by a network utility operator and includes structures associated with electricity supply (including electricity lines/cables and electricity network facilities), flood protection, water supply, sewage disposal, drainage, telecommunications (including telecommunication lines and radio-communication facilities), and access and means of transportation on land (including bridges, roads and tracks).”<sup>1</sup>*

Generally as per CRPS definition, *“Telecommunication and radio-communication facilities – includes transmitting/receiving devices such as aerials, dishes, antenna, wires, cables, insulators, casings, tunnels and associated equipment as well as support structures, such as towers, masts and poles and ancillary equipment buildings.”*

#### **Submission Point 2 – Definition of Contaminated Land:**

Remove the definition of contaminated land from Section 2 of the proposed plan; which should be done in conjunction with replacing the words “contaminated sites” with “potentially contaminated land” in Policy 4.16; and inserting the word “potentially” before the words “contaminated land” in Policy 4.23 (these amendments are described in further detail in submission points 5 and 6 below).

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<sup>1</sup> Definition sourced from Telecom New Zealand Ltd submission to the Proposed Natural Resources Regional Plan.

### Submission Point 3 – Definition of Hazardous Substance:

Remove the hazardous substance definition from Section 2 of the proposed plan, so it is clear to plan users that the Hazardous Substance rules refer to hazardous substances as defined in Schedule 4. Amend all rules and any relevant policies which refer to hazardous substances to refer to hazardous substances as defined in Schedule 4.

### Submission Point 4 – Definition of On-site Wastewater Treatment System:

Amend the definition of on-site waste water treatment system, to make it clear to plan users that the on-site wastewater rules do not apply to systems where there is no discharge occurring, as follows:

***“On-Site Wastewater Treatment System** - means a system that receives domestic wastewater from a single site and treats and applies the wastewater to a land application system ~~or a holding tank~~”*

### Submission Point 5 – Policy 4.16 Earthworks, Land Excavation and Deposition of Material into Land over Aquifers:

Amend Policy 4.16, to use consistent terminology by replacing “contaminated sites” with “potentially contaminated land”, as follows:

*“4.16 The discharge of contaminants to groundwater from earthworks, excavation, waste collection or disposal sites and ~~contaminated sites~~ potentially contaminated land is avoided or minimised by ensuring that:*

- (a) Activities are sited, designed and managed to avoid the contamination of groundwater;*
- (b) Existing or closed landfills and ~~contaminated sites~~ potentially contaminated land are managed and monitored to minimise any contamination of groundwater...”*

### Submission Point 6 – Policy 4.23 Hazardous Substances and Hazardous Activities:

Amend Policy 4.23, to be consistent with the rest of the policy framework of the proposed plan which is to avoid adverse effects, as follows:

*“4.23 Any discharges of hazardous substances from potentially contaminated land, including existing and closed landfills, shall be managed to ensure ~~there are no~~ that adverse effects on people’s health or safety, on human or stock drinking water supplies, or on surface water are avoided.”*

### Submission Point 7 – Rule 5.5 Recovery Activities:

Support the inclusion of proposed Rule 5.5, as it provides more certainty about matters which will be considered when applying for a land use consent for works carried out in an regional or national state of emergency situation.

### Submission Point 8 – Definition of Domestic Wastewater:

Include the following definition of domestic wastewater in the Definitions section of the proposed plan, from AS/NZS 1547:2012:

***“Domestic wastewater** - Wastewater originating from activities including water closets, urinals, kitchens, bathrooms (including showers, washbasins, baths, spa baths but not spa pools or hot tubs) and laundries. Such domestic wastewater includes that from facilities serving staff/employees/residents in institutional, commercial and industrial establishments”*

Amend condition 6(b) of Rule 5.7 as follows:

*“(b) that is potentially contaminated, except where a discharge permit and/or land use consent for storage of hazardous substances exists which demonstrates that hazardous substances are managed so that the land will not become contaminated.”*

#### **Submission Point 9 – Rule 5.73 Stormwater:**

Amend Rule 5.73 to make stormwater discharges which do not comply with conditions of 5.72 a restricted discretionary activity, rather than a non-complying activity, as follows:

*“5.73 The discharge of stormwater into a river, lake, wetland or artificial watercourse or onto or into land in circumstances where a contaminant may enter water that does not meet the conditions of Rule 5.72 is a ~~non-complying~~ restricted discretionary activity.*

*The CRC will restrict discretion to the following matters:*

- 1. The effects on ground and/or surface water quality from not meeting the condition or conditions of Rule 5.72.*
- 2. The extent to which the proposed activity will prevent or compromise the attainment of the environmental outcomes sought by, or is inconsistent with, the objectives and policies of this Plan relating to water quality.”*

#### **Submission Point 10 – Rule 5.89 Water for Construction and Maintenance:**

Support the inclusion of proposed Rule 5.89, as it provides for water takes for infrastructure construction as a permitted activity.

#### **Submission Point 11 – Rule 5.113 Structures:**

Amend Rule 5.113 to provide clarity that it includes the erection of support structures as follows:

*“The placement, use, altering, reconstruction, maintenance or removal of pipes, ducts, cables or wires and any associated support structures over the bed of a lake or river, ~~whether attached to a structure or not~~ is a permitted activity, provided the following conditions are met: ...”*

Amend condition 1 to remove the requirement for pipes, ducts, cables and wires to run perpendicular to the channel or a river, as follows:

*“The pipes, ducts, cables or wires ~~run perpendicular to the channel and~~ do not prevent access to or over the bed or to lawfully established structures, including flood protection works, or to flood control vegetation”*

Alternatively, amend condition 1 to ensure that the shortest practicable route is taken across a river channel, as follows:

*“The pipes, ducts, cables or wires ~~run perpendicular to the channel and~~ are run taking the shortest practicable route across the river, and do not prevent access to or over the bed or to lawfully established structures, including flood protection works, or to flood control vegetation”*

#### **Submission Point 12 – Rule 5.114 Structures:**

Amend Rule 5.114, to clarify that structures are included as a permitted activity, as follows:

*“The drilling, tunnelling, or disturbance in or under the bed of a lake or river and the installation, maintenance, or removal of pipes, ducts, cables or wires and any associated support structures is a permitted activity, provided the following conditions are met: ...”*

*... 3. The activity is undertaken at a distance greater than 10m away from any dam, weir, bridge, or network utility pole, pylon or flood protection vegetation; unless undertaken by the owner of the structure...”*

#### **Submission Point 13 – Rule 5.147 Vegetation Clearance in Riparian Areas:**

Support the inclusion of proposed Rule 5.147 – in particular condition 6, which provides exemptions for network utilities for vegetation clearance in riparian areas associated with establishment, maintenance and repair of utilities.

#### **Submission Point 14 – Rule 5.148 Earthworks in Riparian Areas:**

Support the inclusion of proposed Rule 5.148 – in particular condition 7, which provides exemptions for network utilities for excavation in riparian areas associated with establishment, maintenance and repair of utilities.

#### **Submission Point 15 – Rule 5.150 Vegetation Clearance and Earthworks in Erosion-prone Areas:**

Support the inclusion of Rule 5.150, which provides for vegetation clearance and earthworks in erosion prone areas, but amend the wording to ensure that earthworks and vegetation clearance associated with support structures for telecommunication lines are permitted also:

*“... (h) Earthworks and vegetation clearance associated with the establishment, repair or maintenance of pipelines, electricity lines, and telecommunication lines and their associated support structures, ~~and~~ radio communication structures and fences; and...”*

#### **Submission Point 16 – Rule 5.164 Hazardous Substances:**

Support the inclusion of proposed Rule 5.164, however, amend conditions 3, 4(b) and 4(c) to exempt unstaffed and remotely located telecommunication and radio-communication facilities from the monthly tank inspection requirements (condition 3) and the stock reconciliation requirements (conditions 4(b) and 4(c)).

Alternatively, reduce the frequency of monitoring and recording requirements for unstaffed and remotely located sites to once a year.

#### **General Submission Points:**

Notwithstanding the specific relief sought in submissions points 1 – 16 above, Chorus and Telecom note that there may be other ways of achieving the desired relief.

Chorus and Telecom also seek any consequential amendments that may be required as a result of the relief sought.

## E. HEARING

Chorus and Telecom wish to be heard in support of its submission. If others make similar submissions, Chorus and Telecom may be prepared to consider presenting a joint case with them at any hearing.

SIGNED for and on behalf of  
Chorus New Zealand Ltd and Telecom New Zealand Ltd



.....  
Sarah Totty  
Authorised agent for and on behalf of Chorus New Zealand Ltd and Telecom New Zealand Ltd

Dated: 5 October 2012

### **Address for service of Submitter:**

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### **Appendices:**

Appendix One – Copy of Regional Rules referred to in Submission Points

## **Appendix One:**

### **Copy of Regional Rules referred to in Submission Points**



## **On-site Wastewater:**

**5.7 The discharge of wastewater from an existing on-site wastewater treatment system onto or into land in circumstances where a contaminant may enter water is a permitted activity, provided the following conditions are met:**

1. The discharge was lawfully established prior to 1 November 2013;
2. The treatment and disposal system has not been altered or modified from that established at the time the system was constructed, other than through routine maintenance;
3. The volume of the discharge has not been increased as a result of the addition of buildings, an alteration of an existing building, or a change in use of a building that is connected to the system;
4. The treatment and disposal system is operated and maintained in accordance with the system's design specification for maintenance or, if there is no design specification for maintenance, Section 6.3 of New Zealand Standard AS/NZS 1547:2012 – On-site domestic wastewater management;
5. The discharge is within the area marked "Septic tank Suitability – Area A" on the Planning Maps; and
6. The discharge is not onto or into land:
  - (a) where there is an available sewerage network;
  - (b) that is potentially contaminated;
  - (c) that is listed as an archaeological site;
  - (d) where the discharge would enter any surface water body;
  - (e) within 20 m of any surface water body or the Coastal Marine Area;
  - (f) within 50 m of a bore used for water abstraction; or
  - (g) within a group or community drinking water supply protection area as set out in Schedule 1 of this Plan.

**5.8 The discharge of wastewater from an existing on-site domestic wastewater treatment system onto or into land in circumstances where a contaminant may enter water that does not meet one or more of the conditions of Rule 5.7 is a restricted discretionary activity.**

The CRC will restrict discretion to the following matters:

1. The effect of not meeting the condition or conditions of Rule 5.7.
2. The extent to which the proposed activity is consistent with the objectives and policies of this Plan relating to Ngāi Tahu values, human and animal health and drinking water quality.

### *Notification*

Pursuant to sections 95A and 95B of the RMA an application for resource consent under this rule will be processed and considered without public or limited notification.

Note that limited notification to affected order holders in terms of section 95F of the RMA will be necessary, where relevant, under section 95B(3) of the RMA.

**5.9 The discharge of wastewater from a new or upgraded on-site domestic wastewater treatment system onto or into land in circumstances where a contaminant may enter water is a permitted activity, provided the following conditions are met:**

1. The discharge volume does not exceed 14 m<sup>3</sup> per week;
2. The discharge is within the area marked "Septic tank Suitability – Area A" on the Planning Maps;
3. The discharge is not onto or into land:
  - (a) where there is an available sewerage network;
  - (b) that is potentially contaminated;
  - (c) listed as an archaeological site;

- (d) where the discharge would enter any surface water body;
  - (e) within 20 m of any surface water body or the Coastal Marine Area;
  - (f) within 50 m of a bore used for water abstraction; or
  - (g) within a group or community drinking water supply protection area as set out in Schedule 1.
4. The treatment and disposal system is designed and installed in accordance with Sections 5 and 6 of New Zealand Standard AS/NZS 1547:2012 – On-site domestic wastewater management; and
5. The treatment and disposal system is operated and maintained in accordance with the system’s design specification for maintenance or, if there is no design specification for maintenance, Section 6.3 of New Zealand Standard AS/NZS 1547:2012 – On-site domestic wastewater management.

**5.10 The discharge of wastewater from a new or upgraded on-site domestic wastewater treatment system onto or into land in circumstances where a contaminant may enter water that does not meet one or more of the conditions of Rule 5.9 is a restricted discretionary activity.**

The CRC will restrict discretion to the following matters:

1. The effect of not meeting the condition or conditions of Rule 5.9.
2. The extent to which the proposed activity is consistent with the objectives and policies of this Plan relating to Ngāi Tahu values, human and animal health and drinking water quality.

*Notification*

Pursuant to sections 95A and 95B of the RMA an application for resource consent under this rule will be processed and considered without public or limited notification.

Note that limited notification to affected order holders in terms of section 95F of the RMA will be necessary , where relevant, under section 95B(3) of the RMA.

**Stormwater:**

**5.72 The discharge of stormwater into a river, lake, wetland or artificial watercourse or onto or into land in circumstances where a contaminant may enter water is a permitted activity provided the following conditions are met:**

1. The discharge is into a community or network utility operator stormwater system; or
2. The discharge is not from or onto potentially contaminated land;
3. The discharge is not into:
  - (a) a water race, as defined in Section 5 of the Local Government Act 2002;
  - (b) a wetland, unless the wetland is part of a lawfully established stormwater or wastewater treatment system; or
  - (c) a water body that is Natural State, unless the discharge was lawfully established before 1 November 2013;
4. The discharge does not result in an increase in the flow in the receiving water body at the point of discharge of more than 1% of a flood event with an AEP of 20% (one in five year event);
5. For a discharge of stormwater onto or into land:
  - (a) the discharge does not cause stormwater from up to and including a 24 hour duration 2% AEP rainfall event to enter any other property;
  - (b) the discharge does not result in the ponding of stormwater on the ground for more than 48 hours;
  - (c) the discharge is located at least 1 m above the highest groundwater level that can be reasonably inferred for the site at the time the discharge system is constructed;
  - (d) there is no overland flow resulting from the discharge to a surface water body unless via a treatment system or constructed wetland; and

- (e) for a discharge from a roof, the discharge system is sealed to prevent the entry of any other contaminants; and
- 6. For a discharge of stormwater to surface water:
  - (a) The discharge meets the water quality standards in Schedule 5 after reasonable mixing with the receiving waters, in accordance with Schedule 5;
  - (b) the concentration of total suspended solids in the discharge shall not exceed:
    - (i) 50 g/m<sup>3</sup>, where the discharge is to any spring-fed river, Banks Peninsula river, or to a lake; or
    - (ii) 100 g/m<sup>3</sup> where the discharge is to any other river or to an artificial watercourse; and
  - (c) the discharge to water is not within a group or community drinking water supply protection area as set out in Schedule 1.

## **Water for Construction and Maintenance**

### **5.89 The taking and using of water from a river, lake or an artificial watercourse for infrastructure construction, maintenance and repair is a permitted activity, provided the following conditions are met:**

1. The take and use does not exceed 15 L/s and 100 m<sup>3</sup> per day;
2. The take and use is for no longer than 2 months;
3. The take does not at any time exceed 10% of the flow at the point of take;
4. Where the take is from a water body with a minimum flow set in Sections 6-15, the take or diversion ceases when the flow is at or below the minimum flow, as published on the CRC website;
5. The take is not from a natural wetland;
6. Fish are prevented from entering the water intake as set out in Schedule 2;
7. Where the take is from an irrigation or hydro-electricity canal or storage facility, the abstractor holds a current written agreement with the holder of the resource consents for the taking or diversion of water into the canal or storage facility; and
8. The take is not from any river or part of a river that is subject to a Water Conservation Order.

## **Structures**

### **5.113 The placement, use, altering, reconstruction maintenance or removal of pipes, ducts, cables or wires over the bed of a lake or river, whether attached to a structure or not is a permitted activity, provided the following conditions are met:**

1. The pipes, ducts, cables or wires run perpendicular to the channel and do not prevent access to or over the bed or to lawfully established structures, including flood protection works, or to flood control vegetation;
2. The activity is not undertaken in, on, or over the bed of any river or lake listed as a high naturalness lake or river in Sections 6-15, unless the pipes, ducts, cables or wires are attached to an existing structure;
3. If the pipes, ducts, cables or wires are attached to an existing structure, they are attached above the soffit; and
4. The pipes, ducts, cables or wires do not obstruct or alter navigation of the lake or river.

**5.114 The drilling, tunnelling, or disturbance in or under the bed of a lake or river and the installation, maintenance, or removal of pipes, ducts, cables or wires is a permitted activity, provided the following conditions are met:**

1. The activity is not undertaken in, on, or under the bed of a lake listed as a high naturalness lake in Sections 6-15;
2. The activity does not involve the deposition of any substance, other than bed material, on the bed of a lake or river;
3. The activity is undertaken at a distance greater than 10 m from any dam, weir, bridge, or network utility pole, pylon or flood protection vegetation, 150 m from any water level recorder, 50 m from any flood protection works;
4. Within 30 days of the completion of the activity the bed of the lake or river is returned to its original contour;
5. Marker posts are erected for the lifetime of the pipes, ducts, cables or wires; and
6. The works do not occur in flowing water.

Note: The installation of a bore in the bed of a lake or river is controlled in Rule 5.78.

#### **Earthworks and Vegetation Clearance in Riparian Areas**

**5.147 The use of land for vegetation clearance outside the bed of a river or lake or adjacent to a natural wetland boundary but within:**

- a. 20 m of the bed of a lake or river or a natural wetland boundary in Hill and High Country land or land zoned LH2 on the Planning Maps; or
- b. 10 m of the bed of a lake or river or a natural wetland boundary in land zoned LH1 on the Planning Maps;

**is a permitted activity provided the following conditions are met:**

1. The area of bare ground resulting from vegetation clearance does not exceed 10% of the area within the relevant setback distance in any site at any time, except as a result of pest-plant spraying;
2. The vegetation clearance is not on land above 900 m above sea level;
3. The felling of trees, or any part of a tree, except where to ensure human safety it is not practicable to do so, is away from any lake, river or wetland and no logs or tree trunks are dragged through or across the bed of a lake or a permanently flowing river, or a wetland;
4. The vegetation clearance does not occur within 1m of a significant spawning reach for salmon or an inanga spawning area listed in Schedule 17;
5. The vegetation is not flood or erosion control vegetation; and
6. Vegetation clearance associated with recovery activities or the establishment, maintenance or repair of network utilities and fencing is not required to meet Conditions 1 and 2.

Note: Refer to the CRC's Erosion and Sediment Control Guidelines for additional guidance on undertaking vegetation clearance activities.

**5.148 The use of land for earthworks or cultivation outside the bed of a river or lake or adjacent to a natural wetland boundary but within:**

**a. 20 m of the bed of a lake or river or a natural wetland boundary in Hill and High Country land and land zoned LH2 on the Planning Maps; or**

**b. 10 m of the bed of a lake or river or a natural wetland boundary in land zoned LH1 on the Planning Maps;**

**is a permitted activity provided the following conditions are met:**

1. The extent of earthworks or cultivation within the relevant setback distances in any property does not at any time exceed:

(a) an area of 500 m<sup>2</sup>, or 10% of the area, whichever is the lesser; or

(b) a volume of 10 m<sup>3</sup> on Hill and High Country land and land zoned LH2 on the Planning Maps;

2. Any discharge of sediment associated with the activity into the water in a river, lake, wetland or the Coastal Marine Area does not exceed 8 hours in any 24 hour period, and does not exceed 24 hours in total in any 6 month period;

3. Any cultivation is across the contour of the land;

4. Any trenches excavated for infrastructure are back-filled and compacted within 10 days of being excavated;

5. The activity does not occur within a significant spawning reach for salmon or an inanga spawning area listed in Schedule 17;

6. Any earthworks or cultivation is not within 5 m of any flood control structure; and

7. Earthworks associated with recovery activities or the establishment, maintenance or repair of network utilities and fencing is not required to meet Conditions 1 or 2.

**5.150 Within Area LH2 of the Planning Maps and outside any riparian margin, the use of land for:**

**(a) Cultivation or spraying of slopes less than 15°;**

**(b) Cultivation or spraying on slopes greater than 15° provided the total area sprayed or cultivated is less than 200 m<sup>2</sup>;**

**(c) Hand clearance and spot spraying of vegetation;**

**(d) Silvicultural practices of release cutting, pruning or thinning to waste and harvesting by suspension systems;**

**(e) Maintenance of existing firebreaks, roads and tracks and, during a fire emergency, construction of new firebreaks and tracks;**

**(f) Construction of walking tracks no more than 1.5 m wide;**

**(g) Maintenance of existing transport networks;**

**(h) Earthworks and vegetation clearance associated with the establishment, repair or maintenance of pipelines, electricity lines, telecommunication lines and radio communication structures and fences; and**

**(i) Other earthworks where:**

**(i) the volume is less than 10 m<sup>3</sup> per site or per hectare (whichever is the greater); and**

**(ii) the maximum depth of cut or fill is less than 0.5 m;**

**is a permitted activity provided the following conditions are met:**

1. Any cleared areas are stabilised and where it is not put to its final use shall be revegetated within 6 months from the date of the commencement of the vegetation clearance or earthworks;

2. Any cultivation is across the contour of the land;

3. When firebreaks, roads, or tracks are constructed or maintained or exotic forest harvesting is carried out, culverts and stormwater controls are installed and maintained to lead water via a channel into an existing watercourse;

And

4. the concentration of total suspended solids in the discharge shall not exceed:
- (a) 50 g/m<sup>3</sup>, where the discharge is to any Spring-fed river, Banks Peninsula river, or to a lake; or
  - (b) 100 g/m<sup>3</sup> where the discharge is to any other river or to an artificial watercourse.

Note: Refer to the CRC's Erosion and Sediment Control Guidelines for additional guidance on undertaking vegetation clearance activities.

**5.164 The use of land for the storage, other than in a portable container, and use of a hazardous substance listed in Part A of Schedule 4 is a permitted activity provided the following conditions are met:**

1. All hazardous substances on a site are stored and used in accordance with requirements under the Hazardous Substances and New Organisms Act 1996. Evidence of compliance with these requirements shall be made available to the CRC upon request;
2. A current inventory of all hazardous substances on the site is maintained, and a copy of the inventory shall be made available to the CRC or emergency services on request;
3. For hazardous substances stored or held on or over land, all areas or installations used to store or hold hazardous substances are inspected at least once per month and repaired or maintained if any defects are found that may compromise the containment of the hazardous substance;
4. For hazardous substances stored or held in a container located in or under land, stock reconciliation is undertaken:
  - (a) for service stations storing or holding fuel:

If the stock reconciliation of product volumes stored in each container located in or under land at a service station shows a discrepancy of greater than 0.5% over three consecutive days or greater than a 1,000 litre loss in a single day, a Product Loss Investigation Procedure shall be implemented immediately. This procedure shall involve the following key steps:

    - (i) Site Level check, including review of data and calculations and reconciliation actions;
    - (ii) Where the cause of concern has not been identified by (i), an Engineering Check of the reconciliation equipment and observation wells;
    - (iii) Where the cause of concern has not been identified by (ii), a Container Test;
    - (iv) A copy of the procedure shall be kept on site at all times;
    - (v) If there has been any physical loss of product identified by the above procedure, CRC shall be notified within 2 working days unless the loss occurred from a container in any area listed in condition (5), in which case notification shall occur within 24 hours of confirmation of the loss;
  - (b) for all other sites storing any hazardous substances:

Stock reconciliation is undertaken within 24 hours of a substance being delivered and thereafter on a fortnightly basis. If the stock reconciliation shows a discrepancy for the measurement period of more than 100 litres or 0.5%, whichever is the smaller, the CRC shall be notified within 2 working days unless the loss occurred from a container in any area listed in condition (5), in which case notification shall occur within 24 hours; and
  - (c) records of stock reconciliations over the past three months shall be made available to the CRC upon request. If requested, a copy of the stock reconciliation and the most recent certification of the container shall be provided to The CRC within five working days;
5. For substances stored within a group or community drinking water supply protection area as set out in Schedule 1:
  - (a) all hazardous substances on a site are stored under cover in a facility which is designed, constructed and managed to contain a leak or spill and allow the leaked or spilled substance to either be collected or lawfully disposed of;
  - (b) spill kits to contain or absorb a spilled substance are located with storage facility and use areas at all times and train staff to manage spilled substances; and

6. Except where the storage was lawfully established before 4 July 2004 and the maximum quantity stored has not increased since that date, the substances shall not be stored within:
- (a) 20 m of a surface water body or a bore used for water abstraction;
  - (b) 250 m of a known active fault that has a recurrence period of less than 10,000 years, and the land is:
    - (i) over an unconfined or semi-confined aquifer; or
    - (ii) within 50 m of a permanently or intermittently flowing river or a lake.

## **APPENDIX 2: SUBMISSION BACKGROUND**

This background is important as it provides a context in which the Council can assess and understand Chorus and Telecom's submission on the Proposed Land and Water Regional Plan (proposed plan).

### **1. Separation of Telecom and Chorus**

At midnight on 30 November 2011, Chorus and Telecom demerged into two separate companies. This process involved the transfer of a number of existing Telecom assets to Chorus including most exchanges and radio/microwave stations, although some strategic sites such as major exchanges as well as the mobile network were retained by Telecom.

Accordingly, both companies have similar interests in terms of the implications of the Proposed Canterbury Land and Water Regional Plan ("Proposed Plan") on their respective telecommunication and radiocommunication network infrastructure.

### **2. About Chorus and Telecom**

Chorus was formed in March 2008 as a Telecom business unit operating at arm's length from the rest of the organisation, to give all service providers access to the local fixed line network. In December 2011, Chorus formally became a separate entity from Telecom. Currently, Chorus is New Zealand's largest telecommunications infrastructure company. They maintain and build a network predominantly made up of local telephone exchanges, cabinets and copper and fibre cables. Around 1.8 million lines are connected to homes and businesses throughout the country. They work with many different phone and internet providers to give access to the network. They also deliver ultra-fast broadband to more than 830,000 homes and businesses across New Zealand.

Telecom is NZ's largest telecommunications and IT service provider. Telecom provides fixed, mobile and IT products and services to consumer, small and medium-sized enterprise (SME), corporate, enterprise and wholesale customer segments with:

- Over 1 million fixed line residential and SME customers in New Zealand;
- Over 2 million mobile connections (consumer and business) in New Zealand;
- Over 800,000 fixed and mobile internet and broadband customers in New Zealand;
- Over 3,000 business clients across Australasia using Gen-i's ICT services; and
- Over 6,000 business and 300 wholesale customers in Australia using AAPT's services.



Therefore, overall Chorus provides and manages the physical infrastructure and Telecom provides the services using Chorus's infrastructure.

### **3. Infrastructure Overview**

The activities associated with the telecommunications and radio-communications network provided by Chorus and Telecom have the potential to impact on land and vegetation resources within the Canterbury region. Chorus and Telecom are responsible for the construction, use and maintenance of an efficient network which involves the following infrastructure:

- Underground and overhead lines;
- Telecommunications and radio-communications structures and buildings (including cabinets, equipment shelters, etc); and
- Access tracks.

Chorus and Telecom's key areas of concern are the effect of the rule framework in the proposed plan on the activities or processes that are required to establish and maintain the above infrastructure. There are certain land use activities associated with establishing new infrastructure and maintaining existing infrastructure which involve:

- The excavation of land,
- The disturbance/deposition of soil,
- Vegetation clearance and
- Potential discharges to land and water.

Currently Chorus and Telecom undertakes these activities in accordance with strict Industry Codes of Practice, local authority requirements, and Technical Specification standards.

### **4. Relevance of Proposed LWP**

It is noted that while appeals have been received on the proposed Canterbury Regional Policy Statement 2011, this document currently contains policies which enable the effective operation, maintenance, development and upgrade of regionally significant infrastructure, which includes telecommunication facilities.

This submission has been made in the context of ensuring that the proposed plan implements these RPS policies, by seeking amendments to rules which restrict Chorus and Telecom's ability to carry out its functions and also by supporting rules which are enabling.