

Form 7

Notice of Appeal to Environment Court against decision on a proposed Plan

Clause 14(1) of Schedule 1, Resource Management Act 1991

To the Registrar
Environment Court
Christchurch

Chorus New Zealand Limited (Chorus) and Spark New Zealand Trading Limited (Spark) appeal against part of a decision of Marlborough District Council (MDC) on the proposed Marlborough Environmental Plan (PMEP)

Chorus and Spark made submissions on the PMEP.

Chorus and Spark are not trade competitors for the purposes of [section 308D](#) of the Resource Management Act 1991.

Chorus and Spark received notice of the decision on 21 February 2020, with the tracked change version of the PMEP being released on 3 March 2020.

The decision was made by MDC.

The parts of the decision that Chorus and Spark are appealing are:

- Heritage Resources Rules and Standards 2.24 – 2.27.;
- Standard 2.40.2.3, concerning the undergrounding of network utility lines and states that *undergrounding must not occur within such proximity to any abstraction point for a community drinking water supply.*
- Standard 2.40.3.2, concerning vegetation clearance by mechanical means on slopes and states that *mechanical means, blading or root-raking by a bulldozer must not be used on slopes greater than 20°.*

The reasons for the appeal are as follows:

- In regard to Heritage Resources Rules and Standards 2.24 – 2.27, this suite of rules would benefit from the inclusion the provision of a Controlled Activity Rule for new customer connections to a heritage resource (with control provided over design and external appearance of the customer connection). This would provide network utilities with certainty as to how to service heritage resources, as well as providing for the sustained modern use of that resource. The MDC Section 42A Report was supportive of this matter (Topic 8 Section 42A Report - Paragraphs 165-166), as were Heritage New Zealand through their further submission. However, the Council Officer's final recommendation was reserved until once utilities deliberations had occurred. The Utilities Section 42A Report, and consequently the Decisions Report, do not address the matter. As such the 'decision making chain' has been lost, and it is not reflected in the Decisions Version of the PMEP;

- The phrase *such proximity* in Standard 2.40.2.3 is too uncertain for plan users to know whether or not they comply with the standard. It could result in resource consents being sought in situations when the consent authority may not consider them necessary, result in Certificates of Compliance being sought that the consent authority may not be able to issue, or works which were assessed as being permitted and for which no Certificate of Compliance was sought being subject to enforcement action;
- The 20° slope angle in Standard 2.40.3.2 is too shallow and mechanical vegetation removal works on steeper slopes can safely occur.

Chorus and Spark seek the following relief:

- Insert a new Controlled Activity Rule between Sections 2.25 and 2.26 of the PMEP (Decision Version) as follows:
Controlled Activities
New customer connections to a Heritage Resource from an adjacent utility network are a Controlled Activity in respect of:
 - *The design and external appearance of the customer connection;*
- Specify a set distance instead of the term *such proximity* in Standard 2.40.2.3 as follows:
Undergrounding must not occur within [XXm] of any abstraction point for a community drinking water supply registered under section 69J of the Health Act 1956 as to cause contamination of that water supply;
- Increase the slope angle in Standard 2.40.3.2 from 20° to 34° and rearrange the standard as follows:
Where clearance is undertaken by mechanical means, blading or root-raking by a bulldozer, the slope angle must not exceed 34°.

The following documents are attached to this notice:

- (a) a copy of the Chorus and Spark submissions:
- (b) a copy of the relevant parts of the decision:
- (c) a copy of the relevant part of MDC Topic 8 Section 42A Report relating to heritage:
- (d) a copy of the Heritage New Zealand Further Submission:
- (e) a list of names and addresses of persons to be served with a copy of this notice.



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Andrew Kantor

Environmental Planning & Engagement
Manager, Chorus New Zealand Limited

Date: 5 May 2020



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Graeme McCarrison

Engagement and Planning Manager, Spark
New Zealand Trading Limited

Date: 6 May 2020

Addresses for Service

Chorus

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Telephone: 09 975 3399 or 022 354 5327
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Spark

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Telephone: 09 357 2807 or 027 481 1816
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Incite (RMA advisors to Chorus and Spark)

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Note to appellant

You may appeal only if—

- you referred in your submission or further submission to the provision or matter that is the subject of your appeal; and
- in the case of a decision relating to a proposed policy statement or plan (as opposed to a variation or change), your appeal does not seek withdrawal of the proposed policy statement or plan as a whole.

Your right to appeal may be limited by the trade competition provisions in [Part 11A](#) of the Resource Management Act 1991.

The Environment Court, when hearing an appeal relating to a matter included in a document under [section 55\(2B\)](#), may consider only the question of law raised.

You must lodge the original and 1 copy of this notice with the Environment Court within 30 working days of being served with notice of the decision to be appealed. The notice must be signed by you or on your behalf. You must pay the filing fee required by [regulation 35](#) of the Resource Management (Forms, Fees, and Procedure) Regulations 2003.

You must serve a copy of this notice on the local authority that made the decision and on the Minister of Conservation (if the appeal is on a regional coastal plan), within 30 working days of being served with a notice of the decision.

You must also serve a copy of this notice on every person who made a submission to which the appeal relates within 5 working days after the notice is lodged with the Environment Court.

Within 10 working days after lodging this notice, you must give written notice to the Registrar of the Environment Court of the name, address, and date of service for each person served with this notice.

However, you may apply to the Environment Court under [section 281](#) of the Resource Management Act 1991 for a waiver of the above timing or service requirements (see [form 38](#)).

Advice to recipients of copy of notice of appeal

How to become party to proceedings

You may be a party to the appeal if you made a submission or a further submission on the matter of this appeal.

To become a party to the appeal, you must,—

- within 15 working days after the period for lodging a notice of appeal ends, lodge a notice of your wish to be a party to the proceedings (in [form 33](#)) with the Environment Court and serve copies of your notice on the relevant local authority and the appellant; and
- within 20 working days after the period for lodging a notice of appeal ends, serve copies of your notice on all other parties.

Your right to be a party to the proceedings in the court may be limited by the trade competition provisions in [section 274\(1\)](#) and [Part 11A](#) of the Resource Management Act 1991.

You may apply to the Environment Court under [section 281](#) of the Resource Management Act 1991 for a waiver of the above timing or service requirements (see [form 38](#)).

Advice

If you have any questions about this notice, contact the Environment Court in Christchurch.

Schedule 1 form 7 heading: amended, on 1 November 2010, by [regulation 19\(1\)](#) of the Resource Management (Forms, Fees, and Procedure) Amendment Regulations 2010 (SR 2010/279).

Schedule 1 form 7: amended, on 3 March 2015, by [regulation 5\(1\)](#) of the Resource Management (Forms, Fees, and Procedure) Amendment Regulations 2014 (LI 2014/386).

Schedule 1 form 7: amended, on 3 March 2015, by [regulation 5\(2\)](#) of the Resource Management (Forms, Fees, and Procedure) Amendment Regulations 2014 (LI 2014/386).

Schedule 1 form 7: amended, on 1 November 2010, by [regulation 19\(1\)](#) of the Resource Management (Forms, Fees, and Procedure) Amendment Regulations 2010 (SR 2010/279).

Schedule 1 form 7: amended, on 1 June 2006, by [regulation 10\(4\)](#) of the Resource Management (Forms, Fees, and Procedure) Amendment Regulations 2006 (SR 2006/99).

Attachment (a) - copy of the Chorus and Spark submissions



1 September 2016

Marlborough District Council
PO Box 443
Blenheim 7240

Attention: Planning Technician

By e-mail: mep@marlborough.govt.nz

Dear Sir/Madam,

Submission on the Proposed Marlborough Environment Plan

This is a submission on the Proposed Marlborough Environment Plan pursuant to Clause 6 of Schedule 1, Resource Management Act 1991

Name of Submitter: Chorus New Zealand Limited (Chorus)

Contact Person: Mary Barton

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Address for Service: Incite
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WELLINGTON 6140
Attention: Tom Anderson
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Trade Competition

Chorus could not gain an advantage in trade competition through this submission.

Attendance and Wish to be heard at Hearings

Chorus wishes to be heard in support of the submission.

Prior to the hearing, and ideally soon after the close of submissions, Chorus, along with Spark, would like an opportunity to meet with the Marlborough District Council Policy Planners to discuss the content of the submission.

Submission on the Proposed Marlborough Environment Plan Provisions

Chorus welcomes the opportunity to make a submission on the Proposed Marlborough Environment Plan (herein referred to as the PMEPE). There are a number of matters that in the view of Chorus require amendment prior to PMEPE being made operative. There are also a number of proposed provisions that Chorus supports.

Chorus's submissions on the PMEPE are set out in the attached table. In relation to the matters raised, Chorus seeks further, consequential or alternative relief as may be necessary, desirable, or appropriate to give effect to the decision sought.

Background to Chorus

Chorus 'demerged' from Spark New Zealand Trading Limited (formerly Telecom) as a separate company at midnight on 30 November 2011. As part of its business activities, Chorus maintains and builds a network made up of local telephone exchanges, radio communications infrastructure, cabinets and copper and fibre cables. Chorus' telecommunication and radiocommunication facilities and networks are essential services due to the critical role they play in society, both in terms of allowing people and communities to provide for their "wellbeing", and also for assisting to ensure their "health and safety". Chorus' fixed line network connects homes and businesses through an extensive network made up of fibre optic and copper cable. The Ultra Fast Broadband (UFB) and Rural Broadband Initiative (RBI) projects currently underway requires additional fibre cable (both underground and overhead on existing support structures). This network is also supported by a number of radio communication sites ranging from small repeater sites to large microwave stations.

In addition to supporting customers to deliver fixed line services; Chorus' fibre network also underpins an extensive mobile phone network, which provides a wide range of mobile services to residents and visitors nationally. In order to satisfy customer demands, Chorus is constantly altering and developing both the fixed line and mobile network support infrastructure to ensure services meet the needs of customers and the local community.

Reliance on telecommunications has never been so high and this will continue to grow as an ever expanding range of applications are developed that require access to an ultra fast broadband network. There is also a critical need for the provision of resilient telecommunications networks during emergencies as has been highlighted in the case of the Canterbury earthquakes. Functioning communications networks that support emergency services during such events are crucial, and can be the difference between life and death in some circumstances.

If there are any issues of clarification required please contact Mary Barton in the first instance.



Gretchen Joe
Head of Property Operations
Chorus New Zealand Limited

1 September 2016

Please note that proposed amendments to the to the Resource Management (National Environmental Standards for Telecommunication Facilities) Regulations 2008 (the NESTF) were announced by the Minister for the Environment on 24 September 2015. Whilst the proposed amendments currently do not have any legal effect, they are likely to become part of the Country’s regulatory framework before the Proposed Marlborough Environment Plan becomes operative. As such, a number of the amendments sought in the submission below reflect the proposed amendments to the NESTF. Note there may be changes to the NESTF prior to them becoming operative, and as such Chorus and Spark seek that any future amendment to the NESTF is included within the Proposed Plan text, should that become operative after the NESTF.

Proposed text is in **bold and underlined** and text requested to be deleted is in ~~strikethrough~~.

Specific provision this submission relates to	Support/Oppose /Amendment	Reasons for submission	Relief sought
Entire PMEP	Amendment	The PMEPs format is difficult and incoherent when it comes to the provision of infrastructure/network utilities. Different terms are used in different sections of the plan to describe the same matters, there is no standalone section providing an objectives and policies framework for the implementation of infrastructure/network utilities, and there is confusion in Volume 2 as to the application of the network utilities rules, and whether these apply instead of or as well as the zone based rules. As such, Spark and Chorus consider that the entire plan requires a comprehensive restructure.	Amend entire plan, to provide consistency in the use of terms, and inclusion of a specific section detailing objectives and policies relevant to the provision of infrastructure. The structure of the Auckland Unitary Plan is a good example. A list of suggested objectives and policies is attached as an addendum to this submission point.
Entire PMEP – “Regionally Significant Infrastructure”	Amendment	Throughout the PMEP there is reference to ‘Regionally Significant Infrastructure’ As described under the submission point on Issue 4B below, all infrastructure is of regional significance, as it allows the people, businesses and communities of the region to undertake their day to day lives in a safe and efficient manner, contributing to social and economic wellbeing and health and safety (thereby giving effect to Part 2 of the RMA). There is no planning need to determine what ‘regionally significant infrastructure’ is and the term should be replaced simply by the word ‘infrastructure’.	Replace the term ‘regionally significant infrastructure’ at each instance it is used in the plan with the word ‘infrastructure’.
VOLUME 1: ISSUES, OBJECTIVES, POLICIES AND METHODS			
Section 1: Introduction			
<i>Guiding Principle – Being aware of the potential for reverse sensitivity effects between different resource uses...</i>	Support	Having a statement at the outset of the plan highlighting reverse sensitivity is supported.	Retain guiding principle relating to reverse sensitivity.
Section 4: Use of Natural and Physical Resources			
<i>Issue 4B – The social and economic wellbeing, health and safety of the Marlborough community are at risk if community infrastructure is not able to operate efficiently, effectively and safely</i>	Support with amendment	It is stated in the explanation to Issue 4b that telecommunications is regionally significant due to the contribution it makes to social and economic wellbeing, and health and safety. Other infrastructure identified within the issue (the National Grid and state highways) is deemed to be of national importance. However, all infrastructure is essential, and language within the plan which captures this and removes the unnecessary national/regional importance (as this has no real planning benefit). The telecommunications network that exists in Marlborough plays the equivalent role for communications as the National Grid does for electricity and the state highways do for land transport, enabling people and businesses in Marlborough to efficiently communicate with people and business in the rest of New Zealand and internationally. Consequently, the explanation should be amended to recognise telecommunications as nationally important.	Amend paragraph 1 beneath Issue 4B as follows: <i>We rely on a range of physical resources to allow our communities function on a day-by-day basis. These resources include the water, stormwater and waste disposal services provided to townships and small settlements; the transport links within Marlborough and connecting Marlborough to the remainder of the country; the provision of electricity and telecommunications; and, on the Lower Wairau Plain, the drainage of land. Collectively, this infrastructure is regionally significant due to the contribution it makes to our social and economic wellbeing, health and safety. Some of infrastructure is also nationally important, such as the <u>Other infrastructure in (e.g. RNZAF Base Woodbourne,) or running through Marlborough (e.g. the National Grid, <u>the telecommunications network</u> and state highways) also has national importance.</u> It is important that this strategic all infrastructure is able to operate efficiently, effectively and safely on an ongoing basis for community wellbeing. The ability to maintain, upgrade and replace existing infrastructure without significant constraint is important in this respect.</i>

Specific provision this submission relates to	Support/Oppose /Amendment	Reasons for submission	Relief sought
		A further amendment is sought to remove the word 'strategic' when referring to infrastructure, as the preceding part of the paragraph has discussed regionally and nationally significant infrastructure, not strategic infrastructure. As such this change is sought to remove any potential confusion. The issue explanation of reverse sensitivity effects is supported.	<i>Occasionally, new infrastructure may be required to provide for growth within the district.</i>
<i>Objective 4.2 – Efficient, effective and safe operation of regionally significant infrastructure</i>	Support with amendment	Objective 4.2 is supported, however as described in the submission on Issue 4B, there is no need to refer to infrastructure as 'regionally significant'.	Amend Objective 4.2 as follows: <i>Efficient, effective and safe operation of regionally significant infrastructure</i>
<i>Policy 4.2.1 – Recognise the social, economic, environmental, health and safety benefits from the following infrastructure, either existing or consented at the time the Marlborough Environment Plan became operative, as regionally significant:</i> <i>(h) strategic telecommunications facilities, as defined in Section 5 of the Telecommunications Act 2001, and strategic radiocommunication facilities, as defined in Section 2(1) of the Radiocommunications Act 1989;</i>	Support with amendment	Policy 4.2.1 is supported in that it identifies telecommunications and radiocommunications as regionally significant. However the definitions referred to in subsection (h) of the policy, being <i>strategic telecommunications facilities as defined in Section 5 of the Telecommunications Act 2001, and strategic radiocommunication facilities, as defined in Section 2(1) of the Radiocommunications Act 1989</i> are incorrect. Section 5 of the Telecommunications Act 2001 does not define <i>strategic telecommunications facilities</i> and likewise Section 2(1) of the Radiocommunications Act 1989 does not define strategic radiocommunication facilities. Volume 2, Section 25 PMEP contains definitions of Telecommunication Facility and Radiocommunication which are generally supported by Spark and Chorus. These two definitions appropriately cover all aspects of the telecommunication and radiocommunication networks that is required to provide for the economic and cultural wellbeing and health and safety of Marlborough from a telecommunication and radiocommunication perspective. Policy 4.2.1 should simply refer to Telecommunication and Radiocommunication Facilities, and rely on the definitions within the PMEP. The PMEP definitions of Telecommunication and Radiocommunication facilities align with the aforementioned statutes, definitions of "telecommunications service" under Section 5 of the Telecommunications Act 2001 and "radio apparatus" under Section 2(1) of the Radiocommunications Act 1989. The telecommunications and radiocommunications networks in Marlborough are of greater significance than just regional. They are nationally and internationally important as they enable people and businesses within Marlborough to effectively and efficiently communicate with each other, with the rest of New Zealand, and with the world.	Amend subsection Policy 4.2.1 as follows: <i>Policy 4.2.1 – Recognise the social, economic, environmental, health and safety benefits from the following infrastructure, either existing or consented at the time the Marlborough Environment Plan became operative, as regionally significant:</i> <i>(h) strategic telecommunications facilities, as defined in Section 5 of the Telecommunications Act 2001, and strategic radiocommunication facilities, as defined in Section 2(1) of the Radiocommunications Act 1989;</i>
<i>Policy 4.2.2 – Protect regionally significant infrastructure from the adverse effects of other activities</i>	Support with amendment	As per submissions on the relevant guiding principle and Issue 4B, the infrastructure from reverse sensitivity effects is supported.	Amend Policy 4.2.2 as follows: <i>Policy 4.2.2 – Protect regionally significant infrastructure from the adverse effects of other activities</i>
<i>Methods of Implementation 4.M.7 Zoning</i>	Seek amendment	The method of implementation states that " <i>recognition will be given to regionally significant infrastructure by providing, where appropriate, explicit zoning for the infrastructure. In conjunction with the application of district</i>	Amend Method of Implementation 4.M.7 as follows: <i>4.M.7 Specific Zoning and Rules</i> <i>Recognition will be given to regionally significant infrastructure by providing, where appropriate, explicit zoning for the infrastructure. This, in conjunction with the</i>

Specific provision this submission relates to	Support/Oppose /Amendment	Reasons for submission	Relief sought
		<p><i>rules, zoning will assist to enable the infrastructure to operate efficiently and effectively.”</i></p> <p>Spark and Chorus consider the most efficient approach to providing for regionally significant infrastructure is through the application of district-wide rules and standards, rather than explicit zoning for infrastructure. This preferred approach has been included in Section 2.38 of Volume 2 of the PMEP.</p> <p>No telecommunications infrastructure is provided its own zone in the PMEP. The Method of Implementation should reflect how all regionally significant infrastructure is provided for, and as such, Spark and Chorus seek an amendment to 4.M.7.</p>	<p><i>application of district specific infrastructure (and network utility) rules, zoning will assist to enable the infrastructure to operate efficiently and effectively</i></p>
<p><i>Methods of Implementation 4.M.8 Designations</i></p>	<p>Support with amendment</p>	<p>A minor amendment is sought to remove the term regionally significant, in line with other submissions.</p>	<p>Amend Method of Implementation 4.M.8 as follows: <i>4.M.8 Designations</i> <i>Encourage requiring authorities (as defined by Section 166 of the RMA) to utilise designations as an effective means of identifying and protecting regionally significant infrastructure. Designations can then be explicitly included in the MEP.</i></p>
<p><i>Methods of Implementation 4.M.9 District and regional rules</i></p>	<p>Seek amendment</p>	<p>As established above, Spark and Chorus support the use of specific district wide rules that provide for infrastructure. Section 4.M.9 specifically references the NES for Electricity Transmission. The NESTF provides the same influence for certain telecommunications facilities, and as such should also be included as part of this section.</p>	<p>Amend Method of Implementation 4.M.9 as follows: <i>Rules will be used to enable activities associated with the maintenance, alteration, minor upgrading and replacement of regionally-significant infrastructure. Standards will specify the extent of works involved with any of these activities.</i> <i>Rules will be used to control the proximity of land uses in river beds that could have adverse effects on regionally-significant infrastructure. This includes development within the National Grid corridor.</i> ... <i>In addition to the rules in the MEP, the Resource Management (National Environmental Standards for Electricity Transmission Activities) Regulations 2009 and the Resource Management (National Environmental Standards for Telecommunication Facilities) Regulations 2008 establishes various classes of activity for certain activities relating to existing transmission lines and telecommunications facilities, respectively.</i> [Note – if the second generation NESTF is operative prior to the PMEP becoming operative, a small amendment will be needed to the year of the NESTF]</p>
<p>Section 7: Landscape</p>			
<p><i>Objective 7.2 - – Protect outstanding natural features and landscapes from inappropriate subdivision, use and development and maintain and enhance landscapes with high amenity value.</i> <i>And</i> <i>Policy 7.2.6 – Where the following activities are proposed to take place in an</i></p>	<p>Support</p>	<p>Outstanding natural features and landscapes are an important asset to Marlborough. However, there are instances where telecommunications infrastructure must be placed within ONFs and ONLs, in order to appropriately serve communities or isolated areas. This is not common but it does occur. Policy 7.2.6 is supported as it enables the placement of telecommunications in such areas where necessary, whilst directing that any adverse effects are mitigated. This is an appropriate balance.</p>	<p>Retain Objective 7.2 and Policy 7.2.6(a) as proposed.</p>

Specific provision this submission relates to	Support/Oppose /Amendment	Reasons for submission	Relief sought
<p>area with outstanding natural features and landscapes, then any adverse effects on the values of those areas can be mitigated, provided the overall qualities and integrity of the wider outstanding natural feature and landscape are retained: (a) activities involving the development and operation of regionally significant infrastructure;</p>			
Section 11: Natural Hazards			
<p>Introduction</p>	<p>Seek amendment</p>	<p>The fourth paragraph in the in the introduction to Section 11: Natural Hazards reads <i>"The Council can act to reduce the risk of natural hazards adversely affecting life, property and regionally significant infrastructure. Using its functions under the RMA to control the use of land to avoid or mitigate natural hazards, the Council can influence the location and management of new developments to ensure that they are not subject to unreasonable risk. Other land uses may adversely affect hazard mitigation works and these can be similarly controlled to ensure that the integrity of the works is not compromised."</i> This is somewhat problematic. In some instances, due to historic development patterns and current demand, telecommunication infrastructure must be located in a natural hazard area. If there is a need to locate telecommunication infrastructure in these areas, and this infrastructure does not compromise hazard mitigation there is no need for Council to 'reduce the risk' on this infrastructure. The risk is 'owned' by the infrastructure provider, who has a need to locate infrastructure in the hazard area, generally to provide service to a community outside of times when that area is being affected by a hazard. Consequently, an amendment is sought to the introductory statement.</p>	<p>Amend Paragraph 4 to the Introduction as follows: <i>The Council can act to reduce the risk of natural hazards adversely affecting life, and property and regionally significant infrastructure. Using its functions under the RMA to control the use of land to avoid or mitigate natural hazards, the Council can influence the location and management of new developments to ensure that they are not subject to unreasonable risk. Other land uses may adversely affect hazard mitigation works and these can be similarly controlled to ensure that the integrity of the works is not compromised.</i></p>
<p>Issue 11A – Natural hazards in Marlborough, particularly flooding, earthquakes and land instability, have the potential to cause loss of life and significant damage to property and regionally significant infrastructure.</p>	<p>Seek amendment</p>	<p>For the reasons given above, an amendment is sought to Issue 11A. It is appropriate for Council to regulate regionally significant infrastructure in a hazard area if it will exacerbate the hazard, however if it serves a vital purpose outside of those times when the hazard is affecting it, then that infrastructure is needed. Spark and Chorus only locate infrastructure where demand warrants it, and if that happens to be in a hazard area then the risks are weighed by Spark and Chorus, and a decision is made to proceed or not. This process does not necessitate Council regulation.</p>	<p>Amend Issue 11A as follows: <i>Issue 11A – Natural hazards in Marlborough, particularly flooding, earthquakes and land instability, have the potential to cause loss of life and significant damage to property and regionally significant infrastructure.</i></p>
<p>Objective 11.1 – Reduce the risks to life, property and regionally significant</p>	<p>Seek amendment</p>	<p>For the reasons given above, the Objective should be to reduce the risk to life and property. There is no resource management requirement to include regionally significant infrastructure as well.</p>	<p>Amend Objective 11.1 as follows: <i>Objective 11.1 – Reduce the risks to life, and property and regionally significant infrastructure from natural hazards. Natural hazards can have significant adverse</i></p>

Specific provision this submission relates to	Support/Oppose /Amendment	Reasons for submission	Relief sought
<i>infrastructure from natural hazards.</i>		The explanation states that natural hazards can have significant adverse effects on regionally significant infrastructure. However outside of those times when a natural hazard is occurring, not having regionally significant infrastructure in a natural hazard area can have significant adverse effects on the community that piece of infrastructure should be serving.	<i>effects on individuals and the community, including loss of life, personal injury, damage to property and disruption of day-to-day life, business and the provision of community infrastructure. For this reason, the objective seeks to reduce the risks and consequences of natural hazards. This objective also implements direction from the CDEMP, which signals that resource management provisions have an important role to play in risk reduction.</i>
Section 12: Urban Environments			
<i>Policy 12.2.1 – The character and amenity of residential areas within Marlborough’s urban environments will be maintained and enhanced by: (f) effective and efficient use of existing and new infrastructure networks.</i>	Support	Infrastructure networks, such as telecommunications and radiocommunications play an essential role in the vitality and amenity of residential environment, allowing communities within those environments to efficiently connect with each other and the world.	Retain Policy 12.2.1 as proposed
<i>Issue 12C – Subdivision and development within urban environments can lead to increased demand for essential infrastructure services.</i>	Support	Spark and Chorus support having infrastructure development commensurate with subdivision and land development, to ensure that demand for infrastructure is appropriately provided for. As is stated in the paragraph following the bullet points in the explanation to Issue 12C, subdivision may result in adverse effects on existing essential infrastructure. As such, it is essential that the maintenance and development of infrastructure is enable through the plan to ensure that it is matched with land development.	Retain Issue 12C as proposed.
<i>Objective 12.9 – The condition, capacity, efficiency and affordability of essential infrastructure services reflects the needs of Marlborough’s urban environments.</i>	Support	Ensuring that planned development and subdivision provides for telecommunications infrastructure is supported.	Retain Objective 12.9 as proposed.
<i>Policy 12.9.4 – Where as a result of a subdivision or development there is a requirement for connections to Council/community owned infrastructure services, the local electricity supply network and telecommunication facilities, a subdivider/ developer should provide confirmation that the site is capable of being serviced and that the arrangements proposed by the applicant are suitable.</i>	Support	Policy 12.9.4 is supported in that it encourages developers to discuss servicing requirements with Telecommunication providers prior to the development being undertaken. This is supported as it is significantly more efficient to provide for this infrastructure at the outset of a development or subdivision, rather than to retrofitting it once the development or subdivision has occurred.	Retain Policy 12.9.4 as proposed.

Specific provision this submission relates to	Support/Oppose /Amendment	Reasons for submission	Relief sought
<p><i>Policy 12.9.5 – Where in relation to Policy 12.9.4 confirmation of connections is not provided by the subdivider/developer, a Discretionary Activity resource consent will be required.</i></p>	<p>Support</p>	<p>Telecommunication network provider input at the outset of planned land development and subdivision prevents potential reverse sensitivity issues when trying to retrofit this infrastructure into an area. Requiring telecommunication network input is supported.</p>	<p>Retain Policy 12.9.5 as proposed.</p>
<p><i>Policy 12.9.7 – Require that subdividers and/or developers provide all on-site services to avoid, remedy or mitigate any adverse effects arising from the subdivision/development of the land resource</i></p>	<p>Support</p>	<p>As above</p>	<p>Retain Policy 12.9.7 as proposed.</p>
<p><i>Policy 12.9.9 – Encourage integrated establishment of underground utility services during subdivision/ development and electrical/ telecommunication reticulation appropriate to the amenities of the area.</i></p>	<p>Support</p>	<p>While undergrounding of telecommunications infrastructure is desirable from an amenity perspective, it is not always practical. This is recognised in the policy through the use of the words "<i>appropriate to the amenities of the area</i>".</p>	<p>Retain Policy 12.9.9 as proposed.</p>
<p>Section 13: Use of the Coastal Environment</p>			
<p><i>Policy 13.2.2 – In addition to the values in Policy 13.2.1, the following matters shall be considered by decision makers in determining whether subdivision, use and development activities in Marlborough’s coastal environment are appropriate at the location proposed and of an appropriate scale, form and design:</i></p> <p><i>(g) whether the proposed subdivision, use or development activity contributes to the network of regionally significant infrastructure identified in Policy 4.2.1;</i></p> <p><i>(i) functionally, whether some uses and developments can</i></p>	<p>Support</p>	<p>The general thrust of Section 13 is to limit use of the coastal environment only to those activities which have reason to be located there. There are instances in Marlborough where telecommunications equipment must be located in the coastal environment. Policy 13.2.2 is supported in that it acknowledged through parts (g) and (i) that some aspects of the telecommunications and radiocommunications may need to be located in the coastal environment. A minor amendment to (g) regarding regionally significant infrastructure is proposed for consistency.</p>	<p>Amend Policy 13.2.2(g) as follows:</p> <p><i>(g) whether the proposed subdivision, use or development activity contributes to the network of regionally significant infrastructure identified in Policy 4.2.1;</i></p>

Specific provision this submission relates to	Support/Oppose /Amendment	Reasons for submission	Relief sought
<i>only be located on land adjacent to the coast or in the coastal marine area.</i>			
<i>Policy 13.5.6 – Maintain the character and amenity values of land zoned Coastal Living by the setting of standards that reflect the following: (i) limited infrastructure and services and low volumes of road traffic</i>	Support with amendment	Policy 13.5.6 is supported in that Coastal Living zone amenity and character should be maintained. However the wellbeing of people who choose to live in this area should not be compromised by providing "limited infrastructure" to them. Use of the word 'limit' makes it sound like certain coastal living communities only get a certain amount of infrastructure to support them. A better word to use would be 'appropriate'. Every community should have infrastructure provided at a level appropriate to their needs, not limited to protect amenity.	Amend Policy 13.5.6 as follows: <i>Policy 13.5.6 – Maintain the character and amenity values of land zoned Coastal Living by the setting of standards that reflect the following: (i) limited appropriate infrastructure and services and low volumes of road traffic</i>
<i>Policy 13.9.1 –The following matters are to be assessed in determining the appropriateness of the location for a mooring: (c) the potential for the mooring and any moored boat to adversely affect: (ii) existing submarine cables, other utilities or infrastructure;</i>	Support	The protection of under sea cables from boat mooring is supported.	Retain Policy 13.9.1(c)(ii) as proposed.
<i>Objective 13.10 – Structures in the coastal environment including jetties, boatsheds, decking, slipways, launching ramps, retaining walls, coastal protection structures, pipelines, cables and/or other buildings or structures are appropriately located and within appropriate forms and limits to protect the values of the coastal environment.</i>	Support with amendment	Allowing structures such as cables in the coastal environment, subject to appropriate location, form and limits to protect the coastal environment is supported. The Objective should be widened from solely protection of the coastal environment to also maintain the coastal environment. The coastal environment as it currently stands should be maintained, as well as protected.	Amend Objective 13.10 as follows: <i>Objective 13.10 – Structures in the coastal environment including jetties, boatsheds, decking, slipways, launching ramps, retaining walls, coastal protection structures, pipelines, cables and/or other buildings or structures are appropriately located and within appropriate forms and limits to maintain and protect the values of the coastal environment.</i>
<i>Policy 13.10.24 – The establishment of coastal protection structures or works may be considered appropriate where: (c) regionally significant infrastructure is at risk.</i>	Support	Policy 13.10.24 appropriately recognises that there are instances where coastal protection may be required to lessen the risk on regionally significant infrastructure. This policy is supported. . A minor amendment to (c) regarding regionally significant infrastructure is proposed for consistency.	Amend Policy 13.10.24(c) as follows: <i>(c) regionally significant infrastructure is at risk.</i>
Section 14: Use of the Rural Environment			
<i>Policy 14.5.5 – Maintain the character and amenity values</i>	Support with amendment	As per Policy 13.5.6 above, rural communities need to be supported by an appropriate level of infrastructure, as such, the phrase "limited	Amend Policy 14.5.5(i) as follows:

Specific provision this submission relates to	Support/Oppose /Amendment	Reasons for submission	Relief sought
of land zoned Rural Living by the setting of standards that reflect the following: (i) limited infrastructure and services and low volumes of road traffic.		infrastructure” in Policy 14.5.5(i) should be replaced with ‘appropriate infrastructure’.	Policy 14.5.5 – Maintain the character and amenity values of land zoned Rural Living by the setting of standards that reflect the following: (i) limited appropriate infrastructure and services and low volumes of road traffic.
Section 15: Resource Quality (Water, Air, Soil)			
Policy 15.4.4 – In considering any land use consent application to undertake land disturbance, regard shall be had to: (g) whether the land disturbance is necessary for the operation or maintenance of regionally significant infrastructure.	Support	Policy 15.4.4(g) appropriately provides for land disturbance associated with regionally significant infrastructure. This is particularly important (and supported) given the direction in the PMEP for regionally significant infrastructure to be located underground (where practicable).	Retain Policy 15.4.4(g) as proposed.
VOLUME 2: RULES			
Section 1: Introduction			
Structure of Volume 2 – General Rules The General Rules in Chapter 2 of Volume 2 apply to activities irrespective of zoning. The rules control the following activities: • Utilities	Support	The approach having a standalone Utilities section which applies irrespective of zoning is supported.	Retain structure of Volume 2, with utilities rules being included in General Rules which apply regardless of zone.
Section 2: General Rules (Network Utilities)			
Introduction	Amendment	It is stated in the Introduction to the Networks Utilities section that <i>Other General Rules contained in Chapter 2 may apply in addition to any relevant zones rules for network utilities</i> . The other General Rules which apply should be listed at this section, to increase efficiency for plan users. The statement ‘in addition to any relevant zones rules for network utilities’ should be detailed. It is stated at the outset of Chapter 2 that the General Rules apply to activities irrespective of zoning. The ‘zone rules for network utilities’ statement contradicts the ethos of the Chapter, and provides potential for confusion. If there are zone rules that apply to network utilities, they should be included in the Sections 2.38 to 2.40 of the Chapter 2, and not in any other location of the plan.	Amend the introduction to network utilities as follows: Other The following General Rules contained in Chapter 2 may apply in addition to the Network Utility General Rules [List] to any relevant zone rules for network utilities .
2.38 – Permitted Network Utility Infrastructure			
2.38.1 Network utility infrastructure listed as follows:	Support with amendment	Spark and Chorus support telecommunication and radiocommunication facilities and telecommunication lines being identified as permitted activities (subject to standards). Telecommunication facilities includes a ‘telephone call	Amended Rule 2.38.1 as follows: 2.38.1. Network utility infrastructure listed as follows: (b)a telecommunication line or facility;

Specific provision this submission relates to	Support/Oppose /Amendment	Reasons for submission	Relief sought
<p>(b) a telecommunication line or facility</p> <p>(c) a radiocommunication line or facility</p> <p>(i) a telephone call box or the erection and use of a postal box</p>		<p>box' and under the definition of telecommunication facility in Volume 2, Section 25 of the PMEP. Likewise, Radiocommunication Facilities as defined includes a radiocommunication line. Consequently minor amendments to 2.38.1 are sought.</p>	<p>(c) a radio communication apparatus or facility;</p> <p>(i) a telephone call box or the erection and use of a postal box.</p>
<p>2.38.2 Telecommunication line or cable over the bed of a lake or river.</p>	Support with amendment	<p>Permitting a telecommunication line over the bed of a lake or river is supported.</p> <p>Removal of the word cable is proposed, given that telecommunication cable is not defined in the PMEP, and the definition of telecommunication line is sufficient.</p>	<p>Amend Rule 2.38.2 as follows:</p> <p>2.38.2 Telecommunication line or cable over the bed of a lake or river.</p>
<p>2.38.3. Trenching for cable laying.</p>	Support with amendment	<p>Earthworks for the provision of underground lines is supported. However there are other methods used other than trenching, which are less invasive and have negligible environmental effects, such as the use directional drilling. Consequently, the wording of Rule 2.38.3 should be expanded to include all earthworks for the undergrounding of lines. The language within the rule should changes to use the word 'line' rather than 'cable' as the definitions in Section 25 refer to Telecommunications Lines and National Grid Transmission Lines, not cables.</p>	<p>Amend Rule 2.38.3 as follows:</p> <p>2.38.3. Trenching Earthworks for cable-laying underground network utilities.</p>
<p>2.38.4. Maintenance and replacement of the following network utility infrastructure existing at 9 June 2016:</p> <p>(a) an electricity line or facility;</p> <p>(b) a telecommunication line or facility;</p> <p>(c) a radio communication apparatus or facility;</p> <p>(d) a meteorological service apparatus or facility.</p>	Support	<p>The maintenance and replacement of telecommunication facilities and lines, and a radiocommunication facility is supported.</p>	Retain Rule 2.38.4
<p>2.38.5. Minor upgrading of the following network utility infrastructure existing at 9 June 2016:</p> <p>(b) a telecommunication line or facility;</p> <p>(c) a radio communication apparatus or facility;</p>	Support	<p>The minor upgrading of telecommunication facilities and lines, and a radiocommunication facility is supported.</p>	Retain Rule 2.38.5
<p>2.39 – Standards that apply to specific permitted activities</p>			
<p>2.39.1.3. The maximum height of a building must not exceed 5m</p>	Support	<p>The permitted building height of 5m is appropriate for Spark and Chorus's needs.</p>	Retain Standard 2.39.1.3

Specific provision this submission relates to	Support/Oppose /Amendment	Reasons for submission	Relief sought
2.39.1.4. The maximum gross floor area of a building must not exceed 65m ² .	Support	The permitted building footprint of 65m ² is appropriate for Spark and Chorus's needs.	Retain Standard 2.39.1.4
2.39.1.5. The maximum height of a facility or network utility structure, aerial or antenna for a telecommunication, radiocommunication or meteorological facility must not exceed 25m above ground level.	Support with amendment	The height of 25m for a telecommunication facility is supported. However, with regard to telecommunication masts, the rules should encourage co-location of network utilities, as this can be a more efficient use of utility infrastructure. Co-location of two or more telecommunication providers on one mast does occur in New Zealand, but requires vertical separation between each company's antennas in order to avoid interference. As such, additional height should be afforded in the standards to encourage telecommunication operators to locate on a single mast, rather than having additional masts to cover an area.	Amend Standard 2.39.1.5 as follows: <i>2.39.1.5. The maximum height of a facility or network utility structure, aerial or antenna for a telecommunication, radiocommunication or meteorological facility must not exceed 25m above ground level. <u>This height can be exceeded by up to 5m for a telecommunication facility, if that facility is used by more than one telecommunications provider.</u></i>
2.39.1.7. The maximum height of any aerial or support structure attached to the top of a building must not exceed the height of the building by more than 3m.	Support with amendment	2.39.1.7 should be expanded to include antennas as well as aerials. Antennas attached to buildings are an efficient use of an existing structure, and generally give rise to only negligible environmental effects. An exceedance of 3m is an appropriate height for higher amenity areas, however areas such as industrial zones and rural zones, where there is less sensitivity and a larger height can be better assimilated into the existing environment, the height above buildings to which aerials and antennas can be attached should be 5m.	Amend Standard 2.39.1.7 as follows: <i>The maximum height of any <u>antenna or aerial or (and their support structures)</u> attached to the top of a building must not exceed the height of the building by more than <u>5m in the Industrial 1, Industrial 2, Lake Grassmere Salt Works, Port, and Rural Environment zones and 3m in any other zone.</u></i>
2.39.1.8. The maximum diameter of a dish antenna must not exceed 3m.	Support with amendment	Control over antenna size is supported. However the existing standards only limit dish antennas, not any of the other antenna types used by telecommunication operators. As such, amendments are proposed to set permitted standards for the full range of antenna types	Amend Standard 2.39.1.8 as follows: <i>The maximum diameter of a dish antenna <u>Antenna</u> must not exceed 3m <u>in diameter, or 2.5m² in total face area</u> or, if Council desires, instead of the 2.5m² standard, the following alternative relief would also be acceptable: The maximum diameter of a dish antenna <u>Antenna</u> must not exceed 3m <u>in diameter, or have a width that exceeds 700mm.</u></i>
2.39.1.9. A new line, including a cable television line, must be located underground within any land zoned Urban Residential 1, Urban Residential 2 (including Greenfields), Urban Residential 3, Business 1, Business 2, Industrial 1, Industrial 2, Open Space 1 or Open Space 2.	Support with amendment	Undergrounding of lines is supported in high amenity zones, however given Industrial Zones are not as sensitive, they should not be included in Standard 2.39.1.9. A note is also proposed to ensure clarity that the standard does not apply to those lines where minor upgrading is permitted.	Amend Standard 2.39.1.9 as follows: <i>A new line, including a cable television line, must be located underground within any land zoned Urban Residential 1, Urban Residential 2 (including Greenfields), Urban Residential 3, Business 1, Business 2, Industrial 1, Industrial 2, Open Space 1 or Open Space 2. <u>Note, Standard 2.39.1.9 does not apply to additional or replacement lines that are provided for as Minor Upgrading.</u></i>
2.39.1.10. A network utility structure for a line within the Rural Environment Zone or Coastal Environment Zone must be set back a minimum distance of 15m from any road intersection and must be measured parallel from the centreline of the carriageways,	Oppose	This Standard is unnecessary. Placement of new poles within road reserve requires a Corridor Access Request to be put through to Council in any instance, and that is the appropriate stage where pole location can be determined between the network utility operator and the Council.	Delete Standard 2.39.1.10 in its entirety.

Specific provision this submission relates to	Support/Oppose /Amendment	Reasons for submission	Relief sought
at the point where the roads intersect.			
2.39.1.14. A line or network utility structure, or a telecommunication, radio communication or meteorological facility, or a building or depot must not be located: (a) in, or within 8m of, a Significant Wetland; (b) within 8m of a river or the Drainage Channel Network; (c) on, or adjacent to, any land used for the purposes of a farm airstrip, or in such a manner as to adversely affect the safe operation of a farm airstrip existing at the time of the Plan becoming operative.	Amendment	Standard 2.39.1.14 should only apply to new lines that are not within legal road. New lines within legal road is an efficient use of existing infrastructure, and will not give rise to any noticeable effects on a significant wetland, drainage channel network, or a farm airstrip over and above those effects caused by a legal road. Further, there is no requirement to include the terms 'building or depot' within the standard, as the definition of telecommunication facility and radiocommunication facility covers such activities.	Amend Standard 2.39.1.14 as follows: <i>A line or network utility structure, or a telecommunication, radio communication or meteorological facility, or a building or depot that is located outside of legal road, must not be located:</i> (a) in, or within 8m of, a Significant Wetland; (b) within 8m of a river or the Drainage Channel Network; (c) on, or adjacent to, any land used for the purposes of a farm airstrip, or in such a manner as to adversely affect the safe operation of a farm airstrip existing at the time of the Plan becoming operative. <u>These setbacks do not apply to a line or network utility structure, or a telecommunication, radio communication or meteorological facility that is located within legal road.</u>
New Provision – Customer Connections	Amendment	In order to provide clarity, it should be specifically stated that connections from the telecommunications network to buildings, structures and sites are specified as a permitted activity.	Add a new standard to Section 2.39 as follows: <u>2.39.X Telecommunication Customer Connections</u> <u>Connections from buildings, structures and sites to the telecommunication network are permitted.</u>
New Provision – small-cell units	Amendment	With the current rapid growth in mobile data demand, telecommunications providers have been implementing small-cell units to augment their networks. Small-cells are low powered nodes that have a smaller range than telecommunications antennas. They appear as small boxes attached generally to an existing structure, and have a small overall volume (around 0.25m ³). The visual effects of such a structure are generally negligible, and given they are attached to existing structures they are considered to be an efficient use of the built environment. As such, a new provision is sought in the PMEP explicitly permitting small-cell units.	Add a new Performance Standard as follows: <u>2.39.X Small-Cell Units on Structures</u> <u>The installation of a small-cell unit on a structure including any necessary ancillary equipment is permitted, provided that each small-cell unit and the ancillary equipment do not exceed a total volumetric dimension of 0.25 m³, excluding auxiliary cables.</u>
2.39.2. Trenching for cable laying.	Amendment	Standard 2.39.2 should be updated to reflect the earlier submission point on Rule 2.38.3, and refer to <i>Earthworks for underground network utilities</i> . The subsequent standards are very prescriptive, and as per Standard 2.39.1.14 some should only apply where the earthworks are being undertaken outside of legal road. Further, the term 'within such proximity' under standard 2.39.2.3 needs to be defined. Within such proximity is too subjective for a permitted activity standard, and requires a parameter.	Amend Standard 2.39.2 as follows: 2.39.2. Trenching <u>Earthworks</u> for <u>underground network utilities</u> cable laying . 2.39.2.1. Any earth not placed back in the trench <u>earthworks area</u> must be re-located in a stable location. 2.39.2.2. Trenching <u>Earthworks, where undertaken outside of legal road,</u> must not occur in, or within 8m of, a Significant Wetland or Water Resource Unit with a Natural State water quality classification. 2.39.2.3. Trenching <u>Earthworks</u> must not occur within such proximity [<u>XXm</u>] to any abstraction point for a community drinking water supply registered under section 69J of the Health Act 1956 as to cause contamination of that water supply.

Specific provision this submission relates to	Support/Oppose /Amendment	Reasons for submission	Relief sought
			<p>2.39.2.4. The vegetation cover of a trench site an earthworks area must be restored within 6 months of the end of the operation.</p> <p>2.39.2.5. Woody material greater than 100mm in diameter or soil debris must:</p> <ul style="list-style-type: none"> (a) not be left within 8m of, or deposited in, a river (excluding an ephemeral river or intermittently flowing river, when not flowing), lake, Significant Wetland or the coastal marine area; (b) not be left in a position where it can enter, or be carried into, a river (excluding an ephemeral river), lake, Significant Wetland or the coastal marine area; (c) be stored on stable ground; (d) be managed to avoid accumulation to levels that could cause erosion or instability of the land. <p>2.39.2.6. Trenching Earthworks must not cause any conspicuous change in the colour or visual clarity of any flowing river after reasonable mixing, or the water in a Significant Wetland, lake or the coastal marine area, measured as follows:</p> <ul style="list-style-type: none"> (a) hue must not be changed by more than 10 points on the Munsell scale; (b) the natural clarity must not be conspicuously changed due to sediment or sediment laden discharge originating from the trenching site; (c) the change in reflectance must be <50%.
<p>2.39.3. <i>Vegetation trimming or clearance associated with the maintenance, replacement and minor upgrading of a network utility existing at 9 June 2016.</i></p>	<p>Amendment</p>	<p>The standards for vegetation trimming or clearance are very specific, but generally not overly restrictive. The exception to this is 2.39.3.2, which is somewhat confusing in its language, and has potential implications for the routine clearing of access tracks to remote radio sites. The standard initially appears to regulate either hand or mechanical means, but then the only restriction appears to apply to bulldozers on sites greater than 20°. This slope angle is unnecessarily restrictive and should be increased, and the wording within the standard should be simplified to capture the exact intent of what Council intend to regulate.</p>	<p>Amend Standard 2.39.3 as follows:</p> <p>2.39.3. <i>Vegetation trimming or clearance associated with the maintenance, replacement and minor upgrading of a network utility existing at 9 June 2016.</i></p> <p>2.39.3.1. <i>Vegetation (except noxious plants under the Noxious Plants Act) must not be removed by chemical, fire or mechanical means within 8m of a river (excluding an ephemeral river, or intermittently flowing river when not flowing) or the coastal marine area.</i></p> <p>2.39.3.2. Where Clearance is by hand or mechanical means, blading or root raking by a bulldozer must not be used on slopes greater than 2034°.</p> <p>2.39.3.3. <i>All trees must be felled away from a river (excluding an ephemeral river, or intermittently flowing river, when not flowing), Significant Wetland or the coastal marine area.</i></p> <p>2.39.3.4. <i>No tree or log may be dragged through the bed of a river (excluding an ephemeral river or intermittently flowing river when not flowing), Significant Wetland or the coastal marine area.</i></p> <p>2.39.3.5. <i>Wheeled or tracked machinery must not be operated in or within 8m of a river (excluding an ephemeral river or intermittently flowing river, when not flowing), Significant Wetland or the coastal marine area.</i></p> <p>2.39.3.6. <i>Woody material greater than 100mm in diameter or soil debris must:</i></p> <ul style="list-style-type: none"> (a) not be left within 8m of, or deposited in, a river (excluding an ephemeral river or intermittently flowing river when not flowing), Significant Wetland or the coastal marine area;

Specific provision this submission relates to	Support/Oppose /Amendment	Reasons for submission	Relief sought
			<p>(b) not be left in a position where it can enter, or be carried into, a river (excluding an ephemeral river), Significant Wetland or the coastal marine area;</p> <p>(c) be stored on stable ground;</p> <p>(d) be managed to avoid accumulation to levels that could cause erosion or instability of the land.</p>
2.40. Discretionary Activities			
New provision – Controlled Activities	Amendment	<p>Under the NESTF, if a permitted activity cannot comply with the regulation, then the relevant District Plan provisions apply. Under the PMEP, these would currently become Discretionary.</p> <p>However if NESTF regulations relating to cabinets is not achieved, the Discretionary activity status under the PMEP is not commensurate with the level of effect of the cabinet activity.</p> <p>For example not complying with Regulation 8(4) of the NESTF, requiring a separation distance of 30m between cabinets where they are located adjacent to different property frontages does not give rise to an effect over which resource consent should be declined. The effect is generally on amenity and safety, and this can be controlled through Controlled Activity status in the PMEP.</p> <p>Likewise, if Regulation 8(2) of the NESTF is not complied with, requiring the combined footprints of all cabinets to be no greater than 1.8m², the effect of not complying up to a total footprint of 4m² is also an effect that can be controlled through Controlled Activity Status.</p> <p>The amended NESTF is likely to include a permitted standard for small-cell units. For the same reasons as above, small-cell units with a volume of up to 0.3m³ should be provided for as a Controlled Activity.</p>	<p>Add a new Controlled Activity Rule as follows:</p> <p><u>2.X.X Controlled Activities:</u></p> <p><u>The following telecommunications activities are controlled activities:</u></p> <p><u>(a) Small Cell Units</u></p> <p><u>The installation of a small-cell unit on a structure including any necessary ancillary equipment, provided that each small-cell unit and the ancillary equipment has a total volumetric dimension no greater than 0.3m³, excluding auxiliary cables.</u></p> <p><u>(b) Telecommunications Cabinets within Legal Road</u></p> <p><u>(i) A new telecommunication cabinet in road reserve located between 1m and 30m of an existing telecommunication cabinet which is located adjacent to a different site</u></p> <p><u>(ii) A new telecommunication cabinet in road reserve located between 1m and 30m away from any other cabinet or group of cabinets that is on the same side of the road.</u></p> <p><u>(iii) The total footprint of cabinets in the group in the road is between 1.8m² and 4m².</u></p> <p><u>Control is in respect of:</u></p> <ul style="list-style-type: none"> • <u>Siting;</u> • <u>Visual Effects; and</u> • <u>Safety</u>
<p><i>Application must be made for a Discretionary Activity for the following:</i></p> <p><i>2.40.1. Any activity provided for as a Permitted Activity that does not meet the applicable standards.</i></p> <p><i>2.40.2. Any land use activity involving a network utility not provided for as a Permitted Activity.</i></p>	Amendment	<p>If a permitted network utility activity cannot comply with a standard, then it should be considered as a Discretionary (Restricted) Activity, with Council's discretion restricted to the specific permitted standard not complied with.</p> <p>Discretionary status is too high for a network utility that a Council has identified as being permitted. Network utilities exist solely for the reason of serving the communities in which they are situated, and provide a necessary function to achieving Part 2 of the Act. Full Discretionary status, allowing the consideration of any matter should not occur. The Permitted Standards determine appropriate parameters, and if one of those parameters is not complied with, then that is the only matter that should be considered.</p> <p>However, if a network utility is not provided for as a Permitted Activity (and subsequently there are no permitted standards for consideration, full discretionary activity status is appropriate</p>	<p>Amend Section 2.40 as follows:</p> <p>2.40 Discretionary <u>Restricted</u> Activities</p> <p><i>Application must be made for a Discretionary <u>Restricted</u> Activity for the following:</i></p> <p><i>2.40.1. Any activity provided for as a Permitted Activity that does not meet the applicable standards. <u>Council's discretion is restricted to the effects generated by the standard(s) not met.</u></i></p> <p><u>2.41 Discretionary Activities</u></p> <p><u>Application must be made for a Discretionary Activity for the following:</u></p> <p><i>2.40.2. Any land use activity involving a network utility not provided for as a Permitted Activity.</i></p>
Section 2: General Rules (other than Network Utilities)			
Activity in, on, over or under the bed of a lake or river	Support	Allowing the minor upgrading of existing telecommunication or radio communication facilities in the bed of a river or lake is supported.	Retain Rule 2.7.8(b) as proposed.

Specific provision this submission relates to	Support/Oppose /Amendment	Reasons for submission	Relief sought
<p>2.7 Permitted Activities 2.7.8 Minor upgrading in, on, or under the bed of a lake or river of the following utilities: (b) telecommunication or radio communication facility existing at 9 June 2016.</p>			
<p>2.9 Standards that apply to specific permitted activities 2.9.8 Minor upgrading .., utilities: 2.9.8.1. The utility must have been lawfully established. 2.9.8.2. The activity must not increase the plan or cross-sectional area of the utility by any more than 5% of the original utility. 2.9.8.3. There must be no significant change to the external appearance of the utility. 2.9.8.4. No greater than 10% of the cross-sectional area of the bed of a lake or river must be disturbed.</p>	Oppose	<p>While it is appropriate to have standards for Permitted Activities, Minor Upgrading is defined in Section 25 of the PMEP. This definition effectively sets standards for what can occur as Minor Upgrading under Rule 2.7.8, and consequently the additional standards under 2.9.8 are unnecessary.</p>	Delete Standard 2.9.8 in its entirety.
<p>Heritage Resources New Controlled Activity rule allowing network utility connections to Heritage Buildings</p>	Amendment	<p>Under the structure of Chapter 2, the Heritage Resources rules apply for network utilities. There is no provision in the existing heritage rules permitting network utility customer connections. It is essential that heritage resources are connected to network utility networks, in order to appropriately sustain the use of those resources. However, control as to how those connections should look needs to be provided in the PMEP, as some connections can potentially adversely effect the fabric of the heritage resource.. As such, a Controlled Activity rule is sought specifically allowing network utility customer connections.</p>	<p>Insert a new rule in section 2.24: [2.25] Controlled Activities [2.25.1] New customer connections to a Heritage Resource from an adjacent utility network are a Controlled Activity in respect of:</p> <ul style="list-style-type: none"> <i>The design and external appearance of the customer connection.</i>
<p>Notable Trees 2.29 Standards that apply to specific permitted activities 29.2.1 Minor trimming or pruning of a Notable Tree 29.1.1 The trimming or pruning must only be (c) minor clearing of light branches (less than 50mm in</p>	Support with amendment	<p>The permitted clearing of light branches from proximity to power lines should be extended to also include telecommunication lines.</p>	<p>Amend Standard 29.1.1(c) as follows: 29.1.1 The trimming or pruning must only be (c) minor clearing of light branches (less than 50mm in diameter) from proximity to existing power and telecommunication lines;</p>

Specific provision this submission relates to	Support/Oppose /Amendment	Reasons for submission	Relief sought
<i>diameter) from proximity to existing power lines;</i>			
Sections 13, 14, 15 and 16 (Port, Port Landing Area, Marina and Coastal Marine Zones)			
Permitted Rules 13.1.9, 14.1.9, 15.1.16 and 16.1.11 permitting the replacement of a submarine or suspended cable or line and associated standards 13.3.9, 14.3.4, 15.3.8 and 16.3.8.	Support	Permitting the replacement of a submarine line in the coastal environment (covered by Port, Port Landing Area, Marina and Coastal Marine zones) is supported. However, each of the associated standards include a provision requiring the replacement line to be in the same location as the line it is replacing. This is impossible, as generally the line that is being replaced needs to remain operational until the replacement line is connected. As such, the standard should be amended to say same or similar in order to allow the changeover between the lines.	Retain Rules 13.1.9, 14.1.9, 15.1.16 and 16.1.11 as proposed and amend Standards 13.3.9.2, 14.3.4.2, 15.3.8.2 and 16.3.8.2 as follows: <i>A replacement cable or line must be laid or suspended in the same or similar location as the cable or line being removed.</i>
Section 24: Subdivision			
24.1 Rules for all subdivisions <i>Telecommunications</i> 24.1.10 <i>The applicant must supply telecommunications to all allotments or must provide a reasonable practicable alternative, except for allotments in the Rural Environment, Coastal Environment, Lake Grassmere Salt Works, Coastal Marine, Open Space 1, Open Space 2, Open Space 3, Open Space 4, Marina and Coastal Living zones. For the Coastal Living zone, the exception only applies when all proposed allotments are in excess of 150m from any power pole or underground cable utilised by the telecommunications network utility operator.</i>	Support	Rule 24.1.10, including the exceptions, are supported.	Retain Rule 24.1.10.
24.1.11. <i>The applicant must provide confirmation, together with the application for subdivision consent, that adequate provision has been made or adequate provision is practicable for the supply of telecommunications.</i>	Support	Requiring an applicant to provide for telecommunications is supported.	Retain Rule 24.1.11
24.1.12. <i>Acceptable confirmation as to the</i>	Support	Requiring a written statement from a telecommunications network utility operator is supported.	Retain Rule 24.1.12.

Specific provision this submission relates to	Support/Oppose /Amendment	Reasons for submission	Relief sought
<i>adequate provision of local reticulation must be a written statement from a telecommunications network utility operator or authorised supplier.</i>			
<i>Proximity of Services 24.1.13. All services required as a result of Rules 24.1.1, 24.1.4, 24.1.7 and 24.1.10 must be provided at the boundary of each allotment or, if a rear allotment, to the allotment beyond the end of the right of way.</i>	Support	Requiring telecommunications to each allotment is supported.	Retain Rule 24.1.13.
<i>24.2.1. Subdivision of land associated with utilities.</i>	Support with amendment	Clarity needs to be provided as to what 'subdivision of land associated with utilities' means. It is proposed that the standard be amended to read 'subdivision undertaken by network utility operators' in order to provide clarity.	Amend Rule 24.2.1 as follows: <i>Subdivision of land associated with utilities</i> <u>undertaken by network utility operators.</u>
Section 25: Definitions			
Antenna means that part of a radio communication facility or telecommunication facility used for transmission or reception including the antenna mountings but not any supporting mast or similar structure	Support	The definition of antenna is supported.	Retain the definition of Antenna.
Height in relation to a building or structure, means the vertical distance between the natural ground level at any point and the highest part of the building or structure immediately above that point as shown in Figure 2 of Appendix 26.	Support with amendment	Height as defined includes any part of a building or structure. There is certain equipment, such as GPS Antenna and lightning rods, which can be affixed to the top of structures, and give rise to negligible environmental effects. GPS Antennas and lightning rods are generally slim (less than 12mm in diameter), and as such are of a size that will not cause bulk and dominance type effects. As such, these structures should be excluded from the definition of height.	Amend the definition of Height as follows: <i>Height in relation to a building or structure, means the vertical distance between the natural ground level at any point and the highest part of the building or structure immediately above that point as shown in Figure 2 of Appendix 26. <u>This definition does not apply to lightning rods or GPS antenna affixed to the highest part of a building or structure.</u></i>
Maintenance and Replacement means any work, including foundation work, or activity necessary to continue the operation and or functioning of an existing line, building, structure or (for the purpose of utilities) other	Support	The definition of Maintenance and Replacement is supported	Retain the definition of Maintenance and Replacement.

Specific provision this submission relates to	Support/Oppose /Amendment	Reasons for submission	Relief sought
<i>facility with another of the same or similar height, size or scale, within the same or similar position and for the same or similar purpose.</i>			
Minor Upgrading	Support with amendment	<p>The definition of minor upgrading in relation to telecommunication lines and radio communication infrastructure is generally supported. However it requires amendment in order to provide absolute clarity as to what the parameters of minor upgrading are. Minor upgrading should include the replacement, reconfiguration and relocation of existing telecommunication lines, as well as the addition of new lines, and should allow for the replacement of a support structure (pole). It is a physical impossibility to replace a pole with a new pole in the same location, so parameters are proposed around how replacement poles are to be included as part of minor upgrading.</p> <p>An addition to the definition to also provide for the replacement of antennas is also proposed. This removes any ambiguity as to what is deemed 'same or similar' under the definition of Maintenance and Replacement.</p>	<p>Amend the definition of Minor Upgrading as follows: <i>Minor Upgrading means an increase in the carrying capacity, efficiency or security of electricity (for the purpose of utilities) lines, telecommunication lines and radio communication facilities, using the existing support structures or structures of a similar scale and character, and includes:</i></p> <p>(a) <i>The replacement, reconfiguration, relocation or addition of lines, circuits and conductors;</i></p> <p>(b) <i>The re-conductoring of the line with higher capacity conductors;</i></p> <p>(c) <i>The re-sagging of conductors;</i></p> <p>(d) <i>The addition of longer or more efficient insulators;</i></p> <p>(e) <i>The addition of earthwires which may contain telecommunication lines, earthpeaks and lightning rods;</i></p> <p>(f) <i>Foundation works associated with the minor upgrading;</i></p> <p><i>(g) The replacement of a pole, provided that:</i></p> <p><i>(i) the replacement pole must not have a diameter that is more than the existing pole's diameter at its largest point plus 50 per cent;</i></p> <p><i>and</i></p> <p><i>(ii) The replacement pole must not have a height greater than 25m or the height of pole it is replacing, whichever is the greater; and</i></p> <p><i>(iii) The replacement pole must be located within 3m from the existing pole.</i></p> <p><i>Minor upgrading does not include an increase in the voltage of the line unless the line was originally constructed to operate at the higher voltage but has been operating at a reduced voltage.</i></p> <p><i>Minor Upgrading also includes the replacement of existing antennas, provided the replacement antenna size is no greater than 20 percent of the existing antenna being replaced.</i></p>
Network utility structure <i>means any structure essential to the operation and provision of a (network) utility service.</i>	Support	The definition of Network Utility Structure is appropriate.	Retain the definition of Network Utility Structure as proposed.
Radiocommunication facility <i>means any transmitting/receiving devices such as aerials, dishes, antennae, cables, lines, wires and associated cabinets/equipment /apparatus, as well as support</i>	Support	The definition of Radiocommunication facility is appropriate.	Retain the definition of Radiocommunication facility as proposed.

Specific provision this submission relates to	Support/Oppose /Amendment	Reasons for submission	Relief sought
<i>structures such as towers, masts and poles.</i>			
Site	Oppose	There are four separate definitions of site – this is highly confusing for plan users and not considered to be best practice.	Have one clear and concise definition of 'site'.
Telecommunication facility <i>means any telephone exchange, telephone booth, telephone cabinet or pay phone, or any other structure, facility or apparatus intended for the purpose of effecting telecommunication</i>	Support	The definition of Telecommunication facility is appropriate.	Retain the definition of Telecommunication facility as proposed.
Telecommunication Line	Support	The definition of Telecommunication Line is appropriate.	Retain the definition of Telecommunication Line as proposed.
New definition – Infrastructure	Amendment	As submitted, the term infrastructure should be used to replaced 'regionally significant infrastructure' throughout the PMEP. Infrastructure' is defined within Policy 4.2.1. However it is a critical term, and for ease of use should also be defined in the definitions section of the PMEP.	Add the following definition of Infrastructure: <u>Infrastructure includes:</u> <u>(a) reticulated sewerage systems (including the pipe network, treatment plants and associated infrastructure) operated by the Marlborough District Council;</u> <u>(b) reticulated community stormwater networks;</u> <u>(c) reticulated community water supply networks and water treatment plants operated by the Marlborough District Council;</u> <u>(d) regional landfill, transfer stations and the resource recovery centre;</u> <u>(e) National Grid (the assets used or owned by Transpower NZ Limited);</u> <u>(f) local electricity supply network owned and operated by Marlborough Lines;</u> <u>(g) facilities for the generation of electricity, where the electricity generated is supplied to the National Grid or the local electricity supply network (including infrastructure for the transmission of the electricity into the National Grid or local electricity supply network);</u> <u>(h) telecommunication facilities and radiocommunication facilities;</u> <u>(i) Blenheim, Omaka and Koromiko Airports;</u> <u>(j) main trunk railway line;</u> <u>(k) district roading network;</u> <u>(l) Port of Picton and Havelock Harbour;</u> <u>(m) Picton, Waikawa and Havelock marinas;</u> <u>(n) RNZAF Base at Woodbourne; and</u> <u>(o) Council administered flood defences and the drainage network on the Lower Wairau Plain.</u>

ADDEUNDUIM 1:

Suggested Objectives and Policies for a Standalone Infrastructure/ Network Utilities Chapter in Volume 1 of the PMEP:

Objectives

- (1) The benefits of network utilities are recognised.
- (2) The value of investment in network utilities is recognised.
- (3) Safe, efficient and secure network utilities are enabled, to service the needs of existing and authorised proposed subdivision, use and development.
- (4) Development, operation, maintenance, repair, replacement, renewal, upgrading and removal of network utilities is enabled.
- (5) The resilience of network utilities is improved and continuity of service is enabled.
- (6) Network utilities are appropriately protected from incompatible subdivision, use and development, and reverse sensitivity effects.

Policies

- (1) Recognise the social, economic, cultural and environmental benefits that network utilities provide, including:
 - (a) enabling enhancement of the quality of life and standard of living for people and communities;
 - (b) providing for public health and safety;
 - (c) enabling the functioning of businesses;
 - (d) enabling economic growth;
 - (e) enabling growth and development;
 - (f) protecting and enhancing the environment;
 - (g) enabling interaction and communication.
- (2) Provide for the development, operation, maintenance, repair, upgrade and removal of network utilities throughout Marlborough by recognising:
 - (a) functional and operational needs;
 - (b) location, route and design needs and constraints;
 - (c) the complexity and interconnectedness of infrastructure services;
 - (d) the benefits of infrastructure to communities with in Auckland and beyond;
 - (e) the need to quickly restore disrupted services; and
 - (f) its role in servicing existing, consented and planned development.

Adverse effects on network utilities

- (3) Avoid where practicable, or otherwise remedy or mitigate adverse effects on network

utilities from subdivision, use and development, including reverse sensitivity effects, which may compromise the operation and capacity of existing, consented and planned network utilities.

Adverse effects of network utilities

- (4) Require the development, operation, maintenance, repair, upgrading and removal of network utilities to avoid, remedy or mitigate adverse effects, including, on the:
 - (a) health, well-being and safety of people and communities, including nuisance from noise, vibration, dust and odour emissions and light spill;
 - (b) safe and efficient operation of other network utilities;
 - (c) amenity values of the streetscape and adjoining properties;
 - (d) environment from temporary and ongoing discharges; and
- (5) Consider the following matters when assessing the effects of network utilities:
 - (a) the degree to which the environment has already been modified;
 - (b) the nature, duration, timing and frequency of the adverse effects;
 - (c) the impact on the network and levels of service if the work is not undertaken;
 - (d) the need for the network utility in the context of the wider network; and
 - (e) the benefits provided by the network utility to the communities within Marlborough and beyond.
- (6) Consider the following matters where new network utilities or major upgrades to network utilities are proposed within the coastal environment, heritage resources and outstanding natural character and landscape area:
 - (a) the economic, cultural and social benefits derived from network utilities and the adverse effects of not providing the network utility;
 - (b) whether the network utility has a functional or operational need to be located in or traverse the proposed location;
 - (c) the need for utility connections across or through such areas to enable an effective and efficient network;
 - (d) whether there are any practicable alternative locations, routes or designs, which would avoid, or reduce adverse effects on the values of those places, while having regard to (6)(a) - (c);
 - (e) the extent of existing adverse effects and potential cumulative adverse effects;
 - (f) how the proposed network utility contributes to the strategic form or function of Marlborough;
 - (g) the type, scale and extent of adverse effects on the identified values of the area or feature.
 - (h) whether adverse effects on the identified values of the area or feature must

be avoided pursuant to any national policy statement, national environmental standard, or regional policy statement.

- (7) Enable the following activities within natural heritage, historic heritage, historic character and Mana Whenua cultural heritage overlays:
 - (a) the use and operation of existing infrastructure; and
 - (b) the minor upgrading, maintenance and repair of existing infrastructure, while ensuring that the adverse effects on the values of the area are avoided and where those effects cannot practicably be avoided, minimise any such effects and ensure they are appropriately remedied or mitigated.
- (8) Encourage new linear network utilities to be located in roads, and where practicable within the road reserve adjacent to the carriage way.

Undergrounding of network utilities in urban areas

- (9) Require new or major upgrades to electricity and telecommunications lines to be located underground in urban areas unless:
 - (a) there are significant operational, functional, technical or economic reasons that require an aboveground network; or
 - (b) the additional lines are part of minor upgrading to the network or are service connections.
- (10) Enable the coordinated undergrounding of existing electricity and telecommunications lines in the road, particularly where the opportunity exists when network improvements are undertaken.

New technologies

- (11) Provide flexibility for network utility operators to use new technological advances that:
 - (a) improve access to, and efficient use of services;
 - (b) allow for the re-use of redundant services and structures where appropriate;
 - (c) result in environmental benefits and enhancements; and
 - (d) utilise renewable sources.



1 September 2016

Marlborough District Council
PO Box 443
Blenheim 7240

Attention: Planning Technician

By e-mail: mep@marlborough.govt.nz

Dear Sir/Madam,

Submission on the Proposed Marlborough Environment Plan

This is a submission on the Proposed Marlborough Environment Plan pursuant to Clause 6 of Schedule 1, Resource Management Act 1991

Name of Submitter: Spark New Zealand Trading Limited (Spark)

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Attention: Tom Anderson

Email: tom@incite.co.nz

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Trade Competition

Spark could not gain an advantage in trade competition through this submission.

Attendance and Wish to be heard at Hearings

Spark wishes to be heard in support of the submission.

Prior to the hearing, and ideally soon after the close of submissions, Spark, along with Chorus, would like an opportunity to meet with the Marlborough District Council Policy Planners to discuss the content of the submission.

Submission on the Proposed Marlborough Environment Plan Provisions

Spark welcomes the opportunity to make a submission on the Proposed Marlborough Environment Plan (herein referred to as the PMEP). There are a number of matters that in the view of Spark require amendment prior to PMEP being made operative. There are also a number of proposed provisions that Spark supports.

Spark's submissions on the PMEP are set out in the attached table. In relation to the matters raised, Spark seeks further, consequential or alternative relief as may be necessary, desirable, or appropriate to give effect to the decision sought.

Background to Spark

Spark (Spark is New Zealand's largest digital services company delivering mobile, fixed and IT products and services to millions of New Zealand consumers and businesses. Spark is a multi-brand business, with principal brands Spark (supporting home, consumer mobile and small business customers) and Spark Digital (supporting government and business customers with strong Cloud services, mobility and ICT capabilities).

Specialist and flanking brands include Skinny (consumer mobile), Revera and Appserv (data hosting services), Lightbox (internet TV), Qrious (data analytics), and Bigpipe (consumer broadband). An in-house incubator, Spark Ventures, is developing other new business opportunities.

Fully privatised since 1990, Spark is listed on the NZX and ASX stock exchanges. Spark New Zealand contributes significantly to the community via the Spark Foundation, whose activities include ownership of Givealittle, New Zealand's first 'zero-fees' online crowdfunding platform through which generous New Zealanders donate millions of dollars annually to thousands of charities and deserving causes; and as a key partner of the Manaia Kalani Education Trust, which is transforming digital learning at schools within economically-challenged communities across New Zealand.

The purpose of the Resource Management Act 1991, as embodied in section 5, is promotion of the sustainable management of natural and physical resources. Telecommunications infrastructure is a significant physical resource, and the safe, reliable and efficient functioning of the network is vital for the regional economy and is in the public interest (both in terms of allowing people and communities to provide for their "wellbeing", and also for assisting to ensure their "health and safety").

Spark is a major telecommunication network provider within Marlborough. The network is utilised for a wide range of purposes that are essential to modern mobile society. Access for residents and business to quality, reliable telecommunications is a fundamental requisite for the region to be a competitive, attractive and safe place to live and work. The pivotal role of modern telecommunications as a catalyst

for social and economic development is now widely recognised around the world. This includes personal and commercial communications, wireless data transfer, linking financial institutions to convey critical financial transaction data, fire and burglary monitoring and control facilities, and other emergency services communications.

The provision of resilient telecommunication networks during emergencies is critical, as has been highlighted in the case of the Canterbury earthquakes and recent flooding event within the region. Telecommunication is being recognised as Significant Infrastructure i.e. the whole network and a critical lifeline utility. The telecommunications network needs to be regularly upgraded, to respond to and provide for growth, to ensure reliability for Public Protection and Disaster Recovery (PPDR), as well as providing for technological developments. Recognising this and catering for its development will be key to ensuring Marlborough retains its place as an attractive place for talent and capital to locate.

Within any Plan there is a need to provide a balance between the policy and rules framework that provides for the efficient maintenance and rollout of network utility infrastructure, while appropriately managing the effects on the environment from this infrastructure. There has been in recent years a shift in how these two issues are balanced with the provision for infrastructure historically playing a passive background role. The recent shift places significantly greater importance on the need to allow for critical infrastructure and network utilities.

The Spark network is subject to constant maintenance, modification and upgrading as the number of customers and services increase, and changes in technology occur rapidly. Technological advances during the life of the Plan, along with more instances of telecommunications providers seeking to co-locate on each other's assets, are also likely to occur requiring existing assets to be upgraded. Therefore any new plan provisions should be created with such technological advancements and/or provision for co-location of equipment being kept in mind.

If there are any issues of clarification required please contact Graeme McCarrison via email graeme.mccarrison@spark.co.nz or telephone +64 27 4811 816 or Tom Anderson at Incite at the address for service.

Yours sincerely



Paul Hallows

Delivery Network Integrator

Please note that proposed amendments to the Resource Management (National Environmental Standards for Telecommunication Facilities) Regulations 2008 (the NESTF) were announced by the Minister for the Environment on 24 September 2015. Whilst the proposed amendments currently do not have any legal effect, they are likely to become part of the Country’s regulatory framework before the Proposed Marlborough Environment Plan becomes operative. As such, a number of the amendments sought in the submission below reflect the proposed amendments to the NESTF. Note there may be changes to the NESTF prior to them becoming operative, and as such Chorus and Spark seek that any future amendment to the NESTF is included within the Proposed Plan text, should that become operative after the NESTF.

Proposed text is in **bold and underlined** and text requested to be deleted is in ~~strikethrough~~.

Specific provision this submission relates to	Support/Oppose /Amendment	Reasons for submission	Relief sought
Entire PMEP	Amendment	The PMEPs format is difficult and incoherent when it comes to the provision of infrastructure/network utilities. Different terms are used in different sections of the plan to describe the same matters, there is no standalone section providing an objectives and policies framework for the implementation of infrastructure/network utilities, and there is confusion in Volume 2 as to the application of the network utilities rules, and whether these apply instead of or as well as the zone based rules. As such, Spark and Chorus consider that the entire plan requires a comprehensive restructure.	Amend entire plan, to provide consistency in the use of terms, and inclusion of a specific section detailing objectives and policies relevant to the provision of infrastructure. The structure of the Auckland Unitary Plan is a good example. A list of suggested objectives and policies is attached as an addendum to this submission point.
Entire PMEP – “Regionally Significant Infrastructure”	Amendment	Throughout the PMEP there is reference to ‘Regionally Significant Infrastructure’ As described under the submission point on Issue 4B below, all infrastructure is of regional significance, as it allows the people, businesses and communities of the region to undertake their day to day lives in a safe and efficient manner, contributing to social and economic wellbeing and health and safety (thereby giving effect to Part 2 of the RMA). There is no planning need to determine what ‘regionally significant infrastructure’ is and the term should be replaced simply by the word ‘infrastructure’.	Replace the term ‘regionally significant infrastructure’ at each instance it is used in the plan with the word ‘infrastructure’.
VOLUME 1: ISSUES, OBJECTIVES, POLICIES AND METHODS			
Section 1: Introduction			
<i>Guiding Principle – Being aware of the potential for reverse sensitivity effects between different resource uses...</i>	Support	Having a statement at the outset of the plan highlighting reverse sensitivity is supported.	Retain guiding principle relating to reverse sensitivity.
Section 4: Use of Natural and Physical Resources			
<i>Issue 4B – The social and economic wellbeing, health and safety of the Marlborough community are at risk if community infrastructure is not able to operate efficiently, effectively and safely</i>	Support with amendment	It is stated in the explanation to Issue 4b that telecommunications is regionally significant due to the contribution it makes to social and economic wellbeing, and health and safety. Other infrastructure identified within the issue (the National Grid and state highways) is deemed to be of national importance. However, all infrastructure is essential, and language within the plan which captures this and removes the unnecessary national/regional importance (as this has no real planning benefit). The telecommunications network that exists in Marlborough plays the equivalent role for communications as the National Grid does for electricity and the state highways do for land transport, enabling people and businesses in Marlborough to efficiently communicate with people and business in the rest of New Zealand and internationally. Consequently, the explanation should be amended to recognise telecommunications as nationally important. A further amendment is sought to remove the word ‘strategic’ when referring to infrastructure, as the preceding part of the paragraph has discussed regionally and nationally significant infrastructure, not strategic	Amend paragraph 1 beneath Issue 4B as follows: <i>We rely on a range of physical resources to allow our communities function on a day-by-day basis. These resources include the water, stormwater and waste disposal services provided to townships and small settlements; the transport links within Marlborough and connecting Marlborough to the remainder of the country; the provision of electricity and telecommunications; and, on the Lower Wairau Plain, the drainage of land. Collectively, this infrastructure is regionally significant due to the contribution it makes to our social and economic wellbeing, health and safety. Some of infrastructure is also nationally important, such as the Other infrastructure in (e.g. RNZAF Base Woodbourne,) or running through Marlborough (e.g. the National Grid, the telecommunications network and state highways) also has national importance. It is important that this strategic all infrastructure is able to operate efficiently, effectively and safely on an ongoing basis for community wellbeing. The ability to maintain, upgrade and replace existing infrastructure without significant constraint is important in this respect. Occasionally, new infrastructure may be required to provide for growth within the district.</i>

Specific provision this submission relates to	Support/Oppose /Amendment	Reasons for submission	Relief sought
		infrastructure. As such this change is sought to remove any potential confusion. The issue explanation of reverse sensitivity effects is supported.	
<i>Objective 4.2 – Efficient, effective and safe operation of regionally significant infrastructure</i>	Support with amendment	Objective 4.2 is supported, however as described in the submission on Issue 4B, there is no need to refer to infrastructure as 'regionally significant'.	Amend Objective 4.2 as follows: <i>Efficient, effective and safe operation of regionally significant infrastructure</i>
<i>Policy 4.2.1 – Recognise the social, economic, environmental, health and safety benefits from the following infrastructure, either existing or consented at the time the Marlborough Environment Plan became operative, as regionally significant:</i> <i>(h) strategic telecommunications facilities, as defined in Section 5 of the Telecommunications Act 2001, and strategic radiocommunication facilities, as defined in Section 2(1) of the Radiocommunications Act 1989;</i>	Support with amendment	Policy 4.2.1 is supported in that it identifies telecommunications and radiocommunications as regionally significant. However the definitions referred to in subsection (h) of the policy, being <i>strategic telecommunications facilities as defined in Section 5 of the Telecommunications Act 2001, and strategic radiocommunication facilities, as defined in Section 2(1) of the Radiocommunications Act 1989</i> are incorrect. Section 5 of the Telecommunications Act 2001 does not define <i>strategic telecommunications facilities</i> and likewise Section 2(1) of the Radiocommunications Act 1989 does not define strategic radiocommunication facilities. Volume 2, Section 25 PMEP contains definitions of Telecommunication Facility and Radiocommunication which are generally supported by Spark and Chorus. These two definitions appropriately cover all aspects of the telecommunication and radiocommunication networks that is required to provide for the economic and cultural wellbeing and health and safety of Marlborough from a telecommunication and radiocommunication perspective. Policy 4.2.1 should simply refer to Telecommunication and Radiocommunication Facilities, and rely on the definitions within the PMEP. The PMEP definitions of Telecommunication and Radiocommunication facilities align with the aforementioned statutes, definitions of "telecommunications service" under Section 5 of the Telecommunications Act 2001 and "radio apparatus" under Section 2(1) of the Radiocommunications Act 1989. The telecommunications and radiocommunications networks in Marlborough are of greater significance than just regional. They are nationally and internationally important as they enable people and businesses within Marlborough to effectively and efficiently communicate with each other, with the rest of New Zealand, and with the world.	Amend subsection Policy 4.2.1 as follows: <i>Policy 4.2.1 – Recognise the social, economic, environmental, health and safety benefits from the following infrastructure, either existing or consented at the time the Marlborough Environment Plan became operative, as regionally significant:</i> <i>(h) strategic telecommunications facilities, as defined in Section 5 of the Telecommunications Act 2001, and strategic radiocommunication facilities, as defined in Section 2(1) of the Radiocommunications Act 1989;</i>
<i>Policy 4.2.2 – Protect regionally significant infrastructure from the adverse effects of other activities</i>	Support with amendment	As per submissions on the relevant guiding principle and Issue 4B, the infrastructure from reverse sensitivity effects is supported.	Amend Policy 4.2.2 as follows: <i>Policy 4.2.2 – Protect regionally significant infrastructure from the adverse effects of other activities</i>
<i>Methods of Implementation 4.M.7 Zoning</i>	Seek amendment	The method of implementation states that " <i>recognition will be given to regionally significant infrastructure by providing, where appropriate, explicit zoning for the infrastructure. In conjunction with the application of district rules, zoning will assist to enable the infrastructure to operate efficiently and effectively.</i> " Spark and Chorus consider the most efficient approach to providing for regionally significant infrastructure is through the application of district-wide rules and standards, rather than explicit zoning for infrastructure. This	Amend Method of Implementation 4.M.7 as follows: <i>4.M.7 Specific Zoning and Rules</i> <i>Recognition will be given to regionally significant infrastructure by providing, where appropriate, explicit zoning for the infrastructure. This, in conjunction with the application of district specific infrastructure (and network utility) rules, zoning will assist to enable the infrastructure to operate efficiently and effectively</i>

Specific provision this submission relates to	Support/Oppose /Amendment	Reasons for submission	Relief sought
		preferred approach has been included in Section 2.38 of Volume 2 of the PMEP. No telecommunications infrastructure is provided its own zone in the PMEP. The Method of Implementation should reflect how all regionally significant infrastructure is provided for, and as such, Spark and Chorus seek an amendment to 4.M.7.	
<i>Methods of Implementation 4.M.8 Designations</i>	Support with amendment	A minor amendment is sought to remove the term regionally significant, in line with other submissions.	Amend Method of Implementation 4.M.8 as follows: <i>4.M.8 Designations</i> <i>Encourage requiring authorities (as defined by Section 166 of the RMA) to utilise designations as an effective means of identifying and protecting regionally significant infrastructure. Designations can then be explicitly included in the MEP.</i>
<i>Methods of Implementation 4.M.9 District and regional rules</i>	Seek amendment	As established above, Spark and Chorus support the use of specific district wide rules that provide for infrastructure. Section 4.M.9 specifically references the NES for Electricity Transmission. The NESTF provides the same influence for certain telecommunications facilities, and as such should also be included as part of this section.	Amend Method of Implementation 4.M.9 as follows: <i>Rules will be used to enable activities associated with the maintenance, alteration, minor upgrading and replacement of regionally significant infrastructure. Standards will specify the extent of works involved with any of these activities.</i> <i>Rules will be used to control the proximity of land uses in river beds that could have adverse effects on regionally significant infrastructure. This includes development within the National Grid corridor.</i> ... <i>In addition to the rules in the MEP, the Resource Management (National Environmental Standards for Electricity Transmission Activities) Regulations 2009 and the Resource Management (National Environmental Standards for Telecommunication Facilities) Regulations 2008 establishes various classes of activity for certain activities relating to existing transmission lines and telecommunications facilities, respectively.</i> [Note – if the second generation NESTF is operative prior to the PMEP becoming operative, a small amendment will be needed to the year of the NESTF]
Section 7: Landscape			
<i>Objective 7.2 – – Protect outstanding natural features and landscapes from inappropriate subdivision, use and development and maintain and enhance landscapes with high amenity value.</i> <i>And</i> <i>Policy 7.2.6 – Where the following activities are proposed to take place in an area with outstanding natural features and landscapes, then any adverse effects on the values of those areas can be mitigated, provided the overall qualities and integrity of the wider outstanding natural</i>	Support	Outstanding natural features and landscapes are an important asset to Marlborough. However, there are instances where telecommunications infrastructure must be placed within ONFs and ONLs, in order to appropriately serve communities or isolated areas. This is not common but it does occur. Policy 7.2.6 is supported as it enables the placement of telecommunications in such areas where necessary, whilst directing that any adverse effects are mitigated. This is an appropriate balance.	Retain Objective 7.2 and Policy 7.2.6(a) as proposed.

Specific provision this submission relates to	Support/Oppose /Amendment	Reasons for submission	Relief sought
<i>feature and landscape are retained: (a) activities involving the development and operation of regionally significant infrastructure;</i>			
Section 11: Natural Hazards			
<i>Introduction</i>	Seek amendment	<p>The fourth paragraph in the in the introduction to Section 11: Natural Hazards reads <i>"The Council can act to reduce the risk of natural hazards adversely affecting life, property and regionally significant infrastructure. Using its functions under the RMA to control the use of land to avoid or mitigate natural hazards, the Council can influence the location and management of new developments to ensure that they are not subject to unreasonable risk. Other land uses may adversely affect hazard mitigation works and these can be similarly controlled to ensure that the integrity of the works is not compromised."</i></p> <p>This is somewhat problematic. In some instances, due to historic development patterns and current demand, telecommunication infrastructure must be located in a natural hazard area. If there is a need to locate telecommunication infrastructure in these areas, and this infrastructure does not compromise hazard mitigation there is no need for Council to 'reduce the risk' on this infrastructure. The risk is 'owned' by the infrastructure provider, who has a need to locate infrastructure in the hazard area, generally to provide service to a community outside of times when that area is being affected by a hazard. Consequently, an amendment is sought to the introductory statement.</p>	Amend Paragraph 4 to the Introduction as follows: <i>The Council can act to reduce the risk of natural hazards adversely affecting life, and property and regionally significant infrastructure. Using its functions under the RMA to control the use of land to avoid or mitigate natural hazards, the Council can influence the location and management of new developments to ensure that they are not subject to unreasonable risk. Other land uses may adversely affect hazard mitigation works and these can be similarly controlled to ensure that the integrity of the works is not compromised.</i>
<i>Issue 11A – Natural hazards in Marlborough, particularly flooding, earthquakes and land instability, have the potential to cause loss of life and significant damage to property and regionally significant infrastructure.</i>	Seek amendment	For the reasons given above, an amendment is sought to Issue 11A. It is appropriate for Council to regulate regionally significant infrastructure in a hazard area if it will exacerbate the hazard, however if it serves a vital purpose outside of those times when the hazard is affecting it, then that infrastructure is needed. Spark and Chorus only locate infrastructure where demand warrants it, and if that happens to be in a hazard area then the risks are weighed by Spark and Chorus, and a decision is made to proceed or not. This process does not necessitate Council regulation.	Amend Issue 11A as follows: <i>Issue 11A – Natural hazards in Marlborough, particularly flooding, earthquakes and land instability, have the potential to cause loss of life and significant damage to property and regionally significant infrastructure.</i>
<i>Objective 11.1 – Reduce the risks to life, property and regionally significant infrastructure from natural hazards.</i>	Seek amendment	For the reasons given above, the Objective should be to reduce the risk to life and property. There is no resource management requirement to include regionally significant infrastructure as well. The explanation states that natural hazards can have significant adverse effects on regionally significant infrastructure. However outside of those times when a natural hazard is occurring, not having regionally significant infrastructure in a natural hazard area can have significant adverse effects on the community that piece of infrastructure should be serving.	Amend Objective 11.1 as follows: <i>Objective 11.1 – Reduce the risks to life, and property and regionally significant infrastructure from natural hazards. Natural hazards can have significant adverse effects on individuals and the community, including loss of life, personal injury, damage to property and disruption of day-to-day life, business and the provision of community infrastructure. For this reason, the objective seeks to reduce the risks and consequences of natural hazards. This objective also implements direction from the CDEMP, which signals that resource management provisions have an important role to play in risk reduction.</i>
Section 12: Urban Environments			
<i>Policy 12.2.1 – The character and amenity of residential</i>	Support	Infrastructure networks, such as telecommunications and radiocommunications play an essential role in the vitality and amenity of	Retain Policy 12.2.1 as proposed

Specific provision this submission relates to	Support/Oppose /Amendment	Reasons for submission	Relief sought
<i>areas within Marlborough's urban environments will be maintained and enhanced by: (f) effective and efficient use of existing and new infrastructure networks.</i>		residential environment, allowing communities within those environments to efficiently connect with each other and the world.	
<i>Issue 12C – Subdivision and development within urban environments can lead to increased demand for essential infrastructure services.</i>	Support	Spark and Chorus support having infrastructure development commensurate with subdivision and land development, to ensure that demand for infrastructure is appropriately provided for. As is stated in the paragraph following the bullet points in the explanation to Issue 12C, subdivision may result in adverse effects on existing essential infrastructure. As such, it is essential that the maintenance and development of infrastructure is enabled through the plan to ensure that it is matched with land development.	Retain Issue 12C as proposed.
<i>Objective 12.9 – The condition, capacity, efficiency and affordability of essential infrastructure services reflects the needs of Marlborough's urban environments.</i>	Support	Ensuring that planned development and subdivision provides for telecommunications infrastructure is supported.	Retain Objective 12.9 as proposed.
<i>Policy 12.9.4 – Where as a result of a subdivision or development there is a requirement for connections to Council/community owned infrastructure services, the local electricity supply network and telecommunication facilities, a subdivider/ developer should provide confirmation that the site is capable of being serviced and that the arrangements proposed by the applicant are suitable.</i>	Support	Policy 12.9.4 is supported in that it encourages developers to discuss servicing requirements with Telecommunication providers prior to the development being undertaken. This is supported as it is significantly more efficient to provide for this infrastructure at the outset of a development or subdivision, rather than to retrofitting it once the development or subdivision has occurred.	Retain Policy 12.9.4 as proposed.
<i>Policy 12.9.5 – Where in relation to Policy 12.9.4 confirmation of connections is not provided by the subdivider/developer, a Discretionary Activity resource consent will be required.</i>	Support	Telecommunication network provider input at the outset of planned land development and subdivision prevents potential reverse sensitivity issues when trying to retrofit this infrastructure into an area. Requiring telecommunication network input is supported.	Retain Policy 12.9.5 as proposed.
<i>Policy 12.9.7 – Require that subdividers and/or developers provide all on-site services to avoid, remedy or mitigate any adverse effects arising from the</i>	Support	As above	Retain Policy 12.9.7 as proposed.

Specific provision this submission relates to	Support/Oppose /Amendment	Reasons for submission	Relief sought
<i>subdivision/development of the land resource</i>			
<i>Policy 12.9.9 – Encourage integrated establishment of underground utility services during subdivision/ development and electrical/ telecommunication reticulation appropriate to the amenities of the area.</i>	Support	While undergrounding of telecommunications infrastructure is desirable from an amenity perspective, it is not always practical. This is recognised in the policy through the use of the words " <i>appropriate to the amenities of the area</i> ".	Retain Policy 12.9.9 as proposed.
Section 13: Use of the Coastal Environment			
<i>Policy 13.2.2 - – In addition to the values in Policy 13.2.1, the following matters shall be considered by decision makers in determining whether subdivision, use and development activities in Marlborough’s coastal environment are appropriate at the location proposed and of an appropriate scale, form and design: (g) whether the proposed subdivision, use or development activity contributes to the network of regionally significant infrastructure identified in Policy 4.2.1; (i) functionally, whether some uses and developments can only be located on land adjacent to the coast or in the coastal marine area.</i>	Support	The general thrust of Section 13 is to limit use of the coastal environment only to those activities which have reason to be located there. There are instances in Marlborough where telecommunications equipment must be located in the coastal environment. Policy 13.2.2 is supported in that it acknowledged through parts (g) and (i) that some aspects of the telecommunications and radiocommunications may need to be located in the coastal environment. A minor amendment to (g) regarding regionally significant infrastructure is proposed for consistency.	Amend Policy 13.2.2(g) as follows: <i>(g) whether the proposed subdivision, use or development activity contributes to the network of regionally significant infrastructure identified in Policy 4.2.1;</i>
<i>Policy 13.5.6 – Maintain the character and amenity values of land zoned Coastal Living by the setting of standards that reflect the following: (i) limited infrastructure and services and low volumes of road traffic</i>	Support with amendment	Policy 13.5.6 is supported in that Coastal Living zone amenity and character should be maintained. However the wellbeing of people who choose to live in this area should not be compromised by providing " <i>limited infrastructure</i> " to them. Use of the word 'limit' makes it sound like certain coastal living communities only get a certain amount of infrastructure to support them. A better word to use would be 'appropriate'. Every community should have infrastructure provided at a level appropriate to their needs, not limited to protect amenity.	Amend Policy 13.5.6 as follows: <i>Policy 13.5.6 – Maintain the character and amenity values of land zoned Coastal Living by the setting of standards that reflect the following: (i) limited appropriate infrastructure and services and low volumes of road traffic</i>
<i>Policy 13.9.1 –The following matters are to be assessed in determining the</i>	Support	The protection of under sea cables from boat mooring is supported.	Retain Policy 13.9.1(c)(ii) as proposed.

Specific provision this submission relates to	Support/Oppose /Amendment	Reasons for submission	Relief sought
<p>appropriateness of the location for a mooring:</p> <p>(c) the potential for the mooring and any moored boat to adversely affect:</p> <p>(ii) existing submarine cables, other utilities or infrastructure;</p>			
<p>Objective 13.10 – Structures in the coastal environment including jetties, boatsheds, decking, slipways, launching ramps, retaining walls, coastal protection structures, pipelines, cables and/or other buildings or structures are appropriately located and within appropriate forms and limits to protect the values of the coastal environment.</p>	Support with amendment	<p>Allowing structures such as cables in the coastal environment, subject to appropriate location, form and limits to protect the coastal environment is supported. The Objective should be widened from solely protection of the coastal environment to also maintain the coastal environment. The coastal environment as it currently stands should be maintained, as well as protected.</p>	<p>Amend Objective 13.10 as follows:</p> <p><i>Objective 13.10 – Structures in the coastal environment including jetties, boatsheds, decking, slipways, launching ramps, retaining walls, coastal protection structures, pipelines, cables and/or other buildings or structures are appropriately located and within appropriate forms and limits to maintain and protect the values of the coastal environment.</i></p>
<p>Policy 13.10.24 – The establishment of coastal protection structures or works may be considered appropriate where:</p> <p>(c) regionally significant infrastructure is at risk.</p>	Support	<p>Policy 13.10.24 appropriately recognises that there are instances where coastal protection may be required to lessen the risk on regionally significant infrastructure. This policy is supported. . A minor amendment to (c) regarding regionally significant infrastructure is proposed for consistency.</p>	<p>Amend Policy 13.10.24(c) as follows:</p> <p><i>(c) regionally significant infrastructure is at risk.</i></p>
Section 14: Use of the Rural Environment			
<p>Policy 14.5.5 – Maintain the character and amenity values of land zoned Rural Living by the setting of standards that reflect the following:</p> <p>(i) limited infrastructure and services and low volumes of road traffic.</p>	Support with amendment	<p>As per Policy 13.5.6 above, rural communities need to be supported by an appropriate level of infrastructure, as such, the phrase "limited infrastructure" in Policy 14.5.5(i) should be replaced with 'appropriate infrastructure'.</p>	<p>Amend Policy 14.5.5(i) as follows:</p> <p><i>Policy 14.5.5 – Maintain the character and amenity values of land zoned Rural Living by the setting of standards that reflect the following:</i></p> <p><i>(i) limited appropriate infrastructure and services and low volumes of road traffic.</i></p>
Section 15: Resource Quality (Water, Air, Soil)			
<p>Policy 15.4.4 – In considering any land use consent application to undertake land disturbance, regard shall be had to:</p> <p>(g) whether the land disturbance is necessary for the operation or</p>	Support	<p>Policy 15.4.4(g) appropriately provides for land disturbance associated with regionally significant infrastructure. This is particularly important (and supported) given the direction in the PMEP for regionally significant infrastructure to be located underground (where practicable).</p>	<p>Retain Policy 15.4.4(g) as proposed.</p>

Specific provision this submission relates to	Support/Oppose /Amendment	Reasons for submission	Relief sought
<i>maintenance of regionally significant infrastructure.</i>			
VOLUME 2: RULES			
Section 1: Introduction			
<i>Structure of Volume 2 – General Rules The General Rules in Chapter 2 of Volume 2 apply to activities irrespective of zoning. The rules control the following activities:</i> • Utilities	Support	The approach having a standalone Utilities section which applies irrespective of zoning is supported.	Retain structure of Volume 2, with utilities rules being included in General Rules which apply regardless of zone.
Section 2: General Rules (Network Utilities)			
Introduction	Amendment	It is stated in the Introduction to the Networks Utilities section that <i>Other General Rules contained in Chapter 2 may apply in addition to any relevant zones rules for network utilities.</i> The other General Rules which apply should be listed at this section, to increase efficiency for plan users. The statement 'in addition to any relevant zones rules for network utilities' should be detailed. It is stated at the outset of Chapter 2 that the General Rules apply to activities irrespective of zoning. The 'zone rules for network utilities' statement contradicts the ethos of the Chapter, and provides potential for confusion. If there are zone rules that apply to network utilities, they should be included in the Sections 2.38 to 2.40 of the Chapter 2, and not in any other location of the plan.	Amend the introduction to network utilities as follows: Other The following General Rules contained in Chapter 2 may apply in addition to any relevant zone rules for network utilities. to the Network Utility General Rules [List]
2.38 – Permitted Network Utility Infrastructure			
2.38.1 Network utility infrastructure listed as follows: <i>(b) a telecommunication line or facility (c) a radiocommunication line or facility (i) a telephone call box or the erection and use of a postal box</i>	Support with amendment	Spark and Chorus support telecommunication and radiocommunication facilities and telecommunication lines being identified as permitted activities (subject to standards). Telecommunication facilities includes a 'telephone call box' and under the definition of telecommunication facility in Volume 2, Section 25 of the PMEP. Likewise, Radiocommunication Facilities as defined includes a radiocommunication line. Consequently minor amendments to 2.38.1 are sought.	Amended Rule 2.38.1 as follows: 2.38.1. Network utility infrastructure listed as follows: <i>(b) a telecommunication line or facility; (c) a radio communication apparatus or facility; (i) a telephone call box or the erection and use of a postal box.</i>
2.38.2 Telecommunication line or cable over the bed of a lake or river.	Support with amendment	Permitting a telecommunication line over the bed of a lake or river is supported. Removal of the word cable is proposed, given that telecommunication cable is not defined in the PMEP, and the definition of telecommunication line is sufficient.	Amend Rule 2.38.2 as follows: 2.38.2 Telecommunication line or cable over the bed of a lake or river.
2.38.3. Trenching for cable laying.	Support with amendment	Earthworks for the provision of underground lines is supported. However there are other methods used other than trenching, which are less invasive and have negligible environmental effects, such as the use directional drilling. Consequently, the wording of Rule 2.38.3 should be expanded to include all earthworks for the undergrounding of lines. The language within the rule should changes to use the word 'line' rather than 'cable' as the definitions in	Amend Rule 2.38.3 as follows: 2.38.3. Trenching <u>Earthworks</u> for cable-laying <u>underground network utilities.</u>

Specific provision this submission relates to	Support/Oppose /Amendment	Reasons for submission	Relief sought
		Section 25 refer to Telecommunications Lines and National Grid Transmission Lines, not cables.	
2.38.4. Maintenance and replacement of the following network utility infrastructure existing at 9 June 2016: (a) an electricity line or facility; (b) a telecommunication line or facility; (c) a radio communication apparatus or facility; (d) a meteorological service apparatus or facility.	Support	The maintenance and replacement of telecommunication facilities and lines, and a radiocommunication facility is supported.	Retain Rule 2.38.4
2.38.5. Minor upgrading of the following network utility infrastructure existing at 9 June 2016: (b) a telecommunication line or facility; (c) a radio communication apparatus or facility;	Support	The minor upgrading of telecommunication facilities and lines, and a radiocommunication facility is supported.	Retain Rule 2.38.5
2.39 – Standards that apply to specific permitted activities			
2.39.1.3. The maximum height of a building must not exceed 5m	Support	The permitted building height of 5m is appropriate for Spark and Chorus's needs.	Retain Standard 2.39.1.3
2.39.1.4. The maximum gross floor area of a building must not exceed 65m ² .	Support	The permitted building footprint of 65m ² is appropriate for Spark and Chorus's needs.	Retain Standard 2.39.1.4
2.39.1.5. The maximum height of a facility or network utility structure, aerial or antenna for a telecommunication, radiocommunication or meteorological facility must not exceed 25m above ground level.	Support with amendment	The height of 25m for a telecommunication facility is supported. However, with regard to telecommunication masts, the rules should encourage co-location of network utilities, as this can be a more efficient use of utility infrastructure. Co-location of two or more telecommunication providers on one mast does occur in New Zealand, but requires vertical separation between each company's antennas in order to avoid interference. As such, additional height should be afforded in the standards to encourage telecommunication operators to locate on a single mast, rather than having additional masts to cover an area.	Amend Standard 2.39.1.5 as follows: <i>2.39.1.5. The maximum height of a facility or network utility structure, aerial or antenna for a telecommunication, radiocommunication or meteorological facility must not exceed 25m above ground level. <u>This height can be exceeded by up to 5m for a telecommunication facility, if that facility is used by more than one telecommunications provider.</u></i>
2.39.1.7. The maximum height of any aerial or support structure attached to the top of a building must not exceed the height of the building by more than 3m.	Support with amendment	2.39.1.7 should be expanded to include antennas as well as aerials. Antennas attached to buildings are an efficient use of an existing structure, and generally give rise to only negligible environmental effects. An exceedance of 3m is an appropriate height for higher amenity areas, however areas such as industrial zones and rural zones, where there is less sensitivity and a larger height can be better assimilated into the existing environment, the height above buildings to which aerials and antennas can be attached should be 5m.	Amend Standard 2.39.1.7 as follows: <i>The maximum height of any <u>antenna or aerial or (and their support structures)</u> attached to the top of a building must not exceed the height of the building by more than <u>5m in the Industrial 1, Industrial 2, Lake Grassmere Salt Works, Port, and Rural Environment zones and 3m in any other zone.</u></i>

Specific provision this submission relates to	Support/Oppose /Amendment	Reasons for submission	Relief sought
2.39.1.8. <i>The maximum diameter of a dish antenna must not exceed 3m.</i>	Support with amendment	Control over antenna size is supported. However the existing standards only limit dish antennas, not any of the other antenna types used by telecommunication operators. As such, amendments are proposed to set permitted standards for the full range of antenna types	Amend Standard 2.39.1.8 as follows: The maximum diameter of a dish a Antenna must not exceed 3m in diameter, or 2.5m² in total face area or, if Council desires, instead of the 2.5m ² standard, the following alternative relief would also be acceptable: The maximum diameter of a dish a Antenna must not exceed 3m in diameter, or have a width that exceeds 700mm.
2.39.1.9. <i>A new line, including a cable television line, must be located underground within any land zoned Urban Residential 1, Urban Residential 2 (including Greenfields), Urban Residential 3, Business 1, Business 2, Industrial 1, Industrial 2, Open Space 1 or Open Space 2.</i>	Support with amendment	Undergrounding of lines is supported in high amenity zones, however given Industrial Zones are not as sensitive, they should not be included in Standard 2.39.1.9. A note is also proposed to ensure clarity that the standard does not apply to those lines where minor upgrading is permitted.	Amend Standard 2.39.1.9 as follows: <i>A new line, including a cable television line, must be located underground within any land zoned Urban Residential 1, Urban Residential 2 (including Greenfields), Urban Residential 3, Business 1, Business 2, Industrial 1, Industrial 2, Open Space 1 or Open Space 2. Note, Standard 2.39.1.9 does not apply to additional or replacement lines that are provided for as Minor Upgrading.</i>
2.39.1.10. <i>A network utility structure for a line within the Rural Environment Zone or Coastal Environment Zone must be set back a minimum distance of 15m from any road intersection and must be measured parallel from the centreline of the carriageways, at the point where the roads intersect.</i>	Oppose	This Standard is unnecessary. Placement of new poles within road reserve requires a Corridor Access Request to be put through to Council in any instance, and that is the appropriate stage where pole location can be determined between the network utility operator and the Council.	Delete Standard 2.39.1.10 in its entirety.
2.39.1.14. <i>A line or network utility structure, or a telecommunication, radio communication or meteorological facility, or a building or depot must not be located:</i> (a) <i>in, or within 8m of, a Significant Wetland;</i> (b) <i>within 8m of a river or the Drainage Channel Network;</i> (c) <i>on, or adjacent to, any land used for the purposes of a farm airstrip, or in such a manner as to adversely affect the safe operation of a farm airstrip existing at the time of the Plan becoming operative.</i>	Amendment	Standard 2.39.1.14 should only apply to new lines that are not within legal road. New lines within legal road is an efficient use of existing infrastructure, and will not give rise to any noticeable effects on a significant wetland, drainage channel network, or a farm airstrip over and above those effects caused by a legal road. Further, there is no requirement to include the terms 'building or depot' within the standard, as the definition of telecommunication facility and radiocommunication facility covers such activities.	Amend Standard 2.39.1.14 as follows: <i>A line or network utility structure, or a telecommunication, radio communication or meteorological facility, or a building or depot that is located outside of legal road, must not be located:</i> (a) <i>in, or within 8m of, a Significant Wetland;</i> (b) <i>within 8m of a river or the Drainage Channel Network;</i> (c) <i>on, or adjacent to, any land used for the purposes of a farm airstrip, or in such a manner as to adversely affect the safe operation of a farm airstrip existing at the time of the Plan becoming operative.</i> <i>These setbacks do not apply to a line or network utility structure, or a telecommunication, radio communication or meteorological facility that is located within legal road.</i>

Specific provision this submission relates to	Support/Oppose /Amendment	Reasons for submission	Relief sought
New Provision – Customer Connections	Amendment	In order to provide clarity, it should be specifically stated that connections from the telecommunications network to buildings, structures and sites are specified as a permitted activity.	Add a new standard to Section 2.39 as follows: <u>2.39.X Telecommunication Customer Connections</u> <u>Connections from buildings, structures and sites to the telecommunication network are permitted.</u>
New Provision – small-cell units	Amendment	With the current rapid growth in mobile data demand, telecommunications providers have been implementing small-cell units to augment their networks. Small-cells are low powered nodes that have a smaller range than telecommunications antennas. They appear as small boxes attached generally to an existing structure, and have a small overall volume (around 0.25m ³). The visual effects of such a structure are generally negligible, and given they are attached to existing structures they are considered to be an efficient use of the built environment. As such, a new provision is sought in the PMP explicitly permitting small-cell units.	Add a new Performance Standard as follows: <u>2.39.X Small-Cell Units on Structures</u> <u>The installation of a small-cell unit on a structure including any necessary ancillary equipment is permitted, provided that each small-cell unit and the ancillary equipment do not exceed a total volumetric dimension of 0.25 m³, excluding auxiliary cables.</u>
2.39.2. Trenching for cable laying.	Amendment	Standard 2.39.2 should be updated to reflect the earlier submission point on Rule 2.38.3, and refer to <i>Earthworks for underground network utilities</i> . The subsequent standards are very prescriptive, and as per Standard 2.39.1.14 some should only apply where the earthworks are being undertaken outside of legal road. Further, the term 'within such proximity' under standard 2.39.2.3 needs to be defined. Within such proximity is too subjective for a permitted activity standard, and requires a parameter.	Amend Standard 2.39.2 as follows: 2.39.2. Trenching <u>Earthworks for underground network utilities</u> – cable laying. 2.39.2.1. Any earth not placed back in the trench <u>earthworks area</u> must be re-located in a stable location. 2.39.2.2. Trenching <u>Earthworks, where undertaken outside of legal road,</u> must not occur in, or within 8m of, a Significant Wetland or Water Resource Unit with a Natural State water quality classification. 2.39.2.3. Trenching <u>Earthworks</u> must not occur within such proximity <u>[XXm]</u> to any abstraction point for a community drinking water supply registered under section 69J of the Health Act 1956 as to cause contamination of that water supply. 2.39.2.4. The vegetation cover of a trench site <u>an earthworks area</u> must be restored within 6 months of the end of the operation. 2.39.2.5. Woody material greater than 100mm in diameter or soil debris must: (a) not be left within 8m of, or deposited in, a river (excluding an ephemeral river or intermittently flowing river, when not flowing), lake, Significant Wetland or the coastal marine area; (b) not be left in a position where it can enter, or be carried into, a river (excluding an ephemeral river), lake, Significant Wetland or the coastal marine area; (c) be stored on stable ground; (d) be managed to avoid accumulation to levels that could cause erosion or instability of the land. 2.39.2.6. Trenching <u>Earthworks</u> must not cause any conspicuous change in the colour or visual clarity of any flowing river after reasonable mixing, or the water in a Significant Wetland, lake or the coastal marine area, measured as follows: (a) hue must not be changed by more than 10 points on the Munsell scale; (b) the natural clarity must not be conspicuously changed due to sediment or sediment laden discharge originating from the trenching site; (c) the change in reflectance must be <50%.

Specific provision this submission relates to	Support/Oppose /Amendment	Reasons for submission	Relief sought
2.39.3. <i>Vegetation trimming or clearance associated with the maintenance, replacement and minor upgrading of a network utility existing at 9 June 2016.</i>	Amendment	<p>The standards for vegetation trimming or clearance are very specific, but generally not overly restrictive. The exception to this is 2.39.3.2, which is somewhat confusing in its language, and has potential implications for the routine clearing of access tracks to remote radio sites. The standard initially appears to regulate either hand or mechanical means, but then the only restriction appears to apply to bulldozers on sites greater than 20°. This slope angle is unnecessarily restrictive and should be increased, and the wording within the standard should be simplified to capture the exact intent of what Council intend to regulate.</p>	<p>Amend Standard 2.39.3 as follows: 2.39.3. <i>Vegetation trimming or clearance associated with the maintenance, replacement and minor upgrading of a network utility existing at 9 June 2016.</i> 2.39.3.1. <i>Vegetation (except noxious plants under the Noxious Plants Act) must not be removed by chemical, fire or mechanical means within 8m of a river (excluding an ephemeral river, or intermittently flowing river when not flowing) or the coastal marine area.</i> 2.39.3.2. Where Clearance is by hand or mechanical means, blading or root raking by a bulldozer must not be used on slopes greater than 20°. 2.39.3.3. <i>All trees must be felled away from a river (excluding an ephemeral river, or intermittently flowing river, when not flowing), Significant Wetland or the coastal marine area.</i> 2.39.3.4. <i>No tree or log may be dragged through the bed of a river (excluding an ephemeral river or intermittently flowing river when not flowing), Significant Wetland or the coastal marine area.</i> 2.39.3.5. <i>Wheeled or tracked machinery must not be operated in or within 8m of a river (excluding an ephemeral river or intermittently flowing river, when not flowing), Significant Wetland or the coastal marine area.</i> 2.39.3.6. <i>Woody material greater than 100mm in diameter or soil debris must:</i> (a) <i>not be left within 8m of, or deposited in, a river (excluding an ephemeral river or intermittently flowing river when not flowing), Significant Wetland or the coastal marine area;</i> (b) <i>not be left in a position where it can enter, or be carried into, a river (excluding an ephemeral river), Significant Wetland or the coastal marine area;</i> (c) <i>be stored on stable ground;</i> (d) <i>be managed to avoid accumulation to levels that could cause erosion or instability of the land.</i></p>
2.40. Discretionary Activities			
New provision – Controlled Activities	Amendment	<p>Under the NESTF, if a permitted activity cannot comply with the regulation, then the relevant District Plan provisions apply. Under the PMEP, these would currently become Discretionary. However if NESTF regulations relating to cabinets is not achieved, the Discretionary activity status under the PMEP is not commensurate with the level of effect of the cabinet activity. For example not complying with Regulation 8(4) of the NESTF, requiring a separation distance of 30m between cabinets where they are located adjacent to different property frontages does not give rise to an effect over which resource consent should be declined. The effect is generally on amenity and safety, and this can be controlled through Controlled Activity status in the PMEP. Likewise, if Regulation 8(2) of the NESTF is not complied with, requiring the combined footprints of all cabinets to be no greater than 1.8m², the effect of not complying up to a total footprint of 4m² is also an effect that can be controlled through Controlled Activity Status.</p>	<p>Add a new Controlled Activity Rule as follows: <u>2.X.X Controlled Activities:</u> <u>The following telecommunications activities are controlled activities:</u> <u>(a) Small Cell Units</u> <u>The installation of a small-cell unit on a structure including any necessary ancillary equipment, provided that each small-cell unit and the ancillary equipment has a total volumetric dimension no greater than 0.3m³, excluding auxiliary cables.</u> <u>(b) Telecommunications Cabinets within Legal Road</u> <u>(i) A new telecommunication cabinet in road reserve located between 1m and 30m of an existing telecommunication cabinet which is located adjacent to a different site</u> <u>(ii) A new telecommunication cabinet in road reserve located between 1m and 30m away from any other cabinet or group of cabinets that is on the same side of the road.</u> <u>(iii) The total footprint of cabinets in the group in the road is between 1.8m² and 4m².</u> <u>Control is in respect of:</u></p>

Specific provision this submission relates to	Support/Oppose /Amendment	Reasons for submission	Relief sought
		The amended NESTF is likely to include a permitted standard for small-cell units. For the same reasons as above, small-cell units with a volume of up to 0.3m ³ should be provided for as a Controlled Activity.	<ul style="list-style-type: none"> • <u>Siting;</u> • <u>Visual Effects; and</u> • <u>Safety</u>
<p><i>Application must be made for a Discretionary Activity for the following:</i></p> <p><i>2.40.1. Any activity provided for as a Permitted Activity that does not meet the applicable standards.</i></p> <p><i>2.40.2. Any land use activity involving a network utility not provided for as a Permitted Activity.</i></p>	Amendment	<p>If a permitted network utility activity cannot comply with a standard, then it should be considered as a Discretionary (Restricted) Activity, with Council's discretion restricted to the specific permitted standard not complied with. Discretionary status is too high for a network utility that a Council has identified as being permitted. Network utilities exist solely for the reason of serving the communities in which they are situated, and provide a necessary function to achieving Part 2 of the Act. Full Discretionary status, allowing the consideration of any matter should not occur. The Permitted Standards determine appropriate parameters, and if one of those parameters is not complied with, then that is the only matter that should be considered. However, if a network utility is not provided for as a Permitted Activity (and subsequently there are no permitted standards for consideration, full discretionary activity status is appropriate</p>	<p>Amend Section 2.40 as follows:</p> <p><i>2.40 Discretionary <u>Restricted</u> Activities</i></p> <p><i>Application must be made for a Discretionary <u>Restricted</u> Activity for the following:</i></p> <p><i>2.40.1. Any activity provided for as a Permitted Activity that does not meet the applicable standards. <u>Council's discretion is restricted to the effects generated by the standard(s) not met.</u></i></p> <p><u>2.41 Discretionary Activities</u></p> <p><u>Application must be made for a Discretionary Activity for the following:</u></p> <p><i>2.40.2. Any land use activity involving a network utility not provided for as a Permitted Activity.</i></p>
Section 2: General Rules (other than Network Utilities)			
<p><i>Activity in, on, over or under the bed of a lake or river</i></p> <p><i>2.7 Permitted Activities</i></p> <p><i>2.7.8 Minor upgrading in, on, or under the bed of a lake or river of the following utilities:</i></p> <p><i>(b) telecommunication or radio communication facility existing at 9 June 2016.</i></p>	Support	<p>Allowing the minor upgrading of existing telecommunication or radio communication facilities in the bed of a river or lake is supported.</p>	Retain Rule 2.7.8(b) as proposed.
<p><i>2.9 Standards that apply to specific permitted activities</i></p> <p><i>2.9.8 Minor upgrading .., utilities:</i></p> <p><i>2.9.8.1. The utility must have been lawfully established.</i></p> <p><i>2.9.8.2. The activity must not increase the plan or cross-sectional area of the utility by any more than 5% of the original utility.</i></p> <p><i>2.9.8.3. There must be no significant change to the external appearance of the utility.</i></p> <p><i>2.9.8.4. No greater than 10% of the cross-sectional area of the bed of a lake or river must be disturbed.</i></p>	Oppose	<p>While it is appropriate to have standards for Permitted Activities, Minor Upgrading is defined in Section 25 of the PMEP. This definition effectively sets standards for what can occur as Minor Upgrading under Rule 2.7.8, and consequently the additional standards under 2.9.8 are unnecessary.</p>	Delete Standard 2.9.8 in its entirety.

Specific provision this submission relates to	Support/Oppose /Amendment	Reasons for submission	Relief sought
<i>Heritage Resources</i> New Controlled Activity rule allowing network utility connections to Heritage Buildings	Amendment	Under the structure of Chapter 2, the Heritage Resources rules apply for network utilities. There is no provision in the existing heritage rules permitting network utility customer connections. It is essential that heritage resources are connected to network utility networks, in order to appropriately sustain the use of those resources. However, control as to how those connections should look needs to be provided in the PMEP, as some connections can potentially adversely effect the fabric of the heritage resource.. As such, a Controlled Activity rule is sought specifically allowing network utility customer connections.	Insert a new rule in section 2.24: [2.25] Controlled Activities [2.25.1] New customer connections to a Heritage Resource from an adjacent utility network are a Controlled Activity in respect of: • <u>The design and external appearance of the customer connection.</u>
<i>Notable Trees</i> 2.29 Standards that apply to specific permitted activities 29.2.1 Minor trimming or pruning of a Notable Tree 29.1.1 The trimming or pruning must only be (c) minor clearing of light branches (less than 50mm in diameter) from proximity to existing power lines;	Support with amendment	The permitted clearing of light branches from proximity to power lines should be extended to also include telecommunication lines.	Amend Standard 29.1.1(c) as follows: 29.1.1 The trimming or pruning must only be (c) minor clearing of light branches (less than 50mm in diameter) from proximity to existing power <u>and telecommunication</u> lines;
Sections 13, 14, 15 and 16 (Port, Port Landing Area, Marina and Coastal Marine Zones)			
Permitted Rules 13.1.9, 14.1.9, 15.1.16 and 16.1.11 permitting the replacement of a submarine or suspended cable or line and associated standards 13.3.9, 14.3.4, 15.3.8 and 16.3.8.	Support	Permitting the replacement of a submarine line in the coastal environment (covered by Port, Port Landing Area, Marina and Coastal Marine zones) is supported. However, each of the associated standards include a provision requiring the replacement line to be in the same location as the line it is replacing. This is impossible, as generally the line that is being replaced needs to remain operational until the replacement line is connected. As such, the standard should be amended to say same or similar in order to allow the changeover between the lines.	Retain Rules 13.1.9, 14.1.9, 15.1.16 and 16.1.11 as proposed and amend Standards 13.3.9.2, 14.3.4.2, 15.3.8.2 and 16.3.8.2 as follows: <i>A replacement cable or line must be laid or suspended in the same <u>or similar</u> location as the cable or line being removed.</i>
Section 24: Subdivision			
24.1 Rules for all subdivisions <i>Telecommunications</i> 24.1.10 The applicant must supply telecommunications to all allotments or must provide a reasonable practicable alternative, except for allotments in the Rural Environment, Coastal Environment, Lake Grassmere Salt Works, Coastal Marine, Open Space 1, Open Space 2, Open Space 3, Open Space 4, Marina and Coastal Living zones. For the Coastal Living zone, the exception only	Support	Rule 24.1.10, including the exceptions, are supported.	Retain Rule 24.1.10.

Specific provision this submission relates to	Support/Oppose /Amendment	Reasons for submission	Relief sought
<i>applies when all proposed allotments are in excess of 150m from any power pole or underground cable utilised by the telecommunications network utility operator.</i>			
<i>24.1.11. The applicant must provide confirmation, together with the application for subdivision consent, that adequate provision has been made or adequate provision is practicable for the supply of telecommunications.</i>	Support	Requiring an applicant to provide for telecommunications is supported.	Retain Rule 24.1.11
<i>24.1.12. Acceptable confirmation as to the adequate provision of local reticulation must be a written statement from a telecommunications network utility operator or authorised supplier.</i>	Support	Requiring a written statement from a telecommunications network utility operator is supported.	Retain Rule 24.1.12.
<i>Proximity of Services 24.1.13. All services required as a result of Rules 24.1.1, 24.1.4, 24.1.7 and 24.1.10 must be provided at the boundary of each allotment or, if a rear allotment, to the allotment beyond the end of the right of way.</i>	Support	Requiring telecommunications to each allotment is supported.	Retain Rule 24.1.13.
<i>24.2.1. Subdivision of land associated with utilities.</i>	Support with amendment	Clarity needs to be provided as to what 'subdivision of land associated with utilities' means. It is proposed that the standard be amended to read 'subdivision undertaken by network utility operators' in order to provide clarity.	Amend Rule 24.2.1 as follows: <i>Subdivision of land associated with utilities undertaken by network utility operators.</i>
Section 25: Definitions			
Antenna means that part of a radio communication facility or telecommunication facility used for transmission or reception including the antenna mountings but not any supporting mast or similar structure	Support	The definition of antenna is supported.	Retain the definition of Antenna.
Height in relation to a building or structure, means the vertical	Support with amendment	Height as defined includes any part of a building or structure. There is certain equipment, such as GPS Antenna and lightning rods, which can be affixed to	Amend the definition of Height as follows:

Specific provision this submission relates to	Support/Oppose /Amendment	Reasons for submission	Relief sought
<i>distance between the natural ground level at any point and the highest part of the building or structure immediately above that point as shown in Figure 2 of Appendix 26.</i>		the top of structures, and give rise to negligible environmental effects. GPS Antennas and lightning rods are generally slim (less than 12mm in diameter), and as such are of a size that will not cause bulk and dominance type effects. As such, these structures should be excluded from the definition of height.	<i>Height in relation to a building or structure, means the vertical distance between the natural ground level at any point and the highest part of the building or structure immediately above that point as shown in Figure 2 of Appendix 26. <u>This definition does not apply to lightning rods or GPS antenna affixed to the highest part of a building or structure.</u></i>
Maintenance and Replacement means any work, including foundation work, or activity necessary to continue the operation and or functioning of an existing line, building, structure or (for the purpose of utilities) other facility with another of the same or similar height, size or scale, within the same or similar position and for the same or similar purpose.	Support	The definition of Maintenance and Replacement is supported	Retain the definition of Maintenance and Replacement.
Minor Upgrading	Support with amendment	<p>The definition of minor upgrading in relation to telecommunication lines and radio communication infrastructure is generally supported. However it requires amendment in order to provide absolute clarity as to what the parameters of minor upgrading are. Minor upgrading should include the replacement, reconfiguration and relocation of existing telecommunication lines, as well as the addition of new lines, and should allow for the replacement of a support structure (pole). It is a physical impossibility to replace a pole with a new pole in the same location, so parameters are proposed around how replacement poles are to be included as part of minor upgrading.</p> <p>An addition to the definition to also provide for the replacement of antennas is also proposed. This removes any ambiguity as to what is deemed 'same or similar' under the definition of Maintenance and Replacement.</p>	<p>Amend the definition of Minor Upgrading as follows: <i>Minor Upgrading means an increase in the carrying capacity, efficiency or security of electricity (for the purpose of utilities) lines, telecommunication lines and radio communication facilities, using the existing support structures or structures of a similar scale and character, and includes:</i></p> <p>(a) <i>The <u>replacement, reconfiguration, relocation or addition of lines, circuits and conductors;</u></i></p> <p>(b) <i>The re-conductoring of the line with higher capacity conductors;</i></p> <p>(c) <i>The re-sagging of conductors;</i></p> <p>(d) <i>The addition of longer or more efficient insulators;</i></p> <p>(e) <i>The addition of earthwires which may contain telecommunication lines, earthpeaks and lightning rods;</i></p> <p>(f) <i>Foundation works associated with the minor upgrading;</i></p> <p><u>(g) The replacement of a pole, provided that:</u></p> <p><u>(i) the replacement pole must not have a diameter that is more than the existing pole's diameter at its largest point plus 50 per cent;</u></p> <p><u>and</u></p> <p><u>(ii) The replacement pole must not have a height greater than 25m or the height of pole it is replacing, whichever is the greater; and</u></p> <p><u>(iii) The replacement pole must be located within 3m from the existing pole.</u></p> <p><i>Minor upgrading does not include an increase in the voltage of the line unless the line was originally constructed to operate at the higher voltage but has been operating at a reduced voltage.</i></p> <p><u>Minor Upgrading also includes the replacement of existing antennas, provided the replacement antenna size is no greater than 20 percent of the existing antenna being replaced.</u></p>

Specific provision this submission relates to	Support/Oppose /Amendment	Reasons for submission	Relief sought
Network utility structure <i>means any structure essential to the operation and provision of a (network) utility service.</i>	Support	The definition of Network Utility Structure is appropriate.	Retain the definition of Network Utility Structure as proposed.
Radiocommunication facility <i>means any transmitting/receiving devices such as aerials, dishes, antennae, cables, lines, wires and associated cabinets/equipment /apparatus, as well as support structures such as towers, masts and poles.</i>	Support	The definition of Radiocommunication facility is appropriate.	Retain the definition of Radiocommunication facility as proposed.
Site	Oppose	There are four separate definitions of site – this is highly confusing for plan users and not considered to be best practice.	Have one clear and concise definition of 'site'.
Telecommunication facility <i>means any telephone exchange, telephone booth, telephone cabinet or pay phone, or any other structure, facility or apparatus intended for the purpose of effecting telecommunication</i>	Support	The definition of Telecommunication facility is appropriate.	Retain the definition of Telecommunication facility as proposed.
Telecommunication Line	Support	The definition of Telecommunication Line is appropriate.	Retain the definition of Telecommunication Line as proposed.
New definition – Infrastructure	Amendment	As submitted, the term infrastructure should be used to replaced 'regionally significant infrastructure' throughout the PMEP. Infrastructure' is defined within Policy 4.2.1. However it is a critical term, and for ease of use should also be defined in the definitions section of the PMEP.	Add the following definition of Infrastructure: <u>Infrastructure includes:</u> <u>(a) reticulated sewerage systems (including the pipe network, treatment plants and associated infrastructure) operated by the Marlborough District Council;</u> <u>(b) reticulated community stormwater networks;</u> <u>(c) reticulated community water supply networks and water treatment plants operated by the Marlborough District Council;</u> <u>(d) regional landfill, transfer stations and the resource recovery centre;</u> <u>(e) National Grid (the assets used or owned by Transpower NZ Limited);</u> <u>(f) local electricity supply network owned and operated by Marlborough Lines;</u> <u>(g) facilities for the generation of electricity, where the electricity generated is supplied to the National Grid or the local electricity supply network (including infrastructure for the transmission of the electricity into the National Grid or local electricity supply network);</u> <u>(h) telecommunication facilities and radiocommunication facilities;</u> <u>(i) Blenheim, Omaka and Koromiko Airports;</u> <u>(j) main trunk railway line;</u> <u>(k) district roading network;</u> <u>(l) Port of Picton and Havelock Harbour;</u>

Spark

Marlborough District Council – Submission on the Proposed Marlborough Environment Plan

Specific provision this submission relates to	Support/Oppose /Amendment	Reasons for submission	Relief sought
			<u>(m) Picton, Waikawa and Havelock marinas;</u> <u>(n) RNZAF Base at Woodbourne; and</u> <u>(o) Council administered flood defences and the drainage network on the Lower Wairau Plain.</u>

ADDEUNDUIM 1:

Suggested Objectives and Policies for a Standalone Infrastructure/ Network Utilities Chapter in Volume 1 of the PMEP:

Objectives

- (1) The benefits of network utilities are recognised.
- (2) The value of investment in network utilities is recognised.
- (3) Safe, efficient and secure network utilities are enabled, to service the needs of existing and authorised proposed subdivision, use and development.
- (4) Development, operation, maintenance, repair, replacement, renewal, upgrading and removal of network utilities is enabled.
- (5) The resilience of network utilities is improved and continuity of service is enabled.
- (6) Network utilities are appropriately protected from incompatible subdivision, use and development, and reverse sensitivity effects.

Policies

- (1) Recognise the social, economic, cultural and environmental benefits that network utilities provide, including:
 - (a) enabling enhancement of the quality of life and standard of living for people and communities;
 - (b) providing for public health and safety;
 - (c) enabling the functioning of businesses;
 - (d) enabling economic growth;
 - (e) enabling growth and development;
 - (f) protecting and enhancing the environment;
 - (g) enabling interaction and communication.
- (2) Provide for the development, operation, maintenance, repair, upgrade and removal of network utilities throughout Marlborough by recognising:
 - (a) functional and operational needs;
 - (b) location, route and design needs and constraints;
 - (c) the complexity and interconnectedness of infrastructure services;
 - (d) the benefits of infrastructure to communities with in Auckland and beyond;
 - (e) the need to quickly restore disrupted services; and
 - (f) its role in servicing existing, consented and planned development.

Adverse effects on network utilities

- (3) Avoid where practicable, or otherwise remedy or mitigate adverse effects on network utilities from subdivision, use and development, including reverse sensitivity effects, which may compromise the operation and capacity of existing, consented and planned

network utilities.

Adverse effects of network utilities

- (4) Require the development, operation, maintenance, repair, upgrading and removal of network utilities to avoid, remedy or mitigate adverse effects, including, on the:
 - (a) health, well-being and safety of people and communities, including nuisance from noise, vibration, dust and odour emissions and light spill;
 - (b) safe and efficient operation of other network utilities;
 - (c) amenity values of the streetscape and adjoining properties;
 - (d) environment from temporary and ongoing discharges; and
- (5) Consider the following matters when assessing the effects of network utilities:
 - (a) the degree to which the environment has already been modified;
 - (b) the nature, duration, timing and frequency of the adverse effects;
 - (c) the impact on the network and levels of service if the work is not undertaken;
 - (d) the need for the network utility in the context of the wider network; and
 - (e) the benefits provided by the network utility to the communities within Marlborough and beyond.
- (6) Consider the following matters where new network utilities or major upgrades to network utilities are proposed within the coastal environment, heritage resources and outstanding natural character and landscape area:
 - (a) the economic, cultural and social benefits derived from network utilities and the adverse effects of not providing the network utility;
 - (b) whether the network utility has a functional or operational need to be located in or traverse the proposed location;
 - (c) the need for utility connections across or through such areas to enable an effective and efficient network;
 - (d) whether there are any practicable alternative locations, routes or designs, which would avoid, or reduce adverse effects on the values of those places, while having regard to (6)(a) - (c);
 - (e) the extent of existing adverse effects and potential cumulative adverse effects;
 - (f) how the proposed network utility contributes to the strategic form or function of Marlborough;
 - (g) the type, scale and extent of adverse effects on the identified values of the area or feature.
 - (h) whether adverse effects on the identified values of the area or feature must be avoided pursuant to any national policy statement, national environmental standard, or regional policy statement.
- (7) Enable the following activities within natural heritage, historic heritage, historic character

and Mana Whenua cultural heritage overlays:

- (a) the use and operation of existing infrastructure; and
 - (b) the minor upgrading, maintenance and repair of existing infrastructure, while ensuring that the adverse effects on the values of the area are avoided and where those effects cannot practicably be avoided, minimise any such effects and ensure they are appropriately remedied or mitigated.
- (8) Encourage new linear network utilities to be located in roads, and where practicable within the road reserve adjacent to the carriage way.

Undergrounding of network utilities in urban areas

- (9) Require new or major upgrades to electricity and telecommunications lines to be located underground in urban areas unless:
- (a) there are significant operational, functional, technical or economic reasons that require an aboveground network; or
 - (b) the additional lines are part of minor upgrading to the network or are service connections.
- (10) Enable the coordinated undergrounding of existing electricity and telecommunications lines in the road, particularly where the opportunity exists when network improvements are undertaken.

New technologies

- (11) Provide flexibility for network utility operators to use new technological advances that:
- (a) improve access to, and efficient use of services;
 - (b) allow for the re-use of redundant services and structures where appropriate;
 - (c) result in environmental benefits and enhancements; and
 - (d) utilise renewable sources.

Attachment (b) - copy of the relevant parts of the decision

To: Marlborough District Council
And to: The submitters and further submitters

In the matter of the Resource Management Act 1991
And
In the matter of the Proposed Marlborough Environment Plan

Decision of the MEP Hearing Panel

Commissioners: Trevor Hook (Chairperson)
David Oddie
Jamie Arbuckle
Rawiri Faulkner
Ron Crosby
Shonagh Kenderdine

Hearing: Commenced on 20 November 2017 and completed on 29 April 2019

Date of Decision: 20 February 2020

Decision

129. That 10.AER.1 is amended as follows:

...

No loss of Category I-A heritage resources and no destruction of Schedule 3 heritage resources as measured through the grant of resource consent applications to demolish, partially demolish Category I-A heritage resources.

Limited loss, if any of other heritage resources as measured through the grant of resource consent applications to modify such resources.

The instances of archaeological site damage recorded by Heritage New Zealand Pouhere Taonga decrease.

Maintain or improve resident satisfaction with the heritage activity of the Council as measured by customer satisfaction surveys. ...

130. The submission seeking amendment to 10.AER.2 is rejected.

Heritage Resources Rules 2.24-2.27

New Rule - 2.24 Permitted Activities

131. HNZPT submits that provision should be made for the creation of one sign associated with heritage resources by including a new Rule 2.24.4 for limited signage as a permitted activity.⁷⁵

That is asserted to be important for information and interpretation purposes.

132. This was agreed by the report writer⁷⁶ who suggests some limited signage should be identified, given there is currently no provision of this type of activity. The size should be not greater than 0.5 square metres.

133. As to a limit on the size of the heritage signage requested the Panel decided to increase the size of the sign to 2 square metres, and remove the recommended (b) from the standard as it is unnecessary due to it being covered by other statutory means and does not relate to the heritage value for which the permitted activity is being allowed. The Panel's view was that with the common combination of illustration panels and interpretive descriptions at heritage sites. There is no requirement for a discretionary activity class as the PMP does not have a great number of restricted activities in order that it is kept simplified.

⁷⁵ HNZPT (768.53, .54).

⁷⁶ Section 42A Report, paragraph 163.

134. We note a consequential change has occurred to Method 10.M.2 Rules to include interpretive signage as a permitted activity.

Decision

135. A new rule is included as follow:

2.24.X. Erection of one sign within the site of a Heritage Resource included in Schedule 1, 2 or 3 that is not greater than 2m² and is not flashing or illuminated for the purposes of:

(a) setting out information relating directly to the onsite activities or uses; or

(b) interpretative material on the historic heritage values of the place.

Rule 2.24.1 Repair or maintenance of a Heritage Resource

136. HNZPT request the rule includes a reference to Appendix 13 as this will then exclude archaeological sites (leaving their management to HNZPT) and sites of significance to Māori (which are now dealt with under other rules).⁷⁷

137. The Panel considered the report writers recommended inclusion of reference to 'Schedule 1 or 2'⁷⁸ was not required.

Decision

138. The Panel amended 2.24.1 to read:

Repair or maintenance of a Heritage Resource identified in Appendix 13.

Rule 2.24.3

Maintenance (meaning protective care) of an archaeological site, where that maintenance includes:

(a) keeping the site in good condition by controlling noxious weeds, cutting grass and light stock grazing;

(b) land disturbance by cultivation that does not extend beyond the area or depth previously disturbed;

(c) maintenance and upgrading of a paved road, modified berm or path provided that the land disturbance does not extend beyond the area or depth previously disturbed.

139. This rule needs to include reference to Appendix 13, Schedule 3 sites to ensure maintenance can occur of those sites. The rule also requires amendment to include fencing to ensure stock can be fenced out.

Decision

140. Rule 2.24.3 is amended as follows:

⁷⁷ HNZPT (464.55).

⁷⁸ Section 42A Report, paragraph 168

Rule 2.24.3: Maintenance (~~meaning protective care~~) of an ~~archaeological~~ site of significance to Marlborough's tangata whenua iwi identified in Schedule 3 of Appendix 13, where that maintenance includes:

- (a) keeping the site in good condition by controlling noxious weeds, cutting grass and light stock grazing;*
- (b) land disturbance by cultivation or fencing that does not extend beyond the area or depth previously disturbed; or ...*

Rule 2.25.1.6

The repair or maintenance can include the patching, restoration or minor replacement of materials, elements, components, equipment or fixtures

141. HNZPT state that Standard 2.25.1.6 is more suited to be part of the definition of repair or maintenance and should be removed.⁷⁹ Instead, the rule should reference Appendix 13 which will then exclude archaeological sites (leaving their management to HNZPT) and sites of significance to Māori (dealt with under other rules).

142. The report writer agrees that it is appropriate to reference Appendix 13 but believes that the words relating to repair or maintenance can remain as they provide detail as to what is allowed (and appear in keeping with the existing definitions of 'maintenance' in the PMEP). He does not consider these words should be deleted.⁸⁰

Consideration

143. This rule needs to include reference to Appendix 13 in order to exclude, amongst other things, archaeological sites. Removal of the reference to the schedules as recommended in the Section 42A Report should also take place.

Decision

144. Rule 2.25.1.6 is amended as follows:

Rule 2.25.1.6. – The repair or maintenance of a Heritage Resource identified in Appendix 13 can include the patching, restoration or minor replacement of materials, elements, components, equipment or fixtures.

Rule 2.26.2

Any land use activity involving a Heritage Resource not provided for as a Permitted Activity.

⁷⁹ HNZPT (464.59).

⁸⁰ Section 42A Report, paragraphs 152-153.

145. HNZPT suggest additional activities concerning land disturbance in Appendix 1 Outstanding Landscapes and Natural Features, and subdivisions identified in the schedules of the PMEP should be subject to resource consent as a discretionary activity.⁸¹
146. HNZPT suggests that it would be beneficial for the sake of clarity that this rule should set out some of the other land use activities (such as forestry and network utilities) and needs also to reference restricted, discretionary and prohibited activities. The word ‘involving’ in the notified rule is asserted to be somewhat vague with potential ‘adverse effects on’ a better substitute.⁸²

Section 42A Report

147. The report writer believes the rule should be amended to reflect other changes suggested in the chapter but there is no requirement to specify other activities, given that other activities are already subject to rules and other provisions of the PMEP.
148. The report writer considers such an additional rule would be a blunt instrument as the zone rules in the PMEP control land distribution in Appendix 1. Regard too can be had to heritage issues in resource consent applications.
149. Similarly, in respect of subdivision, there are specific rules in Chapter 24 Subdivision which, as a minimum, is a controlled activity with Council reserving control over a number of matters (Rules 24.3.1.9-24.1.3.26) which are likely to provide protection for heritage resources including use of the site. Subdivision is subject also to other rules such as land disturbance. Further, HNZPT Act provisions under the auspices of HNZPT also apply to the disturbance of archaeological sites.⁸³
150. This rule is a ‘catch all’ which may be considered satisfactory. Further, the suggested term ‘potential adverse effects’ is also somewhat uncertain. The report writer suggests the term ‘that relates to’ would provide the necessary clarity.⁸⁴

Consideration

151. The rule requires some amendment to improve its wording with the insertion of ‘or limited as a’ before ‘prohibited activity’ for consistency with the expression of discretionary activity rules in the PMEP. The Panel accepts the changes recommended as clarifying the wording.

⁸¹ HNZPT (464.61).

⁸² HNZPT (464.62).

⁸³ Section 42A Report, paragraphs 157-158.

⁸⁴ Section 42A Report, paragraph 160.

Decision

152. Rule 2.26.2 to read:

2.26.2 Any land use activity ~~involving~~ that relates to a Heritage Resource identified in Schedule 1, 2 or 3 of Appendix 13 is not provided for as a Permitted Activity or limited as a Prohibited Activity.

Rule 2.27.1

The whole or part demolition or removal of a Category I Heritage Resource.

153. HNZPT suggest that Rule 2.27.1 ‘part demolition’ is changed to ‘partial demolition’, while the word ‘removal’ is said to be ambiguous and could be taken to also mean demolition.⁸⁵ The word ‘relocation’ should be used. In addition, the rule should also reference the heritage resources in Appendix 13.

154. These amendments are accepted by the report writer as they improve the reading of the PMEP and are consistent with the submissions in other parts of the chapter.⁸⁶

155. HNZPT also consider that the destruction of a wāhi tapu site or other site of significance to Māori should be a prohibited activity.⁸⁷ This amendment too is considered appropriate by the report writer, given the fact that these sites have important cultural and historic value the Council must protect. He notes that while the submission is opposed by Federated Farmers in a further submission, it generally is not seen as a significant change. Destruction of wāhi tapu sites in the notified Schedule 1 was a prohibited activity (and did not attract any opposing submissions).⁸⁸

156. Sylvia Allan suggested that ‘modification’ is added as well as ‘destruction’ in order to provide better protection for items as prohibited activities. Subsequently, the witness suggested ‘destruction or partial destruction’.

Consideration

157. We consider both suggested amendments should be approved for the reasons given by the report writer. And also the wording of Rule 2.27.1 should also include an exception for ‘a Dangerous Building under the Building Act 2004’. Such a building presents a significant hazard and risk to public safety. The provisions of the plan allow for consideration of that risk, but also the potential loss of heritage values, through the resource consent process.

⁸⁵ HNZPT (464.61).

⁸⁶ Section 42A Report, paragraph 161.

⁸⁷ HNZPT (464.64).

⁸⁸ Section 42A Report, paragraph 162.

158. An additional rule (Schedule 3 sites) is recommended as a consequence to HNZPT's concern about the seriousness of the destruction of tangata whenua iwi sites of significance including wāhi tapu.⁸⁹ The Panel understands HNZPT's concerns but, given the importance of the issue, agrees with the report writer that there is some uncertainty in terms of 'partial destruction'. Some protection is afforded by 'modification' as a discretionary activity and it is still necessary to obtain archaeological authority.⁹⁰ However for destruction of sites of significance to Marlborough's tangata whenua iwi requires a new prohibited activity rule.

Decision

159. Rule 2.27.1 is amended by the following:

2.27.1 The whole or ~~part~~ partial demolition or ~~removal~~ relocation of a Category 1 A Heritage Resource identified in Schedule 1 of Appendix 13, except for a Dangerous Building under the Building Act 2004.

160. Add a new rule 2.27.2 as follows:

2.27.2 The destruction of a site or place of significance to Marlborough's tangata whenua iwi identified in Schedule 3 of Appendix 13.

Appendix 13 Register of Significant Heritage Resources

161. Consideration of the submissions under this heading will assist in clarifying some of the amendments necessary to guide the reader through the PMEP's preparation of this chapter.
162. HNZPT provides a number of helpful amendments:⁹¹ a new schedule to Appendix 13 for sites of significance and wāhi tapu for Marlborough's tangata whenua iwi directly after the existing Schedule 2 and the transfer of existing iwi sites to this schedule; replacement of the terms 'Category 1' and 'Category 2' in the Schedules to the PMEP with 'Category A' and 'Category B' to avoid confusion between items in the New Zealand Heritage List/Rārangi Kōrero (the List) and those schedules in district plans; deletion of the term 'locally significant' in Schedule 2 as this has become redundant.
163. Marlborough's tangata whenua iwi raised a number of other matters. Te Ātiawa consider the title of Appendix 13 is inappropriate – modify the title of the register to reflect that it is a list

⁸⁹ HNZPT (464.63).

⁹⁰ Section 42A Report, page 27.

⁹¹ HNZPT (768.71-.73).

(d) At any point in its possible rotation, not exceed a height equal to the recession plane angle determined by the application of the Recession Plane and Height Controls in Appendix 26. The recession plane angle must be measured from a starting point 2m above ground level at the property boundary.

79. A new definition is inserted of Amateur Radio Configurations as follows:

Amateur Radio Configurations means the aerials, antennae and associated support structures which are owned and operated by licenced amateur radio operators.

Rules 2.38.3 and 2.39.2

Trenching for cable laying

80. Chorus and Spark¹⁹ informed the Panel that most installations of cables are installed underground rather than using a trenching method.
81. They also raised concern with respect to Standard 2.39.2.2 in that it would limit the installation of cables in close proximity to Significant Wetlands and rivers with a Natural State classification. The submitters sought an exemption :

The 8m setback does not apply to undergrounding which is undertaken within formed legal road.

82. In making this request Chorus and Spark, in the evidence of Tom Anderson, highlighted that 'road corridors to be appropriate locations for network utility lines'.

Consideration

83. The Panel considered that consequently rules relating to trenching should also refer to undergrounding for cable laying.
84. The Panel also agreed that roads are appropriate locations for network utility lines and the exemption sought should apply. As pointed out in evidence, the method of undergrounding involves a reduced potential for adverse effects.

Decision

85. Rules 2.38.3 and 2.39.2 are amended to read:

Trenching or undergrounding for cable laying.

86. Standards 2.39.2.2, 2.39.2.3, 2.39.2.6 are also amended to include the additional wording 'or undergrounding' as follows:

¹⁹ Chorus (464.34) and Spark (1158.32)

2.39.2.2. *Trenching or undergrounding must not occur in, or within 8m of, a Significant Wetland or Water Resource Unit with a Natural State water quality classification. The 8m setback does not apply to undergrounding which is undertaken within formed legal road.*

2.39.2.3. *Trenching or undergrounding must not occur within such proximity to any abstraction point for a community drinking water supply registered under section 69J of the Health Act 1956 as to cause contamination of that water supply.*

2.39.2.6. *Trenching or undergrounding must not cause any conspicuous change in the colour or visual clarity of any flowing river after reasonable mixing, or the water in a Significant Wetland, lake or the coastal marine area, measured as follows: ...*

Definitions Minor Upgrading

87. The Panel accepted the report writers recommended amendment to the definition of minor upgrading but considers that upgrading should be limited to replacement structures.

Minor Upgrading means an increase in the carrying capacity, efficiency or security of electricity (for the purpose of utilities) lines, telecommunication lines and radio communication facilities, using the existing support structures or replacement structures of a similar scale and character, and includes:

(a) The replacement, reconfiguration, relocation or addition of lines, circuits and conductors;

(b) The re-conductoring of the line with higher capacity conductors;

(c) The re-sagging of conductors;

(d) The addition of longer or more efficient insulators;

(e) The addition of earthwires ~~which may contain telecommunications lines, earthpeaks and lighting rods;~~

(f) Foundation works associated with the minor upgrading.

~~Minor upgrading does not include an increase in the voltage of the line unless the line was originally constructed to operate at the higher voltage but has been operating at a reduced voltage.~~

Maps 218 and 234

88. Kiwirail sought two changes to the designation. One of which was supported by the S42A report writer and one that was not. The Panel was not convinced that the land zoned Open Space 3 was required for rail operations. In contrast the adjoining area, which the Panel did

Attachment (c) - copy of the relevant part of MDC Topic 8 Section 42A Report relating to heritage

Proposed Marlborough Environment Plan

**Section 42A Hearings Report for Hearing Commencing 12
March 2018**

Report dated 9 February 2018

**Report on submissions and further submissions
Topic 8: Heritage Resources and Notable Trees**

Report prepared by

Paul Whyte

Consultant Planner (Beca Ltd)

160. I believe the rule should be amended to reflect the other changes suggested to the chapter but that there is no requirement to specify other activities given that “other activities” are subject to the rules and other provisions in the MEP. The rule in the proposed MEP is a catch all which I generally believe is satisfactory. I consider that the suggested term “potential adverse effects” is also somewhat uncertain and have suggested the term “that relates to” in the rule to provide clarity.

Rule 2.27 Prohibited Activities

161. HNZ (464.64) suggests that in Rule 2.27.1 “part demolition” is changed to “partial demolition” and the term “removal” is ambiguous and could be taken to also mean demolition. Accordingly, it is submitted that the term “relocation” should be used. In addition the rule should reference the heritage resources in Appendix 13. I concur with these amendments as they improve the reading of the MEP and are consistent with the submissions on other parts of the chapter.

162. HNZ (464.63) considers that the destruction of a waahi tapu site or other site of significance to Maori should be a prohibited activity given these sites have important cultural and historic heritage values that Council must protect. This amendment is consistent with the suggested policy changes and provides clarity and I therefore consider it appropriate. While the submission is opposed by Federated Farmers in a further submission it generally is not a significant change as “demolition “of waahi tapu sites in the original Schedule 1 was a prohibited activity (and which did not attract any opposing submissions).

Other Matters

163. HNZ (768.53 and.54) requests rules that provide for limited signage as a permitted activity and as a restricted discretionary activity. I agree that some specified signage should be permitted given that currently there is no provision for this type of activity and which is of importance for heritage resources for information, interpretative etc purposes. However I do not believe there is a requirement for a restricted activity class. The MEP generally does not have a significant number of restricted activities in order the structure of the plan is simplified and I note that any non-compliance with the signage provisions is still dealt with as a discretionary activity. The matters of suggested discretion by HNZ are extensive in any event.

164. HNZ has also suggested restricted activity status for internal or external alterations that do not meet permitted activity standards. For the reasons suggested above I do not consider this is necessary and again I note the matters of suggested discretion by HNZ are extensive.

165. Chorus NZ Ltd (464.60) and Spark NZ Ltd (1158.52) state that under the structure of Chapter 2, the Heritage Resources rules apply for network utilities and that there is no provision in the existing heritage rules permitting network utility customer connections. It is considered essential that heritage resources are connected to network utility networks, in order to appropriately sustain the use of those resources, but in recognition of the heritage values a controlled activity rule is suggested specifically allowing network utility customer connections. This is supported by HNZ subject to minor amendments and the inclusion of provisions for minor upgrading.

166. In my view the Utilities Rules will still apply but I consider that it is appropriate to have controls in respect of the heritage aspects by way of resource consent as suggested by the submitter. I note that consideration of customer connections will more generally be dealt with in the Utilities topic and accordingly my recommendation is dependent on it being aligned with those recommendations. Accordingly while I support a rule of the nature suggested by the applicant its exact form is dependent on the Utilities deliberations so at this stage I will not make a final recommendation.

Recommendation

167. Add the following to Rule 2.24 Permitted Activities:

2.24.4. Erection of one sign within the site of a Heritage Resource included in Schedule 1,2 or 3 that is not greater than 0.5m2 and is not flashing or illuminated for the purposes of:

(a) setting out information relating directly to the onsite activities or uses;

(b) aiding traffic or maritime safety or navigation or providing information for public health and safety requirements

(c) interpretative material on the historic heritage values of the place.³³

168. Amend Rule 2.24.1 as follows:

Repair or maintenance of a Heritage Resource identified in Schedule 1 or 2 of Appendix 13.³⁴

169. Amend Rule 2.24.2 to read:

2.24.2. ~~Internal or external safety~~ Alteration of a Heritage Resource identified in Schedule 1 or 2 of Appendix 13, necessary for the purpose of improving structural stability or safety through:

•structural seismic upgrades, core sample drilling, temporary lifting, shifting off foundations or permanent realignment of foundations

•fire protection; and

•provision of access.

~~performance (including earthquake strengthening work), fire safety or physical access.³⁵~~

Amend Rule 2.24.3 to read:

Maintenance (~~meaning protective care~~) of an archaeological site a site of significance to Maori identified in Schedule 3 of Appendix 13, where that maintenance includes:

(a) keeping the site in good condition by controlling noxious weeds, cutting grass and light stock grazing;

(b) land disturbance by cultivation or fencing that does not extend beyond the area or depth previously disturbed; or

...³⁶

170. That Rule 2.25.1.6 is amended as follows:

2.25.1.6. The repair or maintenance of a Heritage Resource identified in Schedule 1 or 2 of Appendix 13 can include the patching, restoration or minor replacement of materials, elements, components, equipment or fixtures.³⁷

171. That Rule 25.25.2 is amended as follows:

~~Internal or external safety a~~ Alteration of a Heritage Resource, necessary for those reasons stated in Rule 2.24.2. the purpose of improving structural performance (including earthquake strengthening work), fire safety or physical access.

....

2.25.2.3. The alteration must not involve the relocation, partial demolition, or full demolition of the Heritage Resource.³⁸

³³ HNZ (768.54)

³⁴ HNZ (768.55)

³⁵ HNZ (768.56)

³⁶ HNZ (768.57)

³⁷ HNZ (768.59)

³⁸ HNZ (768.60)

Attachment (d) - copy of the Heritage New Zealand Further Submission

(1054)Heritage New Zealand Pouhere Taonga - Support

Support in part: It is appropriate that new customer connections have a lower activity status than discretionary considering that the scale of their adverse effects is likely to be lower than many other activities. However, it is important that Council has the ability to fully consider adverse effects on historic heritage values. Additional matters of control should be added to cover these matters.

Additionally, the minor upgrading of network utilities is also likely to have a limited effect on historic heritage values. Currently, such an activity would be discretionary under the historic heritage rules—according to Heritage New Zealand's interpretation of rule 2.26.2, see further submission point 36 for more detail. This is overly restrictive. Minor upgrading of network utilities within the site of a heritage resource should also be a controlled activity. Consideration should also be given to the activity status appropriate for the repair and maintenance of network utilities. In most circumstance this should be a permitted activity, but with appropriate performance standards.

These further submission points are also in partial opposition to submission point 768.62 by Heritage New Zealand. This submission point supported rule 2.26, which makes activities not explicitly provided for under a different activity status discretionary activities.

It may be that there are other activities captured by rule 2.26 that do not warrant discretionary activity status due to having less than minor effects and/or increasing the usability of the heritage resource. For example, non-intensive forms of land based primary production. This warrants additional consideration.

Relief sought: That the Plan be amended so as to not overly restrict new customer connections, minor upgrading, and repair and maintenance of network utilities with regard to heritage resources.

This can be achieved by means such as:

2.25 Controlled Activities

Application must be made for a Controlled Activity for the following:

2.25.1 New customer connections to a Heritage Resource included in Schedule 1, 2 or 3 of Appendix 13 from an adjacent utility network

2.25.2 Minor upgrading of a network utility in the same site or area as a heritage resource included in Schedule 1, 2 or 3 of Appendix 13.

Matters of which Council will exercise its control:

- The design and external appearance of the customer connection
- The design and extent of any associated earthworks
- Effects on historic heritage values

And adding the following permitted activity and permitted activity standard:

2.24.4. Repair and maintenance of network utilities in the same site or area as a heritage resource included in Schedule 1,2 or 3 of Appendix 13

2.25.3 ...

2.25.3.1 The repair or maintenance must not change the character, scale or intensity of the network utility

That consideration be given to whether there are other land use activities that do not warrant discretionary activity status with regard to scheduled historic heritage.

Attachment (e) - names and addresses of persons to be served with a copy of this notice.

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