

**SUBMISSION ON VARIATION 1 TO THE PUBLICLY NOTIFIED
PROPOSED CANTERBURY NATURAL RESOURCES REGIONAL PLAN
UNDER CLAUSE 6 OF THE FIRST SCHEDULE
OF THE RESOURCE MANAGEMENT ACT 1991**

TO: Canterbury Regional Council
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CHRISTCHURCH

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(Please note the different address for service on page 12)

A. SUBMISSION BY TELECOM NEW ZEALAND LTD

Pursuant to Clause 6 of the First Schedule of the Resource Management Act, Telecom NZ Ltd ("Telecom") hereby lodges a submission on the proposed Canterbury Natural Resources Regional Plan ("the Plan").

PART I OF THE SUBMISSION NOTICE

Format and Content of Submission

This submission provides an extensive background about Telecom. This background covers details of Telecom as a company, the capacity of their network, and the type of infrastructure including processes and activities required to ensure their network utility infrastructure functions effectively and efficiently in providing its essential service of telecommunication. This background is important as it provides a context in which to assess Telecom's submission against the rules and provisions contained within the Plan.

The main rationale, however, for providing this background information is that on occasions in the past Telecom's submissions on proposed district and regional plans have been misunderstood by Councils as submissions have been assessed without the background knowledge of what the nature of the activities Telecom undertake are all about. Telecom's submission to the Councils own Land and Vegetation Plan is a case in point. This has subsequently led to outcomes that have been inappropriate for the infrastructure that Telecom provides and a number of appeals to the Environment Court have been made.

The information in Part I of this notice of submission is to ensure that this misunderstanding does not occur again and to facilitate a process by which the Council is clear as to what and why Telecom is requesting the relief sought in its submission as it relates to its functioning. This will also avoid any unnecessary further RMA processes beyond the initial Council level determinations.

About Telecom

Telecom is New Zealand's largest integrated telecommunications provider and manages a substantial telecommunication and radio-communication network throughout New Zealand. The network is used for a wide range of purposes including personal and commercial communications, linking financial institutions to convey critical financial transaction data, fire and burglary monitoring and control facilities and communications, and other emergency services communications. It is also subject to continual change with changes in technology, changes to products and services and network growth.

Telecom provides a full range of telecommunication products and services throughout New Zealand to the urban and rural areas of every local authority's territory. Telecom's products and services include a comprehensive range of internet, e-commerce, data, voice, mobile and fixed line solutions for business and residential customers.

Telecom operates one of the world's most advanced Public Switched Telephone Networks, with almost 100% of customers accessing lines connected to digital exchanges. Telecom provides a reliable network and a wide range of services. Approximately 1.9 million access lines are connected to Telecom's fixed network, 1.3 million customers are connected to its mobile network and 380,000 customers subscribe to its internet service Xtra. Telecom employs almost 6000 staff to provide these services.

The telecommunications industry plays an important part in contributing to a number of the Government's key objectives – economic growth, economic and regional development, the development of e-commerce and e-government, addressing the digital divide and sustainable development. Investment in the telecommunications industry drives the knowledge economy.

Telecom values its relationship with local government, and is playing a key role in meeting demand for improved telecommunications infrastructure in communities. These investments are critical for the Government to realise its goal of New Zealand's economic transformation. In addition to economic benefits, communications will play an increasingly important role in social development and cohesion.

Environmentally, telecommunications is a clean, green industry. It doesn't generate large emissions or pollution as some industries create. Use of telecommunications also reduces need for travel and paper, thereby reducing traffic congestion and consumption of resources, energy and fossil fuels. Telecom is continually improving its operations, equipment and services to minimise adverse impacts on the environment and maximise positive impacts. Examples of recent initiatives include Telecom's incentives for recycling mobile phones and commencement of taking down unused IRSN cables.

Telecom and RMA Instruments

Under previous legislation, such as the Town and Country Planning Act 1977, much of Telecom's 'routine' infrastructure (e.g. lines and cabinets) was directly provided for by legislation, and thus not subject to specific control by district and regional plans. Similarly, many of the more recent radiocommunication technologies and associated infrastructure may not have been considered in previous plan reviews. Under the Resource Management Act 1991 ("the Act" or "RMA"), effectively all aspects of Telecom's infrastructure and related effects on the environment can be subject to control in district and regional plans. Accordingly, it is essential in ensuring Telecom's infrastructure is adequately recognised and provided for.

Telecom's network represents a significant physical resource, and this status should be regarded as a resource management issue of significance to the District or Region. Under section 5 of the RMA, Councils have a statutory responsibility to *provide for the sustainable management of natural and physical resources*. At a policy level, it is important that an appropriate balance is struck between the provision of network utility infrastructure and environmental protection.

Telecom acknowledges that some of its activities can give rise to environmental effects that warrant scrutiny via the resource consent process. However, there are many components of the telecommunication and radio-communication network that can be established, operated and maintained without giving rise to effects of a significant nature. Telecom seeks the flexibility to provide for these elements of the network without the need to undergo unnecessary costly and time consuming consent processes.

Telecom's customers are consistently demanding more high quality services, particularly with growth in Internet services accessible via the telephone system. The ability to provide these services in a timely and cost effective manner can be significantly affected by the consent requirements of local authorities.

Telecommunication services are increasingly being used for the transmission of high-speed data, which requires a higher quality of services that is less tolerant of 'noise' interference. In order to provide this quality network, the equipment used to transmit the signals is required to be placed closer to the customer group being served. Essentially, the higher the level of data to be transported, the shorter the cable route to the customer. Where in the past Telecom had a line distance to a customer group of up to 30 km, it is now often necessary to establish a series of transmission equipment cabinets along the route, each serving its own smaller area. These networks may traverse a variety of zones, but need to be provided for in a consistent district-wide and regional basis.

With the move towards Telecom's New Generation Networks (NGN) involving integrated access to a wider variety of online and communications services, there will be continual change in infrastructural requirements. As we increase access to broadband and hi-speed internet, the number of cabinets required will also increase. However, unlike that of other operators, much of Telecom's network is already present underground so there is less need for major new rollouts.

Telecom does not seek specific or exclusive provision in the plan for its own infrastructure independently, and accordingly, its submissions address telecommunication and radio-communication generally.

Telecom's submission is generally motivated by the need for certainty as to the status of activities under this proposed plan, and a desire to avoid regulatory controls unless there are likely to be environmental effects that are best assessed through the resource consent process.

Often Resource Management Plans include objectives and policies that acknowledge the integral role that telecommunications and radio-communications play in the successful functioning of the District or Region, and the role they play in helping people and communities provide for the well-being and health and safety. However, these policies are often not reflected in the rules of a plan.

Unlike activities in general that are provided for in various zones, the location of telecommunication and radio-communication facilities are largely governed by varying operational criteria such as:

- Line of sight to other existing installations
- Line of sight to community being served/customer
- Location of customer group
- Location of existing network
- Requirement to connect customer to the existing network
- Linear nature of fixed lines
- Power supply constraints

It is for these reasons that specific provision needs to be made for the variety of telecommunication and radio-communication infrastructure in the NRRP.

Infrastructure

Telecommunication/radio-communication works provided by Telecom which have the potential to impact on land and vegetation resources includes the excavation of land/earthworks and vegetation clearance associated with the erection, placement, upgrade, repair or maintenance of the following infrastructure both on land and within the beds and margins of lakes and rivers:

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

Telecoms key area of concern is the effect of the proposed NRRP on the activities that are required to establish the above infrastructure. The activities referred to are described in the following subsections:

Underground Lines

Where operationally and economically feasible, Telecom will generally endeavour to place new lines underground. Telecom installs 100% of all lines in new subdivisions underground unless there are geographic or other significant reasons that make it impracticable.

Underground infrastructure may also include ancillary components such as inspection chambers and battery chambers. Underground lines are generally provided for as permitted activities in a number of resource management plans (there may be exceptions in certain areas such as sites with identified ecological value). Apart from where there are specified reasons where ground disturbance might be inappropriate, or areas that are subject to concept or structure plans for future urban development, there would be little justification for a Council to confer any status other than permitted.

Underground lines are laid by the following two principal means:

- Moleploughing
- Trenching.

Moleploughing

This method is used predominantly in rural areas where there are open road reserve verges that allow the line to be ploughed directly into the ground via a chute travelling through the soil behind a tractor/ bulldozer. Moleploughing may also be used where lines are laid across private property. The depth at which lines are buried varies depending on the type of line and/or location. Typical depths range from 450mm to 1200mm. Road controlling authorities

(territorial local authorities and Transit NZ) are moving towards requiring a 600mm depth for underground lines in roads.

After the line is laid, the surface is rolled to compact the disturbance and the finished surface is left similar to the original. The average rate of laying line by moleplough is approximately 1000m per day depending on location, culverts, services etc. There are no open trenches except the entrance and exit holes.

Trenching

In urban locations, trenching is used to lay lines in the ground. This allows existing services such as power, stormwater etc, to be physically located and damage avoided. If other services are to be buried at the same time (e.g., when servicing a new subdivision), then a common trench is preferred to reduce costs.

Often ducts will be placed in the trench at the same time to allow additional telecommunication services to be installed at a later date with minimal disturbance.

Trenching depths are similar to moleplough depths, with a trench width typically being 300mm minimum to 600mm maximum (this is influenced by the width of the excavator bucket. Trenching speed depends on the availability of space available, especially between services, as well as soil conditions. Average rates are 20m per day in central business areas up to 50m per day in suburban areas. Trenches are generally backfilled the same day the trench is dug, with excess material being removed from the site.

Backfilling is undertaken in accordance with the relevant territorial authorities engineering standards and the surface returned to the original condition. This may involve re-sealing, concreting, re-sowing grass or replacement of shrubs.

Telecom has a statutory right to install lines within a road reserve pursuant to section 135 of the Telecommunications Act 2001. Section 135 states:

135 Construction or repair of lines on roads (1) *Except as provided in subsection (2), a network operator may---*

- (a) construct, place, and maintain lines in, on, along, over, across, or under any road; and*
- (b) for any of those purposes, open or break up any road, and alter the position of any pipe (not being a main) for the supply of water or gas; and*
- (c) alter, repair, or remove those lines or any part of those lines.*

(2) A network operator must exercise the powers contained in subsection (1) in accordance with any reasonable conditions that the local authority or other person who has jurisdiction over that road requires.

This provision does not override any responsibilities under the RMA, but rather provides a right of tenure (i.e. it is unnecessary to get an encroachment license or other form of property agreement).

The potential for adverse land disturbance effects to arise from the laying of telecommunication lines underground is limited, due to a number of factors including:

- the narrow width and relatively shallow depth of the excavation work,
- the location within legal road reserve wherever possible, and
- the reinstatement procedures undertaken.

In comparison, the benefits to the environment and community of undergrounding lines are considerable. It is not always possible, however, to lay lines underground, especially in rural or remote areas. In such circumstances, telecommunication services can only be provided by above ground poles and/or lines.

Overhead Lines

Much of Telecom's network is still serviced by overhead lines, although new overhead line roll-outs are less common. This follows considerable dialogue with local government and Telecom policies that reflect broader community aspirations.

In most parts of the country, particularly in urban areas, the main network cables are buried underground, but thinner service leads may run up poles and overhead to the nearest customer premises. In some cases, overhead service leads may cross roads or pass to another pole before reaching the customer's premises.

There remain some very valid reasons for needing to deploy new overhead lines. Telecom has a policy of undergrounding in urban areas where this is practical (excluding lateral customer connections). However, reasons why this may not be feasible include:

- Narrow road reserve with no position available to install between existing services
- Spanning gullies and gorges
- Crossing rivers or streams where it is impractical to excavate the bed
- Ground unsuitable to excavate (i.e. rock base)
- Where the area is prone to lightening and has a high soil resistivity, and it is deemed that the network has a greater chance of survival being erected above ground
- Roading authority plans for future works may cause damage to cables.

Apart from new residential areas, or areas given specific landscape or 'special precinct' type classifications, Telecom considers that the decision on the placement of services should be at the discretion of the network utility operator, as the costs of undergrounding, or expensive resource consent procedures to justify circumstances where above-ground lines should be allowed, is ultimately borne by the customer. In addition, requiring consent to replace existing lines would be untenable, particularly as these would be afforded the protection of existing use rights in most cases.

Where existing overhead reticulation is available in a road, it is essential that Telecom is able to provide new overhead lateral customer connections to adjacent properties. Underground connections are higher cost (often 10 times the cost), with this again being borne by the customer.

Telecom's usual practice when installing new customer connections to an existing customer is to substitute a lower capacity line with one of higher capacity. This often means replacing a single pair service lead with a two pair service lead that is slightly wider in diameter. If a third line is requested then a larger cable again may be required. These activities generally come within Telecom's existing use rights under the RMA as the effects of these minor changes are similar in character, intensity and scale to those before the rule came into effect.

However it is important that regional plans should reflect this by providing for land disturbance and vegetation clearance for the maintenance and upgrading of existing lines as a permitted activity.

There are other times when a new or additional line needs to be installed in an area where the existing reticulation is overhead. If a new customer has never previously been connected to Telecom's network, then a new overhead line may be required, and in some circumstances a pole to support that line may also be required. For in-fill housing, Telecom will generally install the connection to the dwelling underground, but may need to run a line overhead across the road to the nearest terminal.

Telecommunication/radio-communication structures/buildings

Cabinets associated with Telecommunication Lines

Cabinets form an integral part of Telecom's line network. These cabinets are required to provide cross connections to customers, and may include equipment to either convert the signal between copper and fibre optic lines, or boost the signal to customers where not located sufficiently close to the nearest telephone exchange.

With the growth in high-speed data services and associated customer expectations, these types of facilities are required to be located closer to customer groups than in the past, and in many cases are effectively mini telephone exchanges in their own right. Significant numbers of cabinets are likely to continue being rolled-out in the future to accommodate network and service growth.

District plans generally have height (and sometimes floor area) controls that affect cabinets. Telecom is currently deploying a Universal Streetside Cabinet (USC), which has standard dimensions throughout the country. The height of the cabinet (on a flat site) is approximately 1500mm, although an additional 50mm may be required to accommodate the concrete base (plinth) on which they are built. Accordingly, a good starting point for a permitted height limit is 1600mm (1.6m). The floor area is 2200mm x 600mm (1.32m²). This standardizing of cabinets dimensions is equally applicable to regional plan provisions for determining the effects of associated land disturbance and vegetation clearance.

The USC not only allows for the POTS system, but also ASDL (broadband or high speed internet service) and future xDSL services (digital based services as opposed to analog provided by the POTS). This cabinet will be rolled out at a rate of approximately 120 per year nationally in the larger urban areas.

Other roadside cabinets in use are smaller than the USC, and are being progressively phased out. However, mini cabinets will still be used in low demand and rural areas. These cabinets are approximately 1140mm high including an allowance for the plinth. Accordingly, a height limit of 1200mm would be sufficient to accommodate a mini cabinet. In addition, in some cases only the 'T-Module' component of the USC may be deployed, which is essentially just a cross-connect cabinet with only limited termination ability. The T-Module will become the standard cross-connect cabinet, which has dimensions of approximately 1450mm high (excluding the plinth) x 600mm long x 450mm wide (i.e. a floor area of 0.27m²). T-Modules do not include a heat exchanger as is the case with the full USC configuration (i.e. TEE:A), and accordingly there are no noise issues to consider.

As Telecom migrates to the New Generation Network, cabinets are likely to become smaller but may also become more numerous.

As with underground lines, cabinets are provided for in road reserve under s18 of the Telecommunications Act 2001. Section 142 states:

142 Construction, etc, of telephone cabinets or other similar appliances (1) Subject to subsection (2), a network operator may construct, place, and maintain public telephone cabinets, distribution cabinets, or any other similar appliances on a road.

(2) A network operator must---

- (a) give to the local authority or other person who has jurisdiction over that road at least 10 working days' notice of its intention to place a cabinet or appliance on the road; and
- (b) comply with any reasonable conditions that are imposed by the local authority or other person who has jurisdiction over that road on which the cabinet or appliance is to be placed; and
- (c) not intentionally place the cabinet or appliance on the road so that it interferes with the ordinary traffic.

(3) Every notice under subsection (2)(a) must specify where the cabinet or appliance is to be placed on the road and the reasons for it.

This provision does not override any responsibilities under the RMA, but rather provides a right of tenure (i.e. it is unnecessary to get an encroachment license or other form of property agreement). It also provides for Councils to set reasonable conditions about the location of cabinets, for example to ensure that vehicle and pedestrian access is not interfered with. As Councils already have a specific means of addressing these concerns under the Telecommunications Act, similar protections and rules need not be duplicated through the RMA process.

Radio-communication Facilities

From time to time Telecom will be required to establish new, or upgrade, repair or maintain a variety of other new and existing communication structures. These include masts, equipment kiosks and buildings. Whilst some earthworks and vegetation clearance may be necessary for the foundations of these structures, including cabinets, the amount of such is minor. It is Telecom's policy to require full reinstatement of the land and vegetation disturbed during construction of such facilities. For this reason, and as with the laying of telecommunication lines, the potential for adverse effects associated with tele/radio-communication structures is minimal.

Accordingly, for lines and structures, Telecom does not accept the need for many of the controls proposed in the NRRP.

Access Tracks

Associated with the establishment of overhead and underground lines is the need to have access to often remote locations. This involves providing access tracks which may necessitate the removal of vegetation and/or the disturbance of land when forming such a track. Where possible Telecom will make use of an existing track, however, where this is not possible tracks must be formed.

Effect of NRRP on Telecom Infrastructure

It is valid that Resource Management plans have rules that may restrict the use or disturbance of land and vegetation in certain circumstances where a resource's sustainability could potentially be adversely affected. In this instance, the resources under consideration are the quality of Canterbury's fresh water and ground water supplies and the riparian areas of the region's lakes and rivers.

Telecom's infrastructure will invariably be located in positions directly involving these resources. Telecom's lines (whether underground or overhead) will invariably be located within proximity to waterways, lakes and rivers and will often include bridge and river crossings. The same infrastructure will often need to be laid over aquifers. From time to time other infrastructure such as poles and equipment shelters associated with radiocommunication facilities will need to be located in a riparian margin.

Telecom accepts that locating and maintaining the above structures within riparian zones, and beds and margins of lakes and river, and across rivers and streams, and over aquifers may, in extreme circumstances, result in land disturbance and vegetation clearance that could potentially lead to a variety of adverse effects on the water resources covered by the NRRP. However, Telecom would generally oppose these types of restrictions for their infrastructure due to the conditions that they are already currently undertaking with reinstatement of disturbed ground. The installation of underground lines/overhead cables and poles, as well as structures, is unlikely to have more than a minor impact on the resources being considered.

It is the fundamental theme of the Telecom submission that the proposed Canterbury Natural Resources Regional Plan will impose a complex regime of additional restrictions upon Telecom for undertaking certain activities in certain locations. Telecom believes these additional restrictions as they are proposed will be inappropriate to the infrastructure which makes up their telecommunication/radio-communication network.

In terms of its functions and in light of the importance of ensuring sustainable management of the above infrastructure as an important physical resource and within the District, Telecom makes the following submissions to the Plan as detailed in Part II of the submission (Annexure A). The submission relates primarily to the rules in Chapters 4 and 6 of the Plan as well as the objectives and policies contained in these chapters.

B. SPECIFIC PLAN CHANGE PROVISIONS SUBMITTED TO

The specific provisions of the Plan that the Telecom submission relates to are as follows:

Definition of terms for Chapters 4-8 only

- Chapter 4 – page 297-313
- Chapter 5 – page 270-285
- Chapter 6 – page 64-79
- Chapter 7 – page 78-93
- Chapter 8 – page 76-91

Chapter 4: Water Quality

- Section 4.6: Regional Rules (pages 86 - 181):
 - Rule WQL32 Vegetation clearance within a riparian zone – permitted activity
 - Rule WQL33 Disturbance or deposition of soil within a riparian zone – permitted activity
 - Rule WQL40 Excavation of land in a Coastal Confined Gravel Aquifer System, or over an unconfined or semi-confined aquifer – restricted discretionary activity
 - Rule WQL54 Excavation of land or discharge to groundwater from land registered on the Listed Land Use Register – discretionary activity

- Rule WQL34 Vegetation clearance or soil disturbance activities in a riparian zone that do not comply with Regional Rules WQL32 or 34 – restricted discretionary activity
- Rule WQL62 Use of land for certain activities – non-complying activity

Chapter 6: Beds and margins of lakes and rivers

- Section 6.6: Regional Rules (pages 21-35):
 - Rule BLR1 Use, maintenance, reconstruction, alteration, extension, demolition or removal of existing structures – permitted activity
 - Rule BLR2 Erection or placement of structures – permitted activity
 - Rule BLR3 Excavating, drilling, tunnelling or disturbance within the bed – permitted activity
 - Rule BLR5 Disturbance of vegetation and harvesting practices – permitted activity
 - Rule BLR7 Land use activities within 7.5 metres of the bed or a flood protection structure – permitted activity
 - Rule BLR8 Structures, excavating, disturbance, planting, depositing, reclamation or drainage – discretionary activity

C. NATURE OF SUBMISSIONS

The Telecom submission is that:

- It **opposes** the absence of definitions in Chapters 4-8 that define '*network utilities*', '*telecommunication lines*' and '*radio-communication facilities*'.
- It **opposes** the inclusion by default of activities associated with Telecoms range of infrastructure in Rules WQL32, WQL33, WQL40 and WQL54 (including WQL34 and 62) of Chapter 4 to the Plan.
- It **opposes** the vagueness, restrictiveness and uncertainty of the permitted activity conditions for Rules WQL32, WQL33, WQL40 and WQL54 of Chapter 4 to the Plan.
- It **opposes** the inclusion by default of activities associated with Telecoms range of infrastructure in Rules BLR1, BLR2, BLR3, BLR5 and BLR7 (including BLR8) of Chapter 6 to the Plan.
- It **opposes** the vagueness, restrictiveness and uncertainty of the permitted activity conditions for Rules BLR1, BLR2, BLR3, BLR5 and BLR7 (including BLR8) of Chapter 6 to the Plan.
- It **opposes** the lack of exemptions from permitted activity rules for '*network utilities*', '*telecommunication lines*' and '*radio-communication facilities*'.

D. DETAILS OF SUBMISSION

Further details of Telecom's submissions in respect to each of the above described provisions of the proposed Plan, and details of the decisions which Telecom seeks from the Canterbury Regional Council, are set out in Part II of the Submission Notice which is labelled Annexure A (which forms part of this submission).

E. HEARING

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

SIGNED for and on behalf of
Telecom New Zealand Ltd

.....
DJ McMahon
Authorised agent for and on
behalf of Telecom NZ Ltd

Dated: 17 December 2004

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ANNEXURE A

PART II OF THE SUBMISSION NOTICE

FURTHER DETAILS OF THE SUBMISSION BY TELECOM NEW ZEALAND LTD ON VARIATION 1 TO THE PROPOSED CANTERBURY NATURAL RESOURCES REGIONAL PLAN AND OF THE DECISIONS SOUGHT FROM THE CANTERBURY REGIONAL COUNCIL

Note: Annexure A forms part of the Telecom submission on the Proposed Variation.

SUBMISSION 1:

CHAPTERS 4, 5, 6, 7 and 8:

DEFINITIONS:

DISTRICT PLAN PROVISIONS

The general provisions in Chapters 4, 5, 6, 7 and 8 to which this Telecom submission relates is the list of Definitions.

INTRODUCTORY NOTE

The Submissions to the definitions in Chapters 4-8 that follow are made in relation to clarifying the terminology in the rules affecting processes associated with the upgrade and rollout of new and existing utility infrastructure undertaken by network utility operators, such as Telecom, in all areas of the Canterbury Regional Council region. The importance of these definitions has been outlined in the background section of this submission. This background material is to be read in conjunction with this submission.

These submissions are also interrelated with the submissions on Chapters 4 and 6 and the relief sought in the other submissions is dependent on alteration to definitions sought in this submission.

SUBMISSIONS

Submission 1a – Definitions of Terms in Chapters 4-8 only, *Use of terms not appropriate or defined.*

Telecom **opposes** Chapter 4, Rule WQL32, Condition 1(a)(i), where the plan refers to '*public network utilities*', however, does not provide a definition of this term in the plan. This does not provide clarity or certainty to Telecom that their network utility activities and processes are recognised in the plan. The Telecom submission seeks an alteration of the term (to "network utilities") and a definition of that new term. It is appropriate to include this term and definition, not only for Telecom, but because it covers the wide variety of network utility operators.

The issues and problems associated with the current term '*public network utilities*' are discussed in greater detail in the individual submissions to Chapters 4 and 6 that follow. In particular, Submission 2a has a commentary that specifically outlines the problems with the term in relation to Rule WQL32. A solution to the issue is also addressed. In this respect, Submission 2a should be considered as part of and in support of Submission 1a.

Submission 1b – Definitions of Terms in Chapters 4-8 only, *New terms and definitions to be included in plan.*

Telecom **opposes** the lack of definitions applicable to '*network utilities*', '*telecommunication lines*', and '*radio-communication facilities*'.

Network utilities provide an essential service to the community. As Part I of this submission establishes, the importance of such utilities in the telecommunication and radio-communication network field around Canterbury is paramount. The Council's own operative RPS also recognises this. Therefore, it is essential that these terms are defined in the plan as they relate to network utilities and the telecommunication/radio-communication industry. Definitions are also essential to

make the existing and any new rules (requested to be introduced as part of the telecom submissions) work in an efficient and clear manner.

In this respect the following new terms need to be defined:

- Network utility
- Telecommunication line
- Radio-communication facility

As mentioned in the background information of Part I this submission, definitions for network utilities, telecommunication lines and radio-communication facilities would not only assist Telecom, but other utility operators would also benefit from the clarification of utility terms. As an aside, Telecom was instrumental in getting a range of telecommunication terms and definitions in the Canterbury Regional Council's Land and Vegetation Plan and Coastal Plan in the early and mid 1990s. This was achieved through the submission/decision process for the Land and Vegetation Plan and a consent order on an appeal by Telecom to the Coastal Plan. This provides a valuable and consistent regulatory framework for the NRRP.

RELIEF SOUGHT

Telecom seeks the following relief:

Submission 1a

Remove the term "*public network utilities*" in Rule WQL32, Condition 1(a)(i) and **replace** it with the term "*network utilities*".

Submission 1b

Insert the following definitions in the plan by inserting the underlined words into the appropriate alphabetical order in the definitions section of Chapters 4, 5, 6, 7 and 8 of the plan as follows:

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

"Telecommunication Line means a wire or wires or a conductor of any other kind (includes a fibre optic cable) used or intended to be used for telecommunication, and includes any pole, insulator, casing, minor fixture, tunnel or other equipment or material used, or intended to be used, for supporting, enclosing, surrounding or protecting any such wire or conductor, and also includes any part of a line as well as any associated equipment cabinet."

"Radio-communication Facility means any device for transmitting or receiving radio-communication, including aerials, dishes, antenna, cables, lines, wires and associated equipment or apparatus, as well as support structures such as towers, masts and poles, and ancillary buildings".

There may, however, be other methods of achieving the desired relief.

SUBMISSION 2:

CHAPTER 4: WATER QUALITY

SECTION 4.6: REGIONAL RULES

DISTRICT PLAN PROVISIONS

The specific provisions in Chapter 4, Section 4.6 of the Plan to which Telecom's submission relates are:

- Rule WQL32 Vegetation clearance within a riparian zone – permitted activity
- Rule WQL33 Disturbance or deposition of soil within a riparian zone – permitted activity
- Rule WQL40 Excavation of land in a Coastal Confined Gravel Aquifer System, or over an unconfined or semi-confined aquifer – restricted discretionary activity
- Rule WQL54 Excavation of land or discharge to groundwater from land registered on the Listed Land Use Register – discretionary activity
- Rule WQL34 Vegetation clearance or soil disturbance activities in a riparian zone that do not comply with Regional Rules WQL32 or 33 – restricted discretionary activity
- Rule WQL62 Use of land for certain activities – non-complying activities

INTRODUCTORY NOTE

These Submissions to Chapter 4 are made in relation to the processes associated with:

- the repair and maintenance of existing utility infrastructure, and
- with establishing new utility infrastructure.

From the perspective of the Plan, these processes will inevitably involve:

- Vegetation clearance and disturbance or deposition of soil within a riparian zone; and
- Excavation of land in a Coastal Confined Gravel Aquifer System, or over an unconfined or semi-confined aquifer

These processes have been outlined in the background section of this submission. It is essential that the background material in Part I of this notice of submission is read in conjunction with the following individual submissions as it establishes the nature of the processes and the minor nature of the associated effects. It also avoids having to repeat the description in every individual submission in this notice.

SUBMISSIONS

Submission 2a – Rule WQL32: Vegetation clearance within a riparian zone – permitted activity - *Use of Undefined Term in Condition 1.*

Telecom **opposes** Condition 1 of Rule WQL32 as it applies to vegetation clearance associated with the repair and maintenance processes undertaken by network utility operators such as Telecom in the beds and margins of rivers or lakes associated with existing '*public network utilities*' and '*tracks*'.

Condition 1 of Rule WQL32 appears to make exemptions for vegetation clearance in riparian zones associated with the repair and maintenance of established:

- public network utilities;
- public roads, tracks or railway tracks; and
- lawfully established private tracks.

The Council's intention to create these exemptions is supported. However, Telecom has concerns over the implementation of the rule creating the exemption for vegetation removal associated with these established '*public network utilities*'. This is due to the term '*public network utilities*' not being defined in the Plan. Without a definition there is no certainty for Telecom (or other network utility operators) as to what constitutes a '*public network utility*' and therefore no certainty that their infrastructure and associated processes are exempt as intended. Furthermore, the term '*public network utility*' is considered to be redundant and confusing given that it implies that only those utilities of public bodies or organisations are exempt. Whilst this was not intentional it is a very possible outcome if the term is not altered and defined.

Having the word "*public*" in the term is likely to be traced back to the former Town and Country Planning Act where the works of public bodies such as central government and local government were often given a statutory exemption from the rules in district and regional planning instruments. Since the late 1980s, however, many public agencies delivering essential infrastructure have been corporatised and/or privatised. Some are listed on the stock exchange. Whilst this might make them "*public*" bodies in that they have public ownership, this is a moot point and one that Telecom is not prepared to risk for the purpose of this rule.

In Telecom's view, the important aspect is that the exemption must relate to the works of "*Network Utility Operators*" who have been granted that status through legislation. That status and the follow up "requiring authority" status through the RMA is an important guarantee that the operator has the necessary environmental management systems in place to ensure the responsible implementation of their utility rollout. In this respect it is significant that Telecom is an approved requiring authority and it is important that the definition of the term incorporates network utility operator status as a precondition to giving effect of the rule.

For the above reasons, Telecom submits (as it also does in Submission 1a) that a new term and a definition of that new term is essential for the implementation of this rule. Furthermore, and as mentioned in Submission 1b, definitions of the terms '*network utilities*', as well as '*telecommunication line*' and '*radio-communication facility*' would not only assist the Council in implementing the rules in the Plan, but other utility operators would also likely benefit from the clarification of utility terms. As an aside, Telecom notes that a range of telecommunication terms and definitions have been successfully used in the Canterbury Regional Council's Land and Vegetation Plan and the Regional Coastal Environment Plan that Telecom submitted to in the early and late 1990s.

Submission 2b – Rule WQL32: Vegetation clearance within a riparian zone – permitted activity - *Content and Implementation of Conditions 2-7*

Telecom opposes:

- **Condition 1** as it applies to the type of utilities it applies to (i.e. just to established utilities or also new utilities); and
- **Conditions 2-7** as they apply to vegetation clearance associated with the construction, repair and maintenance processes undertaken by Telecom in the beds and margins of rivers or lakes associated with both established and new '*public network utilities*' and '*tracks*'.

In terms of **Condition 1** Telecom's concerns are as follows:

- Condition 1 appears to limit permitted activity status to vegetation clearance associated solely with the repair and maintenance of established utilities/access tracks without any scope for permitted activity status for vegetation clearance associated with the establishment of new utilities and associated tracks. The reality is that the type of vegetation clearance associated with both repair/maintenance of established utilities and vegetation clearance establishment of new utility structures is very similar. The types of process and amounts of clearance are virtually the same in that they will use the same techniques of trenching and moleploughing outlined in Part I of this submission.
- It is actually arguable that with techniques employed by Telecom, such as the moleploughing, there will be no vegetation clearance per se as the disrupted soil and associated vegetation falls back into place as the plough moves along the route. To provide certainty however and because there will be some vegetation removal associated with displaced earth for footing and foundations (albeit minor), Telecom is seeking specific permitted provision in condition 1 for vegetation removal associated with the establishment of new utilities in the riparian margin. Similarly, and as discussed immediately below, Telecom is seeking exemptions from conditions 2-7 relating to vegetation removal for works associated with existing and new utilities in the riparian margin.

Conditions 2-5 of Rule WQL32 provide thresholds that vegetation clearance must meet in order to qualify as a permitted activity. These conditions place undue restrictions on Telecom when rolling out new infrastructure/tracks and/or carrying out repairs and upgrade/maintenance to existing infrastructure and tracks. For example:

- Condition 2 provides that the total area of vegetation clearance must not exceed 100m² for every kilometre length of the margin of the waterway in a 6 month period. A condition like this is not robust enough when considering the linear nature of long underground telecommunication line runs. In such circumstances, and as described in Part I of this notice of submission, the extent of cable laying undertaken by Telecom will invariably and inevitably mean that these thresholds will be exceeded. As such the permissive nature of the rule is immediately cancelled out. Moreover, even though the volumes might be exceeded, the techniques by which the cable is laid (the mole ploughing and trenching techniques also outlined in Part I of this notice of submission) means that the disruption to the riparian environment will be minimal. This raises the issue as to why a more permissive rule regime is not being implemented. Similarly this condition, whilst providing a time frame (a 6 month period) as well as a spatial component is unclear when it comes to the application of the condition – i.e. do the timeframes and spatial measures apply to the entire region or is it a total figure for the region or just the operator or just the project? This is far from clear. This ambiguity in the rules makes for difficult interpretation and implementation for not just the Council but also resource users such as Telecom. This is open to uncertainty and is therefore potentially ultra vires.

- Conditions 3 and 4 provide an impractical and onerous measurement thresholds for vegetation, slash or plant debris that shall not be deposited into the bed of a river or lake or in a position where it may enter a river or lake.
- Condition 5 provides that with the exception of the activities listed in Condition 1, vegetation clearance in a riparian zone shall not take place on land 900m or over above sea level. There does not appear to be a clear justification per se, or in the Plan (in the Explanation and Principle Reasons for Rules) for imposing a level like this on vegetation clearance apart from reference to the high country. There may be occasions when Telecom wish to establish antennas or radio stations on the top of hills where there is minimal vegetation to ensure high levels of coverage. It is highly unlikely that there will be significant amounts of vegetation clearance associated with this and, therefore, Telecom consider this condition to be impractical and inappropriate.

With regard to Conditions 2-7 Telecom is seeking an exemption for vegetation clearance associated with its network utilities, telecommunication lines and radio-communication facilities (regardless of whether they are established or new). An exemption from Conditions 2-7 of Rule WQL32 is considered appropriate given the outline of Telecom processes provided in the background information of this submission (Part I), and the minimal vegetation disturbance associated with these processes. For example, the greatest potential for vegetation clearance will be associated with linear line runs but any clearance of vegetation with that process is minimal and any disturbance is rehabilitated at the conclusion of any work. All other vegetation clearance in the riparian area will be limited to footing and foundation works for radio-communication facilities (i.e. poles and masts used to support overhead lines and/or antennas and associated small equipment shelters). Invariably there will be some vegetation clearance for access tracks in the riparian zone but this will be minor.

Even though Conditions 6 and 7 are not considered particularly relevant to Telecom's processes, Telecom is seeking an exemption for telecommunication lines, radio-communication facilities and access tracks from Conditions 2-7 inclusive for reasons of complete certainty.

Submission 2c – Rule WQL33: Disturbance or deposition of soil within a riparian zone – permitted activity, *Non- exclusion or exemption for network utilities and tracks.*

Telecom **opposes** Rule WQL33 as it does not provide an exemption for the disturbance or deposition of soil within a riparian zone associated with the repair and maintenance processes of existing *network utilities* and *tracks*, in the same manner that Rule WQL32 provides such an exemption for vegetation clearance.

Telecom believes that a similar exemption for network utilities and tracks that result in the disturbance or deposition of soil within a riparian zone should be applicable in this rule to provide consistency of plan provisions. The reasons for this are as outlined in Submission 2b above except that for the term vegetation clearance the terms disturbance or deposition of soil within a riparian zone should be substituted.

Submission 2d – Rule WQL33: Disturbance or deposition of soil within a riparian zone – permitted activity, *Content and Implementation of Conditions 1-9*

Telecom **opposes** Conditions 1-9 of Rule WQL33 as they apply to the processes on land in the riparian zones of rivers or lakes undertaken by Telecom in association with establishing new network utility infrastructure.

Conditions 1-9 of Rule WQL32 provide criteria for which any disturbance or deposition of soil within a riparian zone must be met in order to qualify as a permitted activity. These conditions are considered to place undue restrictions on Telecom when carrying out their essential service

rollouts of overhead and underground telecommunication lines, footings and foundations for radiocommunication structures, equipment cabinets and access tracks. For example:

- Conditions 1 and 2 contain qualitative standards relating to soil deposition and coloration of water for which a subjective interpretation needs to be made in determining whether an activity or process meets with the conditions. Telecom is opposed to any conditions that do not provide certainty and clarity of implementation and interpretation.
- Condition 3 contains the requirement for excavation the riparian zone to have protection and/or stabilisation works regardless of their volume or magnitude. Telecom submits that this is inappropriate and inequitable. This will predominantly impact on Telecom's underground cable runs either parallel to a watercourse or perpendicular to and through the water body. The trenching and moleploughing techniques referred to in Part I of this submission are such that the disruption to the bed and margins of watercourses is negligible and short term and do not warrant the works outlined in this condition. The same applies to foundations and footings for overhead lines and radiocommunication structures and ancillary equipment cabinets/shelters.
- Condition 4 contains the requirement to have stormwater runoff controls, water table cut offs, sediment traps, and culverts on access tracks is opposed as being inappropriate and unnecessary. Telecom's access tracks in the rural environment are either existing farm tracks or new four wheel drive tracks. In very remote location, Telecom uses helicopter as the means to undertake maintenance and construction visits. Four wheel drive access tracks do not require the range of works outlined in this condition.
- Condition 5 requires all trenching to be backfilled and compacted within days of being excavated. Generally utility operators would be able to comply with this timeframe and as a general rule the trenching and moleploughing techniques outlined in Part I of this submission involve immediate backfilling. However there will be times when due to the length of the cable run of the prevailing weather conditions or because multiple services are being ducted that the three days will be insufficient. As such it is requested that either the rule be deleted or that it is altered to provide some flexibility to allow for the backfilling and compaction to occur as soon as practicable.
- Conditions 7 and 8 provide, depending on the zone concerned, that the extent of soil disturbance and volume of soil excavated must not exceed an area of $200\text{m}^2/500\text{m}^2$ or a volume of $20\text{m}^3/40\text{m}^3$ in any continuous kilometre length of a margin in a 6 month period. Conditions like these is not robust enough when considering the linear nature of long underground line runs. In such circumstances, and as described in Part I of this notice of submission, the extent of cable laying undertaken by Telecom will invariably and inevitably mean that these thresholds will be exceeded. However, the techniques by which the cable is laid (the mole ploughing and trenching techniques also outlined in Part I of this notice of submission) means that the disruption to the riparian environment will be minimal. This raises the issue as to why a more permissive rule regime is not being implemented. These conditions, whilst providing a time frame (a 6 month period) and spatial component, their application is unclear – i.e. do they apply to the entire region or is it a total figure for the region or just the operator or just the project? This is far from clear. This ambiguity in the rules makes for difficult interpretation and implementation. This is open to uncertainty and is potentially ultra vires.

With regard to Conditions 1-9 of Rule WQL33 Telecom is seeking an exemption for network utilities, telecommunication lines and radio-communication facilities and access tracks (under new proposed definitions – see Submission 1b). An exemption from Conditions 1-9 of Rule WQL33 is considered appropriate given the outline of Telecom processes provided in the background information in Part I of this submission, and the minimal soil disturbance or deposition associated with these processes. For example, the greatest potential for soil disturbance and deposition is

associated with trenching or mole ploughing linear line runs. However, as it is Telecom's policy to replace and rehabilitate all areas subject to line runs the disturbance of soil is minimal.

As to the remaining conditions within Rule WQL33, Condition 6 and 9 are not considered particularly relevant to Telecom's processes, however, Telecom is seeking an exemption from Conditions 1-9 inclusive for reasons of certainty.

Submission 2e – Rule WQL40: Excavation of land in a Coastal Confined Gravel Aquifer System, or over an unconfined or semi-confined aquifer – restricted discretionary activity, Content and applicability of Activity Descriptions and Conditions.

Telecom **opposes** the thresholds in the Activity Description (a)(i)(2)-(3) and Conditions 1(a) – (d) of Rule WQL40 as it relates to Telecom's processes and activities associated with the excavation of land in the Coastal Confined Gravel Aquifer System or over an unconfined or semi-confined aquifer.

The activity description in (a)(i) (1), (2) and (3) contains three thresholds which if not met require a consent for a restricted discretionary activity. The 5m threshold in (1) is accepted. However the other two thresholds in (2) and (3) are of concern to Telecom, for example:

- Activity Description (a)(i)(2) is where the depth of excavation is deeper than the highest groundwater level which can reasonably be expected to occur at the site, based upon relevant and available groundwater data. This is inappropriate and impractical to determine as no groundwater levels are specified in the plan. This makes this threshold a moving target which could change over time. The uncertainty of this threshold is opposed by Telecom.
- Activity Description (a)(i)(3) is where the volume of material excavated exceeds 100 cubic metres within any consecutive 12 month period. A threshold like this is not robust enough when considering the linear nature of long underground line runs. In such circumstances, and as described in Part I of this notice of submission, the extent of cable laying undertaken by Telecom will invariably and inevitably mean that a threshold like this will be exceeded. However, the techniques by which the cable is laid (the mole ploughing and trenching techniques also outlined in Part I of this notice of submission) means that the disruption to the aquifer environment will be minimal. This raises the issue as to why a more permissive rule regime is not being implemented. These conditions, whilst providing a time frame (a 12 month period) and spatial component, their application is unclear – i.e. do they apply to the entire region or is it a total figure for the region or just the operator or just the project? This is far from clear. This ambiguity in the rules makes for difficult interpretation and implementation. This is open to uncertainty and is potentially ultra vires.

Conditions 1(a) – (d) provide additional thresholds over and above those outlined above as Activity Descriptions which any processes requiring the excavation of land within the listed areas must also meet with in order to remain a restricted discretionary activity if the Activity Descriptions cannot be met. All these thresholds, particularly the 100m setbacks in (a) and (b) are categorically opposed by Telecom. These are completely nonsensical when considering the nature of land excavation associated with telecommunication lines and/or radiocommunication facilities (see Part I of the submission).

For example, if the volume thresholds in the Activity Descriptions are not adhered to the activity triggers to a restricted discretionary activity but only so long as additional standards are met (e.g. setback from the waterway, the excavation is not within 100m of a permanently or intermittently flowing river or lake or not within 100m of the boundary of a listed wetland). If these additional standards are not met the activity then becomes a non-complying activity. As mentioned above this is inappropriate and unrealistic as excavation associated with trenching or mole ploughing for an underground line or excavation for a footing for a cabinet or a mast can readily be within 100m of a waterway without resulting in adverse effects on that waterway. In many instances, an

underground line will either run parallel to the river within the setback and/or will run perpendicular to it and cross it.

Based on the above, Telecom is seeking an exemption to Rule WQL40 for network utilities, telecommunication lines, radio-communication facilities (under new proposed definitions – see Submission 1b) and tracks. An exemption from Rule WQL40 is considered appropriate given the outline of Telecom processes provided in the background information of this submission (Part I), the reasons outlined in this individual submission and the minimal degree of land disturbance and excavation associated with these processes that could potentially adversely effect waterbodies. For example, linear line runs will not exceed a depth of 5m and are unlikely to occur below the highest groundwater level at any given site. All other excavation of land over or near aquifer systems will be limited to footing and foundations for radio-communication facilities (i.e. poles and masts used to support overhead lines and/or antennas and associated small equipment shelters. These would not be expected to result in land excavation at a level that would affect aquifer systems.

Based on the inappropriateness of this Rule to network utilities Telecom is seeking an exemption from Rule WQL40 for the reasons outlined.

Submission 2f – Rule WQL54: Excavation of land or discharge to groundwater from land registered on the Listed Land Use Register – discretionary activity, *use of an external document*

Telecom **opposes** the reference to, and inclusion of, the Listed Land Use Register in Rule WQL54 due to several reasons:

- this Register being an external document to the Plan;
- there is no reference contained in the Plan as to where this register is held or what site details are included on it; and
- it is constantly being updated and amended as site investigations are undertaken which results in the addition of sites and site status changes.

Recent Case Law suggests that the use of external documents, such as NZ Standards and Codes of Practice, in rules or evidence is generally accepted by the Courts. However, the Courts have been consistent in requiring that reference to any external documents be clear and precise when referred to in a district or regional plan, and that any changes for substitutions accommodating changes in external documents must be subject to the RMA process emphasizing the opportunity for public participation.

Due to the above reasons, Telecom considers that Rule WQL54 is inappropriate and provides a high level of uncertainty as to its implementation. Therefore, Telecom is seeking an exemption from WQL54 for network utilities, telecommunication lines, radio-communication facilities (under new proposed definitions – see Submission 1b) and tracks. An exemption from Rule WQL54 is considered appropriate given the outline of Telecom processes provided in the background information of this submission (Part I), the reasons outlined in this individual submission and the minimal degree of land disturbance and excavation that could potentially take place over the ever changing list of sites in the Listed Land Use Register (LLUR). For example, linear line runs would cause minimal disturbance to land that is potentially contaminated due to the shallow trenches and rehabilitation works at the completion of any line runs. The requirement to obtain a resource consent whenever a line runs through a site that is listed on the LLUR would be too onerous and place undue impediments to Telecom’s network utility work.

Based on the inappropriateness of this Rule and the Listed Land Use Register to network utilities Telecom is seeking an exemption from Rule WQL54 for the reasons outlined. Telecom believes the entire rule is flawed and in addition to granting the exception requested, it is submitted that the Council should consider deleting the rule in its entirety.

Submission 2g – Consequential Amendments to Rule WQL34 and Rule WQL62 as a result of requested changes to Rules WQL32 and WQL33, and WQL40.

Submissions 2a – 2d have requested amendments to Rules WQL32 and WQL33 which will in turn require consequential amendments to Rule WQL34 which is the default rule for a non-compliance with the conditions in Rules WQL32 and WQL33.

Submission 2e has requested amendments to Rule WQL40 which will in turn require consequential amendments to Rule WQL62, which is the default rule for a non-compliance with the conditions in Rule WQL40.

RELIEF SOUGHT

Telecom seeks the following relief:

Submission 2a: WQL32, Condition 1(a)(i)

Clarify that the term “public network utilities” in this rule includes the utilities operated by the submitter. This could be achieved by the following alterations.

Remove the term “*public network utilities*” in Rule WQL32, Condition 1(a)(i) and **replace it** with “*network utilities*”.

And, **add** a new definition for “*network utilities*” as per the relief sought in Submission 1b.

Submission 2b: Rule WQL32, Condition 1 and Conditions 2-7

Make vegetation clearance associated with the establishment, repair and maintenance of network utilities and associated access tracks within a riparian zone that is captured by Rule WQL32 a permitted activity. This involves:

- (a) Altering **Condition 1** so that it applies not only to vegetation clearance within a riparian zone associated with the repair and maintenance of established network utilities and associated access tracks but that it also applies to/provides for vegetation clearance within a riparian zone associated with new network utilities and associated access tracks; and
- (b) Creating exemptions from **Conditions 2-7** inclusive for vegetation clearance within a riparian zone associated with both the establishment and repair/maintenance of network utilities and associated access tracks.

This could be achieved by the following alteration:

Alter Condition 1a of Rule WQL32 by adding the underlined word as flows:

- 1. *The vegetation clearance is only undertaken:*
 - (a) *for the establishment, repair or maintenance of:*
 - (i) *network utilities*
 - (ii) *.....*

Add a new condition to Rule WQL32 as follows:

- “8. Conditions 2-7 do not apply to vegetation clearance within a riparian zone undertaken in association with the establishment, maintenance or repair of network utilities and associated access tracks. The use of land in a margin of a river or lake for vegetation clearance in association with the establishment, repair or maintenance of network utilities and associated access tracks is a permitted activity”*

Submission 2c and 2d: Rule WQL33

Make disturbance or deposition of soil associated with the establishment, repair and maintenance of network utilities and associated access tracks within a riparian zone, that is captured by Rule WQL33, a permitted activity. This involves:

- (a) clarifying that the rule permits not only the disturbance or deposition of soil within a riparian zone associated the repair and maintenance of established network utilities and associated access tracks, but that it also applies to/provides for the disturbance or deposition of soil within a riparian zone associated with new network utilities and associated access tracks; and
- (b) Creating exemptions from conditions 2-7 inclusive for disturbance or deposition of soil within a riparian zone associated with both the establishment of new and repair/maintenance of established network utilities and associated access tracks; and

This could be achieved by the following alteration:

Add a new condition to Rule WQL33 as follows:

- “10. Conditions 1-9 do not apply to the disturbance or deposition of soil within a riparian zone undertaken in association with the establishment, maintenance or repair of network utilities and associated access tracks. The use of land in a margin of a river or lake for the disturbance or deposition of soil within a riparian zone in association with the establishment, repair or maintenance of network utilities and associated access tracks is a permitted activity”*

Submission 2e: Rule WQL40

Make excavation of land where it occurs in the Coastal Confined Gravel Aquifer system or over an unconfined or semi confined aquifer, that is captured by Rule WQL40, a permitted activity. This involves:

- (a) clarifying that the rule permits not only the excavation of land associated with repair and maintenance of established network utilities and associated access tracks but that it also applies to/provides for the excavation of land associated with new network utilities and associated access tracks; and
- (b) Creating exemptions from conditions 1(a) – (d) inclusive for excavation of land associated with both the establishment of new and repair/maintenance of established network utilities and associated access tracks;

This could be achieved by the following alteration:

Add the following underlined words at the end of the first column to Rule WQL40 under the Activity heading of the Table on Page 4-149:

“For the purposes of this rule, excavation of land does not include the drilling or disturbance of land to construct or maintain a bore, or where the excavation of land is associated with a network utility including associated access tracks:

Submission 2f: Rule WQL54

Either:

Delete this rule in its entirety, **or**

Create an exemption/permitted activity status for the excavation of land or discharge to groundwater from land listed on the Land Use Register undertaken in conjunction with the establishment, repair or maintenance of network utilities and associated access tracks.

The later relief could be achieved by the following alteration:

Adding the following sentences to the end of Rule WQL54 under the Activity heading of the Table on Page 4-168:

“Rule WQL54 does apply to excavation of land or discharge to groundwater associated with the establishment, repair or maintenance of network utilities and associated access tracks. Those activities are permitted for the purpose of this rule.

Submission 2g: Rules WQL34 and WQL62

Make consequential amendments to Rules WQL34 and WQL62 to give effect to the relief sought in submissions 2b – 2f in order to clarify that the default non-complying status in those rules do not apply to network utilities which do not comply with (but are requested to be exempt from) rules WQL32, WQL33 and WQL40

This could be achieved by the following alterations:

Add the following underlined words to Rule WQL62 under the Activity heading of the Table on Page 4-179:

“The following uses of land are non-complying activities, and require a land use consent, except where it is permitted or exempt from control under Rule WQL40.”

Add the following underlined words to Rule WQL34 under the Activity heading of the Table on Page 4-143:

“The following uses of land are restricted discretionary activities, and require a resource consent, except where it is permitted or exempt from control under Rules WQL32 and WQL33.”

Submissions 2b-2g Combined

Make consequential amendments to the objectives and policies in Chapter 4 to reflect that certain activities involving:

- Vegetation clearance within a riparian zone,
- Disturbance or deposition of soil within a riparian zone,
- Excavation of land where it occurs in the Coastal Confined Gravel Aquifer system or over an unconfined or semi confined aquifer, and
- Excavation of land or discharge to groundwater from land listed on the Listed Land Use Register,

where undertaken in association with the establishment, repair or maintenance of network utilities and associated access have been permitted in Chapter 4 of the Plan. It should be recorded that this status is a function of the importance that such utilities have in terms of the Canterbury region as documented in the RPS and also the fact that the effects of such activities are minor.

There may, however, be other methods of achieving the desired relief listed in Submissions 2a to 2g.

SUBMISSION 3:

CHAPTER 6: BEDS AND MARGINS OF LAKES AND RIVERS

SECTION 6.6: REGIONAL RULES

DISTRICT PLAN PROVISIONS

The specific provisions in Chapter 6, Section 6.6 of the Plan to which Telecom's submission relates are:

- Rule BLR1 Use, maintenance, reconstruction, alteration, extension, demolition or removal of existing structures – permitted activity
- Rule BLR2 Erection or placement of structures – permitted activity
- Rule BLR3 Excavating, drilling, tunnelling or disturbance within the bed – permitted activity
- Rule BLR5 Disturbance of vegetation and harvesting practices – permitted activity
- Rule BLR6 Activities in natural state or high naturalness areas – permitted activity
- Rule BLR7 Land use activities within 7.5 metres of the bed or a flood protection structure – permitted activity
- Rule BLR8 Structures, excavating, disturbance, planting, deposition, reclamation or drainage – discretionary activities

INTRODUCTORY NOTE

These Submissions to Chapter 6 are made in relation to

- (a) The use, maintenance, reconstruction, alteration, extension, demolition or removal of existing utility infrastructure (structures and lines/cables) in, on, over or under the bed of a lake or a river,
- (b) The erection or placement of new utility infrastructure (structures and lines/cables) in, on, over or under the bed of a lake or a river
- (c) The processes specifically required to establish or alter the structures outlined in (a) and (b) above. Specially those processes are:
 - Excavation, drilling, tunnelling or disturbance of the bed of lakes and/or rivers.
 - Planting or removal of any plant from the bed
 - Depositing of any substance in the bed
 - Reclamation of the bed.

These processes have been outlined in the background section of this submission. It is essential that the background material in Part I of this notice of submission is read in conjunction with the following individual submissions as it establishes the nature of the processes and the minor nature of the associated effects. It also avoids having to repeat the description in every individual submission in this notice.

SUBMISSIONS

Submission 3a – General submission to Rules BLR1 - BLR7

Telecom's submissions to the provisions of Chapter 6 can be readily divided into generic and specific concerns. The specific concerns in respect to each of the identified rules are outlined in the individual submissions that follow (i.e. Submissions 3b - 3f). In the meantime, there is a more fundamental concern inherent in Telecom's submissions and this is outlined immediately below. This generic concern should be read as context for the individual submissions that follow:

The fundamental concern relates to the extent of control inherent in Chapter 6 and is expressed as follows:

- In the Introduction to Chapter 6 on page 6-1 it is stated that the chapter covers "*land use within the beds and margins of lakes and rivers*". The emphasis on the beds and margins of lakes and rivers is also reflected in the title of the chapter. However, the terminology used in Rules BLR1 - BLR7 departs from this. With the exception of BLR7 (which is discussed shortly), the focus in those rules appears to be solely on the bed of lakes and rivers and the rules control processes and structures in, on, under, or over the bed of the river/lake. Based on Figure BLR4 on page 6-26, a bed of a lake or river does not include the margin of a lake or river – the margin is shown to be adjoining but outside the bed of a lake or river in that conceptual diagram.
- As mentioned above, the exception seems to be Rule BLR7 which controls land within 7.5 metres of the bed of the river. In other words it could be said to control a 7.5 wide margin from the bed. On the surface this appears to be the only application of the rules to what might be called the 'margin' of a river or lake.
- Whilst this might on the surface appear to be an issue of semantics, the impact of this potential disparity is of fundamental significance to Telecom. Essentially it will be the sole determinant of which of the structures, activities and processes it undertakes (which are described in detail in Part I of this submission) are directly affected by the rules in Chapter 6. There are two possibilities arising as follows:
 - Scenario A: That Chapter 6 rules (with the exception of Rule BLR7) do cover both the margins and beds of lakes and rivers and therefore all the activities and structures outlined in Part I of the submission will be affected; that is: telecommunication lines (overhead and underground) and radio-communication facilities.
 - Scenario B: That Chapter 6 rules (with the exception of Rule BLR7) do not cover both the margins and beds of lakes and rivers and are limited to structures and processes in, on, under, or over the bed of a river or lake and therefore only the structures and processes affecting telecommunication lines (overhead and underground) will be affected. In other words the rules will only impact on waterway crossings for cables and lines. It is highly improbable that a cabinet or radio-communication facility would be located in the bed of a river/lake.
- The uncertainty of the above point has affected the way that Telecom has approached its submission and particularly affects the nature of the relief sought. Based on caution, Telecom has assumed that Scenario A applies. This has resulted in a reasonably high degree of opposition to the rules. Essentially, and based on that conservative assumption, Telecom has sought complete exemptions from the rules for all its facilities i.e. both the telecommunication lines and radio-communication facilities. That level of opposition could be modified and clarified if it is determined that Scenario B actually applies.
- The above approach is reflected in the specific submissions that follow.

Submission 3b – Rule BLR1: Use, maintenance, reconstruction, alteration, extension, demolition or removal of existing structures and the processes used to undertake these activities – permitted activity,

Submission 3c – Rule BLR2: Erection and placement of structures – permitted activity,

Submission 3d: Rule BLR3: Excavation, drilling, tunnelling or disturbance within the bed – permitted activity,

These three rules essentially affect three aspects of Telecom’s operation; namely:

- The repair and maintenance (including replacement) of all existing telecommunication lines/cables and radio-communication facilities and tracks;
- The placement of new telecommunication lines /cables and radio-communication facilities and associated access tracks;
- The processes associated with the above structures (i.e. drilling, moleploughing, trenching, clearance etc).

As a general rule, the content of the provisions in these rules is largely permissive in that the activities and processes are permitted subject to meeting certain prescribed conditions. This is supported. However, the issue for Telecom is two fold.

- Firstly, do the rules apply only to the beds of lakes and rivers and therefore only to telecommunication lines and cables (Scenario B) or do the rules apply to all infrastructure as outlined in Scenario A. If the latter applies then many of the conditions upon which permitted activity status is based will not be met. On that basis, Telecom opposes the rules and seeks a full exemption from these rules for its entire infrastructure.
- Secondly, on the basis that Scenario B applies then the issue is which of the conditions in each of the three rules might be a problem and should, therefore, either be altered or Telecom’s activities exempted from their application. Under this issue, Telecom has specified in its relief that certain exemptions should be implemented.

Given the simplicity of the first issue and its associated relief the remainder of this submission focuses on the second issue.

Rule BLR1: Use, maintenance, reconstruction, alteration, extension, demolition or removal of existing structures and the processes used to undertake these activities – permitted activity

Telecom **opposes** Conditions 1-8 in Rule BLR1 as they apply to the use, maintenance, reconstruction, alteration, extension, demolition or removal of existing structures and the associated processes of excavating, drilling, tunnelling, vegetation disturbance etc undertaken by network utility operators, such as Telecom, in the beds of rivers or lakes.

Condition 2 provides that for the reconstruction, alteration or extension of any existing telecommunication/radio-communication structures, the area of bed supporting the structure over or above a level of activity permitted under Rule BLR2 shall not increase. Telecom considers that this condition is not necessary as by ruling out the possibility of any increase in the area of bed supporting a structure the intent of the rule for extension, alteration and reconstruction of existing structures is contradicted. Furthermore, the fact that the area of the bed supporting the structure might increase does not automatically or in isolation mean that there will be adverse effects on the bed of the river. In fact so long as other conditions such as Condition 1 relating to the limit on water impounding, Condition 4 regarding fish passage, Condition 6 regarding plant species,

Condition 6 regarding navigation, and Condition 8 regarding rehabilitation are adhered to then the area of the bed supporting the structure is largely irrelevant.

Condition 7 of Rule BLR1 contains conditions that are not measurable until after the activity or process has occurred. Those conditions are also open for a subjective interpretation that may result in many differing opinions on whether the condition is actually met or not. For example:

- the coloration standards in Condition 7a do not have a point of reference in terms of the control against which the change of colour is to be measured . The degree of change in clarity or colour will be determined by the state of the water at the time the structure and associated process is altered. The 60-minute test will not necessarily provide the appropriate control standard.
- Furthermore, by the time it is detected that there is a change in the coloration from any discharge of sediment into water, it is effectively too late to determine whether the condition to be met – in other words compliance will not be determined until the process occurs and the standard is either exceeded or not.
- The increase in embeddedness of the structure (Condition 7(b)) is not appropriate also for the reasons outlined for opposing Condition 2.

With regard to the above listed identified conditions in Conditions 1-8 Telecom is seeking an exemption for network utilities, telecommunication lines/cables and radio-communication facilities (defined under new proposed definitions – see Submission 1b), and access tracks. An exemption from those conditions in Rule BLR1 is considered appropriate given the outline of Telecom's processes provided in the background information of this submission (Part I), and the minimal disturbance of the beds of rivers and lakes associated with these processes.

For example, the greatest potential for vegetation clearance or land disturbance is associated with the repair and maintenance of any in-stream cable/line crossings. For the reasons outlined in Part I of this submission, where the process of such a cable crossing is described, it is obvious that the clearance of vegetation or disturbance of land is minimal and is subject to reinstatement works at the completion of the process or activity. All other vegetation clearance or land disturbance in the beds of lakes and rivers will be limited to footings and foundations for telecommunication/radio-communication facilities/structures (i.e. poles used to support overhead lines and/or footings and foundations for small cabinets). Invariably there will be some vegetation clearance or land disturbance for access tracks in the beds and margins of rivers and lakes but this will be minor.

Rule BLR2: Erection and placement of structures – permitted activity, *Content and Implementation of Conditions 1-14*

Telecom **opposes** Conditions 1-14 in Rule BLR2 as they apply to the erection and placement of new structures and the associated processes of excavating, drilling, tunnelling and vegetation disturbance etc undertaken by network utility operators, such as Telecom, in, on, over or under the beds of rivers or lakes.

Conditions 8, 9a and 9b of Rule BLR1 contain provisions that are not measurable until after the activity or process has occurred. They are also open for a subjective interpretation that may result in many differing opinions on whether the condition is actually met or not. For example:

- In Condition 8 whether a structure increases the risk of flooding is unlikely to be known before the structure is established.
- With Condition 9(a), when detecting the change in coloration from any discharge of sediment into water, the ability to meet the condition is not determined until it is exceeded.

- With Condition 9(b), the requirement that the sediment discharge into water shall not increase the embeddedness of the bed substrate by more the 20 percent is considered to be very difficult to determine without a control point, and changing river conditions over a period of time. It is submitted that it does not provide any certainty and is largely immeasurable.

With regard to the remaining Conditions in 1-14, it is difficult to determine the degree to which they are relevant or are likely to be impediments to Telecom's structures and the processes for establishing them in, on, under and over waterways in Canterbury. For this reason, and so as to provide certainty, Telecom is seeking a complete exemption for network utilities, telecommunication lines/cables and radio-communication facilities (under new proposed definitions – see Submission 1b), and access tracks from Conditions 1-14 of Rule BLR2. An exemption is considered appropriate given the outline of Telecom's processes provided in the background information of this submission (Part I), and the minimal disturbance of land or vegetation associated with these processes. For example, the greatest potential for vegetation clearance or land disturbance in the bed of a river or lake is associated with underground line/cable runs which may in certain situations cross water via the bed of the waterway as opposed to being attached to a structure such as a bridge over the waterway. Effectively, this means that those waterways at greatest risk are the smaller streams and creeks which do not have bridge crossings in existence. For larger rivers, the crossing will invariably use existing bridge structures and there will be no disturbance to the bed of the waterway. The methods of undertaking in stream cable crossing as described in Part I of this submission are such that will be:

- Some disturbance of the bed of lakes and/or rivers with little or effect;
- No additional planting of vegetation in the bed and no removal of any plant per se from the bed;
- No deposition of any substance in the bed;
- No reclamation of the bed.

The above potential effects are the matters that have been identified as underpinning this rule and the absence of such effects means that the application of such a rule to Telecom's cable laying in waterways is not appropriate.

All other vegetation clearance or land disturbance in the beds of lakes and rivers will be limited to footing and foundations for telecommunication/radio-communication facilities (i.e. poles used to support overhead lines and/or footings and foundations for cabinets). Invariably there will be some vegetation clearance or land disturbance for these structures in the beds and margins of rivers and lakes but this will be minor.

Rule BLR3: Excavation, drilling, tunnelling or disturbance within the bed – permitted activity, Content and Implementation of Conditions 1-10

Telecom **opposes** Conditions 1-10 of Rule BLR3 as they apply to the excavation, drilling, tunnelling or disturbance in, on, over, or under the bed of a lake or river and the associated deposition of excavated material on the bed of a lake or river undertaken by network utility operators, such as Telecom, that are not covered in Rules BLR1 and BLR2.

It is not clear what additional constraints that this rule will place on Telecom that is not already covered by Rules BLR1 and BLR2. Telecom's preference is that its defined network utility infrastructure (repair and maintenance of existing and placement of new) is exempt from this rule in totality and any application of rules to that infrastructure be solely contained in Rules BLR1 and BLR2. An alteration to Rule BLR3 to record this may suffice.

Points in support of the above concerns are as follows:

- Conditions 2, 3, 4 and 5 contain threshold diameters and volumes for land being disturbed that do not equate with the linear type excavations associated with line/cable laying. Such laying could well exceed those figures but with little or no adverse effect resulting. In particular, Condition 5 requires that lines/cables would need to be in excess of 50m of any lawfully existing dam, weir, crossing, surface water intake plant, pylon or 150m from an existing water level recorder and existing flood control structures/vegetation if it is to be a permitted activity. Telecom considers this rule to be inappropriate, unrealistic and too onerous for the minor effects that their processes have. Conditions 2, 3 and 4 have similar restrictions that are not considered applicable to the processes associated with network utilities, telecommunication lines/cables, radio-communication facilities or associated access tracks.
- Conditions 6, 7, and 8 of Rule BLR3 provide conditions that are not measurable until after the activity or process has occurred. They are also open for a subjective interpretation that may result in many differing opinions on whether the condition is actually met or not. For example:
 - In Condition 6, whether an activity or process increases the risk of flooding is unlikely to be known before that activity is undertaken.
 - With Condition 7 it will not be known if there is any destabilizing of flood control vegetation until it is detected.
 - Condition 8 is unrealistic as it relates to the process of thrusting underground cables underneath a small stream, when there are no other options for a cable crossing, and the requirement that such an activity shall not occur within surface water or at or below the water table.

Given the above issues the simplest approach would be to simply exempt the placement of network utilities and processes for establishing and repairing them from this rule. The alternative is to alter the particular conditions identified above so that they do not apply to network utilities. These options are reflected in the relief sought.

Submission 3e: Rule BLR5: Disturbance of vegetation and harvesting practices – permitted activity, *Content and Implementation of Conditions 1-6*

Telecom **opposes** Conditions 1-6 of Rule BLR4 as they apply to the disturbance, removal, damage or destroying of vegetation in, on, over, or under the bed of a lake or river and the associated disturbance of the bed and deposition of plant material on the bed of a lake or river undertaken by network utility operators, such as Telecom.

Conditions 2, 3, 4, 5 and 6 of Rule BLR5 provide conditions that are not measurable until after the activity or process has occurred. They are also open for a subjective interpretation that may result in many differing opinions on whether the condition is actually met or not. For example:

- In Condition 2, whether an activity or process increases the risk of flooding is unlikely to be known before that activity is undertaken, likewise in Condition 5 whether the passage of fish is obstructed will not be known before an activity commences.
- With Conditions 3 and 4 who will determine whether access is restricted to flood control structures or vegetation for the purpose of repair and maintenance, or whether in Condition 4 vegetation has been damaged or destroyed by the activity being undertaken when it may have occurred previously by some other unrelated activity or event.

- Likewise with Conditions 6, it is effectively too late by the time it is detected that there is a change in coloration from any discharge of sediment into water. The ability to meet the condition is not determined until it is exceeded.

With regard to Conditions 1-6 Telecom is seeking an exemption for network utilities, telecommunication lines/cables and radio-communication facilities (under new proposed definitions – see Submission 1b), and associated access tracks. An exemption from Conditions 1-6 of Rule BLR5 is considered appropriate given the outline of processes provided in the background information of this submission (Part I), and the minimal disturbance of vegetation and the bed associated with these processes. For example, the greatest potential for vegetation and land disturbance is associated with linear line/cable runs either across small streams or parallel to lakes and rivers. However, any disturbance of land or vegetation is minimal and subject to reinstatement works at the completion of the process or activity. All other land and vegetation disturbance in the beds and margins of lakes and rivers will be limited to footing and foundations for telecommunication/radio-communication facilities (i.e. poles used to support overhead lines and/or footings and foundations for cabinets). Invariably there will be some land disturbance for access tracks in the beds and margins of rivers and lakes but this will be minor.

Telecom is seeking an exemption for network utilities, telecommunication lines/cables, radio-communication facilities and access tracks from Conditions 1-6 inclusive for reasons of complete certainty.

Submission 3f: Rule BLR7: Land use activities within 7.5 metres of the bed or flood protection structures – permitted activity, *Content and Implementation of Conditions 1-5*

Telecom **opposes** Conditions 1-5 of Rule BLR7 as they apply to the use of land within 7.5 metres of the bed of a lake or river, or any flood protection structure that is undertaken by network utility operators, such as Telecom. As mentioned elsewhere this appears to be the only rule in Chapter 6 that affects the margin of a river or lake. Telecom’s submission is based on this interpretation. Furthermore, Telecom's submission takes the view that none of its utilities will create any impact on this 7.5 metre wide margin to an extent that it needs to be covered by this rule. The placement of lines/cables and small cabinets in this area should be exempt from this rule in entirety. The reasons for this are inherent in the description of these structures and there processes in Part I of this submission.

Specific problems with this rule are as follows:

- Conditions 1, 2, 3 and 4 of Rule BLR7 provide conditions that are not measurable until after the activity or process has occurred. They are also open for a subjective interpretation that may result in many differing opinions on whether the condition is actually met or not. For example:
 - In Condition 1, whether an activity or process increases the risk of flooding is unlikely to be known before that activity is undertaken.
 - With Condition 4, who will determine whether access is restricted to flood control structures or vegetation for the purpose of repair and maintenance, or whether in Condition 2 vegetation has been damaged or destroyed by the activity being undertaken when it may have occurred previously by some other unrelated activity or event.
 - Likewise with Conditions 3, it is effectively too late by the time it is detected that there is a change in coloration from any discharge of sediment into water. The ability to meet the condition is not determined until it is exceeded.

Even though Condition 5 does not appear relevant to Telecom's processes and activities (it is unlikely they will plant any of the species identified in Schedule BLR1), Telecom is seeking an exemption from Conditions 1-5 for network utilities, telecommunication lines/cables and radio-communication facilities (under new proposed definitions – see Submission 1b), and associated access tracks.

An exemption from Conditions 1-5 of Rule BLR7 is considered appropriate given the outline of processes provided in the background information of this submission (Part I), and the minimal disturbance of land, within 7.5 metres of the bed and flood protection structures, associated with these processes. For example, the greatest potential for the use of land or land disturbance within the 7.5 metre setback is associated with linear line/cable runs either across small streams or parallel to lakes and rivers. However, any use or disturbance of land is minimal and subject to reinstatement works at the completion of the process or activity. All other land and use and disturbance in the beds and margins of lakes and rivers will be limited to footing and foundations for telecommunication/radio-communication facilities (i.e. poles used to support overhead lines and/or footings and foundations for cabinets). Invariably there will be some land disturbance for access tracks in the beds and margins of rivers and lakes but this will be minor.

Telecom is seeking an exemption for network utilities, telecommunication lines/cables, radio-communication facilities and access tracks from Conditions 1-5 inclusive for reasons of complete certainty.

Submission 3g – Consequential Amendments to Rule BLR8 as a result of requested changes to Rules BLR1, BLR2, BLR3, BLR5, and BLR7.

Submissions 3a – 3f have requested amendments to Rules BLR1, BLR2, BLR3, BLR5, and BLR7 which will in turn require consequential amendments to Rule BLR8 which is the default rule for a non-compliance with the conditions in these rules.

RELIEF SOUGHT

Telecom seeks the following relief:

Submission 3a: General submission to rules BLR1-7

Clarify that Rules BRL1-6 do not apply to the margins of rivers and lakes and that they apply only to activities in, on, over or under the beds of rivers and lakes.

This could be achieved by the following alteration to Table BLR2: Index of Rules:

Alter Table BLR2: Index of Rules by Condition 1a of Rule WQL32 by adding the following sentence to the end of the column entitled “Where Rule Applies”:

“Rules BLR1 To BLR6 apply to structures, activities and processes required to undertake those activities in, on, over or under the bed of a lake or river. They do not apply to the margins of a bed or river as illustrated in Figure BLR4”

Submissions 3a, 3b, 3c, 3d and 3e: Rules BLR1-BLR3 and BLR5

(a) Make the following activities that are captured by Rule BLR1-BLR3 and BLR5 a permitted activity without being subject to the conditions that are listed under each of those rules:

- The repair and maintenance (including replacement) of all existing telecommunication lines and radio-communication facilities and associated tracks

- The placement of new telecommunication lines and radio-communication facilities and associated tracks
- The processes associated with the above structures (i.e. drilling, moleploughing, trenching, clearance etc)

This can be achieved by including a simple exemption in the box entitled “*Where Rule Applies*” in the first column of each rule as follows:

“This rule does not apply to activities associated with a network utility including associated access tracks. Such activities are a permitted activity without the requirement to comply with the conditions listed in this rule.”

(b) As an alternative, and without prejudice to the above preferred relief in (a), create an exemption for activities associated with a network utility including associated access tracks (as listed in (a) above) from the following conditions:

- Rule BLR1: Conditions 2 and 7
- Rule BLR2: Conditions 8 and 9
- Rule BLR3: Conditions 2, 3, 4, 5, 6, 7 and 8
- Rule BLR5: Conditions 2, 3, 4, 5 and 6.

Submission 3f: Rule BLR7: Land use activities within 7.5 metres of the bed or flood protection structures – permitted activity

(a) Make the following activities that are captured by Rule BLR7 a permitted activity without being subject to the conditions that are listed under each of those rules:

- The repair and maintenance (including replacement) of all existing telecommunication lines and radio-communication facilities and associated tracks
- The placement of new telecommunication lines and radio-communication facilities and associated tracks
- The processes associated with the above structures (i.e. drilling, thrusting, trenching, clearance etc)

This can be achieved by including a simple exemption in the box entitled “*Where Rule Applies*” in the first column of each rule as follows:

“This rule does not apply to activities associated with a network utility including associated access tracks. Such activities are a permitted activity without the requirement to comply with the conditions listed in this rule.”

Submission 3g: Rule BLR8

Add the following underlined words to Rule BLR8 under the Activity heading of the Table on Page 6-34:

.....in, on, over or under the bed of any lake or river that is not classified as a permitted activity or is exempt from the conditions under Rules BLR1 – BLR3, BLR5 and BLR7, a restricted discretionary activity or a prohibited activity in this chapter is a discretionary activity.

Submissions 3a-g Combined; Objectives and Polices of Chapter 6

Make consequential amendments to the objectives and policies in Chapter 6 to reflect that certain activities involving:

- Use, maintenance, reconstruction, alteration, extension, demolition or removal of existing structures and the processes used to undertake these activities
- Erection and placement of structures
- Excavation, drilling, tunnelling or disturbance within the bed
- Disturbance of vegetation and harvesting practices
- Land use activities within 7.5 metres of the bed or flood protection structures

where undertaken in association with the establishment, repair or maintenance of network utilities and associated access tracks are now permitted in Chapter 6 of the Plan. It should be recorded that this status is a function of the importance that such utilities have in terms of the Canterbury region as documented in the RPS and also the fact that the effects of such activities are minor.

There may, however, be other methods of achieving the desired relief listed in Submissions 3a to 3g.