

BEFORE THE QUEENSTOWN-LAKES DISTRICT COUNCIL

IN THE MATTER of the Resource Management Act 1991

AND

IN THE MATTER of the Proposed Queenstown-Lakes  
District Plan

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Statement of evidence of **MATTHEW McCALLUM-CLARK** for Spark New Zealand Trading Limited (2195), Vodafone New Zealand Limited (2478), and Chorus New Zealand Limited (2194) in relation to Chapter 24 – Wakatipu Basin

13 June 2018

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## **Statement of Professional Qualifications and Experience**

1. My full name is Matthew Eaton Arthur McCallum-Clark. I am a Resource Management Consultant and a director of the firm Incite, which has offices in Auckland, Wellington, Nelson, Dunedin and Christchurch.
2. I hold a Bachelor of Laws from Canterbury University, a Bachelor of Commerce (Economics) from Otago University and have undertaken a postgraduate diploma in Environmental Auditing through Brunel University in the UK. I am also a qualified and experienced independent hearing commissioner with chair endorsement under the Ministry for the Environment's Making Good Decisions Programme.
3. Apart from a short period at a city council, I have been a resource management consultant for about 24 years. Over the last ten years I have specialised in providing policy advice to a range of clients, particularly local authorities. This has included significant involvement in regional plan development for the Waikato, Canterbury and Southland Regional Councils, as well as a lead planner role with respect to the Hurunui District Plan. I have also reviewed and prepared submissions on a number of proposed district plans, including for Queenstown-Lakes District, Southland District, and the Christchurch District Replacement Plan.
4. In this matter, I assisted Spark New Zealand Trading Limited, Chorus New Zealand Limited and Vodafone New Zealand Limited ("the Telecommunications Companies") in reviewing the Proposed Queenstown Lakes District Plan (the "Proposed Plan") when it was notified, and I assisted with the preparation of the submissions and further submissions by the Telecommunications Companies. I presented evidence on the Stage 1 Chapters, and at the direction of the Panel, caucused Chapter 30 with the Council's Mr Barr.

## **Code of Conduct**

5. I confirm that I have read the Hearing Commissioners minute and direction on Procedures for the Hearing of Submissions and I confirm that I have read the code of conduct for expert witnesses as contained in the Environment Court's Practice Note of 2014. I have complied with the Practice Note when preparing my written statement of evidence, and will do so when I give oral evidence.

6. The data, information, facts and assumptions I have considered in forming my opinions are set out in my evidence to follow. The reasons for the opinions expressed are also set out in the evidence to follow.
7. Unless I state otherwise, this evidence is within my sphere of expertise and I have not omitted to consider material facts known to me that might alter or detract from the opinions that I express.

## **Scope**

8. The scope of this evidence relates to the Wakatipu Basin Chapter of the Proposed Plan.
9. This evidence is broken into a number of parts:
  - a) the RPS and Stage 1 decisions;
  - b) complexity of the objectives and policies of this chapter;
  - c) unintended consequence of change to Policy 24.2.2.1; and
  - d) recognition of locational constraints.
10. A small number of the submission points are recommended to be accepted by the Council's Section 42A Officer. The Telecommunications Companies support the recommended retention of Objective 24.2.1, and the recommended adjustment to Policy 24.2.1.6.

## **RPS and Stage 1 Decisions**

11. The general approach taken by the Telecommunications Companies on the Proposed Plan and in other District Plan reviews around New Zealand is to ensure policy frameworks in plans provide for an appropriate consideration of the competing interests of network utility infrastructure and avoiding, remedying or mitigating the adverse effects of this infrastructure.

12. A district plan must give effect to a Regional Policy Statement (RPS)<sup>1</sup>. The operative RPS includes relatively limited provisions in regard to infrastructure within Chapter 9 Land. Objective 9.4.2 and Policy 9.5.2 promote the sustainable management of Otago's infrastructure to meet the reasonably foreseeable needs of Otago's communities.
13. A territorial authority, in preparing a district plan, must have regard to a proposed RPS<sup>2</sup>. The decisions on the Proposed RPS were released late in 2016. The Proposed RPS has a more comprehensive framework in regard to infrastructure than the operative RPS. Relevant provisions are contained in Chapter 4 *Communities in Otago are resilient, safe and healthy*. In particular, Objective 4.3, Policies 4.3.1 to 4.3.3 and Policy 4.5.7:
- recognise the national and regional significance of specified infrastructure including telecommunication and radiocommunication;
  - recognise the functional needs of infrastructure of regional and national importance in integration infrastructure and land use;
  - require urban growth to be managed such that it occurs in areas with sufficient infrastructure capacity or areas where these serves can be extended or upgraded;
  - recognise the role infrastructure plays in supporting economic, social and community activities
  - Require the adverse effects of infrastructure to be minimised, with a hierarchy of outcomes promoted depending on the sensitivity of the receiving environment (e.g. giving preference to avoiding the most sensitive areas such as outstanding natural features and landscapes, but where avoidance is not possible avoiding significant adverse effects on those values and attributes that contribute to the outstanding nature of those areas).
14. In my opinion, the approach taken by the Telecommunications Companies in their submissions is consistent with the sustainable management approach for infrastructure promoted in the operative RPS, and the policy framework in the Proposed RPS as summarised above.
15. More recently, the Council has released its decisions on Stage 1 of the Proposed Plan, including the Strategic Directions Chapter and the Utilities Chapter. The

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<sup>1</sup> s75(3)(c) RMA

<sup>2</sup> s74(2)(a)(i) RMA

Telecommunications Companies lodged significant submissions on both of these chapters, and the Utilities Chapter, in particular, now contains a range of objectives policies and rules that are, in my opinion, more appropriately weighted towards achieving Part 2 of the RMA and the RPS outcomes. Several of the points in the evidence below rely on the RPS and Proposed RPS direction for the management of infrastructure and to ensure consistency with the Strategic Directions Chapter and Utilities Chapter decisions.

## **Complexity of the Objectives and Policies of this Chapter**

16. The submission from the Telecommunications Companies sought some substantial reorganisation and rationalisation of the objectives and policies of this chapter. In my opinion, the objectives and policies could be considerably simplified without losing the direction and control sought by the Council. The Council's Section 42A Report, at paragraph 19.8, disagrees, identifying that there are important subtleties that are at risk of being lost.
17. I note that the overall intent of the District Plan review is set out on the Council's District Plan Review webpage "... *The review set out to provide a more accessible and transparent plan that provides more certainty to property owners and a clear strategic direction for the District as well as additional scope for intensification in suitable locations.*"
18. Accessible, transparent, certain and clear are aspirational goals for a district plan. Whether indeed they are capable of being achieved is a moot point. However, in my opinion, there is certainly room for improvement through the rationalisation and reorganisation of the objectives and policies of this chapter, and potential for greater reliance on cross references to other chapters, such as the Utilities Chapter. To move toward this aspirational goal for the district plan review, for the benefit of users of the District Plan, I reiterate the submission point and request that this opportunity not be wasted.
19. This is particularly relevant given that the Wakatipu Basin Chapter applies over a very wide area, with a diverse range of land uses and aspirations. I suspect this Chapter will be one of the most thoroughly used chapters of the District Plan.

Accessibility, certainty and clarity are not, in my opinion, assisted by the multitude of policies with subtle differences.

## **Unintended Consequence of Change to Policy 24.2.2.1**

20. The Telecommunication Companies lodged a submission in support of Objective 24.2.2. There are no recommendations for change to that Objective (Para 22.2 of the Section 42A Report). There are two supporting policies for this Objective, and I note that the Section 42A Report recommendation (para 22.16) is to change Policy 24.2.2.1 to add the concept of being reliant on the rural land resource:

*Support commercial, recreation and tourism related activities that rely on the rural land resource and where these activities protect, maintain or enhance ~~the~~ landscape character and visual amenity values.*

21. I highlight this issue, as some utilities and infrastructure could be considered to be commercial activities, and therefore subject to this Policy, and they are not reliant on the “rural land resource”. In my opinion, adding these words is a significant change in policy direction for the zone, and I question whether it is consistent with Strategic Directions Policy 3.3.25<sup>3</sup>, which applies to rural zones, and recognises the functional need of some activities, including regionally significant infrastructure, to locate in rural areas. In my opinion recognising a functional need to locate in an area is significantly different from ensuring that the activity is reliant on the rural land resource.

22. More appropriate wording, which would align with the Strategic Directions Chapter, could be:

*Support commercial, recreation and tourism related activities that have a functional need to locate in a rural area and where these activities protect, maintain or enhance ~~the~~ landscape character and visual amenity values.*

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<sup>3</sup> Provide for non-residential development with a functional need to locate in the rural environment, including regionally significant infrastructure where applicable, through a planning framework that recognises its locational constraints, while ensuring maintenance and enhancement of the rural environment.

## Recognition of Locational Constraints

23. The Telecommunications Companies sought changes to Policy 24.2.4.6, both with respect to its location and wording. The locational issues have been discussed earlier and I will not reiterate them here. The wording changes sought greater recognition of the locational constraints of utilities.
24. In my opinion, adjustment to the wording of this Policy is required to better align the Policy with the RPS, and more particularly the stage I decision on the Utilities Chapter, including Objectives 30.2.5<sup>4</sup>, 30.2.6<sup>5</sup> and Policy 30.2.7.4<sup>6</sup>.
25. Maintaining the Policy as notified, as is recommended at paragraph 24.17 of the Section 42A Report is likely, in my opinion, to lead to ongoing debate, on a consent by consent basis, as to the different policy directions of the RPS, the Strategic Directions Chapter and the Utilities and Chapter, compared with this Policy, in respect of locational constraints.
26. As discussed during the Stage 1 hearings, there may be functional and operational reasons why network utilities may need to be located in at least some of these areas, particularly areas of high demand, existing built environments, roads and utility corridors and existing communication sites. Siting of equipment within a sensitive environment may be justified in certain circumstances where there are no reasonable alternatives and the community benefits outweigh any costs.
27. In my opinion, the Wakatipu Basin area, not being an outstanding landscape, and being subject to significant demand for development and improved infrastructure, is an area where these policies will be tested. In my opinion, the area and land uses addressed by this Chapter are appropriate for greater recognition of the locational constraints of infrastructure and acceptance that some adverse visual effects may occur from the provision of regionally significant infrastructure, while still maintaining or enhancing the overall rural environment.

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<sup>4</sup> Objective 30.2.5 - The growth and development of the District is supported by utilities that are able to operate effectively and efficiently.

<sup>5</sup> Objective 30.2.6 - The establishment, continued operation and maintenance of utilities supports the well-being of the community.

<sup>6</sup> Policy 30.2.7.4 Take account of economic and operational needs in assessing the location and external appearance of utilities.

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Matthew McCallum-Clark  
13 June 2018